

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

(articles 19, 22 and 35 of the Constitution)

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

Report III (Part 1A)

General Report
and observations concerning particular countries

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The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the areas or territories in respect of which such information is communicated; in certain cases this may present problems on which the ILO is not competent to express an opinion.

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The **Committee of Experts on the Application of Conventions and Recommendations** is an independent body composed of legal experts charged with examining the application of ILO Conventions and Recommendations in ILO member States. The annual report of the Committee of Experts covers numerous matters related to the application of ILO standards. The structure of the report, as modified in 2003, is divided into the following parts:

- (a) **Reader's note** describes the Committee's mandate, functioning and the institutional context in which it operates (**Book 1A, pages 1-4**).
- (b) **Part I: General Report** describes the extent to which member States have fulfilled their constitutional obligations in relation to international labour standards, and emphasizes important issues concerning the relationships between the international labour standards and the multilateral system (**Book 1A, pages 5-28**).
- (c) **Part II: Observations concerning particular countries** on the application of ratified Conventions presented by subject matter (see section I), and on the obligation to submit instruments to the competent authorities (see section II) (**Book 1A, pages 29-480**).
- (d) **Part III: General Survey**, in which the Committee of Experts examines the application of ILO standards, ratified or not ratified, in a particular subject area. The General Survey is published as a separate volume (Report III (Part 1B)) and this year examines the Labour Inspection Convention, 1947 (No. 81), and the Protocol of 1995 to the Labour Inspection Convention, the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129) and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133) (**Book 1B**).

Furthermore, the List of ratifications which has usually accompanied the Report of the Committee of Experts is now published as the *Information document on ratifications and standards-related activities*, which provides an overview of recent developments in international labour standards, the implementation of special procedures, technical cooperation in relation to international labour standards, and tables relating to ratifications and respect for obligations by member States (**Book 2**).

The report of the Committee of Experts is also available at:

<http://www.ilo.org/ilolex/gbe/ceacr2006.htm> .

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List of Conventions by subject

Fundamental Conventions are in bold. Priority Conventions are in italics.

1 Freedom of Association, Collective Bargaining, and Industrial Relations

C011	Right of Association (Agriculture) Convention, 1921 (No. 11)
C084	Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)
C087	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
C098	Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
C135	Workers' Representatives Convention, 1971 (No. 135)
C141	Rural Workers' Organisations Convention, 1975 (No. 141)
C151	Labour Relations (Public Service) Convention, 1978 (No. 151)
C154	Collective Bargaining Convention, 1981 (No. 154)

2 Forced Labour

C029	Forced Labour Convention, 1930 (No. 29)
C105	Abolition of Forced Labour Convention, 1957 (No. 105)

3 Elimination of Child Labour and Protection of Children and Young Persons

C005	Minimum Age (Industry) Convention, 1919 (No. 5)
C006	Night Work of Young Persons (Industry) Convention, 1919 (No. 6)
C010	Minimum Age (Agriculture) Convention, 1921 (No. 10)
C015	Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15)
C033	Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33)
C059	Minimum Age (Industry) Convention (Revised), 1937 (No. 59)
C060	Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60)
C077	Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)
C078	Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)
C079	Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79)
C090	Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)
C123	Minimum Age (Underground Work) Convention, 1965 (No. 123)
C124	Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)
C138	Minimum Age Convention, 1973 (No. 138)
C182	Worst Forms of Child Labour Convention, 1999 (No. 182)

4 Equality of Opportunity and Treatment

C100	Equal Remuneration Convention, 1951 (No. 100)
C111	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
C156	Workers with Family Responsibilities Convention, 1981 (No. 156)

5 Tripartite Consultation

C144	<i>Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)</i>
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6 Labour Administration and Inspection

- C063 Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)
C081 *Labour Inspection Convention, 1947 (No. 81)*
C085 Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)
C129 *Labour Inspection (Agriculture) Convention, 1969 (No. 129)*
C150 Labour Administration Convention, 1978 (No. 150)
C160 Labour Statistics Convention, 1985 (No. 160)

7 Employment policy and Promotion

- C002 Unemployment Convention, 1919 (No. 2)
C034 Fee-Charging Employment Agencies Convention, 1933 (No. 34)
C088 Employment Service Convention, 1948 (No. 88)
C096 Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)
C122 *Employment Policy Convention, 1964 (No. 122)*
C159 Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
C181 Private Employment Agencies Convention, 1997 (No. 181)

8 Vocational Guidance and Training

- C140 Paid Educational Leave Convention, 1974 (No. 140)
C142 Human Resources Development Convention, 1975 (No. 142)

9 Employment security

- C158 Termination of Employment Convention, 1982 (No. 158)

10 Wages

- C026 Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)
C094 Labour Clauses (Public Contracts) Convention, 1949 (No. 94)
C095 Protection of Wages Convention, 1949 (No. 95)
C099 Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)
C131 Minimum Wage Fixing Convention, 1970 (No. 131)
C173 Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)

11 Working Time

C001	Hours of Work (Industry) Convention, 1919 (No. 1)
C004	Night Work (Women) Convention, 1919 (No. 4)
C014	Weekly Rest (Industry) Convention, 1921 (No. 14)
C020	Night Work (Bakeries) Convention, 1925 (No. 20)
C030	Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)
C041	Night Work (Women) Convention (Revised), 1934 (No. 41)
C043	Sheet-Glass Works Convention, 1934 (No. 43)
C047	Forty-Hour Week Convention, 1935 (No. 47)
C049	Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935 (No. 49)
C052	Holidays with Pay Convention, 1936 (No. 52)
C067	Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67)
C089	Night Work (Women) Convention (Revised), 1948 (No. 89)
C101	Holidays with Pay (Agriculture) Convention, 1952 (No. 101)
C106	Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)
C132	Holidays with Pay Convention (Revised), 1970 (No. 132)
C153	Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153)
C171	Night Work Convention, 1990 (No. 171)
C175	Part-Time Work Convention, 1994 (No. 175)

12 Occupational Safety and Health

C013	White Lead (Painting) Convention, 1921 (No. 13)
C045	Underground Work (Women) Convention, 1935 (No. 45)
C062	Safety Provisions (Building) Convention, 1937 (No. 62)
C115	Radiation Protection Convention, 1960 (No. 115)
C119	Guarding of Machinery Convention, 1963 (No. 119)
C120	Hygiene (Commerce and Offices) Convention, 1964 (No. 120)
C127	Maximum Weight Convention, 1967 (No. 127)
C136	Benzene Convention, 1971 (No. 136)
C139	Occupational Cancer Convention, 1974 (No. 139)
C148	Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)
C155	Occupational Safety and Health Convention, 1981 (No. 155)
C161	Occupational Health Services Convention, 1985 (No. 161)
C162	Asbestos Convention, 1986 (No. 162)
C167	Safety and Health in Construction Convention, 1988 (No. 167)
C170	Chemicals Convention, 1990 (No. 170)
C174	Prevention of Major Industrial Accidents Convention, 1993 (No. 174)
C176	Safety and Health in Mines Convention, 1995 (No. 176)
C184	Safety and Health in Agriculture Convention, 2001 (No. 184)

13 Social Security

C012	Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)
C017	Workmen's Compensation (Accidents) Convention, 1925 (No. 17)
C018	Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)
C019	Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
C024	Sickness Insurance (Industry) Convention, 1927 (No. 24)
C025	Sickness Insurance (Agriculture) Convention, 1927 (No. 25)
C035	Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35)
C036	Old-Age Insurance (Agriculture) Convention, 1933 (No. 36)
C037	Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)
C038	Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)
C039	Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39)
C040	Survivors' Insurance (Agriculture) Convention, 1933 (No. 40)
C042	Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)
C044	Unemployment Provision Convention, 1934 (No. 44)
C048	Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48)
C102	Social Security (Minimum Standards) Convention, 1952 (No. 102)
C118	Equality of Treatment (Social Security) Convention, 1962 (No. 118)
C121	Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)
C128	Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128)
C130	Medical Care and Sickness Benefits Convention, 1969 (No. 130)
C157	Maintenance of Social Security Rights Convention, 1982 (No. 157)
C168	Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)

14 Maternity Protection

C003	Maternity Protection Convention, 1919 (No. 3)
C103	Maternity Protection Convention (Revised), 1952 (No. 103)
C183	Maternity Protection Convention, 2000 (No. 183)

15 Social Policy

C082	Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82)
C117	Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)

16 Migrant Workers

C021	Inspection of Emigrants Convention, 1926 (No. 21)
C097	Migration for Employment Convention (Revised), 1949 (No. 97)
C143	Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

17 Seafarers

C007	Minimum Age (Sea) Convention, 1920 (No. 7)
C008	Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)
C009	Placing of Seamen Convention, 1920 (No. 9)
C016	Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
C022	Seamen's Articles of Agreement Convention, 1926 (No. 22)
C023	Repatriation of Seamen Convention, 1926 (No. 23)
C053	Officers' Competency Certificates Convention, 1936 (No. 53)
C055	Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
C056	Sickness Insurance (Sea) Convention, 1936 (No. 56)
C058	Minimum Age (Sea) Convention (Revised), 1936 (No. 58)
C068	Food and Catering (Ships' Crews) Convention, 1946 (No. 68)
C069	Certification of Ships' Cooks Convention, 1946 (No. 69)
C071	Seafarers' Pensions Convention, 1946 (No. 71)
C073	Medical Examination (Seafarers) Convention, 1946 (No. 73)
C074	Certification of Able Seamen Convention, 1946 (No. 74)
C091	Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)
C092	Accommodation of Crews Convention (Revised), 1949 (No. 92)
C108	Seafarers' Identity Documents Convention, 1958 (No. 108)
C133	Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
C134	Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)
C145	Continuity of Employment (Seafarers) Convention, 1976 (No. 145)
C146	Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)
C147	Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
C163	Seafarers' Welfare Convention, 1987 (No. 163)
C164	Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)
C165	Social Security (Seafarers) Convention (Revised), 1987 (No. 165)
C166	Repatriation of Seafarers Convention (Revised), 1987 (No. 166)
C178	Labour Inspection (Seafarers) Convention, 1996 (No. 178)
C179	Recruitment and Placement of Seafarers Convention, 1996 (No. 179)
C180	Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)
C185	Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

18 Fishermen

C112	Minimum Age (Fishermen) Convention, 1959 (No. 112)
C113	Medical Examination (Fishermen) Convention, 1959 (No. 113)
C114	Fishermen's Articles of Agreement Convention, 1959 (No. 114)
C125	Fishermen's Competency Certificates Convention, 1966 (No. 125)
C126	Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)

19 Dockworkers

C027	Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27)
C028	Protection against Accidents (Dockers) Convention, 1929 (No. 28)
C032	Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32)
C137	Dock Work Convention, 1973 (No. 137)
C152	Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)

20 Indigenous and Tribal Peoples

C050	Recruiting of Indigenous Workers Convention, 1936 (No. 50)
C064	Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64)
C065	Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65)
C086	Contracts of Employment (Indigenous Workers) Convention, 1947 (No. 86)
C104	Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 (No. 104)
C107	Indigenous and Tribal Populations Convention, 1957 (No. 107)
C169	Indigenous and Tribal Peoples Convention, 1989 (No. 169)

21 Specific Categories of Workers

C110	Plantations Convention, 1958 (No. 110)
C149	Nursing Personnel Convention, 1977 (No. 149)
C172	Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)
C177	Home Work Convention, 1996 (No. 177)

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Reader's note

Overview of the ILO supervisory mechanisms

Since its creation in 1919, the mandate of the International Labour Organization has included adopting international labour standards and promoting their ratification and application in its member States as a fundamental means of achieving its objectives. In order to monitor the progress of its member States in the application of international labour standards, the ILO has developed supervisory mechanisms which are unique at the international level.

Under article 19 of the ILO Constitution, a number of obligations arise for member States upon the adoption of international labour standards, including the requirement to submit newly adopted standards to national competent authorities and the obligation to report at intervals on measures taken to give effect to the provisions of unratified Conventions and Recommendations.

A number of supervisory mechanisms exist whereby the Organization examines the standards-related obligations of member States deriving from ratified Conventions. This supervision occurs both in the context of regular procedures through annual reports (article 22 of the ILO Constitution),¹ as well as through special procedures based on complaints or representations to the Governing Body made by ILO constituents (articles 24 and 26 of the ILO Constitution).

During the early years of the ILO, both the adoption of international labour standards and the regular supervisory work were undertaken within the framework of the plenary sitting of the annual International Labour Conference. However, the considerable increase in the number of ratifications of Conventions led to a similarly significant increase in the number of annual reports submitted. It soon became clear that the plenary of the Conference would not be able to examine all these reports at the same time as adopting standards and discussing other important matters. The increasing complexity of the legal issues raised by the application of Conventions, as well as the need for an impartial technical analysis added to the incentive to create a new technical supervisory body. At the same time, it remained important for the International Labour Conference to have a say in the application of the standards that it had itself adopted. In response, in 1926, the Conference adopted a resolution² establishing the Conference Committee on the Application of Standards and the Committee of Experts on the Application of Conventions and Recommendations. Under the resolution, the mandate of the latter committee would be to make “the best and fullest use” of the reports on ratified Conventions and to “secure such additional data as may be provided for in the forms approved by the Governing Body and found desirable to supplement that already available”.

The Committee of Experts on the Application of Conventions and Recommendations

Composition

The Committee of Experts is composed of 20 members, who are outstanding legal experts at national and international level. Members of the Committee are appointed by the Governing Body upon the proposal of the Director-General. Appointments are made in a personal capacity among completely impartial persons of technical competence and independent standing drawn from all regions of the world, in order to enable the Committee to have at its disposal first-

¹ Reports are submitted every two years for so-called fundamental and priority Conventions, and every five years for others, unless the Committee of Experts or the Conference Committee requests them sooner. Since 2003, reports have been due for groups of Conventions according to subject matter.

² See Appendix VII, proceedings of the Eighth Session of the International Labour Conference, 1926, Vol. I.

hand experience of different legal, economic and social systems. The appointments are made for renewable periods of three years.

Mandate

The Committee of Experts meets annually in November-December. According to the mandate given by the Governing Body,³ the Committee is called upon to examine the following:

- the annual reports under article 22 of the ILO Constitution on the measures taken by member States to give effect to the provisions of the Conventions to which they are parties;
- the information and reports concerning Conventions and Recommendations communicated by member States in accordance with article 19 of the Constitution;
- information and reports on the measures taken by member States in accordance with article 35 of the Constitution.⁴

As a result of its work, the Committee produces an annual report printed in two volumes.

The comments of the Committee of Experts on the fulfilment by member States of their standards-related obligations take the form of either *observations* or *direct requests*. Observations contain comments on fundamental questions raised by the application of a particular Convention by a member State. These observations are reproduced in the annual report of the Committee of Experts, which is then submitted to the Committee on the Application of Standards of the International Labour Conference in June every year. Direct requests usually relate to questions of a more technical nature or of lesser importance, or contain requests for information. They are not published in the report of the Committee of Experts, but are communicated directly to the government concerned.⁵ In addition, the Committee of Experts examines the application of ILO standards, ratified or not ratified, in a particular subject area decided by the Governing Body. This examination takes the form of a general survey.

The report of the Committee of Experts

Since 2004 the structure of the report is divided into the following parts:

- **Part I: General Report** describes the extent to which member States have fulfilled their constitutional obligations in relation to international labour standards, and emphasizes important issues concerning the relationships between the international labour standards and the multilateral system.
- **Part II: Observations concerning particular countries** on the application of ratified Conventions presented by subject matter, and on the obligation to submit instruments to the competent authorities (Report III (Part IA)).
- **Part III: General Survey** is published as a separate volume (Report III (Part IB)).

Furthermore, the list of ratifications which has usually accompanied the report of the Committee of Experts is now published as the *Information document on ratifications and standards-related activities*, which provides an overview of the recent developments in international labour standards, the implementation of special procedures, technical cooperation in relation to international labour standards, and tables relating to ratifications and respect for obligations by member States.

Fundamental principles

The Committee of Experts has reaffirmed on many occasions that its work can have value only if it remains true to its tradition of independence, objectivity and impartiality in assessing and reporting on the extent to which the position of each member State appears to be in conformity with the terms of the ratified Conventions and the obligations that the State has undertaken by virtue of the ILO Constitution. In its 1987 report, the Committee stated that in its evaluation of national law and practice in relation to the requirements of international labour Conventions:

... its function is to determine whether the requirements of a given Convention are being met, whatever the economic and social conditions existing in a given country. Subject only to any derogations, which are expressly permitted by the Convention itself, these requirements remain constant and uniform for all countries. In carrying out this work, the Committee is guided by the standards laid down in the Convention alone, mindful, however, of the fact that the modes of their implementation may be different in different States.

The Committee has also observed on many occasions that its terms of reference do not require it to give definitive interpretations of Conventions, competence to do so being vested solely in the International Court of Justice by virtue of article 37 of the Constitution. At the same time, the Committee has also noted that, in order to carry out its function of evaluating the implementation of Conventions, it has to consider and express its views on the meaning of certain provisions of the Conventions.

³ Terms of reference of the Committee of Experts, Minutes of the 103rd Session of the Governing Body (1947), Appendix XII, para. 37.

⁴ Article 35 covers the application of Conventions applied to non-metropolitan territories.

⁵ Observations and direct requests are accessible through the ILOLEX database which is available on CD-ROM and via the ILO web site (www.ilo.org/normes).

The Committee on the Application of Standards of the International Labour Conference

Work of the Committee on the Application of Standards

The Conference Committee on the Application of Standards, a standing committee which meets annually at the June session of the International Labour Conference, is the body through which the ILO's constituents are involved directly in the examination of the application by member States of ILO Conventions. Following the independent, technical examination carried out by the Committee of Experts, the proceedings of the Conference Committee provide an opportunity for the representatives of governments, employers and workers to review the manner in which States are discharging their standards-related obligations, particularly with regard to ratified Conventions. Governments are able to elaborate on information previously supplied to the Committee of Experts, indicate any further measures taken or proposed since the last session of the Committee of Experts, draw attention to difficulties encountered in the fulfilment of obligations, and seek guidance as to how to overcome such difficulties.

The Conference Committee on the Application of Standards discusses not only the General Report and General Survey of the Committee but in addition selects individual cases which have been the subject of observations for discussion on a tripartite basis. The governments concerned are then invited to attend the Committee on the Application of Standards and provide information, which is then discussed by the Committee. As the Committee has noted in its 1994 report:

... the Conference Committee has never operated as a review or appeals body vis-à-vis the Committee of Experts. The two bodies have different functions: the Committee of Experts is responsible for technical supervision, whereas the Conference Committee, which is tripartite, provides an opportunity for direct dialogue between Governments, Employers and Workers, and can even mobilize international public opinion.

In its report submitted to the International Labour Conference for adoption, the Committee on the Application of Standards may invite the member State whose case has been discussed to accept a technical assistance mission by the International Labour Office to increase its capacity to fulfil its obligations, or may propose other types of mission. The Conference Committee on the Application of Standards may also request a government to submit additional information or address specific concerns in its next report to the Committee of Experts. The report of the Conference Committee on the Application of Standards also covers cases to which the Committee wishes to draw the attention of the Conference, such as cases of progress and cases of serious failure to comply with ratified Conventions.

Relationship between the Committee of Experts and the Conference Committee on the Application of Standards

The Committee of Experts has stressed the need for a spirit of mutual respect, cooperation and responsibility which has always existed in relations between the Committee of Experts and the Conference Committee on the Application of Standards. The Committee of Experts takes full account of the debates that occur during the Conference Committee sessions. Over recent years, it has become the practice for the Chairperson of the Committee of Experts to attend the general discussion of the Conference Committee as an observer with the opportunity to address the Conference Committee at the opening of the discussion by the Conference Committee of the General Report and the General Survey, as well as the opportunity to make closing remarks at the completion of the debate. In similar fashion, the Employer and Worker Vice-Chairpersons of the Conference Committee are invited to deliver a statement before the Committee of Experts during a special session for that purpose.

Other supervisory mechanisms

As explained above, the Committee of Experts and the Conference Committee on the Application of Standards are the mainstays of the regular supervisory procedures of the application of standards. The Governing Body, the ILO's tripartite executive body, is also involved in the supervisory system through special procedures under which *representations* or *complaints* are made by ILO constituents.

The representations procedure

Under article 24 of the Constitution, after receiving a *representation* from a workers' or employers' organization that a government has failed to comply with a Convention to which it is a party, the Governing Body may communicate this representation to the government concerned and invite it to make a statement on the subject. It may then set up a three-member tripartite committee to examine the representation and the government's response. The Governing Body may publish the representation and the statement, if any, made in reply to it, as well as any considerations it may have raised in respect of the application of the Convention.

The complaints procedure

Under article 26, an ILO member State that has ratified a particular Convention may bring a *complaint* against another member State that has also ratified the Convention if it is not satisfied that the latter has complied with its provisions. The same procedure may be initiated by the Governing Body either on its own motion or on receipt of a complaint from a delegate to the International Labour Conference. Upon receipt of the complaint, the Governing Body may choose to appoint a Commission of Inquiry, which consists of three independent members, to consider the complaint and to report and make recommendations thereon. The report of the Commission of Inquiry is then published, and the government involved may either accept its recommendations or appeal to the International Court of Justice.

Freedom of association

If the representation or complaint relates to freedom of association, it may be referred to the Fact-Finding and Conciliation Commission on Freedom of Association and the Governing Body Committee on Freedom of Association, the specialized bodies created in 1950 and 1951, respectively, to consider complaints in this field. The Committee on Freedom of Association was initially set up to undertake a preliminary examination of allegations concerning violations of freedom of association. This examination was intended to determine whether the allegations in question merited further examination and, where appropriate, the referral of the case to the Fact-Finding and Conciliation Commission on Freedom of Association.

In practice, the Fact-Finding and Conciliation Commission on Freedom of Association has been used infrequently and the Committee on Freedom of Association, which may also examine complaints relating to States that have not ratified the relevant freedom of association Conventions, has come to examine the substance of the complaints.

The Committee of Experts regularly refers to the conclusions and recommendations adopted by the Committee on Freedom of Association. In addition, when a given country has ratified a Convention under examination, the Committee on Freedom of Association points out to the Committee of Experts the Conclusions it has taken concerning legal issues which require follow-up. Such exchange between the Committees has enabled the Committee of Experts to participate in a fruitful dialogue moving towards a solution to common questions.

Role of employers' and workers' organizations

As a natural consequence of its tripartite structure, the ILO was the first international organization to associate non-governmental actors directly in its activities. The participation of employers' and workers' organizations in the supervisory mechanism is recognized in the Constitution under article 23, paragraph 2, which provides that reports submitted by governments in accordance with articles 19 and 22 must be communicated to the representative organizations.

In practice, these employers' and workers' organizations may submit, to their governments, observations on the reports concerning implementation by the latter of ratified Conventions. They may, for instance, draw attention to a discrepancy in law or practice regarding a Convention that might otherwise have gone unnoticed and thus lead the Committee of Experts to request further information from the government. Further, any employers' or workers' organization can submit observations on the application of Conventions directly to the Office. The Office will then forward these comments to the government concerned, which will have an opportunity to respond before the observations are examined by the Committee of Experts.

In April of each year, the Office sends a letter to employers' and workers' organizations outlining the various opportunities available to them to contribute to the supervision of the application of ratified Conventions and the effect given to Recommendations.

Part I. General Report

I. Introduction

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by States Members of the International Labour Organization on the action taken with regard to Conventions and Recommendations, held its 76th Session in Geneva from 21 November to 9 December 2005. The Committee has the honour to present its report to the Governing Body.

2. The composition of the Committee is as follows: Mr. Mario ACKERMAN (Argentina), Mr. Anwar Ahmad Rashed AL FUZAIE (Kuwait), Mr. Denys BARROW, S.C. (Belize), Ms. Janice R. BELLACE (United States), Mr. Michael Halton CHEADLE (South Africa), Ms. Laura COX, QC (United Kingdom), Ms. Blanca Ruth ESPONDA ESPINOSA (Mexico), Mr. Abdul G. KOROMA (Sierra Leone), Ms. Robyn A. LAYTON, QC (Australia), Mr. Pierre LYON-CAEN (France), Mr. Sergey Petrovitch MAVRIN (Russian Federation), Mr. Cassio MESQUITA BARROS (Brazil), Ms. Angelika NUSSBERGER, M.A. (Germany), Ms. Ruma PAL (India), Mr. Miguel RODRIGUEZ PIÑERO Y BRAVO FERRER (Spain), Mr. Amadou SÔ (Senegal), Mr. Budislav VUKAS (Croatia), Mr. Yozo YOKOTA (Japan). Appendix I of the General Report contains brief biographies of all the Committee members.

3. The Committee welcomed the nomination of four new members by the Governing Body during its 294th Session (November 2005): Mr. Ackerman, Mr. Barrow, Mr. Koroma and Ms. Pal. During its 76th Session, the Committee welcomed two of these four new members (Mr. Ackerman and Mr. Barrow). Furthermore, the Committee had the pleasure of an exchange of views with the Director-General during a plenary session.

4. The Committee noted with regret that, due to unforeseen circumstances, Mr. Mavrin was not able to participate in its work this year. Mr. Mesquita Barros, informed the Committee that he would not seek a renewal of his mandate for the following session. The Committee would like to express its great appreciation for the outstanding manner in which he has carried out his duties during his 15 years of service on the Committee.

5. Ms. Layton, QC, continued her mandate as Chairperson, and the Committee re-elected Mr. Al-Fuzaie as Reporter.

Subcommittee on working methods

6. The Committee has in recent years undertaken a thorough examination of its working methods. In 2001, in order to guide its reflections on this matter in an efficient manner, the Committee decided to create a subcommittee. This subcommittee has as a mandate to examine not only the working methods of the Committee as strictly defined, but also any related subjects, and to make appropriate recommendations to the Committee.¹

7. In 2002, the Committee of Experts adopted the first recommendations of its subcommittee, prepared after a wide-ranging review of the Committee's work, to which all members of the Committee had the opportunity to contribute during the year. In 2003, the Committee agreed on changes to the presentation and structure of its published report and to some of the language used with a view to providing a more concise and accessible report, whilst preserving its integrity and the value of its content. In 2004, in order to improve the impact of its work and its report, the Committee examined various measures that could assist in strengthening its work and in highlighting cases of progress. It agreed that a few of these measures would be considered by a working group of its members, whilst others, including measures to improve the Committee's working methods to better manage its increasing workload, would be discussed by the subcommittee.

¹ The subcommittee is composed of a core group and is open to any member of the Committee wishing to participate in it.

8. This year, instead of meetings of the Subcommittee on Working Methods being held, issues previously before the Subcommittee were taken forward by the Committee in the two plenary sessions. The Committee discussed a number of points concerning its work in the context of its impact within the overall supervisory system of the ILO. The outcome of the discussion on the issue of the identification of cases of progress and cases calling for the insertion of special notes is reflected in section II of the General Report.² The Committee also had an in-depth discussion on the strengthening of its supervision of the application of ratified Conventions, in particular the question of including a country-based approach, when carrying out its supervisory work. The discussion is ongoing.

Relations with the Conference Committee on the Application of Standards

9. A spirit of mutual respect, cooperation and responsibility has consistently prevailed in the Committee's relations with the International Labour Conference and its Committee on the Application of Standards. The Committee of Experts takes the proceedings of the Conference Committee on the Application of Standards into full consideration, not only in respect of general matters concerning standard-setting activities and supervisory procedures, but also in respect of specific matters concerning the way in which States fulfil their standards-related obligations. In this context, the Committee again welcomed the participation of its Chairperson as an observer in the general discussion of the Committee on the Application of Standards of the 93rd Session of the International Labour Conference (May-June 2005). It noted the request by the abovementioned Committee for the Director-General to renew this invitation for the 95th Session of the International Labour Conference (May-June 2006). The Committee has accepted this invitation.

10. The Chairperson of the Committee of Experts invited the Employer and Worker Vice-Chairpersons (Mr. Edward Potter and Mr. Luc Cortebeeck respectively) of the Committee on the Application of Standards of the 93rd Session of the International Labour Conference to pay a joint visit to the Committee at its present session. Both accepted this invitation. However, due to an unforeseen professional commitment, the Employer Vice-Chairperson was unable to participate in this year's session of the Committee of Experts and designated Mr. Suárez (Director of Labour Relations, Spanish Confederation of Employers' Organizations) to replace him. Mr. Suárez and the Worker Vice-Chairperson of the Conference Committee discussed matters of mutual interest with the Committee in a special sitting. For the next session of the Committee, an invitation will once again be made to the Employer and Worker Vice-Chairpersons of the Committee on the Application of Standards of the 95th Session of the Conference.

² See paras. 36 and 37 for special notes and paras. 42-47 for cases of progress.

II. Compliance with obligations

11. The Committee notes the discussions of the Committee on the Application of Standards during the 93rd Session of the International Labour Conference concerning cases of serious failure by member States to comply with reporting and other standards-related obligations. In the light of these discussions, the Office sent specific follow-up letters to 53 member States. These cases were mentioned in the relevant paragraphs of the report of the Conference Committee on the Application of Standards. The letters drew the attention of the governments concerned to their specific failures and requested them to identify in practical terms the difficulties they faced in fulfilling their obligations, including those that may result from the general national context, and the aspects of their obligations which would in their view most require technical assistance. In cases in which the government involved had not already specifically requested technical assistance, the letters also encouraged the government to examine this option. The Office invited the governments concerned to reply by 30 September 2005 so that the information provided could be brought to the attention of the Committee of Experts at its present session.

12. The Committee notes that the following three member States have provided substantial replies: **Afghanistan, Guinea and United Kingdom** (Montserrat). Concerning Afghanistan, the Committee notes the detailed information provided and particularly the assistance received since the opening of the Liaison Office in the spring of 2003, the hosting of the first national tripartite workshop on issues relating to international labour standards, the intention of the Government to submit to the National Assembly the instruments adopted by the Conference since 1985 and the plans to organize specific training workshops on reporting and other standards-related obligations with technical assistance from the Office. With regard to Guinea, emphasis was placed on the material and institutional difficulties relating to the fulfilment of constitutional obligations and technical assistance has been requested. In the case of the United Kingdom (Montserrat), specific needs were emphasized in terms of technical assistance. The Office is following up the requests for technical assistance.

13. The Committee is grateful to the governments mentioned above for their replies to the Office's letter. The Committee has also been informed that, following the discussions of the Conference Committee on the Application of Standards, other member States have fulfilled their reporting and other standards-related obligations with, in some instances, the assistance of the Office.³ The Committee shares the view of the Conference Committee on the Application of Standards that failure by member States to comply with their reporting and other obligations is a serious matter and adversely affects the functioning of the supervisory system. It also wishes to remind governments of their obligation to fulfil all of these obligations. While technical assistance is available to governments that have requested it, for such assistance to be effective, it should target the specific difficulties encountered. The nature and the effectiveness of such assistance depend on the willingness of governments to inform the Office of their difficulties. Certain failures to comply with reporting and other standards-related obligations are addressed in Part II of the Committee's report under its general observations as well as in its observations, concerning the submission to the competent authorities of the instruments adopted by the Conference.⁴

³ Such is the case of: **Belize, Denmark** (Greenland), **Haiti, Solomon Islands, Tajikistan, United Kingdom** (British Virgin Islands) and the **United Republic of Tanzania** (Zanzibar) (communication of reports due for the past two or more years); **Azerbaijan, Equatorial Guinea and Serbia and Montenegro** (submission of first reports on certain ratified Conventions).

⁴ See pp. 31 to 37 for the general observations and pp. 466 to 478 for the observations concerning the submission to the competent authorities.

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

A. Supply of reports

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

15. In accordance with the changes in the reporting system adopted by the Governing Body in November 2001 and March 2002,⁵ particularly with a view to facilitating the collection of information on related subjects at the national level, requests for reports on Conventions covering the same subject are addressed simultaneously to each country.⁶ In addition, in the case of the 12 fundamental and priority Conventions, as well as for certain other groups of Conventions containing a large number of instruments, reports are requested, with a view to balancing their submission, in accordance with the English alphabetical order, the first year by member States beginning with the letters A to J, and the second year by those whose names begin with the letters K to Z, or the converse⁷ (for a list of subject matters see page v).

16. The Committee also had before it reports especially requested from certain governments on other Conventions for one of the following reasons:

- (a) a first report after ratification was due;
- (b) important discrepancies had previously been noted between national law or practice and the Conventions in question;
- (c) reports due for the previous period had not been received or did not contain the information requested;
- (d) reports were expressly requested by the Conference Committee on the Application of Standards.

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

Reports requested and received

17. A total of 2,638 reports were requested from governments on the application of Conventions ratified by member States (article 22 of the Constitution). At the end of the present session of the Committee, 1,820 of these reports had been received by the Office. This figure corresponds to 69 per cent of the reports requested, compared with 64.07 per cent last year.

18. In addition, 343 reports were requested on Conventions declared applicable with or without modifications to non-metropolitan territories (article 35 of the Constitution). Of these, 247 reports, or 72.01 per cent, had been received by the end of the Committee's session, in comparison with 67.98 per cent last year.

19. Appendix I of this report lists the reports received and not received, classified by country/territory and by Convention. Appendix II shows, for each year in which the Conference has met since 1932, the number and percentage of reports received by the prescribed date, by the date of the meeting of the Committee of Experts and by the date of the session of the International Labour Conference.

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

Compliance with reporting obligations

21. Most of the governments from which reports were due on the application of ratified Conventions have supplied most or all the reports requested (see Appendix I). However, no reports due have been received for the past two or more years from the following 17 countries: **Afghanistan, Antigua and Barbuda, Armenia, Comoros, Gambia, Grenada, Guyana, Iraq, Lao Peoples' Democratic Republic, Liberia, Netherlands (Aruba), Paraguay, Saint Lucia, Sao Tome and Principe, The former Yugoslav Republic of Macedonia, Turkmenistan and United Kingdom (St. Helena)**. In addition, all or the majority of the reports due this year have not been received from the following 36 countries: **Albania, Bahamas, Barbados, Belize, Bosnia and Herzegovina, Botswana, Burkina Faso, Burundi, Cambodia, Chile, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Denmark (Faeroe Islands), Equatorial Guinea, Ghana, Guinea, Kazakhstan, Kyrgyzstan, Malta, Namibia, Netherlands (Netherlands Antilles), Saint Kitts and Nevis, San Marino, Senegal, Seychelles, Singapore, United Republic of Tanzania (Tanganyika), Thailand, Togo, Uganda, United**

⁵ Documents GB.282/LILS/5, GB.282/8/2, GB.283/LILS/6 and GB.283/10/2.

⁶ Information concerning requests for reports by country and by Convention is available on the ILO web site: <http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm>.

⁷ Information concerning the regular reporting schedule by country and by Convention is available on the ILO web site: <http://webfusion.ilo.org/public/db/standards/normes/schedules/index.cfm>.

Kingdom (Anguilla, Falkland Islands (Malvinas), Montserrat), **United States, United States** (American Samoa, Guam, Northern Mariana Islands, Puerto Rico, United States Virgin Islands), **Uzbekistan, Viet Nam, Zambia**.

22. The Committee urges the governments of these countries to make every effort to supply the reports requested on ratified Conventions. The Committee is aware that where no reports have been sent for some time, it is likely that administrative or other problems are preventing the government concerned from fulfilling its obligations under the ILO Constitution, and it recalls that in cases of this kind, assistance from the Office, in particular through the specialists on international labour standards in the regional or subregional offices, can help the government to overcome such difficulties.

Late reports

23. The Committee is still concerned at the number of reports being received after the prescribed time period, especially given the large number of reports received this year. The reports due on ratified Conventions should be sent to the Office between 1 June and 1 September of each year. Due consideration is given, when setting this date, to the time required to translate the reports, where necessary, to conduct research into legislation and other documents necessary for the examination of reports and legislation.

24. The supervisory procedure can function correctly only if reports are communicated in due time. This is particularly true in the case of first reports or reports on Conventions where there are serious or continuing discrepancies, which the Committee has to examine in greater depth.

25. The Committee observes that the great majority of reports are received between the time limit fixed and the date on which the Committee meets: by 1 September 2005, the proportion of reports received was only 26.38 per cent. Even though this percentage is slightly higher than at its previous session (25.65 per cent), the Committee is still concerned about it, since it notes that it is often first reports and those relating to Conventions on which the Committee has made comments that are received the latest. In these circumstances, the Committee has been bound in recent years to postpone to its following session the examination of an increasing number of reports, since they could not be examined with the necessary care due to the lack of time. This obviously places a great strain on the supervisory process and effectively makes it impossible for some cases to be dealt with adequately or at all. These problems may well continue to increase with the success of the ratification campaign on fundamental Conventions and an increase in the number of ratifications of other Conventions. This year, the Committee has carried out an exceptional exercise, under which it examined a high number of reports which had been previously deferred, in addition to the reports received this year that could be examined at its present session.

26. Furthermore, the Committee notes that a number of countries sent some or all of the reports due by 1 September 2004 on ratified Conventions during the period between the end of the Committee's December 2004 session and the beginning of the June 2005 session of the International Labour Conference, or even during the Conference.⁸ The Committee emphasizes that this practice disturbs the regular operation of the supervisory system and makes it more burdensome. It wishes to provide the following list of those countries which followed this practice in 2004-05, as requested by the Conference Committee on the Application of Standards: **Barbados** (Conventions Nos. 29, 63, 81, 105, 118, 135, 182); **Belgium** (Convention No. 182); **Botswana** (Conventions Nos. 29, 105, 151); **Central African Republic** (Conventions Nos. 29, 41, 81, 95); **Chad** (Conventions Nos. 14, 26, 29, 41, 81, 87, 105, 132, 135, 151, 182); **Chile** (Conventions Nos. 9, 29, 103, 115, 140, 151); **China** (Conventions Nos. 16, 22, 23); **Cyprus** (Conventions Nos. 16, 23, 29, 81, 92, 105, 135, 138, 147, 150, 151, 154, 160); **Denmark** (Conventions Nos. 29, 81, 92, 105, 111, 122, 134, 135, 138, 144, 147, 151, 160, 169, 182); **Dominica** (Conventions Nos. 8, 14, 22, 29, 81, 105, 111, 138); **France** (Conventions Nos. 8, 22, 23, 53, 63, 92, 108, 145, 146, 147); **France: French Guiana** (Conventions Nos. 8, 22, 23, 53, 92, 108, 145, 146, 147), **France: French Southern and Antarctic Territories** (Conventions Nos. 8, 9, 16, 22, 23, 53, 68, 73, 92, 108, 133, 134, 146, 147), **Guadeloupe** (Conventions Nos. 8, 22, 23, 29, 53, 92, 105, 108, 129, 135, 145, 146, 147), **Martinique** (Conventions Nos. 8, 22, 23, 53, 92, 108, 145, 146, 147), **Réunion** (Conventions Nos. 8, 22, 23, 53, 92, 108, 145, 146, 147), **St. Pierre and Miquelon** (Conventions Nos. 9, 16, 22, 23, 53, 55, 56, 71, 73, 108, 145, 146, 147); **Ghana** (Conventions Nos. 8, 22, 29, 69, 74, 98, 103, 108, 182); **Guinea** (Conventions Nos. 3, 16, 152, 159); **Haiti** (Conventions Nos. 14, 24, 25, 29, 81, 87, 98, 100, 105, 106, 111); **Iceland** (Convention No. 138); **Kyrgyzstan** (Conventions Nos. 81, 87, 95, 100); **Lesotho** (Conventions Nos. 87, 98, 100, 105, 111, 144, 150); **Madagascar** (Conventions Nos. 111, 159, 182); **Malta** (Conventions Nos. 2, 13, 62, 147); **Netherlands: Netherlands Antilles** (Conventions Nos. 87, 88, 122); **Niger** (Conventions Nos. 87, 98, 100, 111, 119, 148, 154); **Pakistan** (Conventions Nos. 1, 14, 45, 81, 89, 100, 106, 159, 182); **Panama** (Convention No. 122); **Saint Vincent and the Grenadines** (Conventions Nos. 101, 180); **Serbia and Montenegro** (Conventions Nos. 98, 100, 102, 111, 122, 135); **Seychelles** (Conventions Nos. 87, 98, 100, 111, 148, 151); **Slovakia** (Conventions Nos. 144, 155, 167); **Slovenia** (Conventions Nos. 88, 98, 100, 111, 119, 122); **Somalia** (Conventions Nos. 29, 45, 84, 105, 111); **Swaziland** (Conventions Nos. 14, 45, 87, 105, 111, 182); **Sweden** (Conventions Nos. 13, 115, 119, 120, 128, 139, 148, 155, 159, 161, 162, 167, 170, 174, 175, 176); **United Republic of Tanzania: Tanganyika** (Convention No. 101); **Trinidad and Tobago** (Conventions Nos. 87, 98, 100, 111, 144, 159); **Turkey**

⁸ For the reports received and not received by the end of the Conference, see report of the Committee on the Application of Standards, Part Two, II, Appendix I (*Provisional Record* No. 22, 93rd Session, ILC, 2005). See also information on article 22 reports requested and received on the ILO web site: <http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm>.

(Conventions Nos. 100, 111); **United Kingdom** (Conventions Nos. 2, 122); **United Kingdom: Anguilla** (Convention No. 148), **Falkland Islands (Malvinas)** (Conventions Nos. 45, 87, 98), **Isle of Man** (Conventions Nos. 2, 87, 98, 122); **Zambia** (Conventions Nos. 100, 111, 135, 148, 182).

Supply of first reports

27. A total of 105 of the 200 first reports due on the application of ratified Conventions were received by the time that the Committee's session ended, compared to last year when 138 of the 235 first reports due had been received. However, a number of countries have failed to supply first reports, some of which are more than a year overdue. Thus, certain first reports on ratified Conventions have not been received for a certain number of years from the following 19 member States:

- since 1992: **Liberia** (Convention No. 133);
- since 1995: **Armenia** (Convention No. 111), **Kyrgyzstan** (Convention No. 133);
- since 1996: **Armenia** (Conventions Nos. 100, 122, 135, 151);
- since 1998: **Armenia** (Convention No. 174), **Equatorial Guinea** (Conventions Nos. 68, 92);
- since 1999: **Turkmenistan** (Conventions Nos. 29, 87, 98, 100, 105, 111);
- since 2001: **Armenia** (Convention No. 176), **Kyrgyzstan** (Convention No. 105);
- since 2002: **Bosnia and Herzegovina** (Convention No. 105), **Gambia** (Conventions Nos. 29, 105, 138), **Saint Kitts and Nevis** (Conventions Nos. 87, 98, 100), **Saint Lucia** (Conventions Nos. 154, 158, 182);
- since 2003: **Bahamas** (Convention No. 147), **Bosnia and Herzegovina** (Convention No. 182), **Dominica** (Convention No. 182), **Gambia** (Convention No. 182), **Iraq** (Conventions Nos. 172, 182), **Paraguay** (Convention No. 182), **Serbia and Montenegro** (Conventions Nos. 24, 25, 27, 113, 114), **Uganda** (Convention No. 182); and
- since 2004: **Albania** (Conventions Nos. 150, 178); **Antigua and Barbuda** (Conventions Nos. 122, 131, 135, 142, 144, 150, 151, 154, 155, 158, 161, 182); **Burundi** (Convention No. 182); **Dominica** (Conventions Nos. 144, 169); **The former Yugoslav Republic of Macedonia** (Convention No. 182).

28. First reports are of particular importance since they provide the basis on which the Committee makes its initial assessment of the observance of ratified Conventions. The Committee therefore requests the governments concerned to make a special effort to supply these reports. This is even more important in view of the Governing Body's decision at its 282nd Session to remove the automatic obligation to submit a second detailed report two years after the first report.

Replies to the comments of the supervisory bodies

29. Governments are requested to reply in their reports to the observations and direct requests made by the Committee, and the majority of governments have provided the replies requested. In accordance with the established practice, the Office has written to all the governments which failed to provide such replies, requesting them to supply the necessary information. Of the 48 governments to which such letters were sent, only 15 have provided the information requested.

30. The Committee regrets that there are still many cases of failure to reply to its comments, either:

- (a) of all the reports requested from governments, no reply has been received; or
- (b) the reports received contained no reply to most of the Committee's comments (observations and/or direct requests) and/or did not reply to the letters sent by the Office.

31. In all there were 385 cases of no response (concerning 46 countries).⁹ There were 444 such cases (concerning 49 countries) last year. Under these conditions, the Committee is bound to repeat the observations or direct requests already made on the Conventions in question.

⁹ **Afghanistan** (Conventions Nos. 13, 41, 95, 105, 111, 139); **Antigua and Barbuda** (Conventions Nos. 14, 17, 29, 81, 87, 101, 111, 138); **Bahamas** (Conventions Nos. 22, 100, 111, 144, 182); **Barbados** (Conventions Nos. 87, 98, 100, 105, 108, 111, 115, 122, 138, 144, 147); **Belize** (Conventions Nos. 87, 88, 98, 100, 111, 115, 138, 144, 150, 151, 154, 182); **Bosnia and Herzegovina** (Conventions Nos. 81, 88, 98, 100, 111, 122); **Botswana** (Conventions Nos. 87, 98, 100, 138, 144, 182); **Burkina Faso** (Conventions Nos. 87, 98, 100, 111, 144, 159, 170); **Burundi** (Conventions Nos. 29, 62, 81, 89, 94, 98, 100, 101, 105, 111, 135, 138, 144); **Cambodia** (Conventions Nos. 4, 13, 87, 98, 100, 111, 122, 138); **Chile** (Conventions Nos. 87, 98, 100, 111, 121, 122, 127, 136, 144, 159, 161, 162); **Comoros** (Conventions Nos. 13, 29, 52, 81, 98, 100, 105, 122); **Congo** (Conventions Nos. 29, 87, 95, 98, 144, 152); **Côte d'Ivoire** (Conventions Nos. 13, 96, 98, 100, 111, 136, 144, 159); **Democratic Republic of the Congo** (Conventions Nos. 29, 62, 81, 87, 88, 98, 100, 102, 119, 121, 144, 150); **Equatorial Guinea** (Conventions Nos. 100, 111, 138); **Eritrea** (Conventions Nos. 100, 111); **France: French Guiana** (Conventions Nos. 62, 100, 111, 120), **Guadeloupe** (Conventions Nos. 100, 111, 115, 136); **Gambia** (Conventions Nos. 87, 98, 100, 111); **Grenada** (Conventions Nos. 81, 87, 100, 105, 144); **Guyana** (Conventions Nos. 2, 29, 81, 87, 98, 100, 111, 115, 129, 136, 138, 139, 144, 150, 166, 182); **Iraq** (Conventions Nos. 8, 13, 22, 23, 108, 115, 120, 136, 147, 167); **Kazakhstan** (Conventions Nos. 81, 87, 88, 98, 111, 122, 129, 135, 138, 144, 148); **Kyrgyzstan** (Conventions Nos. 14, 29, 52, 77, 78, 79, 98, 124, 148, 149, 160); **Lao Peoples' Democratic Republic** (Conventions Nos. 13, 29); **Liberia** (Conventions Nos. 22, 29, 53, 55, 58, 87, 92, 98, 105, 111, 112, 113, 114, 133, 147); **Malta** (Conventions Nos. 16, 22, 73, 81, 129, 138, 182); **Namibia** (Conventions Nos. 29, 105, 138, 150, 182); **Netherlands: Aruba** (Conventions Nos. 8, 29, 81, 87, 88, 105, 122, 135, 138, 144, 145, 146, 147); **Paraguay** (Conventions Nos. 1, 29, 30, 52, 79, 81, 87, 89, 90, 98, 100, 111, 115, 117, 119, 120, 122, 159, 169); **Saint Lucia** (Conventions Nos. 8, 29, 87, 100, 111); **San Marino** (Conventions Nos. 29, 88, 100, 142, 160, 182); **Sao Tome and Principe**

32. The failure of the governments concerned to fulfil their obligations considerably hinders the work of the Committee of Experts and that of the Conference Committee on the Application of Standards. The Committee cannot overemphasize the importance of ensuring the dispatch of the reports and replies to its comments.

B. Examination of reports

33. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, in accordance with its normal practice, the Committee assigned to each of its members the initial responsibility for a group of Conventions. Reports received early enough are sent to the Members concerned in advance of the Committee's session. The Members submit their preliminary conclusions on the instruments for which they are responsible to the Committee in plenary sitting for discussion and approval. Decisions on comments are adopted by consensus.

Observations and direct requests

34. In many cases, the Committee has found that no comment is called for regarding the manner in which a ratified Convention has been implemented. In other cases, however, the Committee has found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. As in previous years, its comments have been drawn up in the form either of "observations" which are reproduced in the report of the Committee, or "direct requests", which are not published in the Committee's report, but are communicated directly to the governments concerned.¹⁰

35. As in the past, the Committee has indicated by special notes at the end of the observations (traditionally known as footnotes) the cases in which, because of the nature of the problems encountered in the application of the Conventions concerned, it has seemed appropriate to ask the government to supply a report earlier than would otherwise have been the case.¹¹ Under the present reporting cycle,¹² which applies to most Conventions, such early reports have been requested after an interval of either one or two years, according to the circumstances. In some instances, the Committee has also requested the government to supply full particulars to the Conference at its next session in May-June 2006.¹³ In addition, in certain cases, the Committee has requested governments to furnish detailed reports when simplified reports would otherwise be due.

36. The Committee wishes to describe its approach to the identification of cases for which it inserts special notes by highlighting the basic criteria below. In so doing, the Committee makes three general comments. First, these criteria are indicative. In exercising its discretion in the application of these criteria, the Committee may also have regard to the specific circumstances of the country and the length of the reporting cycle. Second, these criteria are applicable to cases in which an earlier report is requested, often referred to as a "single footnote", as well as to cases in which the government is requested to provide detailed information to the Conference, often referred to as "double footnote". The difference between these two categories is one of degree. The third comment is that a serious case otherwise justifying a special note to provide full particulars to the Conference (double footnote) might only be given a special note to provide an early report (single footnote) in cases where there has been a recent discussion of that case in the Conference Committee on the Application of Standards.

(Conventions Nos. 18, 19, 81, 87, 88, 98, 100, 111, 144, 159); **Senegal** (Conventions Nos. 19, 81, 87, 100, 111, 122, 138, 182); **Seychelles** (Conventions Nos. 8, 100, 105, 108, 138, 150, 182); **Singapore** (Conventions Nos. 8, 22, 29, 182); **Swaziland** (Conventions Nos. 29, 96, 111, 160); **United Republic of Tanzania**: Tanganyika (Conventions Nos. 81, 108); **Thailand** (Conventions Nos. 29, 105); **The former Yugoslav Republic of Macedonia** (Conventions Nos. 87, 98); **Togo** (Conventions Nos. 29, 105, 138, 182); **Uganda** (Conventions Nos. 17, 26, 29, 81, 94, 105, 123, 143, 159); **United Kingdom**: Anguilla (Conventions Nos. 8, 22, 23, 29), Montserrat (Conventions Nos. 8, 26, 29, 95), St. Helena (Conventions Nos. 29, 108); **United States** (Conventions Nos. 55, 105, 147, 160, 182); **Viet Nam** (Conventions Nos. 81, 182); **Zambia** (Conventions Nos. 29, 87, 95, 98, 100, 103, 111, 122, 136, 138, 144, 149, 150, 159, 173).

¹⁰ ILO: *Handbook of procedures relating to international labour Conventions and Recommendations*, Geneva, Rev/2006. These comments appear in the CD-ROM version of the ILOLEX database. This database is also available via the ILO web site (www.ilo.org/normes).

¹¹ Convention No. 1: **Bolivia**; Convention No. 16: **Saint Vincent and the Grenadines**; Convention No. 19: **Djibouti**; Convention No. 26: **Myanmar**; Convention No. 30: **Bolivia, Panama**; Convention No. 55: **Panama**; Convention No. 56: **Panama**; Convention No. 78: **Cameroon**; Convention No. 87: **Belarus, Myanmar**; Convention No. 88: **Japan, Netherlands, Thailand, Bolivarian Republic of Venezuela**; Convention No. 95: **Libyan Arab Jamahiriya, Poland, Russian Federation, Sudan, Ukraine**; Convention No. 96: **Pakistan, Swaziland**; Convention No. 98: **Bangladesh, Belarus, Guatemala**; Convention No. 103: **Libyan Arab Jamahiriya**; Convention No. 108: **Honduras**; Convention No. 115: **Djibouti, France**; French Polynesia, **Ghana, Paraguay**; Convention No. 117: **Central African Republic, Paraguay**; Convention No. 120: **Djibouti**; Convention No. 122: **Comoros**; Convention No. 133: **Lebanon**; Convention No. 144: **Belarus, Nepal**; Convention No. 155: **Czech Republic, Spain, Zimbabwe**; Convention No. 159: **Netherlands**; Convention No. 161: **Zimbabwe**; Convention No. 162: **Croatia, Zimbabwe**; Convention No. 169: **Colombia, Guatemala, Paraguay**; Convention No. 176: **Zimbabwe**; Convention No. 181: **Netherlands**.

¹² After the first report, subsequent reports are requested every two years for the fundamental and priority Conventions and every five years for other Conventions (GB.258/6/19).

¹³ Convention No. 26: **Djibouti**; Convention No. 29: **Myanmar, Uganda**; Conventions Nos. 79 and 90: **Paraguay**; Convention No. 87: **Belarus**; Convention No. 95: **Libyan Arab Jamahiriya**; Convention No. 98: **Bangladesh, Belarus, Guatemala, Pakistan**; Convention No. 162: **Croatia**; Convention No. 169: **Paraguay**.

37. The criteria to which the Committee will have regard are the existence of one or more of the following matters:

- the seriousness of the problem; in this respect, the Committee emphasizes that an important consideration is the necessity to view the problem in the context of a particular Convention and to take into account matters involving fundamental rights, workers' health, safety and well-being as well as any adverse impact, including at the international level, on workers and other categories of protected persons;
- the persistence of the problem;
- the urgency of the situation; the evaluation of such urgency is necessarily case-specific, according to standard human rights criteria, such as life-threatening situations or problems where irreversible harm is foreseeable; and
- the quality and scope of the government's response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.

At its 76th Session, the Committee decided that the identification of cases in respect of which a special note (double footnote) is to be attributed will be a two-stage process: the expert initially responsible for a particular group of Conventions may recommend to the Committee the insertion of special notes; in light of all the recommendations made, the Committee will take a final, collegial decision on all the special notes to be inserted, once it has reviewed the application of all the Conventions.

38. The observations of the Committee appear in Part II (sections I and II) of this report, together with a list under each Convention of any direct requests. An index of all observations and direct requests, classified by country, is provided in Annex VII.

Practical application

39. It is customary for the Committee to note the information contained in the governments' reports allowing it to appreciate the application of the Conventions in practice, such as information relating to judicial decisions, statistics and labour inspection. The supply of this information is requested in almost all report forms, as well as the specific terms of some Conventions.

40. The Committee notes that 703 reports received this year contain information on the practical application of Conventions. Of these, 69 reports contain information on national jurisprudence. Such information has been communicated mostly for fundamental Conventions and in particular Conventions Nos. 98, 100, 111 and 182. The Committee also notes that 634 of the reports contain information on statistics and labour inspection. The majority of this information relates to Conventions concerning freedom of association (Convention No. 98), elimination of child labour (Convention Nos. 138 and 182), equality of opportunity and treatment (Conventions Nos. 100 and 111), tripartite consultations (Convention No. 144), employment policy and promotion (Conventions Nos. 88 and 122) and disabled persons (Convention No. 159).

41. The Committee recalls the importance for governments to supply this information and hopes that at its session next year it will be able to note an increase in the number of reports containing such information. The Committee intends, as much as possible, to follow this issue closely during its next sessions, taking into account, in addition to governments' reports, the work of the International Training Centre of the ILO in Turin in promoting the use of international labour standards by national judges.

Cases of progress

42. Following its examination of the reports supplied by governments, and in accordance with its standard practice, the Committee refers in its comments to cases in which it expresses its **satisfaction** or **interest** at the progress achieved in the application of the respective Conventions. Over the years, the Committee has developed a general approach concerning the identification of cases of progress. In describing the approach below, the Committee wishes to emphasize that an expression of progress can refer to many kinds of measures. In the final instance, the Committee will exercise its discretion in noting progress having regard in particular to the nature of the Convention as well as to the specific circumstances of the country.

43. Since first identifying cases of satisfaction in its report in 1964,¹⁴ the Committee has continued to follow the same general criteria. The Committee expresses **satisfaction** in cases in which, following comments it has made on a specific issue, governments have taken measures through either the adoption of an amendment to the legislation or a significant change in the national policy or practice thus achieving fuller compliance with their obligations under the respective Conventions. The reason for identifying cases of satisfaction is twofold: to place on record the Committee's appreciation of the positive action taken by governments in response to its comments, and to provide an example to other governments and social partners which have to address similar issues. In expressing its satisfaction, the Committee indicates to governments and the social partners that it considers the specific matter resolved. In so doing, the Committee must emphasize that an expression of satisfaction is limited to the particular issue at hand and the nature of the measure taken by the government concerned. Therefore, in the same comment, the Committee may express satisfaction on a

¹⁴ See paragraph 16 of the report of the Committee of Experts submitted to the 48th Session (1964) of the International Labour Conference.

particular issue, while raising other important issues which in its view have not been satisfactorily addressed. Further, if the satisfaction relates to the adoption of legislation, the Committee may also consider appropriate follow-up on its practical application.

44. Details concerning these cases are to be found in Part II of this report and cover 55 instances in which measures of this kind have been taken in 41 countries. The full list is as follows:

List of the cases in which the Committee has been able to express its satisfaction at certain measures taken by the governments of the following countries:	
State	Conventions Nos.
Australia	87, 98
Belgium	62
Benin	105
Bosnia and Herzegovina	100, 111
Botswana	105, 151, 173
Brazil	98
Burkina Faso	87, 111
Burundi	135
Côte d'Ivoire	29
Czech Republic	139
El Salvador	155
Estonia	22, 23
France	136
France – French Polynesia	19
Gabon	182
Germany	115, 162
Guatemala	120
Ireland	159
Italy	147
Jamaica	8
Japan	115
Republic of Korea	111
Lebanon	115, 120
Lesotho	98, 167
Libyan Arab Jamahiriya	128
Madagascar	173
Mauritania	53
Morocco	182
Netherlands	174
New Zealand	98
Norway	115
Poland	100
Portugal	108

List of the cases in which the Committee has been able to express its satisfaction at certain measures taken by the governments of the following countries:	
Rwanda	111
Syrian Arab Republic	30
Thailand	105
Trinidad and Tobago	98
Turkey	100, 182
United Arab Emirates	138
United Kingdom	147
United Kingdom – Bermuda	82
Uruguay	115, 131
Yemen	98, 135

45. Thus the total number of cases in which the Committee has been led to **express its satisfaction** at the progress achieved following its comments has risen to 2,484 since the Committee began listing them in its report.

46. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979.¹⁵ In general, cases of **interest** cover measures that are sufficiently advanced to justify the expectation that further progress would be achieved in the future and regarding which the Committee would want to continue its dialogue with the government and the social partners. This may include: draft legislation before parliament, or other proposed legislative changes not yet forwarded or available to the Committee; consultations within the government and with the social partners; new policies; the development and implementation of activities within the framework of a technical cooperation project or following technical assistance or advice from the Office. Judicial decisions, according to the level of the court, the subject matter and the force of such decisions in a particular legal system would normally be considered as cases of interest unless there was a compelling reason to note a particular judicial decision as a case of satisfaction. The Committee may also note as cases of interest progress made by a State, province or territory in the framework of a federal system. The Committee's practice has developed to a certain extent, so that cases in which it expresses interest may now also encompass a variety of new or innovative measures which have not necessarily been requested by the Committee. The paramount consideration is that the measures contribute to the overall achievement of the objectives of a particular Convention.

47. Details concerning the cases in question are to be found either in Part II of this report or in the requests addressed directly to the governments concerned and, include 289 instances in which measures of this kind have been adopted in 103 countries. The full list is as follows:

List of the cases in which the Committee has been able to note with interest various measures taken by the governments of the following countries:	
State	Conventions Nos.
Albania	95, 98, 151
Algeria	88, 100, 111
Argentina	22, 88
Australia	87, 98, 112
Austria	111
Azerbaijan	111
Bahamas	88
Belarus	155
Belgium	87

¹⁵ See paragraph 122 of the report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference.

List of the cases in which the Committee has been able to note with interest various measures taken by the governments of the following countries:	
Benin	13, 161
Bolivia	169
Bosnia and Herzegovina	87
Botswana	151, 176
Brazil	92, 133, 144, 155, 162
Bulgaria	22, 23, 53
Burkina Faso	100, 111, 161
Canada	87, 122, 162
Chile	103
China	170
China – Hong Kong Special Administrative Region	115
China – Macau Special Administrative Region	87, 98, 115
Colombia	87, 167, 169
Costa Rica	87, 98
Croatia	13, 73, 155, 159
Cuba	111, 155
Cyprus	87, 151, 160
Czech Republic	98, 105, 115, 139, 155, 176
Democratic Republic of the Congo	100, 111
Denmark	115, 120, 138, 148, 155, 182
Djibouti	10, 33, 123
Egypt	111, 139
Estonia	13, 87, 108
Ethiopia	87, 155
Fiji	87, 98
Finland	13, 53, 120, 134, 136, 139, 162, 184
France	23, 100, 105, 111, 115
France – French Guiana	9, 23
France – French Southern and Antarctic Territories	22, 23, 134
France – Guadeloupe	9, 23
France – Martinique	9, 23
France – New Caledonia	9, 120
France – Réunion	9, 23
France – St. Pierre and Miquelon	9, 23
Germany	3, 102
Ghana	1, 30, 87, 98, 103, 149, 182
Greece	62

List of the cases in which the Committee has been able to note with interest various measures taken by the governments of the following countries:	
Guatemala	58, 169
Honduras	87, 98
Hungary	136
Iceland	98, 100, 139
India	107, 115, 136
Indonesia	87
Islamic Republic of Iran	182
Ireland	139, 176
Italy	9, 13, 134
Jamaica	182
Japan	115, 144
Jordan	105
Republic of Korea	111
Kuwait	111, 182
Kyrgyzstan	100
Lebanon	111, 115, 139, 176
Lesotho	167
Libyan Arab Jamahiriya	102, 103, 118, 121, 128, 130
Madagascar	111, 173, 182
Mali	182
Malta	148
Mauritania	95
Mauritius	100, 111, 138, 182
Mexico	111, 169
Republic of Moldova	88, 100, 111, 181, 184
Morocco	138, 182
Nepal	111
Netherlands	100, 111, 138, 182
Netherlands – Netherlands Antilles	87
New Zealand	100, 111, 122, 182
Nicaragua	111, 122, 138, 182
Norway	69, 115, 139, 182
Pakistan	105, 111
Panama	111
Peru	53, 111, 138, 169, 182
Philippines	88
Poland	68, 100, 111, 147

List of the cases in which the Committee has been able to note with interest various measures taken by the governments of the following countries:	
Portugal	69, 73, 100, 111, 162, 182
Qatar	81, 111
Romania	100, 111, 182
Russia Federation	52, 105, 138
Rwanda	111
San Marino	148
Saudi Arabia	182
Serbia and Montenegro	138, 155, 182
Slovakia	100, 111, 156, 182, 184
Slovenia	98, 111
South Africa	138, 155, 182
Spain	155, 182
Sri Lanka	103
Suriname	81
Swaziland	81, 138, 182
Sweden	111, 115
Switzerland	100, 111, 162
Syrian Arab Republic	111, 118, 139
United Republic of Tanzania	100, 111, 182
United Republic of Tanzania – Tanganyika	101
Thailand	127, 182
Trinidad and Tobago	98, 111, 159
Turkey	111, 138, 182
Ukraine	100, 111
United Arab Emirates	138, 182
United Kingdom	111, 115, 122, 147, 182
United Kingdom – Guernsey	24, 56
United Kingdom – Isle of Man	98
United Kingdom – Jersey	115
United States	176
Uruguay	100, 111, 122, 139, 149, 155
Yemen	132, 138
Zambia	176
Zimbabwe	170, 182

Role of employers' and workers' organizations

48. At each session, the Committee draws the attention of governments to the important role of employers' and workers' organizations in the application of Conventions and Recommendations. Moreover, it highlights the fact that numerous Conventions require consultation with employers' and workers' organizations, or their collaboration in a variety

of measures. The Committee notes that almost all governments have indicated in the reports supplied under articles 19 and 22 of the Constitution the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, they have communicated copies of the reports supplied to the Office. Moreover, almost all governments have indicated the organizations to which they have communicated copies of the information supplied to the Office on the submission to the competent authorities of the instruments adopted by the Conference.

Observations made by employers' and workers' organizations

49. Since its last session, the Committee has received 577 observations (compared to 533 last year), 67 of which were communicated by employers' organizations and 510 by workers' organizations. The Committee recalls the importance it attaches to this contribution by employers' and workers' organizations to the work of the supervisory bodies, which is essential for the Committee's evaluation of the application of ratified Conventions in law and in practice.

50. The majority of the observations received (548) relates to the application of ratified Conventions (see Appendix III).¹⁶ Twenty-four observations relate to the reports provided by governments under article 19 of the Constitution of the ILO on the Labour Inspection Convention, 1947 (No. 81), the Protocol of 1995 to the Labour Inspection Convention, 1947, the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133).¹⁷

51. The Committee notes that, of the observations received this year, 377 were transmitted directly to the Office which in accordance with the practice established by the Committee, referred them to the governments concerned for comment. The Committee emphasizes that such observations should be received by 1 September at the latest to allow governments to have a reasonable time to respond, thereby enabling the Committee to examine the issues in question at its session in November the same year. Observations received later than 1 September will be examined by the Committee at its session the following year. In 195 cases, the governments transmitted the observations with their reports, sometimes adding their own comments.

52. The Committee also examined a number of other observations by employers' and workers' organizations, consideration of which had been postponed from its previous session because the observations of the organizations or the replies of the governments had arrived just before or just after the session. It again had to postpone until its next session, the examination of a number of observations, when they were received too close to or even during the Committee's present session, in particular to allow reasonable time for the governments concerned to make comments.

53. The Committee notes that in most cases the employers' and workers' organizations endeavoured to gather and present precise elements of law and fact on the application in practice of ratified Conventions. The Committee recalls that, for the purpose of its examination, it is important for the organizations to provide adequate details, for example by referring specifically to the Convention or Conventions deemed relevant.

54. The Committee notes that the matters dealt with in these observations have touched on a very wide range of Conventions. The second part of this report contains most of the comments made by the Committee on cases in which the observations raised matters relating to the application of ratified Conventions. Where appropriate, other observations are examined in requests addressed directly to the governments.

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

55. In accordance with its terms of reference, the Committee this year examined the following information supplied by the governments of member States pursuant to article 19 of the Constitution of the International Labour Organisation:

- (a) information on the steps taken to submit to the competent authorities the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), adopted by the Conference at its 91st Session (2003);
- (b) information on the steps taken to submit to the competent authorities the Human Resources Development Recommendation, 2004 (No. 195), adopted by the Conference at its 92nd Session (2004);
- (c) additional information on the steps taken to submit to the competent authorities the instruments adopted by the Conference from its 31st Session (1948) to its 91st Session (2003) (Conventions Nos. 87 to 184, Recommendations Nos. 83 to 194 and the Protocols);
- (d) replies to the observations and direct requests made by the Committee at its previous session (November-December 2004).

¹⁶ An indication of the observations made by employers' and workers' organizations on the application of Conventions received during the current year is available on the ILO web site: <http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm>.

¹⁷ See the report in Part III(1B) regarding the General Survey.

56. The table in Appendix IV of Part Two of this report shows the position of each member State on the basis of the information supplied by governments regarding the obligation to submit the instruments adopted by the Conference to the competent authorities. Appendix V shows the overall situation with regard to the instruments adopted since the 51st Session (June 1967) of the Conference. Appendix VI contains a summary indicating, where the information has been provided, the name of the competent authority to which the instruments adopted by the Conference at its 91st and 92nd Sessions (June 2003 and 2004) were submitted and the date of submission.

91st Session

57. Convention No. 185, adopted at the 91st Session (2003) of the Conference, was to be submitted to the competent authorities within one year or, under exceptional circumstances, within 18 months of the closure of the session of the Conference, that is, before 19 June 2004 and 19 December 2004, respectively. The Committee notes with interest the information on the submission of this instrument to the competent authorities provided by the following 23 governments, in addition to those mentioned in the last report: **Algeria, Australia, Austria, Bolivia, Dominican Republic, Estonia, Fiji, Gabon, Guyana, Haiti, Hungary, Iceland, Israel, Jamaica, Latvia, Mexico, Netherlands, Panama, Portugal, United Republic of Tanzania, United States, Viet Nam and Yemen.** Convention No. 185 has received four ratifications.

92nd Session

58. Recommendation No. 195, adopted at the 92nd Session (2004) of the Conference, was to be submitted to the competent authorities within one year or, under exceptional circumstances, within 18 months of the closure of the session of the Conference, that is, before 17 June 2005 and 17 December 2005, respectively. The following 59 governments have provided information on the steps taken with a view to the submission of Recommendation No. 195 to the authorities which they consider competent: **Algeria, Austria, Azerbaijan, Belarus, Benin, Costa Rica, Cyprus, Czech Republic, Dominican Republic, Ecuador, Egypt, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Israel, Italy, Japan, Jordan, Republic of Korea, Lebanon, Lithuania, Luxembourg, Malaysia, Mauritius, Morocco, Myanmar, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Papua New Guinea, Philippines, Poland, Romania, Rwanda, Saudi Arabia, Slovakia, Slovenia, Sudan, Switzerland, United Republic of Tanzania, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, United Kingdom, Viet Nam and Zimbabwe.**

59. When transmitting the authentic text of Recommendation No. 195 to governments, the Director-General reminded member States which have not yet ratified the Human Resources Development Convention, 1975 (No. 142), that they could examine both instruments – Convention No. 142 and Recommendation No. 195 – in the context of the tripartite consultations relating to the ratification of the Convention and the implementation of the Recommendation.

31st to 91st Sessions

60. The Committee welcomes the special efforts made by the following governments: **Algeria, Bolivia, Jamaica, Latvia and United Republic of Tanzania.**

General aspects

61. The Committee welcomes the adoption of a revised Memorandum on the constitutional obligation to submit the instruments adopted by the Conference to the competent authorities.¹⁸ At its 292nd Session (March 2005), the Governing Body took into account various comments of the Committee of Experts and the Conference Committee with a view to updating certain issues relating to the obligation of submission. The aims and objectives of submission have been further specified, in particular regarding information to social partners, which should allow an important dialogue with the government authorities and parliamentarians on the activities of the Conference. For the member States that have ratified Convention No. 144, the proposals and documents relating to submission should be covered by tripartite consultations.

62. The value of the Memorandum is to allow the Committee to examine the information it needs to assess the efforts made by governments to fulfil this obligation, which is established in the Constitution of the Organization. The Committee has accordingly emphasized the importance of informing parliamentary bodies, the most widely used procedure for deciding on the ratification of Conventions and Protocols or the implementation of Recommendations at the national level.

63. The Organization's standards-related activities require an in-depth analysis of the instruments adopted by the Conference. The implementation of these instruments at the national level can only be achieved through tripartite dialogue. Bringing the instruments adopted by the Conference to the attention of national parliaments results in the involvement of democratically elected representatives in the social and labour issues addressed by the Organization.

64. The Committee therefore welcomes the fact that the Committee on the Application of Standards, at each session of the Conference, invites governments which have not submitted to Parliament the instruments adopted by at

¹⁸ Documents GB.292/LILS/1 and GB.292/10(Rev.). The International Labour Standards Department has overseen the distribution of the Arabic, English, French, Spanish and Russian versions of the Memorandum, which can also be accessed on the ILO Internet site.

least the last seven sessions of the Conference to provide explanations at one of its sittings in a procedure that allows light to be shed on the specific difficulties encountered, such as exceptional national circumstances, the inadequacy of the resources available to the administrative services responsible for standards-related questions, difficulties of translation into the national language, or the very heavy workload of parliaments. The Committee analyses in these observations and direct requests the difficulties described by each government, monitors the problems raised and, where appropriate, proposes the Office's assistance.

65. If the submission to parliaments of the instruments adopted by the Conference is to be fully effective and result, where appropriate, in the ratification of a Convention or a Protocol, or the implementation of a Recommendation, it is essential to avoid any delay in commencing the tripartite consultations required on new international labour standards, or in informing parliamentary bodies. Any delay at this level has the result of parliamentary bodies and, in the final instance, civil society as a whole losing sight of the importance of the Organization's standards-related activities.

66. The Committee therefore takes the opportunity to appeal once again to the countries affected by significant backlogs in this respect, which may even concern more than seven consecutive sessions of the Conference, to make contact with the Office with a view to finding means of resolving the situation.

Comments of the Committee and replies from governments

67. As in its previous reports, the Committee makes individual observations, in section III of Part Two of this report, on the points that should be brought to the special attention of governments. In addition, requests for additional information on other points have been addressed directly to a number of countries (see the list at the end of section III).

68. The Committee hopes that the comments that it is addressing this year to 127 governments will enable them to discharge the constitutional obligation of submission more effectively, thereby contributing to the promotion of the standards adopted by the Conference and the ratification of recent Conventions. Emphasis should once again be placed on the importance of governments providing the information and documents requested by the questionnaire at the end of the Memorandum. The Committee must receive, for examination, a summary or a copy of the documents by which the instruments have been submitted to the parliamentary bodies, together with the proposals as to the action to be taken on them. The obligation of submission is discharged only once the instruments adopted by the Conference have been submitted to parliament and the competent authorities have taken a decision in this regard. The Office has to be informed of this decision and of the submission of instruments to parliament.

Special problems

69. The Committee regrets that the governments of the following nine countries have supplied no information showing that the instruments adopted by the Conference at the last seven or more sessions (from the 85th to the 91st) have indeed been submitted to the competent authorities: **Afghanistan, Armenia, Cambodia, Haiti, Sierra Leone, Solomon Islands, Somalia, Turkmenistan and Uzbekistan.**

70. In response to the call made by the Director-General for the highest priority to be given to the ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182), some governments were particularly prompt in sending information on the steps taken with a view to the submission to the competent authorities of Convention No. 182, adopted by the Conference on 17 June 1999 at its 87th Session (Convention No. 182 has received 156 ratifications). The Committee remains concerned about some States which, although they have ratified Convention No. 182, have built up a very significant backlog in the submission to the competent authorities of the instruments adopted by the Conference. Certain of these countries (**Belize, Bosnia and Herzegovina, Cameroon, Central African Republic, Comoros, Congo, Dominica, Djibouti, Grenada, Guinea, Guinea-Bissau, Kazakhstan, Kyrgyzstan, Lao Peoples' Democratic Republic, Madagascar, Mali, Saint Lucia, Sao Tome and Principe, Senegal**) were mentioned in previous reports.

71. The Committee considers this situation to be a matter of extreme concern. Indeed, there is a danger that the countries mentioned in paragraphs 69 and 70 may find it very difficult, or even impossible, to bring themselves up to date. Furthermore, neither the parliaments nor civil society in these countries are regularly informed of the existence of new instruments as they are adopted by the Conference, which defeats the real purpose of the obligation of submission, as explained in the preceding paragraphs.

72. The Committee hopes to be able to note the progress achieved in this respect in its next report. It once again reminds governments that they may seek technical assistance from the ILO, particularly through the standards specialists in the field.

Instruments chosen for reports under article 19 of the Constitution

73. In accordance with the decision taken by the Governing Body,¹⁹ governments were requested to supply reports under article 19 of the ILO Constitution on the Labour Inspection Convention, 1947 (No. 81), the Protocol of 1995 to the Labour Inspection Convention, 1947, the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection

¹⁹ Document GB.288/LILS/7.

(Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133).

74. A total of 884 reports were requested and 453 received.²⁰ This represents 51.24 per cent of the reports requested.

75. The Committee notes with regret that, for the past five years, none of the reports on unratified Conventions and Recommendations requested under article 19 of the ILO Constitution has been received from the following 29 countries: **Afghanistan, Albania, Angola, Antigua and Barbuda, Armenia, Bosnia and Herzegovina, Cape Verde, Comoros, Congo, Democratic Republic of the Congo, Djibouti, Dominican Republic, Guinea, Guyana, Kazakhstan, Kiribati, Kyrgyzstan, Liberia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Tajikistan, The former Yugoslav Republic of Macedonia, Togo, Turkmenistan, Uganda, Uzbekistan and Zambia.**

76. The Committee once again urges governments to provide the reports requested so that its General Surveys can be as comprehensive as possible.

77. Part III of this report (issued separately as Report III (Part 1B)) contains the General Survey on Labour Inspection. In accordance with the practice followed in previous years, the survey has been prepared on the basis of a preliminary examination by a working party comprising three members of the Committee.

²⁰ ILO: Report III (Part 1B), ILC, 95th Session, 2006.

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

A. Cooperation in the field of standards with the United Nations, the specialized agencies and other international organizations

78. In the context of its collaboration with other international organizations on questions concerning the supervision of the application of international instruments relating to subjects of common interest, the United Nations, certain specialized agencies and other intergovernmental organizations with which the ILO has entered into special arrangements for this purpose, are asked whether they have information on how specific ILO Conventions are being applied. The list of the Conventions concerned and the international organizations that were consulted is as follows:

- the Indigenous and Tribal Populations Convention, 1957 (No. 107): United Nations Food and Agriculture Organization (FAO), Inter-American Indian Institute of the Organization of American States, United Nations, United Nations Centre for Human Rights, United Nations Educational, Scientific and Cultural Organization (UNESCO) and World Health Organization (WHO);
- the Radiation Protection Convention, 1960 (No. 115): International Atomic Energy Agency;
- the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117): FAO, United Nations, United Nations Centre for Human Rights and UNESCO;
- the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), and the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147): International Maritime Organization (IMO);
- the Rural Workers' Organisations Convention, 1975 (No. 141): FAO, United Nations and United Nations Centre for Human Rights;
- the Human Resources Development Convention, 1975 (No. 142): UNESCO;
- the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143): United Nations, United Nations Centre for Human Rights, UNESCO and WHO;
- the Nursing Personnel Convention, 1977 (No. 149): WHO;
- the Indigenous and Tribal Peoples Convention, 1989 (No. 169): FAO, Inter-American Indian Institute of the Organization of American States, United Nations, United Nations Centre for Human Rights, UNESCO and WHO.

B. United Nations treaties concerning human rights

79. International labour standards and the provisions of the related United Nations human rights treaties are complementary and mutually reinforcing. The Committee therefore emphasizes the importance of collaboration between the ILO and the United Nations with regard to their application and supervision. This process is facilitated by the written reports and oral information that the Office regularly provides to UN human rights treaty bodies, in accordance with existing arrangements with each of them. Since the Committee's last session, activities have been undertaken in relation to the bodies responsible for supervising the application of the following instruments:

- the International Covenant on Economic, Social and Cultural Rights (two sessions);

- the International Covenant on Civil and Political Rights (three sessions);
- the International Convention on the Elimination of All Forms of Discrimination against Women (two sessions);
- the International Convention on the Elimination of All Forms of Racial Discrimination (two sessions);
- the Convention on the Rights of the Child (three sessions).
- the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families (two sessions).

80. The Office has established good working relations with all of these treaty bodies. It was represented at the Fourth Inter-Committee Meeting of Human Rights Treaty Bodies (June 2005) to discuss closer cooperation between these bodies and the ILO.

81. The Committee welcomes the fact that, as a result of these activities, the United Nations human rights treaty bodies continued to refer to information provided by the ILO and recommended measures that follow-up the comments of the Committee of Experts and other ILO supervisory bodies. For its part, the Committee of Experts continued to follow the work of the United Nations human rights treaty bodies and to take their comments into consideration, as appropriate. In recent years, this has been particularly the case in the areas of child labour, forced labour and discrimination.

82. Members of the Committee of Experts, in their individual capacity, and Office representatives, took part in an expert meeting (April 2005) to initiate the preparation by the United Nations Committee on Economic, Social and Cultural Rights of a general comment on the right to social security (Article 9 of the International Covenant on Economic, Social and Cultural Rights) and in a conference on the question of an optional Protocol to the International Covenant on Economic Social and Cultural Rights, which would establish an individual complaints procedure (September 2005). Further, the Committee of Experts met the United Nations Committee on Economic, Social and Cultural Rights on 22 November 2005 for an exchange of views. The two committees discussed the abovementioned general comment planned by the Committee and the relevance of international labour standards on social security in this regard.

C. European Code of Social Security and its Protocol

83. In accordance with the supervisory procedure established under article 74(4) of the Code, and the arrangements made between the ILO and the Council of Europe, the Committee of Experts examined 17 reports on the application of the European Code of Social Security and, as appropriate, its Protocol. It noted that the States parties to the Code²¹ and the Protocol continue to apply them in large measure. At the sitting in which the Committee examined the reports on the Code and its Protocol, the Council of Europe was represented by Ms. Ana Gomez-Herodero. The conclusions of the Committee regarding these reports will be sent to the Council of Europe for examination by the Committee of Experts on Standard-Setting Instruments in the field of social security. Representatives of the ILO will participate next year as technical advisers in the meeting of this Committee, during which the Committee of Experts' conclusions will be examined.

D. Matters relating to human rights

84. The Committee welcomes the ILO's continued collaboration with a number of international organizations and bodies to raise awareness of the relevance of international labour standards for the promotion of human rights and sustainable economic and social development. Since the Committee's last meeting, this collaboration took place with the United Nations Commission on Human Rights and its subsidiary bodies, the United Nations Permanent Forum on Indigenous Issues, the United Nations Office of the High Commissioner for Human Rights, the African Commission on Human and Peoples' Rights, the European Commission and the Organization for Security and Cooperation in Europe.

* * *

85. Lastly, the Committee would like to express its appreciation for the invaluable assistance again rendered to it by the officials of the Office, whose competence and devotion to duty make it possible for the Committee to accomplish its increasingly voluminous and complex task in a limited period of time.

Geneva, 9 December 2005.

(Signed) Robyn Layton, QC,
Chairperson.

A. Al-Fuzaie,
Reporter.

²¹ In 2005, the European Code came into force in respect of Estonia and Slovenia and was signed by Lithuania.

Appendix to the General Report

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

Mr. Mario ACKERMAN (Argentina),

Director of the Labour Law and Social Security Department and Professor in Labour Law, University of Buenos Aires; former adviser to the Parliament of Argentina; former Director of the Labour Police of the National Ministry of Labour and Social Security.

Mr. Anwar Ahmad Rashed AL-FUZAIE (Kuwait),

Docteur en droit; Professor of Law; Professor of Private Law of the University of Kuwait; attorney; former member of the International Court of Arbitration of the International Chamber of Commerce (ICC); member of the Administrative Board of the Centre of Arbitration of the Chamber of Commerce and Industry of Kuwait; Member of the Governing Body of the International Islamic Centre for Mediation and Commercial Arbitration (Abu Dhabi); former Director of Legal Affairs of the Municipality of Kuwait; former Adviser to the Embassy of Kuwait (Paris).

Mr. Denys BARROW S.C. (Belize),

Judge of Appeal for the Eastern Caribbean Supreme Court; former High Court Judge for Belize, Saint Lucia, Grenada and the British Virgin Islands; former Chairperson of the Social Security Appeals Tribunal in Belize; former member of the Committee of Experts for the Prevention of Torture in the Americas.

Ms. Janice R. BELLACE (United States),

Deputy Provost, University of Pennsylvania and Samuel Blank (United States), Professor and Professor of Legal Studies and Management of the Wharton School, University of Pennsylvania; Trustee and Founding President, Singapore Management University; Senior Editor, *Comparative Labor Law and Policy Journal*; member of the Executive Board of the International Industrial Relations Association; member of the Executive Board of the US branch of the International Society of Labor Law and Social Security; member of the Public Review Board of the United Automobile, Aerospace and Agricultural Implements Workers' Union; former Secretary of the Section on Labor Law, American Bar Association.

Mr. Michael Halton CHEADLE (South Africa),

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

Ms. Laura COX, QC (United Kingdom),

Justice of the High Court, Queen's Bench Division; LL B, LL M of the University of London; previously a barrister specializing in employment law, discrimination and human rights; Head of Cloisters Chambers, Temple (1995-2002); Chairperson of the Bar Council Sex Discrimination Committee (1995-99) and Equal Opportunities Committee (1999-2002); Bencher of the Inner Temple; member of the Independent Human Rights Organization

Justice (former Council member) and one of the founding Lawyers of Liberty (the National Council for Civil Liberties); previously a Vice-President of the Institute of Employment Rights and member of the Panel of Experts advising the Cambridge University Independent Review of Discrimination Legislation; Chairperson of the Board of INTERIGHTS, the International Centre for the Legal Protection of Human Rights (2001-04) and Chairperson of the Equality and Diversity Advisory Committee of the Judicial Studies Board (2003-); appointed Honorary Fellow of Queen Mary College, London University (2005); member of Council of the University of London (2003-); President of the Association of Women Barristers and Committee member of the United Kingdom Association of Women Judges.

Ms. Blanca Ruth ESPONDA ESPINOSA (Mexico),

Doctor of Law; Professor of International Public Law at the National Autonomous University of Mexico; member of the National Federation of Lawyers and of the Lawyers' Forum of Mexico; recipient of the award for Juridical Merit "the Lawyer of the Year (1993)"; Social Counselor and member of the Governing Body of the National Institute for Women; President of the Planned Parenthood Federation/Western Hemisphere (IPPF/WHR). She has been: President of the Senate of Mexico and of the Foreign Relations Committee; Secretary of the House of Representatives; President of the Population and Development Committee and member of the Labour and Social Security Committee; President of the Congress of the State of Chiapas; President of the Inter-American Parliamentary Group on Population and Development; Vice-President of the Global Forum of Spiritual and Parliamentary Leaders; Director-General of the National Institute for Labour Studies; Commissioner of the National Immigration Institute and editor of the *Mexican Labour Review*.

Mr. Abdul G. KOROMA (Sierra Leone),

Judge at the International Court of Justice since 1994; President of the Henri Dunant Centre for Humanitarian Dialogue in Geneva; former member of the International Law Commission; former Ambassador and Ambassador Plenipotentiary to many countries as well as to the United Nations.

Ms. Robyn A. LAYTON, QC (Australia),

Justice of the Supreme Court of South Australia; LL B., LL M., Barrister-at-Law; former Judge and Deputy President of the South Australian Industrial Court and Commission; former Deputy President of the Federal Administrative Appeals Tribunal; Reporter on a Child Protection framework for South Australia; former Chairperson of the Human Rights Committee of the Law Society of South Australia; former Director, National Rail Corporation; former Commissioner on the Health Insurance Commission; former Chairperson of the Australian Health Ethics Committee of the National Health and Medical Research Council; former Honorary Solicitor for the South Australian Council for Civil Liberties; former Solicitor for the Central Aboriginal Land Council; former Chairman of the South Australian Sex Discrimination Board.

Mr. Pierre LYON-CAEN (France),

Honorary Advocate-General, Court of Cassation (Social Division); President, Journalists Arbitration Commissions; Former Deputy Director, Office of the Minister of Justice; Public Prosecutor at the Nanterre Tribunal de Grande Instance (Hauts de Seine); former President of the Pontoise Tribunal de Grande Instance (Val d'Oise); graduate of the Ecole Nationale de la Magistrature.

Mr. Sergey Petrovitch MAVRIN (Russian Federation),

Judge of the Constitutional Court of the Russian Federation; Professor of Labour Law (Law Faculty of the St. Petersburg State University); Doctor of Law; Chief of the Labour Law Department; former Director of the Interregional Association of Law Schools; expert of the Labour Committee of the State, Duma and Regional Legislative Assembly of St. Petersburg.

Mr. Cassio MESQUITA BARROS (Brazil),

Barrister-at-Law specializing in labour relations (São Paulo); Titular Professor of Labour Law at the Law School of the public University of São Paulo and the Law School of the private Pontifical Catholic University of São Paulo; President of the Arcadas Support Foundation for the Faculty of Law of the University of São Paulo; Founder and President of the Centre for the Study of International Labour Standards of the University of São Paulo; Professor *honoris causa* of the ICA University of Peru and the University Constantin Brancusi (Romania); Academic Adviser, San Martín de Porres University (Lima), recipient of the "Honor y Mérito del Trabajo" prize by the President of Brazil for his contribution to the development of labour law; honorary member of the Association of Labour Lawyers (São Paulo); Honorary President of the "Asociación Iberoamericana de Derecho del Trabajo y Seguridad Social" (Buenos Aires, Argentina); Honorary President of the "Academia Nacional do Direito do Trabalho" (Rio de Janeiro); member of the International Academy of Law and Economy (São Paulo); titular member of the "Academia

Iberoamericana de Derecho del Trabajo y de la Seguridad Social” (based in Madrid); member of the National Commission on Labour Law and Labour Relations for Labour Reform.

Ms. Angelika NUSSBERGER M.A. (Germany),

Doctor of Law; Ordinary Professor of Law at the University of Cologne; Legal Adviser in the Directorate General of Social Cohesion (DG III) of the Council of Europe (2001-02).

Ms. Ruma PAL (India),

Judge of the Supreme Court of India since 2000; former judge in the Calcutta High Court; member of the General Council of National Law School of India University; member of the Executive Committee of the National Judiciary Academy; member of the General Council and Executive Council of the West Bengal National University on Juridical Sciences; founding member of the Asia-Pacific Advisory Forum on Judicial Education on equality law; member of the International Association of Women Judges; member of various other national and regional bodies.

Mr. Miguel RODRIGUEZ PIÑERO Y BRAVO FERRER (Spain),

Doctor of Law; President of the Second Section of the Council of State (Legal, Labour and Social Matters); Professor of Labour Law; Doctor *honoris causa* of the University of Ferrara (Italy) and the University of Huelva (Spain); President Emeritus of the Constitutional Court; member of the European Academy of Labour Law, the Ibero-American Academy of Labour Law, the Andalusian Academy of Social Sciences and the Environment, and the European Institute of Social Security; Director of the review *Relaciones Laborales*; President of the SIGLO XXI Club; recipient of the gold medallion of the University of Huelva, and of the Labour Gold Medallion; former President of the National Advisory Commission on Collective Agreements and President of the Andalusian Industrial Relations Council; former Dean of the Faculty of Law of the University of Seville; former Director of the University College of La Rábida; former President of the Spanish Association of Labour Law and Social Security.

Mr. Amadou SÔ (Senegal),

Honorary President of the Council of State; former member of the Constitutional Council; former President of the Social and Administrative Section of the Supreme Court; former Secretary-General of the Supreme Court; former Councillor of the Supreme Court; former President of the Social Chamber of the Court of Appeal; former Director of Judicial Services; former Councillor of the Court of Appeal; former President of the Dakar Labour Court; former Auditor of the Supreme Court; former Inspector of Railways.

Mr. Budislav VUKAS (Croatia),

Professor of Public International Law at the University of Zagreb, Faculty of Law; member of the Institute of International Law; member of the Permanent Court of Arbitration; member of the OSCE Court of Conciliation and Arbitration; member of the International Council of Environmental Law; member of the Commission on Environmental Law of the International Union for Conservation of Nature and Natural Resources.

Mr. Yozo YOKOTA (Japan),

Professor, Chuo Law School; Special Adviser to the Rector, United Nations University; Member of the UN Sub-Commission on the Promotion and Protection of Human Rights.

***Part II. Observations concerning
particular countries***

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

General observations

Afghanistan

The Committee notes with regret that for the ninth year in succession the reports due have not been received. It also notes, from the statement of the Government representative before the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005), that positive developments have recently occurred in relation to international labour standards. It notes that the first national tripartite workshop was held in May 2005 and that it addressed in particular the issue of compliance with reporting and other standards-related obligations. The Committee notes that, following the workshop, the Government provided general information on national law and practice relating to ratified Conventions and that this information was accompanied by comments from employers' and workers' organizations. The Committee further acknowledges the Government's reply to the Office's letter dated 5 July 2005, following up on the conclusions of the Committee on the Application of Standards concerning compliance by Afghanistan with its reporting and other standards-related obligations. The Committee notes in particular the Government's intention to organize a series of training workshops with the Office's technical assistance with a view to fulfilling its reporting obligations. The Committee welcomes these positive developments and firmly hopes that they will yield concrete results in the near future and that, with the appropriate technical assistance from the Office, the Government will submit the long overdue reports concerning the application of ratified Conventions.

Albania

The Committee notes that the first reports due since 2004 on Conventions Nos. 150 and 178 have not been received. Therefore, the Committee requests the Government to fulfil without further delay its obligation to supply the first reports due on the application of these two Conventions, in accordance with its constitutional obligations. The Committee reminds the Government that it can avail itself of the Office's technical assistance and invites it to provide the Office with the necessary information so that such assistance can be targeted at the specific difficulties encountered.

Antigua and Barbuda

The Committee notes that, for the third year in succession, the reports due have not been received, despite the technical assistance on reporting obligations provided by the Office this year. It also notes that the first reports on the following Conventions have not been received since 2004: Conventions Nos. 122, 131, 135, 142, 144, 150, 151, 154, 155, 158, 161 and 182. The Committee observes that no reply has been received from the Government to the Office's letter dated 5 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Antigua and Barbuda with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not

provided the Office with explanations concerning the particular difficulties that it is still encountering in this respect. The Committee therefore urges the Government to fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligations.

Armenia

The Committee notes with regret that, for the eleventh year in succession, the reports due have not been received. It also notes with regret that the first reports on the following Conventions have not been received: Convention No. 111 (first report due since 1995); Conventions Nos. 100, 122, 135 and 151 (first reports due since 1996); Convention No. 174 (first report due since 1998); and Convention No. 176 (first report due since 2001). The Committee observes that no reply has been received from the Government to the Office's letter dated 5 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Armenia with its reporting and other standards-related obligations. The Committee welcomes the steps that have been taken with a view to strengthening the overall cooperation between the ILO and the Government on the fulfilment of the said obligations by the Government. The Committee hopes that such cooperation will yield concrete positive results and that the Government will be in a position to fulfil its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligations in the near future.

Bahamas

The Committee notes that the first report due since 2003 on Convention No. 147 has not been received despite the technical assistance on reporting obligations provided by the Office this year. The Committee also observes that no reply has been received from the Government to the Office's letter dated 5 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning the failure by the Bahamas to submit their first report on Convention No. 147. The Committee regrets in particular that the Government has not provided the Office with explanations concerning the particular difficulties that it is still encountering in the submission of the first report mentioned above. In these circumstances, the Committee firmly requests the Government to fulfil without further delay its obligation to supply the first report due on the application of Convention No. 147, in accordance with its constitutional obligations.

Bosnia and Herzegovina

The Committee notes that the first reports due on the following Conventions have not been received: Convention No. 105 (first report due since 2002); and Convention No. 182 (first report due since 2003). Furthermore, the Committee observes that no reply has been received from the Government to the Office's letter dated 11 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Bosnia and Herzegovina with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations concerning the particular difficulties that it is encountering. The Committee firmly expects that the Government will fulfil its obligation to supply the reports due, in accordance with its constitutional obligations, with the appropriate technical assistance of the Office if the Government so requests.

Burundi

The Committee notes that the first report due since 2004 on Convention No. 182 has not been received. Therefore, the Committee requests the Government to fulfil without further delay its obligation to supply the first report due on the application of this Convention, in accordance with its constitutional obligations. The Committee reminds the Government that it can avail itself of the Office's technical assistance and invites it to provide the Office with the necessary information so that such assistance can be targeted at the specific difficulties encountered.

Comoros

The Committee notes that, for the second year in succession, the reports due have not been received. The Committee also observes that no reply has been received from the Government to the Office's letter dated 5 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Comoros with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations concerning the particular difficulties that it is encountering in this respect. In these circumstances, the Committee urges the Government to fulfil without further delay its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligations. The Committee reminds the Government that it can avail itself of the Office's technical assistance in this respect and invites it to provide the Office with the necessary information so that such assistance can be targeted at the specific difficulties encountered.

Dominica

The Committee notes that, despite the technical assistance on reporting obligations provided by the Office this year, the first reports due have not been received for the following Conventions: Convention No. 182 (since 2003); and Conventions Nos. 144 and 169 (since 2004). In addition, the Committee observes that no reply has been received from the Government to the Office's letter dated 5 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Dominica with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations concerning the particular difficulties that it is still encountering in the submission of the first report mentioned above. The Committee therefore firmly requests the Government to fulfil without further delay its obligation to supply the first report due on Convention No. 182, in accordance with its constitutional obligations.

Equatorial Guinea

The Committee notes that the first reports due since 1998 on Conventions Nos. 68 and 92 have not been received. In addition, the Committee observes that no reply has been received from the Government to the Office's letter dated 8 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Equatorial Guinea with its reporting and other standards-related obligations. The Committee therefore requests the Government to fulfil without further delay its obligation to supply the reports that are long overdue, in accordance with its constitutional obligations. If the Government wishes to avail itself of the Office's technical assistance, the Committee invites it to provide the Office with the necessary information so that such assistance can be targeted at the specific difficulties encountered.

Gambia

The Committee notes that, for the second year in succession, the reports due have not been received despite the technical assistance provided by the Office in August 2005 on reporting obligations. It also notes that the first reports due have not been received on the following Conventions: Conventions Nos. 29, 105 and 138 (since 2002); and Convention No. 182 (since 2003). In addition, the Committee observes that no reply has been received from the Government to the Office's letter dated 5 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Gambia with its reporting and other standards-related obligations. The Committee urges the Government to fulfil without further delay its obligation to supply the reports due, in accordance with its constitutional obligations.

Grenada

The Committee notes that, for the third year in succession, the reports due have not been received despite the technical assistance on reporting obligations provided by the Office this year. In addition, the Committee observes that no reply has been received from the Government to the Office's letter dated 5 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Grenada with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations concerning the particular difficulties that it is still encountering. The Committee urges the Government to fulfil without further delay its obligation to supply the reports due, in accordance with its constitutional obligations.

Guyana

The Committee notes that, for the second year in succession, the reports due have not been received despite the technical assistance on reporting obligations provided by the Office this year. The Committee also observes that no reply has been received from the Government to the Office's letter dated 5 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Guyana with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations concerning the particular difficulties that it is still encountering. In these circumstances, the Committee urges the Government to fulfil without further delay its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligations.

Iraq

The Committee notes that, for the third year in succession, the reports due have not been received. It also notes that the first reports due since 2003 on Conventions Nos. 172 and 182 have not been received. While taking note of the process of reconstruction of the country and rebuilding of national institutions as well as the underlying climate of violence, the

Committee hopes that the Government will in due course be able to fulfil its obligation to supply the reports due, in accordance with its constitutional obligations with the appropriate assistance of the Office, which it requested before the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005).

Kyrgyzstan

The Committee notes that the first reports on the following Conventions have not been received: Convention No. 133 (since 1995); and Convention No. 105 (since 2001). In addition, the Committee observes that no reply has been received from the Government to the Office's letter dated 8 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Kyrgyzstan with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations concerning the particular difficulties that it is still encountering in the submission of the first reports mentioned above. The Committee therefore requests the Government to fulfil without further delay its obligation to supply the first reports on Conventions Nos. 105 and 133, in accordance with its constitutional obligations. The Committee reminds the Government that it can avail itself of the Office's technical assistance and invites it to provide the Office with the necessary information so that such assistance can be targeted at the specific difficulties encountered.

Lao People's Democratic Republic

The Committee notes that, for the second year in succession, the reports due have not been received. The Committee also observes that no reply has been received from the Government to the Office's letter dated 5 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Lao People's Democratic Republic with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations concerning the particular difficulties that it is encountering in this respect. In these circumstances, the Committee urges the Government to fulfil without further delay its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligations. If the Government wishes to avail itself of the Office's technical assistance, the Committee invites it to provide the Office with the necessary information so that such assistance can be targeted at the specific difficulties encountered.

Liberia

The Committee notes with regret that, for the sixth year in succession, the reports due have not been received. It also notes with regret that the first report due since 1992 on Convention No. 133 has not been received. The Committee observes that no reply has been received from the Government to the Office's letter dated 8 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Liberia with its reporting and other standards-related obligations. The Committee notes the explanations provided by the Government representative to the Conference Committee concerning the civil crisis which had affected the entire country and had therefore hindered the submission of reports and the progressive return to national stability. The Committee therefore hopes that improvements in the national situation will in due course enable the Government to fulfil its obligation to supply the reports long overdue, in accordance with its constitutional obligations. The Committee reminds the Government that it can avail itself of technical assistance and invites it to provide the Office with the necessary information so that such assistance can be targeted at the specific difficulties encountered.

Netherlands

Aruba

The Committee notes that, for the second year in succession, the reports due have not been received despite the technical assistance on reporting obligations provided by the Office this year. The Committee also observes that no reply has been received from the Government to the Office's letter dated 8 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by the Netherlands (Aruba) with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations concerning the particular difficulties that it is still encountering. In these circumstances, the Committee urges the Government to fulfil without further delay its obligation to supply the reports due on the application of ratified Conventions, in accordance with its constitutional obligations.

Paraguay

The Committee notes that, for the third year in succession, the reports due have not been received despite the ILO technical assistance provided in March 2005. It also notes that the first report due since 2003 on Convention No. 182 has not been received. In addition, the Committee observes that no reply has been received from the Government to the Office's letter dated 8 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Paraguay with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations concerning the particular difficulties that it is still encountering. The Committee therefore urges the Government to fulfil without further delay its obligation to supply the reports due, in accordance with its constitutional obligations.

Saint Kitts and Nevis

The Committee notes that the first reports due since 2002 on Conventions Nos. 87, 98 and 100 have not been received despite the technical assistance provided by the Office on reporting obligations this year. Furthermore, the Committee observes that no reply has been received from the Government to the Office's letter dated 8 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Saint Kitts and Nevis with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations on the particular difficulties it is still encountering in the submission of the first reports mentioned above. The Committee requests the Government to fulfil without further delay its obligation to supply the first reports due on Conventions Nos. 87, 98 and 100, in accordance with its constitutional obligations.

Saint Lucia

The Committee notes that, for the second year in succession, the reports due have not been received despite the technical assistance on reporting obligations provided by the Office this year. It also notes that the first reports due since 2002 on Conventions Nos. 154, 158 and 182 have not been received. In addition, the Committee observes that no reply has been received from the Government to the Office's letter dated 7 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Saint Lucia with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations on the particular difficulties it is still encountering. The Committee therefore urges the Government to fulfil without further delay its obligation to supply the reports mentioned above, in accordance with its constitutional obligations.

Sao Tome and Principe

The Committee notes that, for the second year in succession, the reports due have not been received. In addition, the Committee observes that no reply has been received from the Government to the Office's letter dated 8 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Sao Tome and Principe with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations on the particular difficulties it is encountering. The Committee therefore urges the Government to fulfil without further delay its obligation to supply the reports due, in accordance with its constitutional obligations. The Committee reminds the Government that it can avail itself of the technical assistance of the Office and invites it to provide the Office with the necessary information so that such assistance can be targeted at the specific difficulties encountered.

Serbia and Montenegro

The Committee notes that the first reports due since 2003 on Conventions Nos. 24, 25, 27, 113 and 114 have not been received. The Committee further observes that no reply has been received from the Government to the Office's letter dated 8 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Serbia and Montenegro with its reporting and other standards-related obligations. Noting that a tripartite seminar on the ILO standard-setting and supervisory activities was organized in April 2005, the Committee hopes that in the near future the Government will be in a position to fulfil its obligation to supply the first reports due on the Conventions mentioned above, in accordance with its constitutional obligations.

Somalia

The Committee notes the general information provided by the Transitional Federal Government on 10 May 2005 concerning the application of Conventions ratified by Somalia. The Government refers to a process that is being

undertaken with a view to establishing a new labour administration, employers' and workers' organizations, tripartite institutions and new labour courts, and the adoption of revised labour laws. In respect of some of the Conventions that it has ratified, the Government also makes a general reference to the national legislation. The Committee also notes the Government's statement on the need for ILO technical assistance to enable it to apply the Conventions that have been ratified and fulfil its related reporting obligations. The Committee invites the Government to provide the Office with the necessary information so that the technical assistance requested can be targeted at the specific difficulties encountered. The Committee hopes that, once this assistance has been provided, the Government will be in a position in the near future to supply specific information in its report on the application of ratified Conventions and on the progress made in respect of the various issues mentioned in its communication.

Tajikistan

The Committee notes the general information provided by the Government in a letter received on 19 October 2005 concerning the measures taken to give effect to a number of Conventions ratified by Tajikistan. In this letter, the Government requests technical cooperation for the holding of a seminar in 2006 for ministry staff involved in the application of Conventions. The Committee hopes that the Office can examine how this assistance can be provided and that the Government will be in a position in the near future to supply specific information in its report on the application of ratified Conventions, as well as the issues raised by the Committee in its comments.

The former Yugoslav Republic of Macedonia

The Committee notes with regret that, for the eighth year in succession, the reports due have not been received. It also notes that the first report on Convention No. 182 has not been received since 2004. In addition, the Committee observes that no reply has been received from the Government to the Office's letter dated 7 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by The former Yugoslav Republic of Macedonia with its reporting and other standards-related obligations. Noting that the Office carried out an advisory mission in this respect in April 2005 and hoping that, as a result, the cooperation between the Government and the Office will be strengthened, the Committee trusts that in the near future the Government will be in a position to fulfil its obligation to supply the reports that are long overdue, in accordance with its constitutional obligations.

Turkmenistan

The Committee notes with regret, that for the seventh year in succession, the reports due have not been received. It also notes with regret that the first reports due since 1999 on Conventions Nos. 29, 87, 98, 100, 105 and 111 have not been received. In addition, the Committee observes that no reply has been received from the Government to the Office's letter dated 7 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning compliance by Turkmenistan with its reporting and other standards-related obligations. The Committee regrets in particular that the Government has not provided the Office with explanations on the particular difficulties it is encountering. The Committee therefore urges the Government to fulfil without further delay its obligation to supply the reports long overdue, in accordance with its constitutional obligations. The Committee reminds the Government that it can avail itself of the Office's technical assistance and invites it to provide the Office with the necessary information so that such assistance can be targeted at the specific difficulties encountered.

Uganda

The Committee notes that the first report on Convention No. 182 has not been received since 2003. The Committee observes that no reply has been received from the Government to the Office's letter dated 7 July 2005, following up on the conclusions of the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (May-June 2005) concerning the failure by Uganda to supply the first report on Convention No. 182. The Committee regrets in particular that the Government has not provided the Office with explanations on the particular difficulties it is still encountering in the submission of the first report mentioned above. The Committee requests the Government to fulfil without further delay its obligation to supply the first report on Convention No. 182, in accordance with its constitutional obligations. The Committee reminds the Government that it can avail itself of the Office's technical assistance and invites it to provide the Office with the necessary information so that such assistance can be targeted at any specific difficulties encountered.

United Kingdom

St. Helena

The Committee notes that, for the second year in succession, the reports due have not been received. The Committee urges the Government to fulfil without further delay its obligation to supply the reports due, in accordance with its constitutional obligations. The Committee reminds the Government that it can avail itself of the technical assistance of the Office and invites it to provide the Office with the necessary information so that such assistance can be targeted at the specific difficulties encountered.

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: *Albania, Bahamas, Barbados, Belize, Bosnia and Herzegovina, Botswana, Burkina Faso, Burundi, Cambodia, Chile, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Denmark: Faeroe Islands, Equatorial Guinea, Georgia, Ghana, Guinea, Guinea-Bissau, Haiti, Kazakhstan, Kyrgyzstan, Malawi, Malta, Namibia, Netherlands: Netherlands Antilles, Russian Federation, Saint Kitts and Nevis, San Marino, Senegal, Seychelles, Sierra Leone, Singapore, United Republic of Tanzania: Tanganyika, Thailand, Togo, Uganda, United Kingdom: Anguilla, United Kingdom: British Virgin Islands, United Kingdom: Falkland Islands (Malvinas), United Kingdom: Montserrat, United States, United States: American Samoa, United States: Guam, United States: Northern Mariana Islands, United States: Puerto Rico, United States: United States Virgin Islands, Uzbekistan, Viet Nam, Zambia.*

Freedom of Association, Collective Bargaining, and Industrial Relations

Albania

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

The Committee takes note of the observations made by the Confederation of Trade Unions of Albania (CTUA) on the application of the Convention as well as the Government's reply thereto. It also takes note of the text of the Labour Code as amended by Act No. 9125 of 29 July 2003.

Article 2 of the Convention. Right to organize of public servants. The Committee notes that according to the CTUA, public employees' trade unions should have the same rights as other trade unions under the Labour Code and the Government should adopt measures, as required under article 20 of the Law on the Status of the Civil Servant No. 8549 of 11 November 1999, in order to issue rules on public employees' trade union activities. The Committee notes that according to the Government, civil servants are not allowed to strike and regulations giving them this right have not been approved yet.

Recalling that the prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State (see General Survey on freedom of association and collective bargaining, 1994, paragraph 158), the Committee requests the Government to indicate in its next report any measures taken or contemplated to extend this right to public servants who do not exercise authority in the name of the State.

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 1999)

The Committee takes note of the Government's response to the comments previously received from the Confederation of Trade Unions of Albania (CTUA) to which the Committee had referred in its previous observation.

1. *Articles 1 and 2 of the Convention.* The Committee had noted in its previous comments that, according to the CTUA, Law No. 8549 of 11 November 1999 on the Status of the Civil Servant, which guarantees to civil servants as defined in article 2(1), the right to form and join labour unions and take part in decision-making processes relating to their working conditions, is not applicable to employees in the customs, taxation and local governance offices (prefectures). The Committee notes with interest that, according to the Government, the Labour Code, as revised by Law No. 9125 of 29 July 2003, covers these categories of public employees, and guarantees the implementation of the rights and freedoms of trade union organizations to all civil servants in the prefectures, customs and tax offices. *The Committee requests the Government to specify in its next report the provisions which extend the guarantees provided for in the Convention to employees in customs offices, tax offices and prefectures.*

2. *Article 8.* The Committee had indicated in its previous comments that according to the CTUA, the mediation, conciliation and arbitration procedures provided for in articles 188-196 of the Labour Code for the resolution of collective disputes have never functioned normally and that boards of conciliation are not always set up in order to settle labour disputes. The Committee notes that according to the Government, there are special mechanisms within the civil service and organs such as the Civil Service Commission (CSC) which ensures the observance of the employees' rights. The Committee notes, however, that the CSC has competence to hear individual grievances, not to resolve collective disputes (article 8 of the Law on the Status of the Civil Servant No. 8549 of 11 November 1999). The Committee also recalls from previous comments made under Convention No. 154 that the Government has still not taken the necessary measures for the issuing of instructions and rules concerning the negotiation of civil servants' working conditions as required by articles 4 and 20 of the Law on the Status of the Civil Servant No. 8549 of 11 November 1999. *The Committee requests the Government to indicate in its next report any measures taken as required in articles 4 and 20 of Law No. 8549, so as to set up special mechanisms for the settlement of disputes arising in connection with the determination of terms and conditions of employment of public employees.*

3. *The Committee requests the Government to provide in its next report its reply to the comments which remain pending from the Committee's previous observation concerning the application of Articles 4, 5, 6 and 7 of the Convention (see 2004 observation, 75th Session).*

Algeria

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

The Committee notes the Government's report. The Committee also notes the comments made by the International Confederation of Free Trade Unions (ICFTU), dated 31 August 2005, on the application of the Convention, which refer to matters already raised by the Committee, as well as to acts of harassment and the arrest of trade unionists from workers'

organizations in the public sector (the central public administration, firefighters, the university hospital). *The Committee requests that the Government provide its observations in this respect.*

The Committee regrets that the Government does not refer in its report to the matters raised in its previous observation. Under these conditions, the Committee reiterates its previous comments and, in particular, asks the Government to:

- provide clarifications on the effect given in practice to section 8 of Act No. 19-14, and in particular on the following aspects: the grounds on which the registration of trade union organizations may be refused, the related provisions, and their practical implications for the existence and functioning of an occupational organization and the right of appeal of such organizations against a refusal of their registration or the absence of acknowledgement of registration within the prescribed time limit;
- provide precise information on the manner in which the issue of the registration of the Algerian Confederation of Autonomous Trade Unions (CASA) has finally been resolved;
- limit the scope of Legislative Decree No. 92-03 of 30 September 1992 (section 1 of which, read together with sections 3, 4 and 5, defines as “subversive acts” offences directed, in particular, against the stability and normal functioning of institutions through any action intended to: (1) obstruct the operation of establishments providing public services; or (2) impede traffic or freedom of movement in public places or thoroughfares, under penalty of severe sanctions, which include imprisonment for up to 20 years), through the adoption of legislative measures or regulations which have the effect of ensuring that this text may not in any event be applied to workers who have exercised the right to strike peacefully;
- amend section 43 of Legislative Decree No. 90-02, of 6 February 1990, which bans strikes not only in essential services the interruption of which would endanger the life, personal safety or health of the population, but also where the strike is likely to give rise to a serious economic crisis, with collective disputes in such cases being subject to the conciliation and arbitration procedures provided for by the law, and section 48, which authorizes the Minister or the competent authority, where the strike persists and after the failure of mediation, to refer a dispute to the arbitration commission after consultation of the employer and the workers’ representatives; and
- inform the Committee of the progress made by the National Commission for the Reform of State Institutions, and provide any documentation on this subject, including any draft legislation respecting the conditions of service of the public servants.

The Committee hopes that the Government will take the necessary measures to make the changes indicated above to bring the legislation into conformity with the Convention and asks the Government to transmit any legislative text adopted or envisaged in this regard.

Angola

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1976)

The Committee notes the Government’s report.

1. *Article 4 of the Convention.* The Committee noted previously that sections 20 and 28 of Act No. 20-A/92 on the right of collective bargaining provide that collective labour disputes in public utility enterprises may be settled by the Ministry of Labour, Public Administration and Social Security after the parties have been heard. The Committee noted that the list of public utility activities (section 1.3) is broader than the concept of essential services in the strict sense of the term (those the interruption of which would endanger the life, personal safety or health of the whole or part of the population). The Committee notes that, in its present report, the Government indicates that the Strike Act and the Trade Union Act are being revised and that the National Tripartite Commission for the ILO will examine the issue of essential services in order to propose a solution to the authorities that is in conformity with the provisions of the Convention. The Committee recalls once again that arbitration imposed at the initiative of the authorities is admissible only in essential services or for the purpose of concluding a first collective agreement when the trade union so requests. *The Committee expresses the firm hope that the National Tripartite Commission for the ILO will address this matter in the near future and requests the Government to take the necessary measures to amend the legislation so as to bring it into conformity with the Convention. The Committee requests the Government to keep it informed on this subject.*

2. *Article 6.* The Committee observes with regret that the Government does not send the information requested in its previous comments. *Therefore, the Committee once again requests the Government to indicate whether the legislation guarantees the right to collective bargaining of public employees who are not engaged in the administration of the State and, if so, to indicate the relevant provisions. It also requests the Government to specify which public services are not organized in the form of an enterprise whose employees, according to the terms of section 2 of Act No. 20-A/92, are not covered by the Act.*

Antigua and Barbuda

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1983)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

In its previous comments, the Committee had recalled the need to amend sections 19, 20, 21 and 22 of the Industrial Court Act, 1976, which permit the referral of a dispute to the court by the Minister or at the request of one party with the consequent effect of prohibiting any strike action, under penalty of imprisonment, and which permit injunctions against a legal strike when the national interest is threatened or affected, as well as the overly broad list of essential services in the Labour Code.

On the matter of essential services, the Committee notes the inclusion of the government printing office and the port authority in the list and considers that such services cannot be considered to be essential in the strict sense of the term. In this respect, the Committee would draw the Government's attention to paragraph 160 of its 1994 General Survey on freedom of association and collective bargaining wherein it states that, in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, the authorities could establish a system of minimum service in other services which are of public utility rather than impose an outright ban on strikes, which would be limited to essential services in the strict sense of the term. As concerns the Minister's power to refer disputes in cases of acute national crisis, the Committee notes that the power of the Minister to refer a dispute to the court under sections 19 and 21 of the Industrial Court Act would appear to apply to situations going beyond the notion of an acute national crisis. Under section 19(1), this authority of the Minister appears to be discretionary, since under section 21 this power may be used in the national interest which would appear to be broader than the strict notion of a specific situation of acute national crisis where the restrictions imposed must be for a limited period and only to the extent necessary to meet the requirements of the situation (see General Survey, op. cit., paragraph 152).

In light of the above, the Committee once again urges the Government to indicate in its next report the measures taken or envisaged to ensure that the power of the Minister to refer a dispute to binding arbitration resulting in a ban on strike action is restricted to strikes in essential services in the strict sense of the term, to public servants exercising authority in the name of the State or in case of an acute national crisis. It further requests the Government to indicate the measures taken or envisaged to ensure that a binding referral of a collective dispute to the court can only be made at the request of both parties, and not any one of the parties as appears to be the case in section 19(2).

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

Argentina

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the Government's report, the discussion that took place in the Conference Committee on the Application of Standards in June 2005, and the report of the mission conducted in August 2005. It also notes the cases concerning application of this Convention examined by the Committee on Freedom of Association.

For many years, the Committee has been commenting on certain provisions of Act No. 23551 of 1988 on trade union associations and its regulatory Decree No. 467/88. The Committee refers in particular to:

1. *Trade union status* (personería gremial)

- section 28 of the Act, under which, in order to challenge an association's trade union status, the petitioning association must have a "considerably larger" membership; and section 21 of the implementing Decree No. 467/88, which qualifies the term "considerably larger" by laying down that the association claiming trade union status should have at least 10 per cent more dues-paying members than the organization which currently holds the status. According to the Government, the legislation does not offend against the principles laid down in the Convention, since a registered trade union need only be more representative in order to claim status. The Committee points out that a "considerably larger" membership amounting to 10 per cent more members than the union holding most representative status is too high a requirement and is contrary to the Convention. In practice, it stands in the way of trade unions that are merely registered and that wish to claim trade union status;
- section 29 of the Act, under which an enterprise trade union may be granted trade union status only when another first-level organization does not already operate in the geographical area, activity or category concerned; and section 30 of the Act, under which, in order to be eligible for trade union status, unions representing a trade, occupation or category must show that they have different interests from the existing trade union and the latter's status must not cover the workers' concerned. The Committee notes that the Government repeats its earlier comments indicating that in Argentina there are 180 unions representing categories, trades and/or enterprises, 85 of which have trade union status. The Committee nonetheless reiterates that the requirements that unions representing enterprises, trades or categories have to meet in order to obtain trade union status are excessive, and in practice restrict their access to trade union status and give preferential treatment to existing organizations even where unions representing enterprises, trades or categories of workers are more representative, according to section 28.

2. *Benefits which derive from trade union status (personería gremial)*

- section 38 of the Act, under which check-off of trade union dues is allowed only for associations with trade union status, and not associations that are merely registered. The Committee notes that, according to the Government, most first-level trade union associations are members of federations which have trade union status, so the first-level unions receive the trade union dues of their members through the federation, which receives them from the employer, who deducts them directly. The Government adds that there is nothing to prevent organizations which are merely registered from arranging with the employer to have the dues deducted directly from the workers' wages. The Committee reminds the Government that for unions that obtain it, "most representative" status should not imply privileges other than priority of representation in collective bargaining, in consultations with the authorities and in the appointment of delegates to international bodies. Consequently, such discrimination against organizations that are merely registered cannot be justified;
- sections 48 and 52 of the Act give special protection (trade union immunity) only to representatives of organizations that have trade union status. The Committee notes that, according to the Government, all workers' representatives enjoy general protection under section 47. As to the special protection granted in section 52, the Government indicates that by virtue of section 50, this extends to workers standing for representative office, in whatever capacity. The Committee nevertheless considers that sections 48 and 52 provide preferential treatment for representatives of organizations with trade union status in the event of acts of anti-union discrimination, and that this exceeds the privileges that may be granted to the most representative organizations, as noted in the previous paragraph.

The Committee notes that as a result of the conclusions of the Conference Committee, a mission took place in Argentina in August 2005. The Committee notes that the Government indicated to the mission it had conducted informal consultations with the trade unions concerned with a view to achieving progress on possible amendments to the legislation, and the Government expressed its commitment to international labour principles and standards. The Committee also notes the statistics sent with the Government's report which show that there is a large number of trade unions and a membership rate of 40 per cent taking account only of first-level associations, and 65 per cent if second-level associations are counted.

The Committee observes, however, that it has been making the same comments for many years, but – as the mission conducted in August 2005 also pointed out – there has been no tangible progress in terms of eliminating discrimination against organizations that are merely registered in all areas other than collective bargaining, consultation with the authorities and the appointment of delegates to international bodies.

In these circumstances, the Committee urges the Government to take steps to amend all the provisions referred to above in order to bring them into conformity with the Convention.

In its previous observation, the Committee took note of the observations sent by the Central of Argentine Workers (CTA) and the International Confederation of Free Trade Unions (ICFTU) referring in general terms to matters pertaining to the legislation that the Committee has been raising for years.

Lastly, the Committee notes the recent observations sent by the CTA and requests the Government to respond to them in its next report. The Committee notes that the Minister of Labour informed the abovementioned mission that the CTA's application for trade union status is being processed, and that the CTA participates in the main national and international forums and bodies. ***The Committee requests the Government to report on the outcome of the CTA's application for trade union status.***

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

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

The Committee takes note of the Government's report.

It notes the Government's observations on comments sent by the Confederation of Argentine Workers (CTA) in a communication of 19 November 2004. The CTA draws attention to the need to extend the protection (*tutela*) enjoyed by representatives of organizations that have trade union status (sections 48 and 52 of Act No. 23551) to representatives of trade union organizations that are merely registered and to the founding members of the provisional committees of new trade union organizations, in order to comply with *Article 1 of the Convention*. The Committee refers the Government to its comments on the application of Convention No. 87 in which it addresses this matter.

The CTA also refers to section 3 of Decree No. 1040/01, which allows employers to set in motion the procedure of establishing the sector within which a trade union operates through the competent authority so that the latter can determine the trade union that is representative in disputes relating to representation by several organizations where such disputes could affect the wage or benefit systems in the enterprise, or where this process could enable asymmetric coverage by collective agreements to be corrected. The Committee observes that the CTA alleges that this provision is contrary to *Article 2* of the Convention because it may give rise to acts of interference by the employer. The Committee notes that, according to the Government, the abovementioned procedure may be applied only in the event of an inter-union dispute and there is no possibility of the procedure being set in motion at the wish of the employer alone. The Committee notes that the Government has sent judicial decisions in support of its comment and states that the parties involved in the

procedure, namely the trade union associations and the employer, may lodge administrative complaints and appeals and may seek judicial review by the National Labour Appeals Chamber.

The Committee is addressing to the Government a direct request on another matter.

Australia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1973)

The Committee takes note of the information provided in the Government's report. It further notes the comments made by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 31 August 2005 with regard to restrictions on the right to strike and the comments made by the Australian Council of Trade Unions (ACTU) in a communication dated 2 September 2005 with regard to proposed legislative reforms concerning the redistribution of jurisdiction over workplace relations issues between the federal and state levels. *The Committee requests the Government to provide its observations on these comments.*

The Committee also take note of the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2326 (338th Report, paragraphs 409-457) concerning several discrepancies between the Building and Construction Industry Improvement Act, 2005, and the Convention. *The Committee requests the Government to indicate in its next report the measures taken or contemplated so as to bring this Act into conformity with the Convention.*

Federal jurisdiction

The Committee recalls that its previous comments concerned the conformity of several legislative provisions, including of the Workplace Relations Act, 1996 (WR Act), to the Convention. Noting that the WR Act applies also to the State of Victoria, the Northern Territory and the Australian Capital Territory, the Committee's comments on the WR Act, as set out below, are also relevant with respect to these jurisdictions.

In particular, in its previous comments the Committee had raised the need to amend several provisions which prohibit: (i) industrial action in support of multi-employer agreements (section 170MN of the WR Act); (ii) industrial action threatening to cause significant damage to the economy (section 170MW of the WR Act); (iii) secondary boycotts (section 45D of the WR Act); (iv) industrial action threatening trade or commerce with other countries or among states (section 30J of the Crimes Act, 1914); (v) boycotts resulting in the obstruction or hindrance of the performance of services by the Australian Government or the transport of goods or persons in international trade (section 30K of the Crimes Act, 1914); (vi) action in support of a claim for strike pay (section 187AA of the WR Act).

The Committee, noting with regret that the Government reiterates previously provided information and remains of the view that there is no need to amend the above provisions, can only reiterate its hope that the Government will take measures to amend the above provisions so as to bring them into full conformity with the Convention, and requests the Government to indicate in its next report any measures taken or contemplated in this respect.

The Committee understands that legislative amendments are under way and trusts that the Government will take all of the above into consideration in this framework.

State jurisdictions

1. *Queensland.* In its previous comments, the Committee had requested the Government to amend section 638 of the Industrial Relations Act, 1999, which provided that an organization may be deregistered if its members are engaged in industrial action that prevents or interferes with trade or commerce.

The Committee notes with satisfaction from the Government's report that the Queensland Government has amended section 638 by removing subsection (b) which provided that the full bench may order the deregistration of an organization on the grounds that the organization or its members were engaging in industrial action that had prevented or interfered with trade or commerce.

2. *South Australia.* In its previous comments, the Committee requested the Government to keep it informed of any progress made in amending section 222 of the Industrial and Employees Relations Act, 1994 (secondary boycott provisions). The Committee notes that the Government's report does not contain any information in this respect. *It once again requests the Government to indicate in its next report any progress made in amending section 222 of the Industrial and Employees Relations Act, 1994 (secondary boycott provisions).*

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1973)

The Committee takes note of the Government's report as well as the oral and written information provided by the Government representative to the Conference Committee in June 2005 and the discussion that followed (*Provisional Record* No. 22 – Part Two, 93rd Session, June 2005, pp. 52-56). The Committee also takes note of the comments of the Australian Council of Trade Unions (ACTU) concerning proposed legislation on the right to organize and bargain

collectively, as well as the comments made by the International Confederation of Free Trade Unions (ICFTU), with regard to issues previously raised by the Committee on the provisions of the Workplace Relations Act (WR Act) concerning Australian Workplace Agreements (AWAs) and collective bargaining. The Committee recalls from previous comments that AWAs are agreements on the relationship between an employer and an employee, which are essentially individual in nature and put emphasis on direct employee-employer relations over collective negotiations with trade unions aimed at concluding collective agreements. **The Committee requests the Government to transmit in its next report its observations on the comments made by the ACTU and the ICFTU.** The Committee finally takes note of the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2326 (338th Report, paragraphs 409-457) concerning several discrepancies between the Building and Construction Industry Improvement Act 2005, and the Convention. **The Committee requests the Government to indicate in its next report the measures taken or contemplated so as to bring this Act into conformity with the Convention.**

Western Australia. In its previous comments the Committee had noted the absence of provisions prohibiting acts of discrimination for trade union activities in the Industrial Relations Act, 1979, and had requested the Government to indicate in its next report any measures taken or contemplated so as to afford full protection against anti-union discrimination. The Committee notes with satisfaction from the Government's report that in August 2002, the scope of the existing objects of the Industrial Relations Act, 1979, was widened to include six additional objects, one of which was to promote the principles of freedom of association and the right to organize.

Federal jurisdiction. The Committee takes note of the conclusions reached by the Conference Committee in June 2005 with regard to certain provisions of the WR Act concerning the exclusion from the scope of application of the Act of certain categories of workers, the limitations on the scope of union activities covered by protection against anti-union discrimination, and the relationship between individual contracts and collective agreements. The Committee notes that in its conclusions the Conference Committee noted the Government's statement concerning the complexity of the situation and its wish to continue a constructive dialogue on the questions under examination.

Noting that the WR Act applies also to the State of Victoria, the Northern Territory and the Australian Capital Territory, the Committee's comments on the WR Act as set out below are also relevant with respect to these jurisdictions.

Articles 1 and 4 of the Convention. Protection against anti-union discrimination in the framework of collective bargaining. 1. The Committee recalls that its previous comments concerned the need to amend section 170CC of the Workplace Relations Act, 1996 (WR Act) which had the effect of excluding wide categories of workers from the protection provided in section 170CK of the WR Act, against anti-union dismissals if they refused to negotiate an AWA.

The Committee notes with interest that according to the Government, the interaction between sections 170CK and 170CC of the WR Act has been removed with the introduction of the Workplace Relations Amendment (Fair Termination) Act 2003, so that no class of employees is excluded from the anti-union discrimination protections conferred by section 170CK. The Committee notes that the Workplace Relations Amendment (Fair Termination) Act 2003 repeals the provisions of section 170CC of the WR Act which effectively excluded from the scope of section 170CK of this Act, employees on contracts of employment for a specified period of time or a specified task, employees on probation or engaged on a casual basis, as well as those whose remuneration falls below a certain threshold. Nevertheless, the Committee also notes that the exclusions concerning employees "in relation to whom the operation of the provisions causes or would cause substantial problems because of: (i) their particular conditions of employment; or (ii) the size or nature of the undertakings in which they are employed", remain in force. The Committee notes from the Government's report that these classes of employees would be indirectly protected against anti-union discrimination in case they refused to negotiate an AWA, by section 298L(1)(h) of the WR Act which prohibits discriminatory action taken because an employee is entitled to the benefit of an industrial instrument. **The Committee requests the Government to provide information as to the particular classes of employees covered by section 170CC of the WR Act.**

2. The Committee recalls that in its previous comments it had also raised the following issues:

- the need to amend sections 298L and 170WG(1) of the WR Act which did not seem to afford adequate guarantees against anti-union discrimination to the extent that they allowed offers of employment to be conditional on the signing of an AWA (AWA-or-nothing);
- the need to amend section 170LC(6) of the WR Act which excludes workers who negotiate multiple business agreements from protection against anti-union dismissals if they undertake industrial action, thereby placing obstacles to negotiation at the multi-employer level.

The Committee notes with regret in this respect that the Government refers to the views it expressed in previous reports and adds that AWAs are not inherently anti-union and that parties may choose to enter into these individual agreements while being active members of a union. The Committee once again expresses the hope that the Government will take the necessary measures to afford sufficient legal protection against all acts of anti-union discrimination at the time of recruitment against workers who refuse to negotiate an AWA and to ensure that workers are adequately protected against discrimination for negotiating a collective agreement at whatever level the parties deem appropriate, having a free choice in this respect. **The Committee requests the Government to indicate in its next report any measures taken or contemplated to this effect.**

Articles 2 and 4. Protection against acts of interference in the framework of collective bargaining. The Committee's previous comments concerned issues previously raised by the ACTU to the effect that there was a need to amend section 170LJ(1)(a) of the WR Act so as to guarantee adequate protection against acts of employer interference in the framework of collective bargaining, in particular, prevent the possibility for an employer to "shop around" amongst unions. The Committee recalls that section 170LJ(1)(a) enables an employer to make an agreement with one or more organizations of employees where each organization has "at least one member" in the enterprise.

The Committee notes that according to the Government: (1) employers are not allowed excessive discretion in choosing a bargaining partner as, in order to be certified, a proposed agreement must have the support of a valid majority of the employees to which it will apply (section 170M); (2) section 170MI enables an organization of employees to initiate a bargaining period to negotiate a proposed agreement; (3) the Australian Industrial Relations Commission (AIRC) may conciliate matters arising during negotiations for a certified agreement (section 170NA) and employers are prevented from discriminating between union members and non-members, which facilitates the full participation of all relevant employees in the agreement-making process.

The Committee recalls that in its previous observation it had suggested the establishment of a mechanism to undertake the rapid and impartial examination of allegations of acts of interference in the context of the selection of a bargaining partner, given that section 170LJ(1)(a) gives employers wide discretion in this respect. ***The Committee requests the Government to provide information in its next report on whether such a mechanism exists, or the measures taken or contemplated with a view to setting it up.***

Article 4. Measures to promote free and voluntary collective bargaining. The Committee's previous comments concerned the need to amend:

- section 170VQ(6) of the WR Act which gives prevalence to AWAs over collective agreements;
- section 170LK(6)(b) of the WR Act which allows for negotiations to take place directly with non-unionized workers instead of representative trade unions in the enterprise and does not preclude the possibility for employers to abandon negotiations with a worker where the latter requests trade union representation;
- section 170LC(4) of the WR Act which requires the Australian Industrial Relations Commission (AIRC) to refuse the certification of multiple-business agreements unless certification is in the public interest;
- section 187AA of the WR Act which excludes negotiations over strike pay from the scope of collective bargaining;
- section 170LT(10) of the WR Act which excessively restricts the opportunity for workers in a new business to choose their bargaining agent.

The Committee takes note of the information contained in the Government's report, according to which:

- section 170VQ(6) of the WR Act provides additional machinery to facilitate individual bargaining as an alternative to collective bargaining, where that is what the parties want; AWAs are not inherently anti-union as they allow workers to enter into individual agreements and also be active members of a union as well as to have a union act as their bargaining agent in negotiating an AWA; the purpose is to provide the parties with a choice, taking into account the fact that collective bargaining has been and continues to be the norm in Australia for more than a century and that Article 4 contains a qualified obligation based on "national conditions"; statistics on trade union membership from 1998 onwards indicate that trade union membership declined by 5.1 per cent since 1998;
- under the WR Act, collective bargaining can take place without trade union involvement, directly between employers and employees; safeguards exist to ensure that employers may not arbitrarily change the scope of negotiations under section 170LK of the WR Act so as to avoid trade union involvement (additional certification criteria under section 170LU(8) of the WR Act to ensure that employees are not unfairly excluded from the scope of an agreement and the possibility for an employees' association to notify a bargaining period if an employer no longer wishes to pursue an agreement under section 170LK);
- section 170LC(4) of the WR Act reflects the Government's commitment to ensuring that primary responsibility for determining matters affecting the employment relationship rests with employers and employees at the workplace level;
- section 187AA of the WR Act is in line with the Government's view that demands for strike pay are contrary to public policy;
- section 170LT(10) of the WR Act sets out the maximum term for greenfields agreements which is the same as for other certified agreements; the actual term of certified agreements is otherwise left for determination between the parties.

The Committee notes that most of the information provided by the Government was already given in previous reports and recalls that *Article 4* of the Convention aims at the promotion of free and voluntary collective bargaining between employers or their organizations and workers' organizations. ***The Committee once again requests the Government to indicate in its next report any measures taken or contemplated with a view to ensuring that:***

- ***AWAs are not given primacy over collective agreements;***

- *negotiations with non-unionized workers take place only where there is no representative trade union in the enterprise;*
- *multiple business agreements are not subject to the requirement of prior approval by the AIRC;*
- *the scope of collective bargaining is not restricted with regard to negotiations over strike pay;*
- *workers are given more leeway in choosing their bargaining agent in new businesses.*

The Committee finally notes from the Government's report that on 26 May, the Prime Minister announced legislative reforms for the purpose of giving greater freedom and flexibility to employers and employees to negotiate at the workplace level. The Government wishes to encourage the spread of workplace agreements whilst providing people with the choice of remaining under the awards system if they so desire and protecting freedom of association and the right to trade union representation in the workplace. The proposed legislative reforms contain elements relevant to the Convention such as: a simplified process for agreement making; simplification of Australia's complex award system; a range of reforms to procedures for bargaining, the taking of industrial action and the right of union officials to enter workplaces. The Committee finally notes that with regard to the request of the Conference Committee for copies of all draft laws that might relate to the application of the Convention, the Government indicates that it is not possible to provide a copy of draft legislation prior to its formal public release or introduction into federal Parliament, as this would contravene cabinet-in-confidence rules and is prohibited by law. *The Committee requests the Government to transmit the texts of the draft laws as soon as they are legally available, so that the Committee may examine their conformity with the Convention.*

A request on certain other points is being addressed directly to the Government.

Austria

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

The Committee notes the Government's report.

Article 3 of the Convention. Right of workers' organizations to elect their representatives in full freedom. The Committee recalls that for a number of years it has been referring to the need to amend section 53(1) of the Industrial Relations Act to allow foreign workers to be eligible for election to works councils. The Committee recalls that in its previous observation it noted with interest that the Ministry of Labour and Economy was working on a draft Bill to amend the Industrial Relations Act (*Arbeitsverfassungsgesetz*) with a view to extending to foreign workers the right to stand for election to works councils, and that the Bill would be submitted to Parliament in 2003.

The Committee notes the Government's indication in its report with regard to this matter that: (1) in 2003, Parliament was not able to reach agreement to amend the Act and the ruling was awaited of the European Court of Justice in Case No. C-465/01 concerning failure to fulfil obligations; (2) the same Court found, in the ruling dated 16 September 2004, that the relevant provisions of the Industrial Relations Act and the Act on workers' chambers are contrary to Community law; and (3) political discussions have been initiated on the effect to be given to this ruling and, as a result, through a parliamentary initiative, a Bill was prepared to allow foreign workers to be elected to works councils.

The Committee hopes that, with a view to bringing its legislation into full conformity with the Convention, the new Bill that is currently being examined by Parliament will be adopted in the near future. The Committee requests the Government to keep it informed of the progress achieved in this respect and to provide copies of the amended provisions when they have been adopted.

Azerbaijan

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1992)

The Committee notes the Government's report.

The Committee recalls that it had previously requested the Government to amend section 6(1) of the Act on Trade Unions of 1994, so as to eliminate the absolute prohibition of all types of political activity by trade unions. The Committee notes the Government's indication to the effect that, according to the legislation in force, members of trade unions, as well as any other persons, have the right to join political parties; and, through the membership of the political parties concerned, trade union members may take part in political activities. The Committee believes that the development of the trade union movement and the increasing recognition of its role as a social partner in its own right mean that workers' organizations must be able to voice their opinions on political issues in the broad sense of the term and, in particular, to express their views publicly on a government's economic and social policy (see General Survey on freedom of association and collective bargaining, 1994, paragraph 131). *The Committee therefore once again requests the Government to amend section 6(1) of the Act on Trade Unions so as to strike a balance between, on the one hand, the legitimate interests of organizations to express their point of view on issues of economic and social policy affecting*

their members and workers in general and, on the other hand, the separation of political activities in the strict sense of the term from trade union activities. The Committee requests the Government to keep it informed of the measures taken or envisaged in this respect.

Bangladesh

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

The Committee notes the information contained in the Government's report, including the recently adopted EPZ Workers' Associations and Industrial Relations Act, No. 23 of 2004. It also notes the conclusions and recommendations reached by the Committee on Freedom of Association in Case No. 2327 with respect to the conformity of the provisions of this Act to the Convention (see 337th Report, approved by the Governing Body at its 293rd Session, June 2005, paragraphs 183-213). It notes finally, the comments sent by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 31 August 2005. ***It requests the Government to communicate its observations on the comments in its next report.***

1. *Right to organize in export processing zones.* The Committee notes that in its conclusions and recommendations reached in Case No. 2327, the Committee on Freedom of Association expressed its concern at the fact that, while taking certain steps to provide greater freedom of association to EPZ workers, the EPZ Workers' Associations and Industrial Relations Act contains numerous and significant restrictions and delays in relation to the right to organize in EPZs. The Committee also notes the comments made in this respect by the ICFTU.

While observing that the adoption of this Act is aimed at providing greater protection for the association rights of EPZ workers, the Committee notes that numerous provisions of the EPZ Workers' Associations and Industrial Relations Act are incompatible with the Convention. In particular, the Act: (i) contains a blanket denial of the right to organize in EPZs until 31 October 2006, thus postponing the effective recognition of this right until November 2006 (section 13(1)); (ii) provides that workers' representation and welfare committees (WRWCs), which function instead of workers' associations until 31 October 2006, shall be dissolved after that date, unless the employer considers that they should continue to function (section 11(2)); (iii) provides that workers' associations will not be allowed in industrial units established after the commencement of the Act, until a period of three months has expired after the commencement of commercial production in the concerned unit (section 24); (iv) provides that there can be no more than one workers' association per industrial unit (section 25(1)); (v) establishes excessive and complicated minimum membership and referendum requirements for the establishment of workers' associations (sections 14, 15, 17 and 20); (vi) confers excessive powers of approval of the constitution drafting committee to the executive chairperson of the Bangladesh Export Processing Zones Authority (BEPZA) (section 17(2)); (vii) prevents steps for the establishment of a workers' association in the workplace for a period of one year after a first attempt failed to gather sufficient support in a referendum (section 16); (viii) permits the deregistration of a workers' association at the request of 30 per cent of the workers even if they are not members of the association and prevents the establishment of another trade union for one year after the previous trade union was deregistered (section 35); (ix) provides for the cancellation of the registration of a workers' association on grounds which do not appear to justify the severity of this sanction (such as contravention of any of the provisions of the association's constitution) (section 36(1)(c), (e)-(h) and 42(1)(a)); (x) establishes a total prohibition of industrial action in EPZs until 31 October 2008 (section 88(1) and (2)); (xi) prevents workers' associations from obtaining or receiving any fund from any outside source without the prior approval of the executive chairperson of the BEPZA (section 18(2)); (xii) provides for severe restrictions of strike action, once recognized (possibility to prohibit a strike if it continues for more than 15 days or even before this deadline, if the strike is considered as causing serious harm to productivity in the EPZ – section 54(3) and (4)); (xiii) requires an excessively high minimum number of trade unions to establish a higher level organization (more than 50 per cent of the workers' associations in an EPZ – section 32(1)); (xiv) prohibits a federation from affiliating in any manner with federations in other EPZs and beyond EPZs (section 32(3)); and (xv) does not seem to afford guarantees against interference with the right of workers to elect their representatives in full freedom (e.g. the procedure of election shall be determined by the BEPZA, etc. – sections 5(6) and (7), 28(1), 29, 32(4)). ***The Committee requests the Government to take the necessary measures to amend the EPZ Workers' Associations and Industrial Relations Act so as to bring it into conformity with the Convention and to provide detailed information in its next report in this respect.***

2. *Other discrepancies between national legislation and the Convention.* The Committee recalls that for many years it has been referring to serious discrepancies between the national legislation and the Convention. It also notes that, according to the comments made by the ICFTU, there has been no improvement in national law and practice. In this respect, the Committee notes that, in its latest report, the Government reiterates previously provided information and indicates that in light of the national context, there is no discrepancy between the national legislation and the Convention. The Committee nevertheless underscores the universal nature of the rights set forth in the Convention and the absence of any exclusions relating to the national context.

The Committee therefore reiterates the hope that it will be possible to bring the legislation into full conformity with the requirements of the Convention as soon as possible and asks the Government to provide information in its next report with regard to measures taken or contemplated in order to:

- *remedy the exclusion of managerial and administrative employees from the right to association (section 3(a) of the IRO);*
- *repeal provisions which restrict membership in trade unions and participation in trade union elections to those workers who are currently employed or were employed during the previous year in an establishment or group of establishments (section 7A(1)(b) of the IRO); moreover, repeal provisions which prevent workers from running for trade union office if they were previously dismissed for misconduct;*
- *limit the overly broad authority of the Registrar of Trade Unions to enter trade union offices, inspect documents, etc., without judicial review (Rule 10 of the Industrial Relations Rules, 1977);*
- *lower the minimum membership requirement of 30 per cent of the total number of workers employed in an establishment or group of establishments for initial and continued union registration (sections 7(2) and 10(1)(g) of the IRO);*
- *lift several restrictions on the right to strike (requirement for three-quarters of the members of a workers' organization to consent to a strike (section 28 of the IRO), possibility of prohibiting strikes which last more than 30 days (section 32(2) of the IRO) and also at any time if a strike is considered prejudicial to the national interest (section 32(4) of the IRO) or involves a public utility service (section 33(1) of the IRO) and penalties of imprisonment for participation in unlawful industrial action (sections 57 and 59 of the IRO)).*

3. *Adoption of the draft Labour Code.* The Committee recalls that, in its previous report, the Government had indicated that the draft Labour Code was being re-examined by the Tripartite Labour Code Review Committee, while the issue of the right of association of workers in the Security Printing Press had also been placed before the Review Committee. The Committee notes that the Government's latest report contains no information with regard to these issues. ***The Committee requests once again that the Government transmit in its next report a copy of the draft Labour Code and provide information as to the current stage in the process of adoption of the Labour Code. It also requests that the Government provide information on measures taken to guarantee the right of association to workers in the Security Printing Press.***

In respect of the legislative issues raised above, the Committee reminds the Government that it may avail itself of the technical assistance of the Office if it so wishes.

4. *Publications of public servants' associations.* With regard to its previous comments concerning the right of public servants' associations to issue publications on trade union matters (Government Servants Conduct Rules, 1979), the Committee notes the Government's comments in its report to the effect that public servants can publish any research paper, articles or scientific matters in the newspapers or journals without prior approval of the Government, subject to the condition that such papers, materials or articles do not go against the interests of the Government, or the State, the citizens or the country's integrity. While being aware of the particular nature of the functions performed by public servants, the Committee also recalls that the right to express opinions through the press or otherwise is an essential aspect of trade union rights which calls for a free flow of information, opinions and ideas. The Committee emphasizes that workers, employers and their organizations should enjoy freedom of opinion and expression at their meetings, in their publications and in the course of their other activities (see General Survey on freedom of association and collective bargaining, 1994, paragraph 38). ***It requests the Government to ensure respect for this freedom in practice.***

5. *ICFTU comments on violations of the Convention.* The Committee notes with concern that, according to the comments sent by the ICFTU on 20 April 2005, the police arrested 350 women trade unionists, including the General Secretary of the JSL's Women's Committee, Shamsur Nahar Bhuiyan, when they were taking part in activities to mark Women's Day organized by the ICFTU-affiliated Jatio Sramik League (JSL). They were released on bail on 25 April and were due to face possible charges in court on 5 May 2005, although the nature of those charges were unclear. The Committee recalls that the arrest and detention, even for short periods, of trade union leaders and members engaged in their legitimate trade union activities, without any charges being brought and without a warrant, constitute a grave violation of the principle of freedom of association. Moreover, the Committee emphasizes that freedom of assembly constitutes a fundamental aspect of trade union rights and the authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof, provided that the exercise of these rights does not cause a serious and imminent threat to public order (see General Survey, *op. cit.*, paragraphs 31 and 35). ***The Committee requests the Government to communicate its observations on the comments made by the ICFTU and, in particular, to indicate the grounds on which 350 women trade unionists including the General Secretary of the JSL's Women's Committee, Shamsur Nahar Bhuiyan, were arrested, whether charges have been brought against them and any measures taken to drop such charges and to remedy any damages suffered.***

6. Furthermore, the Committee takes note of the comments made by the ICFTU with regard to the Registrar's refusal to register the Immaculate (Pvt.) Ltd. Sramik Union and the conclusions and recommendations reached by the Committee on Freedom of Association in this respect (Case No. 2327, 337th Report, paragraphs 214-240). ***The***

Committee requests the Government to indicate in its next report the measures taken to ensure the prompt registration of the Immaculate (Pvt.) Ltd. Sramik Union.

The Committee addresses a request on certain other points directly to the Government.

**Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
(ratification: 1972)**

The Committee notes the Government's report.

The Committee further notes the comments of the International Confederation of Free Trade Unions (ICFTU), which concern legislative issues raised in its previous observation. The ICFTU also underlines several problems regarding the application of the Convention in the garment and ship recycling industries, dismissals of trade union officers and members and harassment of workers suspected of carrying out trade union activities. **The Committee requests the Government to send its observations thereon.**

Trade union rights in export processing zones (EPZs). The Committee notes the comments of the ICFTU regarding restrictions on the right to organize in the EPZs. In particular, the ICFTU states that the new legislation provides that in order to form an association entitled to elect representatives who have the power to negotiate and sign collective agreements in any industrial unit, at least 30 per cent of the eligible workers of that unit must make an application to this effect. It will also have to hold a referendum to ascertain support for the association in which over 50 per cent of the total workforce must participate and over 50 per cent of the votes cast must be in favour of the establishment of a workers' association. The Committee also notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2327 (see 337th Report, paragraphs 183-213) relating to the restrictions of the trade union rights of workers in EPZs. The Committee notes the EPZ Workers' Association and Industrial Relations Act 2006 and observes that the Committee on Freedom of Association requested the Government to modify this Act. **The Committee requests the Government to take all necessary measures to eliminate the obstacles to the exercise of trade union rights in law and in practice in EPZs. The Committee asks the Government to keep it informed of all measures taken in this regard, and to submit statistics on the number of complaints of anti-union discrimination as well as the number of collective agreements concluded in EPZs.**

Lack of legislative protection against acts of interference. The Committee notes with regret that the Government repeats its previous statement about this issue and, particularly, that sufficient protection is ensured under the general provisions of the Industrial Relations Ordinance of 1969, relating to trade union rights and freedom of association. The Committee recalls that *Article 2 of the Convention* requires the prohibition of "acts of interference" by organizations of workers and employers (or their agents) in each other's affairs, designed in particular to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations. **The Committee once again requests the Government to adopt specific measures, coupled with effective and sufficiently dissuasive sanctions, against acts of interference and to keep it informed in this respect.**

Legal requirements to collective bargaining. In its previous observation, the Committee had asked the Government to lower the percentage requirement, which is 30 per cent, for registration of a trade union and the requirement to have one-third of employees as its members in order to be able to negotiate at the enterprise level (see sections 7(2) and 22 of the IRO). The Committee notes that the Government reiterates its previous statement to the effect that these requirements are justified in order to limit the multiplicity of trade unions and that they are not opposed by the social partners. The Committee is bound to point out once again that these requirements may impair and make difficult the development of free and voluntary collective bargaining and that where, under a system for nominating an exclusive bargaining agent, there is no union representing the required percentage to be so designated, collective bargaining rights should be granted to the existing unions, at least on behalf of their own members. The Committee notes the Government's statement according to which the existing shortcoming (if any) will be removed through the provisions laid down in the future labour code. **The Committee requests the Government to lower the percentage requirements set for registration of a trade union and for the recognition of a collective bargaining agent and to keep it informed in this respect.**

Practice of determining wage rates and other conditions of employment in the public sector by means of government-appointed tripartite wages commissions (section 3 of Act No. X of 1974). In its previous observation, the Committee had requested the Government to amend the legislation and to modify the practice of determining wage rates and other conditions of employment in the public sector by means of government-appointed tripartite wages commissions. The Committee notes the statement of the Government according to which tripartism is the most reasonable way of determining wages as otherwise there will be chaos for the Government as employer; the collective bargaining agent at the enterprise or sector level has the right to bargain with their employer (and this usually happens in practice) for the effective implementation of matters settled by the wages commission; the present system safeguards the interests of workers in less viable industries and achieves a fair and equitable wage structure. The Committee once again recalls that, in line with the Convention, free and voluntary collective bargaining should be conducted between directly interested workers' organizations and employers or their organizations, which should be able to appoint freely their negotiating representatives. **The Committee requests once again the Government to amend the legislation and to modify the present practice in order to bring it into conformity with the Convention.**

The Committee notes that it has been commenting for a number of years on the need to finalize the draft Labour Code. The Committee notes that the Government states once again that the suggestions received from different stakeholders on the draft Labour Code are reviewed by a tripartite committee, and that the Code is now almost at the final stage. *The Committee urges the Government to ensure that the above comments are duly taken into consideration and reflected in the legislation in the near future. The Committee requests the Government to inform it in its next report of any progress made in this respect.*

[The Government is asked to supply full particulars to the Conference at its 95th Session and to reply in detail to the present comments in 2006.]

Barbados

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1967)

The Committee notes that the Government's report has not been received. It must, therefore, repeat its previous observation, which read as follows:

The Committee recalls that its comments concerned section 4 of the Better Security Act, 1920, according to which any person who wilfully breaks a contract of service or hiring, knowing that this may endanger real or personal property, is liable to a fine or up to three months' imprisonment. Furthermore, the Committee recalls that in its previous comments it had pointed out that, although according to the Government this provision has never been invoked in the context of strike action, its amendment is nevertheless advisable so as to eliminate the possibility of invoking it in case of future strikes, with the possible exception of those in essential services in the strict sense of the term. *The Committee requests the Government to provide information in its next report on the current legal status of the Better Security Act, 1920, as well as to confirm that section 4 has still not been invoked in the context of strike action and that it is not considered as applicable to strike action.*

The Committee requests the Government to provide information on any developments in the process of reviewing legislation regarding trade union recognition.

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

Belarus

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

The Committee notes the information contained in the Government's report, the discussion that took place in the Conference Committee on the Application of Standards and the conclusions of the Committee on Freedom of Association in its review of the measures taken by the Government to implement the recommendations made by the Commission of Inquiry (339th Report, approved by the Governing Body at its 294th Session). The Committee further notes the comments made by the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention in law and in practice.

The Committee recalls that all of its outstanding comments have raised issues directly relating to the recommendations of the Commission of Inquiry. It further observes the conclusions of the Conference Committee wherein it deplored the fact that no real concrete and tangible measures had yet been taken by the Government to resolve the vital matters raised, including a number of recommendations that were to be implemented by 1 June 2005. The Committee further notes with regret that a mission, as recommended by the Conference Committee (to assist in the drafting of the legislative amendments requested by the Commission of Inquiry and to evaluate measures taken by the Government to implement fully its recommendations), has not yet taken place despite the urgency of the Commission's recommendations and the long-passed deadline that had been set.

The Committee notes that the Government refers generally to an action plan it has put in place to implement the recommendations of the Commission of Inquiry while taking into account the realities in the country and its sovereign interests. The implementation of the Plan of Action would follow three orientations: improving national legislation and its application in practice with regard to the establishment and registration of trade unions and the exercise by trade unions of their activities in accordance with their statutes; improving mechanisms for safeguarding the rights of trade unions and preventing discrimination against workers on the grounds of union membership; development of tripartism and social dialogue. Nevertheless, the Committee notes with regret that, from the analysis below, no specific steps have been taken in implementation of the Commission's recommendations.

Article 2 of the Convention. The Committee recalls that in its previous comments it had urged the Government to take the necessary measures to amend Presidential Decree No. 2 on some measures for the regulation of activities of political parties, trade unions and other public associations and its accompanying rules and regulations, as concerns the legal address requirement and the minimum membership requirement of 10 per cent of workers at enterprise level for enterprise trade unions, and to disband the Republican Registration Commission, so as to bring the Decree and its application into conformity with the provisions of the Convention.

The Committee notes with regret that, while the Government refers generally to continued work on improving legislation regarding the activities of trade unions and its determination to make amendments to the Trade Unions Act, as well as to steps taken to study international experience in this area, the Government has given no precise indication as to the steps taken to amend Decree No. 2 and its rules and regulations, or to the measures taken to disband the Republican Registration Commission. ***Given the very clear nature of these recommendations, the Committee urges the Government to take the necessary steps to amend Decree No. 2, its rules and regulations, and disband the Republican Registration Commission without delay, so that all workers, without distinction whatsoever, shall be free to form and join the organization of their own choosing.***

As to the concerns raised previously by the Congress of Democratic Trade Unions (CDTU) that draft amendments had been initiated by the Ministry of Justice to the Law on Trade Unions, which would substantially increase the requirements for trade union registration at various levels, the Government points out that the statements made by the trade unions have varied over time suggesting initially a threshold of 30,000 and referring more recently to 7,000. The Committee notes that the Government adds that these matters are still under examination by the Government, trade unions and employers' organizations within the framework of the Council for the Improvement of Social and Labour Legislation and that no draft is yet official. ***Given the importance such changes might have on the possibilities of trade unions to function in Belarus, the Committee trusts that any changes contemplated in this regard will be the subject of full and meaningful consultation with all the social partners. The Committee requests the Government to transmit a copy of the draft amendments as soon as they are finalized.***

Article 3 of the Convention. The Committee recalls that in its previous comments it had urged the Government to take the necessary measures to amend the Law on Mass Activities (as well as Decree No. 11 if it had not yet been repealed), so as to bring it into line with the right of workers' and employers' organizations to organize their activities. It further requested the Government to indicate the measures taken to amend sections 388, 390, 392 and 399 of the Labour Code and to ensure that National Bank employees may have recourse to industrial action, without penalty. Finally, the Committee urged the Government to take steps immediately, in accordance with the Commission's recommendations, to declare publicly that acts of interference in internal trade union affairs are unacceptable and will be sanctioned and to issue instructions to the Prosecutor-General, the Minister of Justice and court administrators so that any complaints of external interference made by trade unions are thoroughly investigated.

The Committee regrets that no amendment has been adopted in this regard. ***It urges the Government to take the necessary measures in this regard rapidly.*** It further notes with regret that no information has been provided as to the issuance of a public declaration clearly indicating that acts of interference in internal trade union affairs would not be tolerated, nor as to instructions given to the Prosecutor-General, the Minister of Justice and court administrators. ***The Committee once again requests the Government to provide full particulars in this regard in its next report.***

In reply to the Commission's recommendations to issue instructions to heads of enterprises not to interfere in internal trade union affairs, the Government refers to a special letter of instructions explaining the provisions of the current national legislation and international labour standards, prohibiting interference by employers and trade unions in each other's affairs. ***The Committee requests the Government to provide a copy of the letter issued, as well as a list of the enterprises that received the letter, with its next report.***

Finally, the Committee notes from the Government's report under Convention No. 144 that the CDTU has commented upon Government intervention in the determination of the representative of the union in a group of experts. The Committee recalls that *Article 3* of the Convention provides that workers' organizations shall organize their activities, free from Government interference, and this includes the basic right of determining the person to represent them on national tripartite bodies. ***The Committee requests the Government to refrain from any interference in the choice of union representatives on tripartite bodies and to keep it informed of the measures taken in this regard.***

Articles 3, 5 and 6 of the Convention. In its previous comments, the Committee once again urged the Government to amend section 388 of the Labour Code, which prohibits strikers from receiving financial assistance from foreign persons, and Decree No. 24 concerning the use of foreign gratuitous aid so that workers' and employers' organizations may effectively organize their administration and activities and benefit from assistance from international organizations of workers and employers. The Committee notes the Government's indication that it is planning to study the situation and to seek the best way of resolving the questions raised, in the light of further information on foreign practices in this respect. ***The Committee urges the Government to amend Decree No. 24 so as to ensure that workers' and employers' organizations may receive foreign gratuitous aid for legitimate trade union activity without interference by the public authorities.***

* * *

In light of the above and with further reference to the report of the Committee on Freedom of Association in its examination of the measures taken to implement the recommendations of the Commission of Inquiry, the Committee observes with deep regret that no substantial progress has been made towards improving the application of this Convention in law and in practice to all workers, without distinction whatsoever, and fears that the legislative proposals currently being considered by the Government may result in the elimination of any remnants of an independent trade union movement in Belarus. ***The Committee therefore expects that the Government will accept a mission from the***

Office in the near future with the aim of facilitating the implementation of all the measures recommended by the Commission of Inquiry so that significant progress can be noted in respect of the application of this Convention both in law and in practice.

[The Government is asked to supply full particulars to the Conference at its 95th Session and to reply in detail to the present comments in 2006.]

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

The Committee notes the information contained in the Government's report and the conclusions of the Committee on Freedom of Association in its review of the measures taken by the Government to implement the recommendations made by the Commission of Inquiry (339th Report, approved by the Governing Body at its 294th Session). ***The Committee further notes the comments made by the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention in law and in practice and requests the Government to transmit its observations thereon.***

In its previous comments, the Committee noted the Government's indication that it had established a special experts advisory group, including representatives of Government, trade unions, employers' associations, non-governmental organizations and academics, to conduct a comprehensive review of its entire system of social and labour relations. The Committee trusted that the advisory group would represent a broad spectrum of society and, in particular, that the trade union representation would include all the national-level trade unions and requested information from the Government as to the composition of this advisory group.

The Committee notes from the Government's latest report that trade union representatives had been invited from both the Federation of Trade Unions of Belarus (FPB) and the Congress of Democratic Trade Unions (CDTU) to participate in this expert advisory group, the Council for the Improvement of Legislation in Social/Labour Spheres. The Council held its first meeting in August 2005 and considered the following two questions: what form of contract should be used for workers in Belarus; and conceptual approaches for improving the Law on Trade Unions. The Council decided that it would examine these questions further at its next meeting. As regards the comments made by the CDTU on 27 August 2004 with respect to a number of proposed amendments to the Law on Trade Unions, which it considered would lead to the dissolution of independent trade unions and the establishment of a state-controlled trade union monopoly, the Committee refers to its comments under Convention No. 87. ***The Committee requests the Government to keep it informed of developments in the work of the Council for the Improvement of Legislation in Social/Labour Spheres and, in particular, of any progress made by this Council in implementing the recommendations of the Commission of Inquiry.***

Articles 1 and 3 of the Convention. In its previous comments, the Committee requested the Government to indicate the measures taken to review and redress all complaints of anti-union discrimination that had been raised in the *Article 26* complaint and to indicate the progress made in putting into place truly effective procedures for protection against such discrimination and other retaliatory acts. The Committee notes that the Government merely refers to the prohibition of acts of anti-union discrimination provided for in the Law on Trade Unions and the possibility of workers having recourse to the judicial system if they consider their rights have been violated. The Government further refers to the constant monitoring it undertakes with respect to application of the contractual form of employment in practice and provides statistics on the number of labour inspections carried out and the number of violations of the labour legislation that were found, the fines imposed and the disciplinary sanctions given.

The Committee regrets, however, that the Government has not provided any information as to the steps taken to review and redress the complaints of anti-union discrimination that had been raised in the *Article 26* complaint, nor as to the adoption of any new mechanisms to ensure that this protection is effectively ensured in practice. The Committee notes with deep concern from the conclusions of the Committee on Freedom of Association in respect of the measures taken by the Government to implement the recommendations of the Commission of Inquiry that, not only has the Government provided no information as to the measures taken to institute independent investigations into these complaints, but in addition, several persons who had testified before the Commission have subsequently found themselves without employment (see 339th Report, paragraph 83). ***The Committee urges the Government to provide detailed information, in its next report, on the measures taken to review not only the earlier complaints of anti-union discrimination, but also those that have recently come to light in the examination of the follow-up given by the Government to the Commission's recommendations. It further urges the Government rapidly to adopt new, improved mechanisms and procedures to ensure effective protection against all types of anti-union discrimination and, in particular, to redress the situation of those who have lost their employment and to keep it informed of the measures taken in this regard.***

Article 2. In its previous comments, the Committee noted the Government's indication that it was taking measures to inform all directors of enterprises, including those who were trade union members, of the inadmissibility of any form of interference in trade union activities. It requested the Government to provide further information on the precise measures taken in this regard, as well as any notable impact such measures might have had in curbing managerial interference in trade union affairs.

The Committee notes that the Government refers to a special letter of instruction that was sent to all parties concerned, explaining the norms set by current national legislation and international labour standards. *The Committee requests the Government to transmit a copy of this letter with its next report, as well as a precise indication of those parties to whom it was sent.*

Articles 1, 2, 3 and 4. Having noted in its previous comments the conclusions of the Commission of Inquiry with respect to the impact of the many acts of interference and anti-union discrimination, as well as the consequences of non-registration, upon the collective bargaining rights of a number of primary-level trade unions, the Committee trusted that the Government would take all necessary measures to ensure the full enjoyment of collective bargaining rights by all these organizations. The Committee notes the Government's indication that it does not have any information regarding actual refusals by employers to conduct collective bargaining with trade unions.

The Committee would recall that the concern expressed by the Commission of Inquiry related not only to direct refusals to negotiate with trade unions, but the evident impact unjustified denial of registration would have on a trade union's ability to bargain collectively. In this regard, the Committee notes from the recent conclusions of the Committee on Freedom of Association that no progress appears to have been made in respect of the Commission of Inquiry's recommendations to register the primary-level organizations that were the subject of the complaint. In addition, the Committee notes with concern from these conclusions that the spillover of non-registration of these primary organizations has led to the denial of registration of three regional organizations of the Belarussian Free Trade Union (BFTU) (organizations in Mogilev, Baranovichi and Novopolotsk-Polotsk) (see 339th Report, paragraph 76). *The Committee therefore trusts that the Government will take urgent measures to ensure the re-registration of these organizations both at the primary and the regional level so that they may once again enjoy the right to bargain collectively.*

[The Government is asked to supply full particulars to the Conference at its 95th Session and to reply in detail to the present comments in 2006.]

Belgium

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1951)

The Committee notes the Government's report.

The Committee recalls that for many years its comments have focused on the need to take measures for the adoption of objective, pre-established and detailed legislative criteria determining rules for the access of the occupational organizations of workers and employers to the National Labour Council, and that in this respect the Organic Act of 29 May 1952 establishing the National Labour Council still contains no specific criteria on representativeness, but leaves broad discretionary power to the Government.

The Committee notes with interest the Government's indication that: (1) it intends to make certain changes to the legislation respecting industrial relations and that the revision of the criteria of representativeness along the lines indicated by the Committee duly appears in the draft amendments; (2) the revisions under consideration concern several legislative texts but there has been no decision yet as to whether these modifications or revisions will be covered by a global approach or by successive or separate amendments (in the case of a global approach, the process will be slower); and (3) the Committee will be informed of any development in this respect, with which Parliament and the social partners will be involved.

The Committee hopes that, during the process of the amendment of the legislation referred to by the Government, objective and pre-established criteria adapted to the needs of the country will be adopted to determine the rules for the access of occupational organizations of workers and employers to the National Labour Council and that this process will be completed in the near future. The Committee requests the Government to inform it in its next report of any developments in this respect.

Belize

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1983)

The Committee notes that the Government's report has not been received. It must, therefore, repeat its previous observation, which read as follows:

In its previous comments, the Committee had recalled the need to amend the Settlement of Disputes (Essential Services) Act of 1939, as amended by Ordinances Nos. 57, 92, 51 and 32 in 1973, 1981, 1988 and 1994, respectively, which empowered the authorities to refer a collective dispute to compulsory arbitration, to prohibit a strike or to terminate a strike in such services as postal, monetary, financial and revenue-collecting services, transport services (civil aviation) and services in which petroleum products are sold, which are not essential services in the strict sense of the term.

The Committee had noted with interest that Ministerial Order No. 117 of 1998 has repealed Ordinance No. 32 of 1994 pursuant to which revenue services were included in the list of essential services.

As the 1998 repeal order only appears to deal with the question of the essential nature of revenue services, the Committee requests the Government to confirm that the abovementioned Ordinances, in so far as they concern the restriction of strike action for workers in the postal, monetary, transport (civil aviation), and petroleum sectors, are no longer in force and to provide copies of the relevant repealing orders.

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

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1983)

The Committee notes that the Government's report has not been received. It must, therefore, repeat its previous observation which read as follows:

Articles 3 and 4 of the Convention. In its previous comments, the Committee had recalled that, under the provisions of section 27(2) of the Trade Unions and Employers' Organizations (Registration, Recognition and Status) Act, Chapter 304, a trade union could be certified as a bargaining agent if it received 51 per cent of the votes and that problems might arise from such an absolute majority requirement, since where this percentage was not attained, the majority union would be denied the possibility of bargaining. *The Committee once again requests the Government to report on any measures taken or contemplated to amend the legislation so as to ensure that when no union covers more than 50 per cent of the workers, collective bargaining rights are granted to all the unions in this unit, at least on behalf of their own members.*

The Committee is addressing a direct request to the Government on another point.

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

Benin

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the information in the Government's report. It also notes the comments of the International Confederation of Free Trade Unions (ICFTU) dated 31 August 2005, to which the Government responded in a communication dated 27 October 2005.

1. *Article 2 of the Convention. Right to establish trade unions without prior authorization.* In its last observation, the Committee requested the Government to indicate the measures taken to amend the provisions of the Labour Code requiring the filing of trade union by-laws in order to obtain legal personality from the authorities, including the Ministry of the Interior, under penalty of a fine. The Committee likewise requested the Government to provide information on the practical effect given to these provisions, indicating in particular whether penalties had been imposed in recent years. The Committee notes that, according to the Government, the Committee's comments are being studied in the process to amend the labour legislation and that no penalties have been imposed in connection with the above provision. *The Committee requests the Government to provide information on developments in this respect in its next report.*

2. *Article 2. Right of workers without distinction whatsoever to establish trade unions.* The Committee requested the Government to amend Ordinance No. 38 PR/MTPTPT of 18 June 1968, which affords seafarers neither the right to organize nor the right to strike, and provides for sentences of imprisonment for breaches of labour discipline, in order to grant seafarers the guarantees provided by the Convention. The Committee notes that section 78 of Act No. 98-015 of 15 May 1998 issuing the general conditions of service of seafarers, establishes the right to organize of all seafarers. The Committee also notes that a new Merchant Marine Code is still under preparation.

3. *Article 3. Right of workers' organizations to organize their administration and activities and to formulate their programmes.* The Committee asked the Government to abolish the requirement to notify to the authorities the duration of a strike laid down in Act No. 2001-09 of 21 June 2002 on exercise of the right to strike. The Committee notes that, according to the Government, the provisions on the duration of a strike do not restrict the right to strike given that article 8 of the Act on the exercise of the right to strike indicates that a strike can be resumed.

4. The Committee notes the comments by the ICFTU to the effect that the law allows the Government to requisition public servants in a strike and to declare strikes unlawful for specific reasons such as threat to the peace and public order. According to the ICFTU, some Government departments prevent public employees from taking strike action by taking advantage of the leeway allowed by the law to draw up long lists of employees liable for requisitioning. The Committee notes that, according to the Government, the requisitions take place in conformity with the provisions of the Act on the exercise of the right to strike and therefore, are not aimed at preventing strikes. The Committee recalls that the requisition of workers involves the possibility of abuse as a means to settle industrial disputes and points out that such measures are undesirable except where essential services have to be maintained in particularly serious circumstances (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 163). In addition, the Committee recalls that requisitioning may be used to ensure the operation of essential services in the strict sense of the term and for public servants exercising authority in the name of the State.

5. *The Committee trusts that these comments on points it has made previously will be taken fully into account so that the legislation can be brought into line with the Convention. It requests that the Government keep it informed in*

this respect. The Committee reminds the Government that it may avail itself of technical assistance from the Office in preparing any draft legislation, and asks the Government to send any texts once they have been adopted.

Bolivia

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

The Committee notes the Government's report.

The Committee notes that a technical assistance mission visited the country from 19 to 22 April 2004 and that, in this context, a tripartite negotiation meeting was held in which agreement was reached on the amendment of the following provisions of the legislation which have been the subject of the Committee's comments for many years:

- the exclusion of agricultural workers from the scope of the General Labour Act of 1942, and therefore from the rights and guarantees of the Convention (section 1 of the General Labour Act of 1942 and Regulatory Decree No. 224 of 23 August 1943, issued under the General Labour Act);
- the denial of the right to organize of public servants (section 104 of the General Labour Act);
- the possibility of the dissolution of trade union organizations by administrative decision (section 129 of the Regulatory Decree); and
- restrictions on the right to strike: (i) the requirement of three-quarters of the workers in the enterprise to call a strike (section 114 of the General Labour Act and section 159 of the Regulatory Decree); (ii) the illegality of general and sympathy strikes, subject to penal sanctions (sections 1 and 2 of Legislative Decree No. 2565); (iii) the illegality of strikes in the banking sector (section 1(c) of Supreme Decree No. 1959 of 1950); and (iv) the possibility of imposing compulsory arbitration by decision of the executive authority in order to bring an end to a strike, including in services other than those that are essential in the strict sense of the term (section 113 of the Act).

In this respect, the Committee notes the Government's indications that: (1) although the tripartite agreement was endorsed and the corresponding draft legal amendments formulated, these have not been approved due to a generalized crisis which has resulted in labour, social and political conflict giving rise firstly to a change in ministers and then to the resignation of the President of the Republic; (2) the current administration of the Government and the collective interest is focused on the holding of national elections and the calling of a Constituent Assembly, for which reasons it is currently difficult to make progress on the matters referred to above; and (3) nevertheless, it is in the Government's interest to make progress on these matters and therefore, as soon as the political conditions so permit, these legal provisions will be approved. ***In these conditions, the Committee expresses the hope that conditions will soon permit the Government to act, and requests that the Government provide information in its next report on any progress achieved in relation to the approval of the legislative amendments referred to by the Government.***

On the other hand, the Committee recalls that for many years it has been commenting on the remaining provisions of the legislation which are not in conformity with the Convention:

- (1) the requirement that 50 per cent of the workers in an enterprise give their agreement to establish a trade union in any industry (section 103 of the Act);
- (2) the broad powers of supervision conferred upon the labour inspectorate over trade union activities (section 101 of the Act); and
- (3) the requirement, to be eligible for trade union office, to be of Bolivian nationality (section 138 of the Regulatory Decree) and to be a permanent employee in the enterprise (sections 6(c) and 7 of Legislative Decree No. 2565, of June 1951).

The Committee notes the Government's indication that no agreement was reached with regard to these provisions and that, as they are subjects on which both the workers and employers agreed to reject the amendments proposed by the Committee, these changes will not be imposed. However, the Committee also notes the Government's indication that there was tripartite agreement that the Ministry of Labour will convene further negotiation meetings within a reasonable period with a view to obtaining the amendment of the provisions upon which comments have been made. ***The Committee requests that the Government provide information in this respect.***

The Committee is addressing a request directly to the Government on another point.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1973)

The Committee notes the Government's report.

Articles 1, 2 and 3 of the Convention. In its previous comments, the Committee had requested the Government to take steps to update (from 1,000 to 5,000 bolivianos) the amount of the fines established in Legislative Decree No. 38 of 7 February 1944, in order to make them sufficiently dissuasive against acts of anti-union discrimination or interference.

Articles 4 and 6. The Committee had observed previously that the legislation denies public employees the right to organize and requested the Government to take steps to have the legislation amended so that public employees not engaged in the administration of the State have the right to bargain collectively through their organizations.

The Committee has been informed that, during the technical assistance mission which took place from 19 to 21 April 2004, the Government and the social partners reached an agreement to modify the legislation on the above points, including in order to introduce a provision establishing that the Ministry of Labour will promote collective bargaining. The Committee notes this information. The Committee notes the will of the Government to pursue the reform, which has not been approved yet due to the political crisis in the country and the forthcoming national elections. ***The Committee hopes that the tripartite agreement in question will lead to legislative changes in the near future and requests the Government to keep it informed in this respect.***

Lastly, the Committee had previously requested the Government to take measures, in accordance with *Article 4* of the Convention, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment (which are not limited to wage matters) by means of collective agreements. The Committee notes the information provided by the Government on the collective agreements in force and their content as well as the tripartite agreement for the Labour Ministry to promote collective bargaining. The Committee further notes that there are 43 collective agreements, 16 of them covering only wage matters. The Committee requests the Government to keep it informed of all the measures taken to promote collective bargaining as well as the number of collective agreements concluded and the matters which they cover. ***The Committee again requests the Government to provide information on the collective agreements in force, their content and the number of workers they cover.***

Bosnia and Herzegovina

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

The Committee takes note of the Government's report. It also takes note of the comments of the Confederation of Independent Trade Unions of Bosnia and Herzegovina and of the Confederation of Trade Unions of the Republika Srpska, transmitted with the Government's report, and of a communication by the International Confederation of Free Trade Unions (ICFTU) dated 1 September 2005. The Committee also takes note of the discussion concerning the application of this Convention at the Conference Committee on the Application of Standards at its June 2005 session.

Article 2 of the Convention. 1. *Requirement of previous authorization for the establishment of employers' and workers' organizations.* The Committee recalls that in its previous comments it had noted that article 32 of the Law on the Associations and Foundations of Bosnia and Herzegovina authorizes the Minister of Civil Affairs and Communication to accept or refuse a request for registration and provides that the request shall be considered as rejected if the Minister does not adopt a decision within 30 days. The Committee observes that the Government's report does not contain any information on this issue. The Committee further notes from the comments made by the Confederation of Trade Unions of the Republika Srpska, that the Law on Associations and Foundations constitutes an obstacle to the registration of trade unions and the recognition of their legal personality, because the law in question contains overly restrictive provisions and the registration process involves considerable expense due to the payment of court fees.

The Committee considers that legislation which makes the registration and acquisition of legal personality a prerequisite for the existence and functioning of organizations and, at the same time, does not clearly define the reasons for refusal to grant a registration request, confers on the competent authority a genuinely discretionary power which is tantamount to a requirement for previous authorization. Problems of compatibility with the Convention may also arise where the registration procedure is long and complicated, raising serious obstacles to the establishment of organizations which amount to a denial of the right of workers and employers to establish organizations without previous authorization (see General Survey on freedom of association and collective bargaining, 1994, paragraphs 73-74 and 76). ***The Committee requests that the Government take all necessary measures to repeal article 32 of the Law on the Associations and Foundations of Bosnia and Herzegovina so that workers and employers can freely establish organizations of their own choosing without previous authorization and to provide information in this respect in its next report.***

2. *Registration of the Confederation of Independent Trade Unions of Bosnia and Herzegovina.* The Committee further recalls that in its previous observation it had noted the unreasonable period which had elapsed since the filing of a registration request by the Confederation of Independent Trade Unions of Bosnia and Herzegovina and had requested information on the measures taken or contemplated in order to grant registration to this organization as soon as possible. The Committee notes that, according to the information provided by the Government to the Conference Committee on the Application of Standards in June 2005, special assistance had been requested from the ILO with a view to resolving the issue of the modification of the legislation so as to allow the registration of the Confederation at the state level, and progress had been made in the elaboration of the legislation concerning social dialogue and social partners at the national level. Moreover, an agreement had been reached between the Confederation of Independent Trade Unions of Bosnia and Herzegovina and the Trade Union of the Serb Republic of Bosnia in order to create the Trade Union Confederation at the national level. The Committee notes that in its comments the Confederation of Independent Trade Unions of Bosnia and

Herzegovina states that its registration has not been completed yet. *Noting the information provided by the Government concerning the issue of the modification of the legislation, the Committee once again requests the Government to take all necessary measures so as to register the Confederation of Independent Trade Unions of Bosnia and Herzegovina promptly and to indicate in its next report progress made in this respect.*

The Committee recalls that in its previous comments the Confederation of Independent Trade Unions of Bosnia and Herzegovina had stated that the absence of registration created a risk of confiscating the organization's belongings and preventing it from participating in the Economic and Social Council, regardless of the fact that it was the most representative workers' organization. *The Committee requests the Government to provide its observations in this respect.*

3. *Registration of employers' confederations.* In its previous comments, the Committee had requested the Government to take all necessary legislative measures so as to ensure that employers' confederations can obtain registration under a status conducive to the full and free development of their activities as employers' organizations both at the level of the Republic of Bosnia and Herzegovina and its two entities, and to provide information on the measures taken for the effective registration of the Employers' Confederation of the Republic of Bosnia and Herzegovina. The Committee notes with interest from the information submitted by the Government to the Conference Committee on the Application of Standards, that the Government had stated that the two employers' federations at the level of the two entities of the Republic had the right to obtain state registration and pursuant to this, an Association of the Employers of Bosnia and Herzegovina was established, thus resolving the case, according to the Government. *The Committee requests the Government to provide in its next report information on the legislative measures taken so as to enable other employers' confederations to obtain registration in the future under a status conducive to the full and free development of their activities as employers' organizations both at the level of the Republic of Bosnia and Herzegovina and its two entities.*

4. *Registration procedure.* The Committee recalls that in its previous comments it had noted the need to amend the legislation so as to provide more reasonable time limitations (sections 30(2), 34 and 35 of the Law on the Associations and Foundations of Bosnia and Herzegovina) with respect to the registration of employers' and workers' organizations and to ensure that they shall not suffer disproportionate consequences as a result of a delayed request (dissolution of the organization in question or cancellation of its registration). The Committee notes that the Government's report contains no information in this respect. *Recalling once again that the registration procedure should not be so complicated as to raise obstacles to the establishment of workers' and employers' organizations, the Committee requests the Government to take all necessary measures so as to amend sections 30(2), 34 and 35 of the Law on the Associations and Foundations of Bosnia and Herzegovina and to provide information in this respect in its next report.*

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

The Committee takes note of the Government's first report.

Article 4 of the Convention. Measures to encourage and promote the development of voluntary negotiation between employers' and workers' organizations. In its previous comments, the Committee had taken note of the conclusions and recommendations of the Committee on Freedom of Association in Cases Nos. 2140 and 2225 and had noted in particular that the current legislative framework prevented the registration of employers' and workers' organizations at the level of the Republic as a whole, thus preventing them from engaging in collective bargaining at that level. The Committee had requested the Government to indicate measures taken or contemplated in order to encourage and promote collective bargaining. The Committee regrets that the Government's report does not contain any information in this respect. *The Committee once again requests the Government to indicate in its next report any measures taken or contemplated in order to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers' and workers' organizations, including at the level of the Republic as a whole.*

The Committee is addressing a request on certain other points directly to the Government.

Botswana

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1997)

The Committee notes that the Government's report has not been received and hopes that a report will be supplied for examination by the Government at its next session and that it will contain full information on the matters raised in its previous direct request.

The Committee further notes the comments submitted by the International Confederation of Free Trade Unions (ICFTU) in a communication of 31 August 2005 and requests the Government to communicate its observations on these comments in its next report.

Articles 1, 2 and 4 of the Convention. The Committee notes that the Government amended the Trade Disputes Act and the Trade Unions and Employers' Organization Act in order to include in their scope public officers other than the

armed forces, the police and the prison services. The Committee recalls that the guarantees provided by the Convention apply to prison staff. **The Committee requests again the Government to amend its legislation in order to bring it in full conformity with the Convention and to keep it informed of measures taken or envisaged in this respect.**

Article 2. The Committee had noted that the legislation did not contain specific provisions for the protection of workers' organizations against acts of interference by employers and their organizations and requested the Government to amend its legislation by adopting specific provisions ensuring adequate protection of workers' organizations against acts of interference by employers or employers' organizations in the establishment, functioning or administration of trade unions, coupled with effective and sufficiently dissuasive sanctions. **The Committee requests again the Government to keep it informed of measures taken or envisaged to afford legislative protection against acts of interference.**

The Committee is also addressing a request directly to the Government on certain other points.

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

The Committee notes the Government's report. The Committee notes the Trade Unions and Employers' Organizations (TUEO) (Amendment) Act, 2003 and the Trade Disputes (Amendment) Act, 2004.

1. *Article 1 of the Convention.* The Committee notes with interest that the TUEO Act has been amended and now includes the "public officers", including the unified local government service and the unified teaching service. However, the Committee notes that the Botswana prison service is still excluded from the scope of the Public Service Act, the TUEO Act and the Trade Disputes Act. The Committee also notes the Government's statement that the Botswana prison service has been determined by national laws and regulations to be providing a security service. In this respect, the Committee would once again recall that under *Article 1*, only the police, the armed forces, high-level employees, whose functions are normally considered as policy-making or managerial, and employees whose duties are of a highly confidential nature, may be excluded from the scope of the Convention. **The Committee requests the Government to provide the national laws and regulations which cover the Botswana prison service.**

2. *Article 5.* The Committee notes that the current legislation provides adequate protection to public employees' organizations from acts of interference by the public authorities in their establishment, functioning or administration. The Committee notes that according to the Government, the Public Service Act is being reviewed and consideration will be given to the Committee's comments. **Therefore, the Committee requests the Government to ensure that draft legislation contains precise provisions providing adequate protection to public employees' organizations from acts of interference by the public authorities in their establishment, functioning or administration.**

3. *Article 6.* The Committee notes that new sections 48(B) and 48(C) of the TUEO Act now provides for organizational rights of recognized trade unions. Among other things, authorized representatives of the trade union have access to employer's premises for purposes of recruiting members, holding meetings, representing members and for deduction of trade union dues.

4. *Article 8.* The Committee notes with satisfaction that the Trade Disputes Act establishing procedures for the settlement of trade disputes has been amended and now ensures that disputes arising in connection with the determination of terms and conditions of employment for permanent and pensionable public servants may be settled through negotiation between the parties concerned or through independent and impartial machinery such as mediation and arbitration.

Brazil

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

The Committee notes the Government's report.

Article 4 of the Convention. Compulsory arbitration. The Committee recalls that it has been making comments for several years with regard to the possibility for one of the parties to the collective bargaining or for the authorities to resort to a "*dissidio coletivo*" (compulsory judicial arbitration; section 616 of the Consolidation of Labour Laws (CLT)). The Committee notes with satisfaction that the Government states that under the terms of Constitutional Amendment No. 45 of 8 December 2004 (Reform of the Judiciary; amendment of section 114), it was established that a "*dissidio coletivo*" may only be resorted to if both parties are in agreement (the judiciary may not be unilaterally called on to intervene). **The Committee requests the Government to provide information on the application of this constitutional amendment in practice.**

Furthermore, the Committee notes that, according to the Government, once the draft trade union reform, elaborated with a tripartite consensus within the National Labour Forum, has been adopted in the form of an act, a new dispute settlement system will be established, the basic principle of which will be to encourage the adoption of voluntary dispute settlement mechanisms, such as conciliation, mediation and arbitration – carried out by the judicial authority or a private arbitrator – (for example, section 188 of the draft establishes that, should collective bargaining concerning agreement on or renewal of a collective standard fail, the conflicting collective parties may, if in agreement, call upon the labour court, arbitrator or arbitration body in order to establish, amend or annul conditions of work). **The Committee requests the**

Government to provide information in its next report on any development concerning the draft trade union reform and in particular concerning any provisions adopted regarding arbitration as a means of dispute settlement.

Right to collective bargaining in the public sector. The Committee recalls that for several years it has been referring to the need for public employees who are not engaged in the administration of the State to have the right to collective bargaining. The Committee notes that the Government states that: (1) as it stated previously, there are constitutional restrictions regarding the freedom of action of the public administration, which render collective bargaining in the public sector difficult; (2) a sectoral chamber has been created within the National Labour Forum to address issues specifically linked to the public sector, in particular, questions regarding trade union organizing, collective bargaining and dispute settlement; (3) the aim is to transfer the results of the discussions held in this chamber into legislative proposals to be transmitted to the Presidency of the Republic, before being presented as draft constitutional amendments before the National Congress; (4) in June 2003, the Permanent National Negotiation Board (MNNP) was established in the federal public service and is composed of representatives of eight ministries and all of the representative bodies of federal public servants; (5) the Board was established to ensure the democratization of labour relations through the establishment of a permanent collective bargaining system and one of its main aims is to search for negotiated solutions concerning the interests of both the public servants and the federal public administration; and (6) although restrictions remain, progress has been made concerning collective bargaining in the public sector.

The Committee requests the Government to provide information in its next report on any measures adopted to ensure that public employees who are not engaged in the administration of the State have the right to collective bargaining. In particular, the Committee requests the Government to indicate whether any constitutional amendments have been proposed in this regard, and to provide information on the issues addressed by the MNNP.

Finally, the Committee recalls that in its previous observations it also referred to the need to repeal section 623 of the Consolidation of Labour Laws (CLT), under the terms of which the provisions of an agreement or accord in conflict with the orientations of the Government's economic and financial policy or the existing wages policy shall be declared null. The Committee notes the Government's indication that the judicial authority has considered that awards may, in certain cases, give rise to regulations to cover a legal vacuum, but that, when a law is adopted, it prevails over all other secondary sources of law (agreements, accords, etc.), rendering null and void those provisions of the collective agreement or accord which contravene a Government prohibition or regulation, or which relate to the wage policy in force. Similarly, wage adjustments agreed on as part of collective agreements are concluded between the parties in accordance with the real situation at the time, striking a balance between the capacity of enterprises to pay and the fact that, in a new and fundamentally different socio-economic context from when an accord was concluded, it cannot be expected that a condition that is incompatible with the new situation could remain unchanged.

In this regard, the Committee emphasizes that, except in exceptional circumstances, it is the parties to the collective bargaining process who are best placed to determine wages and considers that the restriction contained in section 623 of the CLT affects the independence of the social partners during collective bargaining and impedes the development of voluntary collective bargaining procedures between employers or their organizations and organizations of workers for the establishment of employment conditions. ***In these conditions, the Committee once again requests the Government to take measures to repeal the aforementioned legislative provision and to inform it in its next report of any measure adopted in this respect.***

The Committee is addressing a request on certain other points directly to the Government.

Bulgaria

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1959)

The Committee takes note of the Government's report. It observes, however, that it does not reply in sufficient detail to some of the points raised in its previous comments. The Committee also notes the observations of the Confederation of Independent Trade Unions of Bulgaria (CITUB) received with the Government's report, which address some of the points already raised by the Committee.

Article 3 of the Convention. Right of workers' and employers' organizations to organize their activities freely without interference by the public authorities. 1. The Committee requested information on the mechanisms for determining whether trade unions are representative, pursuant to sections 34 and 35 of the Labour Code. It noted with concern that the Association of Democratic Trade Unions (ADS) and PROMYANA (which had become the NTU – National Trade Union) had been unable to participate in a poll to determine whether they were representative at national level. The Committee also notes the CITUB's comment that there is no controlling mechanism for verifying whether an organization meets the prerequisites for representativeness and that this is harming social dialogue in the country (CITUB is also recognized as representative at national level). The Committee notes that this issue has been examined by the Committee on Freedom of Association and that in its last examination this Committee took note of the Government's indication that the PROMYANA Alliance had been declared representative at the national level and that ADS and NTU have not requested such status (see 338th Report, approved by the Governing Body at its 294th Session,

paragraphs 29-31). *The Committee asks the Government to continue to provide information on the mechanisms available for determining whether trade unions are representative and to keep it informed of any new requests in this regard.*

2. As regards the requirements for exercising the right to strike, pursuant to section 11(2) and (3) of the Act of March 1990 on the settlement of collective labour disputes, the Committee asked the Government: (1) to indicate the measures taken or envisaged to amend section 11(2) of the Act of March 1990 to ensure that, in strike ballots, only the votes cast would be counted and the quorum would be fixed at a reasonable level; (2) to amend section 11(3) of the Act so as to eliminate the obligation to notify the duration of a strike. In its last report, the Government indicates that decisions for starting strikes must be adopted by an absolute majority of the votes cast and that the requisite quorum is half of “all workers”. *In order to be able to adequately assess this matter, the Committee asks the Government to indicate whether sections 11(2) and 11(3) of the Act of March 1990 on the settlement of collective labour disputes have been amended as advised by the Committee.*

3. With regard to negotiated minimum services, the Committee noted previously that, under section 51 of the Railway Transport Act of 2000, in the event of action under the abovementioned Act regarding the settlement of collective labour disputes, workers and their employers must provide the population with satisfactory transport services of no less than 50 per cent of the volume of transportation that was provided before the strike. The Committee is of the view that, since the establishment of a minimum service restricts one of the essential means of pressure available to workers to defend their economic and social interests, workers’ organizations should be able, if they so wish, to participate in establishing the minimum service, together with employers and the public authorities. The Committee again points out that a minimum requirement of 50 per cent of the volume of transportation may considerably restrict the right of railway workers to undertake industrial action. *Consequently, it once again asks the Government to indicate in its next report the measures taken or envisaged to amend this provision in order to ensure that workers’ organizations may participate in negotiations to determine and organize a minimum service and that, where no agreement is possible, the matter is referred to an independent body.*

4. With regard to the provision of compensatory guarantees for workers in the energy, communications and health sectors whose right to strike is denied, the Committee noted the creation, in March 2001, of the National Institute for Conciliation and Arbitration. *Since the Institute has been in operation since April 2003, the Committee again asks the Government to keep it informed of the use made of the machinery provided under the auspices of the Institute.*

5. With regard to the restricting of the exercise of the right to strike by civil servants, pursuant to section 47 of the Civil Servant Act, the Committee recalls that in its report for 2002 the Government indicated that the Ministry of Labour had submitted a Bill to amend and supplement the abovementioned Act and extend the right to strike to civil servants. The Committee noted that section 24 of the Bill was to amend section 47 of the current Act so as to enable public servants not only to strike symbolically but actually to discontinue their work. It also noted that under the Bill, a decision to go on strike should be taken by a majority vote by an assembly attended by more than half of the public servants concerned. In its report, the Government states that it is unable to report on progress on this point. *The Committee expresses the firm hope that the Government will be in a position to indicate in its next report any measures adopted to guarantee effectively the right to strike of all civil servants who cannot be considered to be exercising authority in the name of the State, and to send any relevant bills or final texts.*

Burkina Faso

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes that the Government’s report has not been received. It must, therefore, repeat its previous observation, which read as follows:

Article 3 of the Convention. Power to requisition. The Committee recalls that in its previous comments it referred to the need to amend sections 1 and 6 of Act No. 45-60/AN of 25 July 1960 regulating the right to strike of public servants and state employees. Under these provisions, public servants may be required to perform their duties in order to ensure the continuity of the administration and the safety of persons and property. The Committee recalled in this connection that it would be advisable to restrict the public authorities’ power to requisition workers to cases in which the right to strike may be limited or even prohibited, namely: (1) public servants exercising authority in the name of the State; (2) essential services, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; (3) in the event of an acute national crisis (see General Survey of 1994 on freedom of association and collective bargaining, paragraphs 152, 158 and 159).

The Committee draws to the attention of the Government that its request related to sections 1 and 6 of Act No. 45-60/AN regulating the right to strike of public servants and state employees, whose conditions of work have been governed, until now, by a specific law (Act No. 013/98/AN of 28 April 1998 issuing the rules governing jobs and employees in the public service) and not by the Labour Code. *The Committee therefore requests the Government to indicate the measures taken or envisaged to amend or repeal sections 1 and 6 of Act No. 45-60/AN, if it is to remain in force after the new Labour Code has been issued. Moreover, the Committee requests the Government to continue to keep it informed of any decision to requisition workers that may have been taken in accordance with section 6. Finally, the Committee requests the Government to provide a copy of the new Labour Code as soon as possible.*

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

Finally, the Committee had requested the Government to modify section 159 of the Labour Code, which provides that members responsible for the management and administration of a trade union must be nationals of Burkina Faso or of a State with which establishment agreements have been concluded requiring reciprocity of trade union rights. The Committee notes with satisfaction that section 264 of the new Labour Code allows foreigners with five years of residence to become trade union officials.

Burundi

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

The Committee notes the Government's report. It also notes the discussions in the Conference Committee on the Application of Standards in 2005 and the comments made by the Confederation of Burundi Trade Unions (COSYBU) (see below).

1. *Article 2 of the Convention. Right of public employees without distinction whatsoever to establish and join organizations of their own choosing.* With regard to the right of association of magistrates, the Committee notes, according to the information provided by the Government, that Act No. 1/018 of 20 October 2004 does not prohibit magistrates from being organized, but provides that the exercise of the right to strike may be regulated with regard to certain occupational categories. The Government indicates in its report that the Minister of Justice considered that the registration of the Union of Magistrates of Burundi (SYMABU) was not valid as section 14 of the Labour Code excludes magistrates from its scope, but that regulations on the right to organize of magistrates are currently under examination and that an evaluation is being carried out by an ad hoc commission of the situation of all trade unions in relation to the legislation on labour and the public service. **Recalling that all public service employees should have the right to establish occupational organizations, the Committee urges the Government to indicate the provisions guaranteeing the right to organize of magistrates.**

Right to organize of minors. For several years, the Committee has been raising the matter of the compatibility of section 271 of the Labour Code with the Convention. Section 271 provides that minors under the age of 18 may not join a trade union without the explicit permission of their parents or guardians. **While noting the information provided by the Government that this obligation is not taken into account in practice, the Committee once again hopes that the right to organize of young persons under 18 years of age engaged in an occupational activity will be fully recognized without parental authorization being necessary, in the context of the revision of the current Labour Code.**

2. *Article 3. Right of workers' and employers' organizations to draw up their constitutions and rules, elect their representatives in full freedom, organize their administration and activities and formulate their programmes without interference from the public authorities. Election of trade union officers.* In its previous comments, the Committee noted that the Labour Code sets a number of conditions for holding the position of trade union officer or administrator.

(a) *Criminal record.* Under section 275(3) of the Labour Code, holders of trade union office may not have been sentenced to imprisonment without suspension of sentence for more than six months. In its report in 2002, the Government stated that it was planning to amend this provision after consulting the National Labour Council, in the light of the Committee's comments that conviction for an act which, by its nature, does not call into question the integrity of the person and implies no real risk for the performance of trade union duties should not constitute grounds for exclusion from trade union office.

(b) *Belonging to the occupation.* Section 275(4) of the Labour Code requires trade union leaders to have belonged to the occupation or trade for at least one year. The Committee previously requested the Government to make the legislation more flexible by allowing persons who had previously worked in the occupation to stand for office or by lifting this requirement for a reasonable proportion of trade union officers.

The Committee notes the Government's reaffirmation of its intention to amend section 275 of the Labour Code along the lines called for by the Committee. **It trusts that the Labour Code will be revised rapidly and that the revision will take fully into account the principles set out above.**

Right to strike. In its previous comments, the Committee raised the matter of the series of compulsory procedures to be followed before calling a strike (sections 191-210 of the Labour Code), which appear to authorize the Minister of Labour to prevent all strikes. The Committee noted in this connection the ICFTU's assertion that there are procedural requirements empowering the authorities to determine whether or not a strike is lawful. In practice, the authorities have been able to prevent or bring an end to strikes on the grounds that they were prejudicing the national economy and were intended to support "the enemies" of the Government. Finally, several trade union leaders have been imprisoned over the past three years for calling strikes. The Committee notes that the Government has confined itself to recalling that the implementing provisions of the Labour Code respecting the conditions for the exercise of the right to strike have not yet been issued. The Committee emphasizes that the right to strike is one of the essential means available to trade unions to further and defend the interests of their members. **Accordingly, the Committee urges the Government to reply to the**

ICFTU's comments on this matter and to provide the draft text to be issued under the Labour Code on the conditions for the exercise of the right to strike, to which it referred in its previous reports, so that the Committee can examine its conformity with the provisions of the Convention.

Further, the Committee noted that, under section 213 of the Labour Code, strikes are lawful when they are called with the approval of a simple majority of the employees of the workplace or enterprise, whereas according to the Government, in practice, no vote by the workers has been required and a consensus has sufficed. The Committee recalled that, when voting on strikes, the ballot method, the quorum and the majority required should not be such that the exercise of the right to strike becomes very difficult in practice. If a member State sees fit to establish in its legislation provisions requiring a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast and that the required majority and quorum are fixed at a reasonable level (see General Survey on freedom of association and collective bargaining, 1994, paragraph 170). ***Noting the Government's statement that the Committee's proposals for the amendment of section 213 of the Labour Code will be discussed by the social partners, the Committee urges the Government to indicate in its next report the measures adopted or envisaged to amend section 213 in the light of the comments recalled above.***

Finally, the Committee notes the information communicated by COSYBU according to which the Government has issued a Legislative Decree prohibiting the exercise of the right to strike and to demonstrate throughout the national territory during the period of the elections. The Committee recalls that the right to strike is one of the essential means available to trade unions to further and defend the interests of their members and that it may only be restricted in the context of the public service (public servants exercising authority in the name of the State), essential services in the strict sense of the term and in cases of acute national crisis (see General Survey, op. cit., paragraphs 148, 158 and 159). ***The Committee requests the Government to reply to these comments in its next report and to provide information on the abovementioned Legislative Decree.***

3. The Committee also notes the information provided by COSYBU concerning the grave violations of trade union rights in relation to several trade union leaders, including the president of COSYBU, and also interference in the representativeness and everyday administration of COSYBU. In addition, COSYBU reports the absence up to now of organizations in the private sector, with workers who endeavour to organize being threatened with dismissal or demotion from their posts. ***The Committee requests the Government to reply to these comments and expresses the firm hope that the Government will take the necessary measures to ensure that trade union organizations can exercise in full their right to organize their activities freely without interference from the public authorities.***

The Committee also requests the Government to provide information on the progress of the work of revising the Labour Code, as well as a copy of the new text once it is adopted. It recalls that the Government has requested the technical assistance of the Office and hopes that this will be provided in the near future.

In addition, a request relating to the legislation on the right to organize of public servants is being addressed directly to the Government.

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1997)

1. The Committee notes that the Government's report has not been received, although the legislative texts requested have been made available. The Committee also notes the communication from the Confederation of Trade Unions of Burundi (COSYBU), dated 30 August 2005, transmitting its observations on the application of the Convention with regard to the facilities afforded to workers' representatives to enable them to carry out their functions promptly and efficiently (*Article 2 of the Convention*).

2. With reference to its previous comments, the Committee notes with satisfaction the adoption of Act No. 1/015 of 29 November 2002 issuing regulations on the exercise of the right to organize and the right to strike in the public service, and particularly the fact that this Act affords facilities for workers' representatives (posting of communications, collection of contributions, holding of meetings).

3. However, the Committee notes that, with regard to facilities for workers' representatives, the Labour Code is limited to envisaging leave for trade union training in section 132. The Committee also notes that the National Inter-occupational Labour Agreement of 3 April 1980, although it establishes joint commissions with trade union leave to participate in their meetings, does not set out other facilities for workers' representatives in the private sector or the representatives of employees in the public sector who are not public officials. ***The Committee therefore requests the Government to take measures to afford other facilities to workers' representatives (trade union and other representatives) in these sectors to enable them to carry out their functions promptly and efficiently, including access to all workplaces where so required for their representational functions, the collection of trade union dues, etc.***

Cambodia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1999)

The Committee notes with regret that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request.

The Committee further notes the comments on the application of the Convention submitted by the International Confederation of Free Trade Unions (ICFTU) in a communication of 31 August 2005, concerning more particularly anti-union dismissals of trade union officers and the failure of the legal system to protect them, the exclusion of teachers and household servants from the scope of the Labour Law and the fact that only five collective agreements have been registered in the Ministry of Labour. **The Committee requests the Government to send its observations thereon.**

Articles 4 and 6 of the Convention. The Committee had observed previously that, according to section 1 of the Labour Law, certain categories of workers, which include persons appointed to a temporary or a permanent post in the public service, are not covered by this legislation. According to the ICFTU, the Labour Law does not apply to civil servants; moreover the Committee on Freedom of Association (see 334th Report, paragraphs 202-226) had requested the Government to take the necessary measures to amend the Common Statutes of Civil Servants so as to guarantee fully the right to collective bargaining of civil servants not engaged in the administration of the State and to diffuse widely these amendments, once adopted, among the local public authorities including the local educational administration. In this respect, the Committee recalls that a distinction must be drawn between, on the one hand, public servants who by their functions are directly employed in the administration of the State and who may be excluded from the scope of the Convention and, on the other hand, all other persons employed by the State, by public enterprises or by autonomous public institutions and who should benefit from the guarantees provided for in the Convention. **The Committee therefore requests once again the Government to indicate in its next report whether the categories of workers in question benefit from the guarantees provided for in the Convention under other legal provisions and, if not, to take the necessary measures in order to ensure the application of the Convention to these categories of workers and to keep it informed on measures taken or envisaged in respect of the abovementioned points.**

Cameroon

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the Government's report. It also notes the comments made by the Confederation of Public Service Unions of Cameroon (CSP), dated 7 April 2005, the General Confederation of Labour – Liberty of Cameroon (CGT-Liberty), dated 29 August and 10 October 2005, the General Union of Cameroon Workers (UGTC), dated 30 August 2005, and the International Confederation of Free Trade Unions (ICFTU), dated 31 August 2005.

1. *Article 2 of the Convention.* The Committee recalls that Act No. 68/LF/19, of 18 November 1968, under which the existence in the law of a trade union or occupational association of public servants is subject to prior approval by the Minister for Territorial Administration, and section 6(2) of the Labour Code of 1992, under which persons establishing a trade union which has not yet been registered and who act as if the said union has been registered shall be liable to prosecution, as well as article 166 of the Labour Code which provides for heavy fines, are not consistent with *Article 2* of the Convention. With regard to the prosecution of persons promoting trade unions, which have not yet been registered, the Committee notes the Government's indication in its last report that a Bill has been submitted for examination by the National Labour Advisory Commission. On the contrary, the amendment of Act No. 68/2F/19 is still not on the agenda. The Government considers that preliminary work has to be carried out for awareness raising and training and refers in this respect to the request for technical assistance which it has recently addressed to the ILO in the framework of a support project for the implementation of the Declaration (PAMODEC). **The Committee once again urges the Government to take the necessary measures to bring the legislation into conformity with the Convention. It emphasizes, in particular, the need to amend Act No. 68/LF/19 so as to secure for public servants the right to establish organizations of their own choosing without previous authorization, and to provide a copy of the relevant legislative texts.**

2. *Article 5. Prior authorization for affiliation to an international organization.* The Committee has been pointing out for several years that section 19 of Decree No. 69/DF/7, which provides that trade unions or associations of public servants may not join a foreign occupational organization without obtaining prior authorization from the Minister responsible for "supervising public freedoms", is inconsistent with *Article 5* of the Convention. The Committee once again refers to its previous comments in this respect, as the provision in question has not been repealed, despite the assurances given by the Government which confines itself in its latest report to making reference to the PAMODEC project in order to raise awareness in the concerned ministries on the need to amend article 19. **The Committee once again urges the Government to amend the legislation as soon as possible in order to eliminate the requirement for public servants' unions to obtain prior authorization before joining an international organization.**

3. The Committee notes the comments of the ICFTU and the UGTC concerning the situation in the CAMRAIL enterprise, and particularly that of Mr. B. Essiga, and the Government's reply in this respect, including the fact that this trade union member is benefiting from conditional release and that the judicial proceedings are following their course. According to the Government, the legal proceedings against him relate to a common law offence and bear no relation to his trade union activities. *Recalling once again that the guarantees set out in the Convention can only be effective if civil and political rights are fully protected (see General Survey on freedom of association and collective bargaining, 1994, paragraph 43), the Committee requests the Government to provide information in its next report on developments relating to the prosecution of Mr. Essiga and to provide a copy of any decision made in this case.*

4. *The Committee requests the Government to provide its observations on the other comments made by the ICFTU, as well as those of the CGT-Liberty, the CSP and the UGTC, particularly in relation to restrictions on the right to strike, the conditions for the dissolution of trade unions and the renewed increase in cases of the dismissal and imprisonment of trade union leaders.*

Emphasizing that all the matters referred to above have been raised for many years by both the Committee of Experts and the Conference Committee on the Application of Standards, the Committee once again firmly invites the Government to remove the obstacles in both law and practice to the full exercise of freedom of association as soon as possible and to provide copies of the relevant legislative texts in the very near future.

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

The Committee takes note of the Government's report. The Committee also notes the comments of the General Confederation of Labour-*Liberté* (CGT-*Liberté*) sent in two communications, as well as those of the General Union of Workers of Cameroon (UGTC) and the International Confederation of Free Trade Unions (ICFTU) concerning the application of the Convention. *The Committee requests the Government to respond to the above comments.*

The Committee notes that in its first communication of 29 August 2005, the CGT-*Liberté* refers to acts of anti-union discrimination and interference in several enterprises and the lack of provisions which provide adequate protection against these acts, as well as the absence of collective agreements in certain branches of activity. *The Committee requests the Government to institute an independent inquiry and if the allegations of CGT-*Liberté* are confirmed, to take all necessary measures of redress.*

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1976)

The Committee notes the Government's report.

The Committee also notes the comments made by the General Union of Cameroon Workers (UGTC), dated 31 August 2005, and those of the Confederation of Public Sector Unions of Cameroon (CSP), dated September 2004, according to which: (1) most employers do not comply with the requirement in the legislation to afford facilities to workers' representatives, particularly trade union leave (credited hours) and the provision of meeting rooms for staff delegates; (2) even though certain sectoral collective agreements provide protection for trade union leaders, the Ministry of Labour refuses to grant such protection; (3) there has been an increase in transfers and dismissals of staff delegates and trade union leaders; and (4) certain employers and labour inspectors make use of staff delegates to weaken militant trade unions. *The Committee requests the Government to reply to these comments.*

The Committee recalls that, in accordance with *Article 2 of the Convention*, facilities in the undertaking shall be afforded to workers' representatives in order to enable them to carry out their functions promptly and efficiently, and that under *Article 5* of the Convention, the existence of elected representatives should not be used to undermine the position of trade unions or their representatives. *The Committee requests the Government to ensure compliance with these principles.*

Canada

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

The Committee takes note of the Government's report. The Committee also notes the comments made by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 19 July 2004 with regard to certain issues which have been the subject of previous observations by the Committee, as well as the Government's response thereto. The Committee further takes note of the conclusions and recommendations reached by the Committee on Freedom of Association in recent cases concerning Canada (Case No. 2277 (see 333rd Report, paragraphs 240-277 and 337th Report, paragraphs 347-360) and Case No. 2305 (see 335th Report, paragraphs 471-512)).

A. *Article 2 of the Convention. Right to organize of certain categories of workers.* 1. *Workers in agriculture and horticulture (Alberta, Ontario and New Brunswick).* In its latest observation, the Committee took note of the information provided by the Government representative to the Conference Committee on the Application of Standards in 2004 as well as the discussion that followed, with regard to, inter alia, the exclusion from the scope of the labour relations legislation of workers in agriculture and horticulture, who are thereby deprived of full and complete protection of their right to organize.

The Committee recalls from its previous comments that workers in agriculture and horticulture in the Provinces of Alberta, Ontario and New Brunswick are excluded from the coverage of labour relations legislation and thereby deprived of protection concerning the right to organize and collective bargaining.

The Committee notes with regret from the Government's report that there are no plans for a legislative review in Alberta and New Brunswick (the Alberta government indicates that this issue may be addressed in the next review of the Labour Relations Code and the New Brunswick government maintains that limiting the scope of the law to workplaces with five or more agricultural employees is fair and equitable). As for Ontario, the Committee notes from the Government's report that the Agricultural Employees Protection Act, 2002 (AEPA), which entered into force in June 2003, gives agricultural employees the right to form or join an employees' association but does not provide a right to a statutory collective bargaining regime and maintains the exclusion of agricultural employees from the generally applicable legislation (Labour Relations Act (LRA)); in April 2004, the United Food and Commercial Workers filed an application in the courts challenging the constitutionality of the exclusion of agricultural workers from the LRA and the restriction on collective bargaining rights in the AEPA. The application has not been heard yet.

The Committee recalls once again that all workers without distinction whatsoever (with the sole possible exception of the armed forces and the police) have the right to organize under the Convention. It further notes the conclusions reached by the Conference Committee in June 2004, recalling the need to amend the legislative texts in different provinces with a view to guaranteeing the full application of the Convention in relation to the effective right of association in agriculture which has suffered from restrictions for many years. ***The Committee once again requests the Government to indicate in its next report any measures taken or contemplated by the governments of Ontario, Alberta and New Brunswick with a view to amending their legislation so as to guarantee the right of agricultural workers to organize.***

2. *Domestic workers, architects, dentists, land surveyors, lawyers and doctors (Ontario).* The Committee further recalls from previous comments concerning Ontario that other categories of workers (domestic workers, architects, dentists, land surveyors, lawyers and doctors) are excluded from the scope of the labour relations law under section 13(a) of the Amended Labour Relations Act, 1995. The Committee notes with regret that according to the Ontario government, no legislative amendments are planned and therefore these categories of workers do not have access to a statutory collective bargaining regime; labour laws originally enacted with industrial settings in mind are not always suitable for non-industrial workplaces, such as private homes or professional offices, where employment obligations may not be compatible with the highly formalized terms and conditions of employment. ***The Committee, emphasizing that all workers without distinction whatsoever have the right to organize under the Convention, requests once again the Government to indicate any measures taken or contemplated by the government of Ontario to amend section 13(a) of the Amended Labour Relations Act, 1995, so as to guarantee the right to organize to several categories of workers (domestic workers, architects, dentists, land surveyors, lawyers and doctors) who are excluded from the scope of the labour relations law.***

3. *Nurse practitioners (Alberta).* Furthermore, the Committee takes note of the conclusions and recommendations reached by the Committee on Freedom of Association in Case No. 2277 (see 333rd Report, paragraphs 240-277 and 337th Report paragraphs 347-360) to the effect that nurse practitioners have been deprived of the right to establish and join organizations of their own choosing by the Labour Relations (Regional Health Authorities Restructuring) Amendment Act in Alberta, as well as the comments of the ICFTU on this issue. The Committee once again recalls that the words "without distinction whatsoever" used in *Article 2* of the Convention mean that freedom of association should be guaranteed without discrimination of any kind. ***The Committee therefore, taking note of the recommendation made by the Committee on Freedom of Association in this respect, requests the Government to indicate in its next report any measures taken or contemplated by the Government of Alberta to amend the Labour Relations (Regional Health Authorities Restructuring) Amendment Act so that nurse practitioners recover the right to establish and join organizations of their own choosing.***

4. *Principals, vice-principals in educational establishments and community workers (Ontario).* The Committee further recalls, with regard to Ontario, that its previous comments concerned the need to ensure that principals and vice-principals in educational establishments as well as community workers have the right to organize, pursuant to the conclusions and recommendations reached by the Committee on Freedom of Association in Case No. 1951 (325th Report, paragraphs 197-215) and Case No. 1975 (316th Report, paragraphs 229-274 and 321st Report, paragraphs 103-118). The Committee recalls in this respect the conclusions reached by the Conference Committee according to which problems remain, with regard to the right of workers in the education sector to organize, in several provinces, including Ontario.

The Committee notes with regret that the Ontario government indicates that it has nothing new to add on these issues. The Committee once again emphasizes that all workers without distinction whatsoever, have the right to establish and join organizations of their own choosing for the protection and promotion of their occupational rights and interests. ***The Committee once again requests the Government to indicate in its next report any measures taken or contemplated by the Ontario government to amend the legislation so as to guarantee, to principals and vice-principals in educational establishments as well as community workers, the right to establish and join organizations of their own choosing.***

5. *Education workers (Alberta).* With regard to the right to organize of education workers in Alberta, the Committee recalls that its previous comments concerned the need to repeal the provisions of the University Act which empower the Board of Governors to designate the academic staff members who are allowed, by law, to establish and join

a professional association for the defence of their interests. In the Committee's view, these provisions allow for future designations to exclude faculty members and non-management administrative or planning personnel from membership of the staff associations whose purpose is to protect and defend the interests of these categories of workers.

The Committee notes with regret that according to the government of Alberta, there are no plans to amend this legislation but the issue could be re-examined the next time Alberta's labour laws are reviewed. The Government once again draws attention to a previous decision of the Alberta Court of Queen's Bench which found the designation sections of the Colleges Act, the Technical Institutes Act and the Universities Act, which have now been consolidated into the Post-secondary Learning Act, to be in conformity with freedom of association provisions in the Canadian Charter of Rights and Freedoms.

The Committee notes once again that the provisions on designation, which have been recently consolidated in the Post-secondary Learning Act, do not afford adequate guarantees against possible restrictions on the right of university staff to organize. ***It therefore requests once again the Government to indicate in its next report any measures taken or contemplated by the Alberta government with a view to ensuring that university staff are guaranteed the right to organize without any exceptions.***

B. *Article 2. Trade union monopoly established by law (Prince Edward Island, Nova Scotia and Ontario).* The Committee notes from the information provided by the Government representative and the discussion which took place at the Conference Committee in June 2004, that serious problems remain in Prince Edward Island, Nova Scotia and Ontario with regard to the specific reference to the trade union recognized as the bargaining agent in the law of these provinces (Prince Edward Island Civil Service Act, 1983; Nova Scotia Teaching Professions Act; Ontario Education and Teaching Professions Act).

The Committee notes with regret from the Government's report that there are no plans to amend the legislation in Prince Edward Island, Nova Scotia and Ontario. The Committee once again emphasizes that although a system in which a single bargaining agent can be accredited to represent workers in a given bargaining unit and bargain on their behalf is compatible with the Convention, a trade union monopoly established or maintained by the explicit designation by name of a trade union organization in the law is in violation of the Convention. ***The Committee requests once again the Government to repeal from their respective legislation the designation by name of individual trade unions as bargaining agents.***

C. *Article 3. Right to strike of workers in the education sector.* The Committee recalls from its previous comments that problems remain in several provinces with regard to the right to strike of workers in the education sector (British Columbia, Manitoba and Ontario).

1. *British Columbia.* With respect to British Columbia, the Committee recalls that its previous comments concerned the need to repeal the provisions of Bill No. 18 (the Skill Development and Labour Statutes Amendment Act) which declared education to be an essential service, and to adopt provisions ensuring that workers in the education sector may enjoy and exercise the right to strike, pursuant to the conclusions and recommendations reached by the Committee on Freedom of Association in Case No. 2173 (see 330th Report, paragraphs 239-305).

The Committee notes with regret from the Government's report that there are no developments to report in this respect. ***The Committee once again requests the Government to indicate in its next report any measures taken or contemplated by the British Columbia government with a view to amending the legislation so as to ensure that essential services, in which strikes may be restricted or even prohibited, are limited to those services the interruption of which could endanger the life, personal safety or health of the population and ensuring that workers in the education sector, which does not qualify as an essential service in the strict sense of the term, may enjoy and exercise the right to strike without undue restrictions.***

The Committee further recalls that in its previous comments concerning British Columbia it had requested information on the new collective bargaining regime for support staff in certain provincial school commissions after the repeal of an act, which had served to end a collective dispute in these commissions, in July 2000. A report was expected and the Government had indicated that it had initiated a broad dialogue on this issue which might expand to include areas such as the health and public sectors. The Committee notes from the Government's latest report that the review of the collective bargaining regime for school support staff was not completed and the report was never made. ***The Committee requests the Government to keep it informed of any development in the future concerning the collective bargaining regime and, in particular, dispute settlement regulations or machinery to apply in the case of school support staff as well as health or public employees in British Columbia.***

2. *Manitoba.* With regard to Manitoba, the Committee recalls that its previous comments concerned the need to amend section 110(1) of the Public School Act which prohibits strikes by teachers. The Committee notes with regret from the Government's report that there are no plans to make amendments to the Public Schools Act at this time. The Committee once again notes that the right to strike should only be restricted for public servants exercising authority in the name of the State and in essential services in the strict sense of the term. ***It requests the Government to indicate in its next report any measures taken or contemplated by the Manitoba government to amend its legislation so that school***

teachers, who do not provide essential services in the strict sense of the term and do not qualify as public servants exercising authority in the name of the State, may exercise the right to strike without undue restrictions.

3. *Ontario.* The Committee further recalls from its previous comments concerning Ontario that it had emphasized, pursuant to the conclusions and recommendations reached by the Committee on Freedom of Association in Case No. 2025 (320th Report, paragraphs 374-414) the need to amend the legislation, in particular, Bill No. 22 and the Back to School Act, 1998, which brought an end to a legal strike by teachers, so as to ensure that teachers may exercise the right to strike. The Committee further takes note of the conclusions and recommendations reached by the Committee on Freedom of Association in Case No. 2305 (335th Report, paragraphs 471-512) according to which the Government adopted the Back to School Act, 2003 (Bill No. 28) which came into force at the beginning of June 2003 and terminated a legal work-to-rule campaign of an elementary teachers' bargaining unit, prohibited any further strike, imposed a mediation-arbitration process and extended the definition of strikes, thereby placing new restrictions on the right to strike for all Ontario teachers. Deploring that the Government should have decided, for the third time in a few years (September 1998, November 2000 and June 2003) to adopt ad hoc legislation which takes away from educational institutions and education workers a legal right, which they have in theory, the Committee on Freedom of Association urged the Government to consider establishing a voluntary and effective dispute prevention and resolution mechanism rather than having recourse to back-to-work legislation. It further requested the Government to ensure that recourse to arbitration for the settlement of disputes be voluntary and that such arbitration be truly independent (335th Report, paragraphs 505 and 512).

The Committee notes from the Government's report that teachers and school boards have a general right to strike. The Back to School Act, 1998, was introduced by the previous government in order to end strikes at eight school boards. The new government in Ontario, elected in 2003, has expressed its commitment to creating a climate where unions and school boards can negotiate collective agreements that are mutually beneficial. For the first time in the sector's history, 100 per cent of the 122 negotiations between publicly funded school boards and their teachers have been settled with four-year agreements, and there have been no strikes in this government's administration. The Ministry of Education indicates that it has successfully been able to replace a confrontational environment between the government and teachers with a collaborative one. ***Taking note of this information with interest, the Committee requests the Government to provide information in its next report as to measures taken or contemplated by the Ontario government with a view to establishing a voluntary and effective dispute prevention and resolution mechanism based on the voluntary recourse to independent arbitration machinery.***

D. *Article 3. Right to strike of certain categories of employees in the health sector (Alberta).* The Committee recalls with regard to Alberta, that in its previous comments it had requested information on whether kitchen staff, porters and gardeners working in the hospital sector and who, according to the Committee, do not constitute workers in an essential service, are covered by the prohibition of strikes in the Labour Relations (Regional Health Authorities Restructuring) Amendment Act. The Committee notes moreover the conclusions and recommendations reached by the Committee on Freedom of Association in Case No. 2277, according to which, the Labour Relations (Regional Health Authorities Restructuring) Amendment Act extends the prohibition on strikes to all employees within the regional health authorities, including various categories of labourers and gardeners (333rd Report, paragraphs 240-277). The Committee finally notes the comments of the ICFTU according to which this Act put an end to the right to strike for the remaining 10 per cent of health-care workers in Alberta who still had that right.

The Committee notes from the Government's report that the government of Alberta reaffirms its responsibility to provide publicly funded and administered health services with patient access and safety as key priorities. According to the Government, the prohibition on strikes to all employees within the regional health authorities and other approved hospitals reflects the growing interdependence and integration of health-care delivery in the province; withholding services could have potentially life-threatening consequences for Alberta citizens whose legitimate health-care needs must be met. The Government adds that some employees who provide health-care services outside the regional health authorities or approved hospitals, may still have access to strikes, e.g., municipal emergency medical services, some nursing homes and group homes and some medical laboratories.

The Committee notes that although the health and hospital sectors can be seen as essential services in the strict sense of the term, in which the right to strike can be restricted or even prohibited, certain categories of employees within these essential services, e.g. labourers and gardeners, should not be deprived of their right to strike. ***The Committee therefore requests the Government to indicate in its next report all measures taken or contemplated by the Alberta government in order to ensure that those workers in the health and hospital sectors who are not providing essential services, in the strict sense of the term, are not deprived of the right to strike.***

E. *Article 3. Arbitration imposed at the request of one party after 60 days of work stoppage (article 87.1(1) of the Labour Relations Act) (Manitoba).* The Committee recalls that its previous comments concerned the need to amend article 87.1(1) of the Labour Relations Act which allowed a party to a collective dispute to make a unilateral application to the Labour Board so as to initiate the dispute settlement process, where a work stoppage exceeded 60 days. The Committee notes from the Government's report that in October 2004, the Labour Management Review Committee (LMRC) was asked by the Minister of Labour and Immigration to conduct its second biennial review of the operation of the provisions of sections 87.1 to 87.3 of the LRA. The Labour Caucus and Management Caucus of the LMRC consulted with their respective constituencies and reported to the Minister that amendments were not required with respect to these

sections of the LRA at this time. At this stage, the Government continued to hold the conviction that lengthy work stoppages were detrimental to employees, employers, unions and the public interest and that the alternative dispute settlement mechanism set out in the LRA was reasonable and justifiable. Since the enactment of this provision, the average number of person-days lost per month due to work stoppages in Manitoba was reduced by half.

Notwithstanding the effects of lengthy work stoppages, the Committee considers that strikes are an essential means available to workers and their organizations to promote their economic and social interests; provisions which allow for one of the parties to refer a dispute to compulsory arbitration seriously limit the means available to trade unions to further and defend the interests of their members as well as their right to organize their activities and formulate their programmes and is not compatible with *Article 3* of the Convention (see General Survey on freedom of association and collective bargaining, 1994, paragraphs 148 and 153). ***The Committee once again requests the Government to indicate in its next report any measures taken or contemplated by the Manitoba government to amend the Labour Relations Act so that an arbitration award may only be imposed in cases of essential services in the strict sense of the term, public servants exercising authority in the name of the State or where both parties agree.***

Cape Verde

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1979)***

The Committee notes the Government's report.

Very low number of collective agreements. The Committee notes that the Government has sent copies of two collective agreements (telecommunications and private security) and indicates that collective bargaining must be voluntary and that the Government's role is to promote it without forcing it. The Government adds that the Office's technical assistance to strengthen the capacities of the social partners in collective bargaining techniques would contribute to improving the situation. The Government indicates that the social partners are in agreement to request this technical assistance. Furthermore, in its awareness of the value of collective bargaining, the Government indicates that the Ministry of Labour has declared 2005 to be the "Year for the promotion of collective bargaining".

The Committee requests the Government to continue its efforts to promote collective bargaining and hopes that the technical assistance requested by the Government with the agreement of the social partners will be provided in the near future.

Central African Republic

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) ***(ratification: 1960)***

The Committee notes the Government's report, and particularly the adoption of the Constitution, dated 27 December 2004.

Article 3 of the Convention. Right of workers' organizations to elect their representatives in full freedom and to organize their activities freely. With reference to its previous comments, the Committee recalls that sections 1 and 2 of Act No. 88/009, amending the Labour Code, provide that any person having lost the status of worker cannot either belong to a trade union or participate in its leadership or administration, and that trade union officers must be members of a trade union. The Committee notes the Government's indication in its report that Act No. 88/009 is still under revision. ***The Committee hopes that these eligibility conditions will be relaxed in the near future to ensure that qualified persons, such as persons employed by trade unions or retirees, may hold trade union office. The Committee requests the Government to keep it informed in this respect and to provide a copy of the Act, as amended.***

The Committee also referred previously to section 11 of Order No. 81/028 respecting the Government's power of requisition in the event of a strike when so required in the general interest. In this regard, the Committee notes the Government's statement that Order No. 81/028 is currently being revised. The Committee recalls that it is necessary to restrict powers of requisition to cases in which the right to strike may be limited, or even prohibited, that is, in the public service in respect of public servants exercising authority in the name of the State, in essential services in the strict sense of the term and in a situation of acute national crisis. ***The Committee trusts that the revision of Order No. 81/028 will be completed soon and that it will take fully into account the principles set out above. The Committee requests the Government to keep it informed in its next report of any progress achieved in this respect.***

Articles 5 and 6. Right of workers' organizations to establish federations and confederations of their own choosing. The Committee recalls that section 4 of Act No. 88/009 of 19 May 1988, amending the Labour Code, provides that occupational trade unions formed into federations and confederations may join together in a single central national organization. The Committee notes the Government's indication in its report that trade union monopoly has given way to trade union pluralism with the emergence of three other trade union confederations, namely the CCTC, the OSLP and the UGTC, and that Act No. 88/009 is currently under revision. ***The Committee hopes that the revision that is being carried out will take into account the principle that mandatory trade union monopoly is in contradiction with the explicit***

provisions of the Convention, as well as those of the Constitution of the Central African Republic of 27 December 2004, which provides in Article 10 that “All workers may join the trade union of their choosing and defend their rights and interests through trade union action.” The Committee requests the Government to take the necessary measures to guarantee in full the right of workers’ organizations to establish federations and confederations of their own choosing, and to keep it informed in this respect.

Finally, the Committee recalls that in its previous reports the Government had referred to the preparation of a preliminary draft of a new Labour Code. *The Committee requests the Government to provide information on the progress made in this process.*

Chad

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee takes note of the Government’s report, but observes that it does not reply to some of the points raised in its previous comments.

1. *Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations without previous authorization.* Recalling that Article 2 gives all workers, without distinction whatsoever, the right to form and join organizations, the Committee noted previously that under section 294(3) of the Labour Code, fathers, mothers or guardians may oppose the right to organize of young persons under the age of 16. In its report of 2000, the Government said that section 294(3) was to be repealed when the enabling texts of the Labour Code were adopted. *Noting that the Government’s last report provides no information on this matter, the Committee once again expresses the hope that section 294(3) will shortly be amended to guarantee the right to organize of young persons who are legally entitled to work, either as workers or apprentices, without parental authorization being necessary. The Committee requests the Government to provide information on any measures taken to this end.*

2. *Article 3. Right of workers’ and employers’ organizations to organize their administration and activities in full freedom.* The Committee noted previously that section 307 of the new Labour Code continues to provide that the accounts and supporting documents for the financial transactions of trade unions must be submitted without delay to the labour inspector when so requested. In its previous reports, the Government indicated that the texts to implement the Labour Code should establish further provisions to govern such supervision, which could be carried out following a claim or a complaint by a trade unionist. While noting that, according to the Government, the labour inspector has never supervised the financial management of trade unions in this way, the Committee observes that the Government makes no mention of the implementing texts for the Labour Code referred to previously. *The Committee points out that financial supervision of trade unions by the public authorities should be confined to the submission of periodic reports, and requests the Government to keep it informed on this matter and to send the implementing texts to be adopted on freedom of association.*

The Committee requested the Government to provide information on the practical application of Decree No. 96/PR/MFPT/94 of 29 April 1994, regulating the right to strike in the public service. The Committee recalls that the Decree provides for a conciliation and arbitration procedure prior to the calling of a strike and for a compulsory minimum service in certain public services the interruption of which would result in extremely serious disruption of the life of the community. In its report for 2000, the Government stated that the Decree had met with strong opposition from trade union confederations and had therefore never been applied in practice. The Government also stated that the texts that were due to be issued under the Labour Code would expressly repeal the Decree. In its last report, the Government repeats that the Decree fell into abeyance as soon as it was published and that the Government is studying the possibility of repealing it expressly. *The Committee expresses the firm hope that the Government will take the necessary measures in the near future to repeal or amend Decree No. 96/PR/MFPT/94 and again requests the Government to provide copies of the Act of 31 December 2001 issuing the general conditions of service of the public service and its implementing Decree of 23 June 2003.*

China

Hong Kong Special Administrative Region

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (notification: 1997)

The Committee takes note of the Government’s report.

In its previous comments, the Committee had taken note of the comments made by the Hong Kong Confederation of Trade Unions (HKCTU) and the International Confederation of Free Trade Unions (ICFTU) concerning the proposals to implement article 23 of the Basic Law which among others, would allow for the proscription of any local organization which was subordinate to a mainland organization, the operation of which had been prohibited on the grounds of

protecting the security of the State. The Committee observed that the proposals to implement article 23 had apparently been postponed and expressed the firm hope that any further action on proposed legislation to implement article 23 of the Basic Law would take fully into account the provisions of this Convention, in particular, the right of workers and employers to form and join the organization of their own choosing and to organize their administration and activities free from interference by the public authorities.

The Committee takes note of the Government's statement in its latest report to the effect that it has no predetermined timetable to implement article 23 of the Basic Law at this stage and that it is committed to securing the community's support and consensus before taking forward the article 23 exercise; the Government is also committed to upholding all fundamental rights and freedoms, including freedom of association and the right to form and join trade unions, guaranteed under the Basic Law and international labour Conventions as applied to the Hong Kong Special Administrative Region.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (notification: 1997)

The Committee takes note of the information contained in the Government's report. It also takes note of the information provided by the Government representative to the Conference Committee in June 2004 and the discussion that followed. The Committee notes that the Conference Committee took note of the Government's statement that it was in the process of examining measures to guarantee a better application of the Convention, in particular with regard to the promotion of collective bargaining, and expressed the firm hope that measures would be taken without delay to guarantee the full implementation of the Convention.

Article 1 of the Convention. The Committee's previous comments concerned the need to provide further protection against anti-union discrimination. The Committee had noted the information provided by the Government to the effect that it had been working on the drafting of an amendment Bill that would empower the Labour Tribunal to make an order of reinstatement/re-engagement in cases of unreasonable and unlawful dismissal without the need to secure the employer's consent – an approach endorsed by the tripartite Labour Advisory Board.

The Committee notes from the Government's report that the Government has been working on a draft amendment bill on this issue but given the complexity of the matter more time is needed. ***The Committee requests the Government to indicate in its next report any progress made in the adoption of the bill. Noting that this issue has been under examination since 1999, the Committee hopes that the bill will be adopted as soon as possible.***

Article 4. 1. Measures to promote collective bargaining. The Committee's previous comments concerned the need to strengthen the collective bargaining framework, pursuant to comments made by the International Confederation of Free Trade Unions (ICFTU) and the Hong Kong Confederation of Trade Unions (HKCTU) and the conclusions and recommendations reached by the Committee on Freedom of Association in Case No. 1942 with regard to low levels of coverage of collective agreements which are moreover not binding on the employer, as well as the absence of an institutional framework for trade union recognition and collective bargaining.

The Committee notes the Government's statement that it subscribes fully to *Article 4* of the Convention and is committed to promoting voluntary and direct negotiations between employers and employees or their respective organizations. It also notes the measures described by the Government with a view to the promotion of collective bargaining, including promotion of effective communication at enterprise level, notably through seminars and promotional materials, an informal survey on the mode of labour-management communication, and encouragement of voluntary negotiations, by promoting tripartite dialogue at the industry level through industry-level tripartite committees (in the catering, construction, theatre, logistics, property management, printing, hotel and tourism, cement and concrete as well as retail industries). The Government emphasizes with regard to the tripartite committees that they are not merely advisory bodies. They provide, on the contrary, an effective forum for major employers' and employees' organizations to discuss labour issues of mutual concern and hence facilitate voluntary communication and negotiations between them. During the reporting period, as a further measure to promote voluntary negotiation, special efforts were made by these tripartite committees to focus on industry-specific people management issues. As a result, employers' and employees' organizations in some industries, such as property management and hotel and tourism industries, have agreed on industry-specific good people management guidelines which place specific emphasis on the importance of effective communication between employers and employees. In September 2004, the three tripartite committees on catering, retail and hotel and tourism industries jointly organized a large-scale labour relations seminar for employers and employees of these industries.

The Committee also notes from the Government's report that, although statistics on collective bargaining are not available, collective agreements are quite common in some trades such as printing, construction, public bus and air transport industries as well as ship maintenance and the goods loading and unloading industries. Many of these agreements have benefited from the Labour Department's conciliation services.

The Committee takes note of this information, in particular, the adoption of collective agreements in the abovementioned sectors. ***It requests the Government to indicate in its next report any further sectors covered by collective agreements, as well as the level of coverage (number of collective agreements and workers covered). Noting, moreover, that effective communication and tripartite dialogue cannot function as a substitute for bipartite negotiations, although they may be useful tools for the promotion of a positive industrial relations climate at the highest level, the Committee requests the Government to continue to provide information on measures adopted or***

contemplated for the promotion of new bipartite collective agreements through the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations.

2. *Measures to promote collective bargaining for civil servants not engaged in the administration of the State.* In its previous comments, the Committee had requested the Government to take all necessary measures so as to guarantee the right of public employees who are not engaged in the administration of the State to negotiate collectively their conditions and terms of employment.

The Committee notes from the Government's report that the Government has established within the civil service an elaborate three-tier staff consultation mechanism which operates in compliance with the spirit and principles of *Article 4* of the Convention for consultation between management and staff on various issues of concern to civil servants, including terms and conditions of employment of public employees, regardless of whether they are engaged in the administration of the State. The Government will build on this machinery and put in place customized procedures or forums to engage staff representatives in more intensive consultation on the terms and conditions of employment of civil servants, where necessary and appropriate. It is now working closely with staff on the development of an improved civil service pay adjustment mechanism to underpin the established policy of maintaining civil service pay at a level broadly comparable to that of the private sector. To this end, in April 2003, the Government set up a consultative group which already functions as a regular forum for intensive discussions with the participation of the staff sides of the four central consultative councils and the four major service-wide staff unions.

Taking due note of this information, the Committee requests the Government to indicate in its next report any measures discussed or adopted as a result of the work of the consultative group on an improved civil service pay adjustment mechanism. Moreover, noting once again that public servants who are not engaged in the administration of the State have the right to negotiate collectively their conditions and terms of employment, the Committee once again requests the Government to indicate, in its next report, any measures taken with a view to extending the right to collective bargaining to this category of civil servants. The Committee finally requests the Government to provide further information on the various activities covered by the civil service with a view to determining those categories of civil servants who are not engaged in the administration of the State.

Colombia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1976)

The Committee notes the Government's report. It also notes the discussions in the Conference Committee on the Application of Standards in 2005, during which it was decided that a high-level tripartite visit would be undertaken on the prior invitation of the Government of Colombia to the Chairperson of the Committee on Freedom of Association and the Employer and Worker Vice-Chairpersons of the Conference Committee on the Application of Standards. The Committee notes the report of the high-level tripartite visit and the reports of the Committee on Freedom of Association on the various cases under examination relating to Colombia, as adopted at its sessions in March, June and November 2005.

The Committee also notes the comments on the application of the Convention made by the Single Confederation of Workers (CUT), the General Confederation of Democratic Workers (CGTD), the Confederation of Workers of Colombia (CTC) and the Confederation of Pensioners of Colombia (CPC) in communications dated 7 and 14 June and 2 and 7 September 2005. The CTC also sent a communication dated 31 August 2005. The Union of Workers of the Electricity Company of Colombia (SINTRELECOL) sent its comments in a communication on 20 September 2005 and the International Confederation of Free Trade Unions (ICFTU) in a communication dated 31 August 2005. The World Confederation of Labour (WCL) and the ICFTU made joint comments in a communication on 30 August 2005.

The Committee observes that the above organizations refer to acts of violence against trade union leaders and trade unionists which include murders, kidnappings, attempted assassinations and disappearances, and to the grave impunity which surrounds such acts. They also refer to the use of various types of contractual arrangements, such as associated work cooperatives and service, civil or commercial contracts to carry out functions and work that are within the normal activities of the establishment and which result in it being impossible for the workers to establish or join trade unions. They also refer to the restructuring of public bodies, which are then closed down so as to be re-established without a trade union. The organizations further describe the arbitrary refusal to register new trade union organizations or new rules or the executive committee of a trade union; the acceptance of challenges by employers against the registration of new unions; and the prohibition of the right to strike in certain services which are not essential services.

The Committee notes that, with regard to acts of violence against the leaders and members of trade union organizations, the Government indicates that it has made great budgetary, organizational and human efforts to confront the armed groups operating outside the law and to restore democratic security, the control of the national territory and the presence of state social institutions. Furthermore, on 25 July 2005, Act No. 975 on Justice and Peace was adopted, which contains provisions to facilitate the reintegration of the members of illegal armed groups into civil life. The Government adds that the National Security and Citizens' Coexistence Fund was established by Decree No. 21870, of 7 July 2004, thereby demonstrating the priority given by the Government to the issue of security. Furthermore, the Commission for the

Regulation and Evaluation of Risks (CRER) of the Programme for the Protection of Witnesses and Persons under Threat, under the authority of the Ministry of the Interior and Justice, provided protection in 2004 to 163 trade union organizations and 1,615 trade unionists. The security measures adopted include the reinforcement of buildings, armoured vehicles, telephone tapping, the provision of arms and bullet-proof jackets, as well as cell phones and air tickets. The Government emphasizes that 54.9 per cent of the protection provided is granted to trade unions.

With regard to the murder of trade unionists, the Government provides information on the establishment of an investigation unit within the Office of the Attorney-General devoted exclusively to the investigation of violations of the human rights of trade unionists. The Government provides comparative tables showing the decline in the number of such murders in 2005 and indicates that the Office of the Attorney-General is making progress in the investigations that are being carried out, although some of them are being hindered by the methods used by illegal armed groups. The Government indicates that teaching is the sector most affected by the murder of trade unionists. It provides statistics on the murders of trade unionists from 2000 to 2005 by sector and on the investigations being carried out by the various sections of the Office of the Attorney-General. In relation to murders of trade unionists, the Government indicates that six cases were recorded during the period January-June 2005, compared with 27 cases over the same period the previous year, amounting to a reduction of 78 per cent. These figures do not take into account unionized teachers, in relation to whom the figure of 31 murders during the period January-June 2004 fell to 18 over the same period in 2005, corresponding to a decline of 42 per cent.

In relation to the investigations that are being carried out, the statistics provided show that there are 313 investigations, of which 267 are in the preliminary stage, 32 are under examination and 14 are before the courts. The Government also provides the list of all the investigations carried out between 2002 and 2004 and, in which: sentences of preventive detention were applied in 36 cases, charges were brought in 21 cases and convictions were obtained in four cases, while in 131 cases further investigation was ordered, in five cases the completion of the investigation was ordered either by bringing charges or closing the case, in 99 cases the investigation was shelved for lack of evidence, in 19 cases the investigation was suspended and in two the case was dismissed. The Government indicates that the reasons which led to the provisional shelving of investigations for lack of evidence or the suspension of the investigation included: difficulties in protecting witnesses and their refusal to testify, lack of collaboration by the population, difficulties experienced by investigators in reaching the scene of the crime, difficulties in the identification of members of armed groups, such as paramilitary groups and guerrillas, and the absence of witnesses. The Government also refers to the new penal system for bringing charges which entered into force in January 2005 under which the functions of the Office of the Attorney-General are confined to investigation and it no longer exercises jurisdictional responsibility. Furthermore, under the new system, all the procedures are oral. The Government expresses the view that all of these measures will help to ease the congestion of the judicial system and accelerate the administration of justice.

Taking into account the Government's report and the conclusions of the high-level tripartite visit, the Committee notes with interest the efforts made by the Government to bring to an end the serious armed conflict which has been affecting the country for decades and in which various illegal armed groups are active. ***The Committee requests the Government to continue taking all the measures available to it, taking due account of the need to respect fundamental human rights and the rule of law in order to achieve the total elimination of impunity.***

With particular reference to acts of violence against trade union leaders and members, the Committee notes the efforts made to increase the security of citizens in general, and of trade union leaders and members in particular, through specific programmes, such as the establishment of the Commission for the Regulation and Evaluation of Risks and the National Security and Citizens' Coexistence Fund, and that 54.9 per cent of the funds devoted to protection are allocated for trade unions. The Committee also notes the statements that no effort will be spared to achieve the complete elimination of murders, particularly of trade union leaders. However, the Committee regrets to note that, although the murder rate has declined, the trade union movement in Colombia continues to be confronted by a situation of grave violence, and that murders of trade union leaders and members continue and that their security is permanently under threat, as illustrated by the high level of protection provided to trade unionists, which is considerably higher than that afforded to other sectors of the population. The Committee recalls the interdependence of civil liberties and trade union rights and its conviction that a truly free and independent trade union movement can only develop in a climate of respect for fundamental human rights (see General Survey on freedom of association and collective bargaining, 1994, paragraph 26) and that organizations of workers and employers can only exercise their activities freely and meaningfully in a climate that is free from violence. ***The Committee once again urges the Government to continue taking all the necessary measures to guarantee the right to life and security, so as to permit the exercise of the rights guaranteed by the Convention.***

In relation to the situation of impunity, and particularly with regard to investigations into acts of violence, including murders, kidnappings, disappearances, attempted assassinations and threats against trade union leaders and members, the Committee notes the efforts made by the Government in general, and by the Office of the Attorney-General in particular, to reduce the level of violence and the adoption of a new system for bringing penal charges which, according to the Government, will relieve the congestion in the judicial system and accelerate the administration of justice. The Committee notes with interest the recent establishment of an investigation unit within the Office of the Attorney-General devoted exclusively to the investigation of violations of the human rights of trade unionists. Nevertheless, the Committee observes once again that impunity continues to prevail. Indeed, while taking into account the obstacles to the proper administration

of justice, the identification of those responsible and their prosecution reported by the Government, the Committee is bound to note that during the period between 2002 and 2004 convictions have only been achieved in four cases as a result of the investigations carried out, while the great majority of the remaining investigations have been shelved for lack of evidence. ***Under these conditions, the Committee strongly urges the Government to continue making the most determined efforts to investigate all acts of violence committed against trade union leaders and members, to elucidate the circumstances in which they were committed and to identify those responsible so that they can be duly punished with a view to bringing an end to the very grave situation of impunity.***

In particular, the Committee notes the recent adoption of Act No. 975 on Justice and Peace, which contains measures to facilitate the reintegration of members of illegal armed groups into civil life. The Committee notes that, according to the report of the high-level tripartite visit, the Act has been the subject of various challenges in the Constitutional Court, which has not yet ruled on them. The Committee also notes that the Office of the United Nations High Commissioner for Human Rights in Colombia has criticized various aspects of the Act as an instrument of transitional justice intended to achieve lasting peace which, on the one hand, should offer incentives to unlawful armed groups to demobilize and end hostilities and, on the other, should adequately guarantee the rights of the victims of the atrocious crimes committed by the members of these groups. ***The Committee expresses the firm hope that the Act will be applied taking into account the criteria indicated by the Office of the High Commissioner for Human Rights so as to guarantee in an appropriate manner the proper administration of justice and the just compensation of the victims of violent acts with a view to the complete eradication of impunity. The Committee requests that the Government keep it informed of the outcome of the challenges brought in the Constitutional Court and the manner in which the Act is applied, particularly with regard to cases relating to trade union leaders and members.***

Furthermore, the Committee notes that, in addition to the report of the high-level tripartite visit, the comments made by the trade union organizations also relate to other matters:

Article 2

- The use of various contractual arrangements, such as associated work cooperatives and service, civil or commercial contracts to cover what are in practice employment relationships which are used to carry out functions or work within the normal activities of the establishment and under which workers are not allowed to establish or join trade unions. The Committee notes that the Government's report does not contain observations on this subject and that the high-level tripartite visit had the opportunity to receive information in this connection from employers' and workers' organizations and the Government. Both the employers and the Government acknowledged the existence of abuses in the use of these contracts and indicated that, with particular reference to cooperatives, Congress is currently examining a Bill to supervise their proper use and to prohibit cooperatives from acting as intermediaries or temporary work agencies. The Committee recalls that *Article 2 of the Convention* provides that workers and employers, without distinction whatsoever, shall have the right to establish (...) and to join organizations of their own choosing. The Committee considers that when workers in cooperatives or those covered by other types of civil or commercial contracts have to perform work within the normal activities of the establishment in the context of a relationship of subordination, they should be considered as employees in a real employment relationship and should therefore enjoy the right to join trade unions. ***The Committee therefore requests the Government to take the necessary measures to ensure that full effect is given to Article 2 of the Convention so that all workers without distinction whatsoever enjoy the right to establish and join organizations.***
- The restructuring of public establishments involving the massive dismissal of workers, including trade union leaders, and in some cases the closure of such establishments, which are then re-established as a different entity and contracts accorded to former workers who were not unionized or on condition that they give up union membership, and where it is no longer possible for a trade union to exist. The Committee observes that the Government refers to certain specific cases of restructuring and states that they corresponded to a need for rationalization and were not undertaken for anti-trade union purposes. ***The Committee reiterates the principles set forth in the previous paragraph and requests the Government to take the necessary measures to ensure that workers can exercise their trade union rights freely during any restructuring process and in the new restructured establishments.***
- The arbitrary refusal to register new trade union organizations, new trade union rules or the executive committee of a trade union at the discretion of the authorities for reasons which go beyond the explicit provisions of the legislation. The Committee notes the Government's indication that the legislation in force has been strictly complied with and that it provides statistics on the number of trade union organizations registered and the number of applications for registration refused. The Committee notes that these statistics show that a high number of applications for registration, both for new trade union organizations, and for changes to their rules or new executive committees, are rejected. The Committee recalls that *Article 2 of the Convention* guarantees the right of workers and employers to establish organizations "without previous authorization" by the public authorities and that national regulations governing the constitution of organizations are not in themselves incompatible with the provisions of the Convention, provided that they are not equivalent to a requirement for "previous authorization", nor constitute such an obstacle that they amount in practice to a prohibition (see General Survey, op. cit., paragraphs 68 and 69). ***In this connection, the Committee requests the Government to ensure that the registration of trade unions is only refused***

in those cases explicitly envisaged by the legislation and that the registration authority does not use its discretion to refuse such applications, so as to give effect to the requirements of Article 2 of the Convention.

Article 3

- The prohibition on the calling of strikes by federations and confederations (section 417(i) of the Labour Code). In this respect, the Committee reiterates that higher-level organizations should be able to call a strike in the case of disagreement with the Government's economic and social policy. *It requests the Government to take measures to amend section 417(i) of the Labour Code.*
- The prohibition of strikes, not only in essential services in the strict sense of the term, but also in a very broad range of services which are not necessarily essential (section 450(1)(a) of the Labour Code and Decrees Nos. 414 and 437 of 1952; 1543 of 1955; 1593 of 1959; 1167 of 1963; 57 and 534 of 1967) and the possibility to dismiss trade union leaders who have intervened or participated in an unlawful strike (section 450(2) of the Labour Code), even where the unlawful nature of the strike is a result of requirements that are contrary to the principles of freedom of association. *The Committee once again requests the Government to take measures to amend the legislative provisions referred to above and to provide information in its next report on any measure adopted in this respect.*
- The authority of the Minister of Labour to refer a dispute to arbitration when a strike exceeds a certain period (section 448(4) of the Labour Code). The Committee reiterates its previous comment that the use of compulsory arbitration to bring an end to a strike is only acceptable when it has been requested by the two parties involved in the dispute or in cases in which the strike may be restricted or even prohibited, that is in cases of disputes in the public service involving public servants exercising authority in the name of the State or in essential services in the strict sense of the term, namely services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. *Under these conditions, the Committee requests the Government to take measures to repeal this provision of the Labour Code and to provide information in its next report on any measure adopted in this respect.*

The Committee is addressing a request directly to the Government on another point.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1976)

The Committee notes the Government's report and its reply to the comments made by the Single Confederation of Workers (CUT), the General Confederation of Democratic Workers (CGTD) and the Confederation of Workers of Colombia (CTC) in their communication of 1 June 2004 and by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 23 July 2004. The Committee also notes the report of the high-level tripartite visit undertaken in the country in accordance with a decision of the Committee on the Application of Standards in the context of the examination of the application of Convention No. 87 following an invitation by the Government of Colombia to the Chairperson of the Committee on Freedom of Association and the Employer and Worker Vice-Chairpersons of the Committee on the Application of Standards.

The Committee also notes the new comments submitted by the CUT, the CGT and the CTC in communications dated 7 and 14 June and 7 September 2005. The Committee further notes the comments made by the CTC in a communication dated 31 August 2005. The ICFTU also made comments in a communication on 31 August 2005. The CMT and the ICFTU made joint comments in a communication dated 7 September 2005. Finally, SINTRAEECOL made comments in a communication dated 20 September 2005. The Committee notes that the comments relate to matters raised previously by the Committee concerning the absence of collective bargaining in the public administration, recourse to collective accords with non-unionized workers in parallel to collective agreements and the lack of consultation of trade union organizations in restructuring processes.

1. *Collective bargaining in the public sector.* The Committee recalls that for many years it has been referring to the need to give effective recognition to the right to collective bargaining of public employees who are not engaged in the administration of the State. The Committee notes the Government's reiterated statement that, in accordance with the case law of the Constitutional Court, organizations of public employees are prohibited from submitting claims relating to their conditions of employment or to conclude collective agreements, as their employment conditions are governed by the law. According to the Constitutional Court, this means that the establishment of machinery to enable public employees or their representatives to participate in the determination of their terms and conditions of employment is valid, on condition that it is understood that in the final resort the decision is taken by the authorities referred to in the Constitution. The Committee nevertheless emphasizes that, under the terms of Convention No. 98, public employees who are not engaged in activities involving the administration of the State should enjoy the right to collective bargaining. In this respect, the Committee regrets that the Government has not yet taken legislative measures to ensure the right to collective bargaining of public employees. *The Committee requests the Government to provide information in its next report on any measures adopted in this respect and hopes that it will be able to note tangible progress in the near future.*

2. *Collective accords with non-unionized workers.* With regard to the signature of collective accords to the prejudice of collective agreements, the Committee notes the Government's indication that collective accords are provided for in the legislation and its emphasis on the equality of collective accords and collective agreements. The Committee

notes that, under sections 481 et seq. of the Substantive Labour Code, collective accords can only be concluded in cases in which the membership of the trade union organization does not include over one-third of the workers. The Committee observes that, according to the information gathered by the high-level tripartite visit, it is frequently the case in practice that workers who are members of a trade union organization are encouraged to disaffiliate from it and to sign a collective accord (the members of a trade union cannot sign collective accords), thereby bringing the number of members below the level of one-third of the workers in the enterprise. The Committee recalls once again *Article 4 of the Convention*, respecting the full development and utilization of machinery for voluntary negotiation with workers' organizations with a view to the regulation of terms and conditions of employment by means of collective agreements, and emphasizes that direct negotiations with workers should only be possible in the absence of trade union organizations. ***In this respect, the Committee requests the Government to take measures to guarantee that collective accords are not used to undermine the position of trade union organizations and the possibility in practice to conclude collective agreements with them, and to provide information on the total number of collective agreements and collective accords and the respective number of workers covered by them.***

3. *Consultations concerning restructuring processes.* With regard to the lack of consultation with workers' organizations concerning restructuring processes, the Committee notes that, according to the information provided by the Government, the most recent restructuring processes have been undertaken following consultations with trade union organizations. The Committee emphasizes the convenience of governments engaging in meaningful consultations with trade union organizations with a view to discussing the impact of restructuring programmes on the employment and working conditions of employees.

Finally, the Committee notes the Government's indication that the Standing Advisory Committee on Wage Policies met on 1 September 2005, that it is planned to continue holding regular meetings and that, in view of the importance of Convention No. 98, the participants in the Standing Committee have been invited to establish a joint agenda to discuss matters relating to the Convention.

Comoros

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

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee recalls that its previous comments referred to the embryonic state of collective bargaining in both the private and public sectors in the country. In this respect, it noted that one collective agreement, concluded in 1961, is in force in the country, as well as various accords between branch trade unions and their employers, concluded following specific collective disputes, but that these accords were not in general effective.

In this respect, the Committee notes that the Government does not provide information on new collective agreements which have been concluded since the agreement of 1961. The Committee once again reiterates the importance that it attaches to Article 4 of the Convention which provides that measures shall be taken, where necessary, to promote voluntary negotiation between employers and workers' organizations. ***The Committee once again requests the Government to keep it informed of any memoranda of understanding or collective agreements that are concluded, with an indication of the sector and the number of workers covered.*** The Committee hopes that it will be able to note substantial progress in this respect in the Government's next report. The Committee recalls that the Government can have recourse to the technical assistance of the ILO.

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

Congo

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes that the Government's report has not been received. It must, therefore, repeat its previous observation, which read as follows:

In its previous comments, the Committee requested the Government to amend the legislation on the minimum service organized by the employer, to be maintained in the public service that is indispensable for safeguarding the general interest (section 248-15 of the Labour Code), in order to limit the minimum service to operations which are strictly necessary to meet the basic needs of the population, within the framework of a negotiated minimum service. The Committee recalls that, since the definition of a minimum service restricts one of the essential means of pressure available to workers to defend their economic and social interests, their organizations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities. The parties might also envisage the establishment of a joint or independent body responsible for examining rapidly and without formalities the difficulties raised by the definition and application of such a minimum service and empowered to issue enforceable decisions (see General Survey on freedom of association and collective bargaining, 1994, paragraph 161). ***The Committee expresses the hope that the text amending section 248-15 of the Labour Code takes account of these principles and requests the Government to send it a copy of the text as soon as possible.***

Finally, the Committee requested the Government to keep it informed of developments in the revision of the Labour Code in its next report and to send it a copy of any draft amendment to that Code in order to ensure its conformity with the provisions

of the Convention. The Committee requests the Government to send it a copy of the draft revised Labour Code and to continue to keep it informed in this regard.

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

Costa Rica

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the Government's report and the observations made by the Rerum Novarum Workers' Confederation (CTRN) and the International Confederation of Free Trade Unions (ICFTU).

1. *Provisions prohibiting foreigners from holding office or exercising authority in trade unions* (article 60, second paragraph, of the Constitution and section 345(e) of the Labour Code). The Committee observed previously that Bill No. 13475 (currently on the agenda of the Legislative Assembly) amends section 345(e) of the Labour Code, so that it no longer provides that the members of the executive board of a trade union must be of Costa Rican nationality or of central American origin, or foreign nationals married to a Costa Rican wife and having completed five years of permanent residence in the country. The Committee pointed out that the Bill nonetheless establishes that the bodies of trade unions must comply with the provisions of article 60 of the Constitution, which provide that "foreigners are barred from positions of management or authority in trade unions". The Committee further noted that a draft reform of the Constitution, prepared with the assistance of the ILO, had been submitted to the Plenary of the Legislative Assembly in 1998 but that it appears not to be on the current agenda of the Legislative Assembly. ***The Committee draws the Government's attention to the importance of amending not only section 345 of the Code, but also article 60, second paragraph, of the Constitution in order to abolish the excessive restrictions on the right of foreigners to hold trade union office, which are inconsistent with Article 3 of the Convention. The Committee requests the Government to keep it informed on this matter.***

2. *Obligation for the trade union assembly to appoint the executive board each year* (section 346(a) of the Labour Code). The Committee notes that there is no requirement in Bill No. 13475 for the executive board to be appointed each year.

3. *Restrictions on the right to strike*: (i) requirement of "60 per cent of the persons who work in the enterprise, workplace or establishment concerned" –section 373(c) of the Labour Code; (ii) prohibition of the right to strike for "workers engaged in rail, maritime and air transport enterprises" and "workers engaged in loading and unloading on docks and quays" – section 373(c) of the Labour Code.

The Committee notes with interest that, according to the Government, on 25 August 2005 the Judiciary referred to the Executive for submission to the Legislative Assembly a Bill on the reform of labour procedures which benefited from ILO technical assistance. The Committee notes that, according to the Government, the Bill takes into account the ruling of 27 February 1998 by the Constitutional Chamber and the recommendations of the Committee on Freedom of Association, and has been endorsed by the trade union organizations and employers' associations except with regard to certain provisions. The Committee observes that the Bill:

- proposes 40 per cent of workers in order to call a strike (the employers' associations rejected this percentage, citing the principle of democratic participation);
- the right to strike is restricted only in essential services in the strict sense, although these include the loading and unloading of perishable goods in ports; transport is considered to be an essential service only as long as the journey has not been completed;
- strikes may no longer be deemed unlawful before they have occurred;
- arbitration is introduced for disputes in essential services;
- a special and very short summary procedure is introduced for workers with trade union immunity.

Furthermore, with regard to the right to strike, the Committee had previously noted an observation by a magistrate of the Supreme Court of Justice to the effect that of the 600 or so strikes that had occurred over the past 20 or 30 years, no more than ten had been declared lawful; furthermore, according to the trade union federations, the procedure to set a strike in motion could last up to three years. ***The Committee requests the Government to keep it informed of progress in the enactment of the Bill to reform labour procedures.***

Need for Bill No. 13475, in amending section 344 of the Labour Code, to establish a specific and short period within which the administrative authority is to reach a decision on the registration of trade unions, and after which, in the absence of a decision legal personality is deemed to have been obtained. The Committee notes that, according to the Government: in practice, registration applications are processed without delay and if they fall short of documentary requirements the applicant is asked to remedy the matter and is entitled to appeal. The Department of Trade Union Organizations has 15 days within which to respond, and if it issues a favourable report within that period, the Ministry of

Labour issues its decision as soon as possible thereafter and in any event within one month of the report. *The Committee requests the Government to have these deadlines established expressly in Bill No. 13475.*

The Committee points out that the matters pending raise important problems in terms of applying the Convention, and expresses the hope that in the near future it will be able to note substantial progress in both law and practice. It requests the Government to keep it informed on these matters.

The Committee is addressing a request directly to the Government concerning certain issues related to the right to strike in the new Bill.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1960)

The Committee notes the Government's report and its reply to the comments made by the International Confederation of Free Trade Unions (ICFTU) and the Workers' Confederation Rerum Novarum (CTRN). The Committee notes the discussion held in the Conference Committee in 2004 on the application of the Convention.

The Committee notes that the problems at issue are the following: (1) the slowness and ineffectiveness of recourse procedures in the event of anti-union acts; (2) restrictions on the right to collective bargaining in the public sector as a result of various rulings by the Constitutional Chamber of the Supreme Court; (3) the subjection of collective bargaining in the public sector to criteria of proportionality and rationality in accordance with the case law of the Constitutional Chamber, which has declared unconstitutional certain clauses of collective agreements in the public sector (according to the ICFTU and the CTRN, the problem is now affecting other collective agreements); and (4) the enormous imbalance in the private sector between the number of collective agreements concluded by trade union organizations (12, covering 7,200 workers) and the direct accords concluded by non-unionized workers (130) (the Committee previously called for an investigation to be undertaken of this matter by independent persons).

The Committee notes that an advisory mission was undertaken in April 2005 on the problems raised and that the mission interviewed members of the legislative, executive and judicial authorities with a view to encouraging reforms to allow full effect to be given to the Convention and the establishment of a process of dialogue (called for by the Conference Committee) with the high-level public authorities and the social partners for this purpose. The Committee noted in its previous observation that the Government was in agreement with the changes requested by the Committee of Experts and it observes that the Government is continuing to encourage measures to achieve compliance with its recommendations. The Committee notes that the mission was informed that an opposition political party is opposed to reforms related to the recommendations made by the ILO concerning collective bargaining in the public sector and the other matters raised.

The Committee notes that the comments of the ICFTU and the CTRN relate to matters which have already been raised, as well as to other problems, among which emphasis may be placed on the following: delays in labour procedures and the complexity of administrative processes to obtain the reinstatement of trade union members (the reinstatement of workers is reported to take an average of three years); the lack of any real will by the authorities to secure the approval of the draft legislation relating to the Convention; little effect is given in practice to the regulations respecting collective bargaining in the public sector (many categories of public workers and employees have been denied this right), and when they are applied, there is interference by a body composed of ministers established under these regulations; there are cases of the dismissal of workers who establish trade unions, also in export processing zones, and the Constitutional Chamber is continuing to annul provisions of collective agreements in the public sector, at the request of the Ombudsperson and the Office of the Public Prosecutor, particularly on the grounds that they go beyond certain minimum standards, especially in the case of clauses of an economic nature or relating to trade union leave; there is therefore great legal insecurity; and solidarist associations are being used to undermine trade unions.

The Committee notes the Government's statements that the judicial authorities have forwarded to the executive authorities a Bill to reform labour procedures for its submission to the Legislative Assembly, and that the Bill was formulated with the technical assistance of the ILO and takes into account the recommendations of the Committee on Freedom of Association. The Bill is intended to address the causes of judicial delays by revising or simplifying previous judicial procedures. With certain exceptions, it has the agreement of the social partners. The Bill provides protection against acts of anti-union discrimination and establishes a special process for the protection of persons with a special protected status, including workers covered by trade union protection. It introduces the principle of oral submissions, which should speed up the procedures. The Committee notes this information with interest. The Government also indicates that the Ministry of Labour has introduced alternative means for the settlement of disputes. According to the Government, the efforts made have resulted in a decrease in the number of cases reaching the courts. On the other hand, with reference to the comments by trade union organizations that collective bargaining practically does not exist in the private sector, the Government states that this is a subjective and an unfounded view. With regard to the promotion of direct accords with non-unionized workers, the Government indicates that this system has a basis in law and is freely chosen by the parties in accordance with legal regulations, even though collective bargaining is recognized by the Constitution and is therefore ranked higher. Furthermore, an administrative instruction calls upon the labour inspectorate to reject a direct accord where there is a recognized trade union. The Ministry of Labour has provided support to trade union organizations in the form of assistance with the legal action (before the courts) taken against certain clauses in

collective agreements in the public sector. (The Government has attached a ruling of the Constitutional Court rejecting an appeal to find a clause in a collective agreement unconstitutional.) The Government recalls that the scope of application of the regulations on collective bargaining are in conformity with the Convention and that the legislation severely sanctions any excesses which may be committed by solidarist associations. Finally, the Government emphasizes the consequences of the separation of powers in the State and the limits that this imposes on Government action.

The Committee also notes the Government's reference to the draft texts that it had promoted in relation to the problems at issue, including draft texts for the ratification of Conventions Nos. 151 and 154, the Bill for the negotiation of collective agreements in the public sector and the addition of a fifth point to the General Act on public administration, a Bill to amend certain provisions of the Labour Code, a draft constitutional reform to guarantee the right to collective bargaining in the public sector at the constitutional level and the adoption of a Decree in May 2001 to resolve this problem in the public sector.

The Committee notes that the problems at issue have persisted for many years and that most of the draft legislative texts referred to by the Government have been under examination for several years. The Committee hopes that the competent authorities will find solutions as soon as possible to all the problems raised and that it will be able to note progress in law and practice in the near future. *The Committee requests the Government to provide information in this connection and for an independent investigation to be held into the high number of direct accords with non-unionized workers. It also requests the Government to provide statistics on complaints of anti-union discrimination and on the number of collective agreements in the public and private sectors, with an indication of their respective coverage.*

Croatia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1991)

The Committee notes the Government's report. It also notes the comments of 31 August 2005 sent by the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention. The Committee notes that the abovementioned comments refer to matters that the Committee has already raised and to the application of Convention No. 98.

In its previous comments, the Committee referred to the distribution of trade unions' assets. It notes from the information sent by the Government that the President of the Government met with representatives of the unions on 12 July 2005 to discuss the legal status and potential manner of distributing union resources. At the meeting, the following conclusions were adopted: (1) the Central State Office for the Management of State Property, other state bodies and representatives of the union head offices undertook to establish a list of real estate properties, on the basis of suitable documentation, to be distributed among unions, and determine a suitable legal solution for the distribution of union property; and (2) the Union of Autonomous Trade Unions of Croatia will deliver a list of the court proceedings, detailing the properties for the establishment of the rights of ownership, to the Office of the State Attorney for the purpose of immobilizing them pending a decision by the Government on the distribution of trade union assets.

In these circumstances, the Committee asks the Government to provide information in its next report on any progress regarding the distribution of trade union assets.

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

The Committee notes the Government's report.

The Committee also notes the comments on the application of the Convention submitted by the International Confederation of Free Trade Unions (ICFTU). The ICFTU refers to certain cases of employers obstructing union activity and resisting collective bargaining, states that the law still contains restrictions on collective bargaining in the public sector and stresses slowness in the proceedings in case of anti-union discrimination. *The Committee requests the Government to send its observations thereon.*

Article 4 of the Convention. The Committee takes note of the Government's statement that a new collective contract for state officials and employees involving several organizations was concluded on 2 July 2004.

Cuba

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

The Committee takes note of the Government's report and of the comments made by the International Confederation of Free Trade Unions (ICFTU). The Committee also notes the Committee on Freedom of Association's report on Case No. 2258, adopted at its March 2005 meeting.

The Committee observes that the Government reiterates that the Labour Code is currently being revised and that: (1) the comments made by the Committee are not the only comments which are being studied within the framework of the

Labour Code; (2) almost all of the chapters of the Code have been revised and adjusted to the social and economic conditions of the country; (3) the workers, the employers, bodies, institutions and all the sectors involved participate in the consultations carried out within the framework of the aforementioned process and efforts are being made to arrive at a consensus with regard to all of the elements to be amended. In this regard, the Committee observes that this process has been ongoing for several years without any concrete results having been obtained to date. ***The Committee expresses the firm hope that the revision of the Labour Code will be completed in the near future and that the comments made regarding the application of the Convention will be taken into account. The Committee reminds the Government that it may avail itself of ILO technical assistance and requests it to send a copy of the above draft revision.***

I. Trade union monopoly

Articles 2, 5 and 6 of the Convention. The Committee notes that for several years now it has referred to the need to delete from the Labour Code of 1985 (sections 15 and 16) the reference to the Confederation of Workers. The Committee also notes the comments of the ICFTU concerning the Government's recognition of a sole trade union confederation, strictly monitored by the State and the Communist Party which appoints its leaders, as well as the obstacles to setting up independent trade unions in the form of the restrictions contained in the Law on Associations. The Committee notes that the Government states that: (1) the Government did not impose the single trade union confederation, to which the 19 national branch trade unions are affiliated, upon the people, neither is this confederation the result of any provision which goes against the will of the workers of Cuba; (2) the decision of the workers to maintain the singular nature of their trade union movement should be respected as a prerequisite to the independence of the nation and the continued enjoyment of the right to self-determination; (3) existing legislation (section 54 of the Constitution of the Republic and sections 13 and 14 of the Labour Code) and practice guarantee the full exercise of trade union freedom and the widest possible enjoyment of the right to organize; (4) claims that the Law on Associations is being used to block the creation of trade unions are inappropriate, in as much as section 2, chapter I of the aforementioned law explicitly establishes that the law is not applicable to grass roots and social organizations as referred to in section 7 of the Constitution, neither does the existing Constitution establish any restrictions whatsoever with regard to freedom of association of the workers or workers' activities.

The Committee once again emphasises that trade union pluralism must remain possible in all cases and that the law must not institutionalize a de facto monopoly by referring to a specific trade union confederation. Even where at some point the workers have preferred to unify the trade union movement, they should still remain free to set up unions outside the established structure, should they so wish and to join the organization of their choice (see General Survey on freedom of association and collective bargaining, 1994, paragraph 96). ***This being the case, the Committee requests the Government to take measures to amend the aforementioned sections of the Labour Code and to provide information in its next report regarding any measures adopted in this respect.***

Article 3. The Committee recalls that in its previous observations it referred to the need to amend Legislative Decree No. 67 of 1983, which confers on the Confederation of Workers the monopoly to represent the country's workers on Government bodies. The Committee notes that the Government reiterates the position it adopted in its previous report and insists that this provision has already been amended. In this connection, the Committee notes that the sixth provision of Legislative Decree No. 147 of 1994, which the Government has referred to on various occasions as having amended Legislative Decree No. 67 of 1983: (1) does not make reference to section 61 of Legislative Decree No. 67 so as to repeal or amend it; and (2) establishes in its first provision that Legislative Decree No. 147 of 1994 "confirms the organizational and operational basis established in ... legislative Decree No. 67 of 19 April 1983 ... shall remain in force in so far as they are not contrary to the provisions of this Legislative Decree". ***Consequently, the Committee requests the Government to provide information in its next report on the legal provision through which Legislative Decree No. 67 of 1983 was amended with regard to the monopoly of the Confederation of Workers concerning the representation of the workers of the country on Government bodies.***

Right to strike. In its previous observation, the Committee referred to the fact that the right to strike is not recognized in Cuban legislation and that its exercise and practice is prohibited and recalled that the right to strike is one of the essential means available to workers and their organizations to promote their economic and social interests. It requested the Government to take measures to ensure that no one is discriminated against or prejudiced in their employment for having peacefully exercised this right, and to keep it informed in this connection. The Committee notes that in its latest report, the Government states that: (1) although the right to strike is implicit, it is not explicitly established in the Convention; (2) the existing legislation does not include any prohibition whatsoever of the right to strike, neither does Cuban legislation establish any penalty for the exercise of such rights; (3) trade union organizations are free to decide on their actions in this respect; and (4) the fact that Cuba is a state of workers, peasants and other workers, whether manual or intellectual, guarantees effective participation and the exercise of real decision-making power, which renders strike action unnecessary given that several labour dispute resolution mechanisms have been set up and are operationally effective and within which trade union representatives participate fully. ***The Committee once again requests the Government to ensure that no one is discriminated against or prejudiced in their employment for having exercised their right to engage in peaceful strike action.***

II. Trade union rights and civil liberties. The sentencing of trade unionists to imprisonment.

The Committee recalls that in its previous comments it referred to trade union leaders being sentenced to between 12 and 26 years in prison for treason and conspiracy. The Committee notes the comments of the ICFTU, regarding these sentences and adds information concerning the degrading conditions of imprisonment suffered by the aforementioned trade union leaders. The Committee notes that the Committee on Freedom of Association referred to this issue when it last examined Case No. 2258 and that on that occasion it recommended that the Government should take steps to release immediately the imprisoned trade unionists and that the necessary measures should be adopted to ensure that no person is intimidated or harassed merely for being a union member, even if the union in question is not recognized by the State. The Committee notes that the Government, for its part, refuses to recognize both the imprisoned trade union leaders as workers and the trade union organizations under their leadership. It also denies that the sentences are linked to their trade union activities. As to conditions of imprisonment, the Government states that the prison system is constantly monitored by both the State and the judiciary, with the aim of protecting the rights of the inmates and their families and ensuring that no laws are violated.

The Committee recalls once again that the right to organize is but one aspect of freedom of association in general, which must itself form part of the whole range of fundamental liberties of man, all interdependent and complementary one to another and that, in a resolution adopted in 1970, the Conference explicitly listed the fundamental rights essential for the exercise of freedom of association, in particular: (a) the right to freedom and security of person and freedom from arbitrary arrest and detention; (b) freedom of opinion and expression and, in particular, freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers; (c) freedom of assembly; (d) the right to a fair trial by an independent and impartial tribunal; and (e) the right to protection of the property of trade union organizations (see General Survey on Freedom of Association and Collective Bargaining, 1994, paragraph 25). **Consequently, in line with the recommendation made by the Committee on Freedom of Association, the Committee requests the Government to take the necessary steps to release without delay the trade union leaders sentenced to heavy prison sentences.**

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

The Committee takes note of the Government's report.

1. *Article 4 of the Convention.* In its previous comments, the Committee referred to the need to amend section 14 of Legislative Decree No. 229 on collective agreements and section 8 of the implementing regulations, which require any disputes about content that arise in the drafting phase of a collective labour agreement between the administration or its representative and the trade union or its representative to be referred to the highest levels of the parties, with the participation of those affected; and section 17 of Legislative Decree No. 229 and sections 9 and 10 of the implementing regulations, which require any disputes that arise once the agreement has been concluded to be referred, upon exhaustion of the conciliation procedure, for arbitration by the National Labour Inspection Office, with the participation of the Confederation of Workers of Cuba and the interested parties, the Office's decision being binding.

The Committee notes that, according to the Government, this system ensures complete autonomy and independence for trade union representatives, workers and administrations with regard to the submission, discussion and approval of draft collective agreements. Amendments and inconsistencies are examined by the assembly of workers with no interference from higher bodies. Only once this stage is complete will the draft agreement be referred to higher levels, with the participation of those concerned, the aim being to raise the level of participation, with the consent of the parties to the bargaining. Once the agreement has been concluded any disagreement is referred at the express request of one or both of the parties to the Labour Inspection Office, which acts with participation by the Confederation of Workers of Cuba (which is responsible for supervising compliance with labour and social security legislation) and the parties concerned, any intervention by the authorities on their own motion being out of the question. There is broad participation by those concerned at all stages of the negotiations, which means that arbitration by the Labour Inspection Office is not deemed to be interference in matters which are the domain of the negotiating parties.

The Committee notes that the National Labour Inspection Office may be called upon to arbitrate at the request of only one of the parties and that the Confederation of Workers of Cuba participates in negotiations in first-level unions in the event of any disagreement during the negotiating process or after the first phase of the negotiations. The Committee reminds the Government that arbitration imposed at the request of only one of the parties is contrary to the principle of voluntary negotiation of collective agreements laid down in Convention No. 98 and, hence, the autonomy of the parties to the bargaining. In the Committee's view, problems of incompatibility with the Convention arise when the law requires collective bargaining to be referred to a higher level (in this case participation by the Confederation of Workers of Cuba). **The Committee requests the Government to take the necessary steps to amend the legislation to allow the parties to negotiations to settle their disputes in collective bargaining without outside interference (authorities or Confederation of Workers of Cuba) and to ensure that referral to binding arbitration is possible only with the agreement of all the negotiating parties.**

2. The Committee previously requested the Government to send detailed information on the collective agreements concluded in recent years, the parties thereto, and the subject matter and number of workers covered. The Committee

notes that, according to the Government, there is no official register or official body that records collective agreements. The Government also reports that, according to the Confederation of the Workers of Cuba and the national unions, the framing and adoption of agreements is the domain of the 117,047 trade union sections and offices in the country.

The Committee is addressing a request on certain other points directly to the Government.

Cyprus

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

The Committee takes note of the Government's report.

The Committee's previous comments concerned the need to amend sections 79A and 79B of the Defence Regulations which grant the Council of Ministers discretionary power to prohibit strikes in the services that they consider essential. In its last comments the Committee had noted with interest that a draft law was under preparation in order to: (1) repeal sections 79A and 79B of the Defence Regulations; (2) define essential services strictly in a manner compatible with the Convention; (3) allow for the exercise of industrial action in such services provided an agreed minimum service was ensured; (4) follow up by an agreement setting out the procedure to be followed for dispute settlement.

The Committee notes from the Government's report that in line with the Government's new policy to promote the regulation of strikes in essential services through consensus achieved by means of a voluntary agreement, in April 2003, the aforementioned draft regulation was withdrawn with a view to regulating the issue through an agreement signed by the social partners. Following this development, an Agreement on the Procedure for the Settlement of Labour Disputes in Essential Services was signed on 16 March 2004. The Agreement, which has universal application to all sectors of activity in which essential services exist, requires the parties to submit their dispute to an Arbitration Committee, jointly or separately, after a deadlock is declared in essential services, in accordance with the existing provisions of the Industrial Relations Code. The Arbitration Committee, consisting of three persons appointed by the Minister of Labour and Social Insurance, must communicate its decision within six weeks. This decision is not binding on the parties. In the case of non-acceptance of the decision by either side, industrial action may be taken after written notice of 25 days. Article 4 of the Agreement provides for a negotiated minimum service in essential services.

As for sections 79A and 79B of the Defence Regulations, the Committee notes with interest from the Government's report that with the signing of the Agreement on the Procedure for the Settlement of Labour Disputes in Essential Services, the Government agreed to the repeal of the aforementioned Regulations. Consequently, an Order was prepared by the Law Office of the Republic for the repeal of the Regulations and is expected to be endorsed by the Council of Ministers shortly.

The Committee expresses the firm hope that sections 79A and 79B of the Defence Regulations will be repealed without delay and requests the Government to indicate in its next report progress made in this respect and to provide any relevant draft text in this regard.

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 1981)

The Committee takes note of the Government's report.

In its previous observation, the Committee took note of the comments made by the Pancyprian Public Employees' Trade Union (PA.SY.D.Y.) as well as the Government's observations concerning the need for serious, good faith, intensive and exhaustive negotiations in the Joint Staff Committee – the official body for collective bargaining in the Cyprus civil service – in the context of the introduction of a national health scheme (NHS). On that occasion, the Committee recalled the importance of genuine and constructive consultations or negotiations when seeking to revise or adopt legislation in the field of labour law.

The Committee notes with interest the assurances provided by the Government in its latest report to the effect that every effort is made to promote mutual understanding of the diverse views and interests before the enactment of any legislation in the field of labour law, and that the Government takes all the appropriate measures to secure thorough, genuine and constructive consultation/negotiations between all parties concerned. Thus, the Government assures the Committee that it will give PA.SY.DY. every opportunity for consultation, within the established framework of collective bargaining, concerning any change in the management of state hospitals, to be introduced by special legislation, which might affect the terms and conditions of employment of the employees concerned. The Government finally states that, given that: (a) the GHS is not expected to come into operation before the next few years; and that (b) at the moment it is studying various alternatives as to the reform of the management of the state hospitals, this will be discussed exhaustively with PA.SY.DY. in due time.

Czech Republic

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

The Committee notes the Government's report as well as its reply to the comments made by the Czech-Moravian Confederation of Trade Unions (CMKOS) and the International Confederation of Free Trade Unions (ICFTU).

1. *Articles 1 and 2 of the Convention. Protection against anti-union discrimination and interference.* The Committee's previous comments concerned measures taken to increase the efficiency of the system of protection against anti-union discrimination and interference. The Committee had asked the Government to keep it informed of developments concerning draft legislation on labour inspection and on the extra judicial settlement of disputes, as well as a review of measures adopted to speed up civil law litigation.

The Committee notes in this respect that, in their recent comments, the CMKOS and the ICFTU make reference to several acts of anti-union discrimination and interference, adding that, despite the existing legal guarantees against anti-union discrimination, there are many violations of the right to organize in practice. The Committee requests the Government to provide its observations on these comments.

The Committee notes from the Government's report that: (1) Act No. 251/2005 on labour inspection entered into force on 1 July 2005. Its provisions regulate offences and misconducts in the context of cooperation between the employer and the body acting on behalf of employees as well as breaches of equal treatment, including on the basis of trade union membership and activities. For these offences, a penalty can be imposed in the range stipulated by the law; and (2) with regard to the issue of out-of-court settlement of labour law disputes, the Ministry of Justice decided that the best option was to set up third (neutral) party mediation instead of arbitration commissions which had caused many delays in the past. A special Steering Committee established in 2004 (with the participation of representatives from the Ministry of Justice, Probation and Mediation Service, the Judges Union, the Czech Bar Association and other organizations) proposed the adoption of a special law in the field of mediation including on labour law matters. The Steering Committee also drafted proposals on the mediators' training and education system. Preparations of draft proposals concerning education, mediation and cooperation with courts are under way. These proposals should be tested in practice within a pilot project to be launched on 1 January 2007.

The Committee takes note of this information with interest. *The Committee requests the Government to indicate in its next report any observed improvements in the protection afforded against acts of anti-union discrimination and interference in practice, pursuant to the entry into force of Act No. 251/2005 on labour inspection. It also requests the Government to keep it informed of progress made in the establishment of a pilot project on mediation with regard to labour relations. Finally, the Committee requests the Government to provide information on the review of measures taken to speed up civil law litigation.*

2. *Article 4 of the Convention. Collective bargaining rights of civil servants not engaged in the administration of the State.* The Committee notes from the Government's report that the Labour Code (Act No. 65/1965 as amended) applies to employees in the public sector who may engage in collective bargaining so as to negotiate their working conditions in the framework set up by the Labour Code (section 20).

Democratic Republic of the Congo

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

The Committee notes that the Government's report has not been received. It must, therefore, repeat its previous observation which read as follows:

The Committee had noted the comments made by the World Confederation of Labour (WCL) and the Confederation of Trade Unions of Congo (CSC), on the application of the Convention.

In its comments, the WCL indicates that the Government has unilaterally suspended trade union elections in enterprises and establishments of all types in the Democratic Republic of the Congo.

The Committee recalls in this respect that the autonomy of organizations can be effectively guaranteed only if their members have the right to elect their representatives in full freedom. The public authorities should therefore refrain from any interference which might restrict the exercise of this right, whether as regards the holding of trade union elections, conditions of eligibility or the re election or removal of representatives (see General Survey on freedom of association and collective bargaining, 1994, paragraph 112). *The Committee therefore requests the Government to reinstate trade union elections as soon as possible in enterprises and establishments of all types in the Democratic Republic of the Congo and to keep it informed of the measures adopted in this respect.*

In its comments, the CSC indicates that flagrant violations of Convention No. 87 occur day after day, and take the form of the arrest of trade unionists and threats by the public authorities upon trade union delegates, particularly in public enterprises. The CSC refers in this respect to two cases of arrest and detention. The Committee recalls that the arrest and detention, even for short periods, of trade union leaders and members engaged in their legitimate trade union activities, without any charges being brought and without a warrant, constitute a grave violation of the principle of freedom of association (see General Survey, op. cit.,

paragraph 31). *The Committee requests the Government to ensure that an investigation is opened into the matters raised by the CSC regarding the cases of arrest and detention and to keep it informed in this respect.*

The Committee is also addressing a request directly to the Government on certain other matters.

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

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1969)

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

The Committee also notes the comments sent on 23 August 2005 by the Trade Union Confederation of the Congo (CSC) and the World Confederation of Labour (WCL). These organizations report acts of discrimination in private companies, threats to dismiss union members in the SOSIDER-SOSTEEL company, despite the fact that section 234 of the Labour Code prohibits acts of anti-union discrimination, and the existence of many trade unions established and financed by employers. *The Committee requests the Government to respond to these comments.*

Article 2 of the Convention. The Committee pointed out previously that, although section 235 of the new Labour Code prohibits all acts of interference by employers' and workers' organizations in each others' affairs, section 236 provides that acts of interference shall be defined more specifically by Ministerial Order. *Noting the observations of the WCL and the CSC concerning trade unions created and financed by employers, the Committee once again asks the Government to send a copy of the Ministerial Order as soon as it is adopted.*

Article 6. With regard to collective bargaining in the public sector, the Committee noted previously that section 1 of the Code, which defines its scope, expressly excludes from the Code career members of state public services who are governed by the general conditions of service (Act No. 81-003 of 17 July 1981 issuing the conditions of service of career members of state public services) and career employees and officials of state public services who are governed by specific conditions of service. *Noting that in its comments of 31 May 2004, the CSC indicates that measures are under way to establish mechanisms for the promotion of collective bargaining in the public sector, the Committee once again asks the Government to indicate whether public servants who are not engaged in the administration of the State have the right to bargain collectively, and to keep it informed in its next report of measures intended to encourage and promote the negotiation of terms and conditions of employment between the public authorities and workers' organizations in this sector.*

The Committee hopes that the Government will make every effort to send its report as soon as possible.

The Committee is addressing a request on certain other points directly to the Government.

Denmark

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1951)

The Committee notes that the Government's report has not been received. It must, therefore, repeat its previous observation, which read as follows:

The Committee reiterates the request previously addressed to the Government to indicate in its next report the measures taken to ensure that Danish trade unions may represent all their members – residents and non-residents employed on ships sailing under the Danish flag – without any interference from the public authorities, in accordance with Articles 3 and 10 of the Convention and whether, in particular, these unions may freely represent seafarers who are not Danish residents in respect of their individual grievances.

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

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1955)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

1. *Article 4 of the Convention.* The Committee had noted that section 10 of Act No. 408 has the effect of, on the one hand, restricting the scope of negotiable issues by Danish trade unions by excluding from their bargaining power seafarers working on ships under the Danish flag who are not Danish residents and on the other hand, preventing these seafarers from freely choosing the organization they wish to represent their interests in the collective bargaining process. *The Committee therefore requests, once again, the Government to indicate in its next report, the measures taken or envisaged to amend section 10 of Act No. 408 so that Danish trade unions may freely represent all their members – Danish residents and non-residents working on ships sailing under the Danish flag, in the collective bargaining process in conformity with Article 4 of the Convention.*

2. *Collective bargaining rights of majority organizations.* This issue relates to the application of section 12 of the Conciliation Act and has been raised following the examination by the Committee on Freedom of Association of Case No. 1971. This provision makes it possible for an overall draft settlement to cover collective agreements involving an entire sector of activity even if the organization representing most of the workers in that sector rejects the overall draft settlement. In its previous comments, the Committee requested the Government to review the legislation, in consultation with the social partners. According

to the Government, the case had been dealt with by the “permanent ILO committee”, and it will be taken up in this committee again once the social partners have completed their discussions. *The Committee requests the Government to provide information in its next report on the contents of the discussions taking place between the social partners. It trusts that every effort will be made to fully ensure the collective bargaining rights of majority organizations.*

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

Djibouti

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

The Committee notes the Government’s report. It also notes the communication of the International Confederation of Free Trade Unions (ICFTU), which indicates that the draft of the new Labour Code, adopted by the Council of Ministers, constitutes a clear regression in social terms and still has to be approved by the Parliamentary Assembly. The ICFTU’s communication also refers to recurring examples of failure to comply with trade union rights (discrimination and harassment against trade union leaders, dismissals under abusive conditions and attempts to destabilize a trade union). *The Committee asks the Government to reply to these comments in its next report.*

Furthermore, the Committee recalls that for several years its comments have been focused on the need to repeal or amend the following provisions:

- Section 5 of the Act on associations, which requires organizations to obtain authorization prior to their establishment as trade unions (*Article 2 of the Convention*).
- Section 6 of the Labour Code, which limits the holding of trade union office to nationals of Djibouti (*Article 3*).
- Section 23 of Decree No. 23-099/PR/FP of 10 September 1983, which confers upon the President of the Republic broad powers to requisition public servants who are indispensable to the life of the nation and the proper operation of essential public services, with a view to restricting the power of requisition to public servants who exercise authority in the name of the State or in essential services in the strict sense of the term (*Article 3*).

The Committee notes the Government’s statement in its last report that these matters would be covered in the next review of labour laws and regulations which it wished to undertake with the assistance of the Office. *The Committee also requests the Government to provide information in its next report on the progress achieved in the work of revising the Labour Code, as well as a copy of the new text when it is adopted. The Committee once again hopes that the Government will take the necessary measures to bring the legislation into full conformity with the Convention and requests it to keep it informed in this respect.*

With regard to the reinstatement in their jobs of nine trade union leaders of the UGTD/UDT, who were dismissed in reprisal for their participation in legitimate trade union activities against structural adjustment measures, the Committee noted that six of them were reinstated in their original departments in February 2002 and that the reinstatement of the other three leaders was under way. *The Committee requests the Government to ensure that all the trade union leaders have indeed been reinstated in their jobs.*

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

The Committee notes that the Government’s report has not been received. It hopes that a report will be sent for examination by the Committee at its next session.

The Committee notes the comments by the International Confederation of Free Trade Unions (ICFTU), the Djibouti Labour Union (UDT) and the General Union of Workers of Djibouti on the application of the Convention, and requests the Government to respond to the abovementioned comments.

The Committee notes with concern the allegations of dismissals or dismissal measures against trade union leaders and the assertions concerning the new draft of the Labour Code. According to the abovementioned organizations, there have been no consultations on the draft, which is inconsistent with fundamental ILO principles, particularly freedom of association and collective bargaining. *The Committee requests the Government to provide a copy of the abovementioned draft and to ensure that the representative organizations of employers and workers are thoroughly consulted. It reminds the Government that it may call on the Office for technical assistance.*

Dominica

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1983)

The Committee notes that the Government’s report has not been received. It must, therefore, repeat its previous observation, which read as follows:

The Committee has been referring for a number of years to the need to amend legislation so as to exclude the banana, citrus and coconut industries as well as the port authority, from the schedule of essential services annexed to Act No. 18 of 1986 on industrial relations, which makes it possible to stop a strike in these sectors by compulsory arbitration. The Committee had also noted that sections 59(1)(b) and 61(1)(c) of the Act empowered the Minister to refer disputes to compulsory arbitration if they concerned serious issues in his or her opinion. *The Committee requests the Government to indicate in its next report the progress made in restricting the list of essential services in this respect. The Committee also requests the Government to indicate the measures taken or envisaged to ensure that workers in the banana industry and the port authority may also have recourse to industrial action.* In this respect, the Committee recalls that in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes, the authorities could establish a system of minimum service in other services which are of public utility rather than impose an outright ban on strikes, which should be limited to essential services in the strict sense of the term (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 160).

Finally, concerning the practical application of these provisions, the Committee requests the Government to transmit any available statistical data on the number, content and outcome of disputes which have been referred to compulsory arbitration, because they concerned the banana, citrus and coconut industries, the port authority, or issues considered serious by the Minister.

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

Dominican Republic

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

The Committee notes the Government's report and the comments by the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention.

In its previous comments, the Committee referred to:

- the requirement that federations must obtain a two-thirds majority vote of their members to be able to establish a confederation (section 383 of the Labour Code of 1992). The Committee notes that, according to the Government, the Ministry of Labour has called on the Employers' Confederation of the Dominican Republic and the National Trades Unions Council to seek an agreed solution in the Consultative Council on Labour. *The Committee expresses the firm hope that an agreement will be reached in the near future to amend the legislation so as to reduce the proportion of the membership of federations, in accordance with the provisions of the Convention, and requests the Government to provide information on progress in this area in its next report;*
- the opposition of certain enterprises in export processing zones to the establishment of trade unions and the disregard for trade union immunity. The Committee notes that the Government repeats its previous comment to the effect that, in export processing zones, trade unions may be freely established and enjoy trade union immunity, and that three new unions and two federations (FENOTRAZONAS and UNATRAZONAS) have been established in the zones. *The Committee requests the Government to ensure that freedom of association and trade union protection are complied with in practice in export processing zones;*
- respect for trade union rights in sugar plantations, in particular the right of trade union officers to have access to and meet with workers in accordance with the principles of the Convention. *The Committee notes with regret that the Government has not commented on this matter, and requests it to take steps to guarantee enjoyment of these rights in practice, in accordance with the principles of the Convention. It requests the Government to report on developments in this situation;*
- the statutory requirement of a majority of 51 per cent of votes in the enterprise in order to call a strike (section 407(3) of the Labour Code); the Committee notes that the Government has expressed its interest in amending the legislation provided that the social partners agree, and that it will report on any progress in this matter. The Committee points out once again that the Government should ensure that account is taken only of the votes cast and that the requisite quorum and majority are fixed at a reasonable level (see General Survey on freedom of association and collective bargaining, 1994, paragraph 170). *The Committee accordingly urges the Government to take steps to amend the relevant provisions of its legislation and to provide information on progress made in this respect in its next report;*
- the express exclusion from the scope of the Labour Code (Principle III) and of the Civil Service and Administrative Careers Act of employees of autonomous and municipal state institutions (section 2). The Committee notes that the Government expresses its interest in studying this matter. It reminds the Government, however, that all public servants and officials should have the right to establish occupational organizations, irrespective of whether they are engaged in the state administration at the central, regional or local level, are officials of bodies which provide important public services or are employed in state-owned economic enterprises (see General Survey, op. cit., 1994, paragraph 49). *In these circumstances, the Committee requests the Government once again to take the necessary steps to ensure that laws and regulations expressly establish the right to organize of workers in autonomous and municipal state institutions and to ensure that the other rights set forth in the Convention are guaranteed;*

- the requirement of 40 per cent of the total number of employees in the institution in order for public servants to be able to establish organizations (section 142(1) of the Regulations adopted under the Civil Service and Administrative Careers Act). The Committee notes from the information sent by the Government that the Government and the social partners are in agreement about this percentage but that the matter will nonetheless be referred to the Consultative Council on Labour. The Committee reminds the Government that the requirement of a minimum number of members should be maintained within reasonable limits so as not to prevent the establishment of organizations. ***In these circumstances, bearing in mind that the percentage required is too high and could result in a situation of trade union monopoly, the Committee requests the Government to report on any measures taken to reduce the percentage.***

Lastly, the Committee notes the Government's response to the comments by the ICFTU concerning matters raised in the above paragraphs, and the excessive delays in processing complaints filed with the courts, the denial in practice of the right to organize of rural workers, self-employed workers, illegal immigrants, (particularly Haitian workers in sugar plantations) and workers in the informal sector; the refusal to recognize trade unions and the pressure exerted on workers wishing to join unions in export processing zones, and the repression of a strike which resulted in the death of eight people and the detention of numerous demonstrators. The Committee observes that the Government presents a very different point of view on these questions and provides information on positive measures adopted with regard to the judicial authorities and labour inspectorate in order to accelerate the proceedings and on the registration of 56 trade unions in the export processing zones; according to the Government, only one worker died in the strike mentioned by the ICFTU without knowing from where the shooting originated. ***The Committee invites the Government to analyse these questions in the framework of the tripartite national commission and to keep it informed in this respect.***

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

The Committee notes the Government's report and the comments of the International Confederation of Free Trade Unions (ICFTU).

Article 4 of the Convention. The Committee has been commenting for many years on the fact that, in order to engage in collective bargaining, a trade union must represent an absolute majority of the workers in an enterprise or the workers in a branch (sections 109 and 110 of the Labour Code). The Committee notes that the Government intends to deal with this matter in the Consultative Committee on Labour and hopes to have the support of the social partners for amending the abovementioned provisions. ***The Committee expresses the hope that the above amendments will be made in the near future and requests the Government to keep it informed on this matter.***

The Committee also notes the statistical information supplied by the Government which it requested at its previous examination, concerning the conclusion of 17 collective labour agreements covering 5,086 workers, seven of which pertain to industry, four to services, two to commerce, one to agriculture and three to export processing zones (one of the three covers the period from January to July 2005 and the other two were deposited in August 2005). The Government also states that the Mediation and Arbitration Directorate intervened in 41 collective labour disputes, 13 of which were settled by formal agreement and three by informal agreement, with 15 agreements still pending. ***The Committee observes that the Government provides no information on the existence of collective agreements in the public sector. In view of the number of agreements and the coverage of collective bargaining, it requests the Government to take further steps to promote bargaining. It also requests the Government to continue to send statistical information on any collective agreements concluded in the public and private sectors.***

Lastly, the Committee notes the Government's observations on the comments by the ICFTU. ***The Committee requests the Government to give further details on the comments referring to the absence of effective sanctions for acts of anti-union discrimination, dismissals on trade union grounds of leaders in sugar plantations and blacklists of trade unionists in export processing zones. The Committee brings to the Government's attention that in case acts of anti-union discrimination are denounced, investigations should take place without delay and if the allegations are confirmed, sufficiently dissuasive sanctions should be imposed.***

Ecuador

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1967)

The Committee notes the Government's report. It also notes the comments of the International Confederation of Free Trade Unions (ICFTU), dated 6 June 2005, on the application of the Convention, which principally refer to matters already raised by the Committee. ***The Committee requests that the Government provide its observations in its next report on the ICFTU's comments that allege that temporary workers are not covered by the guarantees set out in the Convention.***

The Committee recalls that for many years its observations have been referring to the following matters:

- the need to reduce the minimum number of workers (30) required to establish associations, works committees or assemblies to organize works committees (sections 450, 466 and 459 of the Labour Code);
- the need to amend sections 59(f) and 60(g) of the Civil Service and Administrative Careers Act, and article 45(10) of the Political Constitution, with a view to ensuring that public servants have the right to establish organizations to further and defend their occupational and economic interests and to have recourse to strike action;
- the need to amend section 522(2) of the Labour Code respecting the determination of minimum services by the Ministry of Labour in case of disagreement between the parties;
- the implicit denial of the right to strike to federations and confederations (section 505 of the Labour Code);
- the imposition of prison sentences for participation in illegal work stoppages and strikes (Decree No. 105 of 7 June 1967); and
- the requirement of Ecuadorian nationality to serve as a trade union officer (section 466(4) of the Labour Code).

The Committee regrets that in relation to all these comments the Government confines itself in its report to making statements of a general nature, indicating that the provisions of section 450 of the Labour Code on the minimum number of workers required to establish an association do not impair the right to organize in the country, and that the requirements set out by the law for the establishment of trade unions are inevitable to prevent a series of conflicts leading to challenges and applications for protection from the Constitutional Court. ***Under these conditions, the Committee requests the Government to take measures to amend the legislative provisions in question, which in some cases relate to serious violations of the Convention, such as the prohibition for public servants to enjoy the right to establish organizations to further and defend their occupational and economic interests, and to provide information in its next report on any measures adopted in this respect. The Committee reminds the Government that if it is planning to reform the legislation, it can have recourse to the technical assistance of the Office to ensure that it is in full conformity with the provisions of the Convention.***

With regard to workers in the public education sector, the Committee makes its comments in an observation concerning Convention No. 98.

Finally, with reference to the ICFTU's comments on the application of the Convention, which were submitted on 19 July 2004, the Committee regrets that the Government has not provided its observations on the allegation that striking workers were replaced in the Petroecuador company or on the violent repression by the police and the arrest of 70 persons during a march by teachers on 10 December 2003. In this respect, the Committee recalls that the hiring of workers to break a strike in a sector which cannot be considered an essential service in the strict sense of the term is an infringement of the principles of freedom of association. Furthermore, the Committee emphasizes that the authorities should resort to calling in the police in a strike situation only where the situation is of a serious nature or if there is a genuine threat to public order.

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

The Committee notes the Government's report. It also notes the comments made by the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention, which principally refer to matters already raised by the Committee. ***The Committee requests the Government to provide its observations in this respect, and particularly on the comments relating to the dismissal of unionized workers following the presentation of a draft collective agreement in a banana plantation.***

The Committee notes once again that it has been making comments for several years on the following matters:

- the need to include provisions in the legislation that guarantee protection against acts of anti-union discrimination in relation to recruitment;
- the need to amend section 229, second paragraph, of the Labour Code respecting the submission of the draft collective agreement, so that minority trade union organizations, which include not more than 50 per cent of workers subject to the Labour Code, may negotiate, on their own or jointly, on behalf of their own members;
- the need for public teaching staff and the heads of educational institutions, and for staff who perform technical and occupational duties in the education sector (who are subject to the basic laws on education and the salary scales of teachers), referred to in section 3(h) of the Civil Service and Administrative Careers Act, to benefit from the right to organize and bargain collectively, not only at the national level, but also at the local and establishment levels (the Committee requested the Government to provide in its next report the legislative provisions governing the labour relations of these workers, with an indication of whether they are covered by the guarantees set forth in the Convention); and
- the need to amend section 3(g) of the Civil Service and Administrative Careers Act so that workers in government departments or other public sector institutions and in private sector institutions that pursue social or public purposes enjoy the rights guaranteed in the Convention.

In this respect, the Committee notes that the Government indicates that a project of amendment of the Civil Service and Administrative Careers Act has been elaborated and that technical assistance has been requested from the subregional

office so as to carry out an in-depth study on the necessary reforms before forwarding them to the legislature. Moreover, the Committee takes note of the Act on Teachers' Career and Posts in the Public Teaching Sector of 1990 which provides that teachers have the right to freedom of association for the study, participation in the planning and execution of educational policy as well as the defence of their professional interests.

In these conditions, the Committee expresses the hope that the necessary modifications will be made in the framework of the envisaged legislative reform so that public teaching staff and the heads of educational institutions, as well as staff who perform technical and occupational duties in the education sector, enjoy the right to organize and collective bargaining. The Committee requests the Government to provide information in its next report on all developments relative to the amendment of the legislation.

Finally, the Committee recalls that in its previous observation it noted that the Confederation of Workers of Ecuador (CTE) and the World Federation of Trade Unions (WFTU) had sent comments on the application of the Convention objecting to section 8 of Executive Decree No. 44 of 30 January 2003, prohibiting any increase in wages and remuneration in the budgets of public sector entities for the financial year 2003, and the decision of the National Remuneration Council (No. 197) prohibiting wage increases in 2004 and 2005 and that it requested the Government to provide its observations on these matters. The Committee notes the Government's indication in its report that: (1) the formulation and implementation of the fiscal policy in the country is the responsibility of the executive authorities, and is discharged by the Ministry of Economy and Finance; (2) to guarantee a disciplined fiscal policy through which public expenditure is compatible with the real financing capacity, the Organic Act on fiscal responsibility, stability and transparency was adopted, section 3 of which establishes macrofiscal rules to limit the real growth of primary expenditure; (3) the responsibilities of the Ministry of Economy and Finance include ensuring that such macrofiscal rules are strictly complied with in all state activities, and one of these rules relates to the management of remuneration in the public sector and its corresponding financing; (4) the National Remuneration Council (CONAREM) was competent (according to the Government, this body is no longer legally in existence) to establish economic ceilings with which labour agreements between workers and their employers had to comply; and (5) both the Ministry of Economy and Finance and CONAREM have discharged their statutory duties within the context of a disciplined fiscal policy and austerity in public expenditure. The Committee recalls in this respect that all workers in the public administration who are not engaged in the administration of the State should enjoy the guarantees of the Convention and therefore be able to negotiate collectively their terms and conditions of employment, including wage conditions, and that if, under an economic stabilization or structural adjustment policy, that is for imperative reasons of national economic interest, a government provides that wage rates cannot be fixed freely by means of collective bargaining, this restriction should be applied as an exceptional measure and only to the extent necessary, should not exceed a reasonable period and should be accompanied by adequate safeguards to protect effectively the standard of living of the workers concerned, in particular those who are likely to be the most affected (see General Survey on freedom of association and collective bargaining, 1994, paragraphs 262 and 260). *It is the Committee's understanding that the provisions of Executive Decree No. 44 of 30 January 2003 and the decision of the National Remuneration Council (No. 197), to which objections were raised, are no longer in force and it requests the Government to ensure that any future restriction on wage negotiations takes into account the principle set out above.*

The Committee also noted in its previous observation that the CTE objected to the Civil Service and Administrative Careers and Unification and Standardization of Public Sector Remuneration Act of 6 October 2003 which, in its opinion, infringes Conventions Nos. 87 and 98 (the CTE indicated that it had requested the Constitutional Court to declare certain sections of the Act unconstitutional), as well as to a draft amendment to the above Act submitted to the National Congress on 16 December 2003. The Committee requested the Government to provide the ruling issued by the Constitutional Court and a copy of the Bill referred to above. *The Committee regrets to note that the Government has not provided the requested documentation and asks it to provide it in its next report.*

Finally, the Committee recalls that it noted previously that section 94 of Chapter XII of the Basic Act of 29 February 2000 on the economic transformation of Ecuador, which relates to amendments to the Labour Code, explicitly prohibits any revision or increase of the supplementing bonus or the compensation for cost-of-living increases, or the introduction of any other wage or remuneration supplement. The Committee also observed that section 95 of the same Act provides that the current amendments to the Labour Code are mandatory, unless there are provisions to the contrary in existing collective agreements or legally concluded contractual arrangements, for as long as they remain in force and unless otherwise agreed. *In this respect, the Committee once again requests the Government to indicate in its next report whether, under section 95 of the above Act, employers and their organizations and workers' organizations are free to include in collective agreements wage adjustment clauses that take into account cost-of-living increases.*

Egypt

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

The Committee notes the Government's report. It recalls that for several years its comments have been referring to the divergencies between the Convention and the national legislation on the following points:

- the institutionalization of a single trade union system under Act No. 35 of 1976 (as amended by Act No. 12 of 1995), and in particular sections 7, 13, 14, 17 and 52;
- the control granted by law to higher-level trade union organizations, and particularly the Confederation of Trade Unions, over the nomination and election procedures to the executive committees of trade unions (sections 41, 42 and 43 of Act No. 35, as amended by Act No. 12);
- the control exercised by the Confederation of Trade Unions over the financial management of trade unions (sections 62 and 65 of the same Act);
- the removal from office of the executive committee of a trade union which has provoked work stoppages or absenteeism in a public service or community services (section 70(2)(b) of the above Act);
- the requirement for the prior approval of the Confederation of Trade Unions for the organization of strike action (section 14(i) of the same Act);
- restrictions on the right to strike and recourse to compulsory arbitration in services which are not essential in the strict sense of the term (sections 179, 187, 193 and 194 of the Labour Code); and
- penalties for breaches of section 194 of the Labour Code (section 69(9) of the Code).

In this respect, the Committee notes the Government's statement that all the Committee's comments will be taken into account in the context of a revision of the legislation. ***The Committee expresses the firm hope that the Government's next report will indicate substantial progress on the various matters referred to above. It reminds the Government that the technical assistance of the Office is available for this purpose.***

The Committee is also addressing a request directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1954)***

The Committee notes the Government's report.

With reference to its previous observations concerning new section 154 of the Labour Code, under which any clause of a collective agreement contrary to the law on public order or general ethics shall be null and void, the Committee notes that, according to the Government's report, the wording relates to general concepts as to what is meant by general ethics and morals, and values agreed on by society, and which are needed to safeguard its culture and heritage. The Committee also understands from the Government's report that section 154 refers to a law that is still in its preparatory phase. ***The Committee requests the Government to keep it informed in this respect and to provide information as to the scope of section 154 and as to the impact that the broad wording of this section may have on the implementation of the principle of voluntary negotiation. The Committee also asks the Government to provide a copy of the relevant provisions of the law once adopted in order to assess their full compatibility with the principle of voluntary negotiation contained in Article 4 of the Convention.***

Concerning section 158 of the new Labour Code, under which a collective agreement binds the parties once it has been registered with the competent administrative authority which can refuse such a registration by stating reasons, the Committee had noted that the Labour Code does not enumerate the specific reasons for refusing the registration of a collective agreement. The Committee notes from the Government's report that objections from the competent administrative authority, apart from the conditions provided under section 154, may arise: (1) from a procedural flaw; or (2) if the agreement provides for fewer privileges and rights than those specified in the law. The Committee also notes that the administrative objections can be challenged before the courts. ***Recalling that the approval of a collective agreement may only be refused if: (1) it is tainted with a procedural flaw; or (2) it does not conform to the minimum standards laid down by the labour legislation (see General Survey, op. cit., paragraph 251), the Committee requests the Government to take the necessary steps so as to ensure that these principles are effectively reflected, not only in practice but also in the legislation. The Committee requests the Government to keep it informed of any progress achieved in this respect.***

The Committee is also addressing a request on certain other points directly to the Government.

Equatorial Guinea

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

The Committee takes note of the Government's report.

In its previous comments the Committee noted that, according to the Government, due to the lack of a trade union tradition, there were still no workers' unions operating in the country, and requested the Government to provide information on the measures adopted or envisaged to create favourable conditions for the establishment of workers' organizations. The Committee notes that the Government indicates that four requests for the registration of trade unions have been received, one of which produced positive results and gave rise to the establishment of the Trade Union of Smallholders (OSPA). The other three did not fulfil the legal requirements, a fact which has been notified to those

concerned. *The Committee expresses its concern at this situation and once again asks the Government to provide information in its next report on the measures adopted or contemplated so as to guarantee that the workers may establish the organizations that they consider appropriate.*

The Committee is also addressing a request on other matters directly to the Government.

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

The Committee notes the Government's report and the copy of Act No. 14 regulating the labour inspectorate.

Article 4. In its previous comments, the Committee noted the Government's statement that because there was no trade union tradition in the country, no workers' trade unions were yet in operation, and requested the Government to provide information on the measures taken to create conditions conducive to the establishment of trade unions. The Committee notes that, in its latest report, the Government indicates that four trade unions have applied for legal status and that only the Union of Smallholders has been granted such status, being the only one to comply with the legal requirements. The Committee observes, however, that the Government's report contains no information on the measures taken to create conditions conducive to the establishment of trade unions. ***The Committee again points out that the existence of trade unions is a prerequisite for the provisions of Article 4 of the Convention to be applied, and requests the Government to adopt without delay the measures needed to create proper conditions for the establishment of trade unions.***

Article 6. With regard to section 6 of Act No. 12/1992 of 1 October 1992, on trade unions and collective employment relations, which establishes that the organization of officials of the public administration will be regulated by a special Act, the Committee notes the Government's indication that the Act has not as yet been adopted. ***The Committee again draws the Government's attention to the principles referred to in the previous paragraph and requests the Government to take the necessary steps to have the abovementioned Act adopted without delay to ensure that public employees enjoy the right to organize, and to send detailed information on the application of the Convention in respect of public servants who are not engaged in the administration of the State.***

Ethiopia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1963)

The Committee notes the Government's report.

The Committee notes Labour Proclamation No. 377/2003 and in regard to it wishes to raise the following points.

Article 2 of the Convention. *Right of workers, without distinction whatsoever, to establish organizations of their own choosing.* The Committee notes with interest that the new Labour Proclamation no longer imposes a trade union monopoly at the enterprise level.

The Committee previously raised concern over the exclusion of teachers, civil servants, judges and prosecutors from the Labour Proclamation of 1993. The Committee notes that according to section 3, the new Labour Proclamation of 2003 is not applicable to the employment relations arising out of a contract concluded for the purpose of upbringing, treatment, care of, rehabilitation, education, training (other than apprenticeship), contract of personal service for non-profit-making purposes and managerial employees. ***Recalling that the only exceptions authorized by Convention No. 87 are the members of the police and armed forces, the Committee requests that the Government indicate how the right to organize of the abovementioned categories of workers is ensured in law and in practice.*** The Committee further notes that under the same provision, employment relationships of employees of state administration, judges and prosecutors are governed by special laws. ***The Committee asks the Government to transmit with its next report, the specific provisions which guarantee to these categories of workers the right to organize so as to further and defend their occupational interests.***

Article 3. *Right of workers' organizations to organize their programme of action without interference from public authorities.* The Committee notes that air transport and urban bus services remain on the list of essential services where strike action is prohibited (section 136(2)). The Committee considers that these services do not constitute essential services in the strict sense of the term. ***The Committee suggests that the Government give consideration to the establishment of a system of minimum service in these services of public utility, rather than impose an outright ban on strikes, which should be limited to essential services in the strict sense of the term. The Committee requests that the Government take the necessary measures so that the abovementioned services are deleted from the list of essential services and to keep it informed of the measures taken or envisaged in this respect.***

The Committee previously raised a concern over the compulsory arbitration imposed at the request of one party. The Committee notes that section 143(2) allows the aggrieved party to the labour dispute to take the case to the Labour Relations Board for arbitration or to the appropriate court. In this case, the strike is considered unlawful (section 160(1)). In the case of essential services, as listed in section 136(2), the dispute is referred to an ad hoc board for arbitration (section 144(2)). The Committee recalls that, except in situations concerning essential services in the strict sense of the

term, acute national crisis and public servants exercising authority in the name of the State, recourse to arbitration should only be allowed upon a request of both parties. ***The Committee therefore requests the Government to amend its legislation so as to bring it into conformity with the Convention and to keep it informed of the measures taken or envisaged in this respect.***

The Committee notes that section 158(3) concerning a strike ballot provides that the strike vote should be taken by the majority of the workers concerned in a meeting in which at least two-thirds of the members of the trade union are present. The Committee recalls that, if the legislation requires a vote by workers before a strike can be held, it should be ensured that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see General Survey on freedom of association and collective bargaining, 1994 paragraph 170). ***The Committee requests that the Government amend section 158(3) so as to lower the quorum required for a strike ballot and to keep it informed of the measures taken or envisaged in this respect.***

Article 4. Dissolution of trade unions. The Committee notes that section 120(c) allows the cancellation of an organization's certificate of registration where an organization is found to have engaged in activities which are prohibited under the Labour Proclamation. As the Committee has already noted above, some of the provisions of the Labour Proclamation restrict the right of workers to organize their activities contrary to the Convention. ***It therefore requests that the Government ensure that these provisions are not invoked to cancel an organization's registration until they have been brought into conformity with the provisions of the Convention.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1963)

The Committee notes the Government's report received in 2004.

Scope of application of the Convention. The Committee notes that according to its section 3, Labour Proclamation No. 377/2003 is not applicable to the employment relations arising out of a contract concluded for the purpose of upbringing, treatment, care of rehabilitation, education, training (other than apprenticeship), contract of personal service for non-profit making purposes and managerial employees. ***Recalling that the only exceptions authorized by Convention No. 98 are the members of the police and armed forces, and civil servants engaged in the administration of the State, the Committee requests the Government to provide information about the trade union rights of the abovementioned categories of workers.***

Article 2 of the Convention. In its previous comments, the Committee had requested the Government to amend its legislation by adopting specific provisions coupled with effective and sufficiently dissuasive sanctions, providing for protection of organizations of employers and workers against acts of interference by each other's agents or members in their establishment, functioning or administration so as to give full effect to *Article 2* of the Convention. The Committee notes that the Government reiterates its previous statement to the effect that it could be inferred from the Labour Proclamation of 2003 that employers' and workers' organizations are obliged to recognize each other and that any attempt to impede the work of the organizations in whatever form is contrary to the law. While noting this information, the Committee once again recalls that the Convention requires the Government to take specific action, in particular through legislative means, to ensure respect of the guarantees laid down in *Article 2* (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 230). ***Therefore, the Committee reiterates its previous request and asks the Government to keep it informed of the measures taken or envisaged in this respect.***

Articles 4 and 6. In its previous observation, the Committee noted with regret that Federal Civil Servants Proclamation No. 262/2002 did not refer to the right to negotiate of public servants not engaged in the administration of the State. The Committee notes the Government's statement to the effect that efforts are being made to explore experiences of other countries, with a view to draft, in due course, the legislation guaranteeing the right of civil servants, as well as of public teachers – who, contrary to privately employed teachers, to whom the right to unionize and engage in collective bargaining is guaranteed, can only form professional associations – to defend their occupational interests through collective bargaining. ***The Committee hopes that legislation in this respect will be adopted without delay. It requests the Government to keep it informed of the measures taken or envisaged in this respect.***

Fiji

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

The Committee takes note of the information contained in the Government's report, including its response to the comments previously made by the Fiji Trades Union Congress (FTUC). It also notes the text of the Employment Relations Bill 2005. The Committee notes from the Government's report that the Bill has been tabled in Parliament for adoption and should be passed without delay. ***The Committee requests the Government to keep it informed of progress made in the adoption of the Bill.***

1. ***Protection against anti-union discrimination.*** The Committee recalls that in its previous comments it had noted, based on comments made by the FTUC, that the current mechanism for dealing with acts of anti-union discrimination

(sections 2, 3(1), 4 and 5 of the Trade Disputes Act), did not allow trade unions and their members to bring their cases to the courts so as to have grievances examined, and requested the Government to amend the legislation, possibly in the framework of the draft Industrial Relations Bill, so as to enable trade unions and their members to have access to the Labour Court on their own initiative for the examination of allegations of anti-union discrimination and to ensure that the Labour Court has the competence to order appropriate remedies. The Committee had also noted the need to introduce a specific prohibition of anti-union dismissals accompanied by sufficiently dissuasive remedies (according to the FTUC, section 24 of the Employment Act enabled employers to terminate the services of employees by giving them short notice or pay in lieu of notice).

The Committee notes from the Government's report that: (1) section 77(1) and (2) of the Employment Relations Bill prohibits all acts of anti-union discrimination against workers for trade union activities including participation in strikes; (2) Part 13 provides for a redress system to address any form of unfair dismissal through employment grievances; (3) Part 20 allows trade unions and individual members to raise their grievances through the mediation services or through the Employment Relations Tribunal; (4) no employer may dismiss an employee without notice except on grounds stipulated under section 33 of the Bill (summary dismissal) and, in that case, the employer must provide the worker with reasons in writing for the summary dismissal. ***The Committee takes note of this information with interest and requests the Government to indicate in its next report progress made in the adoption of these provisions.***

2. *Protection against acts of interference.* In its previous comments the Committee had noted, pursuant to comments by the FTUC, that the draft Industrial Relations Bill did not seem to contain any provision prohibiting acts of interference and requested the Government to ensure adequate protection, including sufficiently rapid machinery and dissuasive sanctions, against acts of interference by employers or their organizations into workers' organizations, in particular, acts which are designed to promote the establishment of workers' organizations under the domination of employers' organizations.

The Committee notes from the Government's report that section 126 of the Employment Relations Bill allows the Registrar of Trade Unions to refuse the registration of a union if it is under the domination of the employer, in a way which restricts its independence. The Committee notes that, while this provision introduces a certain safeguard against acts of interference, it contains no sanctions; moreover, there is no explicit prohibition of all acts of interference in the Bill, as provided for in *Article 2 of the Convention*. ***The Committee therefore once again requests the Government to indicate in its next report measures taken to complement the draft Employment Relations Bill by introducing adequate protection, including sufficiently rapid machinery and dissuasive sanctions, against acts of interference by employers or their organizations into workers' organizations and vice versa.***

Articles 1 and 4. With regard to its previous comments on the dispute in the Vatukoula Joint Mining Company (refusal to recognize a union and dismissal of striking workers), the Committee had regretted the long delay in the resolution of this dispute; it had moreover noted certain claims put forward by the Fiji Mine Workers' Union in particular for: (1) the filing of an appeal by the Solicitor-General; (2) the payment of compensation; and (3) the provision of assistance to help the workers re-establish themselves, as recommended by a Senate Select Committee on 6 July 2004, and had requested the Government to indicate any measures taken or contemplated in this respect.

The Committee notes from the Government's report that: (1) the Solicitor-General is of the view that any further appeal on the case would not serve any purpose because of the time factor; (2) compensation is not justified as the strike was illegal; (3) some members had left Vatukoula and a few had passed away whilst the bulk of the members had been re-employed, and for those who were nearing retirement age, their children were employed by EGM; finally, the Government had not considered the recommendation by the Senate Select Committee for assistance to help the workers re-establish themselves.

The Committee notes with regret that, despite the long delay in the resolution of this dispute which has lasted for 15 years and has caused great hardship to the dismissed workers, the Government did not give consideration to the recommendation by the Senate Select Committee for assistance to help the remaining workers re-establish themselves. ***The Committee requests the Government to give due consideration to this request and hopes that a satisfactory solution will be found without further delay.***

The Committee addresses a request on another point directly to the Government.

France

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1951)***

The Committee notes the information contained in the Government's report and the comments sent by the General Confederation of Labour-*Force Ouvrière*. The Committee notes that the Government's response to these comments has been recently received and intends to examine it at its next session.

A request concerning other points is being addressed directly to the Government.

Georgia

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

The Committee notes the Government's report, which for the most part repeats the information previously submitted by the Government. The Committee further notes the comments made by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 31 August 2005 concerning the application of the Convention in practice and relating to the on-going disputes over trade union property. *The Committee requests that the Government provide its observations thereon.*

The Committee hopes that in its next report the Government will provide full information on the following matters raised in its previous direct request.

Article 2 of the Convention. Right of workers and employers to establish organizations of their own choosing. The Committee had previously noted that section 2(9) of the Law on Trade Unions provided that a trade union could be formed on the initiative of not less than 100 persons (15 members are required to establish a primary trade union). The Committee notes the Government's statement to the effect that it is outside of the Government's competence to make any changes in respect of this requirement. The Committee recalls that when a State ratifies a Convention, it undertakes a commitment to respect fully its provisions and principles. With regard to the minimum membership requirement, the Committee once again recalls that, while the existence of such a requirement is not in itself incompatible with the Convention, the number should be fixed in a reasonable manner so that the establishment of organizations is not hindered (see General Survey on freedom of association and collective bargaining, 1994, paragraph 81). The Committee points out that the minimum 100 members requirement is too high. *The Committee asks the Government to take necessary measures to amend section 2(9) of the Law on Trade Unions so as to lower the minimum trade union membership requirement and to ensure that the right to organize is effectively guaranteed.*

The Committee once again requests that the Government indicate the applicable procedure for registration of trade unions and provide the relevant legislative texts.

Article 3. The Committee notes the comments made by the ICFTU with regard to the ongoing dispute over trade union property and also concerning Case No. 2387 examined by the Committee on Freedom of Association. This case concerned the seizure of trade union assets and the use of various means of pressure: intimidating statements addressed to the Georgian Trade Union Amalgamation (GTUA); arrests of the GTUA leaders; illegal audits of the GTUA financial activities; threats and overall refusal of the Government to have a constructive dialogue with the GTUA. The Committee condemns the anti-union tactics, pressure and intimidation the Government chose to use in dealing with this issue and regrets that the Government has so far refused all dialogue with the GTUA. *The Committee therefore urges the Government to engage in consultations with the trade union organizations concerned in order to settle the question of the assignment of property and to keep it informed in this respect.*

The Committee notes that under section 12(2) of the Law on the Procedure for the Settlement of Collective Disputes, a strike can be called further to a vote requiring a 75 per cent quorum and a majority of those voting. *Considering that the quorum set out for a strike is too high and may potentially impede recourse to strike action, particularly in large enterprises, the Committee requests the Government to amend its legislation so as to lower the quorum required for a strike ballot and to keep it informed of the measures taken or envisaged in this regard.*

The Committee further notes that, according to section 12(5)(b) of the Law, the duration of the strike should be indicated in an advance notice. The Committee recalls that the supervisory bodies have already indicated that forcing workers and their organizations to specify the length of a strike would restrict the right of workers' organizations to organize their administration and activities and to formulate their programmes. *The Committee therefore asks the Government to amend its legislation so as to ensure that no legal obligation to indicate the duration of a strike action is imposed on workers' organizations and to keep it informed of measures taken or envisaged in this regard.*

The Committee also notes that, according to section 12(5)(d), a proposal of minimum services should be indicated in an advance notice. Section 14(4) further provides that in the case of failure to reach an agreement, minimum services are established by the bodies of executive authority, local self-governing and administrative bodies. In the view of the Committee, the authorities may establish a system of minimum service in services which are of public utility in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes. The minimum services could be appropriate in situations in which a substantial restriction or a total prohibition of strike action would not appear to be justified and where, without calling into question the right to strike of the large majority of workers, one might consider ensuring that users' basic needs are met or that facilities operate safely or without interruption (see General Survey on freedom of association and collective bargaining, 1994, paragraphs 160 and 162). *The Committee asks the Government to indicate whether the establishment of minimum services is a requirement applicable to all categories of workers and, if so, it requests the Government to amend its legislation so as to ensure that the requirement to establish minimum services is limited to the abovementioned cases. As regards the provision that any disagreement concerning the establishment of minimum services should be settled by the authorities, the*

Committee requests that the Government amend its legislation so as to ensure that any such disagreement is settled by an independent body having the confidence of all the parties to the dispute and not the executive or administrative authority and to keep it informed of measures taken or envisaged in this regard.

Moreover, the Committee notes that according to section 15(2) and (9) of the Law on the Settlement of Collective Disputes, some workers appear to be excluded from exercising the right to strike and it is the President of Georgia who makes the decision on the settlement of a collective labour dispute for these workers. However, this section does not specify the category of workers excluded. The Committee recalls that the only possible exceptions to the right to strike are those which may be imposed for public servants exercising authority in the name of the State, workers in essential services in the strict sense of the term, and in the event of an acute national emergency. If the right to strike is subject to restriction or a prohibition, workers who are deprived of an essential means of defending their socio-economic and occupational interests should be afforded compensatory guarantees, for example conciliation and mediation procedures leading, in the event of deadlock, to arbitration machinery seen to be reliable by the parties concerned. It is essential that the latter be able to participate in determining and implementing the procedures, which should furthermore provide sufficient guarantees of impartiality and rapidity (see General Survey, op. cit., 1994, paragraph 164). ***The Committee asks the Government to list any categories of workers which may be excluded by relevant legislation from exercising their right to strike and to provide copies of these laws. It further requests that the Government review its legislation so as to ensure that in the event of a labour dispute, workers who are deprived of the right to strike are afforded compensatory guarantees for the settlement of the dispute by an impartial and independent body and not by the President. The Committee requests that the Government keep it informed of measures taken or envisaged in this regard.***

The Committee notes section 18 of the Law, which provides that persons engaging in an illegal strike bear responsibility in accordance with the legislation of Georgia. The Committee notes that, according to the information provided by the Government, participation in an illegal strike is punishable by a fine, or by corrective labour for up to one year, or by imprisonment of up to two years (section 165 of the Penal Code). Furthermore, in cases where failure to comply with the established strike procedure leads to grave consequences, the strike organizers are liable to the same sanctions (section 167 of the Penal Code). The Committee considers that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principles of freedom of association. Even in such cases, the existence of heavy sanctions for strike action may well create more problems than they resolve. Since the application of disproportionate penal sanctions does not favour the development of harmonious and stable industrial relations, the Committee emphasizes that any sanction should not be disproportionate to the seriousness of the violation (see General Survey, op. cit., paragraphs 177 and 178). ***The Committee therefore asks the Government to amend sections 165 and 167 of the Penal Code and, in particular, to repeal the reference to corrective labour and imprisonment so as to ensure that sanctions for participation or organization of an illegal strike are not disproportionate.***

Article 6. Rights of federations and confederations. The Committee notes that section 13 of the Law on Trade Unions, which provides for the right to participate in the settling of collective labour disputes, including strike action, does not mention expressly that this right is also afforded to federations. ***The Committee requests that the Government indicate whether federations of trade unions may also call for a strike action in defence of their members' interests.***

The Committee asks the Government to forward a copy of the Law of Georgia on Employers of 28 October 1994 with its next report.

The Committee is also addressing a request on another point directly to the Government.

Germany

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

The Committee takes note of the information provided in the Government's report.

Articles 3 and 10 of the Convention. Right of public service organizations to formulate their programmes in defence of the occupational interests of their members including by recourse to collective action and strike. The Committee has been requesting for a number of years the adoption of measures so as to recognize the right of public servants ("Beamte" including postal workers, railway employees and teachers among others) who are not exercising authority in the name of the State, to have recourse to strike action. The Committee takes note in this respect of the comments made by the ICFTU in a communication dated 19 July 2004, according to which the main limitation on civil servants' rights, including teachers, railway employees and postal employees, is still the denial of the right to strike.

The Committee notes from the Government's latest report that the conditions of employment of civil servants are laid down in national laws and that there are no formal collective negotiations with the trade unions, although the latter are involved in consultative hearings in accordance with a provision in the Civil Servants' Act. In addition to this, last year innovative developments took place with a view to coming up with a draft legislation on the comprehensive modernization of the law governing civil servants, in collaboration with the trade unions concerned, in order to gain broad support for the considerable changes in conditions of employment involved in the new draft legislation. Against this backdrop, even the main issues paper on which the new legislation will be based was drawn up in collaboration with the

leaders of the main unions. Thus, it has been possible to work out a conceptual framework creating conditions for a more performance-related approach in the public service. Constructive dialogue with the unions has enabled the Government to harmonize the expectations and views of the two parties, which is important, given the scope of the proposed reform which affects about 1.7 million civil servants at the federal, Länder and local levels.

Noting that a major reform of the civil service is under way, the Committee hopes that the Government will take due account of the longstanding comments of the Committee on the need to ensure that public servants (“Beamte” including postal workers, railway employees and teachers) who are not exercising authority in the name of the State, can have recourse to strike action in defence of their economic, social and occupational interests. The Committee requests that the Government indicate in its next report any measures in this respect and to communicate any relevant legislative texts.

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

The Committee takes note of the Government’s report.

The Committee’s previous comments concerned the collective bargaining rights of teachers who are part of the civil service in Germany. The Committee had invited the Government to pursue initiatives and to adopt the necessary measures to ensure that teachers are not excluded from the right to collective bargaining since they are not engaged in the administration of the State and should therefore enjoy the guarantees provided for under *Article 4 of the Convention*.

The Committee notes from the Government’s report that the conditions of employment of civil servants, including teachers, are laid down in national laws. Although there are no formal negotiations with the unions, the Civil Servants’ Act (*Bundesbeamten-gesetz*) provides for the involvement of public servants’ unions in procedures which constitute more than a hearing but less than formal employer-employee co-management. Last year saw innovative developments in the process of collaboration with the unions, aiming at the development of draft legislation on the comprehensive modernization of the law governing civil servants. As this law will entail considerable changes in their conditions of employment, it was decided that civil servants should be involved in discussions at an early stage in order to win their broad support. Against this backdrop, even the basic issues paper on which the new legislation will be based was drawn up in collaboration with the leaders of the main unions. Thus, it has been possible to set up a conceptual framework creating conditions for a more performance-related approach in the public service. In drawing up the draft legislation, constructive dialogue with the unions has continued in order to harmonize the expectations and ideas of the parties, given that the proposed reform will affect about 1.7 million civil servants at the federal, Länder and local levels. Among numerous changes, the old salary system is being replaced with a system in which pay will depend primarily on individual performance and the nature of the work actually carried out. Other changes concern measures to make the law governing civil service careers more flexible by opening up career criteria and simplifying and revoking many regulations.

The Government concludes by stating that this collaboration with the unions went far beyond any previous form of participation and has proven to be effective.

The Committee takes note of this positive information, in particular the fact that consultations and dialogue with public servants’ trade unions have been an important element in the context of the preparation of draft legislation concerning the conditions of employment of public servants. The Committee recalls that the Convention refers to “negotiation between employers or employers’ organizations and workers’ organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements”. The Committee recalls that negotiations need not necessarily lead to legally binding instruments so long as account is taken in good faith of the results of the negotiations in question. *The Committee expresses the hope that the positive experience acquired through close consultation and dialogue with the public servants’ trade unions will provide further opportunities to ensure that teachers can engage in formal negotiations and fully exercise the right to collective bargaining and requests the Government to keep it informed of developments in this respect.*

Ghana

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

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

With regard to its previous comments concerning the steps taken for the adoption of a labour act which had been prepared with the assistance of the ILO, the Committee takes note of the text of the Labour Act which entered into force on 31 March 2004 and addresses certain questions concerning the provisions of this Act in a direct communication to the Government.

The Committee recalls that in its previous comments it had requested that the Government repeal the Emergency Powers Act, 1994, which grants extensive powers to suspend the operations of any law and to prohibit public meetings and processions. *The Committee once again asks the Government to provide information in its next report on any practical use of these powers.*

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

The Committee notes the Government's report containing information on the Labour Act, 2004, which entered into force on 31 March 2004 and notes with interest that this legislation, adopted following ILO technical assistance, takes largely into account the provisions contained in the Convention.

The Committee addresses a request on another point directly to the Government.

Greece

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

The Committee takes note of the information provided by the Government in its report.

Freedom of association of seafarers. In its previous comments, the Committee had asked the Government to provide information on the number of seafarers' organizations at all levels, the specializations covered by such organizations, and the manner in which new organizations could be established, registered and function. The Committee notes that, according to the Government, primary seafarers' organizations have been established and function in all specializations and categories of vessels. The Committee notes the list provided by the Government on the first-level seafarers' organizations in various specializations (marine masters, engineers, pursers, suppliers, able seamen, practical engineers and firemen, stewards, cooks, catering staff, skippers, radiotelegraphy and radio electronics officers and electricians). It also notes that all these organizations are members of the Panhellenic Seamen's Federation established in 1920, which is a member in turn of the General Confederation of Greek Workers and the International Transport Federation. Representatives of the Panhellenic Seamen's Federation are always included, according to the Government, in the Greek delegation to the ILO when maritime issues are examined. Moreover, seafarers' organizations together with shipowners' organizations constitute the social partners in the maritime sector with whom the administration consults before taking any measures for the protection and development of the merchant marine. The Committee takes note of this information.

Guatemala

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

The Committee notes the Government's report, the discussion in the Conference Committee on the Application of Standards in June 2005 and the various cases currently before the Committee on Freedom of Association.

The Committee notes the comments on the application of the Convention made by the Trade Union Confederation of Guatemala (UNSI TRAGUA) and the National State Union Workers' Federation (FENASTEG). The Committee notes that UNSI TRAGUA's comments refer to the Government's statements in its report of 2004 (for example, concerning the functions of the labour inspectorate, the declaration of strikes as being unlawful, the establishment of trade unions in export processing industries (*maquila*), procedures for the registration of trade union organizations, etc.) and that it also refers to acts of interference by the Government in trade union affairs on a ranch and in a sugar processing plant. ***The Committee suggests that the general matters raised by UNSI TRAGUA could be examined in the National Tripartite Committee and that the specific acts of interference by the Government in trade union affairs could be examined in the framework of the rapid intervention mechanism to examine complaints concerning violations of trade union rights, established following the direct contacts mission in 2004 and which, according to the Government, has begun to be operational. The Committee therefore requests that the Government and UNSI TRAGUA examine these matters in the above bodies.***

With regard to the comments by UNSI TRAGUA and FENASTEG criticizing a Civil Service Bill (the trade union organizations indicate that, among other violations of labour rights, the percentage required to establish trade unions is too high, restrictions are placed on the exercise of the right to strike, etc.), the Committee notes the Government's indication that the Bill is still at the consultation stage and it will be discussed with various institutions, including trade union organizations. ***Under these conditions, the Committee hopes that the Bill which emerges from the consultation process will be in full conformity with the provisions of the Convention and asks the Government to provide information in its next report on any developments in this respect. The Committee reminds the Government that the Office's technical assistance is at its disposal.***

The Committee also notes the comments on the application of the Convention made by the World Confederation of Labour (WCL), referring to matters already raised by the Committee.

1. Acts of violence against trade unionists

The Committee notes the Government's comments on this subject, and particularly that: (1) it recognizes that there is an institutional weakness relating to the investigation of any crime committed in Guatemala and that, although acts of

violence have clearly decreased considerably, it is evidently disturbing that the investigations have not been completed, for which reason the Government is making efforts to ensure that the Office of the Public Prosecutor completes the investigations; (2) it is considered important to discuss a mechanism to protect trade unionists, as recommended by the direct contacts mission in 2004, but it has to be emphasized that everyone requires protection, and particularly those working to enforce justice, and as the process of adapting the programme that is to be implemented for the latter is nearing completion, the programme for the protection of trade unionists is now being given priority; and (3) following the complaints made by workers' representatives in the Tripartite Committee on International Labour Affairs, the competent bodies have been directed to investigate them and to provide protection to the persons under threat.

The Committee expresses deep concern at the acts of violence against trade union leaders and members which, according to the Government, continue to be reported. The Committee emphasizes that trade union rights can only be exercised in a climate that is free of violence and expresses the sincere hope that the protection mechanism for trade unionists will become operational in the near future. It also requests that the Government provide information in its next report on any developments in this respect. The Committee trusts that the Government will make every effort to ensure full respect for the human rights of trade unionists.

2. Legislative problems

The Committee recalls that for many years it has been commenting on the following provisions which raise problems of conformity with the Convention:

- restrictions on the establishment of organizations in full freedom (the need to have half plus one of those working in the occupation to establish industry trade unions, under section 215(c) of the Labour Code), delays in the registration of trade unions or refusal to register them;
- restrictions on the right to elect trade union leaders in full freedom (the need to be of Guatemalan origin and to be a worker in the enterprise or economic activity in order to be elected a trade union leader, under sections 220 and 223 of the Labour Code);
- restrictions on the free financial administration of trade union organizations under the Organic Act on supervision of the tax administration, which in particular allows inspections without prior notice;
- restrictions on the right of workers' organizations to organize their activities freely (under section 241 of the Labour Code, strikes are declared not by a majority of the voters, but by a majority of the workers); the possibility of imposing compulsory arbitration in the event of a dispute in the public transport sector and in services related to fuel, and the need to determine whether strikes for the purpose of inter-union solidarity are still prohibited (section 4(d), (e) and (g) of Decree No. 71-86, as amended by Legislative Decree No. 35-96 of 27 March 1996); labour, civil and penal sanctions applicable to strikes involving public servants or workers in specified enterprises (sections 390(2) and 430 of the Penal Code and Decree No. 71-86).

The Committee notes the Government's indication that the representatives of employers and workers are analysing all the legal reforms with a view to resolving: the problems arising in relation to the reform initiatives of 2003; the shortcomings in the penal legislation which are in violation of freedom of association; all the aspects of Conventions Nos. 87 and 98; the provisions setting out the requirements to hold office on trade union executive committees; the substantive and procedural reforms, the legal criteria to establish the majority of votes required to call a strike and clarification of the legal definition of essential services in relation to the exercise of the right to strike.

The Committee also notes the Government's indication in this respect that: (1) due to the importance of submitting a proposed reform of the Labour Code, meetings of the Tripartite Committee on International Labour Affairs (CTAIT) are held every week and the reform is the only item on the agenda; (2) meetings have been held between the CTAIT and the Labour Commission of the Congress, in which the importance has been acknowledged of making reform proposals which are supported by tripartite consensus, for which purpose joint work is being carried out; and (3) many subjects on which the Committee of Experts suggested legislative changes are problems of interpretation because the constitutional principle is applicable that, in the event of conflicts of labour law, the most favourable provision for workers prevails, as a result of which many of the problems raised have already been resolved as subsequent legislation, irrespective of its source or hierarchical rank, has superseded the legal provisions identified as being problematic by the Committee (the Government indicates that this is the case of Government Agreement No. 700-2003 respecting essential public services in which compulsory arbitration can be imposed, on which the Committee had commented).

Under these conditions, noting that the Government and the social partners have embarked upon a process of analysis with a view to carrying out the required amendments of the legislation to bring it into conformity with the Convention, the Committee hopes that the necessary legislative reforms will be undertaken in the near future and that, in order to avoid any possible ambiguity, those provisions which have been superseded by subsequent laws will also be repealed. The Committee requests the Government to provide information in its next report on any developments in this respect.

3. Other matters

In its previous observation, with reference to the exercise of trade union rights in the export processing industry, the Committee requested the Government to provide information on any complaint relating to the exercise of trade union

rights in this sector, the corresponding administrative or judicial decisions and the manner in which compliance with the rights laid down by the Convention is secured in that sector. The Committee notes from the Government's report that: (1) with reference to the various investigations that have been commenced, when the general labour inspectorate has made comments, employers have guaranteed compliance with the minimum rights of workers and in some cases of failure to comply with labour provisions administrative action has been taken to impose a penalty on the employer for breach of labour law; (2) at the present time, following a ruling by the Constitutional Court, inspectors are not empowered to adopt administrative measures or to impose fines, for which reason complaints are made to labour tribunals so that they can impose penalties for violations of labour laws; (3) in the context of monitoring and inspection to enforce compliance with labour laws, labour inspectors have taken action and have warned employers to comply with certain legal requirements, following complaints; and (4) cooperation and support has been requested from the ILO Office in San José in Costa Rica for the holding of the first national seminar on labour rights and freedom of association in export processing industries, which is due to be held soon. ***Under these conditions, while recalling that the Government gave assurances to the direct contacts mission in 2004 that the tripartite seminar on the general issue of compliance with trade union rights in export processing industries would envisage a plan of action to be evaluated as part of the follow-up activities, the Committee requests the Government to continue making efforts to ensure compliance in this sector with the rights set forth in the Convention. The Committee also asks the Government to provide information in its next report on any complaints made in export processing industries of violations of trade union rights over the past two years, and their outcome.***

Finally, the Committee notes that UNSITRAGUA and the International Confederation of Free Trade Unions (ICFTU) recently sent comments on the application of the Convention. ***The Committee requests that the Government provide its observations thereon.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

The Committee notes the Government's report and the observations on the application of the Convention sent by the National Trade Union Federation of State Workers of Guatemala (FENASTEG), the Trade Union Confederation of Guatemala (UNSI TRAGUA), the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labour (WCL).

The problems referred to by the Committee relate to restrictions on the exercise of trade union rights in practice, as follows:

- cases of failure to comply with court orders to reinstate dismissed trade union members;
- tardiness of the procedure to impose penalties for breaches of the labour legislation (including violations of trade union rights), with some cases taking five years to process;
- the need to promote trade union rights (particularly collective bargaining) in export processing zones (*maquila* enterprises) (where there are only two unions and appear to be only two collective agreements);
- numerous anti-union dismissals; UNSITRAGUA has referred to a very high number of anti-union dismissals in the private sector and in the public sector; according to the Union of Guatemalan Workers (UGT), one-third of municipal trade union workers have been dismissed;
- inadequate guarantees in the procedure for the termination of public servants (section 79 of the Civil Service Act; section 80 of its implementing regulation; Decree No. 35-96 amending Decree No. 71-68 of the Congress of the Republic and Government Order No. 564-98 of 26 August 1998);
- violation of collective agreements (in over 60 per cent of cases, according to UNSITRAGUA);
- the need for the Code of Labour Procedures to be the subject of in-depth consultations with the most representative organizations of workers and employers.

The Committee notes that, according to the Government: (1) it has sought ILO accompaniment for the first national seminar on labour and trade union rights in the *maquila* sector in response to an undertaking with the direct contacts mission held in May 2004, and has appointed five labour inspectors for the *maquila* sector; supervisory actions amount to 1,668 (visits) and 2,015 (conciliation); (2) the Code of Labour Procedures initiative in the Congress of the Republic has no support from any sector; (3) the rapid response mechanism recommended by the direct contacts mission to deal with complaints concerning trade union rights is now operational and five complaints are currently being processed; (4) all the points the Committee raised concerning the application of the Convention are being examined by the employers' sector with a view to amending the legislation in order to overcome the problems; (5) the Ministry of Labour has asked the Congress of the Republic to consult with the National Tripartite Committee about the proposals for substantive and procedural provisions awaiting approval, and is doing its utmost to obtain the approval of Congress for the initiatives agreed to by the Tripartite Committee.

The Committee notes the observations sent by the trade unions to the effect that: (1) the new Civil Service Bill is inconsistent with the provisions of Convention No. 98 in many areas; (2) the Government has confirmed that there are two trade unions in the *maquila* sector with 53 members, but does not indicate the total number of workers in the sector, or express the membership of the two unions as a percentage of total workers or number of enterprises; (3) the Constitutional

Court has recently declared null and void the system of penalties for breach of the labour law; (4) section 414 of the Penal Code (which deals with the offence of disobedience) provides for progressive fines for failure to comply with orders to reinstate dismissed workers, the penalty is a monetary one and of little significance in practice; (5) according to the figures supplied by the Government, only 17 per cent of the trade unions in operation (389) have managed to conclude collective agreements; (6) tardiness in proceedings for anti-union discrimination is a widespread problem that is causing systematic destruction of trade unions (the membership rate is less than 0.5 per cent of the economically active population) and there are delays of up to ten years; (7) there are numerous cases of dismissal for the formation of trade unions or for collective bargaining; (8) one-third of municipal trade union leaders have been dismissed by mayors, and labour inspectors refrain from intervening in labour disputes in municipalities. The abovementioned organizations cite numerous cases of anti-union discrimination in the public and private sectors and send copies of a number of reinstatement orders which have not been obeyed.

The Committee notes with regret that the problems it has been raising for years have not abated and that the measures taken to resolve them, particularly referral of the problems to the Tripartite Committee, have been unsuccessful. ***The Committee expresses its concern at this matter and urges the Government to take the necessary steps to bring its law and practice into conformity with the requirements of the Convention, and to keep the Committee informed.***

With regard to the Bill on the reform of the Civil Service, the Committee notes the Government's statement that it is still being discussed, inter alia, with the trade unions. ***In view of the concern expressed by the trade union organizations and their many objections to the Bill, the Committee requests the Government to make every effort to pursue dialogue with the abovementioned organizations and to ensure that the future law is not contrary to the provisions of the Convention.***

The Committee reminds the Government that technical assistance from the Office is available to help to solve all the above problems.

[The Government is asked to supply full particulars to the Conference at its 95th Session and to reply in detail to the present comments in 2006.]

Guinea

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1959)

The Committee notes the Government's report.

The Committee recalls that in its previous observation it requested the Government to: (1) indicate whether, in cases where the parties do not reach an agreement on a negotiated minimum service in transport and communications (which are not considered to be essential in the strict sense of the term), measures are envisaged for an independent body to examine rapidly the difficulties encountered in the definition of the minimum service; and (2) keep it informed of any measures adopted or envisaged to ensure that compulsory arbitration (contemplated in sections 342, 350 and 351 of the Labour Code) is limited to cases in which the two parties agree to request it, except in essential services in the strict sense of the term or in the event of an acute national crisis.

The Committee notes that the Government indicates that it has taken due note of these observations, which it will take into account when revising the Labour Code.

The Committee requests that the Government keep it informed of developments in this respect.

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

The Committee notes the Government's report.

Article 1 of the Convention. The Committee recalls that the questions raised in its previous observation concerned the need to include in the national legislation specific provisions: (a) to protect all workers, and not only trade union delegates as set out in the Labour Code, against anti-union discrimination at the time of recruitment and during employment; (b) to protect employers' and workers' organizations against acts of interference by each other (or their agents); and (c) to explicitly provide for appeal procedures and sufficiently dissuasive sanctions against acts of anti-union discrimination and interference.

The Committee had noted that section 3 of the new draft Labour Code provides that no employer may take into consideration the membership of a trade union and trade union activities of workers in reaching decisions with regard, among other matters, to recruitment, conduct and the allocation of work, termination of the employment contract, etc. The Committee notes that the Government indicates that the new draft Labour Code does contain appeal procedures and sufficiently dissuasive sanctions. It therefore recalls that general legal provisions, such as section 3 of the draft Labour Code prohibiting acts of anti-union discrimination against workers, are inadequate in the absence of rapid and effective procedures, including the application of sufficiently dissuasive sanctions.

Article 2. The Committee notes that the new draft Labour Code does not contain provisions granting protection against acts of interference in the internal affairs of workers' and employers' organizations. **The Committee requests the Government to include in the draft Labour Code specific provisions prohibiting these acts combined with effective and sufficiently dissuasive sanctions.**

The Committee hopes that the provisions of the future Labour Code will be in full conformity with *Articles 1 and 2* of the Convention. **The Committee requests the Government to keep it informed in this respect in its next report and to provide a copy of the final text of the new Labour Code.**

Guyana

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1967)

The Committee notes that the Government's report has not been received. It must, therefore, repeat its previous observation, which read as follows:

The Committee requests the Government to transmit its observations on the comments communicated by the International Confederation of Free Trade Unions (ICFTU) dated 29 October 2003.

The Committee recalls that, in its previous comments, it had referred to the necessity of amending the Public Utility Undertakings and Public Health Services Arbitration Act (Chapter 54:01, sections 3, 12 and 19) so that compulsory arbitration in respect of a strike, liable to a fine or two months' imprisonment, may only be used with respect to strikes in essential services in the strict sense of the term. **The Committee trusts that the Government will take the necessary measures in the near future so as to bring the legislation into conformity with the Convention, and to ensure that the powers conferred on the authorities to resort to compulsory arbitration to bring an end to a strike are limited to strikes in services, the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee requests the Government to indicate in its next report any progress made in this respect.**

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

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

The Committee notes that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous comments, which read as follows:

1. The Committee notes that the Government's response to the comments made by the International Confederation of Free Trade Unions (ICFTU), dated 28 October 2003, has not been received.

The Committee notes that the ICFTU claims: (1) the absence of legislation against anti-union discrimination; (2) the imposition of working conditions in the public sector by means of circulars issued by the administration, frequently ignoring collective bargaining agreements; (3) refusal by the Forestry Commission to recognize the Guyana Public Service Union (GPSU); and (4) direct negotiation by the President of Guyana with the workers of the bauxite industry, ignoring the trade union. **The Committee once again requests the Government to send its observations on these matters and to ensure the full application of the Convention.**

2. The Committee recalls that the Trade Union Recognition Act provides for compulsory recognition of trade unions based upon 40 per cent support of the workers and had requested the Government to indicate any measure envisaged to ensure that, when any trade union has less than 40 per cent support of the workers, bargaining rights can be granted to all unions in the bargaining unit, at least on behalf of their own members. The Committee had noted in 2003 that in its report the Government indicated that this matter will be transmitted to the representative organizations of employers and trade unions for their comments. **The Committee hopes that the consultative process will be concluded soon and requests the Government to keep it informed of the views of the social partners and any measures adopted pursuant to the consultations**

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

Haiti

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

The Committee notes the Government's report. It also notes the comments sent by the International Confederation of Free Trade Unions (ICFTU) on 31 August 2005. The main issues raised by the ICFTU are the exclusion of certain categories of workers from the scope of the Labour Code, shortcomings in the machinery for mediation, consultation and arbitration, and restrictions on the right to strike. The ICFTU also reports numerous examples of breaches of trade union rights in practice, including anti-union intimidation and violence, death threats, homicides, unlawful dismissals. **The Committee asks the Government to communicate its comments on these observations.**

The Committee notes that the Government undertakes to work towards:

- facilitating the alignment of Haiti's legislation with the provisions of the Convention;

- amending section 34 of the Decree of 4 November 1983 which gives the Government broad powers of supervision over trade unions, and sections 185, 190, 199, 200 and 206 of the Labour Code, which allows compulsory arbitration at the request of only one party to a labour dispute;
- harmonizing the national legislation with the provisions of Article 35 of the Constitution of 1987, which guarantees freedom of association and protection of workers' rights in both the public and the private sectors;
- amending sections 233, 239 and 257 of the Labour Code so as to remove all impediments to the right of association of minors and domestic workers and to give foreign workers access to trade union office, at least after a reasonable period of residence in the host country.

In its previous comments, the Committee also addressed the need to repeal or amend section 236 of the Penal Code, under which Government consent is required for the establishment of an association of more than 20 members. *It hopes that the Government will take the necessary steps in the near future to make its legislation fully consistent with the Convention, including on this subject. The Committee asks the Government to provide detailed information in its next report on any progress made in this regard and to send copies of any texts adopted in connection with the matters raised above. The Committee reminds the Government that it may avail itself of the ILO's technical assistance.*

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

The Committee takes note of the Government's report.

In its previous comments, the Committee had requested the Government to keep it informed of any developments regarding: (i) the adoption of a specific provision to afford protection against anti-union discrimination at the time of recruitment; (ii) the adoption of provisions, coupled with effective and expeditious procedures and sufficiently dissuasive sanctions, guaranteeing workers general and adequate protection against acts of anti-union discrimination; and (iii) the amendment of section 34 of the Decree of 4 November 1983 which empowers the Social Organizations Service of the Department of Labour and Social Welfare to intervene in the framing of collective agreements.

The Committee takes note of the comments sent on 31 August 2005 by the International Confederation of Free Trade Unions (ICFTU) alleging the exclusion of certain categories of workers from the scope of the Labour Code (public servants, domestic workers, farmers, self-employed workers and workers in the informal economy), the dismissal or intimidation of persons attempting to organize workers into trade unions, shortcomings in the procedure for dispute settlement and the lack of adequate protection of workers' organizations against acts of interference by employers' organizations. The Committee notes the Government's statement that, in the light of the ICFTU's comments, it undertakes to do its utmost to give effect to the provisions of the Convention. *The Committee requests the Government to keep it informed of the measures taken.*

While noting that any reform of the labour legislation may have been delayed by the difficulties facing the country, the Committee notes the Government's undertaking to adopt all necessary measures to protect workers against all anti-union discrimination, to ensure adequate protection for employers' and workers' organizations against acts of interference by each other and to establish conditions to encourage and promote the development of voluntary bargaining procedures and their use on as wide a scale as possible.

The Committee reminds the Government that technical assistance from the Office is at its disposal and requests the Government to send detailed information in its next report on all progress made in this respect and, meanwhile, to keep it informed of any developments.

Honduras

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

The Committee notes the Government's report and observes with interest that a draft reform of the Labour Code has been prepared which includes various modifications that the Committee has been requesting for a number of years, and that the preparation of the draft text was preceded by a study carried out on a tripartite basis.

The Committee recalls that for many years its comments have referred to:

- The exclusion from the scope of the Labour Code, and thus from the rights and guarantees of the Convention, of workers in agricultural and stock-raising enterprises which do not permanently employ more than ten workers (section 2(1)). The Committee notes the Government's indications that, even though the labour legislation is applicable to agricultural and stock-raising enterprises which permanently employ more than ten workers, it is fully aware of the need to amend the legislation. *The Committee requests that the Government provide information in its next report on any amendment to the legislation adopted in this respect.*
- The prohibition of more than one trade union in a single enterprise, institution or establishment (section 472 of the Labour Code). The Committee notes the Government's indication, that under the terms of the legislation, a branch or industry union can coexist with the enterprise or first-level union, which means that more than two trade unions of

different levels can coexist, but that nevertheless in the draft amendment of the Labour Code the possibility is envisaged of the coexistence of more than one union of the same level in the same enterprise or workplace. ***The Committee requests that the Government provide information in its next report on any amendment to the Labour Code in this respect.***

- The requirement of more than 30 workers to establish a trade union (section 475 of the Labour Code). The Committee notes the Government's indication that the draft reform of the Labour Code, which will soon be submitted to the Economic and Social Council (CES) for consultation, amends this provision, setting a lower number of workers for the establishment of a trade union. ***The Committee asks the Government to provide information in its next report on any amendment adopted in this respect.***
- The requirement that the officers of a trade union, federation or confederation must be of Honduran nationality (sections 510(a) and 541(a) of the Labour Code), be engaged in the corresponding activity (sections 510(c) and 541(c) of the Labour Code) and be able to read and write (sections 510(d) and 541(d) of the Labour Code). The Committee notes the Government's indication that the labour legislation indeed establishes certain conditions which are discriminatory in the light of the Convention by limiting the right of foreign nationals to hold trade union office, or by establishing that officers of the trade union have to be engaged in the economic activity of the sector represented by the trade union, and that these matters are being envisaged in the draft reform of the Labour Code referred to above. ***The Committee hopes that in the context of this reform the requirement to be able to read and write to hold office in a trade union, federation or confederation will also be abolished and requests that the Government provide information on the amendments adopted on these matters.***
- The following restrictions on the right to strike:
 - the ban on strikes being called by federations and confederations (section 537 of the Labour Code). The Committee notes the Government's indication that: (1) the draft reform, which is about to be the subject of consultation with workers and employers, envisages the elimination of this prohibition; and (2) federations and confederations have exercised the right to strike without it being declared unlawful by the Government. ***The Committee asks the Government to provide information on the amendment adopted on this matter;***
 - the requirement of a two-thirds majority of the votes of the total membership of the trade union organization in order to call a strike (sections 495 and 563 of the Labour Code). The Committee notes the Government's indication that the draft reform of the Labour Code envisages establishing a simple majority of half plus one, calculated on the basis of the workers present at the assembly, in order to be able to call a strike. ***The Committee asks the Government to provide information on any amendment in this respect;***
 - the power of the Ministry of Labour and Social Security to end disputes in oil production, refining, transport and distribution services (section 555(2) of the Labour Code); the need for Government authorization or a six-month period of notice for any suspension or stoppage of work in public services that do not depend directly or indirectly on the State (section 558 of the Labour Code); and the submission to compulsory arbitration, without the possibility of calling a strike for as long as the arbitration award is in force (two years), of collective disputes in public services which are not essential in the strict sense of the term (sections 554(2) and (7), 820 and 826 of the Labour Code). The Committee notes the Government's indication that these matters have been submitted for tripartite consultation and are awaiting discussion and approval in the context of the reform of the labour legislation. ***The Committee asks the Government to provide information in its next report on any measure adopted to amend the provisions referred to above.***

The Committee recalls that for many years it has been referring to the need to amend the legislation to bring it into conformity with the Convention. ***The Committee expresses the firm hope that the amendments to the Labour Code referred to above will be undertaken in the near future and that the corresponding measures will be adopted to bring all the legislative provisions referred to above into conformity with the requirements of the Convention. The Committee requests that the Government provide information in its next report on the progress made in relation to the draft reform of the Labour Code.*** The Committee reminds the Government that the technical assistance of the Office is at its disposal.

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

The Committee takes note of the Government's report and notes with interest that a draft reform of the Labour Code has been prepared and incorporates a number of the amendments the Committee has been requesting for many years. It also notes that a tripartite study was conducted before the reform was drafted.

The Committee has been commenting for several years on:

1. *Inadequate protection against acts of anti-union discrimination.* The Committee had requested the Government to make provision in the legislation, which already prohibits acts of anti-union discrimination, for sufficiently effective and dissuasive sanctions against such acts, since the penalties established in section 469 of the Labour Code for impairment of the right to freedom of association (from 200 to 10,000 lempiras, 200 lempiras being equivalent to around US\$12) had been deemed inadequate by one workers' confederation. ***The Committee once again expresses the hope that***

the draft legislation will be adopted in the near future and will provide for sufficiently effective and dissuasive sanctions against all acts of anti-union discrimination. The Committee requests the Government to provide further information on this matter in its next report.

2. *Protection against acts of interference.* The Committee notes that the Government again indicates in its report that pursuant to section 511 of the Labour Code, members of the union whose tasks entail representing the employer or who hold positions of management or personal trust, or who are easily able to exert undue pressure on their colleagues, may not hold trade union office. The Committee points out in this connection that *Article 2 of the Convention* provides for broader protection for employers' and workers' organizations against any acts of interference by each other (or their agents) and treats as acts of interference, among others, acts which are designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means with the object of placing such organizations under the control of employers or employers' organizations. *The Committee again expresses the hope that the draft legislation will be adopted in the near future and will include provisions designed to prohibit and afford full and adequate protection against all acts of inference, together with sufficiently effective and dissuasive sanctions against such acts. The Committee requests the Government to provide information in its next report on any measures adopted to this end.*

Hungary

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

The Committee notes the Government's report as well as its response to the comments made by the International Confederation of Free Trade Unions (ICFTU) concerning, more particularly, anti-union dismissals of trade union officers and workers, failure to protect them, interference on the part of employers in the establishment of trade unions or in the activities of already established unions and restrictions in practice to the right to collective bargaining. The Committee notes that the Government has significantly increased the number of labour inspectors, has submitted to Parliament a Bill increasing substantially the legal fines and that a new legal framework has been set up including incentives towards employers to respect trade union rights.

Article 2 of the Convention. With regard to its previous comments concerning the need to adopt specific legislative provisions prohibiting acts of interference, the Committee notes that the Government indicates in its report that there are no such provisions but that Act CXXV of 2003 on equal treatment and the promotion of equal opportunities contributes to preventing acts of interference by providing protection against anti-union discrimination. *The Committee requests once again the Government to indicate in its next report any measures taken or contemplated so as to adopt specific legislative provisions prohibiting acts of interference (in particular, those designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to place workers' organizations under the control of employers or employers' organizations through financial or other means), and establishing rapid appeal procedures, coupled with effective and dissuasive sanctions against such acts.*

Article 4. With regard to its previous comments concerning the representativeness requirements set for recognition as a bargaining agent, the Committee notes the clarifications provided by the Government in its report to the effect that these unions need to represent individually or jointly more than 50 per cent of workers in the elections of the works councils in order to be recognized as a collective bargaining agent. However, where this requirement is not met by any union individually or jointly, negotiations may be carried out with the collective agreement being subject to the approval of the employees, as it will be applicable to the whole workplace. *The Committee requests the Government to indicate if this system also applies to sectoral or national level collective agreements.*

Iceland

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

The Committee takes note of the information provided in the Government's report as well as the written and oral information provided by the Government representative during the discussion that took place at the Conference Committee in June 2004.

The Committee recalls that its previous comments concerned the issue of compulsory arbitration which has been repeatedly imposed through legislative intervention (Acts Nos. 10/1998 and 34/2001) into the collective bargaining process for the determination of the terms and conditions of employment of fishermen. In its previous comments, the Committee noted that this was incompatible with the principle of free and voluntary collective bargaining set out in *Article 4 of the Convention* and requested the Government: (i) to avoid having recourse to legislative intervention to impose on the parties a solution which should be the result of free and voluntary collective bargaining; and (ii) noting the Government's indications that it would consult the social partners on actions to be taken, to take concrete steps so as to re-examine thoroughly its current machinery and procedures.

The Committee notes that the Conference Committee observed that the question of the intervention of the public authorities in collective bargaining in the fishing and other sectors was raised on various occasions and expressed the hope that the Government would carry out, in full consultation with the social partners concerned, a review of the implementation in practice in the fishing sector of the mechanisms and procedures in the area of collective bargaining in order to improve the mechanisms of free and voluntary negotiation in conformity with *Article 4* of the Convention.

The Committee notes from the Government's latest report that: (i) a new agreement was signed on 30 October 2004 between the Icelandic Seamen's Federation, the Eastern Iceland Federation of Labour, the West Fjords Federation of Labour and the Merchant Navy and Fishing Vessels Officers Guild, on the one hand, and the Federation of Icelandic Fishing Vessels Operators and the Confederation of Icelandic Employers, on the other, and is to remain valid until 31 May 2008. Another agreement was reached between the Federation of Icelandic Fishing Vessel Owners and the Association of Icelandic Marine Engineers; and (ii) the Minister of Fisheries called a meeting with representatives of the main organizations of employers and workers in the fishing sector in order to discuss, inter alia, the expressed hope of the Committee of Experts concerning the revision of the mechanisms and procedures of collective bargaining in the fishing sector, but no mention was made by any participant of any need to change the mechanism and procedures, and the Minister concluded that this issue was not relevant in the near future.

The Committee notes this information and, in particular, notes with interest that two collective agreements have been signed setting the terms and conditions of employment of fishermen up until 31 May 2008. ***The Committee requests the Government to continue to keep it informed of any progress made in adopting measures with a view to improving the current machinery and procedures for collective bargaining so as to promote free and voluntary collective bargaining and to avoid the introduction of compulsory arbitration through legislative intervention in the future, in the framework of the determination of terms and conditions of employment in the fishing and other sectors.*** The Committee recalls once again that the ILO's technical assistance is at the Government's disposal if it so wishes.

Indonesia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1998)

The Committee takes note of the information contained in the Government's report.

The Committee's previous comments concerned the practical implementation of freedom of association rights in the country, pursuant to comments on serious violations of trade union rights (attacks, violence, arrests and detentions, harassment of trade unionists) made by the International Confederation of Free Trade Unions (ICFTU). The Committee had requested the Government to indicate any measures taken to ensure that trade unions can exercise their activities in a climate free of threats and intimidation of any kind. In this respect, it had taken note of the draft guidelines of the Ministry of Manpower and Transmigration and the Indonesian National Police aimed to provide instructions on the role and conduct of police officers in relation to strikes, lockouts and labour disputes and had requested that the Government keep it informed of developments in this regard.

The Committee notes with interest that in its report the Government indicates that the Ministry of Manpower and Transmigration and the Indonesian Police have issued, with ILO technical assistance, Guidance on the Conduct of Indonesian Police concerning Law Enforcement and Order in Industrial Relations Disputes. Academic and tripartite representatives were involved in the establishment of this guidance, the aim of which is to ensure a standardized official conduct by the police in keeping the public safety and order as well as enforcing the law when there are excesses in industrial disputes, strikes, demonstrations, etc. Furthermore, the Committee also notes with interest that the military is not allowed to have any involvement in industrial disputes in accordance with the instruction letter of the Indonesian Military Commander/ Coordinator of the National Stability Board No. STR/85/STANAS/VII/1998.

The Committee takes note of the text of the Guidance on the Conduct of Indonesian Police concerning Law Enforcement and Order in Industrial Relations Disputes. It notes in this respect that section 1 of the Guidelines which contains a general policy statement, provides in subsections (b) and (c) that "any strike, demonstration or company lockout in general may result in the disturbance of public security and order" and that in such situations "and in industrial disputes in general, appropriate action of the Indonesian National Police (INP) is necessary to maintain public security and order, enforce the law, and allow the exercise of rights of workers and employers to strike, demonstration and lockout".

The Committee considers that the above provisions may give rise to an institutionalization of the role of the police in labour disputes in a manner which may infringe upon the right to strike and potentially provoke a disturbance.

Finally, the Committee notes with concern that section 8(e) of the Guidelines provides that "firearms can be used only in situations where there is serious and imminent threat to the safety of life and property and dignity ...". The Committee considers that police interference in strikes and protests, especially with the use of firearms should be limited to exceptional situations of violence involving a genuine threat to public order and considers that the reference in the Guidelines to an imminent threat to "dignity" may be too general and may not ensure sufficient guarantees against the use of excessive violence.

The Committee recalls that the authorities should resort to calling in the police in a strike situation only if there is a genuine threat to public order and governments should take measures to ensure that the competent authorities receive adequate instructions so as to avoid the danger of excessive violence in trying to control demonstrations that might undermine public order. Moreover, arrests should be made only where violence or other criminal acts have been committed.

The Committee requests that the Government indicate the measures taken and instructions given to the police to ensure respect for these principles.

The Committee is also addressing a request on certain other points directly to the Government.

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

The Committee notes the information contained in the Government's report. It further notes the comments received from the International Confederation of Free Trade Unions (ICFTU) and the reply of the Government thereon.

Article 1 of the Convention. Protection against acts of anti-union discrimination. In its previous observation, the Committee had noted the comments made by the ICFTU with regard to frequent cases of anti-union discrimination handled in the framework of lengthy legal procedures which could take up to six years (before regional and national labour disputes resolution and the State Administrative Court on appeal). The Committee had noted the Government's statement that it expected Act No. 2 of 2004 concerning Industrial Relations Dispute Settlement to improve the speed with which labour disputes would be processed.

The Committee notes from the Government's report that so far, there have been no anti-union discrimination cases judged by the court and no proposal, complaint, permission or dismissal because of workers' membership in a trade union. The Committee also notes that the implementation of Act No. 2 of 2004 concerning Industrial Relations Dispute Settlement, which was supposed to enter into force in January 2005, has been postponed to January 2006. *The Committee requests the Government to provide information in its next report on the steps taken by the labour inspectorate in order to prevent and redress acts of anti-union discrimination in practice (number of visits, types of violations found, steps taken including penalties imposed, etc.). It also requests the Government to keep it informed of any cases brought to the judicial bodies against alleged acts of anti-union discrimination and the decisions reached. The Committee expresses the hope that Act No. 2 of 2004 concerning Industrial Relations Dispute Settlement shall strengthen the effectiveness of the current mechanism of protection against anti-union discrimination upon its entry into force, and requests the Government to provide information in this respect in its next report.*

Article 2. Protection against acts of interference. In its previous observation, the Committee had requested the Government to amend section 122 of the Manpower Act so as to discontinue the presence of the employer during a voting procedure held in order to determine which trade union shall have the right to represent the workers in an enterprise. Furthermore, noting that the ICFTU referred to an important number of acts of interference in trade unions' affairs, the Committee had requested the Government to supply statistics on the number of complaints lodged and the most frequent problems examined.

The Committee notes that the Government does not provide any statistical information and has not considered yet the amendment of this provision. *The Committee once again requests the Government to indicate in its next report the steps taken to amend section 122 so as to exclude the presence of the employer during voting procedures and to supply statistics on the number of complaints of interference by employers in trade union affairs lodged in the last two years and the most frequent problems examined.*

Article 4. In its previous comments, the Committee had requested the Government to amend sections 5, 14 and 25 of Act No. 2/2004 which enable either of the parties to an industrial dispute to file a legal petition to the Industrial Relations Court for final settlement of the dispute if conciliation or mediation failed.

The Committee notes from the Government's report that the Act promotes bipartite deliberations and that before going ahead, the mediator, conciliator, arbiter as well as the Industrial Relations Court have to ask whether the dispute has been bipartitely deliberated. Moreover, the Act is the result of intensive discussions between the Government and members of the legislature after having received inputs from employers' and workers' organizations. Thus, the Government states that it has not given consideration to the amendment of sections 5, 14 and 25 of the Act.

The Committee once again recalls that compulsory arbitration at the initiative of one of the parties to an interests dispute raises problems from the point of view of Convention No. 98 as it cannot be considered to promote voluntary collective bargaining. Compulsory arbitration should be possible only: (i) if it is at the request of both parties to the dispute; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; or (iii) in essential services in the strict sense of the term. *The Committee once again requests the Government to indicate in its next report the measures taken or contemplated to amend sections 5, 14 and 25 of Act No. 2/2004 in accordance with the above principles, so as to bring its legislation into conformity with the Convention and, in the meantime, to provide information on the practical application of these provisions.*

Export processing zones (EPZs). In its previous observation, the Committee had requested the Government, pursuant to allegations of violent intimidation and assault of union organizers, and dismissals of union activists in the

EPZs, to provide information on the number of collective agreements in force in the EPZs and the percentage of workers covered. *The Committee notes with regret that the Government does not provide any information in this respect and reiterates its request for information on the promotion of collective bargaining in EPZs.*

The Committee is also addressing a request directly to the Government.

Iraq

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

The Committee notes that it has not received the Government's report. While bearing in mind the ongoing process of reconstruction in the country and the climate of violence, the Committee recalls that its observations mainly concerned the following points.

Articles 1 and 4 of the Convention. The Committee noted that neither the Labour Code (Act No. 71 of 1987) nor Act No. 52 of 1987 on trade union organizations contain provisions giving effect to *Articles 1 and 4* of the Convention. It recalls that the Government indicated that measures had been taken to amend the Labour Code in the manner desired by the Committee. *Noting that the process of preparing a new Labour Code began in 2004, the Committee expresses the hope that these amendments will be adopted as soon as possible, in order to include in the legislation provisions guaranteeing the protection of workers against any acts of anti-union discrimination and to promote the preparation and full use of collective bargaining mechanisms in the private, mixed and cooperative sectors.*

Articles 1, 4 and 6. The Committee also noted that Act No. 150 of 1987 concerning public servants does not contain any provisions ensuring that the guarantees provided for by the Convention apply to public servants and employees not engaged in the administration of the State. It recalls that the Government indicated that public servants enjoy protection against acts of anti-union discrimination and have the right to collective bargaining when negotiating their employment conditions, in conformity with the legislation applicable in the enterprises and institutions which employ them. *The Committee requests the Government to provide a copy of the applicable legislation for examination at its next session, as well as information on the number of collective agreements concluded in the public and private sectors and the number of workers covered.*

Jamaica

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

The Committee takes note of the information contained in the Government's report.

With reference to its previous request to transmit the list of essential services, the Committee takes due note that the only services remaining on this list are the following: water services, electricity services, health and hospital services, sanitary services, fire-fighting services, correctional services and overseas telecommunications.

As regards the extensive power of the Minister to refer an industrial dispute to arbitration, the Committee notes the Government's statement that the concern of the ILO in this respect has been duly noted and that the relevant sections of the Labour Relations and Industrial Disputes Act are still under review. *Recalling that compulsory arbitration should be limited to essential services or situations of acute national crisis and that otherwise, recourse to compulsory arbitration should only be possible at the request of both parties to the dispute, the Committee requests that the Government indicate in its next report any progress made in amending sections 9, 10 and 11(A) of the Act and provide copies of the draft legislation in this respect.*

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

The Committee notes the information contained in the Government's report and recalls that its previous comments on the application of *Article 4 of the Convention* concerned the following points:

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

In its report, the Government indicated that, while noting the comments made by the Committee, it could not report on any measures taken to amend its legislation. It further stated that the Committee would be informed as soon as a decision is taken to effect the necessary amendments to the legislation.

Recalling once again that, by ratifying the Convention, the State undertook to promote collective bargaining and that this implied granting of collective bargaining rights to the most representative trade union or (jointly) trade unions, the Committee hopes that the Government will take the necessary measures in order to amend its legislation so as to bring it into full conformity with the Convention in the very near future. The Committee requests the Government to keep it informed in this regard.

Japan

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

The Committee takes note of the Government's report. It also notes the conclusions and recommendations reached by the Committee on Freedom of Association in Cases Nos. 2177 and 2183 (329th Report, paragraphs 567-652, and 331st Report, paragraphs 516-558). The Committee also takes note of the comments of the Japanese Trade Union Confederation (JTUC-RENGO) dated 1 September 2004 and 5 September 2005, and of the Government's reply thereto. It further notes the comments made by the Japan National Hospital Workers' Union (JHWU/ZEN-IRO) on 26 August 2003 and 4 August 2004 as well as the Government's reply thereto. The Committee finally notes the comments made by the ZENTOITSU (All United) Workers' Union on 30 March, 7 October and 14 December 2004 and 12 April 2005. The Committee observes that the comments made by the ZENTOITSU (All United) Workers' Union relate to collective bargaining and anti-union discrimination issues dealt with under Convention No. 98.

1. *Denial of the right to organize of firefighting personnel.* The Committee recalls its long-standing comments concerning the need to recognize the right to organize for firefighting personnel. It also notes that in the conclusions and recommendations reached in Cases Nos. 2177 and 2183, the Committee on Freedom of Association urged the Government to amend its legislation to ensure that firefighters have the right to organize.

The Committee observes that in its report the Government reiterates previously provided information to the effect that the services and functions of the fire defence in Japan correspond to those of the police and therefore fall under the exception of *Article 9*. The Government adds that the issue of the establishment of an organization by the fire defence personnel should be resolved in accordance with the national consensus which has so far, allowed for the creation of a system of fire defence personnel committees which guarantee the participation of fire defence personnel in decisions over their terms and conditions of employment. The fire defence personnel committee system has been firmly established since 1997, and nearly 5,000 opinions by employees are discussed annually through this system across the country (50,000 in total by March 2005). On 15 October 2004, eight years since the establishment of the system, an agreement was made between the Minister of Internal Affairs and Communications and the representative of the Japan Federation of Prefectural and Municipal Workers' Union (JICHIRO) to exchange views on the practices of the Fire Defence Personnel Committees. As a result, a "body" was set up and held five meetings from 25 November 2004 to 15 March 2005. Pursuant to consultations within the body, the following improvements were agreed between the Ministry and JICHIRO: (i) the sessions of the committees shall be held in the first half of the fiscal year (April to September) in order to allow enough time for budget allocations; (ii) the committees shall notify each employee who submitted opinions of the result of discussions on these opinions and provide relevant reasons; they shall also provide all of the personnel with a summary of the deliberations including the opinion which the Committees submitted to the Chief; (iii) a "Liaison Facilitator" system shall be introduced to the Committees; facilitators shall be named on the basis of recommendations by the personnel in order to provide explanations on the opinions submitted by personnel to the Committees and make comments on their operation. The improvements have already been introduced in the Order on the organization and operation of the fire defence personnel committees issued under article 14(5), paragraph 4, of the Fire Defence Organization Law.

The Committee takes note of the improvements introduced to the functioning of the fire defence personnel committees system pursuant to consultations with JICHIRO. It also recalls however, that in their comments submitted over the years, JICHIRO and the National Network of FireFighters (FFN), had indicated that although they considered the fire defence personnel committees as an advancement in providing an opportunity to staff to state their own opinions, they also considered that these committees were not equivalent to giving personnel the right to organize and that the law needed to be amended in this respect. The Committee further notes from the recent comments made by JTUC-RENGO, that although steady progress has been obtained in the operation of the existing system of fire defence personnel committees, with the voices of the fire defence personnel carrying more weight, no improvement has been made on securing the right to organize itself for fire defence personnel.

The Committee once again recalls that as early as 1973, it had stated that it "does not consider that the functions of fire defence personnel are of such a nature as to warrant the exclusion of this category of workers under *Article 9 of the Convention*" and hoped that the Government would take "appropriate steps to ensure that the right to organize is recognized for this category of workers" (ILC, 58th Session, Report III(4A), page 122). *The Committee therefore once*

again asks that the Government indicate in its next report any legislative measures taken or contemplated in order to ensure that fire defence personnel are guaranteed the right to organize.

2. *Prohibition of the right to strike of public servants.* The Committee takes note of the conclusions and recommendations reached by the Committee on Freedom of Association in Cases Nos. 2177 and 2183 to the effect that public sector employees, like their private sector counterparts, should enjoy the right to strike, with the possible exceptions of public servants exercising authority in the name of the State and workers employed in essential services in the strict sense of the term. Moreover, public employees who may be deprived of this right should be afforded appropriate compensatory guarantees (329th Report, paragraph 641, and 331st Report, paragraph 554). The Committee recalls that in its previous comments it had referred to the detailed comments of the Fact-Finding and Conciliation Commission on Freedom of Association which stressed the importance "... in circumstances where strikes are prohibited or restricted in the civil service or in essential services within the strict meaning of the term, of according sufficient guarantees to the workers concerned in order to safeguard their interests" (ILC, 63rd Session, 1977, Report III(4A), page 153).

The Committee observes that in its latest report the Government indicates once again that the Supreme Court of Japan has maintained throughout its judgments that the prohibition of strikes by public servants is constitutional, something it had already mentioned to the Fact-Finding and Conciliation Commission on Freedom of Association (ILC, 64th Session, 1978, Report III(4A), page 143). The Committee is most concerned therefore to note that the situation has not evolved significantly. *It asks the Government to indicate in its next report the measures taken or envisaged to ensure that the right to strike is guaranteed to public servants who are not exercising authority in the name of the State and to workers who are not working in essential services within the strict sense of the term, and that the others (e.g. hospital workers) benefit from sufficient compensatory guarantees in order to safeguard their interests, namely adequate, impartial and speedy conciliation and arbitration procedures, in which the parties have confidence and can participate at all stages, and in which the awards, once made, are binding and fully and promptly implemented.*

3. *Reform of the civil service.* The Committee notes that in Cases Nos. 2177 and 2183 the Committee on Freedom of Association requested that the Government, as well as the complainants ZENZOREN and JICHIROREN make efforts with a view to achieving rapidly a consensus on the reform of the public service and on legislative amendments addressing the issues raised above and many others.

The Committee takes note of the comments made by JTUC-RENGO to the effect that despite ongoing negotiations with the Government, no improvement has been noted on any of the issues under discussion. JTUC-RENGO strongly opposes unilateral legislative proposals aimed at reforming the public service system and it calls on the Government to establish a new framework for the implementation of reform based on national consensus. JTUC-RENGO proposes certain minimum demands in this respect, including the need for the Government to state clearly its intention to grant fundamental trade union rights to public service employees and to present a plan to this effect, as well as the need to establish a labour-management consultation system in the framework of introducing a new personnel appraisal system focusing on workers' competence and achievement.

The Committee notes that according to the Government, the Cabinet adopted in December 2004 a decision on the "Future Policy for the Administrative Reform", in which it indicated that the Government will consider submitting bills to the Diet while making further coordination efforts with the parties concerned, and will try to put into practice reforms which can be implemented within the current legislative framework for a steady promotion of the reform. The Government recognized that it is necessary to continue meeting with JTUC-RENGO on this subject, in a meeting of May 2005 between representatives of this trade union and the Prime Minister as well as other ministers. As for the trial implementation of the new personnel appraisal system, the Government is currently exchanging views with employees' organizations in an effort to start the trial within the 2005 fiscal year. The Government stated its intention to make its best efforts to achieve a fruitful Civil Service Reform through a broad exchange of views with the parties concerned including employees' organizations.

In these conditions, the Committee wishes to stress once again that the reform process which will establish the legislative framework of industrial relations in the public sector for many years to come, is a particularly appropriate opportunity to hold full, frank and meaningful consultations with all interested parties on all the issues which create difficulties with the application of the Convention and whose legal and practical problems have been raised by workers' organizations over the years. The Committee trusts that the Government will continue to take all the necessary measures in this regard and asks it to provide information on the progress made in its next report.

4. *Restrictions on trade union activities in medical institutions.* The Committee takes note of the comments made by JHWU/ZEN-IRO on 26 August 2003 as well as the Government's observations thereon. JHWU/ZEN-IRO indicates that the Direction of the National Sanatorium Nishi-beppu Hospital prohibited trade union training sessions using videotapes, removed TV sets from the rest stations, repeatedly questioned the union branch officers on the training sessions, banned the distribution of union bulletins, petition papers etc. in the personnel rest stations, intervened in a union petition activity and took disciplinary measures (reprimand) against the deputy chairman of the union branch. According to JHWU/ZEN-IRO, training during rest hours had been allowed for 30 years in that sanatorium before the management unilaterally decided to prohibit it.

The Committee notes that according to the Government, the stance of the hospital management was fully justified by the fact that the regulation concerning the management of national land and buildings prohibits the use of video recorders on hospital property without permission.

The Committee recalls that freedom of association implies that workers' and employers' organizations should have the right to organize their activities in full freedom, including by using video recordings if they so wish, with a view to defending all of the occupational interests of their members. *It requests the Government to ensure respect for this principle in the future.*

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

The Committee takes note of the comments of the Japanese Trade Union Confederation (JTUC-RENGO) dated 1 September 2004 concerning the public service system reform and the negotiation rights of public employees not engaged in the administration of the State, as well as the comments of the Japan National Hospital Workers' Union (JNHU/ZEN-IRO) dated 26 August 2003 and 4 August 2004 on the exclusion of certain matters from negotiations in national medical institutions and the Government's reply thereto. The Committee also takes note of earlier comments made by the Zentoitsu Workers' Union and other workers' organizations as well as those of 18 April 2005 which raise several issues related to anti-union discrimination and collective bargaining.

Article 1 of the Convention. 1. The Committee notes that the comments of the Zentoitsu Workers' Union and other workers' organizations concern allegations of anti-union discrimination arising out of the privatisation of the Japanese National Railways (JNR) which were taken over by the Japan Railway Companies (the JRs), in particular, the decision of the JRs not to rehire workers belonging to certain organizations which opposed the privatisation plan. The Committee notes that this issue is under examination by the Committee on Freedom of Association and shares the recommendation made by the Committee on Freedom of Association in this regard, namely, to invite the Government to pursue discussions with all parties concerned in order to resolve this issue.

2. The Committee also notes that in its communications the Zentoitsu Workers' Union refers to various Court rulings which allegedly neglect the right to organize and refrain from punishing unfair labour practices. *The Committee requests the Government to communicate its observations in this respect in its next report which is due in 2007.*

Article 4. 1. Collective bargaining rights of public service employees not engaged in the administration of the State in the context of the civil service reform. In its previous observation the Committee had requested the Government to take the necessary measures to ensure the promotion of collective bargaining for public employees who are not engaged in the administration of the State and to keep it informed of developments regarding the ongoing consultations on the reform of the civil service.

The Committee notes that according to JTUC-RENGO, there have been no improvements on the promotion of negotiations and the Government has taken further unilateral steps for the determination of wages and labour-management relations of local public servants without any consultations. Furthermore, in the framework of the civil service reform, the National Personnel Authority (NPA) requested the Diet and the Cabinet on 15 August 2005 to amend certain laws so that management may evaluate each public employee's performance and decide their wages unilaterally. According to the JTUC-RENGO, despite negotiations and consultations with the NPA on this issue, the two sides remain as far apart as ever and the NPA's recommendations exclude trade unions from the wage determination process.

The Committee notes that the Government largely reiterates the previously provided information on the NPA which is a neutral body established as a compensatory measure for the restriction of the right to collective bargaining of public employees. This body makes surveys on working conditions in the private sector and hears the views of public employees' organizations before making recommendations to the Diet and the Government on the revision of remuneration and working conditions of public employees. In 2004, it held 213 official meetings with employees' organizations. The Government adds with respect to local public employees, that Personnel Commissions also operate as neutral bodies that make recommendations in order to ensure that the employees' salary schedules are adapted to the prevailing social conditions (cost of living, remuneration and other conditions of national public employees and those in other local public bodies as well as in the private sector).

With regard to the civil service reform, the Government indicates that after several meetings in 2004 it concluded that coordination with the parties concerned, including employees' organizations, had not advanced sufficiently and decided to defer submitting bills for civil service reform to the Diet. At the same time, it adopted the "Future Policy for the Administrative Reform" in December 2004 in which it stated that it would consider submitting the relevant bills to the Diet while making further efforts of coordination with the parties concerned. Further meetings took place in the meantime and the Government intends to carry out its best efforts to achieve a fruitful reform through a broad exchange of views. The Government adds that during discussions held with employees' organizations on 17 June 2005 it expressed the view that revisions would be considered on the basis of the NPA recommendation system and after having listened to the opinions and requests of employees' organizations. The NPA held 212 official meetings with employees' organizations from January through August 2005. Its recommendation was submitted on 15 August 2005. The latter proposal included, in addition to a revision of remuneration levels, a proposal for drastic reform of the whole remuneration system including the salaries and allowances of public employees so as to reflect local private sector wage levels and each employees'

performance. Thus, the Government states that not only it did not unilaterally determine the modalities of wage and working conditions but on the contrary, decided to follow fully the recommendation made by the NPA.

Taking note of this information, the Committee recalls from previous comments that the capacity of public employees who are not engaged in the administration of the State to participate in the determination of wages is substantially limited and once again requests the Government to take the necessary measures to give a primary role to collective bargaining so that workers and their organizations may be able to participate fully and meaningfully in designing the overall bargaining framework. The Committee hopes that the Government will be able to report progress in this respect in its next report in the context of the civil service reform.

2. *Negotiations in national medical institutions.* The Committee takes note of the comments of the Japan National Hospital Workers' Union (JNHWU/ZEN-IRO) dated 4 August 2004 on insufficient consultations/ negotiations in the context of the transfer of 154 national hospitals and sanatoriums to the National Hospital Organization (NHO), which is an independent administrative agency, as of 1 April 2004. The Committee notes that according to the JNHWU/ZEN-IRO, the Ministry of Health, Labour and Welfare ignored the union's demands with regard to security of employment, terms and conditions of employment and trade union facilities. Moreover, on 1 April 2004 the NHO sent a notice to all hospital Directors stressing that they should not engage in collective bargaining over matters which do not fall within their competence, in addition to management and administrative matters, which also cannot be subject to collective bargaining. Following this, in a meeting of 19 May 2004 it was agreed that matters over which directors do not have competence are to be negotiated between the NHO headquarters and the JNHWU/ZEN-IRO headquarters; however, the trade union believes that it is unrealistic to expect the NHO to negotiate as the latter has avoided negotiations so far.

The Committee notes that according to the Government, the Ministry of Health, Labour and Welfare conducted negotiations and discussions with the union in good faith and made necessary changes to reflect the results of those negotiations and discussions in the context of the transfer of most national hospitals and sanatoria to the NHO. Moreover, legislation and applicable agreements concerning collective bargaining are implemented in hospitals and there has been in fact, a large increase in collective bargaining. NHO Headquarters negotiated with the JNHWU/ZEN-IRO on 18 occasions in 2004. Moreover, collective bargaining between a hospital and a branch of the JNHWU took place 88 times at 77 hospitals in 2004.

The Committee takes note of this information. The Committee once again recalls that it is contrary to the Convention to exclude from collective bargaining, at all levels or at the relevant level, certain matters relating to work conditions and that measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with the Convention. *The Committee requests the Government to take further measures to promote collective bargaining in national medical institutions and to indicate in its next report, which is due in 2007, the subjects over which collective bargaining took place and the number of collective agreements reached in the period 2004-06 within the system of the National Hospital Organization which has now become an Independent Administrative Institution.*

3. The Committee notes the comments made by the Zentoitsu Workers' Union to the effect that the Law on the Division of Companies contains no provision on the disclosure of information and collective bargaining in the case of transfers from an existing company to a successor one, while the Law on the Succession of Labour Contracts contains a mere obligation for employers to "consult with each employee" prior to the day on which formal documents on the company's division are to be provided and two weeks before the shareholders' meeting may decide on the division.

The Committee notes, however, that according to the Government, the Law concerning the Succession of Labour Contracts provides that in case workers are to work for new companies due to a division, the working conditions stipulated in the labour contracts and collective agreements shall remain applicable to the workers in the new companies.

Kenya

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

The Committee notes the comments submitted by the International Confederation of Free Trade Unions (ICFTU) in a communication of 31 August 2005 concerning the right to collective bargaining of the civil servants not engaged in the administration of the State and requests the Government to send its observations thereon.

The Committee will examine these comments as well as the questions raised in its 2004 direct request (see direct request 2004, 75th Session) under the regular reporting cycle in 2006.

Kuwait

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

The Committee takes note of the comments made by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 31 August 2005. The Committee notes that these comments relate to issues which have been the

subject of previous observations by the Committee. It will therefore examine these comments at its next session, along with the issues raised by the Committee in its previous observation (see 2004 observation, 75th Session) and the Government's report, which is due in 2006.

Latvia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1992)

In its previous observation, the Committee had requested that the Government indicate whether the prison wardens and employees of the Fire-fighting Department, Lifesaving Service and Penitentiary Department had the right to bargain collectively and have access to the dispute settlement mechanisms covered by sections 15-17 of the Collective Labour Agreement Act, sections 7-13 of the Strike Act and section 19 of the Trade Union Act, or to other independent and impartial procedures, in case of disagreement on work conditions.

The Committee notes that according to the information provided by the Government, by virtue of the Fire Safety and Fire-fighting Law of 24 October 2002, employees of the state fire-fighting and rescue services can form and join trade unions. Trade unions of firemen have a right to submit to the Cabinet of Ministers their proposals of amendments of the legislation. As concerns the dispute settlement, the Government indicates that this depends on the status of firemen: firemen who are civil servants do not have a right to use the settlement procedure provided for in the Labour Disputes Law, as section 35(5) of the Fire Safety and Fire-fighting Law states that, rules regulating employment relations shall not apply to civil servants; however, firemen employed as employees have a right to settle disputes according to the Labour Disputes Law. With regard to the firemen employed as civil servants, the Government indicates that in case of violation of their rights or illegal or unjust attitude from a supervisor, the civil servant has a right to submit a complaint; the civil servant has a further right to appeal against the decree of his retirement by submitting a complaint to the supervisor or court.

The Committee recalls that: (1) only public employees engaged in the administration of the State can be excluded from the scope of application of the Convention; (2) other categories of employees, such as lifesaving service employees and fire-fighting employees, considered by the national legislation to be civil servants, should enjoy the guarantees of the Convention and should be able to negotiate collectively their conditions of employment; (3) the authorities may of course establish a special mechanism for collective disputes for these categories of employees. ***The Committee requests the Government to take the necessary measures in order to ensure the application of this principle in the legislation.***

As concerns the prison service, the Committee reiterates its previous request and asks the Government to indicate whether prison service workers enjoy the right to collective bargaining and to describe the dispute settlement mechanism this category of workers can use in a case of a dispute, which relates to the conclusion of a collective labour agreement.

The Committee is also addressing a request on another point directly to the Government.

Lesotho

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

The Committee notes the Government's report, as well as the comments made by the Congress of Lesotho Trade Unions. It further notes the adoption of the Public Service Act, 2005.

Trade union rights and civil liberties. Rights of assembly and demonstration. The Committee notes the comments from the Congress of Lesotho Trade Unions according to which the Lesotho Police denied workers permission to celebrate May Day by holding a parade, on the grounds that the celebrations coincided with local government elections. Recalling that the right to organize public meetings and processions, particularly on the occasion of May Day, constitutes an important aspect of trade union rights, the Committee trusts that the Government will make every endeavour in the future to refrain from any interference that would restrict the rights of assembly and demonstration of workers or impede its exercise.

Article 3 of the Convention. The Committee notes that section 19 of the Public Service Act, 2005, prohibits public officers from engaging in strikes. The Committee recalls that a prohibition on the right to strike in the public service should be limited to public servants exercising authority in the name of the State. ***The Committee asks the Government, therefore, to provide detailed information as to the precise categories of workers restricted in their right to strike under the Act and the manner in which all other state employees, such as teaching staff or employees in state institutions, are guaranteed the right to undertake industrial action, without being subject to disciplinary or other sanctions.***

The Committee further recalls that workers who may be deprived of the right to strike as a means of defending their socio-economic and occupational interests should be afforded compensatory guarantees, for example conciliation and mediation procedures leading, in the event of deadlock, to arbitration machinery seen to be reliable by the parties concerned (see General Survey on freedom of association and collective bargaining, 1994, paragraph 164). The

Committee notes that section 17 of the Public Service Act only provides for non-binding conciliation. *Therefore, the Committee requests that the Government provide further information as to the measures taken to establish compensatory guarantees, in particular arbitration machinery for those workers who are prohibited from exercising their right to strike under the Act.*

Articles 5 and 6. The Committee notes that the Public Service Act, 2005, is silent as to the rights of public service trade unions to establish federations and confederations and to affiliate with international organizations. It recalls that the Convention not only recognizes the right of organizations to establish higher level bodies, but extends to such higher level bodies the same rights as first-level organizations. *The Committee therefore requests that the Government ensure that public officers' associations established under the Act are guaranteed the right to establish federations and confederations and to affiliate with international organizations. It asks the Government to indicate in its next report any measures taken or contemplated in this respect.*

In addition, the Committee is addressing a request on another point directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

The Committee notes the information contained in the Government's report. It also notes the comments of the Congress of Lesotho Trade Unions (COLETU) dated 27 May 2005.

The Committee's previous comments concerned the need to allow public servants who are not employed in the administration of the State to bargain collectively in respect of their employment conditions.

The Committee notes with satisfaction from the Government's latest report the text of the Public Service Act No. 1 of 2005, which replaced the Public Service Act No. 13 of 1995, and contains provisions giving public servants the right to organize (sections 21 and 22), engage in collective bargaining (sections 15(1)(iv), 25(1)(c)), and establishes dispute settlement mechanisms (sections 17-20).

The Committee notes the comments made by COLETU according to which, although the revision of the Public Service Act of 1995 is a commendable move, the Government continues to obstruct collective bargaining in the education sector. In particular, according to COLETU, the Government took to the High Court a dispute between the Lesotho University Teacher and Researchers Union (LUTARU) and the University Council, which was already being heard by the Directorate of Dispute Prevention and Resolution (DDPR); as a result, the case is neither proceeding in the DDPR nor the High Court. Moreover, a case which had been brought by the Lesotho Teachers' Trade Union (LTTU) to the High Court has been pending for ten years. *The Committee requests the Government to provide its observations on these comments and to take all necessary measures so as to promote a prompt and negotiated solution to the long-standing disputes mentioned by COLETU concerning teachers who are not public servants engaged in the administration of the State and therefore are covered by the right to collective bargaining by virtue of Article 4 of the Convention.*

Liberia

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

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

The Committee recalls that its previous comments concerned the need to amend or repeal:

- Decree No. 12 of 30 June 1980 prohibiting strikes;
- section 4601-A of the Labour Practices Law prohibiting agricultural workers from joining industrial workers' organizations;
- section 4102, subsections 10 and 11, of the Labour Practices Law providing for the supervision of trade union elections by the Labour Practices Review Board; and
- section 4506 prohibiting the workers of state enterprises and public service from organizing.

The Committee had recalled that these provisions were contrary to *Articles 2, 3, 5 and 10 of the Convention.*

The Committee had noted the indication in a Government's previous report that it had submitted Decree No. 12 prohibiting strikes and all of the remaining provisions above to the national legislature for their repeal. The Committee requests the Government to indicate in its next report the progress made in this regard and to supply copies of any and all of the repealing Acts as soon as they have been adopted.

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

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

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

Articles 1, 2 and 4 of the Convention. The Committee recalls that for many years it has been emphasizing the need for national legislation to guarantee workers adequate protection against anti-union discrimination at the time of recruitment and during the employment relationship, accompanied by sufficiently effective and dissuasive sanctions. The Committee has also stressed that national legislation must ensure adequate protection of workers' organizations, accompanied by sufficiently effective and dissuasive sanctions, against acts of interference by employers and their organizations. Finally, the Committee had noted that the possibility of engaging in collective bargaining was not offered to employees of state enterprises and other authorities since these categories were excluded from the scope of the Labour Code, whereas under *Article 6* of the Convention, only public servants engaged in the administration of the State are not covered by the Convention.

The Committee had noted that a draft Decree and a Bill have been submitted to the national authorities. The draft Decree is aimed at recognizing and protecting freedom of association and the right to organize and bargain collectively, and at preventing discrimination in employment and occupation.

The Committee hopes that the draft Decree and Bill will integrate the abovementioned observations of the Committee, to bring the legislation in conformity with the Convention. ***The Committee requests the Government to keep it informed of any developments in this respect and to transmit the texts of the draft Decree and Bill as soon as they are adopted.***

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

Malawi

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

The Committee notes the comments submitted by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 31 August 2005 with regard to violent police repression of a protest march by tea workers in September 2004 as well as issues previously raised by the Committee on the right to strike. ***Noting that freedom of assembly and demonstration constitutes a fundamental aspect of trade union rights and that the authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof, provided that the exercise of these rights does not cause a serious and imminent threat to public order, the Committee requests that the Government communicate its observations on the ICFTU comments, along with its response to the Committee's previous direct request (see 2004 direct request, 75th Session) in its next report which is due in 2006.***

The Committee also takes note of the comments made by the Malawi Congress of Trade Unions (MCTU) dated 26 December 2004 as well as the Government's observations thereon. These comments will be examined in the framework of Convention No. 98.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1965)

1. The Committee takes note of the comments made by the Malawi Congress of Trade Unions (MCTU) in a communication dated 26 December 2004 with regard to anti-union dismissals of five trade union officials and the malfunction of the Labour Tripartite Advisory Council (LTAC), as well as the Government's observations thereon denying the anti-union nature of the dismissals and indicating that the LTAC is functioning properly. ***The Committee requests the Government to carry out a comprehensive inquiry into the dismissals of the five trade union leaders mentioned in the MCTU's comments and, if it is confirmed that acts of anti-union discrimination occurred, to take the necessary remedial measures. Concerning the MCTU comments on the Tripartite Labour Advisory Council, the Committee notes that they are not sufficiently specific and will therefore not be examined in the absence of further information.***

2. The Committee takes note of the comments made by the International Confederation of Free Trade Unions (ICFTU) in a communication dated 31 August 2005, making reference to the absence of recognition of the right to organize in practice, employer resistance towards trade unions' rights, and anti-union dismissals of eight trade union leaders representing Lilongwe City workers. ***The Committee requests the Government to provide its observations on the ICFTU comments.***

Myanmar

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1955)

The Committee takes note of the information contained in the Government's report, the oral and written information provided by the Government representative to the Conference Committee on the Application of Standards in June 2005, as well as the discussion which took place therein and the resulting special paragraph in the Conference Committee's report for continued failure to implement the Convention. The Committee also notes the conclusions and recommendations reached by the Committee on Freedom of Association in Case No. 2268 (333rd Report paragraphs 642-770 and 337th Report paragraphs 1058-1112).

The Committee further notes the observations dated 31 August 2005, received from the International Confederation of Free Trade Unions (ICFTU) with regard to the following issues: obscure legislation; single trade union system; military orders and decrees further limiting freedom of association; prohibition of trade unions; “workers’ committees” organized by the authorities; the Independent Federation of Trade Unions (FTUB) independent workers’ organization forced to work underground and accused of terrorism; repression of seafarers even overseas; detention of trade unionists and specific violations of trade union rights in 2004. **The Committee requests that the Government provide its observations in its next report on the comments made by the ICFTU.**

A. *Violations of fundamental civil liberties.* 1. *Murders and torture of trade unionists.* The Committee recalls that in its previous comments it had asked the Government to take all necessary measures so that workers and employers can exercise the rights guaranteed by the Convention in a climate of full security and in the absence of fear. It notes the conclusions of the Conference Committee to the effect that respect for civil liberties is essential for the exercise of freedom of association and that workers and employers should be able to exercise their freedom of association rights in a climate of complete freedom and security, free from violence and threats.

The Committee further notes with regret in this respect, the conclusions and recommendations reached by the Committee on Freedom of Association in Case No. 2268 concerning the death of Saw Mya Than, member of the FTUB and official of the KEWU, as well as the comments made by the Worker members in the Conference Committee with regard to Koe Moe Naung who was allegedly arrested on 19 May at his residence in Ranong at the border between Thailand and Myanmar by two unidentified men, brought to the village-based Light Infantry Regiment 431 and tortured to death during interrogation; he was a trade union leader who was organizing Burmese fishermen and migrant workers from Myanmar in the Ranong Province.

The Committee strongly deplors these alleged violations of fundamental civil liberties of trade union members and leaders and emphasizes that a climate of violence in which murders and disappearances of trade union leaders go unpunished, constitutes a serious obstacle to the exercise of trade union rights and that such acts require severe measures to be taken by the authorities (see General Survey on freedom of association and collective bargaining, 1994, paragraph 29). As regards, more specifically, torture, cruelty and ill-treatment, the Committee points out that trade unionists like all other individuals, should enjoy the safeguards provided by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and governments should give the necessary instructions to ensure that no detainee suffers such treatment (see General Survey, *op. cit.*, paragraph 30). **The Committee therefore asks the Government to provide information in its next report on measures adopted and instructions issued without delay so as to ensure respect for the fundamental civil liberties of trade union members and officers.**

2. *Arrests, convictions and imprisonment for trade union activities including contacts with organizations abroad.* The Committee recalls that in its previous comments, it had asked the Government to ensure that no individual shall be sanctioned for contacts with a trade union or workers’ association, while noting that the judgements of the Supreme Court, making references to contacts with illegal organizations abroad, were ambiguous in this respect. The Committee notes in this respect from the Government’s report that the three organizers of the FTUB, Nai Min Kyi, Aye Myint and Shwe Mahn (instead of Nai Yetka as indicated in the Committee’s previous report), who had been previously convicted and received heavy prison sentences for ILO-related activities, were finally released from prison after their sentences were commuted to lighter ones. Shwe Mahn was released on 29 April 2005 while Nai Min Kyi and Aye Myint were pardoned and released from prison in January 2005. Moreover, the Supreme Court had indicated on appeal that “communication and cooperation with the ILO does not amount to an offence under the existing laws of Myanmar”. The Committee takes note of this information.

The Committee notes with regret however, the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2268 with regard to the conviction of the General Secretary of the FTUB for high treason, the conviction and imprisonment of Myo Aung Thant, based allegedly on a confession obtained under torture, and the conviction and imprisonment of Khin Kyaw, member of the Seamen’s Union of Burma; the last two allegedly did not benefit from a fair trial with access to legal counsel of their choice.

The Committee further notes with deep regret the text of the judgement dated 9 April 2004 by the Ma-ha-aung-mye Township Court which convicted ten workers (U Hla Soe, U Than Win, U Win Kyi, Daw Hnin Pa Pa (aka) Myint Myint Tun, Myint Oo (aka) Ni Ni, Aung Aung Naing (aka) Ba Gyi Aung, Htay Lwin Oo, Aung Naing Thu (aka) Po Htaung, Ye Tun Min, Zaw Min Naing, U Tin Oo) to seven years’ imprisonment under section 5(j) of the Emergency Provisions Act of 1950, for having carried out “activities for the emergence of a trade union in Myanmar”. The Committee notes from the content of the court judgement that the accusations included: contacting opposition forces in Maesod, Thailand; receiving financial support from exiled groups; receiving trade union training from the aforementioned organizations; disseminating information from inside the country to exiled opposition forces; and joining together in forming a trade union. The court found that in taking part in such prohibited activities, “the accused had the intention to destroy the stability and security of the union in order to bring about the ruin of public morality and to incite to aberrant behaviour”.

The Committee most strongly deplors the conviction of trade unionists to imprisonment for what appears to be the exercise of regular trade union activities like setting up workers’ organizations, communicating with international organizations of one’s own choosing and receiving financial assistance and training from them. It emphasizes once again that respect for civil liberties is essential for the exercise of freedom of association and that workers and employers should

be able to exercise their freedom of association rights in a climate of complete freedom and security, free from violence and threats. The authorities should not use legitimate trade union activities as a pretext for arbitrary arrest or detention. ***The Committee urges the Government to take all necessary measures to release all those who have been imprisoned for the exercise of trade union activities immediately and to ensure that no worker is sanctioned for the exercise of such activities, in particular, for having contacts with workers' organizations of their own choosing. The Committee trusts that the Government will be in a position to indicate progress in this respect in its next report.***

B. *Legislative framework (Articles 2, 3, 5 and 6 of the Convention).* In its previous comments, the Committee had noted a total lack of progress towards establishing a legislative framework under which free and independent workers' organizations could be established despite the comments it had been making on this issue essentially since ratification of the Convention 50 years ago. The Committee had urged the Government to take all the necessary measures so as to adopt a legislative framework under which free and independent workers' organizations could be established and to ensure that Orders Nos. 6/88 and 2/88 and the Unlawful Association Act of 1908, did not apply to the exercise of the right to organize. The Committee recalls that: (1) Order No. 6/88 of 30 September 1988 provides that the "organizations shall apply for permission to form to the Ministry of Home and Religious Affairs" (section 3(a)), and states that any person found guilty of being a member of, or aiding and abetting or using the paraphernalia of organizations that are not permitted shall be punished with imprisonment for a term which may extend to three years (section 7); (2) Order No. 2/88 prohibits the gathering, walking or marching in procession by a group of five or more people regardless of whether the act is with the intention of creating a disturbance or of committing a crime; and (3) the Unlawful Association Act of 1908, provides that whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association or in any way assists the operations of any such association, shall be punished with imprisonment for a term which shall not be less than two years and more than three years and shall also be liable to a fine (section 17.1).

The Committee notes from the information provided in the Government's report and by the Government representative to the Conference Committee in June 2005, that appropriate workers' organizations, which have been suppressed since 1988, would re-emerge once Myanmar had its new Constitution. With this in mind, the Myanmar Government had adopted a seven-step Road Map, the first step of which was the reconvening of the National Convention. This process, which had started in 1993 and had been interrupted in 1996, was to lay down the basic principles for drafting the new Constitution. During its sessions between 1993 and 1996, the National Convention had laid down basic principles. The resumed session of the National Convention which had started on 20 May 2004 had conducted clarifications and deliberations on basic principles for the social sector, including the rights of workers and social welfare rights. The deliberations had also dealt with the basic principle of forming workers' organizations. In the process of drafting a new state Constitution, these basic principles would provide a framework for drafting detailed legal provisions. In total, 104 basic principles had been adopted by consensus, and it was indicated that "the State shall enact necessary laws to protect the rights of the workers". The Government states in its latest report that a new legislation will be coming out along with the new Constitution.

The Committee points out that the seven-step Road Map process for the drafting of a new Constitution which would eventually open the way to the emergence of appropriate workers' organizations started as early as 1993 and is still in its initial phase. The Committee observes that the documents attached to the Government's report contain a list of topics on which legislation is to be enacted in the future, including topics as general as "labour disputes" and "labour organizations" without any further suggestion as to the content of the "detailed basic principles" on these issues. Moreover, no legislative texts have been attached to the report and there is no indication on any measures to repeal Orders Nos. 2/88 and 6/88 as well as the Unlawful Association Act, as previously requested by the Committee.

The Committee notes with deep regret that the information provided by the Government continues to demonstrate a total lack of progress towards establishing a legislative framework under which free and independent workers' organizations can be established and a total absence of any meaningful dialogue in this respect. ***Noting that measures are needed urgently to amend the legislation and the Constitution with the full and genuine participation of all sectors of society regardless of their political views, the Committee, like the Conference Committee, once again urges the Government to communicate all relevant draft laws and to furnish a detailed report on the concrete measures taken to enact legislation guaranteeing to all workers and employers the right to establish and join organizations of their own choosing, as well as the rights of these organizations to exercise their activities and formulate their programmes and to affiliate with federations, confederations and international organizations of their own choosing without interference from the public authorities. It further urges the Government in the strongest terms to repeal Orders Nos. 2/88 and 6/88 as well as the Unlawful Association Act, so that they cannot be applied in a manner that would infringe upon the rights of workers' and employers' organizations.***

[The Government is asked to reply in detail to the present comments in 2006.]

Netherlands

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

The Committee notes the comments on the application of the Convention submitted by the Netherlands Trade Union Confederation (FNV) and requests the Government to send its observations thereon. Noting that these comments refer to questions raised in its 2004 observation, the Committee will examine these comments as well as other matters raised in its previous observation (see observation 2004, 75th Session) in the framework of the regular reporting cycle in 2006.

Aruba

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

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 3 of the Convention. The Committee had asked the Government to amend or repeal section 374(a) to (c) of the Penal Code and section 82 of Ordinance No. 159 of 1964 which prohibit the right to strike by public employees under threat of imprisonment.

The Committee trusts that the necessary measures will be taken in the near future to bring the abovementioned provisions of the legislation into conformity with the Convention and asks the Government to indicate, in its next report, the measures taken or envisaged in this regard.

In addition, the Committee is addressing a request on other points directly to the Government.

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

New Zealand

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2003)

The Committee takes note of the Government's first report. It takes note with satisfaction of the provisions of the Employment Relations Act (ERA) and its 2004 amendment which give effect to the provisions of the Convention and constitute the primary legislation providing recognition of the right to organize and collectively bargain in New Zealand.

Niger

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

The Committee takes notes of the Government's report.

1. *Articles 3 and 10 of the Convention. Provisions on requisitioning.* In its previous observations, the Committee invited the Government to amend as soon as possible section 9 of Ordinance No. 96-009 of 21 March 1996 so as to restrict its scope to cases in which work stoppages are likely to provoke an acute national crisis, to public servants exercising authority in the name of the State, or to essential services in the strict sense of the term, and to provide a copy of the applicable official text.

The Government indicates that the revision of the abovementioned Ordinance is before the National Tripartite Committee responsible for implementing the recommendations produced by the seminar on the right to strike and trade union representation. The Committee points out that the above seminar, held with technical assistance from the Office, took place more than three years ago (in September 2002). *The Committee again urges the Government to take all necessary steps at the earliest possible date to complete the work of the abovementioned Committee rapidly, and to send a copy of Ordinance No. 96-009 of 21 March 1996 as amended to bring the legislation into line with the Convention, with its report for examination in 2006.*

2. The Committee notes the Government's observations replying to the ICFTU's communication of September 2003, particularly concerning customs officials. It notes, however, that the Government has not commented on the requisitioning measures and threats of dismissal against teachers during a lawful strike in 2000. *The Committee reminds the Government that teachers, like other workers, enjoy the right to strike. It refers the Government to the comments above and invites it to refrain from taking such measures in the future.*

Nigeria

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1960)

The Committee notes the comments on the application of the Convention submitted by the International Confederation of Free Trade Unions (ICFTU) in a communication of 31 August 2005 and requests the Government to send its observations thereon.

The Committee will examine the questions raised in its 2004 direct request (see direct request 2004, 75th Session) under the regular reporting cycle in 2006.

Pakistan

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1951)

The Committee notes the Government's report. In addition, the Committee notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2229 (see 338th Report, November 2005). The Committee further notes the comments made by the All Pakistan Federation of Trade Unions (APFTU) and the International Confederation of Free Trade Unions (ICFTU) in communications dated 14 May and 31 August 2005, respectively, concerning the application of the Convention. The comments of both unions concern legislative issues raised in the previous observation of the Committee as well as the application of the Convention in practice. ***The Committee requests that the Government provide its observations thereon.***

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee had previously requested the Government to amend its legislation or to adopt specific legislation so as to ensure that the following employees enjoyed the right to form and join organizations to defend their own social and occupational interests:

- managerial and supervisory staff (sections 2(xxx) and 63(2) of the Industrial Relations Ordinance (IRO));
- workers excluded by virtue of section 1(4) of the IRO, namely workers employed in the following establishments or industries: installations or services exclusively connected with the armed forces of Pakistan including the Ministry of Defence lines of the railways; Pakistan Security Printing Corporation or the Security Papers Limited or Pakistan Mint; administration of the State other than those employed as workmen by the railways, post, telegraph and telephone departments; establishments or institutions maintained for the treatment or care of sick, infirm, destitute and mentally unfit persons excluding those run on a commercial basis; institution established for payment of employees' old-age pensions or for workers' welfare; and members of the watch and ward, security or fire service staff of an oil refinery or of an establishment engaged in the production, transmission or distribution of natural gas or liquefied petroleum products or of a seaport or an airport;
- workers of charitable organizations (section 2(xvii) of the IRO, 2002);
- workers at the Karachi Electric Supply Company (KESC);
- workers in the Pakistan International Airlines (PIA) (Chief Executive's Order No. 6);
- agricultural workers; and
- export processing zones workers.

The Committee notes the Government's statement that the right of managerial staff to form associations to defend their interests is guaranteed by the Constitution. As concerns other exclusions provided for in the IRO of 2002, the Government indicates that it has sent the draft amendments of the IRO to the Prime Minister Secretariat for approval before their promulgation. With regard to the KESC, the Government indicates that the National Industrial Relations Commission (NIRC) issued an order to the effect that the IRO of 2002, was not applicable to the KESC. The Trade Union of the KESC has appealed to the Bench of the NIRC and the matter was still pending. The Committee notes, however, that in Case No. 2006, pending before the Committee on Freedom of Association, the Government invoked economic interests to explain suspension of trade union rights at the KESC. In respect to Chief Executive's Order No. 6, which abolished trade union rights of the workers in the PIA, the Committee notes that the Government reiterates that the case of the trade unions affected by the Order is still pending before the Supreme Court of Pakistan. No information was provided by the Government on the progress made in developing legislation to ensure trade union rights of agricultural and EPZ workers.

In the light of the above, the Committee once again emphasizes that all workers, with only the possible exception of police and armed forces, should enjoy the right to establish and join trade unions. It requests that the Government indicate in its next report the progress made in amending the IRO of 2002, and to provide a copy of the draft amendment thereof so that it could examine their conformity with the Convention. It further asks the Government to take without delay the necessary measures to restore full trade union rights to the KESC and the PIA workers and to keep it informed in this respect. The Committee also requests that the Government indicate in its next report the

progress made in framing labour legislation to ensure the rights under the Convention to workers in the agricultural sector and EPZs and to transmit a copy of any relevant draft texts or adopted legislation.

Article 3. (a) Right to elect representatives freely. In its previous comments, the Committee requested the Government to amend section 27-B of the Banking Companies Ordinance of 1962, which restricted the possibility of becoming an officer of a bank union only to employees of the bank in question, under penalty of up to three years' imprisonment, either by exempting from the occupational requirement a reasonable proportion of the officers of an organization, or by admitting, as candidates, persons who have been previously employed in the banking company. ***The Committee regrets that no measures were taken by the Government in this respect and urges it to amend the Banking Companies Ordinance of 1962, so as to bring it into full conformity with Convention No. 87. It requests that the Government keep it informed of the measures taken or envisaged in this respect.***

(b) Right to strike. In its previous observation, the Committee had noted that the federal or provincial government could prohibit a strike related to an industrial dispute in respect of any public utility services, at any time before or after its commencement, and refer the dispute to a board of arbitrators for compulsory arbitration (section 32 of the IRO). A strike carried out in contravention of an order made under this section was deemed illegal by virtue of section 38(1)(c). The Committee noted that Schedule I setting out the list of public utility services included services which could not be considered essential in the strict sense of the term – oil production, postal services, railways, airways and ports. The schedule also mentioned watch and ward staff and security services maintained in any establishment. Furthermore, for a number of years, the Committee had been requesting the Government to amend the Essential Services Act, which included services beyond those which can be considered essential in the strict sense of the term.

The Committee notes the Government's statement that the provisions of the Essential Services Act, 1952, are applied very restrictively keeping in view national interests and serious hardship to the community. The Government explains that Pakistan is on the front line of the war against terrorism and that, in retaliation, some unscrupulous elements try to disrupt the supply chain of oil and natural gas, to paralyse the whole economy of the country. In such situations, the Government has to take decisive action to prevent any interruptions, which would endanger the life, personal safety and health of the whole or a part of the population.

Considering that essential services are only those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, the Committee once again requests the Government to amend the legislation so as to ensure that workers employed in oil production, postal services, railways, airways and ports may have recourse to strike action and so that compulsory arbitration may only be applied in these cases at the request of both parties. The Committee recalls that rather than imposing a prohibition on strikes, in order to avoid damages which are irreversible or out of proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, the authorities could establish a system of negotiated minimum service of public utilities. Considering the heavy penal sanctions linked to violation of the Essential Services Act, the Committee further asks the Government to amend this Act so as to ensure that its scope is limited to essential services in the strict sense of the term. The Committee also requests that the Government specify the categories of workers employed in the "watch and ward staff and security services maintained in any establishment".

The Committee had noted that section 31(2) of the IRO authorized "the party raising a dispute", either before or after the commencement of a strike, to apply to the Labour Court for adjudication of the dispute. During this time, the Labour Court (or Appellate Court) could prohibit the continuation of the existing strike action (section 37(1)). The Committee once again recalls that a provision, which permits either party unilaterally to request the intervention of the public authorities for the settlement of a dispute through compulsory arbitration leading to a final award, effectively undermines the right to strike by making it possible to prohibit virtually all strikes or to end them quickly. Such system seriously limits the means available to trade unions to further and defend the interests of their members as well as their right to organize their activities and to formulate their programmes and is not compatible with *Article 3* of the Convention (see General Survey on freedom of association and collective bargaining, 1994, paragraph 153). ***The Committee therefore requests that the Government indicate the measures taken to amend section 31(2) so as to bring it into conformity with the Convention.***

The Committee had further noted that according to section 31(3) of the IRO, where a strike lasted for more than 15 days, the federal or provincial government could prohibit the strike at any time before the expiry of 30 days, "if it was satisfied that the continuance of such strike was causing serious hardship to the community or was prejudicial to the national interests" and should prohibit the strike if it considered that it "was detrimental to the interests of the community at large". The Committee had further noted that under section 31(4), following prohibition of the strike, the dispute was referred to the commission or to the labour court for compulsory arbitration. ***Recalling that prohibitions or restrictions of the right to strike should be limited to essential services in the strict sense of the term, or to situations of an acute national crisis, and considering that the wording in section 31 is too broad and vague to be limited to such cases, the Committee asks the Government to amend its legislation so as to bring it into conformity with the Convention. It requests that the Government keep it informed of measures taken or envisaged in this respect.***

The Committee had also noted that section 39(7) provided for the following sanctions for contravening a labour court's order to call off the strike: dismissal of the striking workers; cancellation of the registration of a trade union; debarring of trade union officers from holding office in that or any other trade union for the unexpired term of their offices

and for the term immediately following. The Committee once again recalls in this respect that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principles of freedom of association. Even in such cases, existence of heavy and disproportionate sanctions for strike action may create more problems than they resolve. Since the application of disproportionate sanctions does not favour the development of harmonious and stable industrial relations, the sanctions should not be disproportionate to the seriousness of the violation (see General Survey, op. cit., paragraphs 177 and 178). More specifically, the Committee considers that the cancellation of trade union registration, in view of the serious and far-reaching consequences which dissolution of a union involves for the representation of workers' interests, would be disproportionate even if the prohibitions in question were in conformity with the principles of freedom of association. **Consequently, the Committee urges the Government to amend section 39(7) of the IRO so as to ensure that sanctions for strike action may only be imposed where the prohibition of the strike is in conformity with the Convention and that, even in those cases, the sanctions imposed are not disproportionate to the seriousness of the violation.**

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

The Committee addresses a request on other points directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

The Committee notes the Government's report. The Committee further notes the comments made by the All Pakistan Federation of Trade Unions (APFTU) and the International Confederation of Free Trade Unions (ICFTU) in communications dated 14 May and 31 August 2005, respectively, concerning the application of the Convention. The comments of both unions concern legislative issues raised in the previous observation of the Committee as well as the application of the Convention in practice. **The Committee requests the Government to provide its observations thereon.** The Committee takes note of the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2229.

1. *Scope of application of the Convention. (a) Denial of the rights guaranteed by the Convention in export processing zones (EPZs).* The Committee notes the Government's statement that the relevant ministry and the EPZ authority is devising the Service Regulations for the workers in the EPZs to be in conformity with the Convention. **Hoping that, in the very near future, the Regulations will provide the EPZ workers with all the rights and guarantees enshrined in the Convention, the Committee requests the Government to send the copy of the Regulations as soon as they are adopted.**

(b) Denial of the rights guaranteed by the Convention to other categories of workers. (i) The Committee had previously noted that the Industrial Relations Ordinance (IRO) of 2002 excluded from its scope workers employed in the following establishments or industries: installations or services exclusively connected with the armed forces of Pakistan, including the Ministry of Defence Railway Lines; Pakistan Security Printing Corporation, or the Security Papers Limited or Pakistan Mint; establishments or institutions maintained for the treatment or care of sick, infirm, destitute and mentally unfit persons excluding those run on a commercial basis; institutions established for payment of employees' old-age pensions or for workers' welfare; and members of the watch and ward, security or fire service staff of an oil refinery or of an establishment engaged in the production, transmission or distribution of natural gas or liquefied petroleum products or of a seaport or an airport (section 1(4)) and persons who are employed mainly in a managerial or administrative capacity (section 2(xxx)), as well as workers of charitable organizations (section 2(xvii)). The Committee notes the Government's statement that it has sent the draft amendments of the IRO to the Prime Minister's secretariat for approval before their submission to Parliament. The amendments would remove certain categories of workers from section 1(4) and thus restore freedom of association and collective bargaining rights to certain categories of workers. **Hoping that the new amendments will afford the right to organize to the abovementioned categories of workers, the Committee requests the Government to provide a copy of the draft amendments so that it may examine their conformity with the Convention.**

(ii) In respect of restrictions imposed on the rights of workers employed in the Karachi Electric Supply Company (KESC), the Committee notes that according to the Government, after promulgation of the IRO, the KESC workers were entitled to the right of association. However, following an application filed by the Trade Union of the KESC, the National Industrial Relations Commission (NIRC) issued an order to the effect that the IRO was not applicable to the KESC. The Trade Union of the KESC appealed to the bench of the NIRC and the matter was still pending. **The Committee requests the Government to take all necessary measures to ensure that the KESC workers enjoy the rights afforded by the Convention in practice and requests the Government to keep it informed of measures taken or envisaged in this respect. It further requests the Government to keep it informed of the decision taken by the bench of the NIRC.**

(iii) With respect to Chief Executive's Order No. 6 which abolished trade union rights of the workers in Pakistan International Airlines (PIAC) and suspended all the existing collective agreements, noting that the Government reiterates that the case of the trade unions affected by the Order was still pending before the Supreme Court of Pakistan, the Committee once again recalls that only the armed forces, the police and public servants engaged in the administration of the State can be excluded from the guarantees of the Convention. **While taking note that the case is still pending before the court, in view of the fact that Order No. 6 was issued by the Chief Executive, the Committee once again requests the**

Government to take all necessary measures to repeal the Order and to restore full trade union rights to the PIAC workers. It requests the Government to keep it informed in this respect.

(iv) **Noting that no information was provided by the Government with regard to the rights afforded by the Convention to workers in the agricultural sector, the Committee requests the Government to indicate in its next report whether this category of workers enjoys freedom of association and collective bargaining rights and, if this is not the case, to take the necessary legislative measures to guarantee this right.**

2. **Article 1 of the Convention. (a) Sanctions for trade union activities.** The Committee notes the Government's statement that while section 27-B of the Banking Companies Ordinance of 1962 – according to which imprisonment and/or fines are imposed in cases which include the use of bank resources (telephone, etc.) or of carrying on trade union activities during office hours, pressure tactics, etc. – does not violate rights guaranteed under the Convention, the Ministry of Labour was consulting with the ministries concerned regarding the amendment of section 27-B. **The Committee expresses the firm hope that the Government will repeal these restrictions in the near future and requests the Government to keep it informed in this respect.**

(b) **Lack of sufficient legislative protection for workers dismissed for their trade union membership or activities (section 25-A of the IRO of 1969).** The Committee had previously noted the APFTU's statement, according to which the newly imposed section 2-A of the Service Tribunals Act has debarred workers engaged in autonomous bodies and corporations such as WAPDA, railway, telecommunication, gas, banks, PASSCO, etc., from seeking redress for their grievances from the labour courts, labour appellate tribunals and NIRC in the case of unfair labour practices committed by the employer. The Committee had noted the Government's statement that the issues related to provision 2-A had been addressed and that a proposal had been made by the Ministry to delete or amend it in order to enable public sector workers to seek remedy under labour legislation. **In view of the fact that no further information was provided by the Government in its recent report, the Committee once again requests the Government to keep it informed of the measures taken in order to ensure that appropriate means of redress are available to these workers.**

3. **Article 2. The Committee once again requests the Government to state in its next report whether the legislation prohibits and penalizes acts of interference by organizations of workers and employers (or their agents) in each other's affairs and to indicate the relevant provisions.**

4. **Article 4. The Committee once again requests the Government to amend the following sections of the IRO 2002 and keep it informed of the measures taken or envisaged in this respect:**

- (i) section 20, from which it results that if the trade union, which is the only trade union at the enterprise, does not have at least one-third of employees as its members, no collective bargaining is possible at a given establishment. **The Committee requests the Government to ensure that if there is no union representing the required percentage to be designated as a collective bargaining agent, collective bargaining rights are granted to the existing unions, at least on behalf of their own members;**
- (ii) section 20(11) according to which no application for determination of the collective bargaining agent at the same establishment may be made for a period of three years once a registered trade union has been certified as collective bargaining agent. **The Committee requests the Government to ensure the possibility for another union to make appropriate representations to the competent authority and to the employer regarding the recognition of this union for collective bargaining purposes if the most representative union which enjoys exclusive bargaining rights, seems to have lost its majority;**
- (iii) section 54 according to which the NIRC may determine or modify a collective bargaining unit on an application made by a workers' organization or reference made by the federal government. **The Committee requests the Government to ensure that the choice of collective bargaining unit may only be made by the partners themselves, since they are in the best position to decide the most appropriate bargaining level.**

[The Government is asked to supply full particulars to the Conference at its 95th Session.]

Paraguay

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

The Committee notes with regret that it has not received the Government's report. It observes that the International Confederation of Free Trade Unions (ICFTU) sent comments on the application of the Convention. **The Committee requests that the Government transmit its observations in this regard.**

The Committee recalls that for many years in its comments it has been referring to:

- the requirement of an excessively high number of workers (300) to establish a branch trade union (section 292 of the Labour Code);
- the imposition of excessive requirements to be able to hold office in the executive body of a trade union (sections 298(a) and 293(d) of the Labour Code);

- the submission of collective disputes to compulsory arbitration (sections 284-320 of the Code of Labour Procedure);
- the prohibition on workers from joining more than one union even if they have more than one part-time employment contract, whether at the enterprise, industry, occupation or trade or institution level (section 293(c) of the Labour Code);
- the requirement that trade unions must comply with all requests for consultations or reports from the labour authorities (sections 290(f) and 304(c) of the Labour Code);
- the requirement that, for a strike to be called, its sole purpose must be directly and exclusively linked to the workers' occupational interests (sections 358 and 376(a) of the Labour Code), and the obligation to ensure a minimum service in the event of a strike in public services which are essential to the community, without consulting the employers' and workers' organizations concerned on the definition of the minimum service (section 362 of the Labour Code).

The Committee asks the Government to take steps to amend the above provisions and to provide information in its next report on any measures adopted to comply with the requirements of the Convention.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

The Committee once again notes with regret that the Government's report has not been received. It is therefore bound to repeat its previous observation, which read as follows:

The Committee recalls that for many years its comments have been referring to:

- the absence of legislative provisions affording adequate protection to workers who are not trade union leaders against all acts of anti-union discrimination (article 88 of the Constitution affords protection only against discrimination based on trade union preferences); and
- the absence of sanctions against non-observance of the provisions relating to the employment stability of trade unionists and acts of interference by workers' and employers' organizations in each other's organizations (the penalties envisaged in the Labour Code for failure to comply with the legal provisions on this point in sections 385 and 393 are not sufficiently dissuasive).

Under these conditions, the Committee regrets that, despite the technical assistance provided by the ILO in 2002, progress has not been made on the issues raised and it reminds the Government of the importance of adopting measures to ensure that full effect is given to *Articles 1 and 2 of the Convention*. ***The Committee hopes that the above measures will be adopted in the near future and requests the Government to provide information on this matter in its next report.***

In its previous observation, the Committee requested the Government to provide a copy of the special law which, under section 51 of Act No. 1626 on the public service, is to govern contracts of employment and to identify the provisions which afford protection to public servants and public employees who are not trade union leaders against acts of anti-union discrimination. ***The Committee reiterates this request.***

The Committee notes the comments made by the International Confederation of Free Trade Unions (ICFTU) referring to numerous acts of violence, including the murders of trade unionists, and acts of anti-union discrimination against trade union leaders and members, as well as delays in the administration of justice. The Committee also notes the comments made by the Trade Union of Maritime Dockworkers of Asunción (SEMA) relating to interference by employers in private ports and river and maritime transport agencies through the creation of trade unions favourable to the enterprise which negotiate lower minimum daily wages and deprive workers of social security. Furthermore, the enterprise dismisses and refuses to recruit unionized workers. ***The Committee requests the Government to provide its comments on this subject.***

The Committee requests the Government to examine all these matters, including those of a legislative nature, with the social partners and to keep it informed of any progress achieved. The Committee expresses its concern at the gravity of the matters denounced by the ICFTU and draws the Government's attention to the principle that "a climate of violence in which the murder [...] of trade union leaders go[es] unpunished constitutes a serious obstacle to the exercise of trade union rights and that such acts require that severe measures be taken by the authorities". Furthermore, "when disorders have occurred involving loss of human life [...], the setting up of an independent judicial inquiry is a particularly appropriate method of fully ascertaining the facts, determining responsibilities, punishing those responsible and preventing the repetition of such actions. Judicial inquiries of this kind should be conducted as promptly and speedily as possible, since otherwise there is a risk of de facto impunity which reinforces the climate of violence and insecurity and which is therefore highly detrimental to the exercise of trade union activities" (see General Survey on freedom of association and collective bargaining, 1994, paragraph 29).

Philippines

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

The Committee notes the comments on the application of the Convention submitted by the International Confederation of Free Trade Unions (ICFTU) in a communication of 31 August 2005. ***It requests the Government to send its observations thereon.***

The Committee will examine the questions raised in its 2004 observation (see observation 2004, 75th Session) under the regular reporting cycle in 2006.

Romania

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) *(ratification: 1958)*

The Committee notes the comments by the World Confederation of Labour (WCL) on the application of the Convention, sent in a communication dated 31 August 2005. ***The Committee requests the Government to reply to these comments.***

The Committee will examine the matters it raised in its direct request of 2004 (see direct request of 2004, 75th Session) at its 2006 session in the framework of the regular reporting cycle.

Russian Federation

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) *(ratification: 1956)*

The Committee notes with regret that the Government's report has not been received. The Committee notes the discussions in the Conference Committee on the Application of Standards in 2005. In addition, the Committee notes the conclusions and recommendations of the Committee on Freedom of Association in Cases Nos. 2216, 2244 and 2251 (see 337th Report, June 2005).

The Committee further notes the comments on the application of the Convention submitted by the International Confederation of Free Trade Unions (ICFTU) which concern restrictions imposed on the right to strike and the alleged violation of trade union rights afforded by the Convention in practice. ***The Committee requests that the Government provide its observations on the ICFTU's comments.***

The Committee notes that the Labour Code is under review. ***It hopes that the drafted amendments will take into account the Committee's previous request to modify the following sections of the Labour Code or other legislative texts so as to bring them into conformity with Article 3 of the Convention:***

- section 410 of the Labour Code (providing that a minimum of two-thirds of the total number of workers should be present at the meeting and that the decision to stage a strike should be taken by at least half of the number of delegates present), so as to lower the quorum for a strike ballot, which the Committee considered too high and likely to impede recourse to industrial action, particularly in large enterprises;
- section 410 of the Labour Code, so as to repeal the obligation to indicate the duration of a strike;
- section 412 of the Labour Code, so as to ensure that any disagreement concerning minimum services in organizations responsible for safety, health and life of the people and vital interests of the society, where the minimum services must be ensured during a strike, is settled by an independent body having the confidence of all parties to the dispute and not the executive body;
- section 413 of the Labour Code, so as to ensure that when a strike is prohibited, any disagreement concerning a collective dispute is settled by an independent body and not by the Government; and
- section 11 of the Law on Fundamentals of State Employment and the relevant section of the Law on the Federal Railway Transport, so as to ensure that railroad employees, as well as those engaged in the public service, who are not exercising authority in the name of the State, enjoy the right to strike.

The Committee asks the Government to keep it informed of the developments regarding the amendment of the Labour Code and provide a copy of the amended text as soon as it adopted.

Sao Tome and Principe

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1992)

The Committee regrets to note that it has not received the Government's report. It observes that the World Confederation of Labour (WCL) and the General Union of Workers of Sao Tome and Principe (UGT-STP) sent comments on the application of the Convention. *The Committee requests that the Government send its observations in this regard.*

The Committee recalls that for many years it has been making comments on the need for the Government to take steps to amend the following provisions of Act No. 4/92 which refer to the following issues:

- the majority required for calling a strike is too high (section 4 of Act No. 4/92);
- with regard to minimum services, it is important, in the event of disagreement in determining such services, that the matter be settled by an independent body and not by the employer (paragraph 4 of section 10 of Act No. 4/92);
- the hiring of workers to perform essential services in order to maintain the economic and financial viability of the enterprise should it be seriously threatened by a strike (section 9 of Act No. 4/92);
- compulsory arbitration for services which are not deemed essential (postal, banking and loans services) (section 11 of Act No. 4/92).

The Committee reiterates its request to the Government to take steps to amend the above legislative provisions, in order to bring the legislation into conformity with the Convention and to inform it in its next report of any measures adopted in this regard.

Finally, the Committee once again asks the Government to state whether public employees have the right to organize and to indicate the applicable legislation in this matter and whether federations and confederations are able to exercise the right to strike.

Senegal

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes that no report has been received from the Government.

The Committee notes the observations on the application of the Convention sent on 31 August 2005 by the International Confederation of Free Trade Unions (ICFTU). *The Committee requests the Government to comment on these observations in its next report.*

In its previous comments, the Committee addressed the following matters:

Article 2 of the Convention. Trade union rights of minors. For several years, the Committee has been noting that section L.11 of the Labour Code (as amended in 1997) provides that minors over 16 years of age may join trade unions unless their membership is opposed by their father, mother or guardian. *The Committee recalls that the Convention authorizes no distinction on such grounds (see General Survey on freedom of association and collective bargaining, 1994, paragraph 64), and requests the Government to amend its legislation so as to guarantee the right to organize of young persons who are legally entitled to work, either as workers or apprentices, without parental authorization being necessary. The Committee requests that the Government keep it informed on any measures taken to this end.*

Articles 2, 5 and 6. Right of workers to establish organizations of their own choosing without prior authorization. The Committee has been pointing out for many years the need to repeal Act No. 76-28 of 6 April 1976, which confers discretionary authority on the Minister of the Interior for the issuing of certificates recognizing the existence of trade unions. The Committee has also pointed out several times that section L.8 of the Labour Code, as amended in 1997, reproduces the substance of the Act of 1976 by requiring previous authorization from the Minister of the Interior for the establishment of trade unions, federations and confederations.

Noting that section L.8(6) provides that, in the light of reports prepared by the Labour Inspector and the Attorney-General of the Republic and following an opinion from the Minister of Labour, the Minister of the Interior decides whether or not to issue a certificate, in accordance with section 812 of the Code of Civil and Commercial Obligations, the Committee once again emphasizes the importance it attaches to compliance with *Articles 2, 5 and 6* of the Convention, which give workers and their organizations the right to form organizations of their own choosing without prior authorization. *The Committee again asks the Government to repeal at the earliest possible date the requirement for prior authorization set in section L.8 of the Labour Code, and to report on all steps taken to this end.*

Article 3. Requisitioning of workers. The Committee has been noting for several years that section L.276 grants the administrative authorities broad powers to requisition workers in private enterprises and public services and establishments who occupy posts considered to be essential for the security of persons and property, the maintenance of public order, the continuity of public services or the satisfaction of the country's essential needs. *The Committee again asks the Government to provide the decree implementing section L.276 which contains a list of essential services, so*

that it may ensure that it is consistent with the provisions of the Convention. The Committee again points out that the requisitioning of workers as a means of settling labour disputes can result in abuses. Such action is therefore to be exclusively confined to the maintenance of essential services in the strict sense of the term (i.e., the interruption of which could endanger the life, safety or health of the whole or part of the population) or acute national crises or public servants exercising authority in the name of the State.

The Committee further points out that section L.276 *in fine* provides that workplaces or their immediate surroundings may not be occupied during a strike under penalty of the sanctions provided for in sections L.275 and L.279. The Committee has already indicated to the Government that restrictions on the occupation of workplaces should be limited to instances where strike actions cease to be peaceful (General Survey, op. cit., paragraph 174).

Article 4. Dissolution by administrative authority. For several years, the Committee has been pointing out the need to amend the national legislation in order to protect trade union organizations against dissolution by administrative authority (Act No. 65-40 of 22 May 1965), as required by *Article 4* of the Convention. The Committee noted that section L.287 of the Labour Code does not expressly repeal the 1965 provisions on administrative dissolution.

The Committee once again suggests to the Government that it would be preferable to include in a law or regulations a provision expressly stating that the measures on administrative dissolution contained in Act No. 65-40 on associations do not apply to trade union organizations.

The Committee again expresses the firm hope that the necessary steps will be taken to ensure that full effect is given to the provisions of the Convention, and requests the Government to provide information in its next report on any measures taken to this end.

The Committee observes that the Government has not made the comments requested on the observations sent by the ICFTU in its communication of 23 September 2003, reporting police intervention in demonstrations by workers. *The Committee asks the Government to instruct the police to refrain from intervening in peaceful demonstrations by workers.*

Serbia and Montenegro

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

The Committee takes note of the comments made by the Serbian and Montenegrin Employers' Association (UPSCG) in a communication dated 7 April 2005. It observes that most of these comments concern issues which have already been raised by the Committee in previous observations. The Committee will examine these comments at its next session, along with the Government's report which is due in 2006.

Article 2 of the Convention. The Republic of Serbia. 1. The Committee notes that the UPSCG criticizes the new Labour Law as it contains provisions which allow for organizations of employers to be established only if the founding members employ approximately 650,000 workers.

The Committee observes in this respect that article 216 of the Labour Law provides that in order to establish an association of employers, the founding members must employ no less than five per cent of employees of the total number of employees in a certain branch, group, subgroup, line of business or territory of a certain territorial unit.

The Committee considers that, although a minimum membership requirement is not in itself incompatible with the Convention, the number should be fixed in a reasonable manner so that the establishment of organizations may not be hindered (see General Survey on freedom of association and collective bargaining, 1994, paragraph 81). The Committee is of the view that the minimum membership requirement found in article 216 of the Labour Law amounts to a denial of the right to organize for employers, especially in micro, small and medium enterprises. *The Committee requests that the Government amend article 216 of the Labour Law so as to establish a reasonable minimum membership requirement.*

2. *The Committee further asks the Government to provide its response to the other pending questions addressed in its previous observation (see 2004 observation, 75th Session) and previous direct request (see 2004 direct request, 75th Session.)*

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

The Committee takes note of the comments made by the Serbian and Montenegrin Employers' Association (UPSCG) in a communication dated 7 April 2005. It observes that most of these comments concern issues which have already been raised by the Committee in previous observations. The Committee will examine these comments at its next session, along with the Government's report which is due in 2006.

Article 4 of the Convention. The Republic of Serbia. 1. The Committee notes that according to the UPSCG, sections 231 and 232 of the Labour Law give excessively wide discretion to the minister to decide, after consultation with a board (that has not yet been established) the representativeness of trade unions and employers' organizations. The Committee notes that section 222 contains objective and pre-established criteria (percentage of affiliates) for determining

the most representative organization. *However, recalling that trade unions and employers' organizations should have the right to appeal to independent courts against administrative decisions regarding their status, the Committee requests the Government to indicate whether appeals can be brought before the courts against the Minister's decision on the issue of the representativeness of employers' and workers' organizations.*

2. The Committee notes moreover that according to UPSCG, the Minister's decision on the issue of representativeness cannot be challenged by other organizations, which might wish to seek recognition for three years (section 233). The Committee recalls that when national legislation provides for a compulsory procedure for recognizing unions or employers' organizations as an exclusive bargaining agent, it should safeguard the right of an organization which, in a previous trade union election failed to secure a sufficiently large number of votes, or of a new organization, to demand a new election after a reasonable period had elapsed (see General Survey on freedom of association and collective bargaining, 1994, paragraph 240). In the Committee's view, depending on the circumstances, three years could be an excessively long period of time (section 233 of the Labour Law). *The Committee requests the Government to take the necessary legislative measures so as to ensure that an organization which previously failed to obtain recognition, or a new organization, may request a new decision on the issue of representativeness after a reasonable period has elapsed, and in any case, may do so sufficiently in advance of the expiration of the applicable collective agreement.*

3. *The Committee finally requests the Government to provide in its next report its response to the other questions addressed in the previous observation (see 2004 observation, 75th Session).*

Seychelles

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

The Committee notes the Government's report. It notes, however, that the report does not respond to the points the Committee has been raising in its comments for many years.

Articles 2 and 3 of the Convention. Right of workers to establish organizations of their own choosing without previous authorization; right of workers' organizations to formulate their programme of action without interference by the public authorities. The Committee noted previously that the conditions set in section 9(1)(b) of the Industrial Relations Act of 1993 allow the registrar to refuse registration at his discretion. The Committee also noted that under section 9(1)(f) of the Act, the registrar may refuse registration if the trade union's constitution does not contain adequate provision, or is not organized to provide adequately, for the protection and promotion of the interests of its members in every trade which it purports to represent. The Committee reminds the Government that workers' organizations have the right to draw up their own administrative rules and regulations and that the public authorities must refrain from intervening in any way which would impair that right. *It therefore once again asks the Government to provide information in its forthcoming reports on any instances of the registrar refusing registration on the basis of sections 9(1)(b) or 9(1)(f).*

Articles 3 and 10. Right to strike. For many years the Committee's comments have focused on the following points:

- section 52(1)(a)(iv) of the 1993 Industrial Relations Act stipulates that a strike has to be approved by two-thirds of union members present and voting at the meeting called for the purpose of considering the issue;
- section 52(4) allows the Minister to declare a strike to be unlawful if he is of the opinion that its continuance would endanger, amongst other things, "public order or the national economy";
- section 52(1)(b) provides for a cooling-off period of 60 days before a strike may begin; and
- certain prohibitions of, or restrictions on, the right to strike which may or may not be in conformity with the principles of freedom of association, sometimes provide for civil or penal sanctions against strikers and trade unions that have violated these provisions.

The Committee notes the Government's statement that it is strongly committed to bringing its legislation into conformity with the principles of freedom of association. *The Committee expresses the firm hope that the necessary steps will be taken in the near future and reminds the Government that it may avail itself of the technical assistance of the Office if it so wishes.*

Sri Lanka

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1972)

The Committee notes the comments submitted by the World Confederation of Labour (WCL), as well as the recent government response thereto. The Committee observes that the WCL comments concern issues which have been raised in the Committee's previous comments. *Noting also the comments submitted by the International Confederation of Free Trade Unions (ICFTU), the Committee requests the Government to send its observations thereon.*

The Committee will examine these comments, the Government's reply, as well as the questions raised in its 2004 direct request (see direct request 2004, 75th Session) under the regular reporting cycle in 2006.

Switzerland

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1999)

The Committee notes the Government's report on the application of the Convention. It also notes the comments of 15 February 2002, 11 October 2002 and 29 October 2004 by the Swiss Federation of Trade Unions (USS/SGB), and those of 12 November 2004 by the Union of Swiss Employers (UPS) asserting that the provisions of the Convention are fully applied in Switzerland.

Articles 1 and 3 of the Convention. Protection against anti-union dismissals. The Committee notes that the USS/SGB asserts that protection against anti-union dismissals is inadequate and refers to a number of court decisions on this matter. The Committee also notes the Government's reference to its comments of 1 April 2004 responding to a complaint filed to the Committee on Freedom of Association (Case No. 2265) by the USS/SGB on 14 May 2003. The Committee notes in this connection that in its recommendations, the Committee on Freedom of Association invited the Government, together with the employers' and workers' organizations, to examine the present situation in law and in practice as concerns protection against anti-union dismissals so that, in the light of the principles cited by the above Committee, and if the tripartite discussion considers it necessary, measures are taken to ensure that such protection is truly effective in practice [see 335th Report, paragraph 1356]. The Committee concurs with this recommendation.

Article 2 of the Convention. Protection against acts of interference. The USS/SGB mentions its misgivings about the fact that, to avoid having to negotiate with unions, employers are instigating and partly financing the establishment of staff associations and even the replacement of unions by staff committees. **Noting that the USS/SGB mentions a number of companies by name, the Committee requests the Government to respond to these observations and to ensure that the principle of non-interference in trade unions is observed, as required by Article 2 of the Convention.**

Article 4 of the Convention. Promotion of collective bargaining. According to the USS/SGB, collective bargaining in Switzerland is not extensive enough and for years Switzerland has shown no interest in furthering the implementation of the Convention. Furthermore, the public authorities have done nothing to encourage voluntary bargaining within the meaning of the Convention, and it has become common practice in Switzerland for trade unions to be kept out of discussions on working conditions, as management prefers to deal with staff representatives in order to weaken the employers' and workers' organizations concerned. **The Committee requests the Government to respond to these observations and to ensure that Article 4 of the Convention is observed. It also requests the Government to supply statistical information on the number of collective agreements by sector and the number of workers covered.**

Syrian Arab Republic

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

The Committee notes the comments on the application of the Convention submitted by the International Confederation of Free Trade Unions (ICFTU) in a communication of 31 August 2005. **It requests the Government to communicate its observations thereon in its next report.**

The Committee further recalls its previous comments and requests the Government to provide information on the number of collective agreements signed during the last three years, as well as the sectors and the number of workers covered by such agreements.

The Committee will examine the questions raised in its 2004 direct request (see direct request 2004, 75th Session) under the regular reporting cycle in 2006.

The former Yugoslav Republic of Macedonia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1991)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

The Committee recalls that its previous comments, pursuant to the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2133 (329th Report approved by the Governing Body at its 285th Session in November 2002), concerned the absence of legislation for the registration and legal recognition of employers' organizations. It further recalls the conclusions of the Committee on Freedom of Association that the state of law and practice in the area of registration constituted such an obstacle to the establishment of employers' organizations that it deprived employers of their fundamental right to establish occupational organizations of their own choosing (see 329th Report, paragraph 545). The Committee indeed notes that, although section 76 of the Labour Relations Act proclaims the right of employers to establish and join organizations of

their own choice without previous approval, it does not refer to any procedure for the registration of employers' organizations, while provision is made in section 81 for a special registry of employees' organizations.

Recalling that the Convention covers employers as well as workers (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 67), the Committee again urges the Government to indicate the measures taken or envisaged to ensure the registration and recognition of employers' organizations in a status corresponding to their objectives. It further requests the Government to indicate the steps taken to finalize the registration of the Union of Employers of Macedonia.

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

The Committee takes note of the adoption of the Labour Relations Act on 22 July 2005 and will examine this Act at its next meeting, in the regular supervisory cycle.

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

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

The Committee takes note of the Labour Relations Act promulgated on 22 July 2005. The Committee will examine this legislation at its next session, in the framework of the regular reporting cycle, along with all the questions raised in its previous observation and direct request [see 2004 observation, 75th Session and 2004 direct request, 75th Session].

Trinidad and Tobago

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1963)

The Committee takes note of the Government's report. It also notes the comments from the Employers' Consultative Association (ECA) of Trinidad and Tobago dated 12 August 2005, which refer to matters already raised by the Committee in its previous observations.

For several years now, the Committee has been requesting the Government to take steps to:

- amend section 59(4)(a) of the Industrial Relations Act, as amended, so as to enable a simple majority of the voters in a bargaining unit (excluding those workers not taking part in the vote) to call a strike. The Committee cannot but recall that the requirement that the exercise of the right to strike be subjected to prior approval by a certain percentage of workers is not in itself incompatible with the Convention; on the other hand, legislative provisions which require a vote by workers before a strike can be held should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see General Survey on freedom of association and collective bargaining, 1994, paragraph 170);
- amend sections 61 and 65 of the same Act to ensure that any resort to the Court by the Ministry of Labour or by one party only to end a strike is limited to cases of strikes in essential services in the strict sense of the term, that is to say those in which the strike would endanger the life, personal safety or health of the whole or part of the population, or in cases of acute national crisis or in relation to public servants exercising authority in the name of the State;
- amend section 67 of the Act to ensure that the prohibition of industrial action in essential services is limited to cases of strikes in essential services in the strict sense of the term (in particular the Committee had noted that the inclusion in schedule 2 of a public school bus service in the list of essential services could not be considered to be essential in the strict sense of the term); and
- repeal the restrictions under section 69 prohibiting the teaching service and employees of the Central Bank from taking industrial action, under penalty of 18 months' imprisonment, in the case that such restrictions were still in force.

The Committee notes with regret that the Government indicates in its report that it has no immediate plans to amend the above sections of the Industrial Relations Act nor does it see any compelling reasons to justify the amendments of the Industrial Relations Act. The Government is of the opinion that an amendment of section 59(4)(a) would increase the occurrence of industrial action and make virtually unmanageable the industrial relations system and that it would be a challenge to good order and civility. The provision as it stands encourages responsible trade union behaviour and the proper conduct and management of industrial relations in a developing society. The Government further indicates that it does not see the virtue in amendments to sections 61, 65 and 67, as they have not in practice impeded freedom of association and that it does not see any reason to amend section 69 at this time either.

Recalling that the right to strike is an intrinsic corollary to the right of association protected by the Convention, the Committee urges the Government to take the necessary measures to amend the legislation so as to bring it into conformity with the provisions of the Convention. As such, it asks the Government to indicate the progress made in this respect in its next report.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1963)

The Committee notes the Government's report. It further notes the comments made by the Employers' Consultative Association of Trinidad and Tobago.

1. *Article 4 of the Convention.* The Committee's previous comments concerned the need to amend provisions that afford a privileged position to already registered associations, without providing objective and pre-established criteria for determining the most representative association in the prison service and civil service. In this respect, the Committee notes with satisfaction that the Prison Service (Amendment) Act of 2000 amended section 26, as previously requested by the Committee. The Committee further notes the Government's statement that the amendment to section 24(3) of the Civil Service Act has not been completed. ***The Committee requests the Government to provide a copy of the Act amending section 24 of the Civil Service Act, once it is adopted.***

2. *Promotion of collective bargaining.* The Committee's previous comments concerned the need to amend section 34 of the Industrial Relations Act (IRA), in order to allow a union whose members constitute the largest number of workers in a bargaining unit, even if it is unable to reach a membership of 50 per cent of the workers in that bargaining unit, to collectively negotiate employment conditions. The Committee notes that the Government reiterates its statement to the effect that section 34 of the IRA has not been amended as it promoted industrial stability and is related to recognition issues in the history of Trinidad and Tobago. No recommendation has therefore been made to change the existing law in this regard. In this respect, the Committee once again points out that, where there is a single trade union in a bargaining unit with less than the absolute majority, this type of conflict cannot arise, and where various minority unions exist, their joint participation in the bargaining process could be arranged in an equitable manner or it could be envisaged that collective agreements apply only to the members of the respective trade union. The Committee emphasizes that the requirement that a union obtain the support of an absolute majority of the workers in the bargaining unit to be granted bargaining rights means that there is a risk in practice in many cases that workers will be deprived of the benefits of collective bargaining. The Committee notes that the Employers' Consultative Association of Trinidad and Tobago considers that section 34 of the IRA should be amended so as to bring it in line with Convention No. 98. ***The Committee urges the Government to take the necessary measures to ensure that this provision is amended so that, where no union represents an absolute majority of workers, the union which represents a relative majority of workers in the bargaining unit can carry out negotiations to conclude a collective agreement, at least on behalf of its own members. The Committee requests the Government to keep it informed of developments in this respect.***

3. *Collective bargaining in the Central Bank.* The Committee had noted previously that, in May 2000, the General Workers' Trade Union was granted recognition as a bargaining agent and it had requested the Government to provide information concerning the negotiations held and any collective agreement concluded. The Committee notes with interest that a three-year collective agreement concluded by the Central Bank of Trinidad and Tobago and the Banking, Insurance and General Workers Union is now in force.

Turkey

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

The Committee takes note of the information provided by the Government representative to the Conference Committee in June 2005 as well as the discussion that followed. It notes that in its conclusions, the Conference Committee on the Application of Standards requested the Government to provide detailed and complete information on all pending issues, the latest draft laws and whatever text was adopted. ***The Committee requests the Government to provide in its next report, due in the framework of the regular reporting cycle in 2006, detailed and complete information on all the issues raised in its previous observation and direct request (see observation 2004, 75th Session and direct request 2004, 75th Session) as well as the latest draft laws and adopted texts.***

The Committee takes note of the comments made by YAPI YOL SEN dated 1 September 2005 with regard to the right to organize of public employees as well as the Government's recent response thereto. The Committee also takes note of the comments of the KESK affiliate Union of All Municipality and Local Administrative Services Employees (TÜM BEL SEN), dated 2 February 2005 with regard to the right to strike of public servants not engaged in the administration of the State as well as the Government's response in this respect. Noting that the issues raised in these comments have been dealt with in its previous comments, the Committee will examine them again in the framework of the regular reporting cycle at its next meeting in 2006.

The Committee finally notes the comments made by the Confederation of Progressive Trade Union of Turkey (DISK) and the Confederation of Public Employees' Trade Unions (KESK) which were transmitted in a communication by the International Confederation of Free Trade Unions (ICFTU) dated 30 August 2005 as well as the Government's response thereto. These comments concern issues related to the right of public servants not engaged in the administration of the state to take part in collective bargaining and will be examined under Convention No. 98.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1952)***

The Committee takes note of the comments of the KESK affiliate Union of All Municipality and Local Administrative Services Employees (TÜM BEL SEN), dated 2 February 2005, as well as the Government's response thereto. It also notes the comments made by the Confederation of Public Employees' Trade Unions (KESK) and the Confederation of Progressive Trade Unions of Turkey (DISK) which were transmitted in a communication by the International Confederation of Free Trade Unions (ICFTU) dated 30 August 2005, as well as the Government's response thereto. The Committee finally takes note of the Government's observations on the comments previously made by the Confederation of Public Employees of Turkey (TÜRKIYE KAMU-SEN). The Committee notes that all these communications concern issues related to the right of public servants not engaged in the administration of the State to take part in collective bargaining and will be examined by the Committee at its next session in the framework of the regular reporting cycle, along with the information requested from the Government in the Committee's previous observation and direct request [see 2004 observation, 75th Session and 2004 direct request, 75th Session].

The Committee finally takes note of the comments made by YAPI-YOL SEN dated 1 September 2005 with regard to the right to organize of public employees, as well as the Government's response thereto. These comments, which concern issues related to both Conventions Nos. 87 and 98, will be treated under Convention No. 87.

Labour Relations (Public Service) Convention, 1978 (No. 151) ***(ratification: 1993)***

The Committee takes note of the comments of the KESK affiliate Union of All Municipality and Local Administrative Services Employees (TÜM BEL SEN), dated 2 February 2005 as well as the Government's observations thereon. It also takes note of the Government's observations on the comments made by the Turkish Confederation of Public Workers' Associations (TURKIYE KAMU-SEN) on 10 November 2004, with regard to the collective bargaining process in the public sector. As these issues are closely linked to the matters already under examination in the context of the application of Conventions Nos. 98 and 151, the Committee will examine these comments at its next meeting, in the framework of the regular reporting cycle, along with the Government's report which is due in 2006.

United Kingdom

Isle of Man

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

The Committee notes the Government's report.

Article 1 of the Convention. The Committee's previous comments concerned the need to provide adequate protection against anti-union discrimination in the course of employment. The Committee had noted that, pursuant to the Employment Act, 1991, a remedy was afforded only for anti-union dismissals and was limited to financial compensation awarded by the Employment Tribunal. The Committee had also noted that the Employment (Amendment) Bill would include provisions extending the current protection to further acts of anti-union discrimination including through reinstatement.

The Committee notes from the Government's latest report that the bill is presently at drafting stage, pursuant to consultations with interested parties and agreement by the Department of Labour and the Council of Ministers as to its content.

The Committee takes note with interest of this information. *The Committee requests the Government to keep it informed of progress made in adopting the draft Employment (Amendment) Bill and to transmit a copy of the legislation as soon as it has been adopted.*

Bolivarian Republic of Venezuela

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1982)

The Committee notes the Government's report and the discussion that took place in the Conference Committee on the Application of Standards in June 2005. It also notes the comments on the application of the Convention sent by the International Confederation of Free Trade Unions (ICFTU). The Committee observes that the Committee on Freedom of Association is hearing several cases against the Government of the Bolivarian Republic of Venezuela.

The Committee notes with regret that the high-level mission requested by the Conference Committee on the Application of Standards has not taken place and that it therefore has no mission report. *The Committee notes that this mission is to take place in the very near future and hopes that it will address all the questions raised in this observation.*

Amendment to the Basic Labour Act requested by the Committee

The Committee previously noted that a Bill to amend the Basic Labour Act took account of requests for amendment that it had made: (1) it deletes sections 408 and 409 (over-detailed enumeration of the mandatory functions and purposes of workers' and employers' organizations); (2) it reduces from ten to five years the required period of residence before a foreign worker may hold office in an executive body of a trade union organization; (3) it reduces from 100 to 40 the number of workers required to establish a trade union of independent workers; (4) it reduces from ten to four the number of employers required to establish an employers' organization; and (5) it provides that the technical cooperation and logistical support of the electoral authority (National Electoral Council) for the organization of elections to executive bodies of trade unions shall be provided only where so requested by trade union organizations in accordance with the provisions of their statutes, and that elections held without the participation of the National Electoral Council and which comply with the statutes of the trade unions concerned shall have full legal effect once the corresponding reports are submitted to the appropriate labour inspectorate. The Committee notes that the authorities of the Ministry and the bodies of the legislative authority support the position set out in this provision of the Bill and that, in practice, trade union organizations have now held elections without the participation of the National Electoral Council.

The Committee also noted in its previous comments that the Bill provided that "in accordance with the constitutional principle of democratic changeover, the executive board of a trade union organization shall discharge its functions during the period established by the statutes of the organization, but in no case may a period in excess of three years be established". The Committee noted from the report of the direct contacts mission (13-15 October 2004) that the Government had emphasized that re-election of trade union leaders raised no problems in practice, and had cited several examples. The Committee hoped that parliament would include in the Bill a provision expressly allowing the re-election of trade union leaders.

The Committee underlines that the Government has been referring to draft reforms for years and expresses the firm hope that the abovementioned Bill will be adopted in the near future.

Recognition of the executive committee of the Confederation of Workers of Venezuela (CTV)

The Committee previously urged the Government to recognize at once the executive committee of the CTV, particularly as in the union elections of 2001 this confederation had a representation rate of 68.73 per cent. The Government indicated in an earlier report that the election process had been impugned in the National Electoral Council (a non-judicial body), and the Committee of Experts endorsed the view of the Committee on Freedom of Association that challenging the results of trade union elections should not have the effect of suspending their validity pending the outcome of the judicial proceedings.

The Committee notes the following statements made by the Government in its report:

- (1) by a resolution of 10 November 2004, published on 28 January 2005, the National Electoral Council declared the CTV electoral process null and void;
- (2) the Ministry of Labour, in good faith and without discrimination, included the CTV in various consultations and opportunities for dialogue, and the CTV representatives have thus attended a number of work sessions;
- (3) with regard to the CTV's representation rate in 2001 of 68.73 per cent, it should be noted that many organizations left this confederation and that another confederation (UNT) was set up in 2003;
- (4) in 2004, the number of associations not affiliated to a confederation reached 33 per cent, the UNT maintaining 45 per cent of affiliations and the CTV, 22 per cent; and
- (5) in 2003, 25.1 per cent of collective conventions belong to the CTV and 74.4 per cent to the UNT.

The Committee points out that it is difficult to compare, as between the CTV and the UNT, the percentage of organizations with the percentage of collective agreement (more than 99 per cent), and it is difficult to draw conclusions because there appear to be contradictory data.

The Committee regrets that the National Electoral Council took so long in reaching a decision, which was taken in the last year of the term of office of the CTV's executive committee, which meant that it was too late for any judicial action; and the fact that the Council is not a judicial body and, in the Committee's view, it therefore lacks the authority to declare trade union elections null and void. In any event, the Committee regrets that in the last four years the Government has not recognized de jure the CTV, and as regards the next trade union elections, it shares the conclusions of the Conference Committee on the Application of Standards which read as follows:

The Committee underlined the importance of full respect for *Article 3* of the Convention and that the public authorities should not interfere in the elections and activities of workers' and employers' organizations. It took note of the Government's statements that recourse to the National Electoral Council was optional for occupational organizations and urged the Government to fully respect this commitment.

The Committee requests that the Government report on compliance with this principle at the next trade union elections. It expresses concern, in this connection, at the fact that in 2004 the National Electoral Council drafted rules for the election of national executive boards conferring on the Council a preponderant role in trade union elections.

Social dialogue with the social partners

In June 2005, the Conference Committee on the Application of Standards noted shortcomings in social dialogue observing that progress was needed. In its last observation, the Committee of Experts noted that, according to the report of the direct contacts mission (13-15 October 2004), despite the readiness for dialogue demonstrated unequivocally by the central and regional executive bodies of FEDECAMARAS (the sole – and highly representative – confederation of employers in the country) and the CTV executive committee, the Ministry of Labour had given no indication of wishing to promote or intensify bipartite or tripartite dialogue on a solid basis with these executive bodies; in practice, such dialogue had for years been virtually non-existent and took place only sporadically. The Committee expressed the view that strict criteria of representativeness were not respected in these sectoral dialogue forums and that the executive bodies of the central organizations, the CTV and FEDECAMARAS, were excluded from such forums and therefore suffered discrimination. The Committee further noted that, according to the report of the direct contacts mission, effective consultations between the Government and the executive bodies of the CTV and FEDECAMARAS on labour issues had been limited and had consequently been exceptional.

The Committee notes that in June 2005, the Conference Committee on the Application of Standards took note of a statement made by the Government representative to the effect that the Government includes FEDECAMARAS and the CTV in the framework of inclusive dialogue without exclusion of any social partners.

The Committee takes note of the Government's comments in its report about meetings on various national and international labour issues, including draft legislative amendments, which were attended by the CTV and FEDECAMARAS, among others. It notes that, according to the Government, FEDECAMARAS has maintained contacts with a number of regional and national authorities, including at the highest level; that the Government refers to statements by the Vice-President of FEDECAMERAS to this effect, and states that it is willing to promote social dialogue at all levels and with all sectors (in one of the documents sent, the President of FEDECAMARAS states that "in FEDECAMARAS there are employers who believe that concrete agreements are not being reached; it is doubtless not easy, but we have follow-up on all the meetings").

The Committee nevertheless notes that this inclusive process referred to by the Government should take full account of the representativeness of organizations. It observes that a number of ILO bodies have received complaints about the inadequacies of dialogue with the CTV and FEDECAMARAS. It points out that the fact that meetings are held does not necessarily ensure that there are meaningful consultations and agreements.

The Committee requests the Government to enhance dialogue with the most representative organizations and to keep it informed in this regard, sending copies of any agreements that are signed.

Comments of the ICFTU

In its comments, the ICFTU refers to a number of issues raised previously and objects to the policy of creating trade unions in many public enterprises to support the political process. According to the ICFTU, one practice is to compel public sector employees to leave the CTV and its federations and to join the UNT. According to the ICFTU, the Government signs most agreements in the public sector with federations that are sympathetic to the Government; in other sectors the authorities refuse to negotiate. The ICFTU also refers to acts of violence against trade unions and the prosecution of trade unionists. The Committee expresses its concern at these allegations and reminds the Government that the guarantees set out in the international labour Conventions, in particular those relating to freedom of association, can be effective only if civil rights are genuinely recognized and protected (see General Survey on freedom of association and collective bargaining, 1994, paragraph 43). ***The Committee accordingly asks the Government to give full effect to the requirements of the Convention.***

Lastly, the Committee asks the Government to provide in its next report information on the various issues raised in this observation.

Yemen

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1969)***

The Committee takes note of the Government's report. It also takes note of the entry into force of Act No. 35 of 2002 on the organization of trade unions.

Article 1 of the Convention. In its previous comments, the Committee noted that the Trade Union Bill did not include specific provisions accompanied by effective and sufficiently dissuasive sanctions that guaranteed the protection of workers against acts of anti-union discrimination by employers, and it requested the Government to amend the Bill to ensure such protection.

The Committee notes with satisfaction that section 8 of Act No. 35 of 2002 provides that no person may be coerced into joining or withdrawing from an organization or from exercising their trade union rights and that section 10 prohibits any anti-union act, including dismissal, for trade union activities or membership. The Committee also notes that section 89 of the Labour Code specifies the duties of the employer (namely the obligation to respect the Labour Code) and that

section 154 establishes prison sentences (not exceeding three months) or fines (not exceeding 20,000 riyals) for infringements of section 89.

Article 2. In its previous comments, the Committee also urged the Government to ensure that the Trade Union Bill contained provisions for rapid appeal procedures, together with effective and dissuasive sanctions to protect workers' organizations against acts of interference by employers. The Committee notes that section 8 of Act No. 35 prohibits direct and indirect interference in the functioning of trade union organizations and that section 56 specifies the prohibition of any person trying to influence the freedom and neutrality of elections, whether directly or indirectly, or threaten, mistreat or defame a nominee or a trade union. Any person found guilty of committing any of the previous acts shall be punished by penalties according to the laws that are in force. In this respect, the Government refers to the Act on general elections No. 27 of 1996, and amendments made thereto issued by Act No. 27 of 1999. However, the Committee notes that Act No. 35 of 2002 does not contain specific sanctions for the protection of workers' organizations against acts of interference by employers or their organizations. **The Committee requests the Government to provide further information on any sanctions established against acts of interference prohibited in the legislation.**

Article 4. (a) In its previous comments, the Committee had requested the Government to further promote collective bargaining and to provide statistics on the number of workers covered by collective agreements in comparison with the total number of workers in the country. The Government indicates in its report that it was not able to obtain any statistics in this respect. **The Committee expresses the firm hope that the Government will be able to provide it with these statistics together with its next report.**

(b) The Committee had also requested the Government to amend sections 32(6) and 34(2) of the Labour Code so that refusal to register a collective agreement would be possible only due to a procedural flaw or because it did not conform to the minimum standards laid down by the labour legislation. The Government indicates in its last report that there are proposed amendments to the Labour Code. **The Committee notes the Government's statement and expresses the hope that sections 32(6) and 34(2) of the Labour Code will be amended in the very near future so that refusal to register a collective agreement is only possible due to a procedural flaw or because it does not conform to the minimum standards laid down by the labour legislation.**

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1976)

The Committee notes the Government's report.

The Committee recalls that it commented previously on the need for workers' representatives to be afforded protection against anti-trade union discrimination, as well as facilities to allow them to carry out their duties quickly and efficiently.

The Committee notes with satisfaction that Act No. 35 on the organization of trade unions, which was adopted and promulgated on 31 August 2002, prohibits any act of anti-union discrimination against workers' representatives and that dissuasive sanctions are provided under the Labour Code. It also notes that sections 38 and 39 of the Act provide for trade union leave.

The Committee requests the Government to take additional steps in order to ensure that, under the terms of the legislation or through collective agreements, the union leaders and delegates in question benefit from other facilities to enable them to carry out their functions (such as the right to collect trade union dues on the premises of the undertaking, the distribution of trade union documents among the workers of the undertaking, etc.).

Zambia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

The Committee takes note of the observations communicated by the International Confederation of Free Trade Unions (ICFTU) of 2002.

Articles 3 and 10 of the Convention. *Right of organizations to organize their activities and to further and defend the interests of their members.* The Committee takes note of the observations communicated by the ICFTU according to which the definition of essential services is excessively wide. The Committee recalls that in its previous comments it had taken note of the Government's intention to revise the legislation, in particular, by introducing the concept of minimum negotiated services, and had requested the Government to keep it informed of progress made in bringing the following provisions of the Industrial and Labour Relations Act into conformity with the Convention:

- section 78(6) to (8) under which a strike can be discontinued if it is found by the court not to be "in the public interest";
- section 100 which refers to exposing property to injury;
- section 107 which prohibits strikes in essential services and empowers the Minister to add other services to the list of essential services in consultation with the Tripartite Consultative Labour Council.

The Committee once again recalls that the right to strike can only be limited or restricted in specified circumstances, namely in the case of an acute national crisis or in essential services in the strict sense of the term, namely those services, the interruption of which would endanger the life, personal safety or health of the whole or part of the population. **The Committee**

requests the Government to keep it informed of the progress made in the legislative revision with respect to these sections of the Industrial and Labour Relations Act.

The Committee takes note of the ICFTU's comments according to which the right to strike is subject to numerous procedural requirements such that it is next to impossible for workers to hold a legal strike. The Committee recalls that its previous comments had related to section 76 of the Industrial and Labour Relations Act, which establishes no time frame in which conciliation should end before a strike can take place. The Committee once again recalls that procedures should not be so slow or complex that a lawful strike becomes impossible in practice or loses its effectiveness. The Committee further notes that its previous comments related to section 78(1) of the Industrial and Labour Relations Act as interpreted by a decision of the Industrial Relations Court according to which, either party may take an industrial dispute to court. The Committee once again recalls that if the right to strike is subject to restrictions or a prohibition, workers should be afforded compensatory guarantees, for example conciliation and mediation procedures leading, in the event of a deadlock, to arbitration machinery seen to be reliable by the parties concerned; recourse to arbitration should be at the request of both parties or in the case of strikes occurring in essential services in the strict sense of the term or in an acute national crisis. *The Committee once again urges the Government to amend sections 76 and 78(1) of the Industrial and Labour Relations Act in accordance with the above.*

With regard to its previous comments concerning section 107 of the Industrial and Labour Relations Act which empowers a police officer to arrest without a warrant a person who is believed to be striking in an essential service or who is violating section 100 (exposing property to injury), and which imposes a fine and up to six months' imprisonment, the Committee once again emphasizes that sanctions for strikes should not be disproportionate to the seriousness of the violation and *requests the Government once again to amend these provisions so as to bring them into full conformity with the Convention, in particular, by ensuring that no worker can be imprisoned for participation in a peaceful strike.*

In addition, the Committee is addressing a request on certain other points directly to the Government.

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

The Committee finally notes the comments made by the ICFTU in a communication dated 31 August 2005 with regard to presidential threats against trade unions. The Committee requests the Government to communicate its observations in this respect in its next report.

Zimbabwe

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2003)

The Committee notes the Government's first report. It further notes the comments made by the International Confederation of Free Trade Unions (ICFTU) and the Zimbabwe Congress of Trade Unions (ZCTU) in a communication dated 6 September 2005 concerning the application of the Convention in law and in practice. *The Committee requests the Government to provide its comments thereon.* The Committee takes note of the conclusions and recommendations of the Committee on Freedom of Association in Cases Nos. 1937, 2027, 2313 and 2365.

The Committee notes from Cases Nos. 2313 and 2365 examined by the Committee on Freedom of Association that several trade union members and officers have been arrested and initially charged under the Public Order and Security Act of 22 January 2002 (11:17) (POSA) for holding trade union workshops or demonstrations without authorization (Reports Nos. 334, 336 and 337, paragraphs 109-1121, 891-914 and 1633-1671 respectively). The Committee notes that the POSA and, in particular, its Part IV on public gatherings, confers discretionary power to the authorities to prohibit public gatherings and sanctions of fines and imprisonment for violation of any such prohibition. While noting that according to the Schedule, section 24 which concerns an obligation to notify the regulating authority of an intention to hold a public gathering, does not apply to public gatherings of members of professional, vocational or occupational bodies held for purposes which are not political or held by trade unions for bona fide trade union purposes, the Committee observes that the Act does not provide for any specific criteria concerning the determination of "bona fide purposes". In these circumstances, and in light of the conclusions in the abovementioned cases, the Committee is concerned that this Act may be used in practice so as to impose sanctions on trade unionists for conducting a strike, protest, demonstration or other public gathering. The Committee recalls that the development of the trade union movement and the increasing recognition of its role as a social partner in its own right mean that workers' organizations must be able to voice their opinions on political issues in the broad sense of the term and, in particular, to express their views publicly on a government's economic and social policy (see General Survey on freedom of association and collective bargaining, 1994, paragraph 131). *The Committee therefore requests that the Government take measures to ensure that the POSA is not used to infringe upon the right of workers' organizations to express their views on the Government's economic and social policy and to keep it informed of the measures taken or envisaged in this respect.*

A request on certain other points is being addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1998)

The Committee takes note of the discussion that took place at the Conference Committee in June 2005 and notes that in its conclusions the Conference Committee "in a fully constructive spirit, felt that a direct contacts mission could provide greater clarity on the situation, in particular on the ongoing legislative process". The Committee takes also note of

the comments on the application of the Convention presented by the International Confederation of Free Trade Unions (ICFTU) and requests the Government to provide its observations thereon.

Taking into account the concerns raised by the problems at issue, the Committee regrets that the Government has not yet accepted the suggested direct contacts mission. *The Committee expresses the hope that the Government will give a positive response to this suggestion in the very near future. Furthermore, noting that it will examine the pending problems next year in the framework of the regular reporting cycle, the Committee expresses the hope that the Government will send a comprehensive report so as to enable it to fully assess the situation regarding the application of the Convention in law and in practice in the light also of the findings of the mission.*

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 11** (Serbia and Montenegro); **Convention No. 87** (Albania, Angola, Argentina, Australia, Bahamas, Bangladesh, Bolivia, Bosnia and Herzegovina, Botswana, Burundi, Cambodia, Canada, Cape Verde, Chile, China: Macau Special Administrative Region, Colombia, Costa Rica, Czech Republic, Democratic Republic of the Congo, Egypt, Equatorial Guinea, Eritrea, Estonia, Fiji, Finland, France, France: French Southern and Antarctic Territories, Gabon, Gambia, Georgia, Ghana, Grenada, Hungary, Indonesia, Kazakhstan, Kiribati, Kyrgyzstan, Latvia, Lesotho, Libyan Arab Jamahiriya, Republic of Moldova, Mongolia, Namibia, Netherlands: Aruba, Netherlands: Netherlands Antilles, Pakistan, Saint Lucia, Slovakia, Sri Lanka, Zambia, Zimbabwe); **Convention No. 98** (Albania, Angola, Argentina, Australia, Azerbaijan, Bahamas, Barbados, Belize, Benin, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Central African Republic, Chile, China: Macau Special Administrative Region, Congo, Cuba, Democratic Republic of the Congo, Egypt, Eritrea, Fiji, France, France: French Southern and Antarctic Territories, Gambia, Georgia, Ghana, Guinea-Bissau, Indonesia, Kazakhstan, Kiribati, Latvia, Malaysia, Republic of Moldova, Namibia, Niger, Peru, Poland, Russian Federation, Seychelles, Slovakia, Slovenia, Ukraine, United Kingdom: Bermuda, Zambia); **Convention No. 135** (Azerbaijan, Democratic Republic of the Congo, Kazakhstan, Mongolia, Netherlands, Netherlands: Aruba, Serbia and Montenegro, Ukraine); **Convention No. 151** (Belize, Chad, Chile, Mali, Republic of Moldova, Seychelles); **Convention No. 154** (Albania, Belize, Ukraine).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 87** (Italy, Bolivarian Republic of Venezuela); **Convention No. 98** (Finland, Jordan, Kyrgyzstan); **Convention No. 135** (Latvia); **Convention No. 151** (Azerbaijan); **Convention No. 154** (Azerbaijan).

Forced Labour

Benin

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

The Committee notes with satisfaction that Act No. 2001-09 of 21 June 2002 respecting the exercise of the right to strike repeals Ordinance No. 69-14/MFPRAT of 19 June 1969, under which striking workers could be requisitioned under penalty of imprisonment.

1. *Article 1(a) of the Convention. Imposition of sentences of imprisonment involving an obligation to work as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system.* For many years, the Committee has been drawing the Government's attention to certain provisions of Act No. 60-12 of 30 June 1962 on the freedom of the press, under which sentences of imprisonment may be imposed as punishment for various acts or activities relating to the exercise of the right of expression. Moreover, by virtue of section 67 of Decree No. 73-293 of 15 September 1973 issuing the prison regulations, as amended by Decree No. 78-161 of 23 June 1978, convicted prisoners may be assigned to social rehabilitation work.

More precisely, the Committee referred previously to the following sections of the Act: section 8 (deposit of a publication with the authorities before its release to the public); section 12 (allowing a ban on publications of foreign origin in French or the vernacular printed in or outside the country); section 20 (incitement to commit an act classified as an offence); section 23 (causing offence to the Prime Minister); section 25 (publishing false reports); sections 26 and 27 (slander and insults).

The Committee also noted previously that Act No. 97-010 of 20 August 1997, liberalizing audiovisual communications and establishing special penal provisions relating to offences in the area of the press and audiovisual communications, does not repeal Act No. 60-12 referred to above, but that in the event of conflicting provisions those of Act No. 97-010 prevail. It emphasized that these two laws were different in scope, as Act No. 97-010 covers audiovisual communication and Act No. 60-12 relates to printing, sales of books and periodicals. Furthermore, the Committee regretted that some of the provisions of the new Act were similar to those of Act No. 60-12, on which it had commented. For example, under section 79(3) of Act No. 97-010, "any seditious shouts or chants against the lawfully established authorities in public places or meetings" are punishable by a sentence of imprisonment of from six months to two years; causing offence to the President of the Republic is punishable by imprisonment of from one to five years, under section 81; and section 80 punishes by imprisonment of from two to five years any provocation of the public security forces aimed at distracting them from their duty of defending security or obeying the orders given by their chiefs for the enforcement of military laws and regulations.

The Committee recalls that *Article 1, paragraph 1(a)*, of the Convention prohibits the use of forced labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. Sentences of imprisonment, when they involve compulsory labour, come under the scope of the Convention when they are imposed to uphold the prohibition of expressing views or opposition.

In its last report, the Government indicates that it will make every effort to ensure that the national laws are brought into conformity with the Convention as soon as possible. ***The Committee therefore once again requests the Government to take the necessary steps to ensure observance of the Convention and to guarantee that no sentence of imprisonment which may involve compulsory labour may be imposed as a punishment for activities related to freedom of expression. It would also be grateful if the Government would provide any relevant information on the effect given in practice to the above provisions of Acts Nos. 60-12 and 97-010, together with copies of any court decisions clarifying their scope.***

2. *Article 1(c). Imposition of forced labour as a means of labour discipline.* Since 1970, the Committee has been drawing the Government's attention to the need to amend sections 215, 235 and 238 of the Merchant Shipping Code of 1968. Under these provisions, certain breaches of discipline by seafarers are punishable by imprisonment which, in accordance with section 67 of Decree No. 73-293 of 15 September 1973, involves the obligation to work. In its last report, the Government indicates that the draft new Merchant Shipping Code has still not been adopted.

The Committee hopes that it will be possible to adopt the new Merchant Shipping Code in the very near future. ***It trusts that the Government will take all the necessary measures to ensure that the new Merchant Shipping Code does not contain provisions allowing the imposition of sentences of imprisonment, involving the obligation to work, for breaches of labour discipline where they do not endanger safety. Please provide a copy of the new Merchant Shipping Code as soon as it is adopted.***

Botswana

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)

The Committee notes with satisfaction that the Trade Disputes Act (Cap. 48:02), which contained provisions punishing the participation in an unlawful industrial action by sanctions of imprisonment (involving compulsory prison labour), has been repealed by the new Trade Disputes Act No. 15 of 2004.

The Committee is addressing a request on certain other points directly to the Government.

Burundi

Forced Labour Convention, 1930 (No. 29) (ratification: 1963)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

1. *Forced recruitment of children during armed conflicts.* The Committee of Experts has previously noted the concern expressed by the United Nations Committee on the Rights of the Child at the use of children by the state armed forces as soldiers or helpers in camps or in obtaining information. The Committee on the Rights of the Child also expressed its concern at the low minimum age of recruitment to the armed forces. According to these observations, there is also widespread recruitment of children by opposition armed forces and sexual exploitation of children by members of the armed forces (CRC/C/15/Add.133, paragraphs 24 and 71). The Committee also noted the evaluation report of the national action programme for the survival, protection and development of children for the 1990s (report produced in January 2001 as part of the follow-up to the World Summit for Children). This report refers to the situation of street children, child soldiers and the sexual and commercial exploitation of children (paragraphs 86 and 94). Child soldiers are between 12 and 16 years of age and are used as messengers, servants, lookouts or scouts. As camp followers of the combatants they are often easy targets, being untrained in protection techniques. The rebels allegedly enrol primary school children from the age of 12 years. Even though the minimum age for conscription in the armed forces of Burundi is 16 years, there are indications that children are used by soldiers for odd jobs.

The Committee notes that in March 2003 the ICFTU made comments on the application of the Convention, confirming the use of child soldiers by the armed forces. The Committee notes that the Government has not provided any information on the measures adopted to protect children against recruitment in the armed forces as soldiers or to perform supporting tasks for military personnel. The Committee expresses particular concern at the situation of these children. The Committee also notes the report of the Secretary-General of the United Nations on children and armed conflict, submitted to the United Nations Security Council in November 2002. At the request of the latter, the report drew up a list of 23 parties to armed conflict that recruit or use child soldiers, in violation of the international provisions protecting them. The Committee also notes that this list includes the Government of Burundi, PALIPEHUTU/FNL (*Parti pour la libération du peuple Hutu/Forces nationales pour la libération*) and the CNDD/FDD (*Conseil national pour la défense de la démocratie/Front pour la défense de la démocratie*).

Finally, the Committee notes that Burundi ratified the Worst Forms of Child Labour Convention, 1999 (No. 182), on 11 June 2002. As Convention No. 182 provides in Article 3(a) that the worst forms of child labour include “forced or compulsory recruitment of children for use in armed conflict”, the Committee considers that the problem of the recruitment of children in armed forces may be examined more specifically in the context of Convention No. 182. The protection of children is strengthened by the fact that Convention No. 182 places the obligation upon States which ratify it to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. While noting that in its reply to the comments of the ICFTU, the Government indicates that following the Arusha Peace Agreement and the Pretoria Ceasefire Agreement, the phenomenon of recruitment of the children in armed conflicts has almost disappeared and their socio-economic integration is continuing, ***the Committee requests the Government to provide more detailed information on the measures adopted to protect children against forced recruitment to serve as soldiers and to carry out supporting tasks for the armed forces in its first detailed report on the application of Convention No. 182.***

2. For many years, the Committee has drawn the Government’s attention to the need to take measures to bring certain provisions of the national legislation into conformity with the Convention. The Committee noted in this respect that in 1993, a process of bringing the legislation into harmony with the Convention was initiated, but could not be completed due to the crisis experienced by the country. The Committee notes the Government’s indication that the national legislation considered contrary to the Convention and dealing with matters covered by the Ministry responsible for agriculture will be submitted for abrogation at one of the next meetings of the Council of Ministers. ***The Committee hopes that the Government will be in a position to report the adoption of specific measures to bring the provisions of the legislation referred to below into conformity with the Convention:***

- the need to set forth in the law the voluntary nature of agricultural work performed in the context of the obligations respecting the conservation and utilization of the land and the obligation to create and maintain minimum areas of food crops (Ordinances Nos. 710-275 and 710-276);
- the need to formally repeal certain texts with respect to compulsory cultivation, portorage and public works (Decree of 14 July 1952, Ordinance No. 1286 of 10 July 1953 and Decree of 10 May 1957);
- the need to amend Legislative Decree No. 1/16 of 29 May 1979 which establishes the obligation, under penalty of sanctions (one month of penal labour performed on one half-day a week), to perform community development work;
- the need to amend sections 340 and 341 of the Penal Code which provide that in the event of vagrancy or begging a person may be placed at the disposal of the Government for a period of between one and five years during which time such person may be forced to perform work in a prison institution.

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

Central African Republic

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Article 1, paragraph 1, and Article 2, paragraph 1, of the Convention.

Idleness, active population and compulsory activities

Since 1966, the Committee has been drawing the Government's attention to the need to repeal certain provisions of the national legislation under which forced or compulsory labour could be exacted and which are therefore contrary to the Convention:

- Ordinance No. 66/004 of 8 January 1966 with respect to the suppression of idleness, as amended by Ordinance No. 72/083 of 18 October 1972, under which any able-bodied person aged between 18 and 55 years who cannot prove that she or he is engaged in a normal activity providing for her or his subsistence or that she or he is engaged in studies is considered to be idle and liable to a penalty of between one and three years of imprisonment;
- Ordinance No. 66/038 of June 1966 respecting the supervision of the active population, under which any person aged between 18 and 55 years who cannot justify belonging to one of the eight categories of the active population shall be called up to cultivate land designated by the administrative authorities and shall also be considered a vagabond if apprehended outside her or his *sous-prefecture* of origin and shall be liable to a sentence of imprisonment;
- Ordinance No. 75/005 of 5 January 1975 obliging all citizens to provide proof of the exercise of a commercial, agricultural or pastoral activity and making persons in violation of this provision liable to the most severe penalties; and
- section 28 of Act No. 60/109 of 27 June 1960 with respect to the development of the rural economy, under which minimum surfaces for cultivation are to be established for each rural community.

In its latest report, the Government once again indicates that these texts have become obsolete, and that they are being revised in cooperation with the United Nations Peace-Building Office in the Central African Republic (BONUCA) which is awaiting the restoration of constitutional legality. The Government reiterates its commitment to repeal the provisions of these texts which are contrary to the Convention. The Committee takes note of this information. *As this matter has been the subject of its comments for many years, the Committee expresses the hope that there will soon be a situation of institutional stability in order to allow the Government to take all the necessary measures to formally repeal the above texts.*

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1964)

In response to the previous comments of the Committee, the Government indicates that the process of reform of the penal legislation, undertaken in cooperation with the United Nations Peace-Building Office in the Central African Republic (BONUCA), has been suspended pending the installation of new Central African authorities. The Government adds that it will make every effort possible to revise the texts referred to by the Committee in its previous comments. The Committee takes note of this information. It notes with interest that the 2004 Constitution guarantees, inter alia, the freedoms of expression, assembly and association (articles 8, 12 and 13). Nevertheless, the Committee would like to reiterate the points to which it has previously drawn the Government's attention.

Article 1(a) of the Convention. Imposition of imprisonment involving an obligation to work as a sanction for expressing political views or views ideologically opposed to the established political, social and economic order

1. For many years, the Committee has been drawing the Government's attention to the need to amend or repeal the provisions of Act No. 60/169 of 12 December 1960 (dissemination of prohibited publications liable to prejudice the development of the Central African nation) and Order No. 3-MI of 25 April 1969 (dissemination of periodicals or news of foreign origin not approved by the censorship authority) which provide for sentences of imprisonment that involve compulsory labour by virtue of section 62 of Order No. 2772, regulating the functioning of penal institutions and the work of detainees. *The Committee asks the Government to provide information on the measures taken with a view to amending or repealing the abovementioned provisions.*

2. Furthermore, the Committee once again requests the Government to provide information on the application in practice of the provisions mentioned below, so that it will be able to assess their scope and ensure that they have no relevance to the application of the Convention. The Committee also asks the Government to supply a copy of any court decisions handed down under these provisions.

- (i) Section 77 of the Penal Code (dissemination of propaganda for certain purposes; actions of such a type as to jeopardize public safety, etc.) and sections 130 to 135 and 137 to 139 of the Penal Code (offences against persons occupying various public offices), which provide for prison sentences involving the obligation to work.
- (ii) Article 3 of Act No. 61/233 governing associations in the Central African Republic read in conjunction with article 12. Under article 12, the "founders, directors, administrators or members of any association that is unlawfully maintained or reconstituted after the act of dissolution" shall be liable to imprisonment. Under article 3 of this Act

any association which is “of a nature to give rise to political disturbance or cast discredit on political institutions and their functioning” shall be null and void.

The Committee recalls in this regard that, in most cases, work imposed on persons as a consequence of a conviction in a court of law has no relevance to the application of the Convention. On the other hand, if a person is in any way forced to work because she or he holds or has expressed particular political views, or views ideologically opposed to the established political, social or economic system, the situation is covered by the Convention. Furthermore, the Committee has already emphasized the importance, for the effective observance of the Convention, of legal guarantees regarding the rights of assembly, expression, protest and association, and the direct implications that restriction of these rights may have on the application of the Convention. ***The Committee hopes that the Government will take all necessary measures to ensure that no sentence involving the obligation to work is imposed as a result of the expression of political opinions or views opposed to the established political, social or economic system, in so far as these are expressed without recourse to violence.***

Comoros

Forced Labour Convention, 1930 (No. 29) (ratification: 1978)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Article 1(1) and Article 2(1) and (2)(c), of the Convention. In the comments it has been making for many years, the Committee has drawn the Government’s attention to section 1 of Order No. 68-353 of 6 April 1968, under which labour is compulsory for persons in detention. In its reports received in November 2003 and March 2004, the Government indicates yet again that the Order has not been repealed but that in practice remand prisoners are not required to perform any kind of labour, either in or outside correctional institutions. The Government again states its intention of repealing Order No. 68-353 of 6 April 1968 and indicates that a bill to repeal it will be submitted to the Central Council for Labour and Employment (CSTE) at its next meeting. As to the observation by the Union of Comoros Workers’ Autonomous Trade Unions (USATC), sent by the Government with its previous report, that judicial and prison authorities have had recourse to forced labour for remand prisoners and political detainees, the Committee notes that the Government once again condemns the fact that detained workers have been forced to perform urban cleaning work and confirms that the necessary steps have been taken to prevent recurrence of such abuse.

The Committee takes note of this information and again expresses the hope that the Government will very soon be in a position to indicate that Order No. 68-353 of 6 April 1968 has been repealed or amended to ensure that persons detained without having been convicted shall work only on a voluntary basis and at their request.

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

Congo

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

1. In its previous comments, the Committee noted that the Government may request the population to carry out certain sanitation jobs. The Government indicated that this practice consisted of mobilizing the population for work in the community interest and was based on section 35 of the Statutes of the Congolese Labour Party, but that it no longer exists and such tasks (weeding, sanitation work) are now undertaken voluntarily by associations and employees of the State and local communities. The Government indicates its intention of including, in the Labour Code currently being revised, a provision to establish the voluntary nature of sanitation work. ***The Committee asks the Government to provide a copy of the new provisions of the Labour Code once they are adopted.***

2. *Article 2, paragraph 2(a).* The Committee has several times drawn the Government’s attention to section 4 of Act No. 11-66 of 22 June 1966 establishing the National People’s Army and section 1 of Act No. 16 of 27 August 1981 introducing compulsory national service. The former provides for active participation by the army in tasks of economic construction for effective production and the latter stipulates that national service, which comprises both military and civic service, enables every citizen to take part in the defence and construction of the nation. The Committee drew the Government’s attention to *Article 2, paragraph 2(a)*, of the Convention which provides that work or service exacted in virtue of compulsory military service laws is excluded from the scope of the Convention only when it is imposed for work of a purely military character. Work exacted from recruits as part of national service, including work related to national development, is not purely military in nature. The Committee referred in this context to paragraphs 24-33 and 49-62 of its General Survey of 1979 on the abolition of forced labour. According to the Government, the practice of imposing on recruits work which is not purely military in nature has fallen into disuse. The Committee notes that, in its last report, the Government expressed its intention of repealing Act No. 16 of 1981 on compulsory national service. ***The Committee hopes that the necessary steps will be taken to repeal the above Act in order to bring the national legislation into conformity with the Convention.***

3. In its previous comments, the Committee referred to section 17 of Act No. 31-80 of 16 December 1980 on guidance for youth under which the party and mass organizations would gradually create all the conditions for the formation of youth brigades and the organization of youth workshops. The Committee notes that, according to the Government, these practices no longer exist. It observes, however, that the abovementioned Act has not been repealed. The Committee noted that a draft decree on voluntary work for young people was in the process of being approved, and requested specific information on the type of tasks performed, the number of persons concerned, the duration and conditions of their participation. ***The Committee asks the***

Government to indicate the measures taken or envisaged to bring the national legislation into line with the Convention and to provide a copy of the decree on voluntary work for young people as soon as it is adopted, together with relevant information.

4. *Article 2, paragraph 2(d), of the Convention.* In its previous comments, the Committee asked for the repeal of Act No. 24-60 of 11 May 1960 which allows persons to be requisitioned for work of public interest in cases which do not constitute the emergencies provided for in *Article 2, paragraph 2(d)*, of the Convention. Persons requisitioned who refuse to work are liable to a penalty of imprisonment of from one month to one year. The Committee notes the Government's indication in its report that, although it has never been repealed, Act No. 24-60 has fallen into abeyance since the publication of the Labour Code, the Penal Code and the new Constitution of 2002. **The Committee asks the Government to provide information on the measures taken to formally repeal this Act in order to avoid any legal ambiguity.**

5. **The Committee asks the Government to provide copies of the Order regulating the operation of prisons and prison labour.**

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

Côte d'Ivoire

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

1. *Article 2, paragraph 2(c), of the Convention. Hiring out of prison labour to private individuals.* The Committee notes the adoption of Decree No. 2002-523 of 11 December 2002 amending sections 24, 77 and 82 of Decree No. 69-189 of 14 May 1969 regulating prisons and establishing arrangements for the execution of custodial sentences. The Committee notes with satisfaction that prisoners may no longer be hired out without their consent and that, in all cases, there must be individual work contracts between detainees and the employers or private individuals, in addition to the contract between the Ministry of Justice and hirers of prison labour.

2. *Trafficking of children for the purpose of exploiting their labour.* In its previous comments, the Committee referred to the situation of children, particularly from Mali and Burkina Faso, who are victims of trafficking and who are forced to work, inter alia, in mines and plantations, or as domestic servants. The Committee noted that the Government was aware of the situation and that a number of measures had been taken to combat the trafficking of children to Côte d'Ivoire.

The Committee notes that in 2003, the Government ratified the Worst Forms of Child Labour Convention, 1999 (No. 182), and in September 2005, submitted its first report on the application of that Convention. In Article 3, paragraph (a), Convention No. 182 establishes that the worst forms of child labour include all forms of slavery or similar practices, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labour. Since Convention No. 182 strengthens the protection of children by requiring ratifying States to take immediate and effective measures for the prohibition and elimination of the worst forms of child labour as a matter of urgency, the Committee will examine the matter of trafficking in children under Convention No. 182, taking due account of the information supplied by the Government in its report on Convention No. 29, including the copies of judicial decisions.

Cyprus

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1960)

Article 1(c) and (d) of the Convention. Punishment for breaches of labour discipline and for participation in strikes. For many years, the Committee has been referring to section 3(1) of the Supplies and Services (Transitional Powers) (Continuation) Act (Chapter 175A), which authorizes the issuance of orders to make effective Defence Regulations 79A and 79B for the purpose of maintaining, controlling and regulating supplies and services. Regulation 79A gives authority to direct any person to perform services for any of these purposes and to require persons employed in undertakings engaged in work regarded as essential for any such purpose, not to terminate their employment or absent themselves from work or be persistently late for work, on pain of imprisonment (involving, under the Prison Regulations, the obligation to perform labour). Regulation 79B authorizes the Government to issue further regulations to prohibit strikes, on pain of imprisonment by virtue of Regulation 94.

The Committee previously noted that the Government had proceeded with the drafting of new legislation regulating the right to strike in essential services and proposed to introduce a framework law which would be confined to defining "essential services" and "minimum service" and which would bind the parties, in the case of a labour dispute, in an essential service to follow for its settlement a procedure which would be defined and agreed upon by the parties.

The Committee notes from the Government's report, as well as from its report on the application of Convention No. 87, likewise ratified by Cyprus, that, in line with the Government's new policy to promote the regulation of strikes in essential services through consensus achieved by means of a voluntary agreement, the draft legislation was withdrawn with a view to regulating the issue through an agreement signed by the social partners, and that the Agreement on the Procedure for the Settlement of Labour Disputes in Essential Services was signed on 16 March 2004.

As regards Defence Regulations 79A and 79B, the Committee notes with interest from the Government's report that, with the signing of the above Agreement, it was also agreed that these Regulations should be repealed, and that the Office of the Attorney-General was requested to draft the relevant repealing order. The Committee also notes from the

Government's report on the application of Convention No. 87, that a repealing order has already been prepared and is expected to be endorsed by the Council of Ministers shortly.

The Committee expresses the firm hope, referring also to its comments addressed to the Government under Convention No. 87, that Defence Regulations 79A and 79B will be repealed in the near future, so that participation in strikes would not be punishable with penalties involving compulsory labour and the workers concerned would remain free to terminate their employment by reasonable notice. The Committee requests the Government to supply a copy of the repealing order, as soon as it is issued.

Democratic Republic of the Congo

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

1. *Work exacted for national development purposes.* For several years the Committee has been requesting the Government to repeal Act No. 76-011 of 21 May 1976 concerning national development efforts and its Implementing Order No. 00748/BCE/AGRI/76 of 11 June 1976 concerning the performance of civic tasks in the context of the national food production programme. These legal texts, which aim to increase productivity in all sectors of national life, are contrary to the Convention inasmuch as they require, on pain of penal sanctions, every able-bodied adult person who is not already considered to be making his contribution by reason of his employment to carry out agricultural and other development work as decided by the Government (those already deemed to be making their contribution are political representatives, wage earners and apprentices, public servants, tradesmen, members of the liberal professions, the clergy, students and pupils). In this regard the Government previously stated that Act No. 76-011 and its implementing legislation were not applied. It explains in its last report that the Ministry of Labour and Welfare asked the Monitoring Committee at the Ministry of Human Rights to examine the provisions of national legislation which conflict with the application of the Conventions ratified by the Democratic Republic of the Congo. **The Committee trusts that further to this examination the necessary measures will be adopted to repeal or amend the abovementioned texts so as to ensure their conformity with the Convention.**

2. *Work exacted as a means of levying taxes.* In its previous comments the Committee drew the Government's attention to sections 18 to 21 of Legislative Ordinance No. 71/087 of 14 September 1971 on minimum personal contributions, which provides for imprisonment involving compulsory labour, by decision of the chief of the local community or the area commissioner, of taxpayers who have defaulted on their minimum personal contributions. The Committee noted the information repeated by the Government reporting draft amendments to the provisions in question. It notes that, as for the texts referred to in point 1 of this observation, the provisions of Legislative Ordinance No. 71/087 will be submitted to the Monitoring Committee for examination. Recalling that this matter has been the subject of its comments for many years, **the Committee expresses the firm hope that the Government will shortly adopt the necessary measures to ensure the conformity of the legislation with the Convention.**

3. *Article 2, paragraph 2(c), of the Convention. Work exacted from detainees who have not been convicted.* For many years the Committee has been drawing the Government's attention to Ordinance No. 15/APAJ of 20 January 1938 concerning the prison system in indigenous districts which allows work to be exacted from detainees who have not been convicted. It noted in its last observation that, contrary to what the Government indicated, this Ordinance was not formally repealed by Ordinance No. 344 of 17 September 1965 governing prison work. In its last report the Government again indicates that the 1938 Ordinance concerning the prison system in indigenous districts has fallen into disuse and that since the country's independence the indigenous districts have ceased to exist. The Government also states that, under section 64.3 of the Ordinance of 1965 governing prison labour, detainees who have not been convicted are not subject to the obligation to work. The Committee notes this information. **It hopes that the next time the legislation in this field is revised the Government will not fail to adopt the necessary measures to repeal formally Ordinance No. 15/APAJ, so as to avoid any legal ambiguity.**

4. *Forced labour of children.* On the basis of the concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.153), of the Committee on the Elimination of Discrimination Against Women (A/55/38), and of the observations of the Special Rapporteur of the Commission on Human Rights (E/CN.4/2001/40), the Committee previously requested the Government to provide information on the situation of children working in mines (notably the Kasai mines and certain locations in Lubumbashi), on the recruitment of child soldiers and on the allegations concerning the sale, trafficking and exploitation for pornographic purposes of girls and boys and concerning the prostitution of girls.

Regarding the situation of child soldiers, the Government indicated in its report communicated in 2002 the adoption on 9 June 2000 of Legislative Decree No. 066 concerning the demobilization and reintegration of vulnerable categories of persons forming part of combatant groups. This Decree is aimed at the demobilization and reintegration into families and/or socio-economic structures of vulnerable categories of persons in the Congolese armed forces or in any other public or private armed group. Child soldiers – boys and girls under 18 years of age – form part of a particular vulnerable category justifying urgent humanitarian intervention. The same year, a national awareness campaign on the demobilization and reintegration of child soldiers was launched by the President of the Republic. The Government indicates that, in collaboration with the National Office for Demobilization and Reintegration (BUNADER), the test phase of the demobilization project has made it possible to demobilize 300 child soldiers enrolled in the army in the city of Kinshasa. Demobilization is continuing in the other provinces of the country and the goal of the project is to demobilize 1,500 child soldiers.

The Committee notes all the above information. It also notes that section 3 of the Labour Code provides for the abolition of all the worst forms of child labour, including the forced or compulsory recruitment of children for use in armed conflicts. Despite the action taken by the Government in this field, the Committee notes with concern that the United Nations Security Council, in Resolution No. 1493 adopted on 28 July 2003, "... strongly condemns the continued recruitment and use of children in the hostilities in the Democratic Republic of the Congo, especially in North and South Kivu and in Ituri ...". In addition, the United Nations Commission on Human Rights, in Resolution No. 84 adopted on 21 April 2004, "... urges all the parties ... to put an end to the recruitment and use of child soldiers, contrary to international law ...".

The Committee notes that the Government has ratified the Worst Forms of Child Labour Convention, 1999 (No. 182), and this year has provided the first report on its application. Inasmuch as Article 3, paragraphs (a) and (d) of Convention No. 182 state

that the worst forms of child labour include “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict” and “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children”, the Committee considers that the problem of the recruitment of child soldiers, the situation of children working in mines and the allegations concerning the sale, trafficking and exploitation for pornographic purposes of girls and boys and concerning the prostitution of girls may be examined more specifically in the context of Convention No. 182.

5. *Article 25. Penal sanctions.* In its previous comments the Committee stressed the need to include a provision in national legislation establishing penal sanctions for persons who unlawfully exact forced or compulsory labour, in accordance with *Article 25* of the Convention. It notes with interest that, under section 323 of the Labour Code adopted in 2002, any infringement of section 2.3, which prohibits the use of forced or compulsory labour, shall be punished by a maximum of six months’ penal servitude plus a fine or by only one of these penalties, without prejudice to criminal legislation laying down more severe penalties. In this regard, ***the Committee would be grateful if the Government would indicate the criminal law provisions which prohibit and penalize the use of forced labour. It once again requests the Government to send an up-to-date copy of the Penal Code and of the Code of Penal Procedure.***

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

Dominica

Forced Labour Convention, 1930 (No. 29) (ratification: 1983)

Article 1(1) and Article 2(1) and (2)(a) and (d), of the Convention. National service obligations. In its earlier comments, the Committee requested the Government to take the necessary measures with a view to repeal or amend the National Service Act, 1977, under which persons between the ages of 18 and 21 years are required to perform service with the national service, including participation in development and self-help projects concerning housing, school, construction, agriculture and road building, failure to do so being punishable with a fine and imprisonment (section 35(2)). The Committee observed that, contrary to the Government’s repeated statement that the national service was created to respond to national disasters, the Act contained no reference to natural disasters, but specified the objectives of the national service, which “shall be to mobilize the energies of the people of Dominica to the fullest possible level of efficiency, to shape and direct those energies to promoting the growth and economic development of the State”. The Committee also referred to Article 1(b) of the Abolition of Forced Labour Convention, 1957 (No. 105), likewise ratified by Dominica, which specifically prohibits the use of forced or compulsory labour “as a means of mobilizing and using labour for purposes of economic development”.

While noting the Government’s indication in its latest report that the National Service Act, 1977, has been omitted from the Revised Laws of Dominica, 1990, as well as the Government’s repeated indications in its previous reports that section 35(2) of the Act has not been applied in practice, ***the Committee expresses firm hope that appropriate measures will be taken in the near future in order to formally repeal the above Act so as to bring national legislation into conformity with Conventions Nos. 29 and 105 and that the Government will provide, in its next report, information on the progress made in this regard.***

The Committee is also addressing a request on certain other points directly to the Government.

Egypt

Forced Labour Convention, 1930 (No. 29) (ratification: 1955)

Articles 1(1) and 2(1) of the Convention. Use of conscripts for non-military purposes. For a number of years, the Committee has been referring to Act No. 76 of 1973, as amended by Act No. 98 of 1975, concerning general (civic) service of young persons on completion of their studies. According to section 1 of the Act, young persons, male and female, who have completed their studies and who are surplus to the requirements of the armed forces, may be directed to work, such as development of rural and urban societies, agricultural and consumers’ cooperative associations and work in production units of factories. The Committee referred to paragraphs 49 to 62 of its General Survey of 1979 on the abolition of forced labour where it recalled that the Conference, while adopting the Special Youth Schemes Recommendation, 1970 (No. 136), had rejected the practice of making young people participate in development activities as part of their compulsory military service, or instead of it, as being incompatible both with the present Convention and Convention No. 105, which provides for the abolition of any form of compulsory labour as a means of mobilizing and using labour for purposes of economic development.

The Committee has noted the Government’s repeated statement in its reports that performing the general (civic) service does not include any compulsion or obligation, since the law does not provide for any penalty to be imposed on those who have not performed it. The Government reiterates that such service is meant to be voluntary. On the other hand, the Government referred to exemption of some categories of young persons from such service and indicated that conscripts may be also exempted from it upon their request. The Government has also repeatedly stated that the services defined by the above Act are considered social and rural services provided in the direct interest of the local community.

While noting these indications, the Committee considers that exemption of some categories of young persons from the service can only confirm the non-voluntary character of such service for other categories. Besides, a service cannot be

deemed voluntary merely by the fact that a person may apply for exemptions, since the Convention defines the term “forced or compulsory labour” as work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

The Committee further considers that, although the young people concerned may render services useful to the local population under the Act on general (civic) service, such services cannot come under the definition of “minor communal services” excluded from the scope of the Convention under *Article 2(2)(e)*, since they do not satisfy the criteria which determine the limits of this exception and serve to distinguish it from other forms of compulsory labour. These criteria are as follows: (1) the services must be “minor services”, i.e. relate primarily to maintenance work; (2) the services must be “communal services” performed “in the direct interest of the community”, and not relate to the execution of works intended to benefit a wider group; (3) the members of the community or their direct representatives must “have the right to be consulted in regard to the need for such services”. The Committee points out, referring also to paragraph 37 of its General Survey of 1979 on the abolition of forced labour, that the general (civic) service provided for under section 1 of Act No. 76 of 1973 (as amended by Act No. 98 of 1975) does not appear to satisfy the abovementioned criteria, since the level and magnitude of the services imposed are not limited as indicated above.

The Committee again draws the Government’s attention to paragraph 52 of its General Survey of 1979 on the abolition of forced labour, in which it pointed out that “the principle that only volunteers perform such service should be reflected in the legislation; so that there can be no question of indirect pressure, governments wishing to create a service for development purposes consisting of people who have joined the service quite freely could separate this corps from the compulsory national service ... Should the development volunteers be excused from compulsory military service, this should take the form of an exemption and not be used as a means of pressure so that a civic service can recruit a number of people for whom there would in any case not be any place in the armed forces.”

The Committee therefore hopes that the necessary measures will at last be taken in order to ensure the observance of the forced labour Conventions, both in legislation and in practice, for example by clearly providing that the participation of young people in the civic service programme is voluntary. Pending the adoption of such measures, the Committee requests the Government to continue to provide information on the application of the above legislation in practice, including information on the number of persons who applied for exemption from such service before the Ministry of Social Affairs and those whose applications had been refused.

The Committee is also addressing a request on certain other points directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

Article 1(a) of the Convention. Political coercion and punishment for holding or expressing political views opposed to the established system

1. For a number of years, the Committee has been referring to certain provisions of the Penal Code, the Public Meetings Act of 1923, the Meetings Act of 1914 and Act No. 40 of 1977 on political parties, which provide for penal sanctions involving compulsory labour in circumstances falling within the scope of *Article 1(a)* of the Convention, which prohibits the use of compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. It has been referring, in particular, to the following legislative provisions enforceable with sanctions of imprisonment involving compulsory labour:

- (a) section 98(a)bis and 98(d) of the Penal Code, as amended by Act No. 34 of 24 May 1970, which prohibits the following: advocacy, by any means, of opposition to the fundamental principles of the socialist system of the State; encouraging aversion or contempt for these principles; encouraging calls to oppose the union of the people’s working forces; constituting or participating in any association or group pursuing any of the foregoing aims; or receiving any material assistance for the pursuit of such aims;
- (b) sections 98(b), 98(b)bis and 174 of the Penal Code (concerning advocacy of certain doctrines);
- (c) the Public Meetings Act, 1923, and the Meetings Act, 1914, granting general powers to prohibit or dissolve meetings, even in private places;
- (d) sections 4 and 26 of Act No. 40 of 1977 on political parties, which prohibit the creation of political parties whose objectives are in conflict with Islamic legislation or with the achievements of socialism, or which are branches of foreign parties.

2. The Committee recalled, referring to the explanations provided in paragraphs 102-109 and 133-134 of its General Survey of 1979 on the abolition of forced labour, that the abovementioned provisions are contrary to the Convention insofar as they provide for sanctions involving compulsory prison labour for expressing certain political views or views ideologically opposed to the political system, or for having infringed a discretionary decision by the administration depriving persons of the right to make public their opinions or suspending or dissolving certain associations.

3. The Committee notes the Government’s indications in its report that the abovementioned provisions aim at the protection of the State’s security and stability and represent a shield against terrorist groups and persons trying to impose their views by force for the only purpose to seize power without due regard to democracy and freedom of the people to choose their system and leaders.

4. While noting these indications, the Committee draws the Government's attention to the explanations contained in paragraphs 133-140 of the above General Survey, where it observed that the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence; but sanctions involving compulsory labour fall within the scope of the Convention where they enforce a prohibition of peaceful expression of views or of opposition to the established political, social or economic system, whether such prohibition is imposed by law or by a discretionary administrative decision. Since opinions and views ideologically opposed to the established system are often expressed at various kinds of meetings, if such meetings are subject to prior authorization granted at the discretion of the authorities and violations can be punished by sanctions involving compulsory labour, they also fall within the scope of the Convention.

5. The Committee observes that the scope of the provisions referred to above is not limited to acts of violence or incitement to the use of violence, armed resistance or an uprising, but appears to provide for political coercion and the punishment of the peaceful expression of non-violent views that are critical of government policy and the established political system, with penalties involving compulsory labour. ***The Committee therefore expresses its firm hope that the necessary measures will at last be taken to bring these provisions into conformity with the Convention, and that the Government will report on the action taken to this end. Pending the amendment of the legislation, the Committee again requests the Government to provide full information on their application in practice, supplying copies of the relevant court decisions and indicating the penalties imposed.***

6. The Committee has noted that Act No. 156 of 1960 respecting the reorganization of the press, as amended by Act No. 148 of 1980 respecting press authority, to which the Committee has referred in its earlier comments, has been superseded by Act No. 96 of 1996 on the reorganization of the press, in virtue of its section 81. The Committee has also noted that Act No. 32 of 12 February 1964 respecting associations and private foundations, to which the Committee has referred in its earlier comments, has been superseded by Act No. 84 of 2002 on non-governmental organizations, in virtue of its section 7. The Committee is dealing with these texts in its request addressed directly to the Government.

Article 1(b). Use of conscripts for purposes of economic development

7. The Committee refers in this regard to its observation addressed to the Government under Convention No. 29, likewise ratified by Egypt.

Article 1(d). Punishment for participation in strikes

8. In its earlier comments, the Committee referred to sections 124, 124A, 124C and 374 of the Penal Code, under which strikes by any public employee may be punished with imprisonment, which may involve compulsory labour. The Committee requested the Government to take the necessary measures to ensure the observance of *Article 1(d)* of the Convention, which prohibits the use of compulsory labour as a punishment for having participated in strikes. It referred in this connection to the explanations provided in paragraph 123 of its General Survey of 1979 on the abolition of forced labour, in which it considered that the imposition of penalties for participation in strikes in essential services in the strict sense of the term fall outside the scope of the Convention.

9. The Government indicates in its report that terms of imprisonment under the above sections of the Penal Code vary from six months to one year, which means that the imprisonment in question is "simple imprisonment" which involves no obligation to perform labour. However, the Committee previously noted that section 124 refers to imprisonment for a period of up to one year, which may be doubled in certain cases (e.g. if work stoppages are liable to create disorder among the population or are prejudicial to the public interest), as clearly indicated in the Government's 1997 report; the maximum penalty is two years under section 124A; sections 124 and 124A apply in conjunction with sections 124C and 374 of the Code. The Committee also noted previously that under sections 19 and 20 of the Penal Code, imprisonment with labour is imposed in all cases where persons are sentenced to imprisonment for one year or more.

10. The Committee therefore reiterates its hope that appropriate measures will be taken in this connection to ensure the observance of the Convention (e.g. by limiting the scope of the abovementioned provisions to persons working in essential services in the strict sense of the term, that is, services whose interruption would clearly and imminently endanger the life, personal safety or health of the whole or part of the population). Noting also the Government's indication in the report that no court decisions have been issued yet under the abovementioned sections of the Penal Code, the Committee hopes that, pending the amendment of the legislation, the Government will supply copies of such court decisions, if and when they are handed down.

Article 1(c) and (d). Sanctions involving compulsory labour applicable to seafarers

11. In its earlier comments, the Committee referred to sections 13(5) and 14 of the Maintenance of Security, Order and Discipline (Merchant Navy) Act, 1960, under which penalties of imprisonment involving compulsory labour may be imposed on seafarers who together commit repeated acts of insubordination. The Committee recalled in this connection that *Article 1(c) and (d)* of the Convention prohibits the exaction of forced or compulsory labour as a means of labour discipline or as punishment for having participated in strikes. The Committee observed that, in order to remain outside the scope of the Convention, punishment should be linked to acts that endanger or are likely to endanger the safety of the vessel or the life of persons.

12. *The Committee notes with interest the Government's indication in its report that the above Act is currently being amended. It therefore hopes that, in the course of the revision, the abovementioned provisions of the 1960 Act will be brought into conformity with the Convention and that the Government will supply a copy of the amended text, as soon as it is adopted.*

The Committee is addressing a request on certain other points directly to the Government.

El Salvador

Forced Labour Convention, 1930 (No. 29) (ratification: 1995)

1. *Articles 2, paragraph 1, and 25 of the Convention. Trafficking in persons, and penalties.* In its previous observation, the Committee referred to comments from the Inter-Union Commission of El Salvador and the International Confederation of Free Trade Unions (ICFTU). Both these organizations referred to trafficking in women and young persons for the purposes of forced prostitution as a considerable problem. As regards the trafficking of young persons, the Committee considers that this is an issue that can be examined in connection with the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), also ratified by El Salvador. It accordingly refers the Government to its comments under that Convention.

The Committee notes the Concluding Observations of the Committee on the Elimination of All Forms of Discrimination Against Women (A/58/38, paragraph 271), in which the abovementioned Committee noted with concern the problem of trafficking and sale of women and girls and the lack of studies, analyses and statistics.

The Committee observed that trafficking in persons is a serious violation of the Convention and urged the Government to take the necessary measures to prevent and combat it. It asked the Government to provide copies of court decisions handed down pursuant to sections 367 and 370 of the Penal Code, under which trafficking in persons for any purpose, and organizing or belonging to international organizations involved in the trafficking of slaves or the sale of persons, are punishable by a prison term of from four to eight years and from five to 15 years, respectively. It also requested the Government to provide copies of the Santa Ana and San Salvador Municipal Codes on the trafficking of women.

In its report, the Government indicates, in connection with sections 367 and 370 of the Penal Code, that a number of court cases are under way and that the Committee will be informed of the judgements as soon as they have been given. The Committee notes with concern that until now no penalty has been imposed under the provisions of the Penal Code which punish the trafficking, and it reminds the Government in this respect that the Convention requires the exaction of forced labour to be punished as a penal offence by penalties that are really adequate and strictly enforced (*Article 25*).

The Committee hopes that in its next report the Government will provide information on the measures taken to prevent and combat trafficking in persons, including the court judgements handed down pursuant to sections 367 and 370 of the Penal Code, and copies of the Santa Ana and San Salvador Municipal Codes on the trafficking of women.

2. *Overtime in the maquila industry.* The Committee noted in its previous observation the comments made by the Inter-Union Commission of El Salvador on the situation of the many workers in *maquilas* who are required, under threat of dismissal, to work overtime in excess of the limits laid down in the national legislation and without pay. The Committee noted that, according to the above organization, *maquila* companies set production targets which require employees to work beyond the ordinary working day, without pay and under threat of dismissal.

The Committee requested the Government to provide information on the average number of additional hours worked by workers in the *maquila* sector and to indicate the measures taken or envisaged to protect workers in this sector against the imposition of compulsory labour.

In its report, the Government states that offices of the Ministry of Labour and Social Welfare have been established in the export processing zones of Exporsalva, American Park and El Progreso and that their role is to serve as mediators after the means of redress afforded by the enterprises have been exhausted. ***The Committee requests the Government to provide information on the activities of the abovementioned offices, indicating in particular the number of instances in which workers have alleged imposition of labour outside the ordinary working day.***

3. *Article 2, paragraph 2(c). Inmates' consent for work in private enterprises.* In its previous observation, the Committee referred to section 107 of the Prisons Act under which "convicted persons shall be obliged to work", and observed that this provision did not allow the inference that work by detainees for private entities is of a voluntary nature.

The Government responds in its report that the abovementioned provision refers to maintenance activities (cleaning, etc.) in prison premises.

The Committee observes, however, that section 112 of the Prisons Act establishes that in every prison an office shall be responsible for assigning work to the inmates (subsection 1) and that the Ministry of Justice may conclude agreements with national or foreign natural or legal persons to organize agricultural, industrial or commercial undertakings (subsection 3).

The Committee reminds the Government that, when a private undertaking is involved in work performed by inmates, the latter must be able to give their consent to the employment relationship and that, moreover, the conditions of work

must resemble those of a freely contracted work relationship. The Committee notes with interest in this connection that section 110 of the Prisons Act provides that private entities which engage detainees shall pay no less than the minimum wage required for such work. ***The Committee requests the Government to indicate whether, pursuant to section 112(3) of the Prisons Act, the Ministry of Justice has concluded agreements with natural or legal persons to organize agricultural, industrial or industrial commercial undertakings. Please also indicate the measures taken or envisaged to ensure that work by detainees for private enterprises is voluntary in nature.***

Gabon

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

1. *Article 2, paragraph 2(c), of the Convention. Prison labour: prisoners hired to private enterprises or individuals.* In its previous comments, the Committee noted that, under section 3 of Act No. 22/84 of 29 December 1984 establishing the rules respecting prison labour, such labour is compulsory for all convicts, subject to penalties. Prison labour includes work within and outside the prison. In the context of the latter, prisoners may be hired to private individuals or associations on condition that their labour is not in competition with free labour (section 4). The conditions for the hiring of prisoners to private individuals are determined by section 10 of the Act. The rates for the hiring of prison labour are determined annually by order of the Minister of Territorial Administration. Prisoners who are hired to work for private individuals are granted a payment which is not a wage. Finally, employment accidents occurring to prisoners are notified and compensated, in accordance with the provisions of the Social Security Code (sections 13, 15 and 17).

In this respect, the Committee drew the Government's attention to the provisions of *Article 2, paragraph 2(c)*, of the Convention, under which prisoners may not be hired or placed at the disposal of private individuals, companies or associations. The Committee has, however, considered that prison labour performed for private companies under conditions approximating those of a free employment relationship may be compatible with the Convention. This necessarily requires the voluntary consent of the prisoner. It is also necessary to ensure certain other guarantees and safeguards covering the essential elements of an employment relationship, such as the existence of an employment contract, the application of labour legislation, the payment of a wage and social security coverage. The Committee considered previously that work performed under the terms of Act No. 22/84 in the context of the hiring of prison labour does not approximate a free labour relationship.

In its report, the Government indicates that it has noted the Committee's observation and the conditions which must be fulfilled for prison labour to be hired to private individuals and that it undertakes to adopt all the necessary measures to adapt the law to the requirements of the Convention. ***The Committee notes this commitment and trusts, taking into account the number of years for which it has been making these comments, that the Government will now take action expeditiously to give effect to this undertaking. The Committee would also be grateful if the Government would provide information on the use made in practice of the hiring of prison labour to private individuals.***

2. *Trafficking of children.* In its previous comments, the Committee noted the information contained in various reports, including those of the United Nations Committee on the Rights of the Child, describing the trafficking of children to Gabon for their exploitation. It requested the Government to provide information on the measures adopted or envisaged to ensure the effective application of the provisions of the national legislation intended to prevent, suppress and punish the trafficking of persons. The Committee observes that since it made its previous comments Gabon has ratified the Worst Forms of Child Labour Convention, 1999 (No. 182). As Convention No. 182 provides in Article 3(a) that the worst forms of child labour include "all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict", the Committee considers that the issue of the trafficking of children may be examined more specifically in the context of Convention No. 182. It therefore refers to the observation that it is making under that Convention.

Germany

Forced Labour Convention, 1930 (No. 29) (ratification: 1956)

The Committee has noted the Government's reply to its earlier comments.

Articles 1(1), 2(1) and 2(c) of the Convention. Prisoners working for private enterprises

1. In its earlier comments, the Committee noted with concern that prisoners working for private enterprises in Germany fell into two categories: (a) prisoners performing work on the basis of a free employment relationship outside penitentiary institutions; and (b) prisoners who are obliged to work, without their consent, in workshops run by private enterprises within state prisons, in conditions bearing no resemblance whatsoever to the free labour market.

2. The Committee recalls that, to be compatible with *Article 2(2)(c)* of the Convention, which expressly prohibits convicted prisoners from being hired to or placed at the disposal of private companies, work of prisoners for private enterprises should be carried out in conditions approximating a free employment relationship; this necessarily requires the formal consent of the persons concerned, as well as further guarantees and safeguards covering the essential elements of a

free labour relationship, such as wages and social security, etc. (see paragraphs 119 and 128 to 143 of the Committee's general report to the 89th Session of the International Labour Conference, 2001).

3. As the Committee previously noted, if the conditions of a free employment relationship are satisfied in regard to the first category of prisoners referred to above ("outside employment"), such conditions do not yet apply to the second category of prisoners performing compulsory work in a privately run workshop within the prison, which is still being practiced under national law.

Compulsory work of prisoners in a privately run workshop

4. In comments made for many years on law and practice in Germany, the Committee has observed that, contrary to the Convention, prisoners are hired to or placed at the disposal of private enterprises. The fact that prisoners remain at all times under the authority and control of the prison administration does not detract from the fact that they are "hired to" a private enterprise – a practice designated in *Article 2(2)(c)* of the Convention as being incompatible with this basic human rights instrument. In this connection, the Committee noted with regret that the requirement of the prisoner's formal consent to be employed in a workshop run by a private enterprise, laid down in section 41(3) of the Act on the execution of sentences, of 1976, was suspended by the Second Act to improve the budget structure, of 22 December 1981, and has remained a dead letter since that time.

5. As regards the wages earned by prisoners working in private workshops, the Committee previously noted that, in 2001, the prisoners' benchmark remuneration was raised to 9 per cent of the average wage of those covered by the workers' and employees' pension insurance scheme. The Committee notes from the Government's latest report that the Government remains of the view that the existing level of prisoners' remuneration in Germany is still insufficient. The Government indicates that, in spite of the Federal Constitutional Court's decision of 24 March 2002, which currently precludes the success of any policy initiatives aimed at further increasing prisoners' remuneration, and the limited financial scope of the Länder, the Government will nevertheless continue to promote its view and monitor closely the budgetary situation in the Länder. According to the report, the Government will also continue to pursue its efforts as regards the inclusion of prisoners in the state pension schemes.

6. The Committee notes that the report refers to a survey on prison labour carried out by the Government at the Länder level. The survey reveals a persistent shortage of employment vacancies for prisoners: in 2002, only between 40 and 60 per cent of prisoners were offered work or vocational training, the majority of working prisoners being employed at enterprises managed by the penal institutions, and not by private companies; the proportion of prisoners working for private enterprises outside the institution on the basis of a free employment relationship was approximately 20 per cent, and of those working in privately run workshops inside prisons was around 8.2 per cent of all prisoners. According to the survey, hours of work generally correspond to the habitual weekly working hours in the civil service, and the statutory safety and health and accident prevention provisions apply without restriction.

7. While having duly noted this information, the Committee reiterates its concern that, almost 50 years after the ratification of this fundamental human rights Convention, an important proportion of the prisoners working for private enterprises in Germany is hired to those who use their labour without their consent and in conditions bearing no resemblance whatsoever to the free labour market. ***The Committee therefore expresses firm hope that the necessary measures will at last be taken to bring into force the provision for the consent of prisoners to work in private workshops, already made in section 41(3) of the 1976 Act referred to above, as well as the provisions regarding their contribution to the old-age pension scheme, as foreseen by section 191 et seq. of the same Act, and that their remuneration will be brought into line with the wages of workers under a free employment relationship.***

Ghana

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Article 1(a), (c) and (d) of the Convention

1. In comments made for a considerable number of years, the Committee has referred to provisions of the Criminal Code, the Newspaper Licensing Decree, 1973, the Merchant Shipping Act, 1963, the Protection of Property (Trade Disputes) Ordinance and the Industrial Relations Act, 1965, under which imprisonment (involving an obligation to perform labour) may be imposed as a punishment for non-observance of restrictions imposed by discretionary decision of the executive on the publication of newspapers and the carrying on of associations, for various breaches of discipline in the merchant marine and for participation in certain forms of strikes. Having requested the Government to adopt the necessary measures in regard to these provisions to ensure that no form of forced or compulsory labour (including compulsory prison labour) might be exacted in circumstances falling within *Article 1(a), (c) or (d)* of the Convention, the Committee noted the Government's statement that the National Advisory Committee on Labour was discussing the comments of the Committee of Experts and that it was the wish of the Government to bring the legislation concerned into conformity with the Convention. The Government also indicated in its report received in 1996 that the National Advisory Committee on Labour concluded discussions on the Committee of Experts' comments and submitted recommendations to the Minister in March 1994 designed to bring domestic legislation into conformity with ILO standards, and the comments of the Committee of Experts had been submitted to the Attorney-General for a closer study and expert comments.

In its reports received in 1999 and 2001, the Government has indicated that the action of the Attorney-General to bring the legislation into conformity with the Convention in accordance with the recommendations of the National Advisory Committee on Labour has been halted in view of the proposed review and codification of the labour laws. It has also indicated that the tripartite National Forum that includes representatives of the Attorney-General's Office, the National Advisory Committee on Labour and the employers' and workers' organizations, would consider the comments made by the Committee of Experts regarding the application of the Convention.

The Government indicates in its latest report that the National Forum has already codified all the country's labour laws into a single labour bill, which is being considered by the Cabinet and will be forwarded to Parliament to be passed into law. ***The Committee expresses firm hope that the necessary action will at last be taken on the various points which are once again recalled in detail in a request addressed directly to the Government.***

2. The Committee previously noted the adoption of the Political Parties Law, 1992, the Emergency Powers Act, 1994, and the Public Order Act, 1994, which gave rise to a number of questions under the Convention that are also reiterated in the request addressed directly to the Government.

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

Greece

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)

Article 1(c) and (d) of the Convention. Disciplinary measures applicable to seafarers

1. Referring to the comments it has been making for a number of years concerning certain provisions of the Code of Public Maritime Law of 1973 (sections 205, 207(1) and 222), Act No. 3276 of 26 June 1944 respecting collective agreements (section 4(1)) and Act No. 299 of 25 October 1936 on the settlement of collective disputes in the merchant marine (section 15), which provide for sanctions involving compulsory labour for various breaches of labour discipline by seafarers in circumstances that have no bearing on the criteria of the safety of the ship or of the persons on board, the Committee notes with interest that section 239 of the Code of Public Maritime Law has been amended by Act No. 2987 of 2002 to the effect that the sanctions provided for in the above sections of the Code of Public Maritime Law of 1973 and in Act No. 3276 of 26 June 1944 respecting collective agreements shall be imposed only in the following situations:

- (a) where the safety of the vessel, the persons on board or other persons, the cargo or property are endangered;
- (b) where pollution or other damage to the maritime environment is caused; or
- (c) where order is disturbed or public health is endangered.

2. Recalling, with reference to paragraphs 117-119 of its General Survey of 1979 on the abolition of forced labour, that only acts which endanger the ship or the life or health of persons are excluded from the scope of the Convention, the Committee observes that the situations where "order is disturbed" or where "pollution or other damage to maritime environment is caused" or "the cargo or property are endangered" do not seem to satisfy these criteria. Referring also to its earlier comments, the Committee reiterates that endangering cargo or other assets may be punishable by sanctions involving compulsory labour only in cases of wilful acts (which would amount to criminal offences) and not where they are caused by negligence. ***The Committee hopes that the Government will provide information on measures taken or envisaged in order to ensure compliance with the Convention on this point.***

3. As regards section 15 of Act No. 299 of 25 October 1936 on the settlement of collective disputes in the merchant marine referred to above, which relates to violations of executory decisions concerning pay punishable with sanctions of imprisonment involving compulsory labour, ***the Committee refers to its comments made on the application of Convention No. 87, likewise ratified by Greece, concerning the process of modernization of the legislative framework in the area of seafarers' freedom of association, and expresses the hope that, in the context of such modernization, this provision will be repealed or amended, so that no penalties involving compulsory labour could be imposed as a means of labour discipline.***

4. In its earlier comments, the Committee also referred to section 213(1) and (2) of the Code of Public Maritime Law of 1973, under which collective insubordination by seafarers to a ship's master is punishable by deprivation of liberty involving compulsory labour. In its latest report, the Government once again indicates that the provision in question provides for the imposition of penal sanctions against seafarers not due to any breach of discipline, but as a result of insubordination to the master, whose powers are exclusively determined to ensure safe and smooth activities on board and passengers' health. The Government states that fulfilment of maritime duties by seamen is commonly recognized as a decisive factor contributing to human life safety in the sea. While having noted these views and comments, the Committee again recalls, referring also to paragraphs 117-119 of its General Survey of 1979 on the abolition of forced labour, that the prohibition established by the Convention from imposing sanctions involving compulsory labour in the event of the violation of labour discipline includes the punishment of acts of disobedience in relation to the master of the vessel, except for cases of acts tending to endanger the ship or the life or health of persons. The Committee observes that offences punishable under section 213(1) and (2) do not necessarily jeopardize the safety of the vessel in certain cases (e.g. when the ship is not at sea, but securely moored in a safe berth) and may be made punishable by other kinds of sanctions (e.g. not involving compulsory labour). ***The Committee therefore expresses strong hope that the necessary measures will at last be taken with a view to amending the above provisions of the Code of Public Maritime Law, either by repealing***

sanctions involving compulsory labour or by restricting their application to the situations where the ship or the life or health of persons are endangered.

Article 1(a)

5. For many years, the Committee has been making comments calling for the repeal of Legislative Decree No. 794 of 1970, certain provisions of which permit the imposition of restrictions on freedom of assembly and expression, in private as well as in public, and give the police discretionary powers allowing them to forbid or disperse meetings, such restrictions being enforceable with sanctions of deprivation of liberty (which involves compulsory labour).

6. Having noted the Government's statement in the report that the above Legislative Decree does not refer to penalties of compulsory labour, the Committee observes that, as he noted previously, under section 55 of the Minor Offences Code of 1967 governing the serving of sentences, persons sentenced to imprisonment are subject to compulsory labour. The Committee is bound to draw the Government's attention once again to the explanations in paragraphs 104-109 of its General Survey of 1979 on the abolition of forced labour, in which it pointed out that prison labour, in most cases, has no relevance to the application of the Convention; however, it is covered by the Convention in so far as it is exacted in the five cases specified in *Article 1* of the Convention. As the Committee observed in paragraphs 133-140 of the same General Survey, since opinions and views ideologically opposed to the established system are often expressed at various kinds of meetings, where such meetings are subject to prior authorization granted at the discretion of the authorities and violations can be punished by sanctions involving compulsory labour, they come within the scope of the Convention.

7. The Committee previously noted the Government's statement in its 2001 report that the provisions of Legislative Decree No. 794 of 1970 were considered abolished in their greater part as opposing to the provisions of the Constitution and consequently do not apply in practice. The Government confirms in its latest report that no one has been arrested for participation in any forbidden public assembly. While noting these indications, ***the Committee trusts that the abovementioned Legislative Decree will be formally repealed, in order to bring the legislation into conformity with the Convention and the indicated practice, and that the Government will soon be in a position to provide a copy of the repealing text.***

The Committee is also addressing a request on certain other points directly to the Government.

Guyana

Forced Labour Convention, 1930 (No. 29) (ratification: 1966)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

The Committee has noted a communication dated 29 October 2003 received from the International Confederation of Free Trade Unions (ICFTU), which contains observations concerning the application of the Convention by Guyana. The ICFTU alleges, in particular, that there is evidence of forced prostitution and reports of child prostitution in cities and remote gold-mining areas. The Committee notes that this communication was sent to the Government on 13 January 2004 for any comments it might wish to make on the matters raised therein. ***The Committee observes that no such comments have been received from the Government so far and hopes that the Government will communicate its comments with its next report, so as to enable the Committee to examine them at its next session.***

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

Kenya

Forced Labour Convention, 1930 (No. 29) (ratification: 1964)

Articles 1(1) and 2(1) of the Convention. Compulsory labour in connection with the conservation of natural resources. For many years, the Committee has been referring to sections 13 to 18 of the Chief's Authority Act (Cap. 128), according to which able-bodied male persons between 18 and 45 years of age may be required to perform any work or service in connection with the conservation of natural resources for up to 60 days in any year. On numerous occasions, it expressed the hope that these sections would be either repealed or amended so as to give effect to the Convention. However, the Committee previously noted that the amendments introduced by Act No. 10 of 1997 not only failed to bring the legislation into compliance with the Convention, but the non-compliance was aggravated by raising the age limit for call up for compulsory labour to 50 years of age.

The Committee noted the Government's indication in its 2000 report that a comprehensive labour law revision project would be undertaken in consultation with the social partners and with the technical assistance of the ILO, and that the labour law reform would integrate amendments/repeals requested by the Committee.

In its latest report, the Government indicates that the task force on the review of labour laws addressed the issue of repeal/amendment of sections 13 to 18 of the Chief's Authority Act to bring them into compliance with the Convention. It also informs of the proposal to abolish the provincial administration, with the aim of reorganization of the administrative machinery in the country. The Government explains that such reorganization will lead to the abolition of the chief's role, which will entail the repeal of the Chief's Authority Act.

While noting these indications, the Committee trusts that the necessary measures will be taken shortly to bring the legislation into conformity with the Convention, and that the Government will supply a copy of the repealing text, as soon as it is adopted.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1964)

Article 1(a), (c) and (d) of the Convention. Over a number of years, the Committee has been referring to various provisions of the Penal Code, the Public Order Act, the Prohibited Publications Order, 1968, the Merchant Shipping Act, 1967, and the Trade Disputes Act (Cap. 234), under which imprisonment (involving an obligation to perform labour) may be imposed as a punishment for the display of emblems or the distribution of publications signifying association with a political object or political organization, for various breaches of discipline in the merchant marine and for participation in certain forms of strikes.

The Committee previously noted the Government's indication in its 2003 report that serious discussions were under way between the Office of the President, the Attorney General's Chambers, the Law Reform Commission and the Ministry of Labour regarding the proposals to be introduced in order to bring the above legislation into complete conformity with the Convention.

In its latest report, the Government renews its commitment to see to it that the national legislation is brought into full conformity with the Convention and reiterates that a full report on the current measures being taken in order to bring national law and practice into conformity with the Convention will soon be forwarded to the ILO.

The Committee trusts that the necessary measures will be taken in the near future to bring the abovementioned provisions into conformity with the Convention and that the Government will report on the progress achieved in this regard. It also asks the Government to provide information on various points raised in a more detailed request addressed directly to the Government.

Kuwait

Forced Labour Convention, 1930 (No. 29) (ratification: 1968)

Articles 1(1) and 2(1) of the Convention

1. *Freedom of domestic workers to terminate employment.* In its earlier comments, the Committee expressed concern about the conditions under which domestic servants can leave their employment and their possibility to have recourse to courts if necessary. The Committee noted that the Labour Code currently in force excludes domestic workers. It also noted the Government's indications that the new draft Labour Code would cover this category of workers and, pursuant to section 5 of the draft Labour Code, the competent Minister would make an order specifying the rules governing the relationship between domestic servants and their employers. Having noted that the new Labour Code has not yet been adopted, the Committee requested the Government to supply a copy of any ministerial order or other legislative text specifying the rules governing the relationship between domestic servants and their employers.

The Committee notes from the Government's report that the Council of Ministers issued Order No. 362, of 4 April 2004, concerning the establishment of a permanent committee for the regulation of the situation of migrant workers in the private sector, including domestic workers, under the chairmanship of the Minister of Social Affairs and Labour. It also notes a model contract for migrant domestic workers and similar categories, prepared by the Ministry of Interior, which contains provisions governing their employment, including a provision concerning termination of an employment contract by either party, subject to prior notice.

While noting this information with interest, the Committee reiterates the firm hope that the new Labour Code, once adopted, will provide adequate protection for domestic workers as regards their freedom to terminate employment, and that the Government will communicate a copy of the new Code, as soon as it is adopted. The Committee would appreciate it if, pending the adoption of these provisions, the Government would provide information on the activities of the permanent committee on migrant workers referred to above, as well as sample copies of contracts of employment concluded with domestic workers in accordance with the model contract issued by the Ministry of Interior. Please also communicate a copy of the Council of Minister's Order No. 362, which was referred to by the Government as annexed to the report, but has not been received in the ILO.

2. *Trafficking in persons for the purpose of exploitation.* In its earlier comments, the Committee noted the Government's statement in its reply to the Committee's 2000 general observation on the subject that the victims of forced labour have the right to refer to the authorities, though without being allowed to stay in the country during the civil action unless their legal residence allows them to do so. The Committee asked the Government to indicate the measures taken or envisaged to allow the victims of forced labour to stay in the country at least for the duration of court proceedings.

The Committee notes the Government's indication in the report that section 22 of Act No. 17 of 1959, which governs foreigners' residence, authorizes foreigners on whom a repatriation order has been issued in accordance with the law, to ask for a grace period not exceeding three months, subject to submitting a guarantee. The Government adds that a foreign worker who has received an order to leave the country in accordance with the law, but who has a civil case before the court, is authorized to mandate a lawyer or any other person to represent him in the civil case.

While noting this information, the Committee hopes that the Government will indicate any other measures taken or contemplated to encourage the victims to turn to the authorities, such as, e.g., protection of victims willing to testify from reprisals by the exploiters. Please also indicate whether there is an intention to introduce penal provisions aiming specifically at the punishment of trafficking in persons for the purpose of exploitation.

Article 25. Penal sanctions for the illegal exaction of forced or compulsory labour. In its earlier comments, the Committee noted that the legislation does not contain any specific provision under which the illegal exaction of forced or compulsory labour is punishable as a penal offence, and invited the Government to take the necessary measures, for example by introducing a new provision to that effect in the legislation. The Committee noted that the Government had referred in its reports to various penal provisions (such as sections 49 and 57 of Law No. 31 of 1970 on the amendment of the Penal Code, or section 121 of the Penal Code) prohibiting public officials or employees to force a worker to perform a job for the State or for any public body, as well as to section 173 of the Penal Code, which provides for the imposition of penalties on anyone who threatens another person physically or with damage to his reputation or property with a view to forcing the victim to do something or to refrain from doing something.

The Committee pointed out that the abovementioned provisions do not appear to be sufficient to give effect to *Article 25* of the Convention which stipulates that “the illegal exaction of forced or compulsory labour shall be punishable as a penal offence”, and that “it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and strictly enforced”.

The Committee reiterates its hope that the Government will take the necessary measures in order to give full effect to this Article of the Convention. Pending the adoption of such measures, the Committee asks the Government to provide information on the application of the above penal provisions in practice, supplying copies of the court decisions and indicating the penalties imposed.

The Committee is also addressing a request on certain other points directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

The Committee notes the Government’s brief indication in its report that no developments have occurred in regard to the points raised in the Committee’s previous observation. Since the Government’s report contains no further information in reply to previous comments, the Committee must therefore repeat its previous observation on the following matters:

Article 1(a) of the Convention. For a number of years, the Committee has been referring to Legislative Decree No. 65 of 1979 with respect to public meetings and gatherings, which establishes a system of prior authorization (which may be refused without giving reasons, under section 6 of the above Decree) and, in the event of violations, provides for a penalty of imprisonment involving, by virtue of the Penal Code, an obligation to work. The Committee stressed the importance for the effective observance of the Convention of legal guarantees regarding the right of assembly and the direct bearing that a restriction of this right can have on the application of the Convention. Indeed, it is often through the exercise of this right that political opposition to the established order can be expressed, and in ratifying the Convention the State has undertaken to guarantee persons who manifest this opposition in a peaceful manner the protection that the Convention affords them.

In its report received in October 2002, the Government reiterated that the prior authorization provided for in the aforementioned Decree is required for the sake of public security and that no violations of the Decree had occurred and consequently no judicial decisions had been issued. However, in its previous report received in January 2002, the Government stated that meetings politically opposing the current system are not covered by the Decree, since a list of meetings, which shall not be considered public in virtue of section 2 of the Decree and therefore exempted from the scope of the Decree, is not exhaustive. *The Committee requests the Government to clarify this issue, particularly with regard to political public meetings, since section 2 apparently excludes only those meetings which are not considered to be public. It hopes that measures will be taken to clearly exclude political public meetings from the application of the above Decree, e.g. by amending the wording of section 2, in order to bring the legislation into conformity with the Convention and the indicated practice. Pending the adoption of such measures, the Committee asks the Government to continue to supply information on the application of the Decree in practice, including the number of convictions for violations of its provisions and copies of any court decisions defining or illustrating their scope.*

Article 1(c) and (d). For many years, the Committee has been referring to Legislative Decree No. 31 of 1980 with respect to security, order and discipline on board ship, under the terms of which certain breaches of discipline (unauthorized absence, repeated disobedience, failure to return to the vessel) committed by common agreement by three persons may be punished by imprisonment involving an obligation to work. The Committee noted that penalties imposed for violations of labour discipline or punishment for having participated in a strike do not come within the scope of the Convention where such acts endanger the safety of the vessel or the life or safety of the persons on board, but that sections 11, 12 and 13 of the above Decree do not limit the application of the penalties to such acts.

The Committee has noted the Government’s statement in its reports received in 2002 that it attaches great importance to bringing Decree No. 31 of 1980 into conformity with the provisions of the Convention and intends to take the necessary measures in this direction.

The Committee hopes that the necessary measures to amend Legislative Decree No. 31 of 1980 will be taken in the near future with a view to ensuring that the imposition of penalties involving compulsory labour will be limited to cases in which the violations committed constitute a danger for the vessel or for the life or safety of persons, and that the Government will provide information on the action taken to this end.

Liberia

Forced Labour Convention, 1930 (No. 29) (ratification: 1931)

The Committee notes with regret that no report has been received from the Government for the sixth year in succession. It must therefore repeat its previous observation on the following matters:

1. In its previous observation, the Committee referred to a communication of the International Confederation of Free Trade Unions, dated 22 October 1998, by which a report on forced child labour in south-eastern Liberia was sent. That report, dated September 1998, had been prepared by Focus and the Justice and Peace Commission (JPC), two local organizations.

The Committee noted the Government's comments on that communication. It noted the report of the special investigation committee sent by the Government in May 1998 to investigate alleged forced labour in the south-eastern region. It noted that the special investigation committee did not find or establish any conclusive or physical evidence to confirm acts of forced labour in the region. The Committee however observes that the special investigation committee recommended in its report that a national committee be established to trace and reunite displaced women and children that were taken captive during the war and also that a committee be sent to investigate allegations of forced labour and hostage situations particularly in some parts of Grand Kru and Nimba Country. The investigation committee further recommended that, in order to enhance the National Reconciliation and Reunification Programmes, "local authorities should be directed to encourage their citizens to report any acts of alleged forced labour, intimidation, harassment, maltreatment for appropriate investigation and corrective measures".

In their report, Focus and JPC found that the case of forced labour was "a spillover of the gross abuses that characterized the civil war" and that it was a common practice of ex-combatants (mainly former commanders) of former warring factions who chose to take advantage of the extremely difficult economic situation in the region. The report stated that there are practices of exploitative and forced labour and captivity taking place in that part of the country, chiefly in the Government Camp area in Sinoe Country. The report also mentioned chief Solomon Moses (Chief Solo) in Sinoe Country and Chief Gonda, in Grand Gedeh Country, as alleged perpetrators, both of them being heads of Joint Security Forces. It mentioned the difficult situation of socially abandoned children who had to fend for themselves and orphans who, although in the care of some adult, "due to financial difficulties were made to perform tasks against their will" so as to "raise funds for their support". The Committee notes that in their recommendations, Focus and JPC urge the Government to address the plight of children in the south-east, especially that of children held hostage by adults and used as a source of forced and captive labour.

The Committee noted that both reports found that the south-eastern part of the country was in a grave humanitarian crisis and an extreme state of poverty and that any reported situations of exploitation were due to the consequences of the war. It further noted from the Government's latest report that the region is cut off to a very large extent from the rest of the country because of the bad state of the roads, that the limited resources available do not allow for the immediate building of the needed hospitals and schools and that because of the economic situation in the region, there are hardly any alternatives to farming, small-scale mining and other activities which require massive and cheap labour.

The Committee understands from the documents before it that the Government as well as Focus and JPC have independently sent teams to investigate the situation and report on it. *It hopes that the Government will encourage joint efforts and cooperation between governmental bodies and non-governmental organizations at all levels with a view to the effective elimination of all forms of compulsory labour, including that of children, and that the Government will supply full information on measures taken to this end, as well as on action taken on the following recommendations of the special investigation committee:*

- (a) the establishment of a national committee to trace and reunite displaced women and children taken captive during the war;
- (b) the sending of a committee to investigate allegations of forced labour and hostage situations particularly in Grand Kru and Nimba Country;
- (c) directing local authorities to encourage the citizens to report any acts of alleged forced labour, intimidation, harassment, maltreatment, for appropriate investigation and corrective measures, in the framework of the National Reconciliation and Reunification Programmes.

The Committee furthermore hopes that the Government will take specific action to investigate the situation in the south-east as regards practices of forced labour, including allegations that children are held hostage by adults as captive labour, and more particularly the allegations that forced labour was being imposed in the Government Camp area in Sinoe Country and by heads of Joint Security Forces in Sinoe Country and Grand Gedeh Country. The Committee hopes that the Government will supply full information on the action taken and the results.

2. *Article 25 of the Convention.* The Committee recalls that under Article 25 of the Convention, the illegal exaction of forced labour shall be punishable as a penal offence and it shall be an obligation on the State to ensure that the penalties imposed are really adequate and are strictly enforced. It notes from the Government's latest report that the use of forced or compulsory labour is to be held a crime. *The Committee hopes that the necessary action to give effect to Article 25 of the Convention will be completed in the near future and that the Government will send the text of the Act as soon as it is adopted.*

The Committee is addressing a direct request to the Government on other points.

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)

The Committee notes with regret that no report has been received from the Government for the fifth year in succession. It must therefore repeat its previous observation on the following matters:

1. *Article 1(a) of the Convention.* In its earlier comments the Committee observed that prison sentences (involving, under Chapter 34, section 34-14, paragraph 1, of the Liberian Code of Laws, an obligation to work) might be imposed in circumstances falling within Article 1(a) of the Convention under section 52(1)(b) of the Penal Law (punishing certain forms of criticism of the Government) and section 216 of the Election Law (punishing participation in activities that seek to continue or revive certain political parties). The Committee also requested the Government to provide a copy of Decree No. 88A of 1985 relating to criticism of the Government.

The Committee notes with interest the Government's indication in its report that section 216 of the Election Law and Decree No. 88A of 1985 have been repealed. *Since the copies of repealing Acts referred to by the Government as annexed to its report have not been received at the ILO, the Committee hopes that copies will soon be forwarded. The Committee also requests the Government to state whether section 52(1)(b) of the Penal Law is still in force, and if so, to indicate the measures taken with a view to ensuring observance of the Convention.*

The Committee previously noted that under a Decree adopted by the People's Redemption Council before its dissolution in July 1984, parties can be forbidden if they are considered to have engaged in activities or expressed objectives which go against the republican form of government or basic Liberian values. *The Committee again requests the Government to indicate whether the provisions of this Decree are still in force and, if so, to provide a copy of the text of the Decree.*

2. *Article 1(c).* In its earlier comments the Committee noted that under section 347(1) and (2) of the Maritime Law, local authorities shall apprehend and deliver a seafarer who deserts from a vessel with the intention of not returning to duty and who remains unlawfully in a foreign country. Referring to paragraph 110 of its General Survey of 1979 on the abolition of forced labour, the Committee must point out that measures to ensure the due performance by a worker of his service under compulsion of law (in the form of physical constraint or the menace of a penalty) constitute forced or compulsory labour as a means of labour discipline and are thus incompatible with the Convention. *The Committee hopes that section 347(1) and (2) of the Maritime Law will soon be repealed and that the Government will supply information on the measures taken to this end.*

The Committee also noted that under section 348 of the Maritime Law various other offences against labour discipline by seafarers such as incitement to neglect duty, assembling with others in a tumultuous manner, may be punished with imprisonment of up to five years (involving an obligation to work). The Committee referred to paragraphs 117 and 125 of its General Survey of 1979 on the abolition of forced labour where it pointed out that sanctions relating to acts tending to endanger the ship or the life or health of persons on board do not fall within the scope of the Convention. However, as regards more generally breaches of labour discipline such as desertion, absence without leave or disobedience, all sanctions involving compulsory labour should be abolished under the Convention. In a great number of maritime nations, similar penal provisions have been repealed, restricted in scope to cases involving a danger to the ship or the life or health of persons, or otherwise amended so as to provide for a fine or some other penalty not falling within the scope of the Convention. *The Committee therefore again expresses the hope that measures will be taken to bring section 348 of the Maritime Law into conformity with the Convention, and that the Government will provide information on the action taken to this end.*

In its earlier comments the Committee referred to Decree No. 12 of 30 June 1980 prohibiting strikes. It notes with interest the Government's statement in its report that a draft law repealing the abovementioned Decree is now before the competent authority for passing into law. *The Committee requests the Government to provide a copy of the repealing law as soon as it is adopted.*

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

Madagascar

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

1. *Article 2, paragraph 2(c), of the Convention. Prison labour. Hiring of prison labour to private enterprises.* For several years, the Committee has been drawing the Government's attention to Decree No. 59-121 of 27 October 1959 (as amended by Decree No. 63-167 of 6 March 1963) to establish the organization of the prison services, under which prison labour may be hired to private enterprises and prison work may be imposed on persons detained pending trial. The Committee requested the Government to amend or repeal the legislation in question so as to give effect to the Convention. The Committee notes the information provided by the Government that draft regulations setting out the conditions for such hiring have been drawn up and that a system of work of general interest is envisaged as an alternative to imprisonment.

The Committee notes with interest section 4(4) of the new Labour Code. Under the terms of this provision, the hiring of prison labour free of charge to private individuals, enterprises or associations is prohibited.

With regard to the hiring of prison labour to private enterprises, the Committee has considered that, where guarantees are provided that those concerned accept work voluntarily without being subjected to pressure or the menace of any penalty, such work would not be in contradiction with the requirements of the Convention. The Government has often indicated in its reports that prisoners accept work for private enterprises voluntarily as a means of improving their conditions of detention. The Committee observes that, to bring the legislation into conformity with the practice followed, it would be necessary to amend Decree No. 59-121 so that it provides explicitly that prisoners must give their consent to work for private enterprises. It also recalls that work by prisoners for private enterprises can only be compatible with *Article 2, paragraph 2(c), of the Convention* where the prisoners work under conditions of employment approximating a free labour relationship with regard to wage levels, social security and safety and health. Moreover, the existence of such conditions is the most reliable indicator of the voluntary nature of the work. The Committee observes that, while the prohibition of the free hiring of prison labour constitutes progress, it is still necessary to ensure that the conditions of employment approximate those of a free labour relationship.

With regard to the imposition of work on persons who are detained pending trial, the Committee recalls that the requirement in the Convention that prisoners may only be compelled to work as a consequence of a conviction in a court of law, but that it does not prevent work opportunities of a purely voluntary nature from being offered to persons who are detained, but not convicted.

The Committee notes that under the terms of section 4(4) of the new Labour Code (Act No. 2003-044), the imposition of work on persons detained pending trial is prohibited, but that Decree No. 59-121 has not yet been amended accordingly.

The Committee hopes that the Government will be able to inform it of the amendment of Decree No. 59-121 in its next report.

2. *Article 2, paragraph 2(a). National service.* The Committee noted in its previous observation the Government's indications that the revision was being considered of Ordinance No. 78-002 of 16 February 1978 on the general principles of national service, which define national service as the compulsory participation of young Malagasies in national defence and in the economic and social development of the country. The Committee notes from the Government's reports that changes will be made and transmitted at the appropriate time.

The Committee recalls once again that forcing young people to participate in development work as part of compulsory military service, or as an alternative thereto, is incompatible with the Convention. ***It once again hopes that the Government will take the necessary measures to bring the legislation into conformity with the Convention, in particular by ensuring that young boys and girls participate in national service on a voluntary basis and that the work required under military service laws is of a purely military character.***

The Committee also requested the Government to provide copies of Acts Nos. 94-018 and 94-033, which repeal Act No. 68-018 and Decree No. 92-353. ***Despite the Government's indications, the Committee notes that copies of these texts were not attached to the report, and it hopes that they will be received with the Government's next report.***

Mauritius

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1969)

1. *Article 1(c) and (d) of the Convention. Disciplinary measures applicable to seafarers.* The Committee previously noted that, under sections 183(1) and 184(1) of the Merchant Shipping Act of 1986, certain breaches of discipline by seafarers (such as desertion, neglect or refusal to join the ship, absence without leave, neglect of duty) are punishable by imprisonment (involving an obligation to perform labour), and that under section 183(1), (3) and (4), seafarers who are not citizens of Mauritius, and who commit such offences, may be forcibly conveyed on board ship for the purpose of proceeding to sea. Referring to paragraphs 110 to 125 of its General Survey of 1979 on the abolition of forced labour, the Committee recalled that, in order to be compatible with the Convention, the provisions mentioned above should be restricted to punishing breaches of labour discipline that endanger the safety of the ship, or the life or health of persons on board.

In its previous observation, the Committee noted the Government's indications that it had undertaken to amend the Merchant Shipping Act and, in particular, sections 183 and 184, with the assistance of the International Maritime Organization, with a view to removing the possibility of having recourse to compulsory labour, in order to make the Act compatible with the Convention. The Committee notes that, in its latest report, the Government indicates that the Shipping Division of the Ministry of Shipping, Rodrigues and the Outer Islands, has submitted the Draft Merchant Shipping Bill to the State Law Office for vetting, and that necessary amendments to sections 183 and 184 of the Merchant Shipping Act 1986 are included in the Bill, in line with the requirements of the Convention, and that the Bill will be presented in Parliament for enactment in due course. ***The Committee reiterates its hope that the Merchant Shipping Act will be brought into conformity with the Convention in the near future, and that the Government will soon be able to indicate further progress achieved in this regard.***

2. *Article 1(d). Sanctions for participation in strikes.* For many years in its comments, the Committee has observed that, under sections 82 and 83 of the Industrial Relations Act, 1973, submission of any industrial dispute to compulsory arbitration is left to the discretion of the Minister. The decision handed down following this procedure is enforceable (section 85) and any strike becomes unlawful (section 92). Finally, participation in a strike thus prohibited may be punished by imprisonment (section 102) involving compulsory labour by virtue of section 35(1)(a) of the Reform Institutions Act. The Committee observed that these provisions are incompatible with *Article 1(d)* of the Convention. It pointed out that, for provisions regarding compulsory arbitration, enforceable with sanctions involving compulsory labour, to be compatible with the Convention, their scope should be limited to essential services in the strict meaning of the term (namely those the interruption of which would endanger the life, personal safety or health of the whole or part of the population).

In its previous observation, the Committee noted the Government's indications that it had undertaken to review the Industrial Relations Act; that to this effect a decision had been taken to set up a tripartite committee; and that, in the meantime, a technical committee chaired by the Permanent Secretary of the Ministry of Labour and Industrial Relations was considering amendments to be brought to the Act. The Committee notes the Government's indications in its latest report that new draft legislation, the Employment and Labour Relations Bill, has been prepared and was presented for first reading in the National Assembly on 9 April 2005, but that following concerns and objections of both employers' and workers' organizations to some clauses of the Bill, the Cabinet of Ministers decided that certain portions of the Bill should be revisited and that the draft legislation would be introduced in the National Assembly after the general elections in July

2005. The Committee notes from the Government's internet portal that, as of October 2005, the Bill has not been reintroduced in the National Assembly.

The Committee once again expresses the firm hope that the Industrial Relations Act will be amended in the near future and that the legislation will be brought into conformity with the Convention on this point. It asks the Government to provide, in its next report, information on further progress made in this regard.

Republic of Moldova

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1993)

Article 1(b) of the Convention. Mobilizing labour by state authorities. The Committee notes that the Government's report contains no reply to previous comments. The Committee previously noted a communication received in February 2004 from the Confederation of Trade Unions of the Republic of Moldova (CSRМ), which contains observations concerning the application of the forced labour Conventions Nos. 105 and 29, ratified by the Republic of Moldova. The CSRМ referred, in particular, to legal provisions under which the central and local authorities, as well as military bodies, can exact compulsory labour from the population under certain conditions, as a means of mobilizing and using labour for purposes of the development of the national economy. The Committee noted that this communication was sent to the Government in March 2004, for any comments it might wish to make on the matters raised therein. **Since no such comments have been received from the Government so far, the Committee reiterates its hope that the Government will not fail to supply its comments with its next report, so as to enable the Committee to examine them at its next session.**

The Committee is also addressing a request on certain other points directly to the Government.

Morocco

Forced Labour Convention, 1930 (No. 29) (ratification: 1957)

Article 2, paragraph 2 (c), of the Convention. Prison work. Prisoners hired to private enterprises or individuals. In its previous comments, the Committee noted that, under the terms of section 40 of Act No. 23-98 concerning the organization and operation of penal establishments, no prisoner may work for a private individual or organization other than under the concession system and under the terms of an administrative agreement determining the conditions of employment and remuneration. This possibility was already envisaged in the Dahir of 26 June 1930 which, for many years, the Committee had requested the Government to repeal or amend. In accordance with *Article 2, paragraph 2(c)*, of the Convention, prison labour is not considered to be forced labour on condition that the prisoner is not hired to or placed at the disposal of private individuals, companies or associations. The employment of prisoners by private individuals could only be compatible with the Convention in so far as the conditions under which it is carried out approximate those of a free employment relationship (see paragraphs 97-101 of the General Survey of 1979 on the abolition of forced labour). **In the absence of information provided by the Government in its last reports on this subject, the Committee once again requests it to indicate whether the possibility envisaged in the section 40 of Act No. 23-98 referred to above has been used in practice and, if so, to provide copies of the corresponding administrative agreements and information on the manner in which it is ensured that the consent of the prisoners is given freely, the level of the wages paid to them and their other conditions of work.**

Article 2, paragraph 2(d). Requisitioning of persons. For many years, the Committee has been drawing the Government's attention to the need to amend or repeal several legislative texts which authorize the requisitioning of persons and goods in order to satisfy national needs (the Dahirs of 10 August 1915 and 25 March 1918, as contained in the Dahir of 13 September 1938 and reintroduced by Decree No. 2-63-436 of 6 November 1963). The Committee requested the Government to take steps to ensure that requisitioning could only be decided upon under conditions strictly limited to situations endangering the existence or well-being of the whole or part of the population. It noted that, according to the Government, the only cases in which the provisions allowing for the requisitioning of goods and persons could be invoked were emergencies within the meaning of the Convention and that recourse to requisitioning had to be based on the necessity to satisfy urgent needs, under circumstances of extreme difficulty, in order to protect the nation's vital interests (for example, in cases of war, natural disasters or major accidents). The Committee notes the Government's indication in its report in 2003 that this issue was debated during discussions held with the social partners and that the accord concluded following these discussions contains a specific provision on the need to repeal the Decree of 13 September 1938. **The Committee hopes that the Government will be in a position to indicate in its next report the adoption of the necessary measures to amend the national legislation so as to limit the requisitioning of persons to situations endangering the existence or well-being of the whole or part of the population.**

Article 25. Imposition of really effective penal sanctions. For many years, the Committee has been drawing the Government's attention to the absence in the national legislation of any penal sanctions against persons guilty of exaction of forced labour, whereas under *Article 25* of the Convention, the illegal exaction of forced or compulsory labour must be subject to really adequate and strictly enforced penal sanctions. In this respect, the Government refers to sections 10 and 12 of the new Labour Code, which prohibit the requisitioning of employees to perform forced labour or to work against their will. Any employer in breach of this prohibition is liable to a fine of between 25,000 and 30,000 dirhams and, in the

event of a repeated offence, a fine of double that amount and imprisonment for between six days and three months, or one of these two penalties. The Committee notes these provisions but expresses reservations as to the dissuasive nature of these penalties. Indeed, only cases of repeated violations of the prohibition of forced labour could be penalized by a prison sentence, although the judge could however opt for a mere fine if he or she considered it appropriate. Furthermore, the maximum prison sentence which could be imposed is short (from six days to three months).

At the same time, the Committee notes that, among the changes made to the Penal Code, new section 467-1 punishes any person who exploits a child under 15 years of age for forced labour, acts as an intermediary or causes such exploitation with a sentence of imprisonment of from one to three years and a fine. ***The Committee requests the Government to re-examine the penalties under the Labour Code and provide information on the manner in which the imposition of adequate and dissuasive penal sanctions are ensured against any person who has recourse to forced labour, irrespective of the age of the victims.***

Article 1, paragraph 1, and Article 2, paragraphs 1 and 2. Freedom of public servants and career members of the armed forces to terminate their employment. In its previous comments, the Committee noted that, under the terms of section 77 of the Dahir of 24 February 1958 establishing the general conditions of employment of the public service, the resignation of an official does not come into effect unless it is accepted by the authority vested with the power of nomination. In the event of refusal, the person concerned may bring the case before the Joint Administrative Committee, and the criteria which were applied in accepting or rejecting a resignation request were the needs of the service and whether or not it was possible to find a similarly qualified or specialized replacement for the official who was resigning. Under these conditions, the Committee requested the Government to amend the legislation with a view to restricting the possibility of preventing an official from leaving his or her employment, to emergency situations and to ensure the freedom of officials to terminate their employment by reasonable notice.

The Committee notes the Government's indication that, in the context of the accord concluded by the social partners and the Government, the Ministry sent a letter to the competent department with a view to repealing section 77 of the Dahir of 24 February 1958 so as to bring it into conformity with the Convention. ***The Committee requests the Government to provide information on the measures adopted for this purpose and to provide a copy of any text that is adopted.***

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1966)

Article 1(d) of the Convention. Imposition of prison sentences involving an obligation to work as punishment for having participated in strikes. In its previous comments, the Committee drew the Government's attention to the scope of section 288 of the Penal Code, under the terms of which anyone who, through violence, the use of force, threats or deception, causes or maintains, or endeavours to cause or maintain, a concerted stoppage of work, with the aim of forcing an increase or decrease in wages or jeopardizing the free exercise of industry or work, is liable to a sentence of imprisonment of from one month to two years. Sentences of imprisonment involve the obligation to work under section 28 of the Penal Code and section 35 of Act No. 23-98 respecting the organization and operation of prisons.

The Government has indicated on several occasions that section 288 of the Penal Code is not in contradiction with the provisions of the Convention, since it does not penalize the exercise of the right to strike, but a collective stoppage of work accompanied by violence, the use of force, threats or deception, and that the only acts condemned by this section are acts which violate the freedom of work.

The Committee previously noted in this respect that the Moroccan Labour Union (UMT) had requested the Government to repeal this provision which, in practice, was frequently used by the courts to imprison UMT militants for their peaceful participation in strikes. The Committee also noted the conclusions of the Committee on Freedom of Association on the complaint made by the UMT and other organizations in September 1999 alleging the arrest of trade union leaders and members following strikes (Case No. 2048), as well as several court rulings under section 288 of the Penal Code, copies of which were provided by the Government at the request of the Committee.

Taking into account, on the one hand, the restrictions that an extensive application of section 288 of the Penal Code could place on the exercise of the right to strike and, on the other, the penalties which may be imposed under this provision, the Committee requested the Government to examine section 288 of the Penal Code in the light of *Article 1(d)* of the Convention, under the terms of which no form of forced labour, including compulsory prison labour, may be imposed as a punishment for having participated in strikes.

In its last report, the Government indicates once again that section 288 of the Penal Code does not penalize the exercise of the right to strike. It specifies that a framework Bill on the exercise of the right to strike, formulated by the Ministry of Employment and Vocational Training, has been examined in several meetings with the social partners, but has not yet obtained consensus. Despite the absence of a legal framework, the Government considers that the right to strike is exercised without obstacle in all sectors of activity.

The Committee notes this information. It observes that the Government no longer refers to a revision of section 288 of the Penal Code, which had been envisaged in the context of an overall revision of the Penal Code. ***It requests it to provide information on this subject. The Committee hopes that the Government will be able to re-examine the issue of the scope of section 288 in the light of the protection afforded by Article 1(d) of the Convention and that it will take the necessary measures to ensure that no sentence of imprisonment involving the obligation to work may be imposed on***

workers who exercise their right to strike, which is moreover guaranteed by article 14 of the Constitution. The Committee would be grateful if the Government would provide a copy of the framework Act on the exercise of the right to strike to which it makes reference as soon as it has been adopted.

Myanmar

Forced Labour Convention, 1930 (No. 29) (ratification: 1955)

I. Historical background

1. The Committee has been commenting on this extremely serious case since its first observation over 30 years ago. The grave situation in Myanmar has also been the subject of overwhelming criticism and condemnation in the Conference Committee on the Application of Standards of the International Labour Conference on nine occasions between 1992 and 2005, in the International Labour Conference at its 88th Session in June 2000, and in the Governing Body, by governments and social partners alike. The history is set out in detail in the previous observations of this Committee in more recent years, particularly since 1999.

2. The major focus of the criticisms by each of the ILO bodies relates to the outcome of a Commission of Inquiry appointed by the Governing Body in March 1997 following a complaint submitted in June 1996 under article 26 of the Constitution. The Commission of Inquiry concluded that the Convention was violated in national law and in practice in a widespread and systematic manner, and it made the following recommendations:

- (1) that the relevant legislative texts, in particular the Village Act and the Towns Act, be brought into line with the Convention;
- (2) that in actual practice, no more forced or compulsory labour be imposed by the authorities, in particular the military; and
- (3) that the penalties which may be imposed under section 374 of the Penal Code for the exaction of forced or compulsory labour be strictly enforced.

The Commission of Inquiry emphasized that, besides amending the legislation, concrete action needed to be taken immediately to bring to an end to the exaction of forced labour in practice, in particular by the military.

3. In its previous observations in 2002 to 2005, the Committee of Experts identified four areas in which measures should be taken by the Government to achieve this outcome:

- issuing specific and concrete instructions to the civilian and military authorities;
- ensuring that the prohibition of forced labour is given wide publicity;
- providing for the budgeting of adequate means for the replacement of forced or unpaid labour; and
- ensuring the enforcement of the prohibition of forced labour.

4. The flagrant continuing breaches of the Convention by the Government and the failure to comply with the recommendations of the Commission of Inquiry and the observations of the Committee of Experts and other matters arising from the discussion in the other bodies of the ILO, led to the unprecedented exercise of article 33 of the Constitution by the Governing Body at its 277th Session in March 2000, followed by the adoption of a resolution by the Conference at its June 2000 session.

II. Developments since the Committee's last observation

5. The Committee notes the documents submitted to the Governing Body at its 292nd and 294th Sessions (March and November 2005) on developments concerning the question of the observance by the Government of Myanmar of Convention No. 29, as well as the discussions and conclusions of the Governing Body during these sessions and of the Conference Committee on the Application of Standards in June 2005.

6. In addition, the Committee notes the Government's report, received in a series of communications on 9 June, 19 August, 22 August and 2 September 2005, and the comments by the International Confederation of Free Trade Unions (ICFTU) contained in a communication dated 31 August 2005 received on 12 September 2005, which was accompanied by some 1,100 pages of documents from many sources, reporting on the persistence in 2005 of the use of forced labour in Myanmar. The material forwarded purports to be "from nearly every State and Division of the country on several hundreds of cases" of forced labour, including forced portering, repair and maintenance of army camps and villages for displaced people, cultivation of paddy and other fields, road construction, clearing of jungle areas, "human minesweeping", patrolling and sentry duty. A synopsis of the communication from the ICFTU was forwarded to the Government by letter dated 3 October 2005 together with the indication that, in accordance with established practice, the communication of the ICFTU would be brought to the attention of the Committee together with any comments that the Government would wish to make in response. ***No response has yet been received from the Government to this very concerning information, but the Committee acknowledges that there has been inadequate time for the Government to respond to the detailed communication, which it requests the Government to do in its next report.***

7. Before addressing its particular concerns, the Committee notes that the Government has, in various documents, interventions before the ILO bodies and meetings with various High-Level Teams, expressly indicated its commitment to the elimination of forced labour in its country. More recently this has been stated publicly in the Conference Committee on the Application of Standards when the report of the proceedings recorded that the Government representative indicated that, in their determination to eliminate forced labour and to continue Myanmar's cooperation with the ILO, the authorities in his country had taken significant actions in response to the conclusions and the aide-mémoire of the very High-Level Team (vHLT) which had visited Myanmar in February 2005.

8. At the Governing Body session in November 2005, the Ambassador of Myanmar, on behalf of the Government, also expressed willingness to cooperate with the ILO. In turn, the Governing Body indicated that the Government should take the opportunity before the next session of the Governing Body in March 2006, to resume an effective dialogue with the Office about the issues of forced labour and that pending such dialogue, the Government should "cease prosecuting victims of forced labour or their representatives and instead take action against the perpetrators".

9. The Committee assumes and expects these positive expressions by the Government to have been made in good faith. As with other ILO bodies, it is concerned that the words should be followed by action and that the credibility and commitment of the Government is best demonstrated by taking the action which has previously been specified by the Commission of Inquiry and this Committee and more recently the Governing Body.

III. Addressing the recommendations of the Commission of Inquiry

10. In view of the extent of the comments which have taken place in each of the ILO bodies since the Commission of Inquiry, the Committee considers it important to set out with absolute clarity the matters that the Government needs to address as a consequence of the Commission of Inquiry.

(1) That the relevant legislative texts, in particular the Village Act and the Towns Act, be brought into line with the Convention

11. In its observation of 2001, the Committee noted that the Village Act and the Towns Act still needed to be amended, and this remains the position of the Committee. At the same time, the Committee accepted that an "Order directing not to exercise powers under certain provisions of the Towns Act, 1907, and the Village Act, 1908", Order No. 1/99, as modified by an "Order Supplementing Order No. 1/99", dated 27 October 2000, could provide a statutory basis for ensuring compliance with the Convention in practice. However, the Committee required that bona fide effect be given to the Orders by the local authorities and by civilian and military officers empowered to requisition or assist with requisition under the Acts.

12. As referred to above, the Committee indicated that this required two things:

- issuing specific and concrete instructions to the civilian and military authorities;
- ensuring that the prohibition of forced labour is given wide publicity.

Issuing specific and concrete instructions to the civilian and military authorities

13. On this topic the Committee notes the following information supplied by the Government:

- The translated text of an instruction issued by the Myanmar police force of the Ministry of Home Affairs, No. 1002(23)/202/Oo 4, dated 26 May 2005, which refers to Order No. 1/99 and to its Supplementing Order. The English translation of this instruction states: "As requisition of forced labour is declared unlawful and subject to legislative action, all regional authorities, armed forces personnel, police force personnel and other civilian authorities are prohibited from exacting forced labour". It states further that, "Police force personnel are instructed ... to strictly abide by the Orders [No. 1/99 and its Supplementing Order]".
- The translated text of an "Additional Instruction" issued by the Department of General Administration of the Ministry of Home Affairs, No. 200/108/Oo, dated 2 June 2005, which supplements Instruction No. 1/2004, dated 19 August 2004, of the Department of General Administration. The supplemental instruction specifies that the prohibition on the requisition of forced labour under Instruction No. 1/2004 applies to construction works (motor roads, railroads, construction of embankments/dykes, and other works for national or regional infrastructure projects), and also to clearing neighbourhoods and other works for rural and urban areas. It also instructs officials "not to collect or demand money" without consent.
- A reference to several new instructions issued in 2004 and 2005 by the Ministry of Home Affairs: No. Pa Hta Ya (Ah Hta Au)/Oo-3 dated 12 December 2004 (on the requisitioning of forced labour), and by the Department of General Administration under the Ministry of Home Affairs: No. 100/108-1/Oo 1, dated 18 January 2005 (investigating complaints of forced labour) and No. 100/108-1/Oo 1 dated 10 February 2005 (orders on prohibition of requisitioning).
- A reference to letter No. 31 Ba (Na Nga Kha-2) 2000 (2), dated 11 July 2000, issued by the Minister's Offices of the Ministry of Defence; and letter No. 1865/18/Oo (3) dated 15 May 1999; letter No. 1865/15/Oo (3) dated 6 November 2000; and telegram No. (55-Oo) which were issued by the offices of the Commander-in-Chief (army).
- A reference to instructions issued by the Yangon Military Command to the divisions, strategic commands, regiments, and units "to strictly abide by the law".

- A reference to letter No. 18-3/11 Oo, dated 10 November 2000, which ordered that “a complete record of discussions” be submitted to the Yangon Military Command. The Government states that “at the regimental level, the organizing committee had explained the respective law to the platoon level officers and other ranks”, and that the latter “were also required to sign that they understood the orders”. The Government states that these records were submitted to the Command Headquarters which, in turn, reported this information to the Commander-in-Chief (army), “together with the relevant documents” that Order 1/99 and its Supplementing Order “had already been explained down to the lowest level”.
- A reference to “discussions ... made in in-service organizing committee meetings”.
- A reference to an instruction concerning the representative of the Ministry of Defence on the Convention No. 29 Implementation Committee, issued by the office of the Commander-in-Chief (army) in letter No. 4/305/3 (Kha) 18/ Oo 1 dated 27 November 2002.

14. The Committee notes the texts and references to instructions and letters referred to above. The Committee acknowledges that these communications appear to be in part a response to the previous Committee requests that instructions be transmitted to authorities in the military indicating that forced labour has been declared unlawful in Myanmar. However, the Committee has been given minimal, and in most instances no information, as to the content of the communications. This is a matter of real concern as the Committee has previously expressed that clear and effectively conveyed instructions are required to indicate the kinds of practices that constitute forced labour and for which the requisitioning of labour is prohibited, as well as the manner in which the same tasks can be performed without use of forced labour. The Committee has in a previous observation enumerated a number of tasks and practices requiring identification as closely related with the exaction of forced labour, namely:

- portering for the military (or other military/paramilitary groups, for military campaigns or regular patrols);
- construction or repair of military camps/facilities;
- other support for camps (guides, messengers, cooks, cleaners, etc.);
- income-generation by individuals or groups (including work in army-owned agricultural and industrial projects);
- national or local infrastructure projects (including roads, railways, dams, etc.);
- cleaning/beautification of rural or urban areas;
- the supply of materials or provisions of any kind, which must be prohibited in the same way as demands for money (except where due to the State or to a municipal authority under the relevant legislation) since, in practice, demands by the military for money or services are often interchangeable.

15. The starting point for the eradication of forced labour is to give very clear and concrete instructions to the authorities of the kinds of practices that constitute forced labour. The combination of the lack of information and the one example of the content of one communication (namely, the Additional Instruction No. 200/108/Oo of 2 June 2005) suggests that this does not appear to have been done. It does not appear to the Committee to be a difficult exercise to construct the content of the written communication which would take account of these concerns and include all of the above elements.

16. *Having regard to the Government's expression of preparedness to continue cooperation with the ILO, the Committee suggests that the construction of such communications to implement the Committee concerns and thereby avoiding continuing repetition of this point by the Committee, could be the topic of such a cooperation. This could for example be done through the Liaison Officer a.i. or some other similar ILO liaison. The Committee asks that in its next report the Government supply information about the measures it has taken on this point, and that it also supply copies of the precise texts of the letters and instructions to which it has referred, and in addition a translated version of each.*

(2) Ensuring that the prohibition of forced labour is given wide publicity

17. On this topic, the Committee notes that the Government, in its latest report (Annex C), refers to the following:

- Letters No. 31, No. 1865/18/Oo (3) and No. 1865/15/Oo (3) and telegram No. (55-Oo), referred to specifically above, were issued by the offices of the Commander-in-Chief (army) and “were also transmitted to all the division command headquarters to thoroughly and clearly explain and direct all Tatmadawmen, strictly not to use forced labour and requisitioning of labour”.
- A series of “briefings” were carried out between 1999 and 2004 in 14 States and Divisions at the district, township, village and ward levels by “responsible officials” from the Department of General Administration, and which involved “explanations” of Order No. 1/99 and its Supplementing Order.
- A table of data that purports to show the number of attendees at these briefings: a total of 21,505 persons attending 65 district-level briefings; a total of 240,500 persons at five briefings in each of 325 townships; a total of 263,427 persons attending single briefings in 1,648 wards and villages; and an overall total attendance of 525,432 persons at 18,172 briefings.
- A series of two-day “awareness-raising” workshops on the implementation of Convention No. 29, organized by field observation teams, and which it says were held between May and December 2004.

18. The Committee acknowledges that, accepting the information supplied by the Government at face value, efforts appear to have been made by the Government to transmit information about the fact that forced labour has been declared unlawful in Myanmar. However, as with the communications referred to above, the Committee has been given no information as to the content of the briefings and workshops. This again is a matter of real concern, as the Committee has no confidence that the briefings and workshops have been effective in conveying the information. As previously expressed, these workshops and briefings need to clearly and effectively convey instructions about the kinds of practices that constitute forced labour and for which the requisitioning of labour is prohibited, as well as the manner in which the same tasks can be performed without use of forced labour. If the trouble has been taken to undertake activities then again, it does not appear to the Committee to be a difficult exercise to construct the content of the briefings and workshops to take account of these concerns.

19. *The Committee suggests that the construction of such communications to address its concerns, thereby avoiding continuing repetition of this point by the Committee, could be a topic to be pursued in the framework of the cooperation with the ILO. The Committee asks the Government in its next report to supply information which describes the content of the communications in the briefings and workshops on the prohibition of forced labour and copies of any material or documents provided for such briefings or workshops. In addition, having regard to the fact that the Liaison Officer a.i., has had an opportunity to attend one of these events in the past, the Committee requests that the Liaison Officer a.i. be informed in advance when briefings or workshops are to be held and to give him an opportunity to attend such events if he is able. Such access would demonstrate in a real way the commitment of the Government to the overall objective of the elimination of forced labour in Myanmar.*

(3) Providing for the budgeting of adequate means for the replacement of forced or unpaid labour

20. In its recommendations, the Commission of Inquiry emphasized the need to budget for adequate means to hire paid wage labour for the public activities which are today based on forced and unpaid labour. In its report, the High-Level Team (2001) stated that it had received no information allowing it to conclude that the authorities had indeed provided for any real substitute for the cost-free forced labour imposed to support the military or public works projects.

21. In its previous observations, the Committee pursued the matter and sought to obtain concrete evidence that adequate means are budgeted to hire voluntary paid labour. The Government in response has reiterated its previous statements according to which there is always a budget allotment for each and every project, with allocations which include the cost of material and labour. The Committee observed, however, that in practice forced labour continued to be imposed in many parts of the country, in particular in those areas with a heavy presence of the army, and that the budgetary allocations that may exist were not adequate to make recourse to forced labour unnecessary.

22. In its latest report, the Government states that it has issued instructions to the various ministries to provide an estimate of the labour costs of their respective projects. The Committee also notes a reference to “a budget allotment” set up by the Myanmar police force for the payment of wages of workers “called upon to contribute labour on an ad-hoc basis” (Appendix A of the Government’s report).

23. *While noting these matters, the Committee indicates that, in view of the widespread nature of the practices of forced labour which have been the ongoing concern of the Commission of Inquiry and each of the ILO bodies, including this Committee up to the present time, the Committee once again asks the Government in its next report to provide detailed information about the measures taken to budget for adequate means for the replacement of forced or unpaid labour. Again this information would demonstrate in a real way the commitment of the Government to the overall objective of the elimination of forced labour in Myanmar.*

(4) Ensuring the enforcement of the prohibition of forced labour-monitoring machinery

24. The Committee previously noted that measures taken by the Government to ensure the enforcement of the prohibition of forced labour have included the establishment of seven field observation teams empowered to carry out investigations into allegations of the use of forced labour, the findings of which are submitted to the Convention No. 29 Implementation Committee.

25. The Committee also notes the following matters:

- the report of the Liaison Officer a.i. to the Governing Body in March 2005 that, of the 46 cases transmitted to the Convention No. 29 Implementation Committee in 2004, in only five cases were allegations of forced labour upheld (GB.292/7/2, paragraph 11);
- that the view of the Liaison Officer a.i. is that “the mechanism put into place by the authorities for addressing forced labour allegations, that of sending an ad hoc team composed of senior government officials to the region to conduct an investigation, is not well suited to dealing with the increasing numbers of cases. As the number of allegations of forced labour has increased, they have tended to be investigated internally by the General Administration Department or by the Ministry of Defence” (GB.292/7/2, paragraph 12);
- that the Liaison Officer a.i. received new complaints of forced labour and the requisitioning of forced labour in December 2004, which led that same month to five interventions transmitted to the Convention No. 29

Implementation Committee, and that as of 18 February 2005 the Liaison Officer a.i. had received 14 new cases, leading to five additional interventions in February 2005 (GB.292/7/2, paragraphs 9 and 13);

- that, according to an updated report submitted to the Conference Committee on the Application of Standards in June 2005, the Liaison Officer a.i. made interventions on five additional cases in March and April of 2005 (ILC, 93rd Session, C.App./D.6/D, paragraph 11);
- that the Government's latest report (Annex F) and the reports of the Liaison Officer a.i. (ILC, 93rd Session, C.App./D.6/D.III, paragraph 13; GB.292/7/2, paragraph 14; GB.292/7/2(Add.), paragraph 4) in relation to the series of responses in March, April, and May of 2005 from the Convention No. 29 Implementation Committee to the interventions of the Liaison Officer a.i., indicate that in only three cases did investigations by field observation teams lead to prosecution and punishment of local village officials. Further, that in every case involving the armed forces or police officials, either the allegations were reported to have proved groundless following internal investigations or else no information was provided;
- that the report of the Liaison Officer a.i. to the Conference Committee on the Application of Standards in June 2005 (C.App./D.6/D.III, paragraphs 12 and 14), as well as the intervention of the Government representative in the Conference Committee in June 2005, indicate that the Government has begun to systematically prosecute victims of forced labour who lodge what the Government considers to be "false complaints", and that, in light of this, the ILO instructed the Liaison Officer a.i. to temporarily suspend dealing with new allegations of forced labour;
- that on 1 March 2005 the Office of the Commander-in-Chief (army) established a "focal point" in the army headed by a Deputy Adjutant-General and assisted by seven grade 1 staff officers, which the Government indicated to the Liaison Officer a.i. was intended "to facilitate cooperation with the ILO on cases [of forced labour] concerning the military" (GB.292/7/2(Add.), paragraph 3). Two of the interventions of the Liaison Officer a.i. in April 2005, which concerned allegations of forced recruitment of minors into the army, were addressed to the new army focal point (C.App./D.6/D.III, paragraph 11). The Committee also notes the Government's indication in its report that the army focal point had thus far investigated three of five cases of alleged forced recruitment, and that following investigation one case was rejected while in the two others, "two persons were returned to the care of their parents", with no apparent prosecution of those responsible for the forced recruitment. The Government indicated that investigations had been initiated on the two other forced recruitment cases, and that the single case involving an allegation of forced labour by the army was under internal investigation and that the results would be forwarded to the Liaison Officer a.i.;
- the Government's statement in its latest report that among the 50 complaints of forced labour or forced recruitment in 2004, 23 involved the armed forces, and its apparent indication that in two of the 15 cases of alleged forced recruitment by the army, "action had ... been taken against those who enforced recruitment against the existing laws and regulations";
- the Government's indications in its report and the tables attached to its report (Annexes E and G) that purport to show that "action had been taken" against officers or other members of the military in 17 cases of forced recruitment in 2002 and in five cases of forced labour in 2003.

26. Taking into account the above matters, the Committee is extremely concerned that the assessments made by the field observation teams and the Convention No. 29 Implementation Committee, and those made thus far by the army focal point, appear to lack independence and credibility. The Committee notes with concern from a report submitted for discussion to the 294th Session of the Governing Body in November 2005 (GB.294/6/2) that "recent developments have seriously undermined the ability of the Liaison Officer a.i. to perform his functions" (paragraph 7), and that, while he has continued to receive complaints from victims or their representatives concerning ongoing forced labour or forced recruitment, he is unable to refer these cases to the competent authorities as he did in the past, in part because of the Government's policy of prosecuting victims for allegedly false complaints of forced labour (paragraph 8).

27. The Committee fully concurs with the view expressed by the Governing Body that it is imperative that the Government should cease prosecuting persons who complain that they are victims of forced labour and instead take increased action to prosecute perpetrators of forced labour. This requires the Government to take the necessary measures to develop credible, fair and more effective procedures for investigating allegations of forced labour, in particular those involving the army. The Committee on this issue also requests the Government to cooperate more closely with the Liaison Officer a.i. and the Office. The Committee reiterates the importance of instituting a mechanism such as the Facilitator as a credible channel for the treatment of complaints that protects the victims and leads to the prosecution, punishment and imposition of sanctions against those responsible for the exaction of forced labour.

IV. Final remarks

28. Apart from the communication dated 31 August 2005 from the ICFTU, to which the Committee has previously referred, the Committee notes the general evaluation by the Liaison Officer a.i. of the forced labour situation, on the basis of all the information available to him, which "continues to be ... that although there have been some improvements since the Commission of Inquiry, the practice remains widespread throughout the country, and is particularly serious in border

areas where there is a large presence of the army” (February 2005 report of the Liaison Officer a.i., document GB.292/7/2, paragraph 8).

29. The Committee also notes the conclusions concerning Myanmar, adopted by the Governing Body at its 294th Session in November 2005. In its conclusions, the Governing Body indicated that there was a general feeling of grave concern about the degradation of the situation, and that members of the Governing Body were particularly concerned and critical about the recent threats which had been made against the Liaison Officer a.i. as well as the former Acting Liaison Officer and Informal Facilitator, and which resulted in paralysing his capacity to discharge his responsibilities. A number of Members were of the view that the only way which was left to the ILO, in light of the further very disturbing developments which had taken place, was to enable the Conference itself to revisit the measures adopted in the 2000 ILC resolution under article 33 of the Constitution, by placing a specific item for that purpose on the 2006 agenda in order to review and, as appropriate, to strengthen them. However, taking into account the willingness expressed by the representative of the Government to cooperate and the fact that any step relating to action by the Conference would in any case need to be reconfirmed at its next session, the Governing Body, among other things, requested the Government at various levels, including the senior leadership, to take advantage of the time available prior to March 2006 to resume an effective dialogue with the International Labour Office.

30. ***The Committee fully concurs with the view expressed by the Governing Body and trusts that the implementation of the very explicit practical requests made by this Committee to the Government, will demonstrate the true commitment of the Government to resolve this long running problem of forced labour to which there is a solution.***

[The Government is asked to supply full particulars to the Conference at its 95th Session.]

Nigeria

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1960)

Article 1(a) of the Convention. Political coercion and punishment for holding or expressing views opposed to the established system

1. In its earlier comments, the Committee referred to the Public Order Decree No. 5 of 1979, which contained provisions under which public assemblies, meetings and processions on public roads or places of public resort must be previously authorized and may be subject to certain restrictions enforceable with sanctions of imprisonment (involving an obligation to work). The Committee notes that the Public Order Act, Cap. 382, Laws of the Federation of Nigeria, 1990, supplied by the Government with its report, imposes similar restrictions on the organization of public assemblies, meetings and processions (sections 1 to 4), offences being punishable with imprisonment (sections 3 and 4 (5)).

The Committee recalls that *Article 1(a)* of the Convention prohibits the use of forced or compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. It refers in this connection to paragraphs 133 to 140 of its General Survey of 1979 on the abolition of forced labour, where it observed that the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence; but sanctions involving compulsory labour fall within the scope of the Convention where they enforce a prohibition of the peaceful expression of views or of opposition to the established political, social or economic system. Since opinions and views opposed to the established system are often expressed at various kinds of meetings and assemblies, restrictions affecting the organization of such meetings and assemblies may give rise to similar problems of the application of the Convention, if such restrictions are enforceable with penalties involving compulsory labour.

The Committee therefore hopes that the necessary measures will be taken in order to bring the provisions of the Public Order Act into conformity with the Convention. While noting the Government’s indication in the report that there is no record of the violation of the provisions of the Act, the Committee asks that, pending the amendment, the Government will provide information on its application in practice, including information on convictions for violation of its provisions and on penalties imposed.

2. The Committee previously referred to the Nigerian Press Council (Amendment) Act, 2002, which imposes certain restrictions on journalists’ activities enforceable with penalties of imprisonment (section 19(1) and (5)(a)), which involves an obligation to work. While noting the Government’s indication in the report that no journalist has been convicted under this Act, and referring also to the explanations in point 1 of this observation, ***the Committee reiterates its hope that measures will be taken to repeal or amend these provisions in order to bring the legislation into conformity with the Convention. Pending the amendment, the Government is requested to provide information on the application of these provisions in practice, indicating, in particular, any convictions under the above Act and penalties imposed.***

3. The Committee previously noted the Government’s indication that the Human Rights Violations Investigation Panel, established in 1999, has concluded its assignment and forwarded the report to the federal Government, which was supposed to release a white paper on it. ***The Committee would appreciate it if the Government would supply copies of the Panel’s report and the white paper, as soon as they are released.***

Article 1(c) and (d). Punishment for breaches of labour discipline and for participation in strikes

In its earlier comments the Committee referred to the following provisions: section 81(1)(b) and (c) of the Labour Decree, 1974, under which a court may direct fulfilment of a contract of employment and posting of security for the due performance of so much of the contract as remains unperformed, and a person failing to comply with such direction may be committed to prison; section 117(b), (c) and (e) of the Merchant Shipping Act, under which seafarers are liable to imprisonment involving an obligation to work for breaches of labour discipline even in the absence of a danger to the safety of the ship or of persons; section 17(2)(a) of the Trade Disputes Act, Cap. 432, of 1990, under which participation in strikes may be punished with imprisonment involving an obligation to work in certain cases.

The Committee previously noted the Government's indications that all these provisions were under consideration by the National Labour Advisory Council. The Government states in its latest report that the review of the labour laws has been completed and submitted to the federal Government for further action. ***The Committee trusts that the legislative provisions referred to above will be amended in the near future and that the legislation will be brought into conformity with the Convention. It asks the Government to indicate, in its next report, the progress achieved in this regard.***

Pakistan

Forced Labour Convention, 1930 (No. 29) (ratification: 1957)

I. Articles 1(1) and 2(1) of the Convention

A. Debt bondage

1. In its earlier comments, the Committee noted the difficulties in the implementation of the Bonded Labour System (Abolition) Act (BLSA), 1992. The Committee notes the communications from the All Pakistan Federation of Trade Unions (APFTU) and the All Pakistan Trade Union Federation (APTUF) dated 26 April 2005 and 14 May 2005, respectively, which contain comments on the observance of the Convention and which were forwarded to the Government in June and July 2005 for any comments it might wish to make on the matters raised therein. Among other things, the APTUF observed that the BLSA was not being implemented, and the APFTU similarly observed that laws, including those concerning bonded labour, were not being enforced due to the absence of adequate labour inspection machinery. Since no comments from the Government on these communications have been received to date, the Committee hopes the Government will provide them in its next report.

2. The Committee notes the National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers of 2001, which the Government communicated in its latest report. The Committee notes that under the plan of action, a National Committee for the Abolition and Rehabilitation of Bonded Labour was to be established to coordinate the implementation of the plan, with the specific functions of:

- reviewing the implementation of the BLSA and of the action plan;
- monitoring the work of the district-level vigilance committees set up under section 15 of the BLSA and the Bonded Labour System (Abolition) Rules, 1995; and
- addressing concerns of national and international bodies on bonded and forced labour issues.

The Committee notes the statement by the Ministry of Labour in its 2005 draft Labour Protection Policy, that the 2001 National Policy and Plan of Action “clearly establishes the intentions and commitment of Government to implement in full” the Convention. The Committee further notes, however, the statement of the Ministry of Labour in its document, “Labour Policy, 2002”, dated 23 September 2002, that the targets and activities set out in the 2001 National Policy and Plan of Action “need to be actively implemented”.

Implementation of National Policy and Plan of Action for the Abolition of Bonded Labour. 3. The Committee notes that in its latest report the Government specifies recent initiatives against bonded labour it is taking or contemplating, apparently within the framework of its 2001 National Policy and Plan of Action, including:

- establishment of a Legal Aid Service Unit in the Labour Departments of Punjab and NWFP with a toll free help line to provide legal advice and assistance to needy bonded labourers, with a plan envisaged to hire legal experts to provide legal assistance;
- launching a scheme to construct low-cost housing for freed bonded labour families in the agricultural sector of Sindh, which will provide shelter to these families and contribute to their rehabilitation;
- organizing training workshops for key district government officials and other concerned stakeholders to enhance their capacity and enable them to draw up district-level plans to identify bonded labourers and activate the district vigilance committees; and
- incorporating the issue of bonded labour into the syllabi of judicial, police and civil service academies, in order to help sensitize judicial, law enforcement, and civil service officials to the problem, and holding capacity-building seminars.

4. The Committee notes the Government's indication that, under the BLSA, inspection functions in the area of bonded labour have been assigned to the regular labour inspectorate, as well as to local government heads/officials and police departments. The Committee also notes from the 2001 action plan document, that the fund mandated by the BLSA Rules had been established and an initial deposit of 100 million rupees had been made. The Government, in its report received in January 2005 (on the application of the Abolition of Forced Labour Convention, 1957 (No. 105)), indicates that work has started on making the Bonded Labour Fund functional, and that a project manual was being prepared to provide guidelines to executing agencies for preparing project proposals for financing.

5. *While recognizing these Government initiatives to try and combat bonded labour, the Committee hopes that necessary measures are being taken or envisaged to ensure the effective implementation of the 2001 National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers. The Committee hopes that in its next report the Government will provide detailed information on progress made and practical results achieved, including copies of relevant reports on all of the activities, projects, institutions and mandates referred to in the action plan. The Committee further asks that the Government provide information clarifying the present status of the district vigilance committees as well as their role in, and relationship to, the labour inspection process, and that it supply information about actions that both the district magistrates and vigilance committees are taking to ensure the effective implementation of the BLSA and the fulfilment of their other functions as mandated under the BLSA and the 1995 rules, such information to include copies of monitoring/evaluation reports prepared by the National Committee for the Abolition and Rehabilitation of Bonded Labour.*

Special programme of action to combat forced/bonded labour. 6. The Committee in its report (on the application of Convention No. 105), received in January 2005, the Government indicates that since mid-2002 it has been carrying out a special Programme of Action to Combat Forced/Bonded Labour with technical assistance from the ILO. The Government indicates that under the programme the ILO was, among other things, to provide training on human rights and bonded labour concerns to the District Nazims, members of the vigilance committees, and judicial and law enforcement officials; to assist the Government in developing partnerships with stakeholders, employers, and workers; to provide advice on the creation of a high-level national body to combat forced labour; and to assist it in launching demonstration projects to test the feasibility of approaches adopted to tackle the problem. *The Committee asks that, in its next report, the Government provide more detailed and comprehensive information concerning this programme and its implementation, including copies of the most recent reports evaluating programme activities and outcomes.*

Debt bondage: Data-gathering measures to ascertain the current nature and scope of the problem. 7. The Committee notes that under the 2001 National Policy and Plan of Action a national survey to ascertain the extent of bonded labour was to have been undertaken by January 2002, yet it notes the Government's indication in its latest report that no such quantitative survey has yet been carried out to measure the quantum of the problem in the country.

8. The Committee notes a 2004 report of an initiative of the Ministry of Labour and the ILO, entitled "Rapid Assessment Studies of Bonded Labour in Different Sectors in Pakistan", which contains findings and conclusions from a series of rapid assessment studies conducted from October 2002 to January 2003 by teams of social scientists and researchers under the auspices of the Bonded Labour Research Forum (BLRF), the aim of which was to explore the existence and nature of bonded labour in ten sectors – namely, agriculture, construction, carpet weaving, brick making, marine fisheries, mining, glass bangles, tanneries, domestic work, and begging – and to seek preliminary conclusions. The project represented the first phase of a larger research programme and was intended to lay the groundwork for detailed sector studies and a national survey to determine the incidence of bonded labour across the country, as foreseen in the Government's National Plan of Action. The rapid assessment studies focused primarily on debt bondage but also explored other forms of bonded and forced labour without debt.

9. The Committee notes the conclusion in the report that the findings in "the sectors covered ... yield fresh insights into the workings of the *peshgi* (advance payments) system and its possible relationship with bonded labour and other coercive labour arrangements". The correlation was found to be "relatively weak" in some sectors but present in others. The report also emphasizes the findings that there exist "other forms of labour bonding and coercion ... not clearly associated with the *peshgi* system".

10. *The Committee reiterates its hope that the Government, as a follow-up to the preliminary part of the research programme noted above and in accordance with the mandate of its 2001 National Policy and Plan of Action, will undertake a statistical survey on bonded labour throughout the country, using a valid methodology in cooperation with employers' and workers' organizations and with human rights organizations and institutions, and that it will supply information on the progress achieved in this connection.*

Bonded labour in agriculture. 11. In its previous observation, the Committee noted the Government's view that there are built-in deficiencies in its labour laws on dealing with labour engaged in the agricultural sector. *The Committee asks once again that the Government supply further information on the issue, as well as information on measures taken or envisaged to remedy the situation, in the context of the eradication of bonded labour in agriculture.*

Bonded child labour. 12. In its earlier comments, the Committee asked the Government to provide information on progress on the implementation of the agreement between the International Programme on the Elimination of Child Labour (IPEC) of the ILO and the Pakistan Carpet Manufacturers' and Exporters' Association (PCMEA), and the

agreement signed by the Government in 1997 with the European Commission and the ILO to take measures aimed at the eradication of bonded child labour. With regard to this point and the problem of bonded child labour in general, the Committee notes that the Government has ratified the Worst Forms of Child Labour Convention, 1999 (No. 182). In so far as Article 3(a) of Convention No. 182 provides that, the worst forms of child labour include “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour”, the Committee is of the view that this problem can be examined more specifically under Convention No. 182. The protection of children is enhanced by the fact that Convention No. 182 requires states which ratify it to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. The Committee accordingly asks the Government to refer to its comments on the application of Convention No. 182.

B. Trafficking in persons

13. The Committee notes with interest the promulgation of the Prevention and Control of Human Trafficking Ordinance, 2002 (PCHTO), which entered into force in October 2002. Among other things, the ordinance criminalizes “human trafficking”, which it defines, in part, as trafficking that entails the use of coercion for the purpose of attaining any benefit or for the purpose of exploitative entertainment, slavery or forced labour (sections 2(h) and 3); makes trafficking offences punishable by sanctions involving sentences of imprisonment of up to seven years and, in cases of trafficking of women, of up to ten years, as well as fines (section 3); provides for special sentences for trafficking offences committed by organized criminal groups (section 4) and for repeated offences (section 5); provides for the payment of compensation and expenses to victims (section 6); and makes trafficking in persons cognizable by the courts as a prosecutable offence (sections 8 and 10). ***The Committee asks that in its next report the Government supply a copy of the most recent rules and regulations that have been promulgated to implement the PCHTO.***

Trafficking in persons: Data-gathering measures to ascertain the current nature and scope of the problem. 14. The Committee notes the 2005 report of the International Organisation for Migration (IOM) entitled, “Data and research on human trafficking: A global survey”, which indicates that Pakistan continues to be a major destination country for trafficked women as well as a major transit country of persons trafficked from Bangladesh to Middle Eastern countries, where women are exploited for sexual exploitation. The report indicates that men are seldom viewed as “victims of trafficking” and more often in the context of irregular migration, and that this shortcoming has limited the availability of knowledge and data on trafficking in men in South Asia. The report emphasizes that, while available studies contribute to an understanding of the causes, sources, destinations, and consequences of trafficking, current statistics on trafficking in persons are outdated or anecdotal, and there is an urgent need to carry out comprehensive national baseline surveys with the aim of developing a South Asian database on trafficking in persons. ***In light of these indications, the Committee hopes that the Government will undertake a national baseline survey on trafficking in persons, in cooperation with employers’ and workers’ organizations as well as other societal organizations and institutions, and that it will supply information on the progress achieved in this connection.***

Practical measures aimed at the effective elimination of trafficking in persons. 15. The Committee notes with interest the information concerning the Government’s collaboration with the IOM in an action programme on migration issues which includes, as a significant component, the problem of trafficking in persons. The Committee notes that, at the 12th Summit of the South Asian Association for Regional Cooperation (SAARC) in Islamabad in January 2004, the Government agreed to the Islamabad Declaration, which among other things calls on member States to “move towards an early ratification” of the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, adopted in 2002 (paragraph 19). The Committee also notes that in May 2005, representatives of the Government and other participants at the Fifth South Asia Ministerial Conference adopted the “Islamabad Declaration: Review and Future Action”, in which, among other things, they “recognize the gaps and challenges in implementation” in a number of areas, including an inadequate commitment, awareness, measures, and resources to combat violence against women (paragraph 5(g)); and the lack of regional cooperation and partnership initiatives to address problems of regional concerns such as trafficking in women (paragraph 5(q)). ***The Committee hopes that the Government will continue to develop policies and take measures that are aimed at the effective elimination of trafficking in persons in both law and practice, in conformity with the Convention, and that in its next report it will supply detailed information in this connection.***

Trafficking in children. 16. The Committee has noted previous allegations of the ICFTU as well as indications in the IOM reports referred to above, according to which trafficking in children remains a serious problem in Pakistan. With regard to the problem of trafficking in children, for the reasons set out above concerning bonded child labour, the Committee asks the Government to refer to its comments on the application of Convention No. 182.

II. Restrictions on voluntary termination of employment

17. In its earlier comments, the Committee referred to the information supplied by the Government representative to the Conference Committee in June 1999, according to which an amendment to the Essential Services (Maintenance) Act of 1952, under which government employees who unilaterally terminate their employment without consent from the employer are subject to a term of imprisonment, was to be considered by the tripartite Commission on the Consolidation, Simplification and Rationalization of Labour Laws. The Government indicated in its report of 2000 that the Commission’s

final report was expected at the end of September 2000. *As the Government's latest report contains no new information on this subject, the Committee once again requests the Government to supply a copy of the Commission's report. The Committee expresses its firm hope that the Government will take the necessary steps to bring the federal and provincial essential services Acts into conformity with the Convention and will report on the progress achieved in this regard.*

18. *The Committee also repeats its request for copies of the full texts of the following Ordinances enacted in 2000: the Removal from Service (Special Powers) Ordinance, No. XVII of 27 May 2000; the Civil Servants (Amendment) Ordinance, No. XX of 1 June 2000; and the Compulsory Service in the Armed Forces (Amendment) Ordinance, No. LXIII of 6 December 2000.*

III. Article 25. Adequacy and enforcement of penalties for the exaction of forced or compulsory labour

Enforcement of Bonded Labour System (Abolition) Act, 1992. 19. The Committee previously noted the allegations of the ICFTU, contained in its communications of 2001, according to which the Bonded Labour System (Abolition) Act, 1992 (BLSA) had not been applied in practice, as few officials were willing to implement it for fear of incurring the wrath of the landlords, thus allowing the latter to use forced labour with impunity. *Recalling that Article 25 of the Convention provides that the illegal exaction of forced or compulsory labour shall be punishable by penalties that are really adequate and strictly enforced, the Committee once again requests information on the number of inspections under the BLSA, as well as information about any legal actions taken against employers of bonded labourers, including copies of any court rulings in such cases.*

Enforcement of Prevention and Control of Human Trafficking Ordinance, 2002 (PCHTO). 20. With regard to enforcement of the Prevention and Control of Human Trafficking Ordinance, 2002 (PCHTO), the Committee notes a press statement by the Minister of the Interior in June 2005 that, during the period from 2003 to May 2005, 888 trafficking-related complaints under the PCHTO were registered with the Federal Investigation Agency; that as many as 737 suspected traffickers were arrested; that in 336 of these cases investigations subsequently led to court prosecutions; and that these prosecutions resulted in 85 convictions and four acquittals, with the remaining cases still pending in trial. The Committee also notes from the report of the Prime Minister Secretariat, "One year performance of the Government, August 2004-August 2005", dated 29 August 2005, a section on "Curbing human trafficking" in a chapter entitled "Improving law and order", which states:

The Government through the Federal Investigation Agency has adopted stringent measures to curb human trafficking ... For sustained action against human trafficking, Anti-Trafficking Units (ATUs) have been set up at FIA HQ and in zonal directorates. These outfits are dedicated units for the enforcement of laws relating to prevention of human trafficking to and from Pakistan. To solicit support from the Civil Society, leading NGOs have also been co-opted for information and assistance.

The Committee also notes the indication in the 2005 Annual Report of the Law Division of the Ministry of Law, Justice and Human Rights that, while the Government has promulgated an ordinance to criminalize human trafficking, "a lot needs to be done for effective implementation of that ordinance".

21. *The Committee asks that in its next report the Government provide updated information on the enforcement of the PCHTO, including statistics concerning the numbers of trafficking-related complaints registered, individuals arrested, court proceedings initiated, convictions obtained, penalties imposed, and victim compensation awarded, including copies of all relevant court rulings. More generally, it hopes that the Government, in accordance with Article 25 of the Convention, will endeavour to both assess whether and ensure that the penalties provided under the PCHTO that punish trafficking are really adequate and will strive to ensure that the PCHTO is strictly enforced, and that it provide information in this connection, including updated information concerning the evolution of the system of anti-trafficking units and assessing its strengths and shortcomings.*

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1960)

1. The Committee has noted the observations received in September 2001 from the International Confederation of Free Trade Unions (ICFTU) concerning application of the Convention, which were transmitted to the Government in October 2001 for such comments as it might wish to make. The Committee also notes the communication dated 26 April 2005 from the All Pakistan Federation of Trade Unions (APFTU), which contains comments on the observance of the Convention, and which was forwarded to the Government in June 2005 for any comments it might wish to make on the matters raised therein. *The Committee regrets that the Government has not referred to these observations in its latest report and hopes it will do so in its next report.*

Article 1(c) and (d) of the Convention

Forced or compulsory labour as punishment for breach of contract or participation in strikes in non-essential services. 2. In earlier comments made under the present Convention and the Forced Labour Convention, 1930 (No. 29), the Committee has noted that the Pakistan Essential Services (Maintenance) Act (ESA), 1952, and corresponding provincial Acts, prohibit employees from leaving their employment, even by giving notice, without the consent of the employer, as well as from striking, subject to penalties of imprisonment that may involve compulsory labour. The Committee has also noted previous comments, made under the Convention by the APFTU, according to which the Government has applied provisions of the ESA to workers employed in non-essential services, including various public

utilities such as the Water and Power Distribution Authority (WAPDA), the Karachi Port Trust, and Sui Gas, as well as railways and telecommunications, and these workers cannot resign from their service and cannot go on strike.

3. The Committee notes the indication of the Worker member of Pakistan, in the Conference Committee at the 90th Session of the International Labour Conference in June 2002, that management in the Karachi Electric Supply Corporation, and in the telecommunications and railway industries generally, had been making use of the provisions of the ESA to prevent workers from presenting their legitimate demands and to refuse any type of social dialogue. He referred in particular to workers in Quetta who had gone on strike and been arrested. The Committee also notes, from the APFTU communication dated 26 April 2005, the indication that the provisions of the ESA continue to be applied to ban strikes in non-essential services.

4. The Committee notes the indications by the Government representative in the Conference Committee in June 2002 that, while that the Act has remained on the books, that most public sector organizations to which the ESA was applied were undergoing privatization, including WAPDA and the telecommunications and oil and gas sectors, and that the Act would therefore no longer be applicable when those organizations had been fully privatized. The Committee notes from its latest report the Government's indication, which it has repeated for a number of years, that the provisions of the ESA are applied restrictively.

5. The Committee points out once again, with reference to the explanations provided in paragraphs 110 and 123 of its General Survey of 1979 on the abolition of forced labour, that the Convention does not protect persons responsible for breaches of labour discipline or strikes that impair the operation of essential services in the strict sense or in other circumstances where life and health are in danger; however, in such cases there must exist an effective danger, not mere inconvenience. Furthermore, all the workers concerned – whether in any employment under the federal and provincial governments and local authorities or in public utilities, including essential services – must remain free to terminate their employment by reasonable notice; otherwise, a contractual relationship based on the will of the parties is changed into service by compulsion of law, which is incompatible with both the present Convention and the Forced Labour Convention, 1930 (No. 29), likewise ratified by Pakistan. The Committee also recalls that, in its comments to the Government on its application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), it has observed that the ESA includes services which cannot be considered essential in the strict sense of the term, including, among others, oil production, postal services, railways, airways, and ports, and it has for some time requested that the Government amend the ESA so as to ensure that its scope is limited to essential services in the strict sense of the term. The Committee refers the Government to its comments under Convention No. 87 on this point. ***It reiterates its firm hope that the ESA, and corresponding provincial Acts, will be repealed or amended in the near future so as to ensure the observance of the Convention, and that the Government will report on the action taken to this effect.***

6. In comments made for many years, the Committee has referred to sections 54 and 55 of the Industrial Relations Ordinance (No. XXIII of 1969), under which, whoever commits any breach of any term of any settlement, award or decision or fails to implement any such term may be punished with imprisonment which may involve compulsory labour. The Committee notes the promulgation of the Industrial Relations Ordinance (IRO) of 2002, which has repealed the 1969 Ordinance (section 80). The Committee notes with interest, from the indications of the Government in its latest report, as well as the text of sections 65, 66, and 67 of the IRO, that the penalties of imprisonment have been eliminated.

Forcible return of seafarers on board ship. 7. The Committee has, from the time of the Government's ratification of the Convention in 1960, referred to sections 100 to 103 of the Merchant Shipping Act, 1923, under which penalties involving compulsory labour may be imposed in relation to various breaches of labour discipline by seafarers, and seafarers may be forcibly returned on board ship to perform their duties. The Committee notes the promulgation of the Pakistan Merchant Shipping Ordinance (PMSO), 2001 (No. LII of 2001). It observes that the PMSO still contains provisions, particularly sections 204, 206, 207, and 208, which would permit, in respect of various breaches of labour discipline, such as absence without leave, wilful disobedience, or combining with the crew in "neglect" of duty, the imposition of sanctions involving the forcible conveyance of seafarers on board ship, as well as imprisonment (which may involve compulsory labour by virtue, inter alia, of section 3(26) of the General Clauses Act, 1897). ***The Committee regrets that, after decades of comments addressed to the Government on this point, the Government has promulgated new legislation without eliminating the divergences between its national legislation and the Convention. The Committee hopes that the Government will amend or repeal without delay those provisions of the 2001 Ordinance that prescribe penalties for breaches of labour discipline under which seafarers may be imprisoned or forcibly returned on board ship to perform their duties. The Committee asks the Government to provide information on the progress made in this regard. The Government is also asked to provide a copy of the implementing rules or regulations promulgated under section 603 of the 2001 Ordinance.***

Article 1(a) and (e)

Forced labour as a means of political coercion. 8. In comments made for many years, the Committee has referred to certain provisions in the Security of Pakistan Act, 1952 (sections 10-13), the West Pakistan Press and Publications Ordinance, 1963 (sections 12, 23, 24, 27, 28, 30, 36, 56 and 59) and the Political Parties Act, 1962 (sections 2 and 7), which give the authorities wide discretionary powers to prohibit the publication of views and to order the dissolution of associations, subject to penalties of imprisonment which may involve compulsory labour.

9. The Committee notes the promulgation of the Press, Newspapers, News Agencies and Books Registration Ordinance, 2002, which repeals the West Pakistan Press and Publications Ordinance, 1963 (section 45). Under the registration provisions of the 2002 Ordinance, a District Coordination Officer must deny authentication of a declaration, which must be made as a prerequisite for publication of a newspaper, in cases where the declaration has been filed by a person convicted of a criminal offence involving moral turpitude or for wilful default of public dues (section 10(2)(c)). Where the District Coordination Officer fails to take action to authenticate or to pass an order denying authentication of a declaration within a period of 30 days, the declaration is deemed to be authenticated (section 10(4)). Anyone who, among other things, edits, prints, or publishes a newspaper in contravention of the Ordinance – for instance, without having made a declaration or without having a declaration authenticated – is liable to punishment involving a sanction of imprisonment (which may involve compulsory labour) for a term of up to six months (sections 5 and 28). ***Referring to paragraph 133 of the General Survey of 1979 on the abolition of forced labour, the Committee asks the Government in its next report to indicate in relation to the abovementioned provisions of the Press, Newspapers, News Agencies and Books Registration Ordinance, 2002, the measures taken or envisaged to ensure, in accordance with Article 1(a) of the Convention, that no form of forced or compulsory labour (including labour exacted as a consequence of a sentence of imprisonment) may be imposed as a means of political coercion or as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. The Committee also asks the Government to provide information on the application in practice of sections 5, 10(2)(c), 28 and 30 of the Press, Newspapers, News Agencies and Books Registration Ordinance, 2002, including the number of persons arrested and convicted under these provisions, as well as the particulars of any judicial decisions which may serve to define or clarify the effect of the abovementioned provisions. The Government is also requested to supply a copy of the text of any rules promulgated under section 44 of the Ordinance to implement it.***

10. As regards the Security of Pakistan Act, 1952, and the Political Parties Act, 1962, the Committee notes the indications by the Government representative in the Conference Committee in June 2002 that the application of these statutes was extremely restrictive. The Committee also notes from the Annual Reports of 2003 and 2005 of the Government's Law and Justice Commission, as well as its Report No. 56, that the Commission, in response to a Supreme Court ruling, had approved and drafted legislative proposals for certain amendments to be made to the Security of Pakistan Act, 1952, and that proposed reforms to other legislation, including the Political Parties Act, 1962, were under consideration. ***The Committee hopes that the concerns of the Committee will be taken into consideration in the work of the Law and Justice Commission. More generally, the Committee hopes that the Government will soon take the necessary measures to bring the abovementioned provisions of the Security of Pakistan Act, 1952, and the Political Parties Act, 1962, into conformity with the Convention, and that it will report on progress achieved. Pending action to amend these provisions, the Government is requested to supply updated information on their practical application, including the cases registered, the number of convictions, and copies of any relevant court decisions.***

11. The Committee notes that, in its latest report, the Government has indicated, with reference to the non-conformity with the Convention of the Pakistan Essential Services (Maintenance) Act, 1952, that "Pakistan is serving in the front line of the war against terrorism and in retaliation the unscrupulous elements off and on try to disrupt the supply chain of oil as well as natural gas to make stand still the whole economy of the country". It notes the similar indication by the representative of the Government in the Conference Committee in June 2002, with reference to the Security of Pakistan Act, 1952, and the Political Parties Act, 1962, that Pakistan "was in the forefront of the fight against terrorism and faced very difficult political circumstances", and that under the present circumstances any change to the existing laws might not be feasible, particularly those related to the security of the country. The Committee observes that these laws, as well as the Merchant Shipping Act, 1923, have been the subject of comments by the Committee ever since the Government ratified the Convention in 1960, and that they have also been the subject of numerous discussions in the Conference Committee. The Committee would also like to point out that, if counter-terrorism legislation responds to the legitimate need to protect the security of the public against the use of violence, it can nevertheless become a means of political coercion and a means of punishing the peaceful exercise of civil rights and liberties, such as the freedom of expression and the right to organize. The Convention protects these rights and liberties against repression by means of sanctions involving compulsory work, and the limits which may be imposed on them by law need to be properly addressed.

12. The Committee hopes that, as a matter of urgency, the Government will at long last take the necessary measures to bring the provisions of the national legislation mentioned above into conformity with the Convention, and that it will report on progress achieved.

The use of forced or compulsory labour as a means of religious discrimination. 13. In its earlier comments, the Committee referred to sections 298B(1) and (2) and 298C of the Penal Code, inserted by the Anti-Islamic Activities of Qadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, No. XX of 1984, under which any person of these groups who uses Islamic epithets, nomenclature and titles is subject to punishment with imprisonment (which may involve compulsory labour) for a term that may extend to three years. The Committee has noted the report submitted to the United Nations Commission on Human Rights in 1996 by the Special Rapporteur on the Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (document E/CN.4/1996/95/Add.1 of 2 January 1996), which indicates that, according to many non-governmental

sources, the religious activities of the Ahmadi community are seriously restricted, and that many Ahmadis are reported to be prosecuted under section 298C of the Penal Code (paragraph 41). The Committee has also noted the conclusion of the Special Rapporteur that the State laws related to religious minorities are likely to favour or foster intolerance in society, and that the law applied specifically to the Ahmadi minority is particularly questionable.

14. The Committee has noted the Government's repeated statements in its reports that religious discrimination does not exist and is forbidden under the Constitution, which guarantees equal citizenship and fundamental rights to minorities living in the country. The Government states that subject to law, public order and morality, the minorities have the right to profess, propagate their religion and establish, maintain and manage their religious institutions. In the Government's view, the Penal Code imposes equal obligations on all citizens, whatever their religion, to respect the religious sentiments of others, and an act that impinges upon the religious sentiments of other citizens is punishable under the Penal Code. The Government indicates that religious rituals referred to in Ordinance No. XX are prohibited only if exercised in public, whereas if they are performed in private without causing provocation to others, they do not fall under the prohibition.

15. While noting this information, the Committee points out once again, referring also to the explanations provided in paragraphs 133 and 141 of its General Survey of 1979 on the abolition of forced labour, that the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence. But where punishment involving compulsory labour is aimed at the peaceful expression of religious views, or where such punishment (for whatever offence) is meted out more severely, or even exclusively, to certain groups defined in social or religious terms, this falls within the scope of the Convention. ***The Committee therefore reiterates that it firmly hopes the necessary measures will be taken in relation to sections 298B and 298C of the Penal Code, so as to ensure the observance of the Convention. Pending action to amend these provisions, the Committee requests that in its next report the Government provide updated and detailed factual information on the practical application of the provisions of sections 298B and 298C of the Penal Code, including a record of cases registered, the number of persons convicted, and copies of court decisions.***

Papua New Guinea

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1976)

Article 1(c) and (d) of the Convention. Penal sanctions applicable to seafarers for various breaches of labour discipline. In comments it has been making since 1978, the Committee has been referring to certain provisions of the Seamen (Foreign) Act, 1952, under which a seafarer belonging to a foreign ship who deserts or commits certain other disciplinary offences is liable to imprisonment which involves an obligation to perform labour (section 2 (1), (3), (4) and (5)). The Committee also referred to section 1 of the same Act and section 161 of the revised Merchant Shipping Act (chapter 242) (consolidated to No. 67 of 1996), which stipulate that foreign seafarers deserting their ship may be forcibly returned on board ship.

As the Committee repeatedly pointed out, referring also to the explanations in paragraphs 117-119 of its General Survey of 1979 on the abolition of forced labour, sanctions of imprisonment (involving an obligation to perform labour) would only be compatible with the Convention where they are clearly limited to acts endangering the safety of the ship or the life or health of the persons, but not where they relate more generally to breaches of labour discipline, such as desertion, absence without leave or disobedience; similarly, provisions under which seafarers may be forcibly returned on board ship are not compatible with the Convention.

The Committee notes the Government's indication in the report that numerous requests concerning the Committee's comments have been communicated to the Department of Transport, which is responsible for administering and applying the above legislation, with a view to amending these provisions. It also notes the Government's renewed commitment to review these provisions in connection with the overall revision of the labour legislation being undertaken with ILO technical assistance, as well as the Government's indication that it is hopeful the amendment of these provisions will take place in 2005-06.

While noting these indications, the Committee expresses firm hope that the above provisions of the Seamen (Foreign) Act and the Merchant Shipping Act will soon be brought into conformity with the Convention and asks the Government to report the progress achieved in this regard.

Paraguay

Forced Labour Convention, 1930 (No. 29) (ratification: 1967)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

1. *Articles 1 and 2(1) of the Convention.* The Committee in its previous comments expressed concern about the existence of cases of debt bondage in the indigenous communities of the Chaco. The Committee noted that the Government forwarded copies of the communications it had sent to the Ministry of the Interior, the Office of the Public Prosecutor, the Supreme Court of Justice, the House of Deputies and the Senate, as well as to the Federation of Production, Industry and Commerce (FEPRINCO) and the Rural Association of Paraguay (ARP), the employers' organization representing the owners of large ranches in the Chaco.

In these communications, the Ministry of Justice and Labour requested that “all the information available on these allegations be provided as soon as possible”.

The Committee noted that “the Office of the Public Prosecutor is aware of the labour problems that a number of indigenous communities are experiencing in the Chaco” and that “the ranches in the Chaco should be inspected immediately”. The Government also indicated that the Ministry of Justice and Labour has planned such inspections.

The Committee regards debt bondage as constituting a serious violation of the Convention. ***The Committee trusts that the Government will indicate the results of the inspections carried out in the Chaco ranches and that it will take the necessary measures to protect indigenous workers in this region against debt bondage and will inform the Committee of the progress made to this end.***

2. *Article 2(2)(c)*. In its previous comments, the Committee referred to section 39 of Act No. 210 of 1970, which provides that work shall be compulsory for detainees. Section 10 of the above Act defines detainees as not only convicted persons, but also persons subjected to security measures in a prison establishment. The Committee recalled that, under the terms of *Article 2(2)(c)* of the Convention, work or service may only be exacted from a person as a consequence of a conviction in a court of law. Persons who have been detained but not convicted shall not be obliged to carry out any type of work.

In its report the Government reiterated that a new Prison Code, which was under examination, would replace Act No. 210 of 1970. ***The Committee requests the Government to provide a copy of the Prison Code, once it is adopted.***

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

Peru

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

1. *Article 1, paragraph 1, and Article 2, paragraph 1, of the Convention. Forced labour by indigenous communities.* In the observations that it has been making for many years, the Committee has referred to the existence of forced labour practices (slavery, debt bondage or actual bondage) affecting members of indigenous communities, particularly in the Atalaya region, in sectors such as agriculture, stock-raising and forestry.

The Committee noted in its observation in 1993 the final report of the Multisectoral Committee (established by Decision No. 083-88-PCM, and composed of various bodies of the Ministries of Labour, Justice, Agriculture and the Peruvian Institute on Indigenous Questions), which was supplied by the Government. The report indicated that “the indigenous communities in Atalaya, who are known as ‘captives’, are subject to servitude in large and medium-sized stock-raising and/or timber estates, providing free or semi-free labour under the system of ‘advances’ (*‘habilitacion’* or *‘enganche’*). This system consists of advances provided by an employer to an indigenous worker in the form of work utensils, meals or money, in order to obtain the wood with which, in theory, he can subsequently repay the initial debt and obtain income. Thus, obliged to repay the original advance, as well as interest on it, the indigenous workers are caught in a vicious circle of exploitation and poverty which becomes their permanent condition.” According to the report, 17 estates were denounced and found to be engaging in slavery and servitude. With regard to conditions of work, the report indicated that the indigenous workers “work between 10 and 12 hours every day, which is made worse by the fact that they are not paid the minimum living wage and are certainly not compensated for overtime”, nor are the provisions of the labour legislation observed with regard to social security and occupational safety and health. The report further described “the difficulty or impossibility for the indigenous workers to move freely outside the estate or camp and their imprisonment for debt in improvised prisons in the estates”. The report concluded that the situation in the Atalaya region “merits urgent action by the State”.

In 1998, the Committee noted the comments of the World Confederation of Labour (WCL), which also referred to the subjection of the Ashaninka indigenous communities to forced labour under the conditions described above.

In its observation in 2003, after noting the Government’s indications that administrative and penal sanctions had been imposed on those responsible for exacting forced labour, the Committee requested the Government to provide information on the number of complaints lodged, the proceedings under way and copies of judicial rulings imposing sanctions for the exaction of forced labour.

The Committee now notes the document entitled “Forced labour in the extraction of timber in Peruvian Amazonia”, published in 2004 in the context of the ILO special action programme to combat forced labour. In this document, which has been validated by the Government, the various allegations concern the “existence of forced labour, particularly in work related to the unlawful extraction of timber in various regions of the Peruvian Amazon basin. At the present time, the two departments most affected by such forms of labour are Ucayali and Madre de Dios. The number of persons affected is reported to be around 33,000, mainly belonging to various ethnic groups of Peruvian Amazonia.” The document also confirms the practice of the system of “*habilitacion/enganche*” and describes the situation of workers in areas near to the indigenous communities and in timber camps. In extreme cases, which are less frequent, indigenous workers are captured and forced to work in timber camps, although in most cases they are found in two types of situations.

In the first situation under the system of “*habilitacion*”, the worker who cuts down timber is separated from the industrial wood producer who finances the activity through a series of intermediaries. The advance (in the form of cash, manufactured products, etc.) is provided to an indigenous community in exchange for a certain quantity of timber to be delivered during the timber extraction period or at the end of the harvest. In many cases, the financial value of the timber

is not specified. The process of indebtedness begins with this “*enganche*”. The workers are deceived, and are told that they are not complying with the terms of the agreement, by undervaluing the quantity or quality of the timber that is felled, so that the community must cover the “debt” either by providing more timber, or by sending workers to a timber camp. In this manner, the “outstanding debt” can be used to maintain the indigenous workers as peons for decades or generations.

In the second situation there is the transfer of workers to a timber camp in a distant region. In general, workers are transferred from Puno, Cuzco or Puerto Maldonado. In the camps, the workers incur a series of expenses (subsistence goods, work tools), the prices of which may be 100 to 200 per cent higher than the prices in urban areas, so that they are unable to repay such expenses. If workers opt to escape from the camp before the end of the harvest, the means used to prevent them doing so may include violence. At the end of the harvest, the workers have debts which are higher than their wages and are forced to return the following year or to cover their debt through the provision of more timber.

The document also reports that the financing of timber extraction activities is provided by major international corporations and powerful timber industry groups.

Measures taken by the Government. The Committee notes the Government’s indication in its report that, after examining the document “Forced labour in timber extraction in the Peruvian Amazonia”, it undertook to adopt the necessary measures to eradicate forced labour. The Committee notes the establishment of the National Intersectoral Commission for the Eradication of Forced Labour (Supreme Decision No. 028-2005-TR) to investigate and examine the problem and formulate a plan of action. The Committee notes with interest that a draft National Plan of Action for the Eradication of Forced Labour has been prepared and that its social validation phase, which will end after 90 working days, was approved by Supreme Decision No. 056-2005.

The Committee observes that the grave problems which persist merit energetic and sustained action by the authorities and it hopes that the action taken will make it possible to combat effectively practices through which many workers are subjected to forced labour. The Committee hopes that the Government will provide information on the validation and implementation of the Plan of Action for the Eradication of Forced Labour.

Article 25 of the Convention. Penalties for the exaction of forced labour. The Committee notes that, in reply to its previous observation, the Government indicates that it has not received denunciations concerning the exaction of forced labour. In view of the fact that the existence of such situations has been confirmed, the absence of penalties is indicative of the incapacity of the judicial system to prosecute such practices and penalize those who are guilty. The Committee recalls that, in accordance with *Article 25* of the Convention, the Government is under the obligation to ensure that the penalties imposed on those found guilty of the exaction of forced labour are really adequate and strictly enforced, and it hopes that the Government will take all the necessary measures to ensure that effect is given to this Article. ***The Committee trusts that in its next report the Government will be able to provide information on the number of cases of forced labour which have been denounced, the progress made in the investigation of these cases, and particularly the percentage of denunciations which have given rise to prosecutions and the number of convictions obtained.***

2. *Forced labour by young persons in the gold mines and washeries of Madre de Dios.* In its previous comments, the Committee noted the action taken by the Government to eradicate the process of the migration of the rural population in the departments of Cuzco and Puno to the department of Madre de Dios, in the context of which the phenomenon had been observed of young workers engaged in mining centres under conditions of forced labour. The Committee requested the Government to provide information on any other measure adopted with a view to the complete eradication of forced labour by young persons in this area.

The Committee notes the Government’s indication in its report that the Directorate of Labour and Employment Promotion of Madre de Dios has decided to implement campaigns to identify the work performed by young persons in the various informal gold-producing areas located along the rivers Inambari and Madre de Dios. It also indicates that it is planning various operations on the rivers Tambopata and Malinoski.

With regard to forced labour by young persons, the Committee notes that Peru has ratified the Worst Forms of Child Labour Convention, 1999 (No. 182), and has provided its first report on the application of this Convention. As Article 3(a) of Convention No. 182 provides that the worst forms of child labour include “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour”, the Committee considers that issues relating to the forced labour of children can be examined more specifically in relation to Convention No. 182. The protection of children is being intensified by the fact that Convention No. 182 requires States which have ratified it to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. The Committee therefore requests the Government to refer to the comments that it is making on the application of Convention No. 182.

Philippines

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1960)

The Committee notes that the Government’s report contains no reply to previous comments.

1. *Article 1(d) of the Convention. Sanctions of imprisonment involving compulsory labour for participation in strikes.* In its earlier comments the Committee noted that, in the event of a planned or current strike in an industry

considered indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and settle it or certify it for compulsory arbitration. Furthermore, the President may determine the industries indispensable to the national interest and assume jurisdiction over a labour dispute (section 263(g) of the Labor Code, as amended by Act No. 6715). The declaration of a strike after such assumption of jurisdiction or submission to compulsory arbitration is prohibited (section 264), and participation in an illegal strike is punishable by imprisonment (section 272(a) of the Labor Code), which involves an obligation to perform labour (pursuant to section 1727 of the Revised Administrative Code). The revised Penal Code also lays down sanctions of imprisonment for participants in illegal strikes (section 146).

The Committee recalls, with reference to paragraph 123 of its General Survey of 1979 on the abolition of forced labour, that any compulsory arbitration enforceable with penalties involving compulsory labour must be limited to essential services in the strict sense of the term, that is, services the interruption of which would endanger the life, health, or personal safety of the whole or part of the population. In this regard, the Committee notes from the summary of the Technical Consultation Meeting of the Congressional Oversight Committee on Labor and Employment (COCLE), held on 14 November 2002, that recommendations for proposed amendments to the Labor Code included one to “limit the jurisdiction of the Secretary of Labor on disputes involving the national interest to disputes involving essential services only as defined by the ILO”. The Committee notes, however, that several bills to amend the Labor Code that were subsequently filed in Congress have all been referred to committee with no further action being taken. These include House Bill No. 6517, filed on 22 October 2003, which sought to limit the power of the Secretary of Labor and Employment and the President of the Philippines to assume jurisdiction over labour disputes and refer them to compulsory arbitration to those disputes at “work establishments that may truly be considered as fulfilling essential services such as hospitals, water supply and electrical services, the lack of which would endanger life or public safety”. They also include Senate Bill No. 1049, introduced in the 13th Congress on 30 June 2004, and House Bill No. 1505, filed on 19 July 2004, which both sought to limit the power to assume jurisdiction and compel arbitration to disputes “in an enterprise engaged in providing essential services such as hospital, electrical services, water supply, and communication and transportation”. The Committee notes that House Bill No. 3723, filed on 8 February 2005, seeks to revoke the power granted to the Secretary of Labor and Employment under article 263(g) of the Labor Code. The Committee notes that the Bills leave intact the criminal penalties for illegal strikes including imprisonment (with an obligation to perform labour under the Revised Administrative Code), which are imposed under article 272(a) of the existing Labor Code.

The Committee recalls that the Committee on the Freedom of Association, in examining section 263(g) of the Labor Code in light of the principles of freedom of association in cases involving complaints against the Government of the Philippines submitted by the Association of Airline Pilots of the Philippines (Case No. 2195) and by the Toyota Motor Philippines Corporation Workers’ Association (Case No. 2252), has underlined that “the criterion which has to be established is the existence of a clear and imminent threat to life, personal safety or health of the whole or part of the population”, and that a back-to-work requirement outside such cases is contrary to the principle of freedom of association (*Official Bulletin*, Vol. LXXXVI, 2003, Series B, No. 3, paragraph 883). It has also recalled that the “responsibility for declaring a strike illegal should not lie with the Government but with an independent body which has the confidence of the parties involved” (*Official Bulletin*, Vol. LXXXV, 2002, Series B, No. 3, paragraph 736), referring to paragraph 522 of its 1996 Digest of decisions and principles. It has therefore urged the Government to amend section 263(g) of the Labor Code in order to bring it into full conformity with the principles of freedom of association. The Committee notes that, in regard to transportation, the Committee on Freedom of Association, referring to paragraphs 540 and 545 of its 1996 Digest, recalled in Case No. 2195 (paragraph 737) that it has never considered transport in general to constitute essential services in the strict sense of the term.

The Committee once again expresses the firm hope that the necessary measures will be taken by the Government to amend the Labor Code with a view to bringing it into full conformity with the Convention, and that the Government will soon be in a position to indicate that progress has been made to that end.

2. *Article 1(a). Sanctions of imprisonment involving compulsory labour for expression of political views.* In its earlier comments the Committee noted that, under section 142 of the revised Penal Code, a penalty of imprisonment may be imposed upon persons who, by means of speeches, proclamations, writings or emblems, incite others to acts constituting sedition, utter seditious words or speeches, or write, publish, or circulate scurrilous libels against the Government. Under section 154(1), a penalty of imprisonment may be imposed on any person who, by means of printing, lithography or any other means of publication, maliciously publishes as news any false news which may endanger the public order or cause damage to the interests or credit of the State.

The Committee recalled that the Convention prohibits the use of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. ***It requested the Government to indicate the measures taken or envisaged to ensure that no penalties of imprisonment (involving, under section 1727 of the Revised Administrative Code, an obligation to work) may be imposed in the situations covered by the Convention.***

The Committee noted the Government’s indication in its report of 1999 that a proposal to amend section 1727 of the Revised Administrative Code has been submitted. However, the Government stated in its latest report that this section

governs the administration of prisons and ensures that the prisoners maintain hygiene and sanitation and keeps them productively occupied while serving their term of imprisonment.

While noting this statement, the Committee wished to draw the attention of the Government to paragraphs 102-109 of its General Survey of 1979 on the abolition of forced labour, where it pointed out that labour imposed as a consequence of a conviction in a court of law will, in most cases, have no relevance to the application of the Convention; but on the other hand, if any form of compulsory labour, including prison labour, is imposed on a person because he holds or has expressed particular political views, has committed a breach of labour discipline or has participated in a strike, the situation is covered by the Convention.

The Committee reiterates its hope that measures will be adopted in the near future to ensure the observance of the Convention in this regard, and requests the Government to provide, in its next report, information on the action taken. Pending amendment of the legislation, the Government is again requested to provide information on the application in practice of sections 142 and 154(1) of the Penal Code, including statistics of convictions made thereunder and copies of any court decisions defining or illustrating their scope.

Russian Federation

Forced Labour Convention, 1930 (No. 29) (ratification: 1956)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

Trafficking in persons

The Committee has noted the Government's reply to a communication dated 2 September 2002 of the International Confederation of Free Trade Unions (ICFTU) submitting comments concerning the problem of trafficking in persons for the purpose of sexual and labour exploitation.

The ICFTU alleged that thousands of persons were trafficked from the Russian Federation to other countries, including Canada, China, Germany, Israel, Italy, Japan, Spain, Thailand and the United States. The victims often find themselves in debt bondage as they owe the traffickers recruitment and transport costs which are then inflated with charges for food, accommodation and interest on the debt. It is also alleged that internal trafficking within the Russian Federation is taking place; women are generally forced to work as prostitutes while men are trafficked into agricultural or construction work. There are also said to be confirmed cases of children being trafficked for sexual exploitation.

The ICFTU considered that the absence of specific anti-trafficking legislation and the lack of specialized training in law enforcement were serious impediments to preventing people from being subjected to trafficking and forced labour, and that the lack of adequate resources available for providing support and assistance to victims who have returned to the Russian Federation leaves them vulnerable to being re-trafficked.

The Committee has noted from the Government's reply that the Criminal Code contains provisions punishing trafficking in minors (section 152), as well as abduction (section 126) and various sexual crimes (sections 132 and 133). It has noted with interest the ratification by the Russian Federation of the Worst Forms of Child Labour Convention, 1999 (No. 182). The Committee has also noted that the Russian Federation has signed the UN Convention against Transnational Organized Crime and its supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

The Committee has noted the Government's indications in the report concerning the practical measures to combat trafficking in women taken in cooperation with the neighbouring States, e.g. within the framework of the Council of the Baltic Sea States, and joint police operations conducted to liberate girls who were trafficked and illegally detained in Turkey, Greece and Italy in 2000-02. The report also contains information on the development of a network of shelters and other measures to protect the victims of trafficking, as well as on the awareness-raising campaign launched in collaboration with the media and NGOs.

The Committee has noted the elaboration of a draft Law on Combating Trafficking in Human Beings which provides for a system of bodies to combat trafficking and contains provisions concerning prevention of trafficking, as well as protection and rehabilitation of victims. As regards punishment of perpetrators, the Committee has noted the Government's indications concerning the amendments introduced to the Criminal Code, which define crimes related to trafficking and provides for severe sanctions of imprisonment. ***The Committee hopes that the new Law on combating trafficking will soon be adopted, and that the Government will supply a copy thereof for examination by the Committee. The Committee would also appreciate it if the Government would continue to provide information on the practical measures taken or envisaged to combat trafficking in human beings with a view to eliminating it.***

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

Rwanda

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)

Article 1(a) of the Convention. Imposition of sentences of imprisonment involving the obligation to work as punishment for expressing political views or views that are ideologically opposed to the established political, social or economic system. In its previous comments, the Committee noted that, under section 9(1) and (2) of Act No. 33/91 of 5 August 1991 respecting demonstrations on public thoroughfares and public meetings, any person who organizes an unauthorized demonstration or meeting shall be liable to a sentence of imprisonment. Furthermore, under section 39 of the Penal Code and section 40 of Ordinance No. 111/127 of 20 May 1961 on the organization of the prison system, work is

compulsory for all convicted prisoners. The Committee recalled that *Article 1(a)* of the Convention prohibits recourse to any form of forced or compulsory labour, including compulsory labour in prison, as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. It requested the Government to ensure that persons who hold or express, by means of methods that neither use violence nor incite to violence, an opinion opposed to the established political, social or economic system do not incur prison sentences involving the obligation to work.

In its last report, the Government indicates that the amendment of these legal texts was recommended at the seminar on international labour standards held in December 2003. The drafting of texts for their amendment is at an advanced stage, particularly the Bill to amend Ordinance No. 111/127 on the organization of the prison system, which is being examined by the National Assembly. The Committee notes this information. ***The Committee hopes that, in the context of the process of the amendment of the legislation, the Government will take the necessary measures to bring the legislation into conformity with the Convention and to amend section 9 of Act No. 33/91 so as to ensure that persons who express certain political views or who express their ideological opposition to the political, social or economic system by organizing meetings or demonstrations, without recourse to violence, cannot incur sentences of imprisonment involving the obligation to work. The Committee requests the Government to provide information on the measures adopted for this purpose and to supply a copy of any text that is adopted.***

The Committee also is addressing a request directly to the Government on certain matters.

Sierra Leone

Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

Articles 1(1) and 2(1) of the Convention. Compulsory cultivation. Over many years, the Committee has been referring to section 8(h) of the Chiefdom Councils Act (Cap. 61), under which compulsory cultivation may be imposed on “natives”. On numerous occasions, it requested the Government to repeal or amend this provision. The Committee also noted the Government’s statement that the abovementioned section is not in conformity with article 9 of the Constitution and would be held unenforceable.

The Committee takes due note of the Government’s repeated indication in its report that section 8(h) is not applicable in practice and that information on any amendment of this section would be communicated to the ILO in the near future.

As the Government has repeatedly indicated since 1964 that this legislation would be amended, the Committee reiterates firm hope that the necessary measures will at last be taken in order to bring section 8(h) of the Chiefdom Councils Act into conformity with the Convention and the indicated practice. It requests the Government to provide, in its next report, information on the progress made in this regard.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Article 1(a) of the Convention. In its earlier comments the Committee requested the Government to supply information on the evolution of the political situation, in so far as it relates to the application of the Convention. The Committee noted that in July 1996, the Constitutional Reinstatement Provisions Act reinstated the suspended parts of the 1991 Constitution and requested the Government to provide information on the application of provisions concerning the freedom of speech and press, freedom of peaceful assembly and association.

The Committee notes the Government’s indications in the report that, since 1996, the political climate of Sierra Leone has improved with regards to speech and press freedom, freedom of peaceful assembly and association, an independent media commission has been established and more radio stations and newspapers have emerged. The Government also states that the Constitutional Review Committee is still ongoing.

The Committee hopes that the Government will provide, in its next report, information on the application in practice of sections 24, 32 and 33 of the Public Order Act (concerning public meetings, the publication of false news and seditious offences), as well as the information on the activities of the independent media commission referred to in the Government’s report. Please also provide particulars of the outcome of work of the Constitutional Review Committee, to which the Government has been referring since 1995.

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

Singapore

Forced Labour Convention, 1930 (No. 29) (ratification: 1965)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Articles 1(1) and 2(1) of the Convention. Over a number of years the Committee has been referring to sections 3 and 16 of the Destitute Persons Act, 1989 (which repeated without change certain provisions of the Destitute Persons Act, 1965), under which any destitute person may be required, subject to penal sanctions, to reside in a welfare home, and to section 13 of the same

Act, under which any person resident in such a home may be required to engage in any suitable work for which the medical officer of the home certifies him to be capable, either with a view to fitting him for an employment outside the welfare home or with a view to contributing to his maintenance in the welfare home.

The Committee pointed out that the imposition of labour under the Destitute Persons Act, 1989, comes under the definition of “forced or compulsory labour” in *Article 2(1)* of the Convention, and that the Convention makes no exception for labour imposed “in the context of rehabilitation” of destitute persons.

The Committee has noted the Government’s repeated indications that section 13 of the Act should be interpreted in the context of rehabilitative services for destitute persons, and that, in practice, residents in the welfare home are not compelled to work and are only assigned chores after they have given their written consent, and also receive payment for their participation. The Government considers that, since residents are not forced to work, the provision in question does not violate the Convention.

While noting that the current practice under the Destitute Persons Act, 1989, which appears to be in conformity with the Convention, the Committee again draws the Government’s attention to the need to bring the legislative provisions into conformity with the Convention, so as to ensure compliance both in law and in practice. **Recalling also that the question of work imposed on destitute persons has been the subject of comments since 1970, the Committee trusts that the necessary measures will at last be taken with a view to amending the wording of section 13 of the Act so as to provide clearly that any work in a welfare home is to be done voluntarily, thus bringing the abovementioned legislation into conformity with the Convention and the indicated practice. The Committee asks the Government to provide, in its next report, information on the progress made in this regard.**

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

Sri Lanka

Forced Labour Convention, 1930 (No. 29) (ratification: 1950)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Articles 1(1) and 2(1) of the Convention. Compulsory public service. The Committee previously noted the Government’s repeated statement in the report that the Compulsory Public Service Act, No. 70 of 1961, sections 3(1), 4(1)(c) and 4(5), imposing on graduates compulsory public service of up to five years, had led to no prosecutions. It expressed the hope that the necessary measures would be taken to amend or repeal the Act, in order to bring the legislation into compliance with the Convention. The Committee has noted from the Government’s 2002 report that this matter was also addressed under the plan of action recommended at the abovementioned workshop relating to the promotion of ratification of Convention No. 105 and the tripartite committee appointed to follow up its recommendations was looking into the matter. **The Committee hopes that the Government’s next report will contain full information on the developments in this area.**

Article 2(2)(d). Emergency regulations. In its earlier comments the Committee referred to the state of emergency declared on 20 June 1989 under the Public Security Ordinance, 1947, and the powers of the President under section 10 of the Emergency (Miscellaneous Provisions and Powers) Regulations, No. 1 of 1989. Referring to paragraph 36 of its General Survey of 1979 on the abolition of forced labour, the Committee pointed out that recourse to compulsory labour under emergency powers should not only be limited to circumstances which would endanger the existence or well-being of the whole or part of the population, but that it should also be clear from the legislation that the power to exact labour is limited in extent and duration to what is strictly required to cope with the said circumstances. The Committee has noted from the Government’s report that this matter was looked into in a tripartite workshop held with the assistance of the ILO to promote ratification of the Abolition of Forced Labour Convention, 1957 (No. 105), and that a tripartite committee including secretaries of the ministries concerned was appointed to follow up its recommendations. **The Committee hopes that the necessary measures will be taken in the near future in order to bring the legislation into conformity with the Convention on this point and that the Government will report the progress made in this regard.**

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

Swaziland

Forced Labour Convention, 1930 (No. 29) (ratification: 1978)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Article 1(1) and Article 2(1) and (2)(b), (d) and (e) of the Convention. The Committee previously noted the observations on the application of the Convention made in June 1999 and June 2001 by the Swaziland Federation of Trade Unions (SFTU). The SFTU alleged that the new Swazi Administration Order, No. 6 of 1998, which repealed the Swazi Administration Act, No. 79 of 1950, legalized forced labour, slavery and exploitation with gross impunity and gave the Chiefs the right to penalize non-compliance with the Order with fines, imprisonment, demolition without compensation, etc. The SFTU referred, inter alia, to sections 6, 27 and 28 of the 1998 Order, which provide for the duty of Swazis to assist the Ngwenyama and Chiefs; the duty to attend before Ngwenyama, Chiefs and government officers when so directed, under the threat of punishment; and the duty to obey orders requiring participation in compulsory works.

The Committee has noted the Government’s view expressed in the report that participation in the national duties is not a form of forced or compulsory labour, since this is not being done for purpose of financial gain and Swazis offer themselves voluntarily for such services.

However, in its earlier comments the Committee noted that the combination of sections 6, 27, 28(1)(p), (q) and (u) and 34 of the new Swazi Administration Order (No. 6 of 1998) provides for orders requiring compulsory cultivation, anti-soil erosion works and the making, maintenance and protection of roads, enforceable with severe penalties for non-compliance. With

reference to the comments it has been making for a number of years concerning the abovementioned Swazi Administration Act, No. 79 of 1950, which contained similar provisions, the Committee observed that provisions of this kind are in serious breach of the Convention. Referring also to paragraphs 36, 37 and 74-83 of its General Survey of 1979 on the abolition of forced labour, the Committee pointed out that, in order to be compatible with the Convention, such provisions should be limited in scope to cases of a calamity or threatened calamity endangering the existence or well-being of the population, or (in case of compulsory cultivation) to circumstances of famine or a deficiency of food supplies and always on the condition that the food or produce shall remain the property of the individuals or the community producing it, or (to fall under the exemption made for minor communal services) to cases where work is limited to minor maintenance and its duration is substantially reduced. Since the above provisions of the 1998 Order are not restricted in application to the circumstances contemplated in *Article 2(2)(d) and (e)* of the Convention, such as e.g. cases of emergency (fire, flood, famine, earthquake, violent epidemic or epizootic diseases, etc.) or minor communal services, they are incompatible with the Convention.

The Committee therefore urges the Government to take the necessary measures in order to repeal or amend the above provisions of the Swazi Administration Order, 1998, so as to bring legislation into conformity with the Convention. Pending the adoption of such measures, the Committee again requests the Government to provide information on the manner in which these provisions are being applied in practice.

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

Syrian Arab Republic

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation on the following matters:

1. *Freedom of persons in the service of the State to leave their employment.* Over a number of years, the Committee has been commenting on Legislative Decree No. 46 of 23 July 1974, amending section 364 of the Penal Code, under which a term of imprisonment from three to five years may be imposed for leaving or interrupting work as a member of the staff of any public administration, establishment or body or any authority of the public or mixed sector before resignation has been formally accepted by the competent authority; or evading obligations to serve the same authorities, whether the obligation derived from a mission, a scholarship or a study leave.

The Committee has noted the Government's indications that, in practice, each worker enjoys the full right to submit a request for resignation at any time of his choosing, and the competent authority is committed to accepting the resignation, provided the continuity of the service is ensured. The Government also indicates that the amendment of the Penal Code is currently ongoing and that the Committee's comments are being taken into account in order to bring it into conformity with the Convention. ***The Committee recalls that persons in the service of the State should have the right to leave the service on their own initiative within a reasonable period, either at specified intervals or with previous notice, the Committee expresses the firm hope that the necessary measures will be taken in the near future in order to bring the legislation into conformity with the Convention and the indicated practice, and that the Government will provide information on the action taken to this end.***

2. *Legislation on vagrancy.* Over a number of years, the Committee has been referring to section 597 of the Penal Code, which provides for the punishment of any person who is reduced to seeking public assistance or charity as a result of idleness, drunkenness or gambling. The Committee recalled, with reference to paragraphs 45-48 of its General Survey of 1979 on the abolition of forced labour, that while the punishment of gambling or the abuse of intoxicating liquor is outside the scope of the Convention, the possibility to impose penalties for mere refusal to work is contrary to the Convention.

The Committee has noted the Government's explanation in the report that the purpose of the above provision is not to impose work, but to refrain from vagrancy; but at the same time the Government indicates that the amendments of the Penal Code will accommodate the Committee's request. ***The Committee reiterates its hope that the necessary measures will soon be taken with a view to clearly excluding from the legislation any possibility of compulsion to work, either by repealing section 597 or by limiting its scope to persons engaging in illegal activities, so as to bring legislation and practice into conformity with the Convention.***

3. *Article 2(2)(d) of the Convention.* In comments it has been making since 1964, the Committee has pointed out that certain provisions of Decree No. 133 of 1952 with respect to compulsory labour, particularly those of Chapter I (compulsory labour for purposes of health, culture or construction) and sections 27 and 28 (national defence work, social services, road work, etc.), provide for the call up of inhabitants for periods of up to two months, in circumstances that go beyond the exception authorized by the Convention, for "any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity ... and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population".

The Committee has noted the Government's indication that the Civil Defence Law, which was intended to repeal Decree No. 133 of 1952, has not yet been promulgated. The Government also states that the Law on Local Administration promulgated by Legislative Decree No. 15 of 11 May 1971 does not contain provisions similar to those in the above sections 27 and 28 of Decree No. 133. It reiterates that the Committee for Consultation and Tripartite Dialogue set up to examine the Conventions and the Committee of Experts' comments is responsible for the formulation of amendments to the various texts with a view to bringing them into conformity with the Conventions.

The Committee expresses the firm hope that the necessary measures will at last be taken to formally repeal or amend the above provisions of Legislative Decree No. 133 of 1952 so as to limit the possibility of exacting labour to situations of emergency as defined in the Convention, and that the Government will soon be in a position to report on the measures taken to this end, either through the adoption of the draft Civil Defence Law referred to above, or through some other action taken as a result of the deliberations of the Committee for Consultation and Tripartite Dialogue. Please also supply a copy of the Law on Local Administration promulgated by Legislative Decree No. 15 of 11 May 1971, to which reference has been made in the Government's report.

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation, which read as follows:

Article 1(a), (c) and (d) of the Convention. Over a number of years the Committee has been referring to certain provisions of the Economic Penal Code, the Penal Code, the Agricultural Labour Code and the Press Act, under which prison sentences involving compulsory labour can be imposed as a means of political coercion or as a punishment for expressing views opposed to the established political system, and as a punishment for breaches of labour discipline and for the participation in strikes.

The Committee previously noted the Government's repeated indications in its reports that a draft legislative decree amending certain provisions of the Penal Code so as to eliminate all obligation to perform prison labour, was being examined by the competent authorities. The Government indicated in its 2001 report that the draft legislative decree amending the Penal Code had been prepared by the Ministry of Justice in response to the economic and social developments witnessed by the country and to fulfil the request made by the Committee of Experts. The Committee noted from the Government's explanations and from the text of the draft legislative decree received in the ILO in July 2001 that the terms "imprisonment with labour", "life imprisonment with hard labour" or "temporary hard labour" would be removed from the Penal Code. The Committee expressed the hope that, following the adoption of the draft legislative decree, persons convicted for activities coming under the purview of the Convention, and, in particular, persons convicted under the provisions referred to in the Economic Penal Code, the Penal Code, the Agricultural Labour Code and the Press Act, would no longer be under an obligation to perform labour, although they might be allowed to engage in work.

The Committee notes that the Government's report received in August 2003 contains no new information concerning the adoption of the above draft legislative decree. The Government indicates that the Ministry of Social Affairs and Labour will set up a legal committee which will include representatives of a number of public bodies and employers' and workers' organizations to examine amendments in the Penal Code in order to bring it into conformity with the Forced Labour Conventions. ***While noting this indication, the Committee hopes that the Government's next report will contain information on the progress made in the adoption of the draft legislative decree referred to above and on any other measures taken in order to bring the legislation into conformity with the Convention.***

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

Thailand

Forced Labour Convention, 1930 (No. 29) (ratification: 1969)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Prostitution and trafficking of women and children. The Committee has noted with interest the positive steps taken by the Government, some of them in cooperation with ILO/IPEC and other international institutions, to adopt legislation and to put into place a coherent national policy framework for dealing with this problem. The Committee encourages the Government to pursue its efforts with vigour and to take effective action to implement the policies it adopts.

In its earlier comments, the Committee asked for information on the application of the Prevention and Suppression of Prostitution Act of 1996. It has noted with interest the information provided by the Government in its report concerning the activities of welfare protection and vocational development centres set up under the Act, including statistical information. The Committee has also noted a Memorandum of Understanding on Common Guidelines of Practices for Agencies Concerned with Cases where Women and Children are Victims of Human Trafficking B.E. 2542 (1999), according to which the Ministry of Social Development and Human Security is working in collaboration with other concerned agencies such as Royal Thai Police, the Office of the National Commission on Women's Affairs, the Immigration Bureau and the International Organization for Migration (IOM), to assist trafficked women by providing them with temporary shelters before repatriating to their home towns and by conducting recovery programmes which would enable them to reintegrate into society.

The Committee has noted serious concern expressed in the above Memorandum of Understanding that, at present, the trafficking in women and children is on the rise and that the gravity of the problem has very much increased since transnational organized criminal groups use Thailand as the place for gaining huge profit from trafficking in women and children. ***The Committee therefore requests the Government to supply, in its next report, detailed information on the application of the above Memorandum in practice, as well as the information on the practical application of the Measures in Prevention and Suppression of Trafficking in Women and Children Act of 1997. Please also continue to provide information on the progress in the implementation of the Mekong Delta project on trafficking of women and children, as well as other information on the development of cooperation with neighbouring countries in order to prevent and solve the problems of cross-border trafficking of women and children, and indicate the concrete results achieved.***

Preventive measures. The Committee has noted with interest the detailed information provided by the Government concerning preventive programmes carried out by the Ministry of Education, in particular, with IPEC assistance, including the awareness-raising and training projects. The Committee has noted, in particular, the information on the progress in the implementation of the Se-Ma Life Development Project, initiated by the Ministry of Education to prevent high risk girls from poor families in five northern provinces of Thailand from falling into sex trade, which was able to help a large number of girls (59,895 during 1994-2001) by allocating funds for scholarships. It has also noted the Government's indications concerning other preventive programmes carried out in cooperation with the Ministry of Public Health (nursing study) and UNICEF (working while studying), as well as basic education programmes. Finally, the Committee noted the information on measures taken by the Ministry of Social Development to increase employment opportunities for young women to enable them to live an independent life and to avoid a threat of becoming a victim of trafficking. ***The Committee encourages the Government to continue along this***

path and to take effective action to implement the above programmes and measures. It hopes that the Government will provide, in its future reports, detailed information on the efforts undertaken in this direction and on the results achieved.

Inspection and prosecutions. The Committee has noted the information provided in the Government's report on the number of labour inspections during 2000 and expressed its concern about the small numbers of prosecutions and the lack of information on convictions in criminal cases. ***The Committee strongly expresses the hope that effective measures will soon be taken in this regard and that such information will be included in the next report, as required under Article 25 of the Convention.***

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1969)

1. The Committee notes with satisfaction that the Act for the prevention of desertion or undue absence from merchant ships, B.E. 2466 (1923), which provided for the forcible conveyance of seafarers on board ship to perform their duties, has been repealed since 20 October 2003 (Royal Gazette, 4 November 2003).

2. As the Government's report contains no other information in reply to the previous comments, the Committee must repeat its previous observation on the following matters:

Article 1(c) of the Convention. In its earlier comments, the Committee referred to sections 131 and 133 of the Labour Relations Act, B.E. 2518 (1975), under which penalties of imprisonment (involving compulsory labour) may be imposed on any employee who, even individually, violates or fails to comply with an agreement on terms of employment or a decision on a labour dispute under sections 18(2), 22(2), 23 to 25, 29(4), or 35(4) of the Labour Relations Act. The Committee pointed out that sections 131 to 133 of the Labour Relations Act were incompatible with the Convention.

The Government indicates in its 2003 report that the Ministry of Labour is planning to conduct research on the effect of law enforcement so as to identify the problems and to find out a possibility of law revision or amendment regarding the above provisions.

The Committee trusts that the necessary measures will at last be taken with a view to bringing the above provisions into conformity with the Convention and that the Government will soon be able to report the progress made in this regard.

Article 1(d). The Committee previously noted that penalties of imprisonment (involving compulsory labour) may be imposed for participation in strikes under following provisions of the Labour Relations Act: (i) section 140 read together with section 35(2), if the Minister orders the strikers to return to work as usual, being of the opinion that the strike may cause serious damage to the national economy or hardship to the public or may affect national security or be contrary to public order; (ii) section 139 read together with section 34(4), (5) and (6), if the party required to comply with an arbitrator's award under section 25 has done so, if the matter is awaiting the decision of the Labour Relations Committee or a decision has been given by the Minister under section 23(1), (2), (6) or (8) or by the committee under section 24, or if the matter is awaiting the award of labour disputes arbitrators appointed under section 25.

Having noted the Government's indications in its report that the Ministry of Labour is planning to conduct a study on the effect of law enforcement so as to identify the problems and to assess appropriateness of law revision or amendment with a view to bringing the above provisions into conformity with the Convention, ***the Committee reiterates its hope that these provisions will be limited in scope to essential services in the strict sense of the term (that is, services whose interruption would endanger the life, personal safety or health of the whole or part of the population), so as to ensure compliance with the Convention on this point.***

Over a number of years, the Committee has been referring to section 117 of the Criminal Code, under which participation in any strike with the purpose of changing the laws of the State, coercing the Government or intimidating the people is punishable with imprisonment (involving compulsory labour). The Committee has noted the Government's repeated statement that section 117 is essential for national peace and security and does not deprive workers of their labour rights or of the right to strike under the labour law. While having noted this statement, as well as the Government's previous indications that this section had never been applied in practice, and referring also to the explanations provided in paragraph 128 of its General Survey of 1979 on the abolition of forced labour, ***the Committee reiterates its hope that the necessary measures will be taken, on the occasion of the next revision of the Criminal Code, in order to amend section 117 so as to remove strikes pursuing economic and social objectives affecting the workers' occupational interests from the scope of sanctions under this section, with a view to bringing this provision into conformity with the Convention and the indicated practice.***

The Committee previously referred to certain provisions under which workers of state enterprises were prohibited from striking, this prohibition being enforceable with sanctions of imprisonment (involving compulsory labour). The Committee noted that the new State Enterprise Labour Relations Act B.E. 2543 (2000) also prohibits strikes in state enterprises (section 33), violation of this prohibition being punishable with imprisonment (involving compulsory labour) for a term of up to one year; this penalty is doubled in the case of a person who instigates this offence (section 77). The Committee recalled, referring to the explanations provided in paragraph 123 of its General Survey of 1979 on the abolition of forced labour, that the imposition of penalties of imprisonment involving compulsory labour on striking employees would be compatible with the Convention only in the case of essential services in the strict sense of the term (i.e. services whose interruption would endanger the life, personal safety or health of the whole or part of the population), and that a blanket prohibition of strikes in all state-owned enterprises, if enforced with penalties involving compulsory labour, is incompatible with the Convention.

Having noted the Government's indications in its report that the Ministry of Labour is planning to conduct research and an in-depth study to review the effect of such law enforcement, ***the Committee expresses the firm hope that the necessary measures will at last be taken in order to bring the State Enterprise Labour Relations Act into conformity with the Convention, and that the Government will soon be able to provide information on the progress made in this regard.***

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

Trinidad and Tobago

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Article 1(c) and (d) of the Convention. Sanctions involving compulsory labour for breaches of labour discipline and participation in strikes. For many years the Committee has been referring to sections 157 and 158 of the Shipping Act, 1987, section 8(1) of the Trade Disputes and Protection of Property Ordinance and section 69(1)(d) and (2) of the Industrial Relations Act, Cap. 88.01, under which penalties of imprisonment – involving compulsory labour under the Prisons Rules – may be imposed for various breaches of labour discipline and participation in strikes in circumstances where the life, personal safety or health of persons are not endangered. On several occasions the Government reported that efforts were under way to amend the provisions mentioned above and that no sanctions had been imposed under these provisions in practice.

In its latest report, the Government indicates that no changes have been made to the above provisions and that the relevant ministries under whose authority the acts are administered have not indicated any immediate intention of making amendments to this legislation. The Committee also notes the Government's view expressed in the report that the work is performed by inmates in accordance with instructions as deemed by the courts, such work being referred to as "hard labour" for which inmates receive a small stipend and must not be construed as "forced" or "compulsory" labour.

While taking due note of these indication and views, the Committee draws the Government's attention to the explanations given in paragraphs 102-109 of its General Survey of 1979 on the abolition of forced labour, where it pointed out that: "in most cases, labour imposed on persons as a consequence of a conviction in a court of law will have no relevance to the application of the Abolition of Forced Labour Convention. On the other hand, if a person is in any way forced to work because he holds or has expressed particular political views, has committed a breach of labour discipline or has participated in a strike, the situation is covered by the Convention". The Committee therefore considered that compulsory labour in any form, including compulsory prison labour, is covered by the Convention in so far as it is exacted in the five cases specified by that Convention.

The Committee trusts that, since the legislative amendments required have been under consideration for many years, the necessary measures will at last be taken in order to bring the abovementioned provisions into conformity with the Convention, and that the Government will soon be in a position to indicate the progress achieved in this regard.

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

Uganda

Forced Labour Convention, 1930 (No. 29) (ratification: 1963)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Articles 1(1) and 2(1) of the Convention

1. *Abolition of slave-like practices.* The Committee previously referred to the alleged activities of the Lords Resistance Army (LRA) abducting children of both sexes and forcing them to provide work and services as guards, soldiers and concubines, these alleged activities being associated with killings, beatings and rape of these children.

According to the Government's indications in its report received in November 2000, abductions were taking place in the northern region of the country, the most affected locations being the districts of Lira, Kitgum, Gulu and Apac. The Committee noted that, according to the UNICEF report of 1998, over 14,000 children had been abducted from districts in the northern Uganda. The Government stated that this large scale of abductions had been one of the most tragic aspects of the northern region conflict, forcing the vulnerable and innocent to become a part of the conflict, either as child soldiers, human shields and hostages or victims of sexual exploitation. The Government indicated that the age group between 10 and 15 years formed the biggest percentage of abducted children, and boys between 8 and 15 years of age were the most targeted.

The Committee previously noted the positive measures taken by the Government to prevent such practices, which included sensitization of communities, political and military authorities in the armed conflict areas about proper handling of the children; sensitization on peaceful conflict resolution and ensuring the rights of the child; setting up of disaster management committees in all districts of insurgencies; and sensitization on issues of disaster preparedness and safety issues. The Government indicated that abducted children who had been retrieved were kept in children centres where counselling services were provided and measures were taken for their reunification with their families and return to primary education; children were rehabilitated and equipped with vocational skills which enabled them to be reintegrated into society.

In its latest report, the Government indicates that it has ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2002. It also indicates that a thematic study has been concluded on child labour and armed conflict in the districts of Gulu, Masindi, Lira and Bundibugyo; its findings will be used to design action programmes or strategies to address the problem of abduction as a worst form of child labour. The Government also intends to be involved, through the collaboration with ILO/IPEC, in the Great Lakes regional programme on child labour and armed conflict.

While noting this information, the Committee is bound to observe once again that the continuing existence and scope of the practices of abductions and the exaction of forced labour constitute gross violations of the Convention, since the victims are forced to perform labour for which they have not offered themselves voluntarily, under extremely harsh conditions combined with ill treatment which may include torture and death, as well as sexual exploitation. ***The Committee therefore requests the Government to take urgent action in order to eliminate these practices and to ensure that, in accordance with Article 25 of the Convention, penal sanctions are imposed on persons convicted of having exacted forced labour.***

2. In comments made for a number of years, the Committee has noted that, under section 2(1) of the Community Farm Settlement Decree, 1975, any unemployed able-bodied person may be settled on any farm settlement and required to render service; and that section 15 of the Decree makes it an offence punishable with a fine and imprisonment for any person to fail or refuse to live on any farm settlement or to desert or leave such settlement without authorization. The Committee noted the

Government's indication that the abovementioned Decree had to be repealed under the laws of Uganda revision exercise by the Uganda Law Reform Commission, which was intended to be completed in 2001. *The Committee trusts that the Decree will be repealed in the near future and requests the Government to supply a repealing text, as soon as it is adopted.*

3. The Committee previously noted that under section 33 of the Armed Forces (Conditions of Service) (Officers) Regulations, 1969, the Board may permit officers to resign their commission at any stage during their service. The Committee noted the Government's indication that the 1969 Regulations had been replaced by the National Resistance Army (Conditions of Service) (Officers) Regulations No. 6 of 1993, and that section 28(1) of these Regulations contains a provision similar to that of section 33 of the 1969 Regulations referred to above. The Government indicated that the officer applying for the resignation must give his/her reasons for it, and the Board will consider these reasons and, if it finds them fit, will grant permission to resign. Referring to the explanations given in paragraphs 67-73 of its General Survey of 1979 on the abolition of forced labour, the Committee points out that career military servicemen who have voluntarily entered into an engagement cannot be deprived of the right to leave the service in peacetime within a reasonable period, either at specified intervals, or with previous notice, subject to the conditions which may normally be required to ensure the continuity of the service. *The Committee therefore hopes that the necessary measures will be taken with a view to amending section 28(1) of Regulation No. 6 of 1993 so as to bring it into conformity with the Convention. Pending such amendment, the Committee requests the Government to provide information on the application of section 28(1) in practice, indicating in particular the criteria applied by the Board in accepting or rejecting a resignation, and to supply a copy of a complete text of these Regulations.*

4. The Committee previously noted that by virtue of the provisions of section 5(2)(a) and (b) of the Armed Forces (Conditions of Service) (Men) Regulations, 1969, the term of service of persons enrolled below the apparent age of 18 years might extend until they are 30 years old. The Committee noted with interest the Government's indication that this provision had been repealed by the National Resistance Army (Conditions of Service) (Men) Regulations No. 7 of 1993, section 5(4), under which a person below 18 years or above 30 years shall not be employed in the Ugandan army. *The Committee would appreciate it if the Government would supply a copy of these Regulations with its next report.*

Article 2(2)(c). The Committee has noted the information concerning employment of prisoners provided by the Government. *It requests the Government to supply, with its next report, a copy of the provisions of the Prisons Act (Cap. 313) governing this issue.*

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

[The Government is asked to supply full particulars to the Conference at its 95th Session.]

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Article 1(a), (c) and (d) of the Convention. For a number of years, the Committee has been referring to the following legislation:

- (i) the Public Order and Security Act, No. 20 of 1967, empowering the executive to restrict an individual's association or communication with others, independently of the commission of any offence and subject to penalties involving compulsory labour;
- (ii) sections 54(2)(c), 55, 56 and 56A of the Penal Code, empowering the Minister to declare any combination of two or more persons an unlawful society and thus render any speech, publication or activity on behalf of or in support of such combination illegal and punishable with imprisonment (involving an obligation to perform labour);
- (iii) section 16(1)(a) of the Trade Disputes (Arbitration and Settlement) Act, 1964, under which workers employed in "essential services" may be prohibited from terminating their contract of service, even by notice; sections 16, 17 and 20A of the same Act, under which strikes may be prohibited in various services that, while including those generally recognized as essential ones, also extend to other services, and contravention of these prohibitions is punishable with imprisonment (involving an obligation to perform labour).

The Committee notes the Government's renewed statement in its report that the labour legislation has been revised to enhance the application of the Convention, but the revised legislation is still in the form of a draft Bill. It also notes the Government's indication that the labour law reform exercise, which has been going on for over ten years, has now reached a point where draft principles of the Bills have been prepared in accordance with the current Government procedure. The Government also indicates that draft Bills were prepared for the four labour laws, including the Trade Disputes (Arbitration and Settlement) Act, and expresses the hope that these Bills will soon be enacted.

While noting these indications, the Committee requests the Government to indicate the measures taken or envisaged to repeal or amend the above provisions of the Public Order and Security Act, No. 20 of 1967, and of the Penal Code.

The Committee trusts that measures will at last be taken to repeal or revise the abovementioned provisions and that the legislation will be brought into conformity with the Convention. It requests the Government to provide information on the progress made in this regard and to communicate a copy of the revised legislation as soon as it is adopted.

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

United Arab Emirates

Forced Labour Convention, 1930 (No. 29) (ratification: 1982)

Trafficking of children and their use as camel jockeys

In its earlier comments, the Committee requested the Government to take without delay all the necessary measures to eradicate the trafficking of children to the United Arab Emirates for use as camel jockeys and to punish those responsible. The Committee has noted the Government's reply to its previous observation on the subject, as well as its

reply to comments made by the International Confederation of Free Trade Unions (ICFTU) in its communication of 20 August 2003. It has also noted a new communication sent by the ICFTU in June 2004, which was forwarded to the Government for such comments as might be considered appropriate. In its latest communication, the ICFTU again refers to the persistence of the trafficking of children to the United Arab Emirates.

The Committee recalls that the United Arab Emirates has ratified the Worst Forms of Child Labour Convention, 1999 (No. 182). In so far as Article 3(a) of Convention No. 182 provides that the worst forms of child labour include “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour”, the Committee is of the view that the problem of the trafficking of children for the purpose of exploiting their labour may be examined more specifically under Convention No. 182. The protection of children is enhanced by the fact that Convention No. 182 requires States which ratify it to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. The Committee accordingly asks the Government to refer to its comments on the application of Convention No. 182.

The Committee is also addressing a direct request to the Government on certain other points.

United States

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1991)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Trafficking in persons

1. In its latest report, the Government draws attention to the Trafficking Victims Protection Act of 2000 (TVPA), which has created new federal crimes, including a “forced labor” crime in a new section 1589 inserted in Title 18 of the United States Code; the Act also has strengthened penalties for trafficking-related offences, afforded new protection and expanded services to trafficking victims. An Interagency Task Force to Monitor and Combat Trafficking in Persons was established in February 2002. According to the Task Force report, “Since the enactment of the TVPA in October 2000, the Department of Justice (DOJ) prosecuted 79 traffickers in FY 2001 and 2002, three times as many as the previous two years, opened 127 investigations of trafficking cases, and conducted the largest ever training for federal prosecutors and agents in October 2002. In a number of these cases, defendants were charged with violating the newly enacted forced labor provisions of Title 18 of the U.S. Code. In addition to domestic efforts at combating trafficking and forced labor, prosecutors stepped up their international efforts, working to build anti-trafficking capabilities and to share best practices with police and prosecutors in Eastern Europe and Latin America.” DOJ also took various measures, including the funding of a number of non-governmental organizations (NGOs), to help trafficking victims to receive benefits and services.

2. The Committee has noted these indications with interest. It also notes, from the documents appended to the Government’s report, the findings of the United States Congress: that “Approximately 50,000 women and children are trafficked into the United States each year”; that “Trafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market”; and that “To deter international trafficking and bring its perpetrators to justice”, priority is given “to the prosecution of trafficking offenses, and protecting rather than punishing the victims of such offenses”. ***The Committee hopes that the Government will supply further details of the measures taken to this end, including the outcome of the 79 prosecutions and 127 investigations of fiscal years 2001 and 2002 referred to in its report.***

Punishment for participation in a strike

3. In its previous observation, the Committee noted that under article 12, section 95-98.1 of the North Carolina General Statutes, strikes by public employees are declared illegal and against the public policy of the State. Under section 95-99, any violation of the provisions of article 12 is declared to be a Class 1 misdemeanour. Under section 15A-1340.23, read together with section 15A-1340.11 of Chapter 15A (Criminal Procedure Act), a person convicted of a Class 1 misdemeanour may be sentenced to “community punishment” and, upon a second conviction, to “active punishment”, that is imprisonment. Article 3 (Labor of Prisoners), section 148-26 of Chapter 148 (State Prison System) declares it to be the public policy of the State of North Carolina that all able-bodied prison inmates shall be required to perform diligently all work assignments provided for them. The failure of any inmate to perform such a work assignment may result in disciplinary action. The Committee observed that under *Article 1(d) of the Convention*, ratifying States are obliged to abolish all penalties involving any form of compulsory labour which may be imposed as a punishment for having participated in strikes.

4. In its reply, the Government points out that under North Carolina law, a person without any prior convictions who is convicted for participating in an illegal strike could only be sentenced to community punishment which, in most cases, only requires the payment of a fine or “may simply involve some minor form of probation or community service”. A convicted person with one to four prior convictions can be sentenced to “active punishment”, but not receive a sentence of more than 45 days; in North Carolina, sentences of less than 90 days are served in county jails, without work requirements. It is theoretically possible for a person with five or more previous convictions who is found guilty of participating in an illegal strike to receive a sentence of more than 90 days and be subject to a work requirement. However, in the Government’s view, any such individual would be receiving this more serious sentence “for their recidivism” and “not for mere participation in an illegal strike”. In addition, “research disclosed no history of strikes by public employees in North Carolina and, consequently, no known instances of any convictions under this law”. The Government concludes that North Carolina law and practice is not in violation of *Article 1(d)* of the Convention.

5. The Committee takes due note of these indications. It must however point out that a sentence of community service, in so far as it may involve an obligation to perform work or service, comes under the definition of compulsory labour. Also, the fact that a person has a number of earlier convictions would not remove a prison sentence involving an obligation to work that may be imposed on him or her upon participating in a strike from the scope of the Convention. Noting with interest the Government’s indication that the relevant provisions of North Carolina law appear never to have been applied in practice, ***the Committee again expresses the hope that the necessary measures will be taken to bring the law into conformity with the Convention.***

6. The Committee notes the Government's indication that a review of state law was undertaken and "disclosed no state that had a law comparable to North Carolina's, where participation by a public employee in a strike is illegal, and punishable as a crime that could result in forced labor while in prison". The Committee is raising certain questions in this regard in a request addressed directly to the Government.

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

Zambia

Forced Labour Convention, 1930 (No. 29) (ratification: 1964)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

The Committee has noted a communication received in October 2002 from the International Confederation of Free Trade Unions (ICFTU), which contains observations concerning the application of the Convention by Zambia. The ICFTU alleged that there were reports of the trafficking of women and children to neighbouring countries for the purpose of forced prostitution and of kidnapping Zambians by Angolan combatants who took them to Angola to perform various forms of forced labour. The Committee has noted that this communication was sent to the Government in December 2002 for any comments it might wish to make on the matters raised therein. The Government's report contains no reference to this communication and *the Committee requests the Government to supply its comments on the serious points raised therein in its next report so as to enable the Committee to examine them at its next session.*

The Committee is also addressing a request on certain other points directly to the Government.

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

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 29** (*Albania, Angola, Antigua and Barbuda, Bahamas, Bahrain, Belarus, Belgium, Botswana, Bulgaria, Burkina Faso, Burundi, Central African Republic, China: Macau Special Administrative Region, Côte d'Ivoire, Czech Republic, Democratic Republic of the Congo, Denmark, Dominica, Egypt, El Salvador, Equatorial Guinea, Estonia, France: French Polynesia, Georgia, Ghana, Guinea, Guinea-Bissau, Hungary, Italy, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lesotho, Liberia, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Mali, Mauritius, Republic of Moldova, Morocco, Namibia, Nepal, Netherlands: Aruba, Nigeria, Papua New Guinea, Peru, Portugal, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, San Marino, Senegal, Serbia and Montenegro, Singapore, Slovakia, Solomon Islands, South Africa, Spain, Sri Lanka, Switzerland, Syrian Arab Republic, Togo, Trinidad and Tobago, Tunisia, Ukraine, United Arab Emirates, United Kingdom: Anguilla, United Kingdom: Montserrat, United Kingdom: St. Helena, Uzbekistan, Zambia, Zimbabwe*); **Convention No. 105** (*Albania, Angola, Azerbaijan, Bahrain, Barbados, Belarus, Botswana, Bulgaria, Burkina Faso, Burundi, Cambodia, Central African Republic, China: Hong Kong Special Administrative Region, Comoros, Congo, Czech Republic, Democratic Republic of the Congo, Dominica, Egypt, El Salvador, Equatorial Guinea, Estonia, Ethiopia, Fiji, France, Gabon, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Hungary, India, Indonesia, Israel, Jordan, Kazakhstan, Kenya, Lebanon, Lesotho, Lithuania, Malawi, Mali, Mauritania, Republic of Moldova, Morocco, Namibia, Netherlands: Aruba, Nicaragua, Pakistan, Paraguay, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Senegal, Seychelles, Slovakia, South Africa, Suriname, Thailand, Togo, United Arab Emirates, United States, Uzbekistan, Zimbabwe*).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 29** (*Cyprus, Fiji, Sierra Leone*); **Convention No. 105** (*San Marino*).

Elimination of Child Labour and Protection of Children and Young Persons

Albania

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee takes note of the Government's first report, and of the communication of the Confederation of Trade Unions of Albania dated 30 September 2004. *The Committee requests the Government to supply further information on the following points.*

Article 3 of the Convention. The worst forms of child labour. Clause (a). Sale and trafficking of children. The Committee observes the information provided by the Confederation of Trade Unions of Albania that "there are children that fall victims of trafficking, organ transplant, sexual abuses, organized crime and other abuses in the family". While noting the absence of information in the Government's report on this point, the Committee notes that, according to the Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania, carried out under the supervision of ILO/IPEC in 2003 (page 7), since the turn of the century, the reported number of children being trafficked across borders for labour and sexual exploitation has steadily increased in Albania. According to the Government's initial report to the Committee on the Rights of the Child (CRC/C/11/Add.27 of 5 July 2004, paragraphs 269-272), on the basis of the incomplete statistics available with the Equal Opportunity Committee, about 4,000 children have immigrated unaccompanied by their parents (3,000 to Greece and 1,000 to Italy). These children found in other countries, away from the family and its care, are often exposed to numerous risks, including maltreatment, physical and sexual abuse, and involvement in evil forms of work, traffic and other illicit activities. There are cases where children are sold out by their parents, or are exploited by criminal networks for reasons of profit. In the vast majority of cases, the trafficked children live under deplorable conditions. They are appointed to heavy jobs, work long hours and are paid a minimum wage enough to keep them going. The Committee on the Rights of the Child in its concluding observations (CRC/C/15/Add.249 of 28 January 2005, paragraphs 66-67) noted that the departure of children from Albania to neighbouring countries is a significant problem and recommended to the Government to strengthen its efforts in this area.

The Committee observes that Law No. 9188 was adopted on 12 February 2004, which amended the Penal Code by adding provisions concerning the trafficking of persons. The new section 128/b of the Penal Code prohibits the trafficking of minors defined as the "recruitment, transport, transfer, sequestration of minors with the aim of exploitation of prostitution or any other form of sexual exploitation, of forced labour or services, slavery or any other form similar to slavery, of the provision or transplantation of the organs of the body, or any other form of exploitation".

The Committee consequently notes that, although the trafficking of children for labour or sexual exploitation is prohibited by law, it remains an issue of concern in practice. The Committee reminds the Government that, by virtue of *Article 3(a)* of the Convention, the sale and trafficking of children is considered as one of the worst forms of child labour, and that by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. *The Committee accordingly invites the Government to redouble its efforts to improve the situation and to take, without delay, the necessary measures to eliminate the internal and cross-border trafficking of children under 18 for labour and sexual exploitation. It also asks the Government to take the necessary measures to ensure that persons who traffic in children for labour or sexual exploitation are prosecuted and that sufficiently effective and dissuasive penalties are imposed. The Committee asks the Government to provide information on progress made in this regard.*

Article 5. Monitoring mechanisms. Inter-Ministerial Committee for the Fight against Trafficking in Human Beings and Anti-Trafficking Office. The Committee observes that, according to the Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania (page 17), an inter-Ministerial Committee for the Fight against Trafficking of Human Beings began functioning in January 2002. It also notes that an anti-trafficking office has been established in the Ministry of Public Order including a unit relating to the trafficking of children. *The Committee requests the Government to provide information on the activities of these bodies aimed at combating the trafficking of children and on the results achieved.*

Article 6. Programmes of action to eliminate the worst forms of child labour. 1. National Strategy for Children (2001-05). The Committee observes that, according to the Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania (page 16), the National Strategy for Children (2001-05) has been approved, which defines the strategic objectives of the government policy and aims at awareness-raising with regard to the phenomenon of trafficking in children. It also provides for setting up municipal and communal structures for the treatment of children at risk, improving legislation concerning children and coordinating actions of central and local governments, international organizations and NGOs for preventing and combating trafficking. The Committee also notes that the Committee on the Rights of the Child in its concluding observations (CRC/C/15/Add.249 of 28 January 2005, paragraph 11) welcomed the approval of the National Strategy for Children for 2001-05. However, it was concerned at the lack of the necessary structures, financial and human resources for its implementation. *The Committee encourages the Government to*

redouble its efforts to combat child trafficking. It requests the Government to continue providing information on the concrete measures taken to implement the National Strategy for Children.

2. *National Strategy to Combat Trafficking in Human Beings.* The Committee observes that, according to the Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania (page 16), the National Strategy to Combat Trafficking in Human Beings was approved in December 2001 as a medium-term strategy, covering three years, aimed at increasing public awareness and improving the legal framework with regard to preventive measures as well as direct assistance to the victims. This Strategy includes a National Plan of Action listing concrete actions against trafficking and indicating the responsible institutions. **The Committee requests the Government to provide more detailed information on the achievements and impact of this Strategy and Plan of Action on combating trafficking in children.**

3. *Strategy for the Development of Social Services and Strategy for Employment and Vocational Training.* The Committee observes that, according to the Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania, the Strategy for the Development of Social Services and the Strategy for Employment and Vocational Training were approved in 2003. These strategies aim at improving the economic and social conditions in Albania and mitigating the major causes of trafficking: poverty and unemployment. **The Committee requests the Government to provide information on the implementation of these strategies.**

Article 7, paragraph 2. Time-bound and effective measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. The Committee notes that the Government signed a Memorandum of Understanding with ILO/IPEC in 1999. The activities of ILO/IPEC in Albania involve the issues of prevention of child labour, withdrawal and rehabilitation of those already in intolerable situations. Children's clubs for working children and children at risk have been established in the premises of primary schools in Tirana, Shkodra, Korca Berat and Elbasan. Recreational activities and non-formal education are provided to 650 working children and children at risk. The Committee also notes that, according to the Government's initial report to the Human Rights Committee submitted under Article 40 of the International Covenant on Civil and Political Rights (CCPR/C/ALB/2004/1 of 16 February 2004, paragraph 584), the Ministry of Labour and Social Affairs, in collaboration with International Organization for Migration (IOM) and the Ministry of Public Order, has established a hosting centre in Linza, Tirana intended for the hosting of child victims of trafficking. It further notes that, according to the Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania (page 37), International Social Service (ISS) of Albania in collaboration with ISS Italy has a project supporting unaccompanied minors. ISS has experience treating problems related to abandoned unaccompanied children who are exposed to trafficking; from 1992 to the end of 2002, ISS intervened in 4,457 cases. When possible, they facilitate the return of the child and then take measures toward reintegration. **The Committee asks the Government to continue to provide information on effective and time-bound measures taken to eliminate the trafficking of children for labour and sexual exploitation and the results achieved.**

Article 8. 1. International cooperation. The Committee notes that Albania is a member of Interpol, which helps cooperation between countries in the different regions especially in the fight against trafficking of children. It also notes that Albania ratified in 2002 the United Nations Convention against Transnational Organized Crime as well as its Protocol against human trafficking.

2. *Regional cooperation.* The Committee notes that ILO/IPEC launched a subregional programme entitled "Prevention and Reintegration Programme to Combat Trafficking of Children for Labour and Sexual Exploitation in the Balkans and Ukraine", focusing on Albania, Romania, Republic of Moldova and Ukraine. **The Committee asks the Government to provide information on the concrete measures taken to implement this programme as well as their impact on combating the cross-border trafficking of children for labour and sexual exploitation.**

Parts IV and V of the report form. **The Committee requests the Government to provide a copy of available data on the trafficking of children for labour and sexual exploitation, including for example copies or extracts from official documents including inspection reports, studies and inquiries, and information on the extent and trends of this form of child labour, the number of children covered by the measures giving effect to the Convention, the number and nature of infringements reported, investigations, prosecutions, convictions and penal sanctions applied. To the extent possible, all information provided should be disaggregated by sex.**

The Committee is also addressing a direct request to the Government concerning other detailed points.

Antigua and Barbuda

Minimum Age Convention, 1973 (No. 138) (ratification: 1983)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

Article 2, paragraphs 1 and 3, of the Convention. In its previous comments, the Committee drew the Government's attention to the fact that the provisions of the national legislation respecting the minimum age for admission to employment or work were not in conformity with the age specified by the Government when ratifying the Convention. Indeed, although the Government had specified the minimum age of 16 years when ratifying the Convention, section E3 of the Labour Code provides that no child shall be employed or shall work in a public or private agricultural or industrial undertaking or in any branch thereof,

or on any ship, while the term “child”, by virtue of section E2 of the Labour Code, means a person under the age of 14 years. The Committee has noted on several occasions that amendments to the Labour Code of 1975 were under examination with a view to bringing the minimum age for admission to employment or work into conformity with the minimum age specified when ratifying the Convention and with the compulsory school-leaving age which, under section 43(1) of the Education Act of 1973, is 16 years of age. The Committee notes that in its last report the Government refers once again to the draft amendment, without indicating whether it has in practice been adopted. **The Committee therefore requests the Government to take the necessary measures to amend section E2 of the Labour Code so as to define a child as a person under the age of 16 years, which would bring the minimum age for admission to employment or work envisaged in the national legislation into conformity with the minimum age specified by the Government when ratifying the Convention.**

Article 4, paragraph 2. The Committee notes that section E3 of the Labour Code provides that the prohibition upon the employment or work of children, that is persons under the age of 14 years (section E2), does not apply to any undertaking or ship on which only members of the same family are employed, to members of a recognized youth organization who are engaged collectively in such employment for the purposes of fund-raising for such organization, nor to a child who is working together with adult members of her or his family on the same work and at the same time and place. **It requests the Government to indicate in future reports any changes in law and practice in respect of these categories excluded.**

The Committee is drawing the Government’s attention to other matters in a direct request.

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

Azerbaijan

Minimum Age Convention, 1973 (No. 138) (ratification: 1992)

The Committee notes with regret that the Government’s report has not been received. It must therefore repeat its previous observation, which read as follows:

The Committee had recalled that the minimum age of 16 years was specified under *Article 2, paragraph 1, of the Convention* as regards Azerbaijan. It had noted with regret that the new Labour Code in section 42(3), allows a person who has reached the age of 15 to be part of an employment contract; section 249(1) of the same Code specifies that “persons who are under the age of 15 shall not be employed under any circumstances”. Moreover, the Individual Contracts of Employment Agreement Act, section 12(2), sets the minimum age for concluding an employment contract at 14 years. The Committee once again points out that the Convention allows and encourages the raising of the minimum age but does not permit lowering of the minimum age once specified. **Therefore, the Committee once again asks the Government to indicate the measures taken or envisaged, pursuant to its declaration under Article 2 of the Convention, to ensure that access to employment of children of 14 and 15 years of age may be allowed exceptionally, only for work that meets the criteria set out in Article 7 of the Convention.**

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

Cameroon

Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1970)

The Committee takes note of the Government’s report. It also notes the observations sent on 30 August 2005 by the General Union of Cameroon Workers (UGTC) containing comments on the application of the Convention.

The Committee notes with regret that despite repeated promptings from the Committee, the Government has still not taken legislative measures to give effect to the provisions of the Convention. **It expresses the firm hope that the Government will take legislative measures in the near future to apply the provisions of the Convention.**

Article 1 of the Convention. Scope of application. In its previous comments, the Committee noted that there were no provisions in the national legislation allowing the Convention to be applied to children and young persons working on their own account, employees or apprentices being covered by the provisions of Order No. 17 of 27 May 1969 and the Labour Code. It also noted that the Government had indicated once again that medical examinations for young persons should be extended to those engaged in own-account activities in the informal economy. The Government indicated in this connection that the municipal authorities in Cameroon had begun to extend medical examinations to a group of workers in the informal economy. The Committee expressed the hope that the Government would take steps to ensure that the Convention was applied both in law and in practice to all young workers covered by the Convention, including those in the informal sector.

The Committee notes that in its comments, the UGTC indicates that provision is made for systematic inspection in the formal sector but that no measures have been taken for young persons in the informal economy despite efforts under way for young people in the context of combating HIV/AIDS. The Committee notes the information sent by the Government on the provisions applying to medical examination for fitness for employment. However, the Committee notes – and the Government indicates in its report – that these provisions apply only to young workers in the formal sector. With regard to young persons working in the informal economy, the Committee notes that, according to the Government, it is very difficult to get them to undergo a medical examination for fitness for employment as it is difficult to exercise any control over employers in the informal economy. The Committee also notes that the Government has requested technical assistance from the ILO in order to identify employers in the informal economy and require them to

comply with the regulations in force. The Committee also notes the Government's statement that Cameroon has just benefited from a *SIDA Enterprise* project, which will take account of young persons working in enterprises. Those working outside enterprises will benefit from ad hoc activities such as campaigns for awareness raising and voluntary screening.

The Committee reminds the Government that children working on their own account are automatically covered by the Convention (*Article 1, paragraph 1*). ***The Government having stated several times that it intends to solve this problem, the Committee trusts that it will take the necessary steps, as a matter of urgency, with assistance from the ILO, to ensure that the Convention applies both in law and in practice to all young workers covered by the Convention, including those in the informal economy. Lastly, the Committee expresses the hope that the Government's next report will give an account of progress made in this respect.***

[The Government is asked to report in detail in 2006.]

China

Hong Kong Special Administrative Region

Worst Forms of Child Labour Convention, 1999 (No. 182) (notification: 2002)

The Committee notes the Government's first report and the communication of the International Confederation of Free Trade Unions (ICFTU) dated 12 December 2002 as well as the Government's response received on 3 July 2003. Referring to the comments made by the Committee under the Forced Labour Convention, 1930 (No. 29), in so far as *Article 3(a) of Convention No. 182* provides that the worst forms of child labour include "all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour", the Committee is of the view that the issue of trafficking of children can be examined more specifically under this Convention. ***The Committee requests the Government to supply further information on the following points.***

Article 3. Worst forms of child labour. Clause (a). Sale and trafficking of children. In its previous comments, formulated under Convention No. 29, the Committee noted the ICFTU's indication that Hong Kong Special Administrative Region (Hong Kong SAR) is a transit country for persons trafficked from China to third countries, and that many Hong Kong SAR residents are engaged in these trafficking activities. The ICFTU added that persons are trafficked to Hong Kong SAR for the purpose of forced prostitution or forced domestic service. The Committee notes that, according to the Government's response to the ICFTU's allegations, there is no evidence of children being trafficked for the purpose of forced domestic service in Hong Kong SAR. The Government nevertheless acknowledges that Hong Kong SAR is vulnerable to human smuggling activities and that debriefings from illegal immigrants intercepted revealed that the destination for the great majority of them was Hong Kong SAR rather than overseas countries. However, the Government denies that they are trafficked into Hong Kong SAR under coercion or false inducement and indicates that they are coming of their own accord because of the comparative economic prosperity of Hong Kong SAR in the region. The Committee nevertheless notes that, according to the United Nations Office on Drugs and Crime ("Human Trafficking – Regional Profile", 11 March 2003), Hong Kong SAR is a hub for destination and transit for young women for commercial sexual exploitation, and is a recipient of trafficked victims for this activity from, inter alia, Central Asia, China, Philippines, Russian Federation, Thailand and Viet Nam. It is also a facilitation centre for organized networks involved in trafficking.

The Committee notes that, by virtue of section 129 of the Crimes Ordinance, whoever traffics another person into or out of Hong Kong SAR for the purpose of prostitution commits a criminal offence. Section 131 of the Crimes Ordinance also states that a person who procures another person to leave Hong Kong SAR or that person's usual place of abode in Hong Kong SAR for the purpose of placing that person in brothels shall be guilty of an offence. Section 4 (Part II) of the Hong Kong Bill of Rights Ordinance prohibits the slave trade. Section 42 of the Offences against the Person Ordinance of 1997 provides that whoever by force or fraud takes away or detains a person, against the person's will, with the intent to sell that person commits a criminal offence.

The Committee consequently observes that, although the trafficking of children for labour or sexual exploitation is prohibited by law, it remains an issue of concern in practice. The Committee reminds the Government that, by virtue of *Article 3(a)* of the Convention, the sale and trafficking of children is considered as one of the worst forms of child labour, and that by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee accordingly invites the Government to take, without delay, the necessary measures to eliminate the sale and trafficking of children under 18 for labour or sexual exploitation. It also asks the Government to provide information on progress made in this regard.***

Article 5. Monitoring mechanisms. The Committee notes the Government's indication that the police is responsible for enforcing the provisions of the Crimes Ordinance prohibiting the sale and trafficking of children. The Government adds that the Social Welfare Officers are entitled to visit or inspect suspected premises and initiate proceedings to protect children exposed to moral or physical danger. Section 35(1) of Chapter 213 of the Protection of Children and Juveniles Ordinance provides that the Director of Social Welfare may issue an order to detain, in protected premises, a person under

18 years of age if the Director has reasonable grounds to believe that the person under 18 is about to be taken out or brought into Hong Kong SAR by force, intimidation, threats, false pretences and is likely to be exposed to prostitution or to moral or physical danger. **The Committee asks the Government to provide information on the number of investigations conducted by police officers into suspected cases of child victims of trafficking and the activities of the Social Welfare Officers concerning potential victims of trafficking.**

Article 7, paragraph 1. Penalties. The Committee observes that, by virtue of section 129 of the Crimes Ordinance, a person who traffics another person into or out of Hong Kong SAR for the purposes of prostitution is liable to ten years' imprisonment. Section 131 of the Ordinance also provides that whoever procures a person to leave Hong Kong SAR or that person's usual place of abode in Hong Kong SAR for the purpose of placing that person in brothels is liable to ten years' imprisonment. Section 42 of the Offences against the Person Ordinance of 1997 states that whoever by force or fraud takes away or detains a person, against that person's will, with the intent to sell that person is liable to life imprisonment. The Committee notes the Government's indication that only three cases of trafficking in women for the purpose of prostitution, involving seven women aged 16 and above, were reported in Hong Kong SAR. The Committee reminds the Government that, by virtue of *Article 7, paragraph 1*, of the Convention, it shall take the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention. **The Committee accordingly asks the Government to take the necessary measures to ensure that persons who traffic in children are prosecuted and that sufficiently effective and dissuasive penalties are imposed. In this regard, it requests the Government to provide information on the practical application of the abovementioned provisions, including the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied.**

Article 7, paragraph 2. Time-bound measures. Clause (b). Providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. The Committee notes that, according to the Government's report, the Social Welfare Department provides assistance to child victims of sexual exploitation. The assistance consists of statutory protection under the Protection of Children and Juveniles Ordinance, counseling, residential placements and psychological assistance. **Noting that young women under 18 are primarily trafficked to Hong Kong SAR for sexual exploitation, the Committee asks the Government to provide information on the number of former child victims of trafficking who are withdrawn from commercial sexual exploitation and rehabilitated.**

Article 8. 1. International cooperation. The Committee notes that Hong Kong SAR is a member of Interpol, which helps cooperation between countries in the different regions especially in the fight against trafficking of children.

2. Bilateral cooperation. The Committee notes the Government's indication that it has signed bilateral agreements with Australia, Canada, France, Ireland, Italy, Republic of Korea, Netherlands, New Zealand, Philippines, Portugal, Singapore, Switzerland, Ukraine, United Kingdom and United States on mutual legal assistance. It has also signed bilateral agreements on the surrender of fugitive offenders with Australia, Canada, India, Indonesia, Malaysia, Netherlands, New Zealand, Philippines, Portugal, Singapore, Sri Lanka and the United States. These agreements on the surrender of fugitive offenders provide for the transfer of offenders to their country of origin with regard to offences such as unlawful sexual acts on children, dealing and trafficking in slaves or other persons, stealing, abandoning, exposing or unlawfully detaining a child, and other offences involving the exploitation of children. **The Committee requests the Government to provide information on the impact of the abovementioned agreements on eliminating the trafficking in young persons under 18 years for labour or sexual exploitation.**

The Committee is also addressing a direct request to the Government concerning other detailed points.

Congo

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

The Committee notes the Government's first report. In reference to its comments made under the Forced Labour Convention, 1930 (No. 29), concerning the sale and trafficking of children and, insofar as *Article 3(a) of the Convention* provides that the expression "the worst forms of child labour" comprises "all forms of slavery or practices similar to slavery, such as the sale and trafficking of children", the Committee considers that the problem of the sale and trafficking of children could be examined more specifically within the framework of Convention No. 182. **It requests that the Government provide information on the following aspects.**

Article 3. Worst forms of child labour. Clause (a). Sale and trafficking of children. In the observations that the Committee has been making for several years under Convention No. 29, it had noted the Government's information mentioning the existence of child trafficking between Benin and the Congo for the purpose of forcing the children to work in Pointe-Noire in trading (fixed and itinerant) and domestic work. According to the Government, the receiving families force the children to work in unimaginable conditions. They have to work all day and are subjected to all kinds of hardships. The Committee notes that section 345 of the Penal Code provides for penalties for individuals found guilty of kidnapping. It notes that section 354 of the Penal Code provides for penalties for those found guilty of having, by means of fraud or violence, kidnapped or ordered the kidnapping of juveniles, or taken, led or moved them from the places where they had been placed by the individuals to whose authority or direction they were subject or had been entrusted.

Furthermore, under section 356(1) of the Penal Code, sanctions are to be imposed on anyone who, without fraud or violence, has kidnapped, led away or tried to kidnap or lead away, a juvenile under 18 years of age.

The Committee reminds the Government that under *Article 3(a)* of the Convention, the sale and trafficking of children is considered to be one of the worst forms of child labour. It also draws the Government's attention to the fact that pursuant to *Article 1* of the Convention, each member State which ratifies the Convention must take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour for a person under 18 years of age. ***The Committee requests that the Government indicate the extent to which sections 345, 354 and 356 of the Penal Code have been implemented in practice.***

Article 7, paragraph 1. Penalties. The Committee reminds the Government that under *Article 7, paragraph 1*, of the Convention, it must take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of penal sanctions. ***The Committee therefore requests that the Government adopt sanctions allowing for the prosecution of those involved in the sale or trafficking of children. In this regard, the Committee draws the Government's attention to the fact that sanctions of a sufficiently effective and dissuasive nature must be imposed. The Committee also requests that the Government provide information on the number and nature of reported infringements, the investigations carried out, legal proceedings, convictions and the sentences imposed.***

Article 7, paragraph 2. Effective and time-bound measures. Clause (b). Removal of children from the worst forms of child labour and their rehabilitation and social integration. Sale and trafficking of children. In the observations that the Committee has been making for several years under Convention No. 29, it has noted the information provided by the Government in which it is acknowledged that the trafficking of children between Benin and the Congo for the purpose of forcing the children to work in Pointe-Noire in trading (fixed and itinerant) and domestic work is contrary to human rights. Consequently, the Government has taken certain measures to curb child trafficking, including the repatriation by the Consulate of Benin of children that have either been picked up by the national police or removed from certain families, and the current requirement at borders (airport) for juveniles (children under 18 years of age) to have administrative authorization to leave Beninese territory. ***The Committee requests that the Government provide information on the impact of the measures taken as regards the rehabilitation and social integration of children following their withdrawal from labour.***

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

Costa Rica

Minimum Age Convention, 1973 (No. 138) (ratification: 1976)

The Committee notes the Government's reports.

Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice. In its previous comments, the Committee noted the observations made by the Trade Union of Employees of the Ministry of Finance (SINDHAC), the Transport Workers' Union of Costa Rica (SICOTRA) and the Rerum Novarum Confederation of Workers (CTRN), according to which, in violation of the provisions of both the national legislation and the Convention, children between 5 and 11 years of age work for an average of seven hours a week and children between 12 and 14 work for an average of 24 hours a week. The majority of child workers are found in the urban informal economy, the traditional rural sector (seasonal work in the coffee and sugar cane harvests) and domestic work. The Committee noted the Government's reply in which it indicated that, on the one hand, it was "aware of the dimensions of the problem" and, on the other, described the various measures adopted with a view to eliminating child labour in the country. It requested the Government to take the necessary measures to ensure that the legislative provisions on the minimum age for admission to employment or work are effectively enforced.

The Committee notes the Government's information concerning the efforts made to combat child labour. In particular, it notes that the Government: (1) is currently formulating a second National Plan for the Elimination of Child Labour and the Protection of Young Workers; (2) has adopted an Agenda for Children and Young Persons – Objectives and Commitments for 2000-10, one of the long-term objectives of which is "the lasting integration of boys and girls under 15 years of age and also young persons between 15 and 18 years of age in the formal education system"; and (3) is collaborating with ILO/IPEC in the implementation of projects for the elimination of child labour in agriculture, which target around 2,000 children working in this sector.

Furthermore, the Committee notes that the National Statistical and Census Institute (INEC) and the Ministry of Labour and Social Security (MTSS), in collaboration with ILO/IPEC and the Statistical Information and Monitoring Programme on Child Labour (SIMPOC), undertook a study in 2002 on work by children and young persons with a view to identifying the scope of the problem in Costa Rica. According to the statistics contained in the "National report on the results of the study on work by children and young persons in Costa Rica", published in June 2003, some 113,523 girls and boys aged between 5 and 17 years work in Costa Rica. Of this number, around 49,229 children under 15 years of age, which is below the minimum age for admission to employment or work, are engaged in work, or 43.4 per cent. Furthermore, according to the report, around 65.7 per cent of children who work began their activity before reaching the

minimum age for admission to employment or work, namely 15 years. The principal sector of economic activity affected by child labour is agriculture, including the harvesting of coffee, which is one of the major exports in Costa Rica. The other economic sectors affected by child labour are manufacturing, commerce and services, including domestic work. Moreover, it appears that 45.3 per cent of children who do not attend school do so for reasons related to work.

The Committee welcomes the efforts made by the Government but remains concerned at the situation of children who are compelled to work in the country. Indeed, the statistical data referred to above show that difficulties appear to be encountered in the application of the legislation on child labour and that child labour is widespread in Costa Rica. ***It therefore strongly encourages the Government to redouble its efforts to progressively improve this situation. The Committee requests the Government to provide information on the impact of the National Plan for the Elimination of Child Labour and the Protection of Young Workers, the Agenda for Children and Young Persons – Objectives and Commitments for 2000-10, the projects for the elimination of child labour in agriculture and the ILO/IPEC subregional programme for the prevention and elimination of child labour in the coffee industry, as well as the results achieved in relation to the elimination of child labour, in the age brackets of 5-11 years and 12-15 years.***

Furthermore, the Committee requests the Government to continue providing detailed information on the manner in which the Convention is applied in practice including, for example, statistical information disaggregated by sex on the nature, extent and trends of work by children and young persons under the minimum age specified by the Government when ratifying the Convention, extracts of the reports of the inspection services, information on the number and nature of the violations reported and the penalties imposed, particularly in the agricultural, manufacturing, commerce and services sectors.

Article 2. Minimum age for admission to employment or work. 1. The coffee harvest. In its previous comments, the Committee noted Decision No. 349-98 issued by the Ministry of Labour and Social Security which authorized, under certain conditions and in the context of work within the family, the employment of persons under 15 years of age in the coffee harvest in 1998-99. The Committee noted that the decision referred to persons under 15 years of age in a broad manner, without indicating any minimum age, thereby permitting, for example, work by children aged 5 or 6 years. The Committee requested the Government to indicate whether the decision had been applied solely for the above harvest, or whether it had been extended to subsequent harvests and, taking into account the social and economic circumstances which gave rise to Decision No. 349-98, it requested the Government to consider whether it was possible to include work on the coffee harvest within the framework of the list of light work within the meaning of *Article 7* of the Convention.

The Committee notes the Government's indication that Decision No. 349-98 proved to be a temporary measure in view of the adoption of the Code of Children and Young Persons and that it was therefore applied only for the 1998-99 harvest. It also notes that no child under 6 years of age works in the coffee harvest. Furthermore, the Government adds that, taking into account the minimum age for admission to employment or work of 15 years established by the Code of Children and Young Persons and the measures adopted to guarantee school attendance by persons under 18 years of age, it is not appropriate to have recourse to the exception envisaged in *Article 7* of the Convention relating to light work. The Committee also notes that Costa Rica is engaged in active collaboration with ILO/IPEC for the prevention and elimination of child labour in the coffee industry and that it is one of seven countries, together with Guatemala, Honduras, El Salvador, Nicaragua, Panama and the Dominican Republic, which are participating in the ILO/IPEC subregional programme for the prevention and elimination of child labour in the coffee industry. ***The Committee requests the Government to provide information on the impact of the ILO/IPEC subregional programme and on the results achieved with regard to the prevention and elimination of child labour in the coffee industry.***

2. Legislative measures. In its previous comments, the Committee noted a contradiction between, on the one hand, section 89 of the Labour Code, which provides for a minimum age for admission to employment of 12 years and, on the other, sections 78 and 92 of the Code of Children and Young Persons, which set the minimum age at 15 years, in accordance with the minimum age specified when ratifying the Convention. It requested the Government to take the necessary measures to amend the Labour Code so as to bring its provisions into line with those of the Code of Children and Young Persons. The Committee notes the Government's indication that, despite the contradiction between the provisions respecting the minimum age for admission to employment or work in the Labour Code and those of the Code of Children and Young Persons, the applicable rule is that set out in the Code of Children and Young Persons. Furthermore, the Government indicates that, although no draft amendment to the Labour Code has been formulated to bring it into line with the Code of Children and Young Persons, it will convey the suggestion made by the Committee to the competent authorities. In view of the statistics referred to above, the Committee is of the opinion that, to ensure the protection of children under 15 years of age who are engaged in work, the harmonization of the provisions of the Labour Code with those of the Code of Children and Young Persons is important. ***It therefore once again requests the Government to take the necessary measures to amend the Labour Code and to provide information on any progress achieved in this respect.***

Finally, the Committee notes that a bill on the employment of young persons is currently being formulated. It requests the Government to provide information on the progress achieved in this respect and to provide a copy of the Act when it has been adopted.

Democratic Republic of the Congo

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the Government's first report, as well as the information transmitted by the Confederation of Trade Unions of the Congo, dated 11 May 2005, and supported by the World Confederation of Labour (WCL). Referring to the comments made by the Committee under the Forced Labour Convention, 1930 (No. 29), concerning the sale and trafficking of children for the purposes of sexual exploitation, and particularly prostitution and pornography, the recruitment of child soldiers and work by children in mines (particularly in Kasai and certain sectors of Lubumbashi), and as the Worst Forms of Child Labour Convention, 1999 (No. 182), deals with these worst forms of labour, the Committee considers that they may be examined more specifically in the context of this Convention. ***It requests the Government to provide information on the following points.***

Article 3 of the Convention. Worst forms of child labour. Clause (a). 1. Sale and trafficking of children for sexual exploitation. With reference to its observations under Convention No. 29, the Committee notes that in its initial report to the Committee on the Rights of the Child in August 2000 (CRC/C/3/Add.57, paragraphs 68, 205 and 206), the Government indicated that phenomena such as the trafficking and sale of children for their sexual and commercial exploitation are increasingly widespread in the Democratic Republic of the Congo. Nevertheless, there is no in-depth study or statistics on the subject. The Government also indicated that the causes are mainly of an economic nature, but also of a social, family, political-legal and cultural nature. The Committee further notes that, in its concluding observations, of July 2001 (CRC/C/15/Add.153, paragraphs 68 and 69), the Committee on the Rights of the Child expressed concern at the information on the trading, trafficking, kidnapping and use for pornography of young girls and boys within the territory of the country, or from the Democratic Republic of the Congo to another country, and that it considered it to be of great concern that domestic legislation does not sufficiently protect children from trafficking. The Committee on the Rights of the Child strongly recommended that the Government take urgent measures to end the sale, trafficking and sexual exploitation of children through, among others, the adoption and implementation of appropriate legislation and the use of the criminal justice process to sanction those persons responsible for such practices.

The Committee notes that the Government ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in November 2001. It also notes that section 67 of the Penal Code prohibits the forceful abduction, restraint or detention of any person. Section 68 prohibits the abduction, restraint or detention of any person for the purpose of sale as slaves or the use of persons placed under their authority for that purpose. As indicated by the Government to the Committee on the Rights of the Child, the provisions of the Penal Code to suppress the sale and trafficking of children for sexual exploitation are not appropriate in view of the extent of the phenomenon. ***The Committee therefore requests the Government to take the necessary measures, as a matter of urgency, to prohibit in national legislation the sale and trafficking of children under 18 years of age for the purposes of sexual exploitation and to adopt appropriate penalties for contraventions of the prohibition.***

2. Forced recruitment of children for use in armed conflict. With reference to its observations under Convention No. 29, the Committee notes that, in her report on the situation of human rights in the Democratic Republic of the Congo in April 2003 (E/CN.4/2003/43, paragraphs 33-36), the United Nations Special Rapporteur indicated that the phenomenon of child soldiers continues to be very disturbing. There is very little demobilization and mass recruitment taking place in the east of the country; according to UNICEF and the NGOs, there are more than 30,000 child soldiers in the Democratic Republic of the Congo. In Uvira, in South Kivu, all the armed groups in the region (RCD/Goma, Mai-Mai, Banyamulenge) continue to recruit children. Children aged under 15 make up a large proportion of the Mai-Mai, the Congolese National Army (ANC) and the Congolese Patriotic Union (UPC). The UPC has on several occasions ordered local communities to "supply children" for the war effort. According to the information transmitted to the Special Rapporteur, many child soldiers are abducted from their families by the various armed groups. They include young girls, who are frequently used as sex slaves for the soldiers. Many of the children are sent to the front.

The Committee also notes that, according to the report of the Secretary-General of the United Nations on children and armed conflict of 9 February 2005 (A/59/695-S/2005/72, paragraphs 15-22), since the establishment of the Transitional Government in the Democratic Republic of the Congo, the *Forces armées congolaises* (FAC, the armed forces of the former Government), the *Mouvement de libération du Congo* (MLC), the *Rassemblement congolais pour la démocratie-Goma* (RCD-Goma), the *Rassemblement congolais pour la démocratie-Kisangani/Mouvement de libération* (RCD-K/ML), the *Rassemblement congolais pour la démocratie-National* (RCD-N) and the main Mai-Mai groups represented at the inter-Congolese dialogue have been integrated into the new national army, the *Forces armées de la République démocratique du Congo* (FARDC). According to the Secretary-General, while this is a positive step, the various military units have yet to be fully integrated. In many cases, the units are only nominally FARDC, and some of them continue to use children. Since the designation of FARDC regional military commanders in October 2003, some 5,000 children, a small number of them girls, have been released from armed forces and groups. The Secretary-General however indicates that, despite some advances, thousands of children remain in the armed forces and armed groups in the Democratic Republic of the Congo, and recruitment, although not systematic, has continued. Although reiterating its commitment to separate all children from the FARDC, the *état-major* has not yet provided adequate information about the

presence of children in its numerous brigades. While some regional and local commanders have released children, no mass release of children has yet taken place.

The Committee notes that the Democratic Republic of the Congo ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in November 2001. It also notes that Article 184 of the Transitional Constitution provides that no one shall be recruited into the armed forces of the Democratic Republic of the Congo nor take part in a war or hostilities unless he has reached the age of 18 years at the time of recruitment. Furthermore, the Committee notes that the Government has adopted Legislative Decree No. 066 of 9 June 2000 to demobilize and reintegrate vulnerable groups present in the fighting forces (Legislative Decree No. 066). Under the terms of section 1 of Legislative Decree No. 066, an order has been issued to demobilize the vulnerable groups in the Congolese armed forces or other armed groups operating in the Democratic Republic of the Congo and to provide for their socio-economic integration and their integration into their families. Under section 2, the term “vulnerable groups” includes child soldiers, girls or boys aged under 18 years, which constitute a specific group requiring urgent humanitarian intervention.

Despite the action taken by the Government in this field, the Committee expresses particular concern at the current situation of children who are still recruited for armed conflict in the Democratic Republic of the Congo. In this respect, the Committee refers to the United Nations Security Council which, in resolution No. 1493, adopted on 28 July 2003, indicates that it “strongly condemns the continued recruitment and use of children in the hostilities in the Democratic Republic of the Congo, especially in North and South Kivu and in Ituri”. *With reference to the United Nations Human Rights Commission, which in resolution No. 84, adopted on the 22 April 2004, “urges all the parties (...) to put an end to the recruitment and use of child soldiers, contrary to international law (...)”, the Committee requests the Government to provide information on the measures taken to ensure compliance with the legislation applicable in respect of the forced and compulsory recruitment of children for use in armed conflict. It also requests the Government to redouble its efforts to improve the situation. Furthermore, the Committee requests the Government to take measures as a matter of urgency to ensure that young persons under 18 years of age are not forced to take part in armed conflict either in the national armed forces or in rebel groups, and to provide information on any further measures adopted or envisaged for this purpose. The Committee also requests the Government to provide a copy of Legislative Decree No. 066 of 9 June 2000 on the demobilization and reintegration of vulnerable groups present in the fighting forces.*

Clause (d). Hazardous work. Mines. In its communication, the Confederation of Trade Unions of the Congo indicates that young persons under 18 years of age are engaged in mineral quarries in the provinces of Katanga and East Kasai. In this respect, the Committee notes that, in her report on the situation of human rights in the Democratic Republic of the Congo in April 2003 (E/CN.4/2003/43, paragraph 59), the United Nations Special Rapporteur noted that military units recruit children and force them to work, especially to extract natural resources. She adds that NGOs in South Kivu informed her of children being recruited by armed groups to work in mines. The Committee refers to its observations under Convention No. 29, in which it noted the Concluding Observations of the Committee on the Rights of the Child of July 2001 (CRC/C/15/Add.153, paragraphs 66 and 67), according to which many children are at work in dangerous work environments, particularly in the Kasai mines and at certain locations in Lubumbashi. The Committee on the Rights of the Child recommended that the Government take measures to enforce legal protection in both the formal and informal work sectors, including in mines and other harmful environments.

The Committee notes that section 3(2)(d) of the Labour Code prohibits child labour in its worst forms, and particularly work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, dignity or morals of children. Under the terms of section 1 of Ministerial Order No. 68/13 of 17 May 1968 determining the conditions of work of women and children (Order No. 68/13), it is prohibited for any employer to engage children in work in excess of their strength or exposing them to high occupational risks. The Committee also notes that under section 32 of Order No. 68/13, the extraction of minerals, shale, materials and debris from mines, open cast mines and quarries, as well as earthworks, are prohibited for young persons under 18 years of age. The Committee notes that section 326 of the Labour Code establishes penalties for violations of the provisions of section 3(2)(d) respecting hazardous work. Furthermore, it notes that the Democratic Republic of the Congo participates in the certification scheme for the internal control of diamonds established by the Kimberley Process. *The Committee observes that although the legislation is in conformity with the Convention on this point, child labour in mines is a problem in practice. The Committee requests the Government to provide information in relation to the allegations made by the Confederation of Trade Unions of the Congo. It also requests the Government to redouble its efforts to ensure the effective application of the legislation for the protection of children against hazardous types of work, and particularly hazardous work in mines.*

Article 7, paragraph 1. Penalties. The Committee recalls that, under Article 7, paragraph 1, of the Convention, the Government has to take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of penal sanctions. *The Committee therefore requests the Government to indicate the penal provisions relating to: the sale or trafficking of children for sexual exploitation; the forced or compulsory recruitment of children for use in armed conflict; the engagement of children in hazardous work in mines. The Committee also requests the Government to provide information on the number and nature of the infringements reported, the investigations undertaken, legal proceedings initiated, convictions and the penalties applied in practice.*

Article 7, paragraph 2. Effective and time-bound measures. Clause (b). Removal of children from the worst forms of child labour and their rehabilitation and social integration. 1. Sale and trafficking of children for sexual exploitation. The Committee notes that, in its concluding observations of July 2001 (CRC/C/15/Add.153, paragraph 69), the Committee on the Rights of the Child recommended to the Government that the police force and border officials should receive special training to help in combating the sale, trafficking and sexual exploitation of children, and that programmes be established to provide assistance, including rehabilitation and social integration, to the child victims of sexual exploitation. ***The Committee requests the Government to provide information on the measures adopted to ensure the rehabilitation and social integration of young persons under 18 years of age who are victims of sale and trafficking for sexual exploitation.***

2. *Child soldiers.* The Committee notes that the Government, through the Ministries of Human Rights and Defence, has adopted, in collaboration with the National Demobilization and Reintegration Bureau (BUNADER), a national programme of disarmament, demobilization and reintegration of ex-combatants (PNDR). It also notes that a National Commission on Disarmament, Demobilization and Reintegration was established in March 2004. Furthermore, the Committee notes that the Government is participating in the ILO/IPEC interregional project on the prevention and reintegration of children involved in armed conflict, which also covers Burundi, Rwanda, Congo, Philippines, Sri Lanka and Colombia. The objectives of the programme are to prevent the recruitment of children in armed conflict, facilitate their removal and ensure their social integration.

The Committee also notes that, in his report of 9 February 2005 on children and armed conflict (A/59/659-S/2005/72, paragraphs 15-22), the Secretary-General of the United Nations indicated that in early 2004 the Transitional Government adopted a national policy and procedural framework for the disarmament, demobilization and reintegration of children in FARDC and all other armed groups. The National Commission on Disarmament, Demobilization and Reintegration has been actively planning the National Programme of Disarmament, Demobilization and Reintegration with the Military Integration Structure (MONUC), the United Nations country team and NGOs. During the reporting period, MONUC, UNICEF and their child protection partners have been collaborating with the National Commission in the ongoing activities to remove children from the armed forces and armed groups. They have also been pursuing dialogue with the military authorities to advocate and plan the separation of children. In order to do so, direct contacts have been made with field commanders, the Ministry of Defence and the FARDC leadership. Since the designation of FARDC regional military commanders in October 2003, some 5,000 children, a small number of them girls, have been released from armed forces and groups. The planning of reintegration projects has also continued. The Secretary-General adds that in Ituri, some progress has been made through dialogue with various armed groups, as well as through collaborative disarmament, demobilization and reintegration planning by the United Nations country team and NGOs. In May 2004, the *Forces armées populaires congolaises* (FAPC), the *Front nationaliste et intégrationniste* (FNI), the *Parti pour l'Unité et la sauvegarde du Congo* (PUSIC), the *Union des patriotes congolais* (UPC-Thomas Lubanga faction) and the UPC-Floribert Kisembo faction formally undertook to participate in the disarmament and community reintegration programme, which first became operational in early September 2004. As of mid-December, almost 700 children had passed through this programme. An unspecified number of children had been released from these groups prior to the launching of the programme.

The Committee encourages the Government to continue collaborating with the various bodies involved in the disarmament and community integration process with a view to removing children from armed forces and groups. It requests the Governments to provide information on the impact of the ILO/IPEC interregional programme on the prevention and reintegration of children involved in armed conflict and the results achieved. The Committee also requests the Government to provide information on the time-bound measures taken to ensure the rehabilitation and social integration of the children who are in practice withdrawn from armed forces and groups.

Paragraph 3. Competent authority responsible for the implementation of the provisions giving effect to the Convention. The Committee notes the Government's indication that the Ministry of Labour and Social Insurance, through the Committee to Combat Child Labour, is responsible for the implementation of the provisions giving effect to the Convention. The Government adds that the Committee to Combat Child Labour will formulate a national strategy, monitor its implementation and evaluate the effect given to the measures recommended. However, the Committee notes that in its communication the Confederation of Trade Unions of the Congo states that, although section 4 of the Labour Code provides for the establishment of a Committee to Combat Child Labour, it has never been created. ***The Committee requests the Government to provide information relating to the allegations of the Confederation of Trade Unions of the Congo. It also requests the Government to provide information on the national strategy formulated by the Committee to Combat Child Labour and to provide a copy when it has been adopted.***

Article 8. Enhanced international cooperation and assistance. The Committee notes that the Democratic Republic of the Congo is a member of Interpol, the organization which assists in cooperation between countries in the various regions, in fields such as combating the trafficking of children. It also notes, according to World Bank information, that the Government has been preparing a Poverty Reduction Strategy Paper (PRSP) since 2002, with the development phase of the strategy due to begin in 2005. ***Recalling that poverty reduction programmes contribute to breaking the vicious circle of poverty, which is essential for the elimination of the worst forms of child labour, the Committee requests the Government to provide information on any significant impact of the PRSP on the elimination of the worst forms of***

child labour, and particularly on the sale and trafficking of children for sexual exploitation, the forced recruitment of children for use in armed conflict and the performance of hazardous work in mines.

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

Dominica

Minimum Age Convention, 1973 (No. 138) (ratification: 1983)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

Article 2, paragraph 1, of the Convention. Minimum age for admission to employment or work. The Committee recalled that, under section 3 of the Employment of Children Prohibition Ordinance, the minimum age of admission to employment was 12 years and that, under section 4, subsections (1) and (5), of the Employment of Women, Young Persons and Children Ordinance, the minimum age is 14 years. The Government, however, specified a minimum age of 15 years when it ratified the Convention. ***It once again urges the Government to take the necessary measures in order to raise the statutory minimum age to 15 years, in accordance with this provision of the Convention.***

The Committee further noted that the statutory provisions on minimum age applied only to persons employed under an employment relationship or under a contract of employment, whereas the Convention also covered work performed outside any employment relationship, including work performed by young persons on their own account. ***The Committee hopes that the Government will indicate the measures taken or envisaged to give full effect to the Convention on this point.***

Article 3. Hazardous work. The Committee recalled that no higher minimum age had been fixed for work which is likely to jeopardize the health, safety or morals of young people, other than night work. ***It once again urges the Government to take measures so as to set such higher minimum age(s) in accordance with Article 3, paragraph 1, of the Convention, and to determine the types of employment or work to which higher minimum age(s) should apply, in accordance with Article 3, paragraph 2, of the Convention.***

Article 7. Light work. The Committee noted that the national legislation allowed exceptions to the above minimum ages as regards the employment of children under the age of 12 years in domestic work or agricultural work of a light nature at home by the parents or guardian of such children (section 3 of the Employment of Children Prohibition Ordinance) and the employment of children under the age of 14 years in an undertaking or on a ship where only members of the same family are employed (section 4, subsection 1 and section 5, of the Employment of Women, Young Persons and Children Ordinance). The Committee recalls that under this Article of the Convention, national laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is: (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received. Another condition is that the activities involved and the conditions of work and employment should be determined by the competent authority. ***It hopes that the Government will take measures to restrict, in accordance with this provision, the possibility to employ children below the minimum age specified, and to determine the activities and conditions of their employment or work.***

As regards the Government's reference to the work of family members as the category excluded under *Article 4*, the Committee points out that the exceptions under this provision must be listed in the first report after ratification, and that the Government declared in its first report, received in February 1988, that no use was made of this provision.

Article 9, paragraph 3. Keeping of registers. The Committee noted that section 8, subsection (1), of the Employment of Women, Young Persons and Children Ordinance provided for the keeping of registers or lists of young persons of less than 16 years of age, whereas the Convention describes the keeping of such registers of persons of less than 18 years of age. It noted the Government's indication that this provision is not applied in practice. The Committee would nevertheless point out that the Government has an obligation to give effect to the provisions of the Convention in law and practice. ***It therefore asks the Government to take necessary measures so that registers or other documents are kept by the employer concerning workers younger than 18 years of age.***

The Committee noted the Government's indication that the provisions of the Convention are upheld by custom and practice. ***Pending the necessary amendments to the legislative provisions as requested above, the Committee once again asks the Government to supply detailed information on how the Convention is applied in practice, as required under Part V of the report form, including, for instance, extracts from official reports, statistics, and information on inspection visits made and contraventions reported.***

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

Ecuador

Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77) (ratification: 1975)

In its previous comments, the Committee noted with regret that 29 years after ratification and despite repeated requests by the Committee, the Government had not as yet taken legislative measures to give effect to the provisions of the Convention. The Committee notes in this connection the information supplied by the Government in its report and the discussion that took place in the Conference Committee on the Application of Standards in June 2005 (ILC, 93rd Session).

The Committee notes in particular that, on the strength of its comments concerning Conventions and Recommendations Nos. 77 and 78, the Government has drafted a bill to amend the Labour Code and that it is being examined by the National Congress. The Committee observes that the bill takes into account most of the points it had raised in previous comments and gives effect to the Convention with respect to the following: it provides for a definition

of “industrial undertaking” (*Article 1 of the Convention*); young persons under 18 years of age must undergo a medical examination to be admitted to employment; the health and hygiene department of the Ministry of Labour and Employment has authority to issue medical certificates and prescribe conditions of employment (*Article 2*); medical examinations and re-examinations must be carried out until the worker reaches 21 years of age (*Article 4*); the medical examination is free (*Article 5*); the health and hygiene department of the Ministry of Labour and Employment has the authority to suggest physical and vocational rehabilitation for persons found by medical examination to be unsuited or to have physical handicaps or limitations (*Article 6*); and employers must file the originals of medical certificates and keep them available to labour inspectors (*Article 7*).

The Committee points out, however, that the bill to amend the Labour Code makes no provision for application of the following Article.

Article 3. Annual medical supervision until the age of 18 years. The Committee notes that although the bill prescribes a medical examination for the admission to employment of young persons and for periodic re-examination up to the age of 21 years, it does not contain any provision specifying that medical examinations must be repeated at intervals of not more than one year as required under *Article 3*. ***The Committee hopes that the Government will take the necessary steps to include this matter in its legislative reform.***

Lastly, the Committee notes the Government’s statement that, in view of the procedure to be followed for the adoption of legislation, namely discussion, approval and enactment, it will take some time for the bill amending the Labour Code to be passed. The Committee also notes the Government’s statement that, despite the lack of any legal standard, the health and hygiene department of the Ministry of Labour and Employment ensures that the health of young persons is protected, in particular through a system of medical examinations. ***The Committee expresses the hope, as did the Conference Committee, that the bill to amend the Labour Code will be adopted as soon as possible so that full effect can be given to the provisions of the Convention.***

Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1975)

The Committee takes note of the Government’s report and of the discussion that took place in June 2005 in the Committee on the Application of Standards of the International Labour Conference (ILC, 93rd session).

The Committee refers the Government to its comments under Convention No. 77 and notes that the bill to amend the Labour Code gives effect to the following Articles of the present Convention: *Article 2* (medical examination for admission to employment), *Article 4* (medical examination for fitness for employment repeated periodically until the age of 21 for occupations involving health risks), *Article 5* (free medical examinations), *Article 6* (vocational guidance and physical and vocational rehabilitation for children and young persons found by medical examination to be unsuited, or to have physical handicaps or limitations) and *Article 7, paragraph 2* (medical examination for children and young persons engaged on their own account or on account of their parents in itinerant trading).

The Committee points out, however, that the abovementioned bill does not give full effect to the Convention in respect of the following.

Article 1 of the Convention. Scope of application. The Committee notes that the bill to amend the Labour Code provides that “non-industrial” occupations comprise all occupations other than those recognized by the competent authority as being industrial, agricultural or maritime occupations. ***The Committee draws the Government’s attention to the fact that it would be appropriate to specify, as required by Article 1, paragraph 4, of the Convention, that the competent authority shall define the line of division which separates non-industrial occupations from industrial, agricultural and maritime occupations.***

Article 3. Medical supervision in the course of employment until the age of 18. The Committee requests the Government to refer to its comments on this matter under Convention No. 77.

Article 7, paragraph 1. Filing and availability to labour inspectors of the documents certifying fitness of the child or young person for employment. The Committee refers to its previous comments and notes that the bill provides that employers must file the original of the medical certificate and keep it available for labour inspectors. It notes, however, that the bill also provides for an addition to section 549 of the Labour Code of a subsection requiring labour inspectors to supervise industrial undertakings as necessary to verify the existence of medical certificates. In view of the fact that the bill provides for the medical examination system to apply to young persons working on their own account or on the account of their parents, or in itinerant trading or any other work carried out in the streets or in places to which the public have access, the Committee is of the view that if it is to give effect to the Convention, this provision of the bill should likewise cover non-industrial undertakings. ***It requests the Government to consider the possibility of including such a provision in the bill.***

The Committee expresses the firm hope, as did the Conference Committee, that the bill to amend the Labour Code will be adopted as soon as possible so that effect can be given to the provisions of the Convention.

Gabon

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the Government's report. *It requests the Government to provide information on the following points.*

Article 3 of the Convention. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children. In its previous comments, the Committee noted that Gabon had undertaken to carry out the work of harmonizing the legislation prohibiting the trafficking of children in the context of the Subregional Project to combat the trafficking of children for labour exploitation in West and Central Africa (IPEC/LUTRENA), which commenced in July 2001. The Committee also noted the amendments made to the Penal Code in 2001 to prohibit and penalize the sale of persons (section 275) and the trafficking of children (section 278bis). The Committee further noted that a Bill on the prevention and repression of the trafficking of children for labour exploitation was being examined by Parliament.

The Committee notes with satisfaction the adoption on 21 September 2004 of Act No. 09/2004 to prevent and combat the trafficking of children in the Republic of Gabon (Act No. 09/2004). The Committee notes that, under the terms of section 2 of the Act, the term "child" applies to all persons under the age of 18 years. Furthermore, in addition to measures to prevent and remove children from the worst forms of child labour and for their rehabilitation, the Act establishes measures of prohibition, investigation, control and repression. Section 11 "prohibits any individual or association from bringing or attempting to bring a child into the national territory with a view to denying the child's liberty either in return for payment or free of charge". Section 12 "prohibits any individual or association from concluding an agreement for the purpose of denying a child's liberty in return for payment or free of charge". Furthermore, section 20(1) of Act No. 09/2004 penalizes any person found guilty of having organized, facilitated or participated in the trafficking of children, among other means by their transport, introduction into the national territory, reception, accommodation, sale or unlawful employment, or who has derived any benefit as a result. The Committee takes due note of this information.

Article 5. Mechanisms to monitor the implementation of the provisions giving effect to the Convention. 1. Project Steering and Evaluation Committee. The Committee noted previously that, in the context of the Subregional Project to combat the trafficking of children for labour exploitation in West and Central Africa (IPEC/LUTRENA), a Project Steering and Evaluation Committee was established in 2003. However, the Government added that the role of this Committee remained limited due to the lack of adequate human and material resources and the shortcomings of the technical training of its members. The Committee notes that, according to the information available to the Office, new steering and evaluation committees are to be established. The terms of reference and functions of these committees will be set out in a decree. ***The Committee requests the Government to provide information on the operation of these new committees, including extracts from reports or documents. It also requests the Government to provide a copy of the decree determining the terms of reference and functions of the committees.***

2. Council to Prevent and Combat the Trafficking of Children. The Committee notes that, in accordance with section 6 of Act No. 09/2004, a Council to Prevent and Combat the Trafficking of Children has been established. The Council is the administrative body specialized in preventing and combating the trafficking of children. In this capacity, it has to be informed of all operations relating to the trafficking of children and consulted prior to the formulation of any draft legislation or regulations respecting the trafficking of children. Furthermore, it may propose to the ministers concerned any measure to prevent or combat the trafficking of children and it reports to the Government. ***The Committee requests the Government to provide information on the work of the Council to Prevent and Combat the Trafficking of Children, and particularly to provide its annual report.***

Article 6. Programmes of action. In its previous comments, the Committee noted that Gabon is one of the countries participating in the Subregional Project to combat the trafficking of children for labour exploitation in West and Central Africa (IPEC/LUTRENA), in which Benin, Burkina Faso, Cameroon, Côte d'Ivoire, Ghana, Mali, Nigeria and Togo are also participating. It also noted that children from Togo, Mali, Burkina Faso and Ghana are the victims of trafficking to Nigeria, Côte d'Ivoire, Cameroon and Gabon. The Committee notes that Phase II of the IPEC/LUTRENA Project, the objective of which is to improve understanding of the problem of the trafficking of children, is coming to its conclusion in Gabon. It also notes that Phases III and IV, the objective of which is to reduce the sale and trafficking of young persons under 18 years of age for economic or sexual exploitation in Gabon, are currently being implemented. ***The Committee takes due note of the Government's efforts and requests it to provide information on the impact of Phases III and IV of the IPEC/LUTRENA Project, particularly in terms of the protection of children against sale and trafficking for economic and sexual exploitation.***

Article 7, paragraph 2. Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. The Committee notes that sections 4 and 5 of Act No. 09/2004 envisage prevention measures with the objective of combating, among others, any custom, tradition or cultural, religious, economic or commercial practice incompatible with the rights and duties inherent to the well-being, dignity and development of the child. One of the preventive measures is to carry out awareness-raising and information campaigns among families and children, with the participation of legally recognized non-governmental organizations (NGOs) and civil society. The Committee also notes that, according to the information on the IPEC/LUTRENA Project available to the Office, some 90

children have been prevented from becoming the victims of sale or trafficking. ***The Committee requests the Government to provide information on the effect given in practice to sections 4 and 5 of Act No. 09/2004 to prevent and combat the trafficking of children in the Republic of Gabon. It also requests the Government to provide information on the impact of these provisions in preventing children from becoming victims of sale and trafficking for economic and sexual exploitation.***

Clause (b). Assistance for the removal of children from the worst forms of child labour. The Committee notes that section 5 of Act No. 09/2004 provides for the establishment of specific medical and social follow-up for children who are victims of trafficking and for the establishment of reception centres for child victims of trafficking before their repatriation to their country of origin. The Committee also notes that, according to the information on the IPEC/LUTRENA Project available to the Office, some 75 child victims of trafficking have been removed from this worst form of child labour. Furthermore, it notes that these children have benefited from medical and social services and guidance, and that some of them have returned to their families. ***The Committee requests the Government to provide information on the effect given in practice to section 5 of Act No. 09/2004 to prevent and combat the trafficking of children in the Republic of Gabon. It also requests the Government to provide information on the impact of this provision in terms of the rehabilitation and social integration of children following their removal from work.***

Clause (c). Ensuring access to free basic education and vocational training for all children removed from the worst forms of child labour. ***The Committee requests the Government to provide information on the measures established in the context of the IPEC/LUTRENA Project to enable child victims of trafficking who are removed from this worst form of child labour to have access to free basic education and vocational training.***

Article 8. International cooperation. In its previous comments, the Committee noted the Government's indication that a system of dialogue is in operation between Gabon and sending countries of child workers with a view to the elimination of the trafficking of children. It requested the Government to provide additional information on the system of dialogue established between Gabon and the countries of origin of child victims of trafficking, and particularly on whether exchanges of information have led to the identification and arrest of networks of child traffickers. The Committee notes that the Government has not provided any information on this subject. ***The Committee once again requests the Government to provide information on the system of dialogue established between Gabon and the countries of origin of child victims of trafficking, and particularly whether exchanges of information have led to the identification and arrest of networks of child traffickers. The Committee also requests the Government to indicate whether measures have been taken to detect and intercept child victims of trafficking in frontier areas and whether transit centres have been established.***

Part V of the report form. Application of the Convention in practice. In its previous comments, the Committee noted that, according to the Government's report to the Committee on the Rights of the Child (GAB/1, 13 July 2001, page 12), 25,000 children work in Gabon, of whom between 17,000 and 20,000 are the victims of trafficking. Furthermore, 95 per cent of these children are used in the informal economy, 40 per cent are under 12 years of age and 71 per cent work in the tertiary sector, particularly as domestic workers. The Committee also noted that, according to the information available in the report of the Working Group on Contemporary Forms of Slavery of the Subcommission on the Promotion and Protection of Human Rights of the Commission on Human Rights (E/CN.4/Sub.2/2001/30, July 2001, paragraphs 35 to 38), 86 per cent of the children sent to Gabon in 1999 were girls to be employed as domestic workers, while the boys were to work in agriculture. The Committee expressed concern at the situation described above and requested the Government to report in detail on the measures adopted and those envisaged to bring the situation in practice into compliance with the law.

The Committee notes that section 14 of Act No. 09/2004 provides that officers of the judicial police and public officials in the Ministry for the Family and the Protection of Children and in the Ministry of Labour and Employment may undertake the investigations, controls and searches necessary for its application. It also notes that section 20(1) of Act No. 09/2004 imposes a penalty of imprisonment or a fine for persons found guilty of organizing, facilitating or participating in the trafficking of children. Section 20(2) and (3) provides that the accomplices, instigators and perpetrators of attempted offences shall be liable to the same penalty. ***The Committee requests the Government to provide information on the effect given in practice to Act No. 09/2004, including reports on the number and nature of the infringements reported, investigations, prosecutions, convictions and the penal sanctions applied.***

A request on other matters is also being addressed directly to the Government.

Kenya

Minimum Age Convention, 1973 (No. 138) (ratification: 1979)

Article 2, paragraph 1, of the Convention. Scope of application. Branches of economic activity covered by the Convention. The Committee had previously noted that, according to section 25(1) of the Employment Act, the prohibition on employing children (i.e. a person under 16 years according to section 2 of the Act) is limited to work performed in industrial undertakings. It had noted that the Employment Act of 1976 (Chapter 226) and the Employment Act (Children) Rules of 1977, were being revised so as to bring the national legislation in line with the requirements of ILO Conventions. The Committee had hoped that the amended legislation would extend the application of the minimum age for admission to

employment or work to all sectors of the economy. The Committee notes the Government's information that the draft Employment Bill has extended the application of the minimum age for admission to employment to all sectors of the economy. ***It accordingly asks the Government to provide information on the progress made in adopting the amended version of the Employment Bill and to supply a copy of it as soon as it has been adopted.***

Unpaid work. The Committee had previously noted that section 10(5) of the Children Act, 2001, defines the term "child labour" as any situation where a child provides labour in exchange for payment. Therefore, unpaid workers do not benefit from the protection laid down in the Children Act. The Committee had also noted the Government's indication that 78 per cent of children (according to the 1998-99 Child Labour Report, published by the Central Bureau of Statistics of the Ministry of Finance and Planning in June 2001) were working for free in family agricultural activities and business enterprises during school holidays and after school. The Committee had requested the Government to take the necessary measures to ensure that children working for free in family agricultural activities and business enterprises were entitled to the protection afforded by the Convention, notably by amending the definition of child labour contained in section 10(5) of the Children Act. The Committee notes the Government's indication that it intends to harmonize all legislation dealing with children and child labour to conform to the provisions of Conventions Nos. 138 and 182. ***It hopes that the necessary amendments will soon be adopted.***

Article 2, paragraph 3. Age of completion of compulsory schooling. The Committee had previously noted that, under section 7(2) of the Children Act, every child shall be entitled to free basic education which shall be compulsory. It had also noted that according to the Child Labour Report 1998-99 and the "Child labour policy", primary education is compulsory from 6 to 13 years of age. The Committee had further noted the Government's statement that the draft legislation on compulsory schooling which would address the gap between the age of completion of compulsory schooling (14 years of age) and the minimum age for admission to employment or work (16 years of age), was being prepared. It had requested the Government to provide a copy of the text fixing the age of completion of compulsory schooling. The Committee notes that the Government is committed to the implementation of free primary education for all children. It also notes that, the draft Employment Bill and the Children Act are in agreement over a definition of a child, described as a person under the age of 18 years. However, it notes the Government's indication that there is no text that specifically fixes the age of completion of compulsory schooling. ***The Committee requests the Government to indicate whether it is envisaged to adopt legislation which would fix the age of completion of compulsory schooling at 16.***

Article 3, paragraph 2. Determination of hazardous work. In its previous comments, the Committee had noted that section 10(1) of the Children Act, provides that every child under 18 shall be protected from economic exploitation and any work that is likely to be hazardous, or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. The Committee had reminded the Government that, by virtue of ***Article 3, paragraph 2***, of the Convention, the types of work or employment considered to be hazardous shall be determined in the national legislation after consultation with the organizations of employers and workers concerned, where such exist. It had hoped that the list of types of hazardous work would be adopted rapidly so as to bring the national legislation in line with the Convention. The Committee notes the Government's information that it has developed a draft list of hazardous work in consultation with social partners and stakeholders. The list will be reviewed and presented to stakeholders for validation. ***The Committee asks the Government to provide a copy of the list of types of hazardous work as soon as it has been adopted.***

Article 3, paragraph 3. Admission to hazardous work as from 16 years of age. The Committee had previously noted that section 10(4) of the Children Act provides that the minister shall make regulations in respect of periods of work and establishments where children aged at least 16 years may work. It had requested the Government to indicate whether such regulations had been issued by the competent minister and, if so, to provide a copy. The Committee notes the Government's information that the competent minister has issued regulations referred to in section 10(4) of the Children Act, which is an act of Parliament. ***It once again asks the Government to provide a copy of these regulations.***

Article 6. Apprenticeship. The Committee had previously noted that section 25(2) of the Employment Act, 1976, exempts any child employed in an industrial undertaking under a deed of apprenticeship from the provisions on the minimum age for admission to employment. It had also noted that, by virtue of section 8(3) of the Industrial Training Act (Chapter 237), a minor (i.e. a person under 15 years of age according to section 2 of the Act) may enter into apprenticeship with the authorization of his or her parents or guardian or, in the absence of such authorization, of a district officer or a labour officer. Therefore, there appeared to be no provisions in the national legislation that set a minimum age for entry into apprenticeship. The Committee had recalled that, by virtue of ***Article 6*** of the Convention, only work done by persons of at least 14 years of age within the context of a programme of training or vocational guidance in enterprises is excluded from the scope of this Convention. It had hoped that the necessary amendments would be adopted so as to bring the legislation in line with the Convention. The Committee notes the Government's indication that the Government has undertaken amendments to the Industrial Training Act (Chapter 237) in order to bring the legislation into conformity with the Convention. ***The Committee requests the Government to indicate whether these amendments have come into force and, if so, to provide a copy of the amended Industrial Training Act.***

Article 7, paragraph 1. Admission to light work. In its previous comments, the Committee had noted that under section 3(1) of the Employment (Children) Rules, 1977, children may be permitted to work with the written permission of an authorized officer except in bars, hotels, restaurants or clubs where intoxicating liquors are sold or anywhere as a

tourist guide. Employment in such places will be accepted if the Labour Commissioner has consented in writing and the child is in possession of a copy of such consent (section 3(1)). The Committee had recalled that, by virtue of *Article 7, paragraph 1*, of the Convention, only children from 13 years of age may be permitted to undertake light work which is not likely to be harmful to their health or development; and not such as to prejudice their attendance at school, or their participation in vocational training programmes. It had urged the Government to indicate the measures taken or envisaged to ensure that light work carried out pursuant to section 3(1) of the Employment (Children) Rules, 1977 may only be performed by children of at least 13 years of age. The Committee notes the Government's indication that this issue has been taken into consideration in the process of reviewing the legislation. ***It hopes that the necessary amendments will soon be adopted.***

Article 7, paragraph 3. Determination of light work. The Committee had previously reminded the Government that, by virtue of *Article 7, paragraph 3*, of the Convention, the competent authority shall determine the activities in which employment or work may be permitted as part of light work. The competent authority shall also prescribe the number of hours during which, and the conditions in which, such employment or work may be undertaken. The Committee had hoped that the Government would take the necessary measures to ensure that its legislation determines light work activities. The Committee notes that the Government's report contains no information on this point. ***It therefore once again requests the Government to indicate the measures taken or envisaged to determine light work activities and to prescribe the number of hours during which, and the conditions in which, such employment or work may be undertaken by young persons of 13 years of age and above, in conformity with the Convention.***

Article 8. Artistic performances. In its previous comments, the Committee had observed that section 17 of the Children Act provides that a child shall be entitled to leisure, play and participation in cultural and artistic activities. However, it had noted that national legislation does not provide for permits to be granted when children participate in cultural artistic performances. The Committee had drawn the Government's attention to *Article 8* of the Convention, which lays down that after consultation with the organizations of employers and workers concerned, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in *Article 2* of this Convention, for such purposes as participation in artistic performances. Permits so granted shall limit the number of hours during which, and the conditions in which, such employment or work is allowed. The Committee had requested the Government to indicate the measures taken or envisaged in this regard. The Committee notes the Government's indication that this matter will be addressed in the subsidiary legislation, which is being revised. ***It asks the Government to inform it on the progress made in the revision of national legislation in order to ensure that approval for young persons below 16 years of age to take part in artistic activities is granted in individual cases.***

Part V of the report form. The Committee notes the Government's statement that it will endeavour to provide information on the practical application of the Convention including statistical data on employment of children and inspection reports. ***It hopes that the Government will provide the requested information in its next report.***

Mali

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

With reference to its comments under the Forced Labour Convention, 1930 (No. 29), and to *Article 3(a) of the Convention* which provides that the term "the worst forms of child labour" comprises all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, the Committee considers that the problem of the sale and trafficking of children for sexual or economic exploitation may be examined more specifically in the context of Convention No. 182. ***It requests the Government to provide information on the following points.***

Article 3(a). Sale and trafficking of children. In its previous comments, the Committee noted that, despite the existence of penal provisions and section 63 of the Code on the Protection of the Child, which prohibit the sale and trafficking of children, the situation remained worrying in Mali. It noted the Government's indications that the National Review Commission, established in 1999 to "implement a national policy to combat the trafficking of children", had noted the existence of trafficking of Malian children in the frontier zone between Mali and Côte d'Ivoire. The Government of Mali had also informed the Committee on the Rights of the Child that Malian children had been taken to Côte d'Ivoire to work in plantations or as domestic servants and that they were subjected to deplorable working conditions and were often unpaid. The Committee also noted that certain ethnic groups, such as the Bambara, Dogon and Senufo groups, are particularly vulnerable. It further noted the efforts made at the regional level to combat the trafficking of children, as Côte d'Ivoire and Mali signed a cooperation agreement in this field in 2000. Despite all these efforts, it noted that the Human Rights Committee "remains concerned by the trafficking of Malian children to other countries in the region, in particular Côte d'Ivoire, and their subjection to slavery and forced labour" (CCPR/CO/77/MLI, 16 April 2003, paragraph 17).

The Committee notes the Government's indications that the Ministry for the Promotion of Women, Children and the Family has established a National Programme of Action to Combat the Trafficking of Children.

The Committee notes that the trafficking of children still constitutes a problem in practice, despite the fact that trafficking is prohibited by the national legislation. The Committee is therefore bound to express its deep concern at the situation of children who are the victims of trafficking. The Committee recalls that *Article 3(a)* of the Convention provides that the sale and trafficking of children are among the worst forms of child labour and that, under the terms of *Article 1* of

the Convention, each Member which ratifies the Convention shall take *immediate and effective measures* to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. **The Committee encourages the Government to redouble its efforts to improve the situation and to take the necessary measures as soon as possible to eliminate the trafficking of children for economic exploitation. It also encourages the Government to pay particular attention to the groups of the population most affected by trafficking (the Bambara, Dogon and Senoufo) when preparing and adopting measures to address the sale and trafficking of children. Furthermore, it requests the Government to take the necessary measures to ensure that those responsible for violations of the provisions prohibiting the trafficking of children are prosecuted and that sufficiently effective and dissuasive penalties are imposed. Finally, it requests the Government to provide information on the impact of the National Programme of Action to Combat the Trafficking of Children in terms of the removal of children from the worst forms of child labour and the rehabilitation and social integration of the children removed from these worst forms of child labour.**

Article 7, paragraph 1, and Part III of the report form. Measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention. The Committee previously noted that sections L314, L318 and L326 of the Labour Code and sections 242 and 243 of the Penal Code established penalties for breaches of the provisions prohibiting the worst forms of child labour. The Government indicated that the first-level court in Sikasso had examined three cases involving the trafficking of children in 2001-02. The Committee notes the Government's indications that court decisions relating to the application of the provisions giving effect to the Convention have been handed down by the criminal court of the region of Sikasso, but that it has not been able to obtain a copy of these decisions. **The Committee requests the Government to provide information on cases involving violations of the provisions giving effect to the Convention and the penalties imposed where it cannot provide copies of the court decisions themselves.**

Article 8. Enhanced international cooperation and assistance. 1. Regional cooperation. The Committee notes that the Government is participating in the subregional programme to combat the trafficking of children in West and Central Africa (LUTRENA) which commenced in 2001 with the collaboration of ILO/IPEC and which covers nine countries (Benin, Burkina Faso, Cameroon, Côte d'Ivoire, Gabon, Ghana, Mali, Nigeria and Togo). In 2004, the programme commenced its third phase, which is due to last for three years. The Committee notes the Government's indications that a multilateral cooperation agreement to combat the trafficking of children in West Africa was signed on 27 July 2005 by the Governments of Benin, Burkina Faso, Côte d'Ivoire, Guinea, Liberia, Mali, Niger, Nigeria and Togo. This agreement provides that the signatories undertake to adopt measures to prevent the trafficking of children, mobilize the necessary resources to combat this phenomenon, exchange detailed information on the victims and those responsible, criminalize and repress any action to facilitate the trafficking of children, develop specific programmes of action and establish a national monitoring and coordination committee. **The Committee requests the Government to provide information on the implementation of the LUTRENA programme and on the multilateral agreement signed in 2005 by the States participating in this programme, as well as on the results achieved in relation to the trafficking of children for economic exploitation.**

2. Bilateral and multilateral agreements. The Committee noted previously that the countries of West Africa had met in February 2003 to harmonize their national laws and regulations on combating the trafficking of children in French-speaking West and Central Africa. The experts recommended, among other proposals, that the countries adopt specific laws that define and penalize the trafficking of children, harmonize national laws and regulations and promote the conclusion of bilateral or multilateral agreements to combat the trafficking of children. The Committee noted that some of the recommended measures already existed in Mali. The Committee further noted with interest the efforts made by Côte d'Ivoire and Mali, which signed a cooperation agreement on the trafficking of children on 1 September 2000. A standing national committee responsible for monitoring the Mali-Côte d'Ivoire cooperation agreement to combat the cross-border trafficking of children was established by an order of 19 July 2001. The Committee noted that this cooperation already appeared to be producing results, since 500 children who had been victims of trafficking from Mali and Burkina Faso to Côte d'Ivoire were intercepted in 2001 by the Ivorian authorities and returned to their countries of origin.

The Committee notes with interest the Government's indications that the trafficking of Malian children towards Côte d'Ivoire has greatly diminished. The Government adds that it signed cooperation agreements in 2004 and 2005 with its neighbouring countries (Côte d'Ivoire, Burkina Faso, Senegal and Guinea) to combat child labour and trafficking. **The Committee requests the Government to continue providing information on the implementation of cooperation agreements to eliminate the trafficking of children and the results achieved.**

The Committee is also addressing a request directly to the Government on certain other matters.

Mauritius

Minimum Age Convention, 1973 (No. 138) (ratification: 1990)

Article 3, paragraph 3, of the Convention. Authorization to undertake hazardous work as from 16 years. In its previous comments, the Committee had noted that sections 2 and 28 of the Occupational Safety, Health and Welfare Act No. 34 of 1988 states that "no young persons [aged 15 to 18 years] shall work at any machine specified in the third schedule, unless he has been fully instructed as to the dangers arising in connection with the machine and the protection to be observed, and (a) has received sufficient training in work at the machine; or (b) is under adequate supervision by a

person who has a thorough knowledge and experience of the machine". It had also noted for several years the Government's indication that provisions pertaining to the minimum age for admission to any type of employment or work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons have been included in the draft amendments to the Occupational Safety, Health and Welfare Act No. 34 of 1988. It had also noted the Government's indication that consultations had been held with the social partners on the amendment of the Occupational Safety, Health and Welfare Act. The Committee had expressed several times the hope that the review process of the Occupational Safety, Health and Welfare Act of 1988, would soon be complete in order to bring national legislation in conformity with *Article 3, paragraph 3*, of the Convention.

The Committee notes that the Government once again states that the provisions of the Occupational Safety, Health and Welfare Act of 1988 concerning the minimum age for admission to hazardous work will be amended soon. It adds that the definition of "young person" as laid down in the draft amendment Act, includes a person between 16 and 18 years of age.

The Committee reminds the Government that, by virtue of *Article 3, paragraph 3*, of the Convention, young persons as from the age of 16 may be authorized to undertake hazardous types of work on condition that their health, safety and morals are fully protected and that they have received adequate specific instruction in the relevant branch of activity. ***Noting that the Government has been stating for more than ten years that the Occupational Safety, Health and Welfare Act would be amended to bring its legislation in line with the Convention, the Committee urges the Government to take, without delay, the necessary measures to raise to 16 years the minimum age from which young persons may be authorized to work on hazardous machines on condition that their health and safety are fully protected and that they have received adequate training in the relevant branch of activity.***

Article 9 and Part III of the report form. 1. Labour inspectorate. The Committee had noted the Government's indication that, since November 2002, child labour inspection visits were carried out on a daily basis instead of fortnightly. It had also noted that between June 2002 and May 2003, out of 4,777 enterprises visited, 17 cases involving 19 children were detected. The Government had indicated that the employment of these children was stopped forthwith and that the employers concerned were warned verbally. The Government added that in all instances, ensuing visits at these undertakings showed that children were no longer being employed there; legal proceedings against the employers concerned were therefore not taken.

The Committee notes the Government's indication that the Inspection and Enforcement Division of the Ministry of Labour, Industrial Relations and Employment was staffed with approximately 50 employees. The Government states that between June 2003 and May 2005, out of 5,493 inspection visits concerning the employment of children, 20 cases involving 24 children were detected. The employment of these children was terminated immediately and the employers concerned were warned accordingly. It adds that in Rodrigues, 45 sites were inspected but no cases of child labour were detected. According to the information provided by the Government, the Committee observes that persons who employed children in breach of the provisions giving effect to the Convention were not prosecuted in as far as such employment was brought to an end.

The Committee once again recalls that, by virtue of *Article 9, paragraph 1*, of the Convention, the competent authority must take all necessary measures, including the provision of appropriate penalties, to ensure the effective enforcement of the provisions of the Convention. The Committee considers that labour inspectorates play an important role in the application of national legislation. Indeed, the Committee is of the view that the best legislation only takes on real value when it is applied. Whatever the severity of the penalties laid down, they will only be effective if they are in fact applied, which requires measures whereby they can be brought to the attention of the judicial and administrative authorities, and if there is a will on the part of these authorities to require compliance (see ILO: *Minimum age*, General Survey of the reports relating to Convention No. 138 and Recommendation No. 146 concerning minimum age, Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 4(B)), ILC, 67th Session, Geneva, 1981, paragraph 326). The Committee therefore considers it necessary to ensure the application of the Convention by applying the penalties provided for in the legislation. ***The Committee accordingly urges the Government to take the necessary measures to ensure that a person found to be in breach of the provisions giving effect to the Convention is prosecuted and that adequate penalties are imposed. It asks the Government to provide information on the types of violations detected by the labour inspectors, the number of persons prosecuted and the penalties imposed.***

Ombudsperson for children. The Committee observes with interest that, by virtue of section 6 of the Ombudsperson for Children Act of 2003, the Ombudsperson for Children is entitled to initiate an investigation whenever he/she considers that there is, or has been or is likely to be, a violation of the rights of a child. To this end, he/she may (i) enter premises where a child may be employed; (ii) request any person to provide information concerning a child whose rights have been, are being or are likely to be violated; and (iii) request the assistance of the police (section 6 of the Act). ***The Committee asks the Government to provide information on the activities of the Ombudsperson, including the number of places investigated per year and the number and nature of contraventions reported.***

The Committee is also addressing a direct request to the Government concerning other detailed points.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Referring to the comments made by the Committee under the Forced Labour Convention, 1930 (No. 29), in so far as *Article 3(a) of the Convention* provides that the worst forms of child labour include “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour”, the Committee is of the view that the issues of trafficking of children, forced labour and prostitution of children can be examined more specifically under this Convention. ***The Committee requests the Government to supply further information on the following points.***

Article 3. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children. The Committee had noted the Government’s statement that the Criminal Code was amended to increase penalties concerning the trafficking of children. It had nevertheless noted that section 15 of the Child Protection Act, which prohibited and punished child trafficking was repealed by section 2(g) of the Protection of the Child (Miscellaneous Provisions) Act 1998. It had further noted that, by virtue of section 262(a) of the Criminal Code, whoever, for pecuniary gain or by gifts, promises, threats, or abuse of authority, incites the parents of a child to abandon the child, commits an offence. Section 262(a) of the same Act also provides that whoever acts as an intermediary between a person wishing to adopt and a parent willing to abandon a child commits an offence. The Committee had observed that this provision targets only one possible aspect of trafficking, namely inducement to abandon a child.

Responding to the Committee’s comments, the Government confirms that section 262(a) of the Criminal Code does not prohibit the recruitment, transportation, transfer, harbouring or receipt of children for the purpose of sexual exploitation or labour exploitation. The Government states that provisions have been made under section 251 of the Criminal Code to deal with the sale and trafficking of children. The Committee notes that section 251(1) of the Criminal Code states that “any person who offends against morality, by habitually exciting, encouraging, or facilitating the debauchery or corruption of youth of either sex under the age of 18” commits an offence. Section 251(2) of the Criminal Code provides for higher penalties if the prostitution or corruption was excited, encouraged or facilitated by the legal guardian of the child or a person entrusted with the care of the child.

The Committee is of the view that section 251 of the Criminal Code is not relevant to the trafficking of children for labour or sexual exploitation as envisaged under *Article 3(a)* of the Convention. The Committee recalls that, by virtue of *Article 3(a)* of the Convention, the sale and trafficking of children is considered as one of the worst forms of child labour, and that by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee accordingly requests the Government to take the necessary measures to ensure that all aspects of child trafficking, such as the recruitment, transportation, transfer, harbouring or receipt of children for the purpose of labour or sexual exploitation are prohibited, and that appropriate penalties are provided for in the national legislation.***

Clause (b). Use, procuring or offering of a child for prostitution. In its previous comments concerning the application of the Forced Labour Convention, 1930 (No. 29), the Committee had expressed its concern at the commercial sexual exploitation of children in Mauritius and Rodrigues Island. It had also noted that, according to the ICFTU’s communication dated 24 October 2001, the coercion of children as young as 13 years into prostitution is an increasing problem in Mauritius. Furthermore, the Committee had noted the Government’s indication that, in 1997, a study was conducted with the assistance of UNICEF and WHO to assess the magnitude of the problem and to identify the leading causes of the commercial sexual exploitation of children in Mauritius. In 2001, UNICEF and the Ministry of Women’s Rights, Child Development and Family Welfare carried out a second study, according to which more than 2,600 children and 3,900 adults were involved in prostitution.

The Committee further notes that, according to the report on the National Children’s Policy entitled “A Republic fit for children” prepared by the Ministry of Women’s Rights, Child Development and Family Welfare (May 2003, page 51), “there is strong recognition that the commercial sexual exploitation of children is increasing”.

The Committee consequently notes that, although the commercial sexual exploitation of children is prohibited by section 14 of the Child Protection Act, and sections 86(2) and 251 of the Criminal Code (Amendment) Act of 1998, it remains an issue of concern in practice. The Committee reminds the Government, by virtue of *Article 3(b)* of the Convention, the use, procuring or offering of a child for prostitution or the production of pornography or pornographic performances is considered as one of the worst forms of child labour, and should therefore be prohibited for children under 18 years of age. ***The Committee accordingly invites the Government to redouble its efforts to improve the situation and to take, without delay, the necessary measures to eliminate the commercial sexual exploitation of children under 18. It also asks the Government to take the necessary measures to ensure that persons who use, procure or offer children for commercial sexual exploitation are prosecuted and that sufficiently effective and dissuasive penalties are imposed. The Committee asks the Government to provide information on progress made in this regard.***

Article 5. Monitoring mechanisms. Police. The Committee had previously noted in its comments under Convention No. 29 that among the problems and obstacles to enable effective intervention in cases of child prostitution were: (i) the lack of prompt intervention by the police; (ii) inadequate skills and expertise to conduct training programmes for police officers; (iii) the difficulty in reaching out to victims; and (iv) the lack of sensitivity of the police towards child

victims who have to testify. The Committee had asked the Government to provide information on measures taken to improve police training and interventions in cases of child commercial sexual exploitation.

The Committee notes the Government's indication that the police force works in collaboration with the Ministry of Women's Rights, Child Development and Family Welfare and other stakeholders to protect children against all forms of abuse including commercial sexual exploitation. The Government also indicates that the police force closely monitors activities which seem suspicious in underground activities. The police also operate frequent raids, and road block operations at vulnerable spots. The Government adds that the police force has developed partnerships in order to obtain information on commercial sexual activities, and thus initiate appropriate action. The Ministry of Women's Rights, Child Development, and Family Welfare organizes training courses for the "Police Family Protection Unit" and the "*Brigade pour la Protection des Mineurs*" who carry out awareness-raising campaigns on the rights of the child, including the right not to be sexually or economically exploited. Since the new trend in child prostitution is to act via Internet, the police have launched aggressive awareness-raising campaigns to inform parents and cooperate with the officers of the Police Information Technology Unit to tackle cases of child prostitution and child pornography by Internet users.

Article 6. Programmes of action to eliminate the worst forms of child labour. 1. *National plan of action to combat the commercial sexual exploitation of children.* The Committee notes that the Government launched, in 2003, a two-year national plan of action to combat the commercial sexual exploitation of children which focuses on the four recommendations made at the first world conference on the commercial sexual exploitation of children held in Stockholm in 1996, namely: (i) coordination and cooperation; (ii) prevention; (iii) protection; and (iv) reintegration. It also observes that, according to the report on the national plan of action (March 2004, page 19) supplied by the Government, one of the objectives of the national plan of action is to provide support and rehabilitation to child victims of commercial sexual exploitation and other forms of exploitation. To this end, action programmes will be launched to: (i) set up drop-in centres to cater for child victims of commercial sexual exploitation; (ii) produce a directory of non-governmental organizations providing services to children; (iii) provide children with alternate care and protection; (iv) implement and follow up a Task Force Report which will review the legislation concerning children and conduct campaigns on child protection; and (v) vulgarize activities of the ombudsperson for children. ***The Committee requests the Government to provide information on the impact of the national plan of action and the action programmes based on it on eliminating the commercial sexual exploitation of children.***

2. *Ombudsperson for children.* The Committee notes that the Ombudsperson for Children Act No. 41 of 2003, as amended in 2004 establishes an ombudsperson for children who is responsible: (i) for making a proposal to the minister on legislation, policies and practices concerning the rights of children; and (ii) for investigating cases of violation of children's rights. It also notes the Government's indication that the ombudsperson investigates complaints concerning child trafficking and shall make proposals for the prevention of trafficking. ***The Committee accordingly requests the Government to provide further information on the investigations carried out by the ombudsperson and the proposals made to eliminate child trafficking.***

3. *Subregional network for preventing and combating the sexual exploitation of children.* The Committee had noted the Government's indication that it intended to set up a subregional network for preventing and combating the sexual exploitation of children. It added that the assistance of a non-governmental organization named "End Child Prostitution and Trafficking" (ECPAT), UN agencies and Interpol would be sought to this end. The Government also indicated that an inter-ministerial committee on child prostitution was created in 1990. ***The Committee accordingly requests the Government to provide information on the launching of the subregional network for preventing and combating the sexual exploitation of children as well as on the activities of the inter-ministerial committee on child prostitution.***

The Committee is also addressing a direct request to the Government concerning other points.

Mexico

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes the Government's report. In particular, it notes the detailed information provided in reply to its general observation, especially on the programmes of action implemented with a view to eliminating the sale and trafficking of young persons under 18 years of age and the illicit trafficking of migrants. ***It requests the Government to provide information on the following points.***

Article 3 of the Convention. The worst forms of child labour. Clause (a). Sale and trafficking of children for prostitution. In its previous comments, the Committee noted the comments made by the International Confederation of Free Trade Unions (ICFTU) reporting the trafficking of women and young girls within the country and abroad for the purposes of forced prostitution. The Committee noted the Government's indication that there is no other information supporting the generalizations made by the ICFTU and it is not therefore possible to determine whether these allegations are true.

The Committee, however, noted that, according to a study carried out in six cities with the support of UNICEF, around 16,000 boys and girls are victims of commercial sexual exploitation. Furthermore, the Committee noted the report submitted by the Special Rapporteur to the United Nations Commission on Human Rights (E/CN.4/2003/85/Add.2, of 30

October 2002) following an official mission carried out in Mexico. In this report, the Rapporteur expressed concern at the “corruption closely linked to transnational organized crime, and in particular gangs engaged in the trafficking and smuggling of persons”. The Committee also noted that, in its concluding observations on the second periodic report of Mexico in November 1999 (CRC/C/15/Add.112, paragraphs 30 and 32), the Committee on the Rights of the Child, while being aware of the measures taken by the Government concerning “repatriated children” (*menores fronterizos*), remained particularly concerned that a great number of these children are victims of trafficking networks which use them for sexual or economic exploitation. It also expressed concern about the increasing number of cases of the trafficking and sale of children from neighbouring countries who are brought to Mexico to be used in prostitution. In this respect, the Committee on the Rights of the Child recommended that the Government continue taking effective measures on an urgent basis to protect Mexican migrant children, to strengthen law enforcement and to implement its national programme of prevention. The Committee on the Rights of the Child also endorsed the recommendations made by the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/1998/101/Add.2) with regard to the situation of children living in border areas.

The Committee further noted that section 366III (abduction) of the Federal Penal Code concerns young persons under 16 years of age. It also noted the Government’s indication that, with regard to section 366ter (trafficking of persons) of the Federal Penal Code, the term “minor” means a person under 16 years of age.

The Committee notes the information provided by the Government concerning the measures that it has adopted to combat the sale and trafficking of children, particularly for sexual exploitation. It notes that a Bill amending the Act for the protection of girls, boys and young persons, the Penal Code, the Federal Code of Penal Procedures, the Act against organized delinquency and the Act determining the minimum standards for the social rehabilitation of convicted persons, was approved on 4 December 2003. The Committee also notes that, according to the information available to the Office, a Bill to combat the trafficking of persons, and particularly women and children for sexual exploitation, has been formulated and submitted to Parliament. In addition, a study carried out by ILO/IPEC, the Secretariat for Labour and Social Assistance and the National Social Sciences Institute (INACIPE), published in 2004, corroborates the figures put forward by the UNICEF study referred to above, namely that over 16,000 girls, boys and young persons, including around 5,000 solely in the Federal District of Mexico, are the victims of commercial sexual exploitation.

The Committee once again observes that, although the Government has taken certain measures to combat the sale and trafficking of children, particularly for sexual exploitation, the problem persists. Indeed, there is abundant information from several sources reporting the trafficking of persons, including young persons under 18 years of age, for sexual exploitation. The Committee once again draws the Government’s attention to the fact that, under *Article 1* of the Convention, when a member State ratifies the Convention, it is under the obligation to take immediate and effective measures to secure the prohibition and elimination of the worst forms of labour by young persons under 18 years of age. ***The Committee therefore once again requests the Government to redouble its efforts to protect young persons under 18 years of age against sale and trafficking for sexual exploitation, and particularly prostitution. It also once again requests the Government to take the necessary legislative measures to extend the prohibition of the sale and trafficking of young persons to all girls and boys under 18 years of age. It further requests the Government to provide information on the imposition of penalties in practice, by providing, among other information, reports on the number of convictions. Finally, the Committee hopes that the Bills referred to above will be adopted in the near future and that they will take into account these comments, and it requests the Government to provide information on any progress achieved in the adoption of these Bills.***

Clause (c). The use, procuring or offering of a child for illicit activities. The Committee noted previously that, in its communication, the ICFTU indicated that certain children are engaged in begging. The Committee noted that section 201 of the Federal Penal Code establishes a sentence of imprisonment of between three and five years and a fine of between 50 and 200 days of wages for any person who compels or incites another person to engage in begging, and it requested the Government to provide information on the application in practice of section 201 of the Penal Code. ***Noting the absence of information on this subject, the Committee requests the Government to provide such information, particularly with regard to the application of penalties in practice, by providing, among other information, reports on the number of convictions.***

Article 7, paragraph 2. Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. In its previous comments, the Committee noted the indication by the ICFTU that the Government, in cooperation with UNICEF, has undertaken to address the problem of child labour, particularly in the urban informal economy, by facilitating access to education. The ICFTU referred to a report by the national education administration indicating that 1.7 million children of school age are unable to receive education as poverty makes it imperative for them to work. Only six out of ten children complete their elementary education. The ICFTU added that, in the specific case of indigenous children, access to education is difficult as teaching is normally provided only in Spanish and many indigenous families only speak their mother tongue. Child labour is relatively higher among the indigenous population than in non-indigenous groups. The Committee noted the efforts made by the Government in the field of education, which appeared to be resulting in a decrease in child labour. The Committee also noted the “Opportunities” programme developed by the Ministry of Social Development, which provides children and young persons living in conditions of poverty with full and free access to education and to health services.

The Committee takes due note of the detailed information on the “Opportunities” programme provided by the Government. In particular, it notes that, according to the August 2004 estimates, around 5 million families have benefited from the programme. During the 2003-04 school year, 4,577 grants were provided and 5,100 grants are due to be provided during the school year 2004-05. Furthermore, in general terms, the Government has noted the following results: between 1996 and 2003, the school enrolment rate rose by 24 per cent in rural secondary schools and by 4 per cent in urban secondary schools; the school dropout rate fell by 10 per cent in rural primary schools and by 5 per cent in urban secondary schools. ***In view of the important contribution of education to eliminating the worst forms of child labour, the Committee encourages the Government to continue its efforts in this field and requests it to provide information on the results achieved.***

Clause (b). Assistance for the removal of children from the worst forms of child labour. Commercial sexual exploitation. In its previous comments, the Committee noted that one of the four strategic components of the programme of action to combat the commercial sexual exploitation of children and to protect victims of this form of exploitation was to provide direct assistance to 300 boys, girls and young persons who were victims of commercial sexual exploitation or at risk in the cities of Acapulco, Guadalajara and Tijuana. Furthermore, special measures were envisaged for the families of these 300 children. The Committee notes the information provided by the Government on the programmes of action implemented to eliminate the sale and trafficking of young persons under 18 years of age, particularly in the context of the programme of action to combat the commercial sexual exploitation of children and to protect victims of this form of exploitation. In addition to awareness-raising campaigns and forums or congresses, the Committee notes that, in November 2004, the Government inaugurated an assistance centre for child victims of commercial sexual exploitation in the State of Jalisco. While noting the efforts made by the Government to eliminate the commercial sexual exploitation of children, the Committee observes that the information provided does not show the impact of the programme in quantifiable results and contains very little data on the rehabilitation and social integration of children following their removal from work. ***The Committee therefore requests the Government to redouble its efforts to secure the protection of children against sale and trafficking for sexual exploitation, and particularly prostitution, and to provide information on the impact of the programme in terms of the rehabilitation and social integration of children following their removal from work.***

Clause (d). Identifying and reaching out to children at special risk. In its previous comments, the Committee noted the indication by the ICFTU that the majority of children who work are engaged in agriculture or informal urban activities, such as trading. The Committee noted the study undertaken by the national system for the integral development of the family (DIF) in 100 cities in Mexico, which shows that 114,497 young persons under 17 years of age work and live in the streets. It is estimated that, solely in the city of Mexico, a city which is not covered by the study, there are around 140,000 young persons working in the streets. The study adds that 90 per cent of the girls, boys and young persons working in the streets, markets, transport terminals, squares, parks and kiosks work on their own account and provide for the subsistence of their families. The Committee expressed particular concern at the number of children working in agriculture, in informal urban activities, such as trading, and those working on their own account. It considered that children working on their own account, such as street children, could be at special risk and it requested the Government to provide information on the measures taken or envisaged to ensure that young persons under 18 years of age working on their own account are not engaged in types of work which, by their nature or the circumstances in which they are carried out, are likely to harm their health, safety or morals.

The Committee notes the detailed information provided by the Government on the results achieved through the implementation of various programmes of action, including the Programme for the prevention and elimination of child labour in the urban and marginalized sector and the Programme to promote the rights of girls and boys, daily child workers in the agricultural sector and the prevention of child labour (PROCEDER). It notes in particular that in November 2004 the programme for prevention and assistance to girls, boys and young persons living in the streets extended its activities to the States of Coahuila, Chiapas, Guerrero, Michoacán, Querétaro, San Luis de Potosí and Sonora. Accordingly, the programme currently includes the participation of 145 municipal authorities and 96 civil society organizations and covers 80,026 girls, boys and young persons living in the streets or exposed to risks. The Committee considers that children living in the street are particularly exposed to the worst forms of child labour. ***It requests the Government to continue its efforts to ensure that young persons under 18 years of age working on their own account, such as street children, are not engaged in types of work which, by their nature or the circumstances in which they are carried out, are likely to harm their health, safety or morals. Furthermore, the Committee requests the Government to provide information on the impact of the various programmes referred to above and the results achieved.***

Article 8. Enhanced international cooperation and assistance. With reference to its previous comments, the Committee notes the information provided by the Government that it is collaborating with the Government of the United States for the implementation of a programme entitled “Programme Oasis”. The objectives of the programme are: to guarantee the security and protection of migrants; to combat the organized crime of the trafficking of migrants and of persons; to prevent impunity and secure common borders. The Committee also notes that, in the context of collaboration with the International Organization for Migration (IOM), the Inter-American Commission on Women (CIM), the Organisation of American States (OAS), the National Institute for Women (INMUJERES) and the National Institute for Migration (INM), a project has been formulated with the title “Combating the trafficking of women, young persons, boys

and girls in Mexico". Furthermore, it notes the memorandum of understanding for the protection of women and young persons who are victims of trafficking or smuggling on the border between Mexico and Guatemala. ***The Committee requests the Government to provide information on the types of cooperation measures carried out in the context of these programmes to eliminate the sale and trafficking of girls and boys under 18 years of age and the results achieved.***

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

Morocco

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Article 2, paragraph 1, of the Convention and Part V of the report form. Minimum age for admission to employment or work and application in practice. In its previous comments, the Committee noted the indications of the ICFTU that child labour was common in informal craftwork, generally in small family workshops which produce carpets, ceramics, wooden objects and leather articles. It also indicated that between 5,000 and 10,000 children, mostly aged between 8 and 14 years, worked in the carpet industry and the textile industry.

In reply to the ICFTU's communication, the Government indicated that the minimum age for admission to employment or work had been raised from 12 to 15 years and penal sanctions for infringements of the legislation had been strengthened. The Government added that, in collaboration with the social partners and NGOs, measures had been taken in the fields of public information and awareness raising. The Government further indicated that Morocco had been involved in the ILO's International Programme on the Elimination of Child Labour (IPEC) since 2000 and had initiated several projects designed to withdraw children from hazardous types of work and provide alternatives for them following their removal from work, as well as improving the working conditions of young persons between 12 and 18 years of age. The Committee noted that, for the year 2002 and the first half of 2003, the projects had succeeded in removing 1,310 children from work, providing financial support for 150 families and improving the living and working conditions of 2,300 children. The Committee encouraged the Government to pursue its efforts to withdraw children from work and to improve their living and working conditions.

The Committee notes with interest the Government's indications that it has established, in collaboration with ILO/IPEC and UNICEF, a programme for the "Prevention and progressive elimination of child labour in the Fès craftwork sector" (2002-06). The objective of this programme is to remove working children under 12 years of age from the craftwork sector, improve the working conditions of children who are of the age to work and enable children between the ages of 12 and 15 years who are working in the craftwork sector to have access to non-formal education. The Government indicates that this programme will be extended to the cities of Marrakech, Safi and Meknès. The Committee notes that between 2000 and 2004 the programme led to: (i) 300 children being removed from work and enrolled in school; (ii) 200 craft workers being made aware of the rules applicable to the employment of children; and (iii) the families concerned being informed of the risks to which children are exposed at work.

The Committee requests the Government to redouble its efforts to combat child labour in the craftwork sector. It encourages it to pursue its efforts to combat child labour in other sectors of economic activity. It also requests the Government to keep it informed of any progress achieved in this respect.

Article 2, paragraph 3. Compulsory schooling. In its previous comments, the Committee noted the indications of the ICFTU that over the past decade the protection of children's rights has been given increasing attention in Morocco. The proportion of children registered in school is reported to be 90 per cent for children in the 6 to 11 age group and 63 per cent for children in the 12 to 14 age group. The ICFTU nevertheless indicated that the school enrolment rate was lower in rural areas than in urban areas due to the lack of schools, the distance to schools and the poverty of the parents, who are often unable to pay school fees. In reply to the ICFTU's comments, the Government indicated that important measures had been taken to provide general access to education, promote vocational training and combat illiteracy.

The Committee notes the Government's indications that one of the objectives of the programme "Prevention and progressive elimination of child labour in the Fès craftwork sector" (2002-06) is to enable children aged between 12 and 15 years to have access to non-formal education. The Committee notes that, according to UNICEF, the net school enrolment rate in primary school was 88 per cent between 1998 and 2003; over the same period, the net school attendance rate for primary school reached 67 per cent for boys and 50 per cent for girls. The gross school attendance rate in secondary education between 1998 and 2002 was 45 per cent for boys and 50 per cent for girls. The Committee considers that compulsory education is one of the most effective means of combating child labour. ***It therefore requests the Government to redouble its efforts to increase the school attendance rate and facilitate the access of children to education so as to prevent them from becoming engaged in work. It requests the Government to keep it informed of any progress achieved in this respect.***

Part III of the report form. In its previous comments, the Committee noted the ICFTU's indications that labour inspections are not carried out in informal family workshops. However, the ICFTU noted that child labour regulations were generally respected in unionized industrial sectors. In reply to the ICFTU's communication, the Government indicated that training workshops had been established to raise the awareness of labour inspectors concerning the rules applicable to child labour.

The Committee notes the Government's indications that the Chambers of Craftwork of Marrakech, Safi and Meknès will prepare local plans to combat child labour in the craftwork sector. ***The Committee requests the Government to indicate whether the reinforcement of inspections in family workshops is included in the objectives of these local plans. It requests the Government to continue providing information on the manner in which the Convention is applied in practice including, for example, indications of the number of inspections carried out each year, the number and nature of the infringements reported and the sanctions imposed, particularly in the craftwork sector.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Article 3 of the Convention. The worst forms of child labour. Clause (a). Slavery or practices similar to slavery. 1. Sale and trafficking of children. In its previous comments, the Committee noted the indications of the International Confederation of Free Trade Unions (ICFTU), according to which young Moroccan girls are the victims of trafficking to the Middle East and to Europe for the purpose of prostitution. It also noted that section 467-1 of the Penal Code, as amended, prohibits the sale or purchase of a young person under 18 years of age. Furthermore, it noted the Government's indications that Act No. 24-03, amending and supplementing certain sections of the Penal Code, introduces the concept of the trafficking of children and establishes severe penalties for the sale or purchase of young persons under 18 years of age.

The Committee notes that the text of the Act has been provided, as requested, and notes with satisfaction that under section 467-1 of the Penal Code, as amended by Act No. 24-03 of 11 November 2003, "any act or transaction involving the transfer of a child [under 18 years of age], from one or more individuals to one or more other persons in exchange for compensation of any type whatsoever" is prohibited. It is also prohibited to facilitate or assist in the sale or purchase of a child under 18 years of age.

2. Forced or compulsory labour. In its previous comments, the Committee noted the indications of the ICFTU that the prohibition by law of forced labour is not enforced effectively by the Government. According to the ICFTU, domestic work under conditions of servitude is a common practice in the country. Parents sell their children, sometimes as young as 6 years of age, as domestic servants. The ICFTU also reported that families adopt young girls to use them as servants and that specific legislative measures were therefore necessary.

The Committee also noted the ICFTU's indications that around 50,000 children work as domestic servants in Morocco. It further noted that, according to the ICFTU, around 80 per cent of these servants come from rural areas and are illiterate, 70 per cent of them are under 12 years of age and 25 per cent are under 10 years of age. In addition, it noted that, according to the ICFTU and the report on the mission on the commercial sexual exploitation of children carried out by the Special Rapporteur in the Kingdom of Morocco in March 2000 (E/CN.4/2001/78/Add.1, paragraph 10), the physical and sexual abuse, of which young girls working as servants or *petites bonnes* are the victims, is one of the most serious problems confronting Moroccan children.

In reply to the above comments, the Government indicates that section 2 of the Labour Code provides that a special law shall determine the conditions for the hiring of domestic workers. It adds that a Bill has been prepared by the Department of Employment and that other ministerial departments, non-governmental organizations and the social partners will be consulted before its adoption. The Government adds that information and awareness-raising campaigns concerning the work of *petites bonnes* are organized by the Government, the Observatory for the Rights of the Child, UNICEF and NGOs.

The Committee notes that section 10 of the Labour Code prohibits forced labour, but that this prohibition only applies to employed persons. Furthermore, it observes that, under the terms of section 467-2 of the Penal Code, only forced labour by persons under 15 years of age is prohibited.

The Committee reminds the Government that by virtue of *Article 3(a)* of the Convention, forced labour by young persons under 18 years of age constitutes one of the worst forms of child labour and that under *Article 1* of the Convention immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour must be taken as a matter of urgency. The Committee expresses great concern at the situation of children subjected to forced labour, including *petites bonnes*. ***The Committee therefore requests the Government to take the necessary measures to ensure that the legislation prohibits forced labour by young persons under 18 years of age, whether or not they are in wage employment. Furthermore, it urges the Government to redouble its efforts to eliminate without further ado the economic and sexual exploitation of petites bonnes and requests it to keep it informed of the measures adopted and the results achieved in this field. It also requests the Government to take the necessary measures to ensure that persons who avail themselves of the forced labour of young persons under 18 years of age are prosecuted and that effective and dissuasive penalties are imposed. It further requests the Government to provide a copy of the Act governing the conditions of employment and work of domestic workers as soon as it is adopted.***

Clause (b). Use, procuring or offering of a child for prostitution. In its previous comments, the Committee noted the ICFTU's allegations of the frequent cases of forced prostitution in some regions of the country, particularly in tourist towns and towns where there are major military installations. It also noted the Government's indications that aiding, abetting or procuring young persons under 18 years of age for the purpose of prostitution is prohibited by section 498 of the Penal Code, as amended by Act No. 24-03 of 11 November 2003. It requested the Government to provide a copy of this Act.

The Committee notes with satisfaction that section 498 of the Penal Code, as amended by Act No. 24-03 of 11 November 2003, prohibits the acts of aiding, abetting or protecting the prostitution of another person, receiving part of the earnings from the prostitution of another, or delivering, procuring or enticing a person into prostitution. Under the terms of section 499 of the Penal Code, the penalties are more severe where the above acts are committed in relation to a person under 18 years of age.

Article 6. Programmes of action to eliminate the worst forms of child labour. In its previous comments, the Committee noted with interest that the Government has established many programmes of action since the launch of the ILO/IPEC programme in Morocco. Further to its previous comments, the Government indicates that between June 2001 and June 2005 the various measures taken have led to the removal from work of 2,500 children under 15 years of age, the prevention of 8,740 children from being engaged in work at an early age and the improvement of the living and working conditions of 4,866 children. **The Committee requests the Government to continue providing information on the implementation of these programmes of action and on their impact in terms of protecting and removing child victims of sale and trafficking, forced labour and prostitution.**

Article 7, paragraph 1. Penalties. In its previous comments, the Committee noted that the Penal Code establishes sufficiently effective and dissuasive penalties for the sale and purchase of young persons under 18 years of age (section 467-1), forced labour by children under 15 years of age (section 467-2) and the prostitution of persons under 18 years of age (sections 498, 499 and 501). The Committee notes the information provided by the Government on the judgments handed down by the various courts of appeal in the country relating to violence against young persons under 18 years of age. **Noting the absence of detailed information on the types of violence concerned, the Committee requests the Government to specify the number of persons prosecuted and convicted for violations of the provisions prohibiting the sale and trafficking of children, forced labour, the use, procuring or offering of a child for prostitution, and the penalties imposed.**

Article 7, paragraph 2. Effective and time-bound measures. Clause (b). Removal of children from the worst forms of child labour and their rehabilitation and social integration. In its previous comments, the Committee noted that, according to the information provided by the Government to the Committee on the Rights of the Child (CRC/C/Q/MOR/2, May 2003, page 21) and the report on the situation relating to the sexual exploitation of children in the Middle East and North Africa (MENA) region (page 3) prepared for the Preparatory Regional Conference for the Yokohama Conference, it was very difficult to assess the extent of the sexual exploitation of children for both prostitution and pornography and that the data collected by the police and the judiciary only reflect part of the reality. The Committee also noted that there was a great deal of interest in the country in the subject and that it was the first Arab Muslim country to have complied with the request of the Special Rapporteur on the sale of children, child prostitution and child pornography to visit the country. The Committee further noted that a national plan of action to combat the sexual exploitation of children was under preparation by the Secretariat of State for the Family, Solidarity and Social Action. It requested the Government to provide information on the time-bound measures adopted to remove children from sexual exploitation and to ensure their rehabilitation and social integration.

The Committee notes with interest the Government's indications that studies on the sexual exploitation of children were undertaken in 2004 by the Secretariat of State for the Family, Children and the Disabled, with the support of UNICEF and other partners, in Marrakech, Casablanca and Essaouira. The Government adds that 23 cases of procuring were brought to the relevant courts in 2003. The Committee also notes that training and awareness sessions have been organized for children's judges, social workers and social assistants with a view to improving the implementation of the provisions of the Penal Code. Furthermore, the Government indicates that child victims of sexual exploitation can obtain assistance from health centres and institutions responsible for the rehabilitation and reintegration of child victims.

The Committee is also addressing a request directly to the Government on certain other points.

Netherlands

Aruba

Minimum Age Convention, 1973 (No. 138)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes the Government's reply concerning the comments made by the Teacher's Union of Aruba (SIMAR) that minors are seen working in supermarkets during school hours and that minors in secondary school work after school. The Committee proposes to deal with this issue along with other matters in a direct request addressed to the Government.

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

Nicaragua

Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77) (ratification: 1976)

In its previous comments, the Committee noted with regret that, 28 years after its ratification, the Convention was still not effectively applied in Nicaragua. In this respect, the Committee notes the information provided by the Government in its report and, in particular, that section 78 of the Ministerial Decision of 28 July 2000 on health in industrial workplaces prohibits the employment of minors and young persons (children between the ages of 14 and 18 years – section 130 of the Labour Code) in work involving exposure to physical, chemical and biological pollutants. It also notes that this Ministerial Decision applies to all work centres, both public and private, in which work of an industrial, agricultural, commercial or any other nature is performed. The Committee notes that the Ministerial Decision of 28 July 2000 only covers certain of the categories of work specified in *Article 1, paragraph 2(b) and (c), of the Convention*. Furthermore, the Committee once again notes that the Ministerial Decision of 24 November 2000 on safety and health in relation to the use, handling and application of pesticides and other agrochemicals does not appear to give full effect to the following provisions of the Convention.

1. *Article 2. Medical examination for fitness for employment of children and young persons under 18 years of age.* In its previous comments, the Committee noted that, under the terms of section 66(a) of the Ministerial Decision of 24 November 2000, employers may not authorize children or young persons under 16 years of age to perform work involving the use of pesticides. The Committee also noted that, in accordance with the Ministerial Decision of 24 November 2000, employers have to ensure that systematic occupational medical examinations (pre-employment, periodical and readmission) are carried out where workers are exposed to pesticides or other agrochemicals. With regard to pre-employment medical examinations, section 48 provides that these are compulsory and must be carried out for all workers applying for jobs that involve the handling of pesticides or other agrochemicals. Furthermore, section 50 of the Decision provides that the medical examination shall be compulsory for each and every worker who has worked for 90 days continuously; in addition to the general examinations described above, this medical examination shall be carried out for workers exposed to pesticides and other agrochemicals.

The Committee reminds the Government that, *a contrario*, it may be deduced from section 46 of the Ministerial Decision of 24 November 2000 that the employment of young persons over 16 years of age is not prohibited on work involving the use of pesticides and other chemicals. In this respect, it once again reminds the Government that, under the terms of *Article 2* of the Convention, children and young persons under 18 years of age shall not be admitted to employment by an industrial enterprises unless they have been found fit for the work on which they are to be employed by a thorough medical examination. In the first place, the Committee once again recalls that the medical examination, which is an absolute requirement for a child or young person under 18 years of age to be admitted to employment, does not only apply to workers whose work involves the handling of pesticides or other chemicals. Secondly, in view of the fact that, under the terms of section 50 of the Decision, the medical examination is not carried out until 90 days *after* the work begins, it is not a medical examination for admission to employment. The purpose of the medical examinations provided for in *Article 2, paragraph 1*, of the Convention is to determine whether children and young persons are fit for the work in which they are to be engaged and such examinations therefore have to be carried out *before* admission to employment and regardless of the type of work to be performed, and consequently for all activities covered by the definition “industrial undertakings” contained in *Article 1, paragraph 2*, of the Convention. ***The Committee therefore once again requests the Government to take the necessary measures to adopt regulations giving effect to the Convention.***

2. *Article 3 (periodical medical examinations until the age of 18 years) and Article 4 (medical examination and re-examinations for fitness for employment until the age of 21 years in occupations which involve high health risks).* In its previous comments, the Committee noted that, under section 46 of the Ministerial Decision of 24 November 2000, periodical examinations, in the same way as medical examinations for fitness for employment, are only required in the event of the exposure of workers to pesticides and other agrochemicals. In this respect, the Committee reminded the Government that the medical examinations provided for in *Article 3* have to be carried out at intervals of not more than one year irrespective of the work in question and that those provided for in *Article 4* have to be required until at least the age of 21 years. ***The Committee once again urges the Government to take the necessary measures as soon as possible to give effect to these Articles of the Convention.***

3. Finally, the Committee noted previously that the above Ministerial Decision contains no provisions on the application of the following Articles of the Convention: *Article 5* (medical examination to involve no cost for the child or young person or his or her parents) and *Article 6, paragraph 1* (appropriate measures for physical and vocational rehabilitation of children and young persons shown by medical examination to be unsuited to certain types of work or to have handicaps or limitations). ***The Committee once again urges the Government to take the necessary steps rapidly to adopt legislation giving full effect to the above provisions of the Convention. It also once again requests it to keep the Committee informed of any progress achieved in this respect and to send copies of the legislation when it has been adopted.***

Pakistan

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the Government's first report and the communication of the International Confederation of Free Trade Unions (ICFTU) dated 18 September 2001 as well as the communication of the All Pakistan Federation of Trade Unions (APFTU) dated 9 July 2003. Referring to the comments made by the Committee under the Forced Labour Convention, 1930 (No. 29), in so far as *Article 3(a) of Convention No. 182* provides that the worst forms of child labour include "all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour", the Committee is of the view that the issues of trafficking and debt bondage of children can be examined more specifically under this Convention. ***The Committee requests the Government to supply further information on the following points.***

Article 3. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. 1. Sale and trafficking of children. The Committee previously noted the allegations of the ICFTU, according to which trafficking in persons is a serious problem in Pakistan, including the trafficking of children. Women and children reportedly arrive from Bangladesh, Myanmar, Afghanistan, Sri Lanka and India, many eventually to be bought and sold in shops and brothels. The ICFTU also indicated that estimates of the number of such trafficked children who become child prostitutes vary, but most suggest around 40,000. The Committee also noted the indications of the ICFTU that there were reports of several hundred boys from Pakistan trafficked to the Gulf States to work as camel jockeys. Moreover, in some rural areas, children are sold into debt bondage in exchange for money or land. While noting the absence of information in the Government's report on these points, the Committee notes that ILO/IPEC launched in 2000 the subregional project to combat child trafficking (TICSA) in Bangladesh, Nepal and Sri Lanka; the project was extended subsequently to Pakistan, Indonesia and Thailand. According to the project report of September 2002 (pages 14-15), approximately 100,000 women and children are internally trafficked in Pakistan, and approximately 200,000 women and children aged 12-30 were trafficked from Bangladesh to Pakistan between 1990 and 2000. Pakistan is a destination country as well as a transit country. Children are trafficked primarily for sexual exploitation but also for domestic services, hazardous manufacturing work, camel jockeying and bonded labour. The Committee also notes that the Committee on the Rights of the Child (CRC/C/15/Add.217, 27 October 2003, paragraph 76), while noting the serious efforts undertaken by the State party to prevent child trafficking, expressed its deep concern at the very high incidence of trafficking in children for the purposes of sexual exploitation, bonded labour and camel jockeying.

The Committee observes that sections 2(f) and 3 of the Prevention and Control of Human Trafficking Ordinance of 2002 provide that the human trafficking for the purpose of exploitative entertainment (i.e. activities in connection with sex), slavery or forced labour is prohibited. According to section 2(h) of the aforementioned Ordinance, the term "human trafficking" means obtaining, securing, selling, purchasing, recruiting, detaining, harbouring or receiving a person, notwithstanding that person's implicit or explicit consent, by the use of coercion, kidnapping, abduction or by giving or receiving any payment or benefit, or sharing or receiving a share for that person's subsequent transportation out of or into Pakistan for any of the purposes mentioned in section 3 of the Ordinance. Section 370 of the Penal Code also prohibits the sale and trafficking of persons for the purpose of slavery.

The Committee consequently observes that, although the trafficking of children for labour or sexual exploitation is prohibited by law, it remains an issue of concern in practice. ***The Committee accordingly invites the Government to redouble its efforts to improve the situation and to take, without delay, the necessary measures to eliminate the internal and cross-border trafficking of children under 18 for labour and sexual exploitation. It also asks the Government to provide information on progress made in this regard.***

2. Debt bondage. The Committee noted, in its previous comments, the ICFTU's indications that Pakistan has several million bonded labourers, including a large number of children. Debt slavery and bonded labour are mostly reported in agriculture, construction (in particular in rural areas), brick kilns and carpet-making sectors. The Committee also noted that the Federal Cabinet approved a National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers in September 2001. It notes that, according to the abovementioned rapid assessment (page 41), the implementation of the National Policy and Plan of Action has been slow. The Government has yet to mobilize resources for kiln workers through the Workers' Welfare Fund and to provide relief and rehabilitation for bonded labourers through the special fund of Rs.100 million created by the Government.

The Committee notes that, by virtue of section 4(1) of the Bonded Labour System Abolition Act, 1992, "the bonded labour system shall stand abolished and every bonded labourer shall stand freed and discharged from any obligation to render any bonded labour". Section 4(2) of the Bonded Labour System Abolition Act states that no one shall make an advance under or in pursuance of, the bonded labour system or compel a person to render any bonded labour or other form of forced labour. The Committee notes that bonded labour is broadly defined under section 2(c) and (e) of the aforementioned Act. The Committee reminds the Government that, by virtue of *Article 3(a)* of the Convention, child debt bondage is prohibited and that under *Article 1* of the Convention, it shall take immediate and effective measures to prohibit and eliminate this worst form of child labour. ***The Committee accordingly requests the Government to take the necessary measures to implement the National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers as a matter of urgency. It also requests the Government to indicate the***

impact of such measures notably with regard to the removal of children under 18 from bonded labour and the rehabilitation of former child bonded labourers.

Article 5. Monitoring mechanisms. 1. Local vigilance committees. The Committee noted, in its previous comments, the ICFTU's indication that the Bonded Labour System (Abolition) Act of 1992 prohibits bonded labour but remains ineffective in practice. It also noted that local vigilance committees were constituted to monitor the implementation of the Act but that there were reports of serious corruption within these committees. The Committee notes the Government's indication to the Committee on the Rights of the Child (CRC/C/65/Add.21, 11 April 2003, page 124) that the vigilance committees are composed of the deputy commissioner of the district, representatives of the police, the judiciary, the bar, the municipal authorities; and under the recommendation of the ILO Conference Committee on the Application of Standards, membership was extended to include workers' and employers' representatives. The Government adds that efforts are being made to implement the Bonded Labour (Abolition) Act of 1992. Indeed, the Committee notes that, according to the information provided by the Government in the Poverty Reduction Strategy Paper (2003), an Anti-Corruption Strategy was formulated in 2003. **The Committee asks the Government to provide information on the concrete measures taken by the local vigilance committees to ensure the effective implementation of the Bonded Labour (Abolition) Act and the results achieved. It also asks the Government to indicate whether the Anti-Corruption Strategy has contributed to improving the implementation of the Bonded Labour (Abolition) Act.**

2. Labour inspection. In its previous comments concerning the application of the Labour Inspection Convention, 1947 (No. 81), the Committee noted with interest the measures taken by the Government, in cooperation with ILO/IPEC, to reinforce labour inspection so as to efficiently combat child labour. It also noted the APFTU's indication that training services needed to be developed for labour inspectors as well as for workers. The APFTU further indicated that the recent decision of the Government to transfer the labour inspection machinery to the local bodies has diluted the role of the labour inspectorate since many heads of local bodies are either industrialists or feudal lords and as such the labour inspectorate has become subservient to them. The Committee notes the ICFTU's indications that the number of inspectors is insufficient; they lack training and are reported to be liable to corruption. The ICFTU adds that inspections do not take place in undertakings employing less than ten employees, where most child labour occurs. **Noting the absence of information in the Government's report on this issue, the Committee requests the Government to provide information on the number of workplaces investigated per year, and on the findings of labour inspectors with regard to the extent and nature of violations detected concerning children involved in the worst forms of child labour. It also asks the Government to indicate any additional measures taken or envisaged to train labour inspectors and to provide them with adequate human and financial resources in order to enable them to monitor the effective implementation of the national provisions giving effect to the Convention.**

Article 6. Programmes of action to eliminate the worst forms of child labour. TICSAs project. The Committee notes that the subregional project to combat child trafficking (TICSAs) aims at: (i) determining the extent and nature of trafficking of children and women for labour and sexual exploitation in Pakistan; (ii) establishing an action programme with the National Commission for Child Welfare and Development and the Ministry of Social Welfare, Women Development and Special Education to strengthen national capacity building, advocacy and awareness raising to prevent child trafficking (especially in Southern Punjab and Upper Sindh); and (iii) determining the demand side of trafficking of children and women in Pakistan for labour and sexual exploitation. The Committee notes that the National Action Programme to eliminate child trafficking was established in August 2004. **The Committee requests the Government to provide information on the concrete measures taken under TICSAs to eliminate the trafficking of children and women for labour and sexual exploitation in Pakistan and on the results achieved.**

Article 7, paragraph 1. Penalties. The Committee notes the ICFTU's indication that persons found guilty of violating child labour legislation are rarely prosecuted and that when they are prosecuted, the fines imposed are usually insignificant. The Committee notes, however, that section 3 of the Prevention and Control of Human Trafficking Ordinance of 2002 provides for a maximum of ten years' imprisonment and a fine for anyone who sells or traffics children for the purposes of labour or sexual exploitation. It also observes that section 374 of the Penal Code and section 11 of the Bonded Labour System Act provide for a maximum of five years' imprisonment or a fine or both for the violation of the provisions prohibiting forced labour and debt bondage. The Committee recalls that, by virtue of *Article 7, paragraph 1*, of the Convention, the Government shall take the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including through the application of dissuasive sanctions. **The Committee emphasizes the importance of taking the necessary measures to ensure that whoever violates the legal provisions giving effect to the Convention is prosecuted and to press for the imposition of sufficiently effective and dissuasive penal sanctions. It also requests the Government to provide information on the practical application of the laws, including the number of infringements reported of the abovementioned provisions, investigations, prosecutions, convictions and penal sanctions applied.**

Article 7, paragraph 2. Effective and time-bound measures. The Committee notes the ICFTU's indication that, according to available data from the Government, organizations of employers and workers and other sources, Pakistan has up to 10 million child labourers, with a large majority of them working in agriculture, forestry, informal urban activities and various types of manufacturing work such as stitching surgical instruments, brick kilns and carpet making. It also notes that ILO/IPEC launched in 2003 a four-year Project to Support the **National Time-Bound Programme (TBP)** on the

Elimination of the Worst Forms of Child Labour. ILO/IPEC identified, after consultation with the Government, organizations of workers and employers, civil society organizations and academicians, 29 hazardous occupations for children. Of these occupations and processes, six sectors were identified jointly with the Ministry of Labour to be addressed on a priority basis, i.e. glass bangle making, surgical instruments manufacturing, tanneries, coal mining, scavenging and deep-sea fishing and seafood processing and ship-breaking. ***The Committee asks the Government to provide information on the concrete measures taken under the TBP and their impact on eliminating the abovementioned worst forms of child labour.***

Clause (a). Preventing the engagement of children in the worst forms of child labour. The Committee notes that, according to the Rapid Assessment Studies on Bonded Labour in Different Sectors in Pakistan of 2004 (the Ministry of Labour, Manpower and Overseas Pakistanis, the Government and the ILO, page 30), workers in the brick kiln sector were not aware of the general legislation that applies to bondage. ***The Committee accordingly asks the Government to provide information on the measures taken to raise awareness on the prohibition of bonded labour.***

Clause (b). Providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. 1. *Children working in the carpet industry.* The Committee notes the ICFTU's indication that 1.2 million children are reported to work in the carpet industry, which is a dangerous occupation. It adds that children working in this industry suffer from numerous injuries. The Committee also notes that the Pakistan Carpet Manufacturers' and Exporters' Association (PCMEA) and ILO/IPEC launched in 1998 a project to combat child labour in the carpet industry in Sheikhpura and Gurjranwala, which was extended in 2002 to cover Faisalabad, Hazizabad, Multan, Toba Tek Singh. The project aims at providing: (i) non-formal education, mainstreaming, and pre-vocational education to about 23,000 carpet-weaving children; and (ii) access to micro credits for the 1,000 poorest carpet-weaving households. The Committee notes that, according to the ILO/IPEC technical progress reports, the project has so far contributed to the withdrawal of 13,000 carpet-weaving children (83 per cent of whom are girls) from hazardous working conditions. These children are now enrolled in non-formal education centres, pursuing their primary education. In addition, micro credits have been provided to 705 carpet-weaving families in rural areas. ***The Committee encourages the Government to pursue its efforts to rehabilitate children under 18 years of age who undertake hazardous occupations in the carpet-weaving industry and to provide information on the results achieved.***

2. *Children working in the surgical instruments industry.* The Committee notes the ICFTU's indication that children constitute about 15 per cent of the workforce in this industry which is one of the most dangerous occupations. Child labourers in this industry are, on average, aged 12 years. The ICFTU adds that not much was done in the surgical instruments industry to address the problem of child labour.

The Committee also notes that ILO/IPEC, with the assistance of the Italian social partners and the Surgical Instruments Manufacturers' Association of Pakistan, launched in 2000, a project to combat hazardous and exploitative child labour in surgical instruments manufacturing through prevention, withdrawal and rehabilitation. It observes that, over a period of two years, the project has contributed to the reduction of child labour in one of the country's major export industries. Under its direct action programmes, 1,496 children employed in surgical instruments production workshops have received non-formal education and pre-vocational training. The project has also contributed to reducing the number of working hours of child labourers attending non-formal classes. The Committee notes that complementary actions were taken by the APFTU and the All Pakistan Federation of Labour to establish contact with the target groups and concerned stakeholders and raise awareness about child labour in this sector. This project has been extended up to 2006 to cover a larger number of children. ***The Committee encourages the Government to pursue its efforts to withdraw and rehabilitate children under 18 years of age performing hazardous types of work in the surgical instruments industry and to provide information on the results achieved.***

3. *Child bonded labourers.* The Committee notes that, according to the Poverty Reduction Strategy Paper entitled "Accelerating economic growth and reducing poverty: The road ahead" (December 2003, page 101), the European Union and the ILO are assisting the Government in the setting up of 18 community education and action centres for combating exploitative child labour through prevention, withdrawal and rehabilitation of former child bonded labourers. The Committee also notes the Government's indication to the Committee on the Rights of the Child (CRC/C/65/Add.21, 11 April 2003, page 124) that it has established a "Fund for the education of working children and rehabilitation of freed bonded labourers". ***The Committee requests the Government to provide information on the impact of the abovementioned measures on removing children from bonded labour and on providing for their rehabilitation and social integration.***

Clause (d). Children at special risk. The Committee notes that, according to the Rapid Assessment Studies on Bonded Labour in Different Sectors in Pakistan (Chapter 4 on the mining sector, pages 1, 24 and 25), some miners ask their children of 10 years of age to work with them in mines to lighten the burden of "peshgi" (i.e. any advance whether in cash or in kind made to the labourer). Thus, in Punjab and in the North-West Frontier Province (NWFP), children are usually assigned the job of taking donkeys underground and bringing them out laden with coal. The rapid assessment also indicates that children working in mines are sexually abused by miners. ***The Committee asks the Government to take the necessary measures to eliminate child debt bondage in mines.***

Article 8. 1. International cooperation. The Committee notes that Pakistan is a member of Interpol which helps cooperation between countries in the different regions especially in the fight against trafficking of children. The Government signed the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in 2001.

2. Regional cooperation. The Committee notes that Pakistan participates in the South Asian Association for Regional Cooperation (SAARC), which was established in 1985 by the Heads of State or Government of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. The Government signed in 2002 the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, the objective of which is to promote cooperation amongst Member States to effectively deal with various aspects of trafficking. According to the ILO/IPEC TICSA report of September 2002, the signatories have committed themselves to develop a regional plan of action and to establish a regional task force against trafficking. The Committee also notes that, according to the ILO/IPEC Technical Progress Report of September 2004, Thailand and Pakistan signed a Memorandum of Understanding in April 2004 to promote bilateral cooperation to combat trafficking in persons. A similar Memorandum of Understanding was signed between Pakistan and Afghanistan in July 2004 to address various issues of mutual interest including human trafficking. ***The Committee asks the Government to provide information on the progress achieved in the launching of a regional plan of action and regional task force against trafficking. It also asks the Government to provide information on the impact of the Memoranda of Understanding signed with Afghanistan and Thailand to eliminate child trafficking.***

3. Poverty reduction. The Committee notes that the ILO's Social Finance Department has undertaken a project entitled "Prevention of family indebtedness with microfinance and related services", which aims at preventing freed peasants and other vulnerable families in three districts of Sindh Province from falling back into bondage. To this end, measures such as microfinance services, awareness raising, group formation, education and health services will be taken in order to reduce their economic and social vulnerability. ***The Committee asks the Government to indicate whether this project was extended to other provinces and to provide information on the impact of the project on eliminating child bonded labour.***

Part V of the report form. In its previous comments, the Committee pointed out that accurate data on the extent of bonded labour is essential to develop effective programmes to eliminate debt bondage. ***The Committee once again encourages the Government to undertake a nationwide survey in cooperation with employers' and workers' organizations and with human rights institutions and organizations to determine the extent of child debt bondage and its characteristics.***

The Committee is also addressing a direct request to the Government concerning other points.

Paraguay

Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79) (ratification: 1966)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

In its previous observation, the Committee had noted the amendment of section 122 of the Labour Code by Act No. 496 of 22 August 1995. Under the provisions of new section 122, young persons between 15 and 18 years of age shall not be employed at night for a period of ten hours between 8 p.m. and 6 a.m. The amendment has reduced to ten hours the 12 hours required by the Convention which was laid down in section 122 of the Code before it was amended by Act No. 496 of 22 August 1995. In addition, the new provisions of section 122 do not stipulate an interval of 14 hours for young persons under 15 years of age. The Committee had also noted that section 189 of the Young Persons' Code (Act No. 903/81) prohibits young persons under 18 years of age from carrying out work at night between 8 p.m. and 5 a.m., namely, for a period of nine hours. As well as being in contradiction with national legislation which lays down ten hours (section 122 of the Labour Code), it is also in contradiction with *Article 3 of the Convention* which lays down an interval of 12 consecutive hours.

The Committee took note of the conclusions adopted in June 2002 by the Conference Committee on the Application of Standards, in which the Conference Committee noted with concern the reduction in the protection afforded to children in relation to the restriction on night work. It also noted that, before the Conference Committee, the Government representative endorsed the validity of the observation of the Committee of Experts, and expressed the will of its Government to make the necessary amendments to ensure the application of the Convention.

The Committee asked the Government to take the necessary measures to bring legislation into conformity with the provisions of the Convention by amending sections 122 of the Labour Code and 189 of the Young Persons' Code.

The Committee referred to its comments on the application of Convention No. 90.

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

[The Government is asked to supply full particulars to the Conference at its 95th Session.]

Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) (ratification: 1966)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

In its previous observation, the Committee noted the new amendment of section 122 of the Labour Code, by means of Act No. 496 of 22 August 1995. According to new section 122, young persons between 15 and 18 years of age shall not be employed during the night for a period of ten consecutive hours, which shall include the interval between 8 p.m. and 6 a.m. The amendment decreased to ten hours, the period of rest of 12 consecutive hours established by the Convention and by section 122 of the Labour Code before being amended by Act No. 496 of 22 August 1995. Furthermore, the Committee observed that section 189 of the Minor Code (Act No. 903/81) prohibits young persons under 18 years of age to perform night work for a period of nine hours between 8 p.m. and 5 a.m. This provision is in violation of both the national legislation that establishes ten hours (section 122 of the Labour Code) and *Article 2 of the Convention* that establishes a period of at least 12 consecutive hours.

The Committee took note of the conclusions adopted in June 2002 by the Conference Committee on the Application of Standards, in which the Conference Committee noted with concern the reduction in the protection afforded to children in relation to the restriction on night work. It also noted that, before the Conference Committee, the Government representative endorsed the validity of the observation of the Committee of Experts, and expressed the will of its Government to make the necessary amendments to ensure the application of the Convention.

The Committee asked the Government to take the necessary measures to bring the legislation into conformity with the Convention by amending section 122 of the Labour Code and section 189 of the Minor Code.

The Committee referred to its comments on the application of Convention No. 79.

The Committee hopes that the Government will take the necessary action in the very near future.

[The Government is asked to supply full particulars to the Conference at its 95th Session.]

Philippines

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee takes note of the Government's report and the communication of the International Confederation of Free Trade Unions (ICFTU) dated 1 September 2005. ***It requests the Government to supply further information on the following points.***

Article 3 of the Convention. Worst forms of child labour. Clause (a). 1. Sale and trafficking of children. In its previous comments, the Committee had noted that the Government had put in place an extensive and detailed set of provisions prohibiting the sale and trafficking of children under 18 years.

The Committee notes the ICFTU's allegation that "many children are easy targets for trafficking because of the common belief among parents that child domestic labour is the safest work for children". It indicates that recruiters often collect advance payment from employers and keep them from the recruits. Recruiters charge placement, transportation, handling, accommodation and other fees against the future income of domestic labourers. To encourage parents to allow their children to work, recruiters pay cash advances to the parents. These children then find themselves in a situation of bonded labour where they are forced to endure exploitative work conditions because of the debts they have incurred. It underlines that a large number of victims of trafficking were promised work as domestics solely to fall into prostitution.

The Committee notes that the Committee on the Rights of the Child, in its Concluding Observation (CRC/C/15/Add.259, 3 June 2005, paragraphs 85-87), expressed its grave concern about Filipino children who are trafficked both within the country and across its borders. It also expressed its concern about existing risk factors contributing to trafficking activities, such as persisting poverty, temporary overseas migration, growing sex tourism and weak law enforcement in the State party. It further notes that the Human Rights Committee, in its Concluding Observation (CCPR/CO/79/PHL, 1 December 2003, paragraph 13), expressed its concern at the numerous instances of trafficking of women and children, both within the country and across its borders. The Human Rights Committee also expressed concern at the insufficient measures taken to actively prevent trafficking and to assist and support the victims.

The Committee notes the Government's indication that the Visayan Forum Foundation initiated the organization of a Multi-Sectoral Network Against Trafficking in October 2003. It also highlights that the Trade Union Congress of the Philippines has set up an Anti-Trafficking Project which aims at establishing a multi-sectoral watch group to monitor and report cases of trafficking and initiate complementary actions in support of Government strategies to address child trafficking.

The Committee notes that, although numerous legal provisions prohibit the sale and trafficking of children under 18 years of age for labour or sexual exploitation, it remains an issue of concern in practice. The Committee reminds the Government that, by virtue of *Article 3(a)* of the Convention, the sale and trafficking of children under 18 years of age for labour or sexual exploitation is considered to be one of the worst forms of child labour and that, by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee accordingly requests the Government to redouble its efforts to improve the situation and to take, without delay, the necessary measures to ensure the elimination of child trafficking, in particular for domestic work or commercial sexual exploitation, and to provide information on any progress made in this regard.***

2. Compulsory recruitment of children for use in armed conflict. The Committee had previously noted that, by virtue of sections 3(a) and 22(b) of Act No. 7610 on the special protection of children against abuse, exploitation and discrimination, as amended by Act No. 9231 of 28 July 2003 (hereinafter referred to as Act No. 7610), children under 18 years shall not be recruited to become members of the Armed Forces of the Philippines or its civilian units or other armed

groups, nor be allowed to take part in fighting, or used as guides, couriers or spies. According to section 4(h) of the Anti-Trafficking Act No. 9208 of 2003, it is prohibited to recruit, transport or adopt a child to engage in armed activities in the Philippines or abroad. It had nevertheless noted the ICFTU's indication that numerous children under 18 years take part in armed conflicts. The ICFTU had stated that, according to a report from the Department of Labor and Employment of the Philippines, the New People's Army (NPA) includes 9,000 to 10,000 regular child soldiers, which represent between 3 and 14 per cent of NPA members. There were also reports of children being recruited into the Citizens Armed Force Geographical Units (a government-aligned paramilitary group) and in the armed opposition groups, in particular the Moro Islamic Liberation Front. Citing an ILO study (Rapid Assessment on Child Soldiers in Central and Western Mindanao, February 2002), the ICFTU had pointed out that about 60 per cent of child soldiers were compelled to enter into the armed groups. The ICFTU had further indicated that child soldiers, aside from the obvious hazards of living and working in a military or conflict environment, work long hours, do not always get paid, are away from home and deprived of education.

The Committee had also noted the Government's indication that various government agencies, including the Commission on Human Rights, the Department of National Defence, the Armed Forces of the Philippines and the Department of Social Welfare and Development, signed an Agreement on the handling and treatment of children involved in armed conflict on 21 March 2000. The following measures were identified to handle children involved in armed conflicts: (i) monitoring of children involved in armed conflicts and rescued; (ii) establishing community-based preventive and rehabilitative services for children involved in armed conflicts; and (iii) identifying villages (*barangay*) where armed conflicts are more likely to occur. The Government had further stated that other programmes aim at providing children and families who are affected or involved in armed conflict with psychological, legal, medical, financial and educational assistance. The Committee had also observed that a three-year programme supported by ILO/IPEC aims at removing and rehabilitating 200 child soldiers involved in armed conflict in the Mindanao region.

The Committee notes that, according to the United Nations Secretary General's Report on children and armed conflict (A/59/695-S/2005/72, 9 February 2005, paragraphs 45 and 46), the Inter-Agency Committee for Children Involved in Armed Conflict was reactivated and has identified strategies to provide for the protection of such children, including the provision of legal and judicial assistance, direct negotiations with armed groups to stop the recruitment and use of children, services for the healing and reintegration of child former combatants and the development of a communications plan and database. The report of the United Nations Secretary-General highlights that the Inter-Agency Committee was mandated to initiate projects for the prevention of recruitment and for the rescue, rehabilitation and reintegration of children involved in armed conflicts. The same report underlines that, as of September 2004, no measures for the disarmament, demobilization and reintegration of child soldiers had been taken by the NDF-NPA or the MILF.

Noting the ICFTU's indication (report for the World Trade Organization General Council, Review of the trade policies of the Philippines, 29 June 2005) that numerous children under 18 years continue to take part in armed conflicts as well as the absence of information in the Government's report on this point, the Committee urges the Government to provide information on the concrete measures taken by the Inter-Agency Committee for Children Involved in Armed Conflict and their impact on eliminating the compulsory recruitment of children for use in armed conflict.

Article 3, Clause (d) and Article 4, paragraph 1. Hazardous work and child domestic work. The Committee had noted the Government's indication that the types of hazardous work that shall not be performed by children under 18 years of age are listed in Department Order No. 4 of 1999. Indeed, section 3 of the Order provides for a detailed list of the types of hazardous work, including work performed under particularly difficult conditions such as work for long hours or during the night, or work where the child is unreasonably confined to the premises of the employer. It also noted that, by virtue of section 4 of the Order, persons aged 15 to 18 years of age may be allowed to engage in domestic or household service, but shall not perform the types of hazardous work listed above. It observes that section 146 of the Labour Code provides that if the house helper is under 18 years, the employer shall give the house helper an opportunity for at least elementary education.

The Committee notes the ICFTU's allegation that hundreds of thousands of children, mainly girls, work as domestic workers in the Philippines and are subject to slavery-like practices. The ICFTU underlines that these children are deprived of opportunities for education, isolated from their family and are under the total control of their employers. They suffer a wide range of physical and verbal abuse, which have resulted in the death of certain child domestic workers. For instance, a child died six months after being forced to drink acid used for unclogging drains, another was burned with an iron by her employer. The ICFTU points out that, according to the Department of Social Welfare and Development, in the 1990s, 80 per cent of reported victims of rape, attempted rape and other forms of sexual abuse in Cebu City concerned child domestic workers. The ICFTU further underlines that, according to a study undertaken under the ILO/IPEC ***Time-Bound Programme (TBP)***, 83 per cent of child domestics live in their employers' home and only half of them are allowed to take one day off per month. The ICFTU adds that child domestic workers are on call 24 hours a day and that more than half of them have dropped out of school.

The Committee further notes the Government's indication, in its communication dated 26 October 2005, that several draft bills aimed at protecting the rights and welfare of domestic workers are under examination by the Congress.

The Committee notes that, although the national legislation protects child domestic workers under 18 years of age from performing hazardous activities (sections 3 and 4 of Order No. 4 of 1999), the economic and sexual exploitation of

child domestic workers remains an issue of concern in practice. The Committee reminds the Government that, by virtue of *Article 3(d)* of the Convention, work, which by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children under 18 years of age is considered as one of the worst forms of child labour, and that by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee accordingly requests the Government to take the necessary measures to ensure that child domestic workers under 18 years of age do not perform work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals in line with national legislation and the Convention, and to provide information on the adoption of any new legislation in this regard.***

Article 5. Monitoring mechanisms. 1. Council to suppress trafficking in persons. The Committee had observed that Executive Order No. 220 established an Executive Council to suppress trafficking in persons, particularly women and children. The Council is composed of representatives of the various ministerial departments, including the Department of Justice, the Department of Labour and Employment, the Department of Tourism, as well as representatives of the National Bureau of Investigation, the National Anti-Poverty Commission of the Philippine Center on Transnational Crime and representatives of the police. The Council is responsible for assisting the President in the formulation of policies and in their implementation in order to suppress trafficking in persons, especially children. It shall establish appropriate programmes in the following areas: rehabilitation and reintegration of victims; regional and international cooperation; law enforcement and legislative initiatives; advocacy, education, training and other preventive measures. ***Noting the absence of information in the Government's report on this point, the Committee once again asks the Government to provide information on the implementation of the abovementioned programmes and the results achieved in eliminating the trafficking in children.***

2. Chairman of the village. The Committee notes that, by virtue of section 266 of Act No. 7610, the chairman of the village (*barangay*) affected by the armed conflict shall submit the names of children residing in the said village (*barangay*) to the municipal social welfare and development officer within 24 hours from the occurrence of the armed conflict. ***The Committee once again asks the Government to indicate whether the abovementioned measure has prevented children under 18 years of age from being compelled to enrol in the armed forces.***

Article 7, paragraph 1. Penalties. The Committee had previously noted that, by virtue of sections 4(h) and 10(a) of the Anti-Trafficking Act of 2003, a person who recruits, transports or adopts a child to engage in armed activities in the Philippines or abroad is liable to 20 years' imprisonment and a minimum fine of 2 million pesos. It had also noted that, by virtue of sections 3(a) and 22(b) of Act No. 7610, children under 18 shall not be recruited to become members of the Armed Forces of the Philippines or its civilian units or other armed groups, nor be allowed to take part in the fighting, or used as guides, couriers or spies. ***Noting the absence of information in the Government's report on the penalties imposed in practice, the Committee recalls that, by virtue of Article 7, paragraph 1, of the Convention, the Government shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the application of penal sanctions. The Committee once again requests the Government to provide information on the applicable penalties for the violation of section 22(b) of Act No. 7610, as well as information on the penalties imposed in practice on persons found recruiting or transporting children for the purpose of engaging them in armed conflicts.***

Article 7, paragraph 2. Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. 1. Trafficking in children. The Committee had previously noted the Government's indication to the Committee on the Rights of the Child (CRC/C/65/Add.31, May 2005, paragraph 302), that a national strategy was developed to prevent and suppress the sale, trafficking and abduction of children. To this end, Administrative Order No. 114 directs the Department of Social Welfare and Development to screen the purpose of the travel of a child abroad and ensure that his/her best interest is protected before the issuance of a certificate to travel. ***The Committee once again asks the Government to provide information on the impact of the administrative order on preventing the trafficking of children for labour or sexual exploitation.***

2. Child domestic workers. The Committee notes that one of the priority target groups of the ***Time-Bound Programme (TBP)***, which was launched in June 2002 with the assistance of ILO/IPEC, is child domestic work. It observes that the ILO/IPEC Action Programme entitled "South-east Asia Capacity Building Towards Sustainable Advocacy for Child Domestic Workers" aims at organizing an advocacy workshop on child domestic work to bring the decision-makers and social partners to the table as a first step for the launching of specific action programmes. ***The Committee accordingly requests the Government to provide information on the time-bound measures taken or envisaged to prevent child domestic workers from performing hazardous work.***

Clause (b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Child victims of trafficking. The Committee had previously noted that, by virtue of section 23 of the Anti-Trafficking Act, government agencies shall, in order to ensure recovery, rehabilitation and reintegration of child victims of trafficking, make available the following services: (i) emergency shelters or appropriate housing; (ii) counselling; (iii) free legal services; (iv) medical or psychological services; (v) skills training; and (vi) educational assistance. The Committee notes the Government's indication that the Visayan Forum Foundation, in coordination with the Philippine Ports Authority in Manila, has established houses near the sea in Sorsogon, Batangas,

Davao, Northern Samar, Western Samar, Southern Leyte and Cebu to provide child victims of trafficking with temporary shelter and other psychological services. It underlines that for the period 2000-04, the foundation has assisted a total of 3,000 victims of trafficking for prostitution, domestic work or other types of hazardous work. ***The Committee requests the Government to continue to provide information on the measures taken to remove child victims of trafficking from the worst forms of child labour and to provide for their rehabilitation and social integration.***

The Committee is also addressing a direct request to the Government concerning other detailed points.

Romania

Minimum Age Convention, 1973 (No. 138) (ratification: 1975)

The Committee takes note of the Government's report. ***It requests it to provide further information on the following points.***

Article 2, paragraph 1, of the Convention. Scope of application. The Committee had previously noted that, under the terms of section 2, the Labour Code applies only to persons employed on the basis of a labour contract. Recalling that the Convention covers all forms of employment or work, the Committee had requested the Government to provide information on the manner in which protection is afforded to children carrying out an economic activity that is not covered by a labour relationship, such as work on their own account. The Committee notes the Government's indication that the Labour Inspectorate only monitors the work of persons employed by an individual labour contract and has no competence with regard to self-employment. The Committee once again reminds the Government that the Convention covers all forms of employment or work, whether or not there exists a contract of employment and whether or not it is remunerated. ***It requests the Government to take the necessary measures to ensure that the protection afforded by the Convention is secured for children exercising an economic activity that is not covered by a labour relationship, such as work on their own account.***

Article 3, paragraphs 1 and 2. Hazardous work. The Committee had previously noted that section 13(4) of the Labour Code, which prohibits arduous or hazardous work for persons under the age of 18, does not prohibit admission to employment or work that is likely to jeopardize the morals of young persons. Recalling that *Article 3, paragraph 1*, of the Convention prohibits the admission of young persons under 18 years of age to employment or work that is likely to jeopardize their health, safety or morals, the Committee had requested the Government to indicate the measures taken or envisaged to bring the legislation into conformity with the Convention on this point. The Committee notes the Government's indication that article 49(3) of the Constitution prohibits the employment of minors in activities that might be harmful to their health or morals, or might endanger their life and normal development. It also notes that the list of hazardous types of work is currently under elaboration. The Committee trusts that this list will contain the types of work that are likely to jeopardize the morals of young persons, as required by *Article 3, paragraph 1*, of the Convention. ***It asks the Government to inform it on the progress made in adopting the list of hazardous types of work and to provide a copy thereof as soon as it has been adopted.***

Article 3, paragraph 3. Admission to hazardous work as from 16 years of age. The Committee had previously noted that section 185 of the General Labour Protection Standards provides that permits to carry out hazardous types of activities determined by the law may be issued for young persons where these activities are indispensable for their vocational training, and on condition that their protection, safety and health are ensured by the supervision of a competent person. Recalling that *Article 3, paragraph 3*, of the Convention permits exceptions for young persons only from the age of 16 years, the Committee had requested the Government to indicate the age of young persons for whom such exceptions may be granted and to provide information on the application in practice of section 185 of the General Labour Protection Standards. The Committee notes the Government's information that Annex I of the General Labour Protection Standards defines young persons mentioned in section 185 as "persons who are no longer required to attend school in accordance with the national legislation." It notes the Government's indication that, since the age of completion of compulsory education is 16 years, no persons under this age may be employed in hazardous types of work. ***The Committee requests the Government to provide information on the practical application of section 185 of the General Labour Protection Standards.***

Article 6. Apprenticeship. The Committee had previously taken note of section 205 of the Labour Code, which defines apprenticeship contracts, and section 207 of the Labour Code, which provides that any young person without vocational skills and who has not reached the age of 25 years may be employed as an apprentice. Recalling that *Article 6* of the Convention excludes from its application work done by persons of at least 14 years of age in enterprises, where such work is carried out in accordance with conditions prescribed by the competent authority and is an integral part of education or training, the Committee had requested the Government to indicate whether a minimum age has been set for apprenticeship. The Committee notes that, pursuant to section 213 of the Labour Code, contracts of apprenticeship and other issues related to apprenticeship activities shall be regulated by a special law. It also notes the Government's information that such a law has been elaborated after consultations with the organizations of employers and workers concerned. ***The Committee requests the Government to indicate whether this law sets out a minimum age for apprenticeship. It also asks the Government to provide a copy of the law on apprenticeship.***

Article 7, paragraph 2. Light work and attendance at school. The Committee had previously noted that section 13 of the Labour Code provides that a young person of 15 years of age may conclude a labour contract with the agreement of her or his parents or legal representatives for activities that are appropriate for his or her development, knowledge and skills, where the young person's health, development and vocational training are not endangered. It had also noted that, according to section 109(2) of the Labour Code, for young persons under 18 years of age, working hours are six hours a day and 30 hours a week. Considering that the working hours set for the performance of light work (six hours a day and 30 hours a week) are too many to allow attendance at school, the Committee had requested the Government to indicate the measures adopted or envisaged to ensure that light work shall not be such as to prejudice the school attendance of young persons over 15 years of age who are engaged in work. It had also requested the Government to provide information on the application of this provision in practice. The Committee notes the Government's indication that, according to the Law on Education, children are required to attend school and their school attendance must be 100 per cent. It also notes the Government's statement that, in practice, the working hours of young persons of 15 years of age are less than the limits provided in the Labour Code. The Committee takes note of this information.

Article 7, paragraph 3. Determination of light work. The Committee had previously requested the Government to indicate whether types of light work have been determined by the competent authority, as required by *Article 7, paragraph 3*, of the Convention. The Committee notes the Government's information that the national legislation does not determine light work activities. It reminds the Government that *Article 7, paragraph 3*, of the Convention provides that the competent authority shall determine the activities in which such employment or work may be permitted. **The Committee therefore requests the Government to take the necessary measures in this regard.**

Article 9, paragraph 3. Registers of employment. The Committee had previously noted that section 34(1) of the Labour Code establishes the obligation for employers to keep a general register of employees. It had also noted that section 34(7) of the Labour Code provides that a model of the general register for employees, and of any other element relating to the register of employees, shall be established by decision of the Government. The Committee had requested the Government to indicate whether a model register and/or regulations respecting such registers had been established by government decision and, if so, to provide a copy. It had also requested the Government to indicate the information concerning the identification of employees which has to be contained in the register, and particularly whether the employer is under the obligation to include the age or date of birth of the persons employed who are less than 18 years of age, as required by *Article 9, paragraph 3*, of the Convention. The Committee notes the Government's information that Government Decision No. 247/04.03.2003 amended by Decision No. 290/2004 establishes the methodology of keeping a general register of employees. According to this Decision, column No. 3 of the register contains the following data of the employee: home address; personal code (where the age is indicated); and number of the identity document. **The Committee asks the Government to provide a copy of this Government Decision together with a model register.**

Article 1 (in conjunction with Part V of the report form). The Committee notes that the following decisions have been adopted by the Government: Decision No. 166 of 3 March 2005 on the approval of the national interests programmes in the field of protecting child's rights; Decision No. 617 of 21 April 2004 on the establishment and organization of the National Steering Committee for the prevention and fight against child exploitation through work; and Decision No. 1769 of 21 October 2004 on the approval of the National Action Plan for the elimination of children's exploitation through labour. In particular, it notes that the National Action Plan for the elimination of children's exploitation through labour provides for the creation of a unitary monitoring mechanism; drawing up the list of hazardous types of work; drawing up and implementing strategies and local action programmes to prevent children's exploitation through labour; organizing training programmes; rehabilitation and social integration; actions for supporting the families; and awareness-raising and other activities.

The Committee also notes the Government's information on the activities of the Labour Inspectorate. It notes that, between 1 July 2003 and 31 May 2005, labour inspectors controlled 152,378 employers and identified 9,160 young persons among whom 442 were aged 15 to 18 and employed without a legal contract and 18 were under the age of 15. Penalties were imposed on 194 employers for violations of the labour legislation concerning the employment of minors. **The Committee requests the Government to continue to provide information on the application of the Convention in practice, including, for example, statistics on the employment of children and young persons, extracts from the reports of the inspection services and information on the number and nature of the violations reported.**

Russian Federation

Minimum Age Convention, 1973 (No. 138) (ratification: 1979)

The Committee takes note of the Government's report. **It requests the Government to supply further information on the following points.**

Article 2, paragraph 1, of the Convention. 1. Scope of application. The Committee had previously noted that section 63(1) of the Labour Code prohibits children under 16 years of age from concluding a labour contract. Recalling that the Convention requires the fixing of a minimum age for all types of work or employment and not only for work under an employment contract, the Committee had asked the Government to supply information on the measures taken or envisaged to ensure the application of the Convention to all types of work outside an employment relationship, such as

self-employment. The Committee notes that the Government's report contains no information on this point. It once again reminds the Government that the Convention applies to all sectors of economic activity and covers all forms of employment or work, whether or not there is a contractual employment relationship and whether or not the work is remunerated. ***The Committee therefore once again requests the Government to provide information on the manner in which the protection established by the Convention is ensured for children carrying out an economic activity without a labour contract, such as self-employed children.***

2. *Minimum age for admission to employment or work.* The Committee had previously noted that section 63(1) of the Labour Code states that an employment contract may be concluded only with a person of at least 16 years of age. However, it had noted that according to section 63(2), of the Labour Code a person of 15 years of age, who has completed the basic general education or left the general educational establishment, may work. The Committee had noted that a minimum age for admission to employment or work of 16 years had been specified by the Russian Federation at the time of ratification in accordance with *Article 2, paragraph 1*, of the Convention. It had asked the Government to indicate the measures taken or envisaged to ensure that access to employment of children under the age of 16 may be allowed exceptionally, and only for work that meets the criteria set out in *Article 7* of the Convention. The Committee notes the absence of information in this regard. It once again reminds the Government that under *Article 2, paragraph 1*, of the Convention, no one under the minimum age for admission to employment or work specified upon ratification of the Convention shall be admitted to employment or work in any occupation, and that the only possible exception is light work under *Article 7* of the Convention. ***The Committee once again requests the Government to take the necessary steps to ensure that no one under the age of 16 may be admitted to employment or work in any occupation.***

Part V of the report form. Practical application of the Convention. The Committee had previously noted the Government's indication that persons under 18 years of age were often engaged in work under harmful and hazardous working conditions. It had also noted the Government's statement to the United Nations Committee on the Rights of the Child in 1998 that the number of juveniles in unregulated employment was on the increase in towns, in connection with the development of the non-state sector of the economy, especially small private businesses. The Committee had requested the Government to provide information on any measures taken or envisaged to prevent children from working under harmful and hazardous conditions, and to continue to supply information on the practical application of the national legislation giving effect to the Convention, in particular in the non-state sector, including, for example, extracts from official reports, statistical data and the number and nature of contraventions reported.

The Committee notes the Government's information in its report under Convention No. 182 that in 2004, state labour inspectors carried out more than 2,300 targeted inspections to ensure the observance of the labour rights of persons under the age of 18. These inspections identified and resolved more than 8,300 cases of violations. Disciplinary, administrative and penal sanctions were applied to the persons responsible for the labour law violations. The employment of persons under the age of 18 in hazardous types of work, in violation of section 265 of the Labour Code, was one of the most typical infringements of the labour law. The inspections also revealed that in small private businesses the cases of violation of the labour rights of persons under the age of 18 were frequent. The Committee also notes the Government's information that in 2004 more than 8,000 under-aged persons worked in the registered private organizations, of whom 70 persons (0.9 per cent) performed their work in hazardous working conditions. It observes that the number of persons under age working in hazardous working conditions is less than it was in 2003 (390 persons) and in 2002 (655 persons). The Committee further notes the detailed statistics provided by the Government on the number of economically active population aged 15 to 17 in 2004. According to these statistics, 293,070 persons aged 15-17 were economically active in 2004. ***The Committee asks the Government to continue to supply information on the practical application of the national legislation giving effect to the Convention, including extracts from official reports, statistical data and the number and nature of contraventions reported.***

The Committee is also addressing a direct request to the Government concerning other detailed points.

Thailand

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the Government's first detailed report. Referring to the comments made by the Committee under the Forced Labour Convention, 1930 (No. 29), in so far as *Article 3(a) of Convention No. 182* provides that the worst forms of child labour include "all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour", the Committee is of the view that the issues of trafficking of children, forced labour and prostitution of children can be examined more specifically under this Convention. ***The Committee requests the Government to supply further information on the following points.***

Article 3. The worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. 1. Sale and trafficking of children. The Committee notes that, by virtue of sections 4 and 5 of the Act on the Measures to Prevent and Suppress the Trafficking of Women and Children (1997) (the "Anti-Trafficking Act"), it is prohibited to buy, sell, import or export, receive, detain or confine a woman or a child, or arrange for a woman or a child under 18 years of age to act or receive an act, for sexual gratification of a third person, or for gaining an illegal benefit for that or any another person. The Committee also notes that the Penal Code as amended by Act (No. 14) B.E.2540, 1997, prohibits the

trafficking of men and women for prostitution (section 282) or for “illegal benefits” (section 312). ***The Committee asks the Government to clarify the meaning of the term “illegal benefits” as stated in section 5 of the Anti-Trafficking Act and section 312 of the Penal Code as amended in 1997.***

2. *Debt bondage and serfdom and forced or compulsory labour.* The Committee notes that, by virtue of article 86 of the Constitution, children and women shall be protected, by the State, from exploitative labour. It also notes that forced labour is prohibited by virtue of article 51 of the Constitution.

Clause (b). Use, procuring or offering of a child for prostitution. The Committee notes that the Act on the Prevention and Suppression of Prostitution of 1996 (the “Prostitution Act”) provides for a detailed definition of the term “prostitution” which applies to both males and females. The Committee observes that soliciting prostitution is prohibited and that the prostitute is liable to a fine (section 5 of the Prostitution Act). It is also an offence, under section 9 of the Prostitution Act, to procure, seduce or take away a person for the purpose of prostitution. The Committee notes that the procuring or luring of a person for prostitution is also a crime under section 282 of the Penal Code. It further notes that a parent or guardian of a child who knowingly helps in procuring, seducing or taking away a child for prostitution, commits an offence (section 10 of the Prostitution Act). Section 8 of the Prostitution Act states that a person who has sexual intercourse with a person under 18 in a “prostitution establishment” commits an offence. The owner or manager of a “prostitution establishment” that employs children under 18 also commits an offence (section 11 of the Prostitution Act). ***With regard to a person using, as a client, a child prostitute under 18 years of age, the Committee requests the Government to indicate whether such an act constitutes an offence when it is perpetrated outside a “prostitution establishment”.***

Article 5. Monitoring mechanisms. The Committee notes that the Prostitution Act of 1996 established a Protection and Occupational Development Committee (PODC), which is composed of representatives of various ministries as well as representatives of the police and central and juvenile court police (section 14). PODC is responsible for coordinating plans of action, projects, working systems and determining action plans to be implemented jointly by government agencies and the private sector involved in preventing and suppressing prostitution (section 15 of the Prostitution Act). ***The Committee accordingly asks the Government to provide information on the concrete measures taken by the PODC as well as their impact on preventing and eliminating child prostitution.***

Article 6. Programmes of action to eliminate the worst forms of child labour. 1. *TICW project.* The Committee noted, in its previous comments, that ILO/IPEC launched in 2000 a project to combat trafficking in children and women in the Mekong subregion (TICW project). The Ministry of Labour, the Ministry of Social Development and Human Security, the National Committee on Combating Trafficking in Children and Women, non-governmental organizations (NGOs) and other UN agencies cooperate under the project. The first phase of the project (2000-03) focused on rural communities in the provinces of Phayao, Chiang Mai, Chiang Rai and Nong Khai. Five action programmes were implemented at provincial and community levels with tribal and rural poor Thai communities. The second phase of the project (2003-08) will expand project interventions to cover the complete perspective of Thailand as a source, transit and destination country of trafficking victims. The objectives under the second phase of the project are to: (i) enhance the capacity of governmental agencies, civil society organizations and community-based groups to combat and monitor human trafficking; (ii) provide direct assistance to vulnerable groups (including people living in poor rural areas, tribal and migrant peoples); and (iii) increase the role of the organizations of employers and workers in combating the trafficking of children and women. ***The Committee asks the Government to provide information on the concrete measures taken under the second phase of TICW to eliminate child trafficking and the results achieved.***

2. *TICSA project.* The Committee notes that ILO/IPEC launched in 2000 the subregional project to combat child trafficking for sexual and labour exploitation (TICSA) in Bangladesh, Nepal and Sri Lanka; the project was extended to Pakistan, Indonesia and Thailand in 2003. TICSA’s objectives, by 2006, are to: (i) improve the knowledge base on trafficking to enable stakeholders to plan, implement and monitor programmes to eliminate child trafficking; (ii) strengthen the capacity of relevant governmental bodies and organizations of employers and workers to plan, implement and monitor programmes of action; (iii) assist children and families at risk of being trafficked; and (iv) rehabilitate child victims of trafficking and ensure that governmental and non-governmental organizations have the capacity to rescue and reintegrate child victims of trafficking. In Thailand, specific assistance will be provided to strengthen the rehabilitation and reintegration of Thai and non-Thai child victims of trafficking. To this end, the ILO/IPEC, in collaboration with governmental and non-governmental organizations, will implement a demonstration centre. The Committee also observes that, according to the ILO/IPEC technical progress report of March 2004 (pages 6 and 40), the Government is giving high priority to combat the trafficking in women and children. It launched, in 2003, a National Plan of Action against Trafficking in Women and Children, which focuses on prevention, rehabilitation, and seeks to develop a database on this phenomenon. ***The Committee asks the Government to provide information on the impact of TICSA Thailand and the National Plan of Action against Trafficking in Women and Children in terms of combating child trafficking for labour and sexual exploitation.***

3. *Child prostitution.* The Committee notes that the Office of the National Commission on Women’s Affairs (cited in the National Plan of Action on the Elimination of the Worst Forms of Child Labour (2004-09), page 2) estimates that there are between approximately 22,500 and 40,000 prostitutes under 18 years of age. This represents approximately 15 to 20 per cent of the overall number of prostitutes. According to the Office of the National Commission on Women’s Affairs,

these estimates do not include foreign child prostitutes. The Committee also notes that, according to UNICEF, estimates of the number of children engaged in prostitution vary from 60,000 to 200,000, with 5 per cent of them being boys (*The Official Summary of the State of the World's Children 2005*). It further notes that priority attention will be given under the National Plan of Action on the Elimination of the Worst Forms of Child Labour (2004-09) to child prostitution. The National Plan of Action aims at preventing and eliminating the worst forms of child labour, including child prostitution. ***The Committee accordingly asks the Government to provide information on the concrete measures taken or envisaged under the National Plan of Action to eliminate the use, procuring or offering of a child under 18 for prostitution, and the results achieved.***

Article 7, paragraph 1. Penalties. The Committee observes that, according to sections 5 and 7 of the Anti-Trafficking Act, a person who sells or traffics a child under 18 years of age for sexual exploitation or for gaining illegal benefits, is liable to a maximum of five years' imprisonment or a fine of 10,000 baht or both. The Committee also notes that section 9 of the Prostitution Act and section 282 of the Penal Code as amended in 1997 provide that whoever procures, seduces or traffics a person under 18 years of age for prostitution is liable to three to 15 years' imprisonment and a maximum fine of 300,000 baht. Penalties will be increased if the victim is under 15 years of age.

In its previous comments, however, the Committee noted that the actual enforcement of the existing penalties was very ineffective. Indeed, it noted that, in 2000, 33,671 establishments were inspected and 2,028,022 employees inspected. It also noted that, between October 2000 and September 2001, ten employers were prosecuted for violation of the provisions regulating the types of activities that workers under 18 are not allowed to perform. The employers were fined a total 29,000 baht and a total of 567,820 baht was claimed in damages for the victims. In one case, labour officials assisted employees in lodging a complaint against the employer for forced prostitution. The Committee reminds the Government that, by virtue of *Article 7, paragraph 1*, of the Convention, the Government shall take the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention. ***The Committee accordingly asks the Government to take the necessary measures to ensure that persons who traffic in children or exploit children in prostitution or forced labour are prosecuted and that sufficiently effective and dissuasive penalties are imposed. In this regard, it requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied for violations of the legal prohibitions on the trafficking, the forced labour and the use, procuring or offering of children for prostitution.***

Article 7, paragraph 2. Time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. 1. Internal trafficking of children. The Committee notes that, according to ILO findings (TICW report of December 2004), internal trafficking still constitutes a significant problem in the country with people moving from the poorer northern provinces of Chiang Rai, Chaing Mai, Phayao and Non Khai to urban and tourist areas. The Government, with the assistance of ILO/IPEC and collaboration of the social partners and NGOs decided, on 17 January 2005, to establish, under the TICW, joint forces in Chiang Mai, Chaing Rai and Phayao. The objectives of the joint forces are to collect data concerning the supply of and demand for trafficked individuals, to establish victim-support hotlines, raise awareness about the danger of human trafficking, strengthen networks, develop provincial and district mechanisms for the prevention of trafficking, and promote community and school "watchdogs". The action programme will last 16 to 24 months and is expected to benefit 12,000 children and women from Chiang Mai, Chaing Rai and Phayao, who are at heightened risk of being trafficked. ***The Committee asks the Government to provide information on the impact of the action programme undertaken by the joint forces on preventing the trafficking of children under 18 for labour or sexual exploitation.***

2. Initiatives taken by organizations of employers. The Committee noted, in its previous comments that the Employers' Confederation of Thailand, with the cooperation of ILO/IPEC, established an action programme on "Strengthening the capacity of the Employers' Confederation of Thailand to prevent child labour through the creation of an employers' best-practice guide and child-friendly employers' network and the facilitation of vocational training and apprentice schemes". It also notes that the chambers of commerce in the provincial operational centers, which were established pursuant to the anti-trafficking Memorandum of Understanding of the National Committee on Combating the Trafficking in Children and Women, participate in the prevention of child trafficking. The chambers of commerce are mobilized to involve their employers' members in providing vulnerable young people with employment options. ***The Committee asks the Government to provide information on the impact of these measures in preventing the engagement of children under 18 in the worst forms of child labour.***

Clause (b). Providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. 1. Memorandum of Understanding and National Plan of Action on child victims of trafficking. The Committee notes that the Memorandum of Understanding (MOU) on Procedures for Women and Children as Victims of Trafficking of 1999 was revised and a new MOU was adopted in June 2003 (source: National Plan of Action for the Elimination of the Worst Forms of Child Labour; Ministry of Labour and ILO/IPEC (2004-09), page 7). The MOUs aim at guiding the Government concerning cooperation with NGOs as well as cooperation between NGOs. It also observes that the National Plan of Action for the Elimination of the Worst Forms of Child Labour (2004-09) aims at improving the social reintegration of rescued children before they return to their communities. ***The Committee asks the Government to provide information on the concrete measures taken***

under the National Plan of Action and the MOUs to ensure the rehabilitation and social integration of child victims of trafficking, as well as the results achieved.

2. *National legislation on child victims of trafficking.* The Committee also notes that section 11 of the Anti-Trafficking Act provides that Officials may provide appropriate assistance to victims of trafficking. The assistance can consist of providing victims of trafficking with food, shelter and repatriation to his/her country of origin. ***The Committee asks the Government to provide information on the number of child victims of trafficking who were provided with assistance and the type of assistance received.***

Clause (d). Children at special risk. Children from ethnic minorities. The Committee notes that, according to the ILO's report of December 2004 on TICW, ethnic communities in the north of Thailand are particularly vulnerable to trafficking and labour exploitation. They are increasingly unable to sustain their traditional lifestyle and their girls and women are recruited for work in massage parlours, nightclubs and brothels in Bangkok and other tourist areas. They lack access to support services and often do not speak the language. ***The Committee accordingly asks the Government to provide information on the measures taken or envisaged to protect children under 18 years of age of ethnic minorities from trafficking for labour or sexual exploitation, particularly from prostitution.***

Paragraph 3. Competent authority for the implementation of the provisions giving effect to the Convention. The Committee notes the Government's indication that the following authorities are responsible for implementing the provisions giving effect to the Convention: the Ministry of Labour, the Ministry of Interior, the Ministry of Justice, the Ministry of Education, the Ministry of Social Development and Human Security, the Royal Thai Police, the Bangkok Metropolitan Administration, the Office of the Attorney-General, the Office of the Narcotics Control Board, and the Anti-Money Laundering Office.

The Committee notes the Government's indication to the Committee on the Rights of the Child (CRC/C/11/Add.13, 30 September 1996, paragraph 467), that the police are responsible for taking legal proceedings against owners of brothels and pimps who force children into prostitution. They are entitled to enter, at any time of the day or night, entertainment establishments and question the prostitutes to find out the identity of the owner of the brothel, pimps and clients (sections 39 and 40 of the Prostitution Act). Sections 1 and 8 of the Anti-Trafficking Act provide that government officials or the police are entitled to inspect airports, seaports, railway stations, bus stations, entertainment establishments, factories and public places to prevent women and children from being trafficked and exploited. They may issue summons and search the body of a child who is believed to have been trafficked (section 9 of the Anti-Trafficking Act). The Committee, in its previous comments under Convention No. 29, expressed its concern over the small numbers of prosecutions with regard to the violation of the legal provisions prohibiting the worst forms of child labour, especially the trafficking, the forced labour and the use, procuring or offering of children for prostitution. ***The Committee accordingly asks the Government to provide information on the concrete measures taken to train the police and relevant government officials on the worst forms of child labour and the results achieved.***

Article 8. International cooperation and assistance. 1. Regional cooperation. The Committee notes that the ILO/IPEC project to combat trafficking in children and women in the Mekong subregion (TICW project) covers Thailand, Lao People's Democratic Republic, Vietnam, Cambodia and Yunnan (province of China). The Committee observes that, according to the ILO report on the TICW project (December 2004), child trafficking in Thailand is a trade worth 7.37 billion pounds, and that over 80,000 women and children, mainly from Myanmar, Yunnan and Laos were trafficked into Thailand for commercial sexual exploitation between 1990 and 1998. Cambodian and Bangladeshi children, mostly boys, are also trafficked into Thailand mainly for begging and prostitution; whereas trafficking from Yunnan Province in China primarily involves girls and women for sexual exploitation. The Committee observes that, within the framework of the second phase of the TICW project, the National Committee on Combating Trafficking in Children and Women launched, in 2003, its first National Policy and Plan of Action on Preventing, Suppressing and Combating Domestic Transnational Trafficking of Children and Women. This Plan focuses on prevention, with short-term and long-term interventions, as well as on research, monitoring and evaluation systems. ***The Committee asks the Government to provide information on the concrete measures taken under the second phase of the TICW project, as well as their impact on the elimination of the cross-border trafficking of children for labour and sexual exploitation.***

2. *Bilateral agreements.* The Committee notes that, according to the information provided by the Ministry of Labour in the National Plan of Action for the Elimination of the Worst Forms of Child Labour (2004-09) (page 7), Thailand and Cambodia signed, on 31 May 2003, a Memorandum of Understanding on bilateral cooperation for eliminating trafficking in children and women and assisting victims of trafficking. The Committee observes that, according to the agreement supplied by the Government, child and women victims of trafficking will benefit from protection (i.e. including the right not to be prosecuted for illegal entry into the country and the right not to be detained in an immigration centre while awaiting the official repatriation process) and shelters. Section 10 of the agreement provides that the law enforcement agencies in both countries, especially at the border, must work in close cooperation to discover domestic and cross-border trafficking of children and women. The police and other relevant authorities shall also work in close cooperation with regard to exchanging information on trafficking cases (i.e. trafficking routes, places of trafficking, identification of traffickers, methods used and data on trafficked persons). ***The Committee asks the Government to provide information on the concrete measures adopted under the MOUs and the results achieved with regard to eliminating the trafficking of children between Cambodia and Thailand. It also asks the Government to provide***

information on any other bilateral agreement adopted or envisaged with other countries, such as Lao People's Democratic Republic, Myanmar, Yunnan (province of China) and Viet Nam.

3. *Poverty alleviation.* The Committee notes that the Government adopted the 9th National Economic and Social Development Plan (2002-04) which, according to the Government's view, could serve as an instrument to adjust the social structure to eliminate the gap between the poorest and the wealthiest. The Committee notes the Government's indication that strategies have been initiated under the 9th National Economic and Social Development Plan (2002-06) for future social changes that may affect children. One of the Plan's targets is to alleviate poverty by reducing absolute poverty to less than 12 per cent of the total population by 2006, and strengthen the overall national economy to achieve sustainable quality growth. ***The Committee requests the Government to provide information on any notable impact of the National Economic and Social Development Plan on eliminating the worst forms of child labour.***

The Committee is also addressing a direct request to the Government concerning other detailed points.

Turkey

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

In its previous comments, the Committee noted the communications from the Turkish Confederation of Employer Associations (TISK), the Confederation of Trade Unions of Turkey (TÜRK-IS) and KAMU-SEN. The Committee notes the communication from the International Confederation of Free Trade Unions (ICFTU) and the information provided by the Government in its report. ***It requests the Government to provide information on the following points.***

Article 1 of the Convention. National policy. In its communication, TÜRK-IS indicated that, despite the fact that *Article 1* of the Convention provides that each Member undertakes to pursue a national policy designed to ensure the effective abolition of child labour, no national policy of this type was being pursued in Turkey, and the number of child workers was increasing daily. TÜRK-IS added that the effectiveness of a national policy to eliminate child labour depends entirely on the elimination of the causes of child labour, namely the improvement of employment and the employment stability of adults. However, government policy was not designed along those lines. The Committee requested the Government to provide its observations on these comments.

The Committee notes with interest that according to the General Survey of 2005 on labour inspection (paragraph 51), six action programmes on child labour within the IPEC framework were implemented by the labour inspectorate in the Turkish Ministry of Labour and Social Security between 1994 and 2003, and 108 labour inspectors worked full time on child labour issues in order to fill the information gap existing in this field. It also notes the detailed information provided by the Government in its report, particularly with regard to the programmes of action implemented in collaboration with ILO/IPEC. In particular, it notes that, in addition to the elimination of the worst forms of child labour within ten years, one of the objectives of the national ***Time-Bound Policy and Programme Framework (TBPPF)*** is also to establish a coherent policy for the elimination of child labour. In this respect, it notes that the Child Labour Unit (CLU), established by the Ministry of Labour and Social Security with a mandate to gather and disseminate information on child labour, ensure coordination among cooperating parties and develop policies related to child labour, has developed a Policy Framework for the Elimination of Child Labour in Turkey. This Policy Framework was presented for comment to the various parties concerned by child labour, including the public. According to the Government, the Policy Framework reviews the present situation in relation to child labour, ILO/IPEC activities and the various strategies adopted to combat child labour. ***The Committee requests the Government to provide information on the Policy Framework, with particular reference to the policies developed for the elimination of child labour. It also requests the Government to provide a copy of the Policy Framework for the Elimination of Child Labour in Turkey when it has been adopted.***

Article 4. Exclusion from the application of the Convention of limited categories of employment or work. In its previous comments, the Committee noted the intention expressed by the Government in its first report to make use of the flexibility clause contained in *Article 4* to exclude from the application of the Convention the categories of employment or work which fall outside the scope of the national labour legislation. The Committee observed that the Government's expressed intention appeared to be overly vague and ambiguous. Moreover, the Committee noted that, in its communication, TÜRK-IS indicated that Convention No. 138 should cover all children without exception. TÜRK-IS also indicated that the national legislation in Turkey does not contain any provision concerning the minimum age from which children may work in plantations and commercial agricultural enterprises. In reply to the comments by TÜRK-IS, the Government indicated that a bill to establish the minimum age for admission to employment and to determine the conditions of employment of young persons under 18 years of age was under preparation. According to the Government, the bill would cover agricultural work, as well as other types of work excluded from the application of the Labour Act. It also added that the organizations of employers and workers had been consulted in this respect.

The Committee notes the information provided by the Government to the effect that the categories of employment or work which have been excluded from the scope of application of the Convention consist of limited categories of employment or work. It also notes that, under the terms of section 4(1) of the Labour Act, No. 4857 of 22 May 2003 (hereinafter the Labour Act), the following activities and categories of workers are not covered by the Act: (a) sea and air transport businesses; (b) enterprises carrying out agricultural and forestry works and employing fewer than 50 workers; (c) all building work related to agriculture within the limits of the family economy; and (e) domestic service. However, it

notes that section 4(2) of the Act provides that the following activities are covered by its provisions: (a) loading and unloading from ships; (b) work performed on the ground facilities of civil aviation; and (c) construction work in agricultural enterprises. The Committee also notes the information provided by the Government that the Act on Turkish civil aviation regulates the working conditions of personnel on aircraft and that the minimum age for admission is 18 years. The Government adds that the Maritime Labour Act No. 854 regulates sea transport activities, but does not contain a provision establishing the minimum age for admission to employment or work. Finally, the Committee notes that, according to the information available in the ILO, a new law, Act No. 5395 on the protection of children, was adopted on 3 July 2005. This new Act is reported to supplement the Labour Code for the categories of employment or work excluded from the Code which are referred to above.

The Committee once again reminds the Government that *Article 5, paragraph 3*, of Convention No. 138 enumerates the sectors of economic activity to which the Convention shall be applicable as a minimum, which include maritime transport. Accordingly, this sector cannot be excluded from the scope of application of the Convention. ***The Committee requests the Government to provide information on the effect given to Act No. 5395 on the protection of children in relation to the categories of employment or work excluded from the scope of the Labour Code and to provide a copy of the above Act. It also requests the Government to indicate the minimum age for admission to employment or work in the maritime sector.***

Article 9, paragraph 1. Appropriate penalties. The Committee noted previously the indication by TÜRK-IS that the penalties established for breaches of the Labour Act, particularly with regard to the minimum age for admission to employment or work, are far from ensuring the effective enforcement of the provisions of the Convention, as required by *Article 9, paragraph 1*, of the Convention. The Committee requested the Government to reply to the comments made by TÜRK-IS. In this respect, the Committee notes with interest the detailed information provided by the Government concerning the new penalties established by the Labour Act of 2003 for violations of the provisions on the minimum age for admission to employment or work.

Part V of the report form. Application of the Convention in practice. In its communication, the ICFTU indicates that, according to the National Statistics Institute (SSI), over 1 million children were working in September 2002. Nevertheless, it would appear that this number is falling. Indeed, according to a study carried out by ILO/IPEC, entitled “Gender, education and child labour in Turkey” published in 2004, the official estimates of the number of working children are 510,000. The Committee is concerned at the situation of children who are compelled to work in Turkey through personal necessity. ***While noting the measures adopted by the Government to eliminate child labour, it encourages it to redouble its efforts to progressively improve this situation and requests it to provide detailed information on measures taken in this regard.***

The Committee is also addressing a request directly to the Government on other precise points.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

In its previous comments, the Committee noted the communication of the International Confederation of Free Trade Unions (ICFTU), and that of the Turkish Confederation of Employer Associations (TISK) concerning certain allegations of the non-application of the Convention. The Committee notes the information provided by the Government in its report. ***It requests it to supply information on the following points.***

Article 3 of the Convention. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children for commercial sexual exploitation. In its previous comments, the Committee noted the ICFTU’s indication that Turkey is a transit and destination country for trafficked children. These children originate from the following countries: Armenia, Azerbaijan, Georgia, Republic of Moldova, Romania, the Russian Federation, Ukraine and Uzbekistan. The ICFTU added that Turkey is a transit country, mainly for children from Central Asia, Africa, the Middle East and the former Yugoslav Republic of Macedonia, who are then sent to European countries. The ICFTU also indicated that trafficked children are forced into prostitution or debt bondage.

The Committee noted previously that section 201(b) of the former Criminal Code provided that: anyone who reduces a person to slavery or a similar condition with the object of benefiting from their work or domestic service (subsection 1) or who procures, kidnaps or transfers a person under 18 years of age from one place to another with a view to subjecting that person to constraint or subjecting her or him to one of the objectives set out in subsection 1, is guilty of an offence (subsection 3). Furthermore, the Committee noted that, in its concluding observations on the Government’s initial report in July 2001, the Committee on the Rights of the Child recommended the Government to continue undertaking measures to prevent and combat all forms of economic exploitation of children, including their commercial sexual exploitation (CRC/C/15/Add.152, paragraph 62). It therefore requested the Government to take the necessary measures without delay to ensure that young persons under 18 years of age are not trafficked to Turkey for sexual exploitation and it also requested the Government to provide information on the effective measures taken or envisaged to remove from prostitution children who are trafficked for sexual exploitation and to secure their rehabilitation and social integration.

The Committee notes the information provided by the Government in its report that the new Penal Code (Act No. 5237 of 26 September 2004) contains new provisions on, among other matters, the trafficking and the sexual exploitation of children, including the prostitution of children, as well as more severe penalties for these crimes. ***The Committee requests the Government to ensure that persons engaged in the trafficking of children for economic or sexual***

exploitation are prosecuted and that sufficiently effective and dissuasive penalties are imposed upon them. In this respect, the Committee requests the Government to provide information on the application of penalties in practice and to provide, among other information, reports on the number of convictions. Finally, it requests the Government to provide information on the effective measures adopted or envisaged to withdraw child victims of trafficking for sexual exploitation and to ensure their rehabilitation and social integration.

Clause (c). Use, procuring or offering of a child for illicit activities. Inciting or using a child for begging. The Committee noted previously the ICFTU's indication that forced labour in Turkey also takes the form of forcing children to beg or to work on the streets. It noted that section 545 of the Penal Code prohibits the use of children "under 15" for begging and that article 18 of the Constitution prohibits forced labour. The Committee requested the Government to provide information on the measures adopted or envisaged to ensure that the national legislation prohibits the use, procuring or offering of young persons under 18 years of age for illicit activities, including begging. The Committee notes with satisfaction that section 229 of the new Penal Code prohibits the use of children for begging and establishes a penalty of from one to three years of imprisonment. ***The Committee requests the Government to provide information on the application of penalties in practice and to provide, among other information, reports on the number of convictions.***

Article 5. Monitoring mechanisms. In its previous comments, the Committee noted the ICFTU's indication that the Government has been working with ILO/IPEC, the social partners and non-governmental organizations since 1992 to eliminate child labour. However, the ICFTU stated that labour inspectors did not appear to supervise the agricultural sector or the urban informal economy, which are precisely those areas where most children work.

The Committee notes with interest the detailed information provided by the Government on the activities of labour inspectors. It notes in particular that the Labour Inspection Board has carried out a large number of inspections, both relating to occupational safety and health and administrative inspections. These inspections have been carried out in the agricultural, fishing and forestry sectors, as well as in the automobile repair, footwear and garment industries. The Committee also notes the Government's indication that 770 families which insisted on making their children work in the streets, despite the interventions of the General Directorate of Social Services and Child Protection (SHÇEK), have been prosecuted. Of those, 130 families have been convicted. ***The Committee requests the Government to continue providing information on the activities of the labour inspectorate, including the number of workplaces inspected each year, the situations reported and the extent and nature of the violations relating to children working in conditions similar to the worst forms of child labour, particularly in the agricultural sector and the urban informal economy.***

Article 7, paragraph 2. Effective and time-bound measures. Clause (d). Children at special risk. Children living or working in the streets. In its previous comments, the Committee noted the indication of the TISK that children who work in the streets are not registered and work under dangerous conditions without protection. These children are at risk of becoming homeless. The Committee also noted the ICFTU's report that nearly 10,000 children are working in the streets in Istanbul and nearly 3,000 in Gaziantep. The ICFTU added that these children are mostly boys (approximately 90 per cent according to the rapid assessment conducted by ILO/IPEC on street children working in Adana, Istanbul and Diyarbakir, November 2001, page 36) and can be classified into two groups. The first is composed of children who go out onto the streets during the day to sell all kinds of items (including chewing gum and water); these children return home in the evening. The second consists of children who live and work in the streets. They are engaged in garbage collection and sorting, and are often involved in drug abuse, street gangs and violence. The ICFTU added that the Government has opened 28 centres to assist children who work in the streets. The Committee further noted that, according to the rapid assessment conducted by ILO/IPEC, street children who work are between the ages of 7 and 17 years, with an average age of 12 years. The assessment also showed that 17 per cent of these children have been to primary school, but that 55 per cent of them do not attend school. Furthermore, according to the ILO/IPEC report of 28 August 2003 (Supporting the Time-Bound National Policy and Programme for the Elimination of the Worst Forms of Child Labour in Turkey, pp. 48-51), the SHÇEK provides assistance to children in need and their families. The Committee encouraged the Government to continue its efforts to rehabilitate street children engaged in hazardous work.

The Committee notes the Government's indication that over 41,000 children have been assisted by the SHÇEK centres for children and young persons. The children have benefited from the following services provided by these centres: 1,893 children have been returned to school; 6,902 children have been reintegrated into school through social assistance; 12,012 children have been returned to their families; 7,038 children have benefited from social assistance; 3,475 children dependent on psychotropic drugs have been referred to specialized treatment units. The Committee also notes that the Government is aware of the problem of children living and working in the streets. A circular issued by the Prime Minister of Turkey was published in the *Official Gazette* on 25 March 2005. The circular indicated that measures have to be taken to provide assistance to children working and living in the streets in the largest provinces of the country, as well as the problem of migration.

The Committee also notes the Government's information that the Programme for the Elimination of Child Labour in Street Trades in 11 provinces (Adana, Ankara, Bursa, Çorum, Diyarbakir, Gaziantep, Istanbul, Izmir, Kocaeli and Şanlıurfa), implemented in the context of the ***Time-Bound Policy and Programme Framework (TBPPF)***, commenced in December 2004. The objective of the Programme is to prevent children from being engaged in the worst forms of child labour, remove them from these forms of work and orient them towards education programmes. The Committee further notes that, according to the information available to the ILO, the Programme will directly benefit over 6,700 boys and

girls. Of this number, 2,700 will be removed from the worst forms of child labour and 4,000 will be prevented from becoming engaged in work. Furthermore, of these 6,700 children, around 6,000 will be oriented towards a vocational training programme or reintegration into the school system. The 700 remaining children will be assisted by the various physical and psychological health centres. The Committee also notes that the estimated number of children who will benefit indirectly from the Programme is 6,000. The Committee considers that children living in the streets are particularly exposed to the worst forms of child labour. ***It requests the Government to continue its efforts to ensure that young persons under 18 years of age who live and work in the streets are not engaged in work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals. Furthermore, the Committee requests the Government to provide information on the impact of the above Programme and the results achieved.***

Article 8. International cooperation and assistance. In its previous comments, the Committee noted that the elimination of child labour is included in the Accession Partnership Agreement with the European Union (19 May 2003) and the National Programme for the Adoption of the Community Acquis (NPAA) adopted on 24 July 2003. It also noted that the issue of the worst forms of child labour is included in the short-term priorities of the Accession Partnership (2003-04), in which it is stated that efforts to address the problem shall be continued (*Eradicating the worst forms of child labour in Turkey*, European Union, March 2004, page 4). ***Noting the absence of information in this respect, the Committee once again requests the Government to provide information on the cooperation or assistance measures adopted or envisaged with the European Union or with other countries to eliminate the worst forms of child labour, in particular the trafficking of children for the exploitation of their labour or for sexual exploitation.***

The Committee is also addressing a request directly to the Government on certain other specific points.

Ukraine

Minimum Age Convention, 1973 (No. 138) (ratification: 1979)

The Committee takes note of the Government's report and of the communication of the Confederation of the Free Trade Unions of Ukraine (KSPU) for the period from 31 May 2004 to 31 May 2005, received with the Government's report. The Committee also takes note of the detailed discussion which took place at the Conference Committee on the Application of Standards of the 92nd Session of the International Labour Conference in June 2004. ***It requests the Government to supply further information on the following points.***

Article 2, paragraph 1, of the Convention. Scope of application. The Committee had previously noted that, according to the communication of 23 August 2002 from the Federation of Trade Unions of Ukraine (FTUU), child labour was an increasingly frequent problem and that there were child workers under the age of 15 in Ukraine. The FTUU also stated that in most cases, the children worked in the informal sector, where labour relations were non-existent and the Government had virtually no control over working conditions. As a result, the children had no right to legal and social protection. The Committee also notes that, the KSPU in its recent communication indicates that, in practice, the average age of children affected by child labour in Ukraine amounts to 12 years and that child labour is widely used in illegally operated mines. Cheap child labour is also used in construction and agriculture.

The Committee notes that the Conference Committee had noted the indication by the Government representative that a technical cooperation programme with ILO/IPEC had recently been launched. This programme would focus, inter alia, on building the institutional and technical capacity of the Government and the social partners to apply Convention No. 138, as well as the Worst Forms of Child Labour Convention, 1999 (No. 182). The Conference Committee had expressed the hope that this technical cooperation programme would address the situation of children below the age of 16 working in the informal sector, including by enhancing the capacity of the labour inspectorate in the informal economy. The Conference Committee had requested the Government to provide, in its next report to the Committee of Experts, information on the implementation of this technical cooperation programme as well as on the results achieved in eliminating child labour in the informal sector.

The Committee notes that the Labour Code, pursuant to its section 3(1), excludes self-employment from its scope of application. The Committee reminds the Government that the Convention applies to all sectors of economic activity and covers all forms of employment or work, whether or not there is a contractual employment relationship and whether or not the work is remunerated. ***Taking into account the information from the FTUU and the KSPU on the number and age of children performing work in illegal mines and in enterprises where formal labour relations are non-existent, the Committee is very concerned about the absence of information from the Government on this point. It therefore urges the Government to provide information on the manner in which the protection established by the Convention is ensured for children engaged in an economic activity in the informal sector. The Committee also requests the Government to provide information on the implementation of the technical cooperation programme with ILO/IPEC and on its impact on eliminating child labour in the informal sector.***

Part V of the report form. Practical application of the Convention. The Committee had previously noted the statistical information supplied by the Government in its reports for 2002 and 2003. It had noted in particular that, according to a survey of 9.2 million children aged from 5 to 17 years, 35,000 were economically active, 52 per cent of them aged 15-17 and 24 per cent aged 13-14. The Committee notes that, according to the communication of the KSPU, about half a million children have been involved in child labour. The KSPU also states that illegal mines use the labour of

children, even under 10 years of age. Thus, due to inadequate control on the part of the former Government of Ukraine, about 5,000 illegally operated mines have been established in Ukraine, some of which are still in operation. The Conference Committee had expressed its concern over the situation of many young persons who increasingly worked in practice, in particular, in the informal sector. It had requested the Government to provide information, containing statistics on the number and the age of children working in the informal sector. The Committee, like the Conference Committee, is deeply concerned at the large number of children under the age of 16 who increasingly work in practice, especially in the informal sector. ***The Committee strongly encourages the Government to renew its efforts to progressively improve this situation and asks the Government to provide detailed information on measures taken in this regard. The Committee also requests the Government to supply statistical data on the number of children working in the informal sector and extracts from the reports of inspection services. It finally asks the Government to provide information on the number and nature of the contraventions reported and the penalties imposed.***

The Committee is also addressing a direct request to the Government concerning other detailed points.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes the Government's report and the communication of the Confederation of the Free Trade Unions of Ukraine (KSPU) for the period from 31 May 2004 to 31 May 2005 received with the Government's report. ***It requests the Government to supply further information on the following points.***

Article 3 of the Convention. The worst forms of child labour. Clause (a). Sale and trafficking of children. The Committee notes that, according to the communication of the KSPU, there are reported cases of children being sold into slavery abroad. The Committee also notes that, according to the ILO/IPEC publication entitled "Child trafficking – the people involved. A synthesis of findings from Albania, Moldova, Romania and Ukraine", 2005 (pages 14-15), Ukraine is not only a source of trafficking victims but also an important transit route from other countries in the region. Ukraine has a history of large-scale irregular migration through the country since the disintegration of the Soviet Union and the liberalization of procedures governing entry and exit. The number of people crossing the undemarcated borders has increased significantly. The publication further states that, according to a survey conducted in Ukraine, the children trafficked are generally between 13 and 18 years of age. Girls are most likely to end up in sexual exploitation, while boys are used as cheap labour or to peddle drugs. The Committee further notes that the Committee on the Rights of the Child in its Concluding Observations (CRC/C/15/Add.191 of 9 October 2002, paragraph 66) expressed concern at the large-scale trafficking of children, in particular girls, for the purpose of sexual and other forms of exploitation.

The Committee observes that section 149 of the Penal Code prohibits the sale and trafficking in persons for the purpose of sexual exploitation, use in the pornographic industry, engagement in criminal activities, peonage, adoption for commercial purposes, use in armed conflict and labour exploitation. Subsection (2) provides for a higher penalty when this offence is committed against a minor.

The Committee consequently notes that, although the trafficking of children for labour or sexual exploitation is prohibited by law, it remains an issue of concern in practice. It recalls that, by virtue of *Article 3(a)* of the Convention, the sale and trafficking of children is considered to be one of the worst forms of child labour and is therefore prohibited for children under 18 years of age. ***The Committee requests the Government to take the necessary measures to ensure that persons who traffic in children for labour or sexual exploitation are, in practice, prosecuted and that sufficiently effective and dissuasive penalties are imposed. In this regard, it requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied for violations of the legal prohibition on the sale and trafficking of children.***

Clause (b). Use, procuring or offering of a child for prostitution, production of pornography or for pornographic performances. In its previous comments, the Committee noted the communication from the Federation of Trade Unions of Ukraine (FTUU), dated 23 August 2002, to the effect that there were cases of the use of children for prostitution or pornography in Ukraine and that this not only concerned young people of 15 years of age, but also children of 10 years of age. The Committee also notes that, according to the more recent communication of the KSPU, children in Ukraine are involved in the worst forms of child labour and, in particular, in prostitution, pornographic activities and the sex industry. The Committee further notes that the Committee on the Rights of the Child in its Concluding Observations (CRC/C/15/Add.191 of 9 October 2002, paragraph 66) expressed concern at the growing involvement of children in the sex industry.

The Committee observes that section 301 of the Penal Code punishes persons who import, make, transport, sell or distribute pornographic images or other items or compel others to participate in their making. Subsection (3) provides for a higher penalty for compelling minors to participate in the making of pornographic works, images, motion pictures, video films or computer programmes. The Committee also observes that section 302 of the Penal Code prohibits creating or running brothels and trading in prostitution. Subsection (3) provides for a higher penalty for engaging a minor in such activities. The Committee further notes that section 303(3) of the Penal Code makes it an offence to compel minors to engage in prostitution.

The Committee observes that although the national legislation prohibits the commercial sexual exploitation of children, it remains an issue of concern in practice. The Committee expresses its concern over the growing involvement of children under the age of 18 in commercial sexual exploitation in Ukraine. It reminds the Government that, by virtue of

Article 3(b) of the Convention, the use, procuring or offering of a child for prostitution, production of pornography or for pornographic performances is considered as one of the worst forms of child labour, and that by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee accordingly invites the Government to redouble its efforts to improve the situation and to take, without delay, the necessary measures to eliminate the use, procuring or offering of children under the age of 18 for prostitution, the production of pornography or for pornographic performances. It also asks the Government to take the necessary measures to ensure that persons who use, procure or offer children for prostitution and pornography are prosecuted and that sufficiently effective and dissuasive penalties are imposed. The Committee asks the Government to provide information on progress made in this regard.***

Article 6. Programmes of action to eliminate the worst forms of child labour. 1. ILO/IPEC programme on child trafficking. The Committee had previously noted the regional programme with ILO/IPEC launched in 2002 relating to child trafficking in the Balkans and Ukraine entitled “Prevention and reintegration programme to combat trafficking of children for labour and sexual exploitation in the Balkans and Ukraine”. This programme comprises two phases. Phase I concerns the identification of a strategy for concerted action through a situation analysis of existing responses in selected geographical areas. During this first phase, assessment surveys were conducted by national research organizations in four target countries, namely the Republic of Moldova, Romania, Ukraine and Albania. Phase II concerns the implementation of a comprehensive programme to combat the trafficking of children in the Balkan region and Ukraine particularly through preventive and reintegration measures. The Committee notes the Government’s information that during Phase II, a national seminar was organized in May 2004 on the strategic planning of the implementation of the programme in Ukraine. As a result of this seminar, the expected outcome of the programme and the means of providing assistance to child victims of trafficking were defined. Moreover, two regions (Hersonskaya and Donetskaya oblasts) decided to carry out pilot projects in 2005-06 aimed at creating and testing mechanisms to monitor the worst forms of child labour, including the sale and trafficking in children. ***The Committee requests the Government to continue providing information on the concrete measures taken to implement Phase II of the ILO/IPEC regional programme on child trafficking, as well as their impact in terms of providing for the rehabilitation and social integration of child victims of trafficking.***

2. Programme to combat the commercial sexual exploitation of children. The Committee notes the Government’s information that in July 2004 Ukraine signed an agreement of cooperation with ECPAT International (“End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes”) on questions relating to the protection of children from commercial sexual exploitation. The purpose of the cooperation is to implement a national programme which is aimed at combating the commercial sexual exploitation of children and strengthening government structures and NGOs in this area. ***The Committee requests the Government to provide information on the implementation of this national programme as well as the results achieved with regard to combating the commercial sexual exploitation of children.***

Article 8. International cooperation and assistance. The Committee notes that, according to the ILO/IPEC publication entitled “Child trafficking – the people involved. A synthesis of findings from Albania, Republic of Moldova, Romania and Ukraine”, 2005 (page 64), the Ministry of Internal Affairs of Ukraine has prepared 14 intergovernmental agreements on cooperation against organized crime that regulate, among other things, trafficking in persons. These include agreements with Turkey, Israel, Poland, Hungary, France, Sweden, Romania and Republic of Moldova. In 1998 and 1999 such agreements were signed with the United Kingdom, the former Yugoslav Republic of Macedonia and the Czech Republic. These multilateral and bilateral agreements promote the cooperation of law enforcement bodies in countering human trafficking, especially child trafficking. ***The Committee requests the Government to provide information on the impact of the above agreements on eliminating the trafficking of young persons under 18 for labour or sexual exploitation.***

The Committee is also addressing a request directly to the Government concerning other detailed points.

United Arab Emirates

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

The Committee notes the information supplied in the Government’s report and requests it to supply further information on the following points.

Article 3, paragraphs 1 and 3. Minimum age for admission to work by camel jockeys. In its previous comments, the Committee had noted that a declaration made by the President of the Camel Racing Association on 29 July 2002 had been adopted to prohibit the employment of camel jockeys aged less than 15 years. It had also noted that the ICFTU, in a subsequent communication, had welcomed the adoption of this measure. However, the ICFTU considered camel jockeying to be a dangerous activity which should only be performed by persons of at least 18 years. Furthermore, the ICFTU in its communication of 2 September 2002, pointed out that children as young as 4 years old are employed and that numerous cases of under age camel jockeys had been reported each year since 1997. Considering the detrimental effect of camel jockeying on the health and safety of young children and the reported cases of injury, the Committee had

requested the Government to take the necessary measures to raise the age of admission to such employment to 18 years of age. The Committee notes with satisfaction the Government's information that Federal Act No. 15 of 2005 has been promulgated. The Committee notes with interest that this Act prohibits the bringing in, employment, training and involvement of any person, male or female, under 18 years of age in camel jockeying activities.

Article 9, paragraph 1. Penalties. In its previous comments, the Committee had noted that the declaration made by the President of the Camel Racing Association on 29 July 2002 provides for penalties in case of violation of the conditions laid down therein regarding the employment of camel jockeys: (1) the owner or person responsible for camel jockeys is liable to a fine of 20,000 dirhams; (2) the owner of the camel may be arrested and excluded from participating for the duration of an entire season; (3) the person responsible for the camel jockey concerned is liable to three months' imprisonment in addition to a fine of 20,000 dirhams. The Committee had also noted that the ICFTU, in a communication dated 2 September 2002, expressed its concern about the absence of prosecutions against UAE citizens and the impunity which exists for those who are employing children under the age of 15 in camel racing. The Committee had requested the Government to provide information on violations observed pursuant to the declaration of the President of the Camel Racing Association, dated 1 September 2002, which prohibits the use of children younger than 15 years of age as camel jockeys, and the penalties imposed in practice. The Committee notes with satisfaction that Federal Act No. 15 prohibiting the employment of children under 18 years in camel jockeying, specifies that persons who violate these provisions are liable to a maximum of three years' imprisonment and/or a minimum fine of 50,000 dirhams. The Committee notes with interest the Government's information that the promulgation of Federal Act No. 15 of 2005 specifies the eradication of the phenomenon of employing children under 18 years in camel racing. The competent bodies shall endeavour to apply it with care and in all seriousness. The Committee also notes that, according to the data provided in the Government's report, five cases have been referred to the courts of the United Arab Emirates concerning persons using children for camel jockeying. Investigations regarding these cases are still pending. ***The Committee requests the Government to continue providing information on the application in practice of the penalties fixed by Law No. 15 of 2005.***

The Committee is also addressing a direct request to the Government concerning other detailed points.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the Government's report and the communications of the International Confederation of Free Trade Unions (ICFTU) dated 31 August and 7 September 2005. ***It requests the Government to supply further information on the following points.***

Article 3 of the Convention. Worst forms of child labour. Clause (a). Slavery and practices similar to slavery. 1. Sale and trafficking of children for camel racing. In its previous comments, the Committee observed that, according to the ICFTU's communication dated 17 June 2004, children continued to be trafficked from countries such as Bangladesh, Pakistan, Sudan and Yemen for the purpose of camel racing in the United Arab Emirates. The ICFTU also indicated that, in 2004, Anti-Slavery International obtained pictures of dozens of camel jockeys who appeared to be aged 6 to 14 years. The ICFTU also highlighted that, between October 2003 and February 2004, several Bangladeshi boys aged 4 to 7 years were trafficked to the United Arab Emirates to work as camel jockeys. The Committee also noted the Government's indication that it is "aware of the seriousness of the issue of the trafficking in children for use as camel jockeys which is incompatible with its obligations" under the Convention.

The Committee notes the ICFTU's allegations that, in 2005, children as young as 5 years of age continue to be trafficked from Bangladesh, Pakistan, Sudan and Yemen to be used as camel jockeys in the United Arab Emirates. The ICFTU adds that, according to the statement made by the Minister for Overseas Pakistanis in November 2004, some 2,000 children from Pakistan, India, Bangladesh and Mauritania were taken to the United Arab Emirates to work as camel jockeys. The ICFTU also points out that, in September and October 2004, the Bangladesh National Women Lawyers' Association provided Anti-Slavery International with details of cases involving several Bangladeshi children who had been trafficked to the United Arab Emirates to work as camel jockeys. These included eight boys who were between 3 and 12 years of age when trafficked. The ICFTU further indicates that, in some cases, parents themselves are involved in the trafficking of their child. The Committee observes that, according to the Special Rapporteur on the sale of children, child prostitution and pornography (E/CN.4/2005/78/Add.3, 8 March 2005, paragraph 7) "the number of individual cases of boys trafficked to be used as camel jockeys received by the Special Rapporteur highlights a pattern indicating that this problem persists and that measures need to be taken to address it". The Special Rapporteur's report also indicates that children from Bangladesh, Pakistan and Sudan are trafficked to the United Arab Emirates to be used as camel jockeys (paragraphs 216, 217, 218 and 224).

The Committee notes that, according to the Government's indication, section 346 of the Penal Code provides that "whoever brings into or out of the country any person with the intent to possess or dispose of that person and whoever possesses, purchases, sells, offers for sale or transacts in any manner any person as a slave shall be punished with provisional imprisonment". The Committee also notes with interest the recent adoption of Federal Law No. 15 of 2005 which prohibits the trafficking of girls and boys under 18 for camel racing.

The Committee notes that, although the national legislation appears to prohibit trafficking in human beings, the trafficking of children under 18 for camel racing very much remains an issue of concern in practice. ***The Committee urges***

the Government to take immediate and effective measures to enforce the law. It also asks the Government to provide information on the practical application of Law No. 15 of 2005.

2. *Sale and trafficking of children for sexual exploitation.* In its previous comments, the Committee noted the ICFTU's allegations (communication dated 20 August 2003) that, according to a report of the International Organization for Migration (IOM) ("Shattered dreams – Report on trafficking in persons in Azerbaijan" of 2002), girls from Azerbaijan, the Russian Federation and Georgia, as well as other countries, are trafficked to the United Arab Emirates for sexual exploitation. It also noted the Government's indication that section 346 of the Penal Code prohibits the trafficking of children. Section 363 of the Penal Code provides that it is prohibited to abet, entice or induce a male or a female to commit prostitution.

The Committee notes the Government's indication that, out of the numerous court rulings concerning the sexual exploitation of women and children, only one case dealt with trafficking for sexual exploitation. The case involved persons from Kyrgyzstan, two Russians and three Uzbeks. The Government's report does not provide further information on the measures taken to eliminate the trafficking of children for sexual exploitation. The Committee recalls that, by virtue of *Article 3(a)* of the Convention, the sale and trafficking of children for sexual exploitation is considered to be one of the worst forms of child labour, and consequently is prohibited for children under 18. ***The Committee accordingly requests the Government to take the necessary measures to ensure that children under 18 years of age are not trafficked to the United Arab Emirates for commercial sexual exploitation.***

Article 3. Clause (d). Hazardous work. In its previous comments, the Committee noted the conclusions of the Conference Committee on the Application of Standards in June 2003, according to which numerous underage children were used as camel jockeys. It also noted the concern expressed by the Conference Committee about the hazardous nature of this activity. It further noted the adoption of Order No. 1/6/266 of 22 July 2002, which prohibits the employment of children under 15 years of age and who weigh less than 45 kg as camel jockeys. Furthermore, the Committee noted the ICFTU's indication that the use of children as jockeys in camel racing is extremely dangerous, and can result in serious injuries and even death. Some children are deprived of food and beaten by their employers. The ICFTU also highlighted that child jockeys are often separated from their families, and cannot speak Arabic; consequently, they are completely dependent on their employers and more likely to be exploited. The Committee further notes that the ICFTU indicates, in its most recent communication, that in 2005 child camel jockeys of 9 years of age were reported to start working at 4 a.m. and work seven days a week. Child jockeys are also reported to face injuries such as broken arms. The ICFTU draws attention to the case of Aslam, who was only 4 years old when his father offered his child's services to work as a camel jockey for a sheikh. He worked five years for the sheikh. During that time he fell off the camel several times and suffered many injuries. The ICFTU further points out that Ansar Burney, President of the Ansar Burney Welfare Trust, a Pakistani lawyer and human rights defender acting against the exploitation of children as camel jockeys, has received death threats on a regular basis as a result of which he has had to move from Karachi to London.

The Committee notes the Government's indication that section 1 of Federal Law No. 15 of 2005 prohibits children under 18 years of age from taking part in camel racing. ***The Committee asks the Government to provide information on the application in practice of the new Law No. 15 of 2005.***

Article 5. Monitoring mechanisms. Police. The Committee noted previously that, according to the information provided by the Government to the direct contacts mission, inspections carried out by the police during camel racing have contributed to reducing the number of children trafficked to be used as camel jockeys. It also noted the ICFTU's allegation that the prohibition to employ children under 15 years of age as camel jockeys was not properly enforced. Indeed, the ICFTU pointed out that, in a documentary broadcast by the Australian Broadcasting Corporation on 25 February 2003, the police were seen, during a camel race, escorting a group of very young camel jockeys on a bus while other officials attempted to stop the filming.

The Committee notes the Government's indication that Ministerial Decree No. 41 of 2005 establishes a Special Commission, composed of policemen, who are responsible for: (i) controlling camel racing, considering the issue of child camel jockeys and responding effectively to any new problem faced in this regard; (ii) collecting information on the measures taken by neighbouring countries concerning camel racing; (iii) requesting the opinion of national as well as international experts on how to develop camel racing in line with international requirements; and (iv) making periodic recommendations on camel racing. The Government adds that it envisages training the police and other relevant bodies on child rights as laid down in international conventions. ***The Committee accordingly asks the Government to provide information on the activities of the Special Commission and its findings with regard to the age of child camel jockeys, their working conditions and the number of infringements reported. It also encourages the Government to take, without delay, concrete measures to ensure that the police receive adequate training to investigate effectively violations of the national provisions giving effect to the Convention, especially with regard to child trafficking and the use of children in hazardous work. It asks the Government to keep it informed of any progress made in this regard.***

Article 7, paragraph 1. Penalties. 1. Trafficking of children for camel racing. In its previous comments, the Committee noted that the Government provided copies of three judicial rulings concerning the trafficking of children. It also noted that, according to the Government, section 346 of the Penal Code provides that whoever brings into or out of the country another person with the intent to possess or dispose of that person, and whoever possesses, purchases or sells a person as a slave, is liable to temporary imprisonment. The Committee notes that, according to the ICFTU's most recent

communication, the trafficking of young children aged 4 to 12 for camel racing has occurred each year for the last seven years, and is publicly known. The Committee notes the Government's indication that, between 13 February 2005 and 3 May 2005, 93 child victims of trafficking were deported to their country of origin (69 to Pakistan, 19 to Sudan, three to Bangladesh, one to Mauritania and one to Eritrea). The Government's report does not provide information on the measures taken against the traffickers.

The Committee reminds the Government that, by virtue of *Article 7, paragraph 1*, of the Convention, the Government shall take the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including through the provision and application of penal sanctions. In this regard, the Committee notes that the new Law provides for three years' imprisonment or a minimum fine of 50,000 dirhams or both for persons who traffic in children under 18 years of age for camel racing. ***The Committee asks the Government to take the necessary measures to ensure that persons who traffic in children for camel racing are prosecuted and that sufficiently effective and dissuasive penalties are imposed. In this regard, it requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied under the new Law.***

2. *Trafficking of children for sexual exploitation.* The Committee noted previously the Government's indication that, by virtue of section 346 of the Penal Code, trafficking in human beings is punished by temporary imprisonment. Section 363 of the Penal Code provides that a person who incites or helps a person under 18 years of age to commit prostitution shall be liable to two years' imprisonment and a fine.

The Committee notes the Government's indication concerning court rulings related to the trafficking of women and children for sexual exploitation. It observes that only one case dealt specifically with the trafficking of children for prostitution; the others concerned non-United Arab Emirates women and children involved in prostitution. ***The Committee asks the Government to provide further information on the penalties imposed on nationals of the United Arab Emirates and of other countries for trafficking children under 18 years of age for commercial sexual exploitation.***

3. *Hazardous conditions of child jockeys.* The Committee noted previously the ICFTU's allegation that, according to the information given by the Government itself to the direct contacts mission, prosecutions of those exploiting trafficked children in camel races were rare. The Committee notes the ICFTU's allegations, in its most recent communication, that those exploiting camel jockeys are rarely prosecuted. It adds that, given the very public use of under-age camel jockeys and the fact that, according to the Government, the police carry out inspections during races, this is an extremely disappointing figure. According to the ICFTU, young child camel jockeys are found in al-Baraimmi in Oman and in al-Ain in the United Arab Emirates, where the owners of camel jockeys form part of the local elite and enjoy impunity. The Committee notes the Government's indication that section 2 of Law No. 15 of 2005, stipulates that a person who recruits/uses a child under 18 years of age to take part in camel racing is liable to a maximum of three years' imprisonment or a minimum fine of 50,000 dirhams or both. The Committee must nevertheless express its serious concern over reports that very young children have been, and continue to work, in hazardous conditions as camel jockeys in the United Arab Emirates. ***The Committee accordingly asks the Government to provide information on the measures taken under Law No. 15 of 2005 to ensure that persons who exploit child camel jockeys are prosecuted and that sufficiently effective and dissuasive penalties are imposed.***

Article 7, paragraph 2. Time-bound and effective measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. 1. *Child victims of trafficking for camel racing.* In its previous comments, the Committee noted that the Committee on the Application of Standards of the International Labour Conference in June 2003 expressed its deep concern at the fact that numerous underage children were trafficked and enslaved as camel jockeys. It also noted that, by virtue of the Decision of the Ministry of the Interior, of 20 January 2003, on camel jockeys, a person who brings a child to the United Arab Emirates shall, together with the child, make a DNA test to ensure that he is the biological father. The test is made upon the arrival of the child and the accompanying adult to the country and is a prerequisite to obtain a residence permit. It also notes the Government's indication that, from March to December 2003, 446 children took a DNA test, of whom 65 were found to have entered the country with a non-relative. The Government also indicates that sheltered housing was established to take care of child victims of trafficking before deporting them to their country of origin. It underlines that it signed an agreement with UNICEF in order to rehabilitate and protect child jockeys who were repatriated to their country of origin. ***The Committee asks the Government to provide information on the concrete measures taken pursuant to the agreement signed with UNICEF to rehabilitate and protect child victims of trafficking to be used as camel jockeys and the number of children who benefited from these measures.***

2. *Child victims of trafficking for sexual exploitation.* The Committee noted previously the ICFTU's indication that the authorities of the United Arab Emirates make no distinction between prostitutes and victims of trafficking for sexual exploitation, all of whom bear equal criminal responsibility for involvement in prostitution. The ICFTU pointed out that trafficked persons were consequently not treated as victims and were not supported or protected.

The Committee observes that, according to the information provided by the Government, child prostitutes are sentenced to imprisonment and when they are foreigners, which is the case of most of them, they are repatriated to their country of origin. The Committee recalls that, by virtue of *Article 7, paragraph 2(b)*, of the Convention, the Government shall take effective and time-bound measures to provide the necessary and appropriate direct assistance for the removal of

children from the worst forms of child labour and for their rehabilitation and social integration. **The Committee strongly encourages the Government to ensure that children trafficked to the United Arab Emirates for commercial sexual exploitation are treated as victims rather than offenders. It requests the Government to take measures to ensure the rehabilitation and social integration of child victims of trafficking for sexual exploitation.**

Article 8. International cooperation. In its previous comments, the Committee noted that the Ministry of the Interior contacted countries where child victims of trafficking originate. According to the Government, it contributed to reducing the number of children trafficked to the United Arab Emirates to work as camel jockeys. Thus, cooperation between the United Arab Emirates and countries of origin of trafficked children resulted in the repatriation to Pakistan of 86 children working as camel jockeys in 2002, and 21 children in early 2003. The Committee noted the Government's indication to the Committee on the Rights of the Child (CRC/C/SR.795, *Summary Record*, 10 June 2002) that it was willing to cooperate with other countries if camel racing was causing concern to the international community.

The Committee notes that the ICFTU is of the view that the United Arab Emirates could provide support to poor countries from which child victims of trafficking originate. It also notes the absence of information in the Government's report on the countries with which it has cooperated to eliminate the trafficking of children, the types of cooperative measures taken and the results achieved. **The Committee strongly encourages the Government to cooperate with other countries to eliminate child trafficking and asks the Government to keep it informed of any progress made in this regard.**

The Committee is also addressing a request directly to the Government concerning other detailed points.

United States

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)

The Committee notes the communication of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) dated 6 June 2005. It also notes that the Government's report has not been received and must therefore repeat its previous observation, which read as follows:

The Committee takes note of the Government's detailed reports, and of the communication of the International Confederation of Free Trade Unions (ICFTU) dated 9 January 2004. **The Committee requests the Government to supply further information on the following points.**

Article 3 of the Convention. The worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. 1. *Slavery.* The Committee observes that, by virtue of Title 18 of the United States Code (USC), section 1583, anyone who kidnaps or carries away any other person, with the intent that such person be sold into involuntary servitude or held as a slave, commits an offence. Title 18 USC, section 1584, provides that anyone who knowingly and wilfully holds a person to involuntary servitude or sells into any condition of involuntary servitude any other person, or brings within the United States any person so held commits an offence.

2. *Sale and trafficking of children.* The Committee notes the indications of the ICFTU, in a communication dated 9 January 2004, corroborated by the report of the Trafficking in Persons and Worker Exploitation Task Force (i.e. a governmental body), that the United States is thought to be the destination of 50,000 trafficked women and children each year. It further indicates that approximately 30,000 women and children are trafficked annually from South-East Asia, 10,000 from Latin America, 4,000 from the former Soviet Union and Central and Eastern Europe, and 1,000 from other regions. The primary source countries for the United States are Thailand, Viet Nam, China, Mexico, the Russian Federation, Ukraine and the Czech Republic. According to the ICFTU, this report also indicates that most trafficked women and children are employed in the sex sector, domestic and cleaning work (in offices, hotels, etc.), sweatshops and agricultural work. Most reported cases of trafficking occurred in New York, California and Florida.

The Committee notes that the Trafficking Victims Protection Act, 2000, created new crimes and enhanced penalties for existing crimes including trafficking with respect to peonage, slavery, involuntary servitude, forced labour or sex trafficking of children. Hence, it observes that Title 18 USC, section 1590 (introduced by the Trafficking Victims Protection Act, 2000), states that whoever knowingly recruits, harbours, transports, provides or obtains by any means a person for labour or services commits an offence.

The Committee also notes the Government's indication that section 105(d)(2) of the Trafficking Victims Protection Act, 2000, mandates an evaluation of the progress made by the United States in the areas of trafficking prevention, prosecution and assistance to victims. The Committee notes with interest that, pursuant to the adoption of the Trafficking Victims Protection Act, victims of trafficking benefit from assistance and are considered to be "victims of a severe form of trafficking in persons (for sexual or labour exploitation according to section 8 of the Act)" when they are under 18 years of age (section 14). **The Committee requests the Government to provide information on the impact of the Trafficking Victims Protection Act, 2000, in reducing the number of children involved in trafficking. It also requests the Government to provide, in its next report, its comments on the points raised by the ICFTU.**

3. *Forced labour.* The Committee observes that, by virtue of Title 18 USC, section 1589, whoever knowingly provides or obtains the labour or services of a person: (1) by threats of serious harm to, or physical restraint against, that person or another person; (2) by means of any scheme, plan or pattern intended to cause the person to believe that, if the person did not perform such labour or services, that person or another person would suffer serious harm or physical restraint; or (3) by means of the abuse or threatened abuse of law or the legal process, is liable to a fine and/or imprisonment.

Clause (b). 1. *Use, procuring or offering of a child for prostitution.* The Committee observes that Title 18 USC, section 1591 (as amended by the Trafficking Victims Protection Act, 2000), provides for sanctions for anyone who knowingly: (1) in or affecting interstate commerce, recruits, entices, harbours, transports, provides, or obtains by any means a person; or (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1). Title 18 USC, section 1591 also states that whoever, knowing that force, fraud, or coercion will be used to cause a

person to engage in a commercial sex act, shall also be punished. The term “commercial sex act” means any sex act, on account of which anything of value is given to or received by any person (Title 18 USC, section 1591). The Committee also notes that according to Title 18 USC, section 2423(a), it is a criminal offence to transport an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offence, or attempts to do so. Subsection (b) of section 2423 states that a person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2246) with a person under 18 years of age that would be in violation of Chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States, shall be fined under this Title and/or imprisoned for not more than 15 years.

The Committee also takes due note of the Government’s indication that all 50 states have laws prohibiting prostitution. It further indicates that state child prostitution statutes address patronizing a child prostitute, inducing or employing a child to work as a prostitute or actively aiding the promotion of child prostitution. It also indicates that some state statutes prohibit child prostitution in very general terms while other states specify the various acts and participants.

2. *Use, procuring or offering of a child for the production of pornography or for pornographic performances.* The Committee observes that, by virtue of Title 18 USC, section 2251, anyone who employs, uses, persuades, induces, entices or coerces a minor (i.e. a person under the age of 18 according to Title 18 USC, section 2256(1)), or who transports any minor in interstate or foreign commerce, or in any territory of the United States, with the intent that such minor engage in any sexually explicit conduct for the purpose of producing a visual depiction of such conduct commits an offence. Title 18 USC, section 2251(1)(c), provides for sanctions for anyone who makes, prints or publishes any notice or advertisement seeking or offering to receive, exchange, buy, produce, display, distribute or reproduce any visual depiction involving the use of a minor engaged in any sexually explicit conduct. The Committee notes that, according to Title 18 USC, section 2252(a), it is prohibited to transport or ship in interstate or foreign commerce, receive, distribute or knowingly reproduce child pornography, by any means including by computer or mails. The Committee also observes that Title 18 USC, section 2260, prohibits the use of a minor to produce child pornography for importation into the United States, and the receipt, distribution, sale or possession of child pornography with the intent to import the visual depiction into the United States. It further notes that, according to Title 18 USC, sections 2423 and 2427, the transportation of children under 18 years of age in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in the production of child pornography, is an offence.

Clause (c). Use, procuring or offering of a child for illicit activities. The Committee takes due note that, under the Controlled Substances Act, it is an offence to knowingly and intentionally employ, hire, use, persuade, induce, entice or coerce a person under 18 years of age to create, manufacture, distribute, dispense, import or export controlled substances or a counterfeit substance (Title 21 USC, sections 841, 861, 952 and 953). The Committee also notes the Government’s statement that the use, procuring or offering of a child for the unlawful carrying or use of firearms or other weapons are illegal. ***The Committee requests the Government to supply a copy of the legal provisions prohibiting the use, procuring or offering of a child for the unlawful carrying of weapons.***

Articles 3(d) and 4(1). Hazardous work. The Committee notes the ICFTU’s indication that between 300,000 and 800,000 children are employed in agriculture under dangerous conditions. These children work in fields, orchards and packing sheds. For instance, they pick lettuce and cantaloupe, weed cotton fields and pick cherries in orchards. Many work for 12 hours a day and are exposed to dangerous pesticides, suffer rashes, headaches, dizziness, nausea and vomiting, often risking exhaustion or dehydration due to lack of water, and are often injured. According to the ICFTU, child farm workers risk long-term consequences of pesticide poisoning including cancer and brain damage and suffer high rates of injuries from knives and heavy equipment.

In its previous comments, the Committee observed that the Fair Labour Standards Act (FLSA), Chapter 8, section 212(c), states that no employer shall employ any oppressive child labour in commerce or in the production of goods for commerce. According to section 203(3)(b)(1) of the FLSA, “oppressive child labour” refers to a condition of employment under which any employee aged 16 to 18 is employed by an employer in any occupation that the Secretary of Labor shall find and, by order, declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being. The Committee also noted that section 213 of the FLSA provides for exemptions. Thus, in agriculture 16 is the minimum age under section 213(c)(1) and (2) of the FLSA for employment in occupations (outside of family farms) that the Secretary of Labor finds and declares to be “particularly hazardous for the employment of children”. The Committee notes the Government’s statement that, by virtue of *Article 4(1)* of the Convention, the types of hazardous work shall be determined by the national competent authority. The Committee nevertheless observes that section 213 of the FLSA authorizes a child aged 16 to undertake, in the agricultural sector, occupations declared to be hazardous or detrimental to their health or well-being by the Secretary of Labor. Consequently, the Committee reminds the Government that, by virtue of *Article 3(d)* of the Convention, work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children constitutes one of the worst forms of child labour, and is therefore prohibited for children under 18 years of age. ***The Committee accordingly requests the Government to indicate the measures taken or envisaged to ensure that work performed in the agricultural sector, which is determined to be particularly hazardous for the employment of children by the Secretary of Labor, is prohibited for children under 18 years.***

Article 4, paragraph 3. Examination and periodical revision of the types of hazardous work. The Committee noted, in its previous comments, that 28 Hazardous Orders adopted by virtue of the FLSA determine the types of work or activities that children under 18 shall not perform. It also noted that these Orders were established in 1939 and 1960 with regard to non-agricultural occupations and in 1970 for agricultural occupations.

The Committee observed, in its previous comments, that the United States Department of Labor’s Wages and Hour Division (WHD) entered into an inter-agency agreement with the National Institute for Occupational Safety and Health (NIOSH) to conduct research on safety and health risks for children, with particular emphasis on issues relevant to child labour regulations. It noted that, according to the NIOSH’s report dated 3 May 2002, “there have been significant changes in the workplace and advancement in knowledge about occupational safety and health hazards that are not reflected in the existing Hazardous Orders”. The NIOSH consequently recommended the development of several new Hazardous Orders to protect children from particularly hazardous work not adequately addressed in the existing regulation.

The Committee notes that, as requested, the Government provides detailed information on actions taken by the Government towards amending the provisions of the FLSA and its implementing regulations in light of the NIOSH’s report of 2002. The Committee takes due note of the Government’s indication that since the recommendations were issued by the NIOSH, the

administrator of the WHD has held stakeholders' meetings on the report with all interested parties, including trade unions, organizations of employers, child advocacy groups and educators. The Government also states that the stakeholder meetings were held jointly with the NIOSH and many written comments received. It further indicates that the WHD is in the process of determining which recommendations concerning the Hazardous Orders will be presented in a first round of proposed rules. It also indicates that it is in the final stages of rule-making on several NIOSH Hazardous Orders recommendations: those relating to driving and operating balers and compactors, roofing, and handling explosive materials. The Committee welcomes the Government's initiative to review Hazardous Orders to reflect changes in the workplace and advancement in knowledge about occupational health and safety hazards affecting children. **The Committee would be grateful if the Government would supply a copy of the amendments or new orders when adopted.**

Article 5. Monitoring mechanisms. 1. General investigations on child labour. The Committee notes the Government's indications that in 2002 the number of targeted investigations in child labour by the WHD increased by 4 per cent; however, the number of child labour violations found in 2002 decreased by 8 per cent from 2001. The Government indicates that in 2002 there were 1,936 cases of violations of child labour standards, 748 of which involved Hazardous Order violations, a decrease of 14 per cent from the previous year. The Committee also notes that in 2002 the WHD initiated efforts to address problems of repeated violations in grocery stores, full services restaurants and quick services restaurants. A survey conducted in 2000 demonstrates a high rate of recidivism in those sectors. As a result, each region has committed to reinvestigate firms with earlier child labour violations. The Government also indicates that a new national survey is being conducted to determine levels of compliance in these industries. **The Committee asks the Government to provide information on the findings of this survey.**

2. Monitoring mechanisms for the trafficking of children. In its previous comments, the Committee had noted that a worker exploitation task force was established to prevent the criminal exploitation of children and to investigate cases involving the exploitation of children in forced labour in agriculture or sweatshops or as domestic servants or as prostitutes. The Committee had asked the Government to provide updated information on this task force's actions. The Government accordingly indicates that the worker exploitation task force is now referred to as the Trafficking in Persons and Worker Exploitation Task Force. This task force issued, in August 2003, a report entitled "Assessment of United States activities to combat trafficking in persons", which describes the recent activities undertaken in this area. The Committee observes that the United States has made strides in providing benefits and services to victims of trafficking, including housing and legal assistance. For instance, a regulation (66 Fed. reg. 38514 (24 July 2001)) was issued to outline procedures for appropriate federal employees to ensure that victims are housed in a manner appropriate to their status, afforded proper medical care and other assistance and protected while in federal custody. **The Committee accordingly encourages the Government to continue its efforts to eliminate child trafficking. It asks the Government to continue to provide information on the measures taken to this end and the results achieved.**

3. Monitoring mechanisms in the agricultural sector. The Committee notes the ICFTU's indication that child farm workers account for only 8 per cent of working children, but 40 per cent of all work-related fatalities among minors. The ICFTU adds that an estimated 100,000 children suffer agriculture-related injuries annually in the United States and that very few inspections take place in agriculture.

In its previous comments, the Committee had taken note of a report entitled "Child labour in agriculture: Changes needed to better protect health and educational opportunities" submitted to Congress by the General Accounting Office (GAO) in 1998. This report points out that "the weaknesses in current enforcement and data collection procedures limit enforcement agencies' ability to detect all violations of illegal child labour in agriculture". The Committee had also noted that, according to the GAO's report, the number of recorded inspections in agriculture by the WHD, the Occupational Safety and Health Administration (OSHA), the Environmental Protection Agency (EPA), and the states, has generally declined in recent years. Inspections may not be conducted at the appropriate time or in the relevant location. Thus, it observed that the GAO recommended that steps be taken to ensure that the procedures specified in the existing agreement among the WHD and other federal and state agencies, especially with regard to joint inspections and exchange of information, are being followed. The Committee noted that the Department of Labor (DOL) generally concurred with the GAO's recommendations on the necessity to ensure that coordination procedures specified in existing agreements with federal and state agencies are followed. The Committee notes that the Government supplies a document that addresses each of the GAO recommendations. Thus, the Committee observes that in 1999, the DOL requested an increase of US\$3 million to enhance compliance in targeted industries, including agriculture. Regarding the fact that the criteria used by the WHD to determine where and when to conduct investigations may not reflect the likely presence of children, a national agricultural coordinating team conference was held in 1998. During this conference, the Wage and Hour Offices were instructed to incorporate into each national, regional and local agricultural initiative a child labour enforcement component, including, as appropriate, plans to conduct weekend and pre- and post-school hours investigations designed to detect unlawful child labour. **The Committee asks the Government to continue to provide information on the measures taken to ensure the enforcement of child labour laws in agriculture and their impact on the elimination of the worst forms of child labour in this sector.**

Article 6. Programmes of action to eliminate the worst forms of child labour. 1. The Federal Inter-Agency Working Group on Young Worker Safety and Health. The Committee takes due note of the Government's indication that a Federal Inter-Agency Working Group on Young Worker Safety and Health was formed in 2003. Within this Working Group, agencies share information on educational programmes focused on an identified occupational hazard, on the provision of personal protective equipment to youth, or on methods by which complex injury and illness surveillance and reporting systems are gathered. This Working Group is composed of the WHD, OSHA, NIOSH, the Department of Interior, the Office of Job Corps, the International Trade Administration and the Department of Commerce. **The Committee asks the Government to provide information on the measures taken and findings of the Federal Inter-Agency Working Group on Young Worker Safety and Health.**

2. Youth Rules! Campaign. In its previous comments, the Committee noted that various programmes of action were launched to eliminate the worst forms of child labour, including "Work safe this summer" and "Operations salad bowl". As requested by the Committee, the Government provides further information on these programmes. It indicates that the two abovementioned programmes have been integrated into the Youth Rules! Campaign for increased effectiveness. The Committee observes that this campaign aims at increasing public awareness of federal and state rules on young workers. To this end, posters and fact sheets for specific industries such as restaurants, grocery stores and construction firms were designed; information articles on Youth Rules! were published in industry newsletters and magazines; and seminars and compliance training were conducted. The Government also indicates that the Youth Rules! Campaign was broadened in 2003 to include the agricultural industry. The Committee observes that over 20 partners have signed the Youth Rules! Campaign, which include businesses, unions, advocacy groups and 13 individual states (for instance, Illinois, Indiana, New York, Texas, Utah).

3. *The Child Exploitation and Obscenity Section.* In its previous comments, the Committee had noted that the Child Exploitation and Obscenity Section was acting towards the prevention of the criminal exploitation of children. It asked the Government to provide updated information regarding its actions. The Committee notes the Government's indication that the Child Exploitation and Obscenity Section has worked since 2001 with the assistance of the Bureau of Immigration, the Customs Enforcement of the Department of Homeland Security, the Federal Bureau of Investigation (FBI) and the Postal Inspection Service. The Government also indicates that the Child Exploitation and Obscenity Section conducts programmes that bring together states and federal law enforcement and social services for training in the investigation, prosecution and prevention of commercial sexual exploitation of minors. ***The Committee asks the Government to continue to provide information on the achievements and impact of the Child Exploitation and Obscenity Section, especially with regard to combating the commercial sexual exploitation of children under 18.***

Article 7, paragraph 1. Penalties. The Committee observes that, by virtue of the Victims of Trafficking and Violence Prevention Act, 2000, penalties for infringements of the provisions of the USC on enticement to slavery (Title 18 USC, section 1583) and sale into involuntary servitude (Title 18 USC, section 1584) were increased from imprisonment of no more than ten years to imprisonment of no more than 20 years. It also observes that a person who infringes Title 18 USC, section 1589, on forced labour is liable to a fine and/or to imprisonment for no more than 20 years. It further observes that trafficking with respect to peonage, slavery, involuntary servitude or forced labour is punishable by a fine and/or imprisonment for any term of years or life (Title 18 USC, section 1590). Sex trafficking of children under 18 years of age is punishable by a fine and/or imprisonment for not more than 20 years (Title 18 USC, section 1591(b)(2)). The Committee notes that a person who violates Title 21 USC, section 861(a)(1) and (2), on the prohibition to employ, hire, use, persuade, induce, entice or coerce a person under 18 years of age to import, export or manufacture controlled substances, shall be sentenced to a term of imprisonment which may not be less than 20 years (Title 21 USC, sections 841(b) and 861(b)). Penalties are very detailed and vary according to the quantity of drugs found. However, when children under 18 years of age are used for drug-related offences, the offender is liable to twice the maximum punishment otherwise authorized and at least twice any term of supervised release otherwise authorized (Title 21 USC, section 861(b)). The Committee also observes that the Federal Sentencing Guidelines, 2000, provide for increased penalties for crimes involving minors under 18 years of age such as exploitation of children for drug trafficking (section 2D1.2), for prostitution (section 2G1.1), for the production of pornography (sections 2G2.1. and 2G2.3), or to commit a crime (section 3B1.4). Moreover, the Committee notes the Government's indication that the Secretary of Labor proposed to raise the maximum penalty from US\$11,000 to US\$50,000 for any kind of child labour violation which results in death or maiming. In addition, the Secretary of Labor proposed to raise the maximum penalty for wilful or repeated violations that lead to the death or serious injury of a child. ***The Committee asks the Government to provide information on any developments in this regard.***

Article 7, paragraph 2. Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Children in migrant and seasonal agriculture. The Committee takes note of the ICFTU's indication that only 55 per cent of child farm workers have completed high school. In its previous comments, the Committee noted that, according to the GAO's report on child labour in agriculture of 1998, few of the programmes of the Departments of Education and Labor specifically target migrant and seasonal agricultural child workers. As requested by the Committee, the Government provides information on this issue. The Committee notes that the Department of Education annually collects information on the academic achievements of migrant children in the subject areas of reading and mathematics on state assessments that must be administered at least once during grades 3 through 5, grades 6 through 9, and grades 10 through 12. Each state is asked to report on the percentage of migrant students who have scored at the "proficient" level in reading and mathematics. In addition, the Department of Education also now plans to collect information on the percentage of migrant students who graduate from high school and the number of migrant students who drop out from school. ***The Committee asks the Government to continue to provide information on the means used to encourage migrant children to remain in school and the results attained.***

Clause (b). Direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. The Committee notes that the Trafficking Victims Protection Act, 2000, allows for federally funded or administered benefits and services, such as cash assistance, medical care, food stamps and housing, to be available for certain non-citizen trafficking victims (section 107). It notes that, according to the report of the Trafficking in Persons and Worker Exploitation Task Force of August 2003, the Department of Health and Human Services provides certification and eligibility letters for trafficked persons that allow them to have access to most benefits and services. Since the enactment of the Trafficking Victims Protection Act, the Department has provided 28 benefits eligibility letters to child trafficking victims. The report also indicates that child trafficking victims may be placed with caring families that understand their cultural background and can speak their language. There are also therapeutic placements for children with special needs. The Committee further observes that the State provides assistance for trafficking victims who have requested repatriation to their home countries. The assistance includes maintaining housing and victim benefits pending repatriation. The Government has established links with foreign governments and NGOs to facilitate the victim's return and to ensure that the victim is not trafficked again. The Committee also observes that the Government is engaged in improving its contacts with victims, including engagement in extensive outreach to NGOs which are often the first point of contact with victims of trafficking. ***The Committee asks the Government to continue to provide information on the measures taken by the Trafficking in Persons and Worker Exploitation Task Force, and the impact of such measures with regard to reducing the number of children involved in trafficking and providing for their rehabilitation and social integration.***

Clause (c). Access to free basic education. Child victims of trafficking. The Committee observes that, according to section 106(A)(3) of the Trafficking Victims Protection Act, 2000, the President shall establish and carry out programmes to keep children, especially girls, in elementary and secondary school and to educate persons who have been victims of trafficking. ***The Committee asks the Government to provide information on the time-bound programmes adopted or envisaged to keep child victims of trafficking in school and the impact of such programmes.***

Clause (e). Special situation of girls. The Committee observes that, according to the Government, there are federal and state programmes designed to protect young girls who are considered at high risk of exploitation. ***The Committee requests the Government to provide further information on the programmes specifically designed to protect girls under 18 years of age from the worst forms of child labour.***

Article 7, paragraph 3. Competent authority responsible for the implementation of the Convention. The Committee notes that the Criminal Division of the Department of Justice works, with the assistance of the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security (formerly the United States Customs Service), as well as the FBI and the United States Postal Inspection Service, to conduct programmes that bring together state and federal law enforcement and social groups for training in the investigation, prosecution and prevention of commercial sexual exploitation of minors. The Committee

also notes that the FBI is responsible for investigating suspected violations of federal drug laws, and benefits from the assistance of the Drug Enforcement Administration to this end. The Committee further notes that child labour standards on hazardous work are administered and enforced by the WHD of the Department of Labor. The Occupational Safety and Health Administration is responsible for the enforcement of the Occupational Safety and Health Act.

Article 8. International cooperation. The Committee notes that the United States is a member of Interpol which helps cooperation between countries in the different regions especially in the fight against trafficking of children. It also observes that, since 1995, the United States participates in ILO/IPEC projects aimed at the elimination of the worst forms of child labour worldwide. The Committee takes due note that, according to the report of the Trafficking in Persons and Worker Exploitation Task Force annexed to the Government's report, the Government supported 200 anti-trafficking programmes in 75 countries in 2002. These programmes include researching into the nature and extent of trafficking in Haiti, the Dominican Republic, Afghanistan and in the Balkans. Another programme aimed at improving access to education and health for children in the Dominican Republic. The United States also participated in launching media campaigns to promote child welfare and prevent trafficking in Mali and Côte d'Ivoire. **The Committee asks the Government to continue to provide information on the steps taken to assist other member States in giving effect to the provisions of this Convention.**

Part III of the report form. The Committee notes that, according to the Trafficking in Persons and Worker Exploitation Task Force's report, 2003, the Department of Justice has initiated more than double the number of trafficking prosecutions (20 versus nine), involving more than three times the number of defendants (79 versus 24) in 2001-02 when the Trafficking Victims Protection Act came into effect, than in 1999-2000. It also indicates that the number of defendants successfully prosecuted increased more than twofold (51 versus 23). The Committee also observes that the report provides examples of recent case law involving child exploitation. Thus, in *United States v. Jimenez-Calderon* (Indictment 9/26/02), a Mexican family lured and smuggled girls from small towns in Mexico to the United States with false promises of marriage, only to force them into prostitution in New Jersey. Two defendants were sentenced to 210 months' incarceration, three other members of the conspiracy are awaiting sentencing and two others are fugitives. The Committee also observes that another case (*United States v. Alamin and Akhter* (Indictment 11/16/00)) involved a 14-year-old Cameroonian girl who was held in involuntary servitude and used as a domestic servant for several years. It further observes that in *United States v. Quinton Williams* (indictment 2/25/03), a person transported a 16-year-old girl by car to different states where he supervised her prostitution activities, collected and kept all of the earnings. He was convicted of sex trafficking of children and sentenced to 125 months' imprisonment and ordered to pay a US\$2,500 fine. **The Committee asks the Government to continue to provide information on court decisions concerning child trafficking for labour or sexual exploitation and the penalties imposed. It also asks the Government to provide information on case law regarding other worst forms of child labour.**

Part V of the report form. The Committee observes that the report on the youth labour force drafted by the DOL, in June 2000, provides statistics on trends in youth employment, occupational injuries, illnesses and fatalities. According to the above-mentioned data on injuries, male workers under 18 suffer from sprains, strains and tears (22 per cent); cuts and lacerations (14 per cent); and heat burns and scalds (9 per cent). Females suffer from the same type of injuries but in different proportions. It also observes that out of 442 cases of occupational fatalities among youth under 18 years of age 57 per cent occurred in non-agricultural occupations. The Committee also notes that specific data on the number of children trafficked in and out of the United States, on child victims of sexual exploitation (prostitution and pornography) or on children engaged in hazardous work do not seem to exist. **The Committee encourages the Government to continue to supply information on the worst forms of child labour through copies of or extracts from official documents, including inspection reports, studies and inquiries, and information on the nature, extent and trends of the worst forms of child labour, the number of children covered by the measures giving effect to the Convention, the number and nature of infringements reported, investigations, prosecutions, convictions and penal sanctions applied. As far as possible, such information and statistical data should include data disaggregated by sex, age group, occupation, branch of economic activity, and status in employment, school attendance and geographical location.**

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

Bolivarian Republic of Venezuela

Minimum Age Convention, 1973 (No. 138) (ratification: 1987)

The Committee notes the information provided by the Government in its report.

Article 1 of the Convention. When ratifying the Convention, the Bolivarian Republic of Venezuela undertook to pursue a national policy designed to ensure the effective abolition of child labour. **The Committee would be grateful if the Government would indicate the measures adopted or envisaged to ensure the effective abolition of child labour.**

Article 3, paragraphs 1 and 3. Age of admission to hazardous types of work and authorization to work as from the age of 16 years. In its previous comments, the Committee noted that section 96(1) of the Act on the protection of children and young persons of 1998 prohibits the employment of young persons aged between 14 and 18 years on the types of work referred to by the Act. However, it noted that under the terms of section 96, the national executive authorities may, by decree, determine minimum ages that are higher than 14 years for types of work which are hazardous or harmful to the health of young persons. Furthermore, the Committee noted that the National Institute of Occupational Prevention, Safety and Health (INPSASEL) was examining the question of whether it was necessary to adopt a decree determining minimum ages higher than 14 years. In this respect, the Government indicates in its report that INPSASEL is still examining this matter and that once the list of hazardous types of work has been adopted, minimum ages will be recommended taking into account the overall interests and health of young persons.

While noting the Government's indications, the Committee wishes to remind the Government that, under the terms of *Article 3, paragraph 1*, of the Convention, the minimum age for admission to hazardous types of work, that is to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the

health, safety or morals of young persons, shall not be less than 18 years. It also reminds the Government that, under the terms of *Article 3, paragraph 3*, of the Convention, national laws or regulations or the competent authority may, after consultation with the organizations of employers and workers concerned, authorize employment or work as from the age of 16 years on hazardous types of work on condition that the health, safety and morals of the young persons concerned are fully protected and that they have received adequate specific instruction or vocational training in the relevant branch of activity. This latter provision of the Convention authorizes, under strict prior conditions respecting protection and training, the employment or work of young persons between 16 and 18 years of age and, accordingly, amounts to a limited exception to the general prohibition for young persons under 18 years of age to carry out hazardous types of work. ***The Committee requests the Government to take the necessary measures to ensure that no person under 18 years of age, outside the exceptions authorized by the Convention, is authorized to carry out a hazardous type of work, in accordance with the requirements of Article 3, paragraph 1, of the Convention. It also requests the Government to provide information on the results of the INPSASEL study. The Committee trusts that the measures adopted following the study by INPSASEL will be in accordance with the requirements of Article 3, paragraph 3, of the Convention and it requests the Government to provide information on this matter.***

Article 3, paragraph 2. Determination of hazardous types of work. With reference to its previous comments, the Committee notes the information provided by the Government according to which INPSASEL is currently examining the various classifications of types of work which are hazardous or harmful for children and young persons which have been determined throughout the world with a view to establishing a list which responds to the Venezuelan situation and to the characteristics of workers in the country. It also notes the various provisions of the Regulations on occupational safety and health conditions and the Labour Code. The Committee recalls that, by virtue of *Article 3, paragraph 2*, of the Convention, hazardous types of work have to be determined in consultation with the organizations of employers and workers concerned. ***The Committee hopes that the list of hazardous types of work will be established in the very near future so as to give effect to the provisions of the Convention on this matter. It requests the Government to provide information on any progress achieved in this respect.***

Part V of the report form. Application of the Convention in practice. In its previous comments, the Committee noted that the ICFTU, in its communication dated 21 November 2002, indicated that child labour was widespread in the informal economy and in unregulated activities. According to certain estimates, the number of working children, particularly in agriculture, the domestic service and as street vendors, is around 1.2 million. Furthermore, 300,000 children reportedly work in the formal economy. The Committee also noted the Government's indications that the ICFTU's comments were imprecise and lacked substance. In view of the high number of working children estimated by the ICFTU, namely 1.2 million, the Committee requested the Government to provide fuller information on child labour in the sectors referred to above.

In its report, the Government indicates that agricultural work and street sales are covered by sections 112 and 113 of the Act on the protection of children and young persons of 1998. It adds that the INPSASEL, in collaboration with the inspection services of the Ministry of Labour, is carrying out inspections relating to work by boys, girls and young persons in both the formal and informal economies. ***While taking due note of this information, the Committee requests the Government to provide information on the findings of the inspections carried out by INPSASEL and the inspection services of the Ministry of Labour, providing, for example, statistical data on children and young persons working in both the formal and informal economies, and particularly in agriculture, domestic service and as street vendors.***

Zambia

Minimum Age Convention, 1973 (No. 138) (ratification: 1976)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee takes note of the Government's report, and of the communication of the International Confederation of Free Trade Unions (ICFTU) dated 23 October 2002.

The Committee notes, from the communication of the ICFTU, that child labour in Zambia is almost inexistent in the formal economy; however, children are reported to work in the unregulated economy, often in dangerous or harmful work. According to the ICFTU, children are mostly found in agriculture, domestic service, small-scale mining operations, stone crushing and potting. It further highlights that 25 per cent of primary-school age children do not receive any schooling and that, in 1999, less than 29 per cent of children reached secondary school. ***Noting the absence of reference in the Government's report to the communication of the ICFTU, dated 23 October 2002, the Committee requests the Government to provide, in its next report, its comments on the points raised therein.***

The Committee is also addressing a direct request to the Government concerning other detailed points.

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the Government's first report and the communication of the International Confederation of Free Trade Unions (ICFTU) dated 23 October 2002. Referring to the comments made by the Committee under the Forced

Labour Convention, 1930 (No. 29), in so far as *Article 3(a)* of Convention No. 182 provides that the worst forms of child labour include “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour”, the Committee is of the view that the issue of trafficking of children can be examined more specifically under Convention No. 182. ***The Committee requests the Government to supply further information on the following points.***

Article 3. The worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children. The Committee previously noted the allegations of the ICFTU, according to which there were reports of trafficking of children to neighbouring countries for the purpose of forced prostitution. The ICFTU also indicated that combatants from neighbouring Angola kidnaped Zambian children and bring them to Angola to perform various forms of forced labour.

The Committee notes that sections 2, 4B(1) and 17(B)(1) of the Employment of Young Persons and Children’s Act of 1933, as amended by Act No. 10 of 2004, prohibits the sale and trafficking of children and young persons under 18 years of age. The trafficking of persons for sexual exploitation is also prohibited under section 257 of the Penal Code. Section 261 of the Penal Code further provides that “any person who imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave” commits an offence. The Committee also notes that sections 4(B) and 17(B) of the Employment of Young Persons and Children’s Act, as amended in 2004, provide for a fine of 200,000 to 1 million penalty units and five to 25 years’ imprisonment for breach of the provisions prohibiting the sale and trafficking of children.

The Committee also notes that ILO/IPEC launched, in March 2004, a one-year action programme to combat child trafficking and commercial sexual exploitation of children in four towns in Zambia, namely Kapiri Mposhi, Chirundu, Lusaka and Livingstone. According to the ILO/IPEC action programme, there are reports of children being trafficked from the United Republic of Tanzania to Zambia, and from Zambia to Angola, the Democratic Republic of the Congo, Namibia and Zimbabwe. The Committee further observes that, according to an ILO/IPEC study conducted in 2002, there were reports of internal child trafficking, especially in the central province, for the purpose of employing children in farms. Teenagers are also reported to be trafficked to South Africa, Germany, Finland, France, Greece, Malawi, Namibia, Russian Federation, Sweden, Denmark and Italy. The programme’s objectives are to: (i) conduct a rapid assessment to determine the extent of child trafficking; (ii) raise awareness on this issue; (iii) establish, train and strengthen community volunteer teams to quickly respond to cases of child trafficking; (iv) strengthen the capacities of community social workers, police victim support unit officers, the judiciary and immigration officers to effectively implement the activities; and (v) conduct direct actions to withdraw, rehabilitate and reintegrate child victims of trafficking.

The Committee consequently notes that, although the trafficking of children for labour or sexual exploitation is prohibited by law, it remains an issue of concern in practice. The Committee reminds the Government that, by virtue of *Article 3(a) of the Convention*, the sale and trafficking of children is considered as one of the worst forms of child labour, and that by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee accordingly invites the Government to redouble its efforts to improve the situation and to take, without delay, the necessary measures to eliminate the internal and cross-border trafficking of children under 18 for labour and sexual exploitation. It also asks the Government to take the necessary measures to ensure that persons who traffic in children for labour or sexual exploitation are prosecuted and that sufficiently effective and dissuasive penalties are imposed. Finally, the Committee requests the Government to provide information on the results achieved under the above ILO/IPEC programme with regard to the removal, rehabilitation and social integration of child victims of trafficking.***

Article 7, paragraph 2. Time-bound measures. Clause (d). Identifying and reaching out to children at special risk. The Committee notes the ICFTU’s indication that the number of street children in the capital Lusaka nearly tripled over the 1990s. It adds that since the number of Zambians dying of HIV/AIDS has increased, the number of orphans has increased too and that nearly all of these children are working, particularly in hazardous work. According to UNDP, 16 per cent of the population aged 15 to 49 is living with HIV/AIDS.

The Committee also observes that Zambia participates together with Uganda in an ILO/IPEC pilot project entitled “Combating and preventing HIV/AIDS-induced child labour in sub-Saharan Africa” (September 2004-December 2007). According to the project report (page v), Zambia counted 630,000 children orphaned by HIV/AIDS in 2003. The project aims at expanding and sustaining education and skills training opportunities for child orphans withdrawn from the worst forms of child labour and preventing 3,600 children from engaging in such activities. The project also aims at using its experiences to expand the knowledge base around the issues of child labour and HIV/AIDS, in order to generate appropriate policy responses and expand the resources available to eliminate the worst forms of child labour, and promote a reduction in HIV/AIDS-related risks for girls and boys. According to the above ILO/IPEC project, Zambia has taken positive steps to combat child labour and HIV/AIDS. Thus, the draft national AIDS policy addresses the difficult situation of children orphaned by HIV/AIDS, including some 6 per cent who are street children. Some organizations provide services, such as psychological counselling, skills training, educational assessment and placement, food, clothing and health care for orphaned and vulnerable children. Orphaned children are thus withdrawn from the street and are provided with educational assistance. The Committee nevertheless notes that the ILO/IPEC report indicates that “the implications of the pandemic for abusive child labour remains unremarked” (Annex 9, page 96).

Considering that the HIV/AIDS pandemic has serious consequences for orphans who are more exposed to the worst forms of child labour, the Committee encourages the Government to pursue its efforts to combat HIV/AIDS-induced child labour and to provide information on the results achieved.

Article 8. International cooperation. The Committee notes that Zambia is a member of Interpol, which helps cooperation between countries in the different regions, especially in the fight against trafficking of children. *The Committee asks the Government to provide information on any measures taken or envisaged to cooperate with countries to which Zambian children are trafficked.*

Parts IV and V of the report form. *The Committee requests the Government to provide a copy of available data on trafficking of children for labour and sexual exploitation, including inspection reports, and information on the extent and trends of this worst form of child labour, the number and nature of infringements reported, investigations, prosecutions, convictions and penal sanctions applied.*

The Committee is also addressing a request directly to the Government concerning other detailed points.

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 10** (Djibouti); **Convention No. 33** (Djibouti); **Convention No. 77** (Haiti, Kyrgyzstan); **Convention No. 78** (Haiti, Kyrgyzstan); **Convention No. 79** (Kyrgyzstan); **Convention No. 90** (Bosnia and Herzegovina); **Convention No. 123** (Madagascar, Uganda); **Convention No. 124** (Kyrgyzstan); **Convention No. 138** (Antigua and Barbuda, Azerbaijan, Barbados, Belarus, Belize, Bosnia and Herzegovina, Botswana, Burundi, Cambodia, Cameroon, Central African Republic, China, Congo, Cyprus, Democratic Republic of the Congo, Denmark, Equatorial Guinea, Fiji, Georgia, Guyana, Iceland, Israel, Jamaica, Kazakhstan, Republic of Korea, Kuwait, Libyan Arab Jamahiriya, Lithuania, Madagascar, Malaysia, Mali, Malta, Mauritius, Republic of Moldova, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, Netherlands: Aruba, Nicaragua, Nigeria, Norway, Panama, Papua New Guinea, Peru, Philippines, Portugal, Russian Federation, Rwanda, Senegal, Serbia and Montenegro, Seychelles, Slovakia, Slovenia, South Africa, Spain, Swaziland, Switzerland, Syrian Arab Republic, United Republic of Tanzania, Togo, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Viet Nam, Yemen, Zambia, Zimbabwe); **Convention No. 182** (Albania, Bahamas, Barbados, Belgium, Belize, Botswana, Cameroon, Central African Republic, Chad, China, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Congo, Democratic Republic of the Congo, Denmark, Egypt, Ethiopia, Fiji, Gabon, Georgia, Germany, Ghana, Guyana, Hungary, Islamic Republic of Iran, Jamaica, Kenya, Republic of Korea, Kuwait, Lebanon, Libyan Arab Jamahiriya, Lithuania, Madagascar, Malaysia, Mali, Malta, Mauritius, Mexico, Republic of Moldova, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Seychelles, Singapore, Slovakia, Slovenia, South Africa, Spain, Swaziland, Switzerland, United Republic of Tanzania, Thailand, Togo, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Viet Nam, Yemen, Zambia, Zimbabwe).

The Committee noted the information supplied by the following State in answer to a direct request with regard to **Convention No. 138** (Poland).

Equality of Opportunity and Treatment

Algeria

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

1. *Discrimination on the basis of religion.* The Committee noted in its previous comments the Government's confirmation that constitutional articles referring to fundamental rights of the population, read together, guarantee protection against religious discrimination. The Committee had requested specific information on these provisions, which has not yet been provided. **The Committee, therefore, urges the Government to provide copies of all court decisions concerning these provisions and to indicate any measures taken or envisaged to prevent and eliminate the occurrence of religious discrimination in employment and occupation.**

2. *Discrimination on the basis of sex.* In its previous comments, the Committee noted that the Decrees on part-time work (No. 97-473 of 8 December 1997) and on homeworkers (No. 97-474 of 8 December 1997) had contributed to the improvement of the employment conditions of these workers, most of whom are women. However, noting the Government's indication that these Decrees would allow women to have a source of supplementary income for the family budget, the Committee drew attention to the importance of not considering women as supplementary wage earners, as this does not support the promotion of equality of opportunity and treatment in employment and occupation. The Committee had also noted the Government's statement that, in practice, women were still confronted with discrimination in employment resulting from stereotypes that exist regarding a woman's place in society.

3. The Committee notes that the lack of access of girls and women to non-traditional vocational training opportunities, referred to in its previous comments, is also a reflection of such stereotypes and further hinders women's equal access to employment. The Government had previously stated that it intended to open up new training branches, including in electricity and electronics, with access to these programmes being linked solely to the capacities of the candidates. The Committee notes from the Government's most recent periodic report under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW/C/DZA/2, 5 February 2003) that some progress in women's access to traditionally male fields has been made, and generally the number of women in secondary/higher education and in vocational training is rising. The CEDAW report indicates that, due to the diversification of skills and the extension of training to students in the third year of secondary school, there has been an increase in the number of women in traditionally male fields; however, the numbers remain low, and women continue to be highly concentrated in vocational training courses that lead to traditionally female occupations. The Committee also notes that in 2001 women constituted only 15 per cent of the total labour force.

4. The Committee expresses concern regarding the persistence of strong stereotypical attitudes with respect to the roles and responsibilities of women and men in the family and in society, which have had a serious impact on the employment and vocational training opportunities of women in practice. **The Committee, therefore, again urges the Government to further its national policy to promote equality of opportunity and treatment in respect of employment and occupation, and to keep it informed of any progress in this regard. It also requests the Government to provide information on any measures taken or envisaged to facilitate and encourage access of women and girls to more diversified vocational training opportunities, including those leading to traditionally male occupations, so as to afford them a greater chance of entry into the labour market. In addition, the Committee suggests that efforts be made to address stereotypical attitudes through, for example, awareness-raising campaigns, in collaboration with workers' and employers' organizations.**

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

Bosnia and Herzegovina

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

Articles 1 and 2 of the Convention. Legislative developments. In its previous comments, the Committee noted the existence of new legislation dealing with gender equality, though it did not yet have a copy of the text for examination. The Committee notes with satisfaction that the Law on Gender Equality was adopted at the state level, in May 2003 (No. 56/03), and provides specifically that discrimination on the ground of gender at work and in employment includes "failure to pay equal wages and other benefits for the same work or work of equal value" (section 8). It also provides that collective agreements and entity legislation are to be brought into conformity with the Law (sections 9 and 21). **The Committee asks the Government to provide information regarding the implementation of the Law on Gender Equality, and on any progress achieved in incorporating the principle of equal remuneration for men and women for work of equal value into the entity legislation.**

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1993)***

The Committee notes the Government's report, which attached communications from the Confederation of Independent Trade Unions of Bosnia and Herzegovina (SSSBIH) and the Confederation of Trade Unions of the Republika Srpska. Substantially the same observations of the SSSBIH were forwarded to the Office by the International Confederation of Free Trade Unions (ICFTU) on 1 September 2005.

1. *Article 1 of the Convention. Legislative developments on gender equality.* The Committee noted in its previous comments the importance of formulating and implementing a genuine policy of equality of opportunity and treatment in all spheres, and the need to take decisive steps to ensure that equality and non-discrimination in employment become a reality. The Committee notes with satisfaction that the Law on Gender Equality was adopted at the state level in May 2003 (No. 56/03), with the express objective of governing, promoting and protecting gender equality and guaranteeing equal opportunities in the public and private domains, and in all sectors of society, including in the fields of education, economy, employment and labour, social welfare, health care, public life and the media (sections 1 and 2). The Law prohibits direct and indirect discrimination on the grounds of gender and sexual orientation (sections 1, 2 and 3). The Law takes a comprehensive approach through prohibiting gender discrimination at all levels of society, imposing a positive duty to prevent sexual harassment and gender discrimination (section 8), and envisaging policies and programmes to promote equality (sections 21 and 23). ***The Committee asks the Government to provide information regarding the implementation of the Law on Gender Equality, including any policies and programmes established to ensure non-discrimination and promote equality in employment and occupation.***

2. The Committee notes that the Law on Gender Equality provides that collective agreements and entity legislation are to be brought into conformity with its provisions (sections 9 and 21). The Committee has noted in its past comments that general legislation exists in the Republika Srpska and the Federation of Bosnia and Herzegovina prohibiting discrimination in employment and occupation. The Committee welcomes the proactive approach expressed in the Law on Gender Equality, which generally has been found to be more effective in addressing in particular subtler forms of discrimination. The Committee also notes the specific definitions set out in the Law, including on discrimination, direct and indirect discrimination, and sexual harassment, which are not found in the entity legislation. ***The Committee asks the Government to provide information on any progress achieved in harmonizing the entity legislation as well as collective agreements with the Law on Gender Equality.***

3. *Discrimination on the grounds of national extraction or religious belief.* In its previous comments, the Committee recalled the conclusions, approved by the Governing Body in November 1999, concerning the representation made pursuant to article 24 of the ILO Constitution by the Union of Autonomous Trade Unions of Bosnia and Herzegovina (USIBH) and the Union of Metalworkers (SM), alleging non-observance of Convention No. 111. The Governing Body concluded that workers had been dismissed from two undertakings (the "aluminum" and "soko" factories) based on national extraction or religious belief. The Committee noted with interest the adoption of legislation designed to provide compensation to workers who lost their employment during the civil war, and stressed that it was the responsibility of the parties concerned to apply the provisions of the Labour Code and the recommendations of the Governing Body. The Committee also recalled communications of the USIBH and the trade union organization of the "Ljubija" iron mine concerning dismissals by that undertaking during the civil war on the basis of the national extraction of the workers. ***The Committee again requests the Government to provide information on progress achieved in resolving these matters, including statistics available on the number of workers who have benefited from the legislative provisions regarding compensation, and where appropriate, information on any difficulties encountered.***

4. *Article 2. Practical application.* The Committee notes that the comments of the SSSBIH and the Confederation of Trade Unions of the Republika Srpska, while acknowledging the existence of appropriate legislative provisions, stress the problems of practical application, particularly with respect to discrimination based on sex, age, religious belief, national extraction and political opinion. The Committee recalls in this regard that, while the affirmation of the principle of equality in legal provisions is an important element of a national policy to promote equality of opportunity and treatment in employment and occupation, it is essential to take continuing and proactive measures to ensure that the principles of the Convention are fully applied in practice. ***The Government is, therefore, requested to provide information on any measures taken to ensure the practical application of the Convention, such as awareness raising and training on equality issues, in collaboration with workers' and employers' organizations.***

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

Burkina Faso

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1962)***

The Committee notes with satisfaction that section 3 of the new Labour Code (Act No. 33-2004/AN of 14 September 2004) reproduces almost word for word the provisions of *Article 1 of the Convention*. It notes in particular

that “colour” and “national extraction”, which were excluded under the 1992 Labour Code, are now covered by section 3 of the new Code.

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

Chad

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1966)***

The Committee notes with regret that the Government’s report has not been received. It must therefore repeat its previous observation, which read as follows:

1. *Article 1(1)(a) of the Convention. Definition of discrimination.* The Committee once again refers to its previous comment concerning article 32 of the Constitution, which states that no one can be discriminated against in their work on the grounds of origin, opinions, beliefs, sex or matrimonial situation, but does not include other grounds of discrimination set out in *Article 1(1)(a)* of the Convention, particularly race and colour. The Committee notes the statement of the Government that race and colour were never criteria for discrimination in Chad and that the legislator therefore simply omitted these terms in the Constitution. While stressing the equal importance of all grounds listed in the Convention, the Committee observes that the grounds of race and colour are of particular significance to promote and ensure equality of opportunity and treatment in employment and occupation in multi-ethnic societies. The Committee hopes that the Government will consider amending article 32 of the Constitution or adopting legislation so as to bring it fully into line with the Convention. ***Noting from the report that the regulations enforcing the Labour Code will take into account the grounds of race and colour, the Committee requests the Government to provide information on the progress made in this respect and to provide a copy of these regulations as soon as adopted.***

2. *Part V of the report form. Practical application.* The Committee notes from the Government’s brief report that equality of treatment is recognized in Chad, that women are not discriminated against and are entering employment in both the private and public sectors, and as members of Government and Parliament. The report however contains no information on concrete measures taken to facilitate women’s access to public and private employment nor data on the employment situation of women. Both these issues have been raised in earlier comments by the Committee following the communication from the Trade Union Confederation of Chad (CST) of 27 June 1997 alleging non-application by Chad of the principles of equality in employment and occupation for women workers. The Committee stresses once again that, in addition to legislative and policy measures, the Convention requires the Government to pursue a national policy for the promotion of equal opportunity and treatment in employment and occupation through positive measures with a view to eliminating discrimination on the grounds contained in the Convention and promoting equality. In connection with this it continues to encourage the Government to provide adequate resources to those structures responsible for implementing such policy. ***The Committee reiterates its request for information on the measures taken to promote equal access of women to training and employment in the private and public sectors and the results of such action, as well as data on labour force participation of men and women, as is called for under the population policy declaration, and the policy to integrate women into development.***

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

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

Chile

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1971)***

The Committee notes that the Government’s report has not been received. It must therefore repeat its previous observation, which read as follows:

1. The Committee notes with interest the amendment made to section 2 of the Labour Code by Act No. 19812 of 13 June 2002, broadening protection against discrimination in employment on grounds of previous debts, with the exception of workers who have general administrative responsibilities or whose functions relate to the collection, administration or management of funds or assets. It also notes the administrative decision dated 18 November 2002, which found to be discriminatory the requirement of a certificate attesting to any penal or criminal record for labour purposes, and the ruling of 11 February 2003 which found to be discriminatory and penalized job offers referring in their requirements to some of the conditions envisaged in section 2 of the Labour Code (grounds of discrimination).

2. The Committee notes that the Government has not replied in its report to the request for information in its previous comment concerning discrimination on grounds of political opinion. The Government once again reiterated that the Legislative Decrees (Nos. 112 and 139 of 1973, 473 and 762 of 1974, and 1321 and 1412 of 1976) which grant broad discretionary powers to the vice-chancellors of universities to terminate the contracts of employment of academic and administrative personnel are no longer in force and that the necessary conditions do not currently exist for their application, as they were issued under absolutely exceptional historical circumstances, which have now been superseded. Despite the fact that the Civil Code in sections 52 and 53 provides for the tacit repeal of a law through the enactment of new provisions which cannot be reconciled with the previous legislation, the Committee repeats its previous comments and emphasizes that in its view the best way of ensuring that there is no uncertainty with regard to the positive law that is in force is to explicitly repeal provisions which are not effectively in force. Furthermore, with regard to section 55 of Legislative Decree No. 153 of 19 January 1982 issuing the statutes of the University of Chile and section 35 of Legislative Decree No. 149 of 7 May 1982 regulating the statutes of the University of Santiago de Chile, the Committee notes that they still have not been amended or repealed, as it requested in previous comments. Moreover, the Committee notes that the Framework Bill respecting state universities submitted in 1997 has currently been put aside. ***The***

Committee once again requests the Government to take the necessary measures to bring the national legislation into compliance with the provisions of the Convention.

3. The Committee notes that the Government has not replied to its comments concerning the amendment of section 349 of the Commercial Code, which provides that a married woman who is not covered by the marital regime of the individual ownership of property may only enter into a commercial partnership agreement with her husband's special authorization. *The Committee hopes that the Government will once again consider the possibility of amending section 349 of the Commercial Code so as to ensure that women, irrespective of their civil status and the marital property regime that they and their spouses have selected, may conclude commercial partnership agreements without the prior authorization of their spouse and exercise their professional activities under equal conditions with men. The Committee refers to this matter in greater detail in a direct request.*

The Committee is also addressing a request directly to the Government on other points.

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

Czech Republic

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1993)***

1. *Discrimination on the basis of race and national extraction.* The Committee notes the information provided by the Government on the different measures taken to implement its policies aimed at the integration of the Roma community, particularly through achieving better levels of education and vocational qualifications. The Committee notes, for instance, the programme to support Roma students in secondary schools through which financial assistance was provided to some 8,000 students between 2000 and 2004. Programmes have also been carried out to train members of the Roma community to enable them to have greater access to employment in the state administration. Under the framework of the European EQUAL initiative, some projects focused on racial discrimination and awareness raising on minority issues in a multicultural society. The Committee also notes that a draft Anti-Discrimination Act is currently pending in Parliament which will reflect the requirements of the European Union directives on discrimination, including on the basis of race and ethnicity. Recalling its previous observations concerning the need to assess the impact of the measures taken on the actual situation of members of the Roma community in education and employment, the Committee notes the Government's statement that a major problem in the evaluation of governmental action taken was the absence of statistical data. The current legal situation did not allow the collection of data concerning the ethnicity of students. Further, the labour offices, at the request of Roma representatives, no longer registered the ethnic origin of jobseekers, which was done previously on a voluntary basis. However, the Government states that depending on the region concerned, between 30 and 70 per cent of the persons registered by the labour offices as "persons with job placement difficulties" are Roma. The Committee is concerned that only a small part of the Roma community wished to reveal their ethnic origin in the 2001 census, as this may be an indication of continuing mistrust between the different parts of the population and of intolerance and discrimination still experienced by the Roma.

2. *The Committee urges the Government to put in place and apply appropriate methods to assess the progress made in the realization of objectives and targets set concerning the social integration of the Roma, and to supply to the Committee any results of such assessments. In addition, the Government is requested to: (1) continue to provide detailed information on the specific measures taken to promote access of members of the Roma community to education, training and employment, including in public works schemes and self-employment; (2) provide information on the implementation of programmes targeting "persons with job placement difficulties", including the number of enterprises that have received tax deductions or direct payments in return for employing such persons; (3) step up its efforts to combat prejudices and discrimination against members of the Roma community and to build trust between the Roma and other parts of society, in collaboration with workers' and employers' organizations and Roma representatives, and to provide information on the specific action taken in this area; and (4) to provide detailed information on any cases or situations involving instances or allegations of ethnic discrimination in employment or occupation dealt with by the competent authorities, including the labour inspectorate and the courts.*

3. *Discrimination on the basis of political opinion.* The Committee recalls that Act No. 451 of 1991 (Screening Act), which lays down certain political prerequisites for holding a range of jobs and occupations, mainly in the public service, had been subject to representations under article 24 of the ILO Constitution (in November 1991 and June 1994) and the Governing Body committees deciding on the matter invited the Government to repeal or modify the provisions in the Screening Act that were incompatible with the Convention. In its previous observation, the Committee noted that Parliament had extended the Act, despite the dissent of the Government and its efforts to avoid such action. While the Government previously stated that the Civil Service Act of 2002 was intended to replace the Screening Act, the Committee notes from the Government's report that Parliament declined to repeal the Screening Act when adopting the Civil Service Act, and another proposal for repeal was rejected by Parliament in 2003. *The Committee requests the Government to continue to provide information on the status and application of the Screening Act.*

The Committee is raising other and related points in a request addressed directly to the Government.

Dominica

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1983)***

The Committee notes that, over the past five years, the Government's report has provided little or no information with respect to the points raised in its previous comments. While the Committee acknowledges that countries may not be in a position to provide all the information requested, it emphasizes that it is still necessary for the Committee to be provided with as much information as possible in order to permit an adequate evaluation of the progress achieved in the application of the Convention. ***The Committee thus trusts that the Government will make every effort to collect and communicate, in its next report, concrete information with respect to all the points raised in its direct request, as well as any other particulars which would enable the Committee to better appreciate the progress achieved or the difficulties encountered in applying the Convention.***

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

Egypt

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1960)***

Articles 1 and 2 of the Convention. Equality of opportunity and treatment of men and women. The Committee notes with interest that it is now possible in Egypt for women to assume the post of a judge, which was not the case previously. It notes the Government's indications that this development has been achieved due to: (i) the role that the National Council for Women plays in raising awareness on gender equality issues; and (ii) the religious authorities clarifying that Islamic law does not prohibit women from taking up judicial posts. The Government states that men and women can now be appointed as judges on an equal basis, consideration being given only to their professional qualifications. ***The Committee invites the Government to continue to provide information on the measures taken or envisaged to promote equality of opportunity and treatment of men and women in employment and occupation, including the activities carried out by the National Council for Women and other competent bodies, and on any further progress made in this regard.***

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

Eritrea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 2000)***

The Committee notes the Government's brief report which again does not contain a reply to previous comments. It hopes that the next report will include full information on the matters raised in its previous observation, which read as follows:

The Committee recalls that at its 282nd Session (November 2001) the Governing Body of the ILO approved the report of the tripartite committee set up to examine the representation alleging non-observance of Ethiopia of Conventions Nos. 111 and 158, made under article 24 of the ILO Constitution by the National Confederation of Eritrean Workers (GB.282/14/5). The Governing Body concluded that large-scale deportations of persons, including workers from Ethiopia to Eritrea and vice versa, occurred following the outbreak of the border conflict in May 1998. Recalling its previous comments following up on the Governing Body's conclusions, the Committee notes from the Government's report that Eritrea filed its statement of claims with the Eritrea-Ethiopia Claims Commission on 12 December 2001 in accordance with the Commission's instructions. The statement included claims relating to Ethiopia's treatment of workers of Eritrean nationality or origin (Eritrea claim 15 - persons expelled from Ethiopia; and Eritrea claim 23 - Eritrean nationals and persons of Eritrean origin remaining in Ethiopia). The Government indicates that it is currently preparing its counter-memorial with regard to the claims relating to expelled persons, while the memorial regarding persons that are still within Ethiopia will be due at a later stage. The Committee notes the Government's assurances that it would take all the necessary measures to fully implement any awards rendered. It also confirmed that Ethiopians residing in Eritrea were entitled to their employment rights and in case of abuse, victims were able to assert their rights. ***The Committee thanks the Government for this update and requests the Government to continue to provide information on its cooperation with the Government of Ethiopia and the Eritrea Ethiopia Claims Commission with regard to employment-related claims, any awards issued in regard to such claims, as well as the measures taken to implement them.***

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

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

Ethiopia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1966)***

Follow-up to the representation made under article 24 of the ILO Constitution by the National Confederation of Eritrean Workers concerning Conventions Nos. 111 and 158 (GB.282/14/5, November 2001). Recalling its previous observations on this matter, the Committee notes the communication from the Government dated 11 May 2005 by which it forwarded extracts of the Partial Awards of 17 December 2004 made by the Ethiopia Eritrea Claims Commission set up under the terms of the 2000 Algiers Agreement between the two countries. The Committee notes that these awards deal with liability concerning the claims submitted by Ethiopia and Eritrea and that the proceedings of the Commission are now at the phase of determining damages. ***The Committee requests the Government to provide information in its next report on any further decisions reached by the Claims Commission and on measures taken, in line with such decisions, to indemnify as fully as possible the workers displaced following the outbreak of the 1998 border conflict, in accordance with Conventions Nos. 111 and 158, and to grant appropriate relief.***

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

France

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1981)***

The Committee notes the information provided in the Government's report of October 2005.

1. In its previous observation of 2004, the Committee pursued its dialogue with the Government on the measures undertaken and the practical results achieved in eliminating discrimination on the basis of race and national extraction and in reducing inequalities that continued to exist between men and women in employment and occupation. Having noted that the existence of discrimination and inequality was now widely recognized and documented (CERD/C430/Add.4), the Committee had welcomed a number of ongoing or planned initiatives by the Government and the social partners aimed at achieving greater conformity with the provisions of the Convention. These included in particular the decision to create a high authority to combat discrimination and promote equality, the adoption of a Diversity Charter in October 2004, under which enterprises undertook to implement a policy of non-discrimination and to seek diversity in human resources management, and the adoption of a Charter on Equality of Treatment between Men and Women in March 2004.

2. The Committee notes with interest Act No. 2004-1486 of December 2004 establishing a High Authority to Combat Discrimination and Promote Equality, an independent administrative body comprising members nominated by the legislative, executive and judicial branches as well as the Social and Economic Council. It notes that the Authority can set up an advisory committee involving representatives of workers' and employers' organizations as well as associations and personalities working in the field of discrimination and the promotion of equality. The Authority is competent to investigate complaints relating to all forms of discrimination prohibited by law, support victims of discrimination in submitting their case, and propose solutions through mediation. Its central mission being the promotion of equality, the Authority may also undertake research and information and awareness-raising campaigns as well as training activities in this domain. The Authority may also identify and formally recognize good practices and support initiatives by private and public organizations to promote equality. ***The Committee hopes that the High Authority to Combat Discrimination and Promote Equality will enable practical results to be obtained rapidly in eliminating discrimination, particularly in employment, and that the Government's next report will contain information in this regard. The Committee would also be grateful if the Government could in future provide copies of the High Authority's annual report, and any research or other documentation produced by the Authority relevant to the application of the Convention.***

Discrimination on the basis of race and national extraction

3. In its previous observation the Committee had noted that, despite an abundance of laws and administrative and advisory bodies to combat racial and ethnic discrimination, and a better understanding of the problems, discrimination persisted and was even worsening. Cases of discrimination were rarely acted upon by the courts due to lack of evidence and because victims, whose background was largely non-European immigration, were having great difficulty in asserting their rights. The Committee had noted that children and grandchildren of immigrants who arrived in France after the Second World War were having great difficulty in finding jobs although they had grown up in France, having generally become naturalized French, and have been through the French school system. The most serious difficulties were encountered during the hiring stage, in which applicants with names of Maghreb or African origin stood little chance of being interviewed. Unemployment among young graduates of immigrant background was purported to be four to five times higher than among other graduates. The Committee had requested the Government to indicate the measures taken to put an end to discrimination in hiring and to promote the access of these young graduates to employment and training. It also hoped that the new High Authority would be able to act effectively to help the victims of discrimination in employment to assert their rights.

4. The Committee notes that a recent report commissioned by the Ministry of Labour, Social Cohesion and Housing in September 2005 confirms that ethnic origin continues to be an obstacle at the recruitment stage, regardless of the level of education or qualifications of the job applicant. The report indicates that the progress made with regard to ethnic and racial discrimination and the promotion of equal opportunities has been particularly slow and there is a need to move from good intentions towards active measures to combat discrimination and promote equality. To this end, the report proposes a number of measures to develop awareness-raising and sensitization tools, to train the relevant actors involved, to measure staff diversity in order to permit better knowledge of the staff employed in enterprises, and to reform the recruitment procedures and human resources management.

5. The Committee notes with interest that the number of enterprises that have signed the Diversity Charter of 2004 has increased from 40 to 170. It notes that the Government actively supports the dissemination of the Charter and the implementation of tools and procedures assisting the economic actors involved to carry out their diversity action plans. In addition, the Committee notes that various other measures are being taken to promote diversity and equality at the enterprise level particularly with respect to ethnic origin, including the initiatives under the European programme EQUAL, which involved the participation of the Directorate on Population and Migration and the Action and Support Fund for Immigration and the Fight Against Discrimination.

6. The Committee is aware of the recent events in the country giving rise to renewed debate on the urgency to address social exclusion and ethnic and racial discrimination against the immigrant population in France and to take special measures to promote their integration in the labour market. *The Committee hopes that the Government will be able to demonstrate in its next report significant progress in the achievement of practical results under the various measures noted above. It encourages the Government to continue to take active and effective measures to change human resources and recruitment practices, to ensure greater equality of opportunities in employment and occupation, to promote diversity in the labour market and to promote respect and tolerance amongst the different communities living and working in France. The Committee stresses the interest of associating workers and their representatives in the definition, implementation and evaluation of these measures, and would appreciate receiving information on this subject. Given the specific role of the High Authority in awareness raising, sensitization and training on equality issues, the Committee also hopes that the Authority will undertake the necessary action in this area, particularly for the courts, employers, trade unions and associations, so that the legislative provisions prohibiting discrimination in employment, particularly on grounds of race or national extraction, are better known and observed, and breach of them more effectively penalized.*

Equality between men and women

7. The Committee recalls its previous observation in which it had requested the Government to provide information on the practical results obtained in reducing inequalities between men and women in employment, in particular addressing occupational segregation, precarious employment and women's access to continuous training. The Committee notes the information submitted by the Government in 2005 on the implementation of the National Charter on Equality between Men and Women, in particular the creation of an Equality Label and a Good Practice Guide to assist enterprises and the administration to promote equality and diversity in employment and occupation. It also notes with interest the framework agreement between the National Employment Agency (ANPE) and the Service for the Rights of Women and Equality (SDFE) of January 2005 to promote the access of women to the labour market, especially in sectors in which they are under-represented. *The Committee asks the Government to provide information, including up-to-date statistics disaggregated by sex, as to the extent to which these initiatives have increased women's participation in vocational training and in non-precarious employment as well as in occupations in which they are under-represented, including posts of responsibility.*

8. The Committee recalls the key role collective agreements can play in promoting equality and the importance of women participating in the negotiating process as this can have an impact on the contents of such agreements. It notes the Government's acknowledgement in its report that a more balanced representation of men and women in bodies representing staff, joint committees and industrial relations boards is required. The Committee notes with interest that draft legislation on equal remuneration between men and women (Senate No. 139, 12 July 2005) includes provisions aimed at increasing the percentage of female representatives in the governing bodies of public enterprises and in existing vocational training mechanisms. It also notes with interest the adoption of the National Inter-Occupational Agreement of 2004 on Diversity and Professional Equality between Men and Women, confirming the responsibility of the social partners to promote equality in vocational training and guidance, recruitment, promotion and upward mobility, and to take measures to combat stereotypes and prejudices affecting women's employment. *Noting that the Inter-Occupational Agreement provides a framework for future negotiations within industrial sectors or enterprises, the Committee requests the Government to indicate how, in practice, the objectives of the Agreement are incorporated into subsequent collective agreements at the branch and enterprise levels and whether the measures taken are proving to be successful at further reducing inequalities between men and women. The Committee further hopes that the proposed legislation and the Agreement will contribute to the increased participation of women in social dialogue and asks the Government to indicate what other practical measures workers' and employer's organizations as well as Government are adopting in this regard.*

Discrimination on religious grounds

9. The Committee recalls the Act No. 65 of 17 March 2004 and its implementing circular of 18 May 2004 banning the wearing, in public schools, of any conspicuous religious signs or apparel under penalty of disciplinary measures including expulsion. The Committee notes that for the school year 2003-04 initially about 600 pupils resisted complying with the Act, which after consultations held with parents and pupils, was reduced to about 100 pupils. It notes that, at the beginning of the school year 2004-05, a similar number of procedures were initiated before the disciplinary councils and that 47 definitive expulsions were pronounced. Against these, 39 appeals were filed to the rectors, who upheld the councils' decisions. Twenty-eight pupils requested the annulment of the rectors' decisions through the courts, which rejected 26 of these requests for annulment. While the Committee had noted in its previous observation that expulsion was applied only after extensive dialogue with the pupil and his or her parents, it nevertheless feared that in practice the Act might end up keeping some children, particularly girls, away from public schools for reasons associated with their religious convictions. This could diminish in future their capacity to find employment, contrary to the Convention. ***In order to assess whether Act No. 65 of 17 March 2004 and its implementing circular of 18 May 2004 is not diminishing the capacity of girls to find employment in future, contrary to the Convention, the Committee asks the Government to provide information on: (1) any judicial and administrative decisions with respect to the application of the abovementioned legislation; (2) the respective number of girls and boys that have been definitively expelled on the basis of the Act; and (3) the measures taken to ensure that the pupils who have been expelled nonetheless have proper opportunity to acquire education and training.***

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

Guinea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)

The Committee notes with regret that the Government's report is identical to the report previously submitted and contains no reply to its previous comments. It must therefore repeat its previous observation, which read as follows:

Article 1 of the Convention. Recalling its 2002 observation, the Committee once again expresses the hope that the Government will amend section 20 of the Order of 5 March 1987 on the general principles of the public service (which prohibits discrimination only on the basis of philosophical or religious views and sex). The Committee recalls that, where provisions are adopted to give effect to the principle of non-discrimination contained in the Convention, they should include all of the grounds set forth in *Article 1(1)(a)* of the Convention.

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

The Committee hopes that the Government will make every effort to take the necessary action in the very near future. The Committee requests the Government to keep it informed of any progress made in this regard.

Honduras

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)

1. *Article 1 of the Convention. Work of equal value.* In its previous comments, the Committee noted the adoption of the Act respecting equality of opportunities, published on 22 May 2000, to eliminate any type of discrimination against women and to achieve equality for men and women before the law. The Committee indicated to the Government that section 44 of the Act requires the payment of equal wages for equal work, provided that the job, the working day and the conditions respecting efficiency and seniority are also equal. The Committee reminded the Government that the Convention requires the establishment of equal remuneration for men and women "for work of equal value", and that in selecting the "value" of work as the basis for comparison between the work of men and women, the Convention has a broader meaning than "equal remuneration for the same work". The Committee noted that the Act respecting equality of opportunities was undergoing a process of amendment, which would be approved in 2004. It asked the Government to consider amending section 44 during this revision process so that it fully applies the principle set out in the Convention, thereby making it possible to compare jobs that are different but nevertheless of equal value.

2. The Committee notes that, although the Convention may be applied by various means and not only through legislation, where laws and regulations exist on equal remuneration, they must not be more restrictive than the Convention, nor inconsistent with it. ***The Committee therefore asks the Government once again to consider amending the legislation referred to above to give expression in law to the principle set out in the Convention, which provides for equal remuneration for work of equal value, and to supply information on this subject in its next report.***

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

India

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1958)

1. *Communications from workers' organizations.* The Committee notes the communication dated 24 August 2005 received from the Centre of Indian Trade Unions (CITU) concerning the application of Conventions Nos. 100 and 111. The CITU states that wage discrimination exists in the beedi industry, agriculture, plantation, construction and manufacturing, particularly in the unorganized sector. The CITU considers that the Government is not properly enforcing the Equal Remuneration Act (ERA) and calls for a greater role of trade unions in the implementation of the Act. The Committee notes that the CITU makes three specific proposals: (1) special cells in the labour department could be formed to monitor discrimination on the ground of sex in respect of wages, classification and promotion; (2) female labour officers should be involved systematically in the hearing and deciding of equal pay complaints; (3) trade unions should be authorized to lodge complaints under section 12 of the ERA. The Committee also recalls the comments made by the International Confederation of Free Trade Unions (ICFTU) in 2002 and the National Front of Indian Trade Unions (NFITU) in 2001, also drawing attention to difficulties concerning the application of the Convention and the ERA in the informal economy and the unorganized sector.

2. *Articles 1 and 2 of the Convention. Enforcement of equal pay legislation.* In its brief report, the Government points out that the central Government was responsible for the enforcement of the ERA only in relation to employment carried out within the central Government or under its authority, and regarding some specific sectors identified in the Act. The majority of establishments and sectors are under the jurisdiction of the respective state governments. The Government's report indicates that 4,048 inspections conducted in 2002 and 2003 under the ERA in establishments under the responsibility of the central Government revealed 97 cases of unequal wages and 4,246 cases of non-maintenance of registers. In 2003 and 2004, a total of 4,022 inspections revealed 582 cases of unequal wages and 5,025 irregularities concerning non-maintenance of registers. During the same period, 454 complaints were lodged under section 12 of the ERA. The Government also states that high priority is being given to inspections under the Minimum Wage Act and the ERA of establishments in the unorganized sector. Inspectors tried to raise awareness among male and female workers about their rights and were instructed to conduct "relief-oriented" inspections.

3. The Committee notes that the number of violations detected under the ERA in establishments under central government responsibility largely corresponds to the figures reported for previous years. It notes that the Government appears to have adopted a more proactive approach with regard to monitoring compliance with minimum wage and equal pay legislation in the unorganized sector, in accordance with the Tenth Five-Year Plan (2002-07) which provides for the reduction of gender pay gaps by at least 50 per cent by 2007. However, on the basis of the very general information provided by the Government, the Committee is not in a position to assess the scope and impact of these efforts. *The Committee asks the Government to continue to provide information on the number of violations found by labour inspectors under the ERA and complaints brought under section 12 of the Act, including information concerning the nature and outcome of such cases. It asks the Government to provide more detailed information on the strategies and specific measures adopted for implementing minimum wage and equal pay legislation in the informal economy and unorganized sector, and on their implementation and impact in practice. The Government is further urged to take the necessary measures to collect and supply to the Committee information on all these issues in relation to employment within the jurisdiction of the states. The Committee trusts that the Government will engage in a dialogue with workers' and employers' organizations with a view to strengthening the application of the Convention and the ERA, and asks the Government to keep it informed of the resulting conclusions and agreements, including those relating to the proposals made by the CITU.*

4. *Article 3. Objective job evaluation.* The Committee notes the CITU's statement that work traditionally done by women, such as weeding and transplanting in the agricultural sector, is often classified as "light work" which does not correspond to the real nature of the tasks involved. In this regard, the Committee stresses the need to promote the development and use of job classifications established on the basis of the work actually performed, using objective criteria unrelated to the worker's sex and free from gender bias. It stresses that the principle of equal remuneration for men and women for work of equal value does not only require the abolition of separate wage rates for men and women but also the elimination of sex-discriminatory job classifications. *The Committee asks the Government to indicate the measures taken to promote the use of objective job evaluation methods as a means to determine wage rates irrespective of the worker's sex.*

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)

1. The Committee notes the Government's report, as well as the comments of the Centre of Indian Trade Unions (CITU) concerning the application of the Convention, received on 30 August 2005, which were forwarded to the Government on 5 September 2005. CITU alleges that a public sector company was implementing a special voluntary retirement scheme for women and that the same company refused to give jobs to female heirs of deceased employees, while this was done for male heirs. The Committee asks the Government to provide a reply to CITU's comments.

2. *Discrimination on the basis of social origin.* In its previous observation, the Committee noted that in the practice of manual scavenging, persons belonging to a certain social group called the Dalits (or members of the scheduled castes as they are referred to in the relevant legislation), are usually engaged on account of their social origin and that this constitutes discrimination, as defined in *Article 1(1)(a) of the Convention*. The Committee was concerned that, despite the measures taken by the Government so far, manual scavenging continues to be used in large parts of the country and large numbers of men and women are still required to perform degrading tasks by reason of social origin and economic circumstances in inhuman conditions, in contravention of the Convention. The Committee expressed the hope that the Government would step up its efforts to ensure the prompt elimination of this practice and the access of the persons involved to other, more decent, jobs.

3. The Committee notes that the Government's report updates previously submitted information on the achievements of the Urban Low Cost Sanitation for Liberation of the Scavengers Scheme. According to this information, 102 scavengers were liberated between 1 January and 10 September 2002 under this scheme, with the conversion or construction of latrines planned under the scheme expected to liberate a further 112,460 manual scavengers. The report also indicates that the seven states and six union territories were scavenger-free and that 11 states have not yet adopted the decisions necessary for the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act to enter into force in their jurisdictions.

4. The Committee also notes the reports of the National Commission for Safai Karamcharis up to the year 2000 which the Government has supplied with its report. In its report covering the period from 1998 to 2000, the National Commission considered that there was an immediate need to adopt the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act in states where dry latrines exist. It also considered that, where the Act was in force, it was not being effectively implemented. The Commission further observed that, in almost all states, the implementation of the Scheme for the Liberation and Rehabilitation of the Scavengers and their Dependents, which the Committee had noted in its previous comment, has been extremely poor.

5. The Committee notes that the Government's report contains very little new information on this matter and no replies to the specific requests made by the Committee. Nevertheless, it notes that the Tenth Five-Year Plan (2002-07) refers to a nation-wide programme for the total eradication of manual scavenging on a time-bound basis by 2007, including state-specific plans of action concerning the construction of wet latrines and provision of alternative training and jobs to scavengers. ***The Committee requests the Government to provide detailed information on the specific action taken by the central Government and at the level of the states and union territories to put an end to the practice of manual scavenging and on the progress made in the identification, liberation and rehabilitation of scavengers, including updated statistical information. It also requests the Government to provide information on the efforts made to ensure that the 1993 Act enters into force, as soon as possible, in all states where manual scavenging exists. In the absence of any information on these matters in the Government's report, the Committee urges the Government:***

- ***to take measures to ensure that the state, local and railway authorities apply and enforce the prohibitions contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, and that the penalties provided for their violation are effectively imposed (please provide indications on the number of prosecutions engaged and the number and nature of penalties imposed);***
- ***to evaluate the effectiveness of the existing schemes for the construction of flush latrines and the rehabilitation of manual scavengers, taking into account the reports and recommendations of the competent organs, including the National Commission for Safai Karamcharis and the National Commission on Scheduled Castes and Tribes; and***
- ***to launch and/or expand public-awareness programmes for the population and educational and training programmes for the authorities involved, in order to promote the changes in attitudes and social habits which are necessary to bring about the elimination of manual scavenging.***

The Committee requests the Government to provide information on the specific measures taken in respect to these matters.

6. The Committee notes from the Government's report that, as of 1 January 2003, members of scheduled castes constituted 16.52 per cent of central government service employees, with a representation between 11.93 per cent in group A and 19.98 per cent in group D. Some 58 per cent of *safai karamcharis* in central government service were scheduled caste members. The Committee notes that the 15 per cent reservation made for representation for the central service has not yet been achieved in groups A and B and that progress in achieving this target has been very slow in recent years. The Committee also notes the detailed information contained in the report of the National Commission for Scheduled Castes and Scheduled Tribes (1999-2001), in particular the Commission's recommendations concerning a wide range of measures that should be taken with a view to addressing the problem of untouchability which, in the view of the Committee, needs to be addressed effectively if discrimination on the ground of social origin is to be eliminated. The action proposed by the National Commission includes measures to strengthen the enforcement of the Protection of Civil Rights Act, increased cooperation of the responsible public authorities at the various levels, and broad awareness-raising campaigns. ***Recalling its previous observation in which it expressed the hope that the Government would make renewed efforts and take further action with a view to eliminating discrimination in employment and occupation for members of the Dalit population and promoting equality of opportunity and treatment for them, the Committee requests the***

Government to provide information on measures taken or envisaged to this end, including action taken to strengthen legal protection and social-economic empowerment of the Dalit. The Committee also asks the Government to provide information on the steps taken to raise awareness among workers and employers of the issues involved, including information on any cooperation with workers' and employers' organizations in this regard.

7. *Discrimination on the basis of sex.* The Committee recalls its previous comments concerning the wide inequalities that continue to exist between men and women with respect to access to education and training, and employment and occupation. The Committee notes from statistical information provided by the Government that, in 2001, women constituted some 43 per cent of persons attending educational institutions, but that their level of participation in college and vocational education remains lower. However, nearly twice as many women as men attend literacy centres. The Committee notes from the Tenth Five-Year Plan that, according to the 2001 census, the female work participation rate was 11.6 per cent in urban areas and 31 per cent in rural areas, compared to 50.9 per cent (urban) and 52.4 per cent (rural) for men. Women's participation in the organized sector, the public sector and government service still remains very low, as compared to men. **The Committee requests the Government to provide information on the action taken or envisaged to promote women's equal access to education and training, employment in the organized and public sectors, as well as government service. It also asks the Government to continue to provide statistical information indicating the progress made in eliminating the educational gap between men and women, and their participation in employment and work in all sectors. Further, the Committee invites the Government to provide updated information on the measures taken or envisaged to promote women's access to vocational training and income-generating activities, including measures and programmes targeting Dalit and tribal women. Finally, the Committee notes that the Government is in the process of collecting information regarding the implementation of the National Policy for the Empowerment of Women (2001) and requests the Government to supply this information in its next report.**

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

Islamic Republic of Iran

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1964)

The Committee notes the information provided by the Government in its reports submitted in June 2004 and November 2005, including the report on the National Conference on Women's Employment, Empowerment and Equality, held in March 2004.

1. *Discrimination on the basis of sex.* Over the past few years the Committee has been noting the positive initiatives taken by the Government to improve the access of women to education, training and jobs. Despite these efforts, however, the level of women's participation in the labour market remained low (12.2 per cent in 2003) and women's unemployment rate continued to be twice as high as men's (19.6 per cent and 10.9 per cent respectively in 2002). The Committee notes from the latest information submitted by the Government that although women's participation levels in universities continue to increase, women's unemployment rate is also increasing (21.3 per cent in 2003). The Committee further notes from the information submitted that despite progress made over the past few years, vertical and horizontal occupational segregation prevails, and women continue to face inequalities with respect to promotion and access to decision-making and management positions. Most female managers are in the education sector, and the ratio of women's employment as legislators, high-ranking officials and managers is less than 0.6 per cent. Recent studies also indicate that the reinforcement of stereotypical attitudes on gender roles over time has become an obstacle to the improvement of women's participation in employment.

2. The Committee notes that a High-level Tripartite National Conference on Women's Employment, Empowerment and Equality was held in Tehran in March 2004, organized by the Ministry of Labour and Social Affairs in close collaboration with the ILO. During this Conference, many of the issues previously raised by the Committee were discussed. The Committee notes that the Conference adopted the National Strategy for Promoting Women's Employment, Empowerment and Equality containing recommendations in the areas of legislation and policy-making, labour market policies, entrepreneurship development and poverty eradication. It also notes that during the Conference, the Government expressed its commitment to integrate these recommendations into the 4th Socio-Economic and Cultural Development Plan (2005-10). The Committee particularly welcomes the proposal to set up a tripartite subcommittee of the National Tripartite Council on Gender Equality and Women Workers' Issues along with activities aimed at raising awareness on women's rights at work and gender issues. It also notes the recommendation to further review, amend and adopt legislation to promote non-discrimination against women and gender equality in employment, to improve vocational training and employment of women in non-traditional skills and to promote women's entrepreneurship. With respect to the latter, the Committee notes that assistance has been requested from the ILO to develop a programme on women's entrepreneurship. The Committee notes that the Government, in its report of June 2004, reaffirmed its commitment to promote and protect non-discrimination and its intention to move forward in a positive direction with the process of reform. However, there is no information in the report of November 2005 of any further progress made regarding these reforms. **The Committee requests the Government to provide information on the specific activities undertaken to implement the recommendations of the National Strategy on Women's Employment, Empowerment and Equality, in**

particular the establishment of a subcommittee on gender issues, and any activities undertaken or planned to raise awareness on women's rights and gender issues. The Government is also requested to provide up-to-date statistics disaggregated by sex, demonstrating the progress made in eliminating discrimination against women in the labour market and in promoting equality of opportunity and treatment with respect to employment and occupation, vocational training and conditions of work.

3. The Committee notes the Government's indication that the measures taken under the 3rd Socio-Economic and Cultural Development Plan (2000-04) have continued to improve the status of women in their economic and social life including the establishment of more women's cooperatives to help the empowerment of rural women, and the promotion of women's entrepreneurship, for example through the Job Opportunities Fund. The Committee notes in this regard the specific role of the Women's Participation Centre, the Women's Employment Department of the Ministry of Labour and Social Affairs and the Centre for Women Workers of the Workers' House, as well as the network of women's NGOs. The Committee further notes that a draft employment strategy is being prepared with the assistance of the ILO and that a Decent Work Bill has been submitted to Parliament to be incorporated in the 4th Socio-Economic and Cultural Development Plan (2005-10). The plan is intended to generate more than 850,000 jobs annually and to lower the overall unemployment rate of 12 per cent in 2005 to 8 per cent by 2010. The Government further states in its 2005 report that it has undertaken to implement the Decent Work Bill, once adopted, including through the promotion of fundamental rights at work, and in particular the elimination of discrimination in employment and occupation and ensuring equal remuneration for men and women. *The Committee requests the Government to continue to provide information on specific activities and initiatives of the abovementioned institutions and organizations, including activities to address existing stereotypes regarding the role of men and women in society and the labour market. The Committee also requests the Government to provide copies of the Decent Work Bill, the employment strategy and the 4th Socio-Economic and Cultural Development Plan, once adopted. The Government is further requested to provide details of the activities undertaken or envisaged for their implementation, particularly with respect to the promotion of equality and the elimination of discrimination in employment and occupation, as well as information on their impact on improving the position of women in education, training and access to jobs.*

4. *Access of women to vocational training and guidance.* The Committee notes the information provided by the Government that training in the private sector covers 40 per cent of the total trainees outside the education system, and that around two-thirds of private sector trainees are women. The Government indicates that in 2003-04, the Technical and Vocational Training Organization provided courses to 800,000 male and female trainees and that half of the women graduates found employment. While appreciating the Government's indication that the training system in the Islamic Republic of Iran continues to prove attractive to women, whose participation has expanded rapidly, the Committee notes that the Government does not provide further details on the actual number of women participating in the various courses and the type of jobs in which they have been subsequently employed. It also notes from the information submitted by the Government that many vocational training courses provide skills which also help women with their tasks in the home, and that women tend to choose areas of study such as teaching, health-care services and cooking, which may restrict their access to jobs. *While recognizing that the progress made in vocational training and education of women and girls and their access to university studies has already had important implications on the status of women in society and the family, the Committee asks the Government to increase its efforts to provide women with training in non-traditional skills and avoid directing them predominantly towards traditionally female-oriented occupations, in keeping with the abovementioned national strategy. It also hopes that the Government's next report will include statistics, disaggregated by sex, on the participation rates of men and women in the various training courses offered and areas of studies at university or higher education.*

5. *Article 3(b) of the Convention. Legislative reforms.* While noting the legal reforms in the area of family law, particularly relating to inheritance and child custody as well as other amendments to the Civil Code providing equal rights for men and women, the Committee regrets that little progress has been made with respect to the review, repeal or amendment of certain legal provisions, which the Committee has found to be contrary to the Convention:

- With respect to section 1117 of the Civil Code, under which a husband may bring a court action to object to his wife taking up a profession or job contrary to the interest of the family or to his wife's prestige, the Committee had indicated that the extension of the right to women in the 1975 Protection of Family Act did not respond fully to the concerns of the Committee. It notes with regret that the proposal to amend section 1117 of the Civil Code, submitted by the Women's Participation Centre, has not yet been adopted and is still being discussed by the judiciary. *The Committee urges the Government to make every effort to amend or repeal this provision.*
- With respect to women's access to the judiciary, in particular Decree No. 55080 of 1979 concerning the change of judicial status of women to administrative status, which in effect prevented women from being judges with power to issue verdicts, the Committee notes the Government's statement in its 2005 report that the judiciary has proposed a Bill to Parliament under which a female judge can issue verdicts in "female cases". Article 2 of the Bill provides that "the head of the judiciary can appoint women as head judge if they are married and have more than six years of experience". The Committee recalls that, under the Convention, women should be able to exercise judicial functions fully on an equal basis with men. *It asks the Government to take the measures necessary to ensure that the power of female judges to issue verdicts will not be limited to cases involving only women or women's issues, and that no*

discriminatory requirements for the appointment of judges are established. The Committee asks the Government to clarify whether the existing or draft legislation imposes comparable requirements for the appointment of male judges (i.e. being married and having at least six years experience).

- With respect to the obligatory dress code for women and the imposition of sanctions in accordance with the Act on administrative infringements for violations of the Code, the Committee has raised concerns, inter alia, over the negative impact that such a requirement could have on the employment of non-Islamic women in the public sector. The Committee has further expressed concern regarding the Disciplinary Rules for University and Higher Education Institutes Students, which classify non-observance of Islamic veil requirements as a political and moral offence, with sanctions including dismissal from university or permanent exclusion from all universities. The Committee notes that the Government replies in its report of 2005 that “Islamic covering is considered a women’s uniform protecting her against misbehaviour in the workplace” and that the “Hijab so far has not led to any dismissals nor has it had any adverse impact on the employment of non-Muslim applicants”. The Committee must point out that the Government does not address the Committee’s concern regarding the negative impact that administrative regulations on the obligatory dress code may have on the employment of non-Islamic women. ***The Committee therefore requests the Government to provide more detailed information on the manner in which the abovementioned administrative and disciplinary rules regarding the dress code are being applied in practice with respect to education and employment, including information on the number of violations of the dress code by women and the sanctions imposed. Understanding further that a draft Bill concerning the dress code had been forwarded to Parliament in 2004 for discussion, the Committee requests the Government to provide information on its status, contents and objectives in its next report.***

6. The Committee recalls its previous observation in which it noted the information provided by the World Council of Labour (WCL) regarding certain administrative rules apparently restricting the employment of wives of government employees, which in the view of the Committee inferred that employees would only be men and that only women would be restricted. It notes that the Government’s report does not contain a reply regarding this matter. The Committee also recalls its concerns regarding social security regulations favouring the husband over the wife in pension and child benefit provisions when both are working. The Committee notes the Government’s indication that in order to ensure that no extra payment is made for any particular child, social security regulations provide for the payment of the allowance to the husband as the traditional head of the household and the breadwinner of the family. The Committee recalls its concerns over social security legislation under which the benefits of the wife are derived only from her husband’s entitlements, and stresses that social security should guarantee men and women equal protection and rights (see paragraph 129 of the Workers with Family Responsibilities Convention, 1981 (No. 156)). A provision allowing workers to choose who should receive the family allowances when a man and a woman are potential recipients, would address the Government’s concern of duplication of payments of child benefits. ***The Committee asks the Government to repeal or amend the abovementioned laws and administrative regulations to ensure equal treatment of male and female employees and their spouses, and to ensure that no provisions directly or indirectly infringe on women’s right to equal access and conditions of employment in all government service positions.***

7. *Discrimination on the basis of religion.* In its previous comments, the Committee had raised concerns regarding preferences based on religion in access to employment. With respect to the public sector, particular attention was given to the selection of teachers. The Committee recalls that the Act on the selection of teachers and employees of the Ministry of Education requires applicants to believe in Islam or one of the religions recognized in the Constitution. In its previous report, as well as the report submitted in June 2004, the Government refers to an Official Circular issued by the Presidential High Screening Board (No. 2/4747) in November 2003 to the Interior Ministry in order to call attention of the governorships countrywide to the necessity of the further observance of the recognized religious minorities’ rights, particularly with respect to employment and recruitment. The Government acknowledged, however, that the law prevailing in the Islamic Republic of Iran regarding religious minorities’ rights still needed to be revised. In its report submitted in November 2005, the Government also refers to various official communications emphasizing the need to observe the equal rights of religious minorities in relation to employment. Reference is also made to the establishment of a national committee on the protection of the rights of religious minorities. The Government states that these initiatives have resulted in an increase in the rate of employment of religious minorities in the public sector, including 200 persons recruited in the Ministry of Education, as well as an increase in the rate of employment of Christian minorities in the private sector. ***The Committee again requests the Government to provide a copy of Official Circular No. 2/4747, as well as any other recent official communications with respect to religious minorities. Noting the Government’s statement that the law regarding religious minorities’ rights still needs to be revised, the Committee urges the Government to initiate a consultative revision process, to ensure protection in law against discrimination in employment and occupation on the ground of religion, and to keep the Committee apprised of any progress in this regard. The Committee also requests information on the mandate and function of the national committee on the protection of the rights of religious minorities.***

8. *While noting the Government’s reference to the recruitment of 200 persons belonging to religious minorities in the Ministry of Education, the Committee requests the Government to provide further and updated details regarding those recruited, including their sex and religion, when they were recruited, into what level of post, and what percentage*

of each level of post is held by those in religious minorities. The Committee is also obliged to repeat its request that the Government provide details on the number of persons from religious minorities receiving financial incentives through the job-creating investment projects.

9. For a number of years, the Committee has raised particular concerns regarding the treatment in education and employment of members of unrecognized religious minorities, in particular those of the Baha'i faith. Concern has also been raised by the Committee on the Elimination of Racial Discrimination (CERD/C/63/CO/6, 10 December 2003, paragraph 14) and the Special Rapporteur on freedom of religion or belief of the Commission on Human Rights (E/CN.4/2005/61/Add.1, 15 March 2005, paragraph 143) regarding discrimination against the Baha'i, in both law and practice. The Committee notes that the Government's report of November 2005 refers to amendments to the application forms for the national university entrance examination. According to the Government, this amendment enables all applicants of various religions to take part in the examinations, including those of the Baha'i faith. ***The Committee requests the Government to provide a copy of the application form for the university entrance examination, as well as to indicate whether Baha'i now in practice are able to take part in examinations in all disciplines. The Committee requests the Government, further, to indicate whether religion will continue to be a barrier for unrecognized minorities at any other stage in applying for, undertaking, or receiving official recognition of formal studies. In addition, the Committee again requests the Government to provide statistics on the situation of the Baha'i in terms of access to universities and institutions of higher learning and on their situation in the labour market, as well as information on any initiatives taken or envisaged to address the existing discrimination against the Baha'i.***

10. *Ethnic minorities.* In its previous observation, the Committee requested the Government to continue to provide information on the employment situation of ethnic minority groups, including the Azeris, the Kurds and the Turks, and on all efforts undertaken to ensure equal access and opportunities to education, employment and occupation for members of these groups. The Committee notes the Government's statement in its report of June 2004 to the effect that there are no cases of discrimination against Turks. It also notes that the Government in its November 2005 report submits that the Ministry of Interior statistics indicate that the number of positions filled by members of ethnic minorities is increasing. ***The Committee, noting the brief and rather general statements made by the Government concerning ethnic minorities, would welcome receiving more detailed information, including a copy of the statistics referred to by the Government regarding the employment situation of ethnic minority groups, and any efforts taken to ensure equal access and opportunities to education, employment and occupation for members of these groups.***

11. *Human rights mechanisms.* The Committee notes that in its report of 2004 the Government expressed its commitment to further human rights and eliminate discrimination. In particular, article 101 of the draft 4th Socio-Economic and Cultural Development Plan provides for a Human Rights Charter. The Committee also notes the Government's statement that the Islamic Commission on Human Rights ("the Commission") has recently opened offices in the most remote areas of the country. Previously, the Committee noted that the Government had referred to meetings of the Commission aimed at collecting information on experiences and developing approaches and solutions, which would be presented in a comprehensive report. In its most recent report, the Government again refers to meetings with key individuals of religious, racial and ethnic minorities, and states that complaints will be forwarded to the relevant governmental organizations, and that the Commission will follow up with investigations. ***The Committee would appreciate receiving more information on the nature and outcome of these meetings, including a copy of any report issued, and again asks the Government to provide details on the results of the investigations, any proposed action, and how recommendations are implemented. As the information on training provided by the Commission dates from 2003, the Committee requests the Government to provide updated information. Information on the number of complaints lodged before the Commission and the results achieved, as well as any allegations of victimization by those submitting cases should also be forwarded to the Committee.***

12. The Committee notes that in its report of June 2004 the Government reaffirmed its wish to continue to dialogue and cooperate with the ILO in order to devise a common approach to dealing with the Committee's concerns regarding employment discrimination, and that it emphasizes the importance of receiving further technical assistance from the ILO to this end. The Committee welcomes the Government's intention to incorporate a Decent Work Agenda in the 4th Socio-Economic and Cultural Development Plan, section 107 of which requires the Government to provide and implement programmes that would bring the legislation into full conformity with international standards, and to eradicate discrimination in all areas, particularly in employment, and to promote equal opportunities. While the Committee has noted the positive direction the Government has taken over the past few years to promote equality in employment and occupation, which culminated in the holding of the National Conference on Women's Employment, Empowerment and Equality in March 2004, the Committee cannot but observe that important issues, which the Committee has been raising for many years, remain unresolved. Furthermore, in the absence of additional information, in particular up-to-date statistical data disaggregated by sex, religion and ethnic origin, on the concrete results achieved, it is difficult for the Committee to assess the extent to which further progress has been made on the practical application of the Convention since 2003. ***The Committee therefore trusts that the Government will be able to demonstrate in its next report that statements of commitment have been translated into concrete initiatives and that the various actions the Committee has noted have led to positive results with respect to the participation of women and all ethnic and religious groups in employment and education.***

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

Republic of Korea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1998)***

1. *Article 1 of the Convention. Legislative protection from discrimination.* Recalling its previous comments on the absence in national laws and regulations of a prohibition of discrimination on the grounds of race, colour, national extraction and political opinion, and regarding the application of the Convention to domestic workers, dispatched workers, as well as foreign workers present in the country, the Committee notes with satisfaction that under the National Human Rights Commission Act (No. 6481 of 24 May 2001), any person may file a petition with the National Human Rights Commission against acts of unreasonable discrimination on the ground of gender, religion, disability, age, social status, regional, national or ethnic origin, physical condition such as features, marital status, pregnancy or delivery, family status, race, skin colour, thought or political opinion, criminal record, sexual orientation or history of diseases. Under the Act, acts of unreasonable discrimination include any act of favourably treating, excluding, differentiating or unfavourably treating a particular person in employment, including recruitment, appointment, training, assignment of tasks, promotion, payment of wages and other commodities, age limit, retirement, and dismissal, etc., as well as such acts in respect to the use of educational facilities and vocational training institutions (section 30 (2)). Further, the Commission may initiate investigations on its own motion. It also has wide promotional functions, including undertaking surveys on human rights, including regarding discrimination in employment and occupation. ***The Committee requests the Government to provide information on the practical application of these provisions, including on the nature and outcome of any petitions filed, or investigations and surveys conducted under the Act with respect to employment and occupation.***

2. *Article 5. Measures of protection and assistance.* Recalling its previous comments regarding overtime limitations applying to all women contained in section 69 of the Labour Standards Act, the Committee notes with satisfaction that section 69, as amended by Act No. 6507 of 14 August 2001 now limits the possibility to perform overtime work only for women who have given birth during one year following delivery.

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

Kuwait

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1966)***

1. *Equality between men and women. Legislative developments.* The Committee notes with interest the recent political and legal reforms in the country, including the amendment of the Electoral Law giving, for the first time, Kuwaiti women the right to vote and stand for public office. In the Committee's view, the amendment is an important step in the pursuit of equality between men and women in society, and creates a new environment which should be conducive to more rapid progress towards equality of opportunity and treatment between men and women in employment and occupation.

2. *Access of men and women to particular occupations, including posts in the judiciary.* For a number of years, the Committee has commented on the under-representation or absence of women in the judiciary, in particular to posts as judges. It had noted the Government's repeated explanations that women participate in judicial work as assistants or colleagues of judges or prosecutors and that there were no written texts forbidding the access of women to these posts; it was rather the weight of custom and tradition that did not encourage women to seek such posts. In this regard, the Committee had drawn the attention of the Government to the special responsibility of the State concerning the effective pursuit of a policy of equality of opportunity and treatment in respect to employment under its control, and had encouraged the Government to examine the issue of restrictions in practice to women's access to posts as judges. The Committee regrets to note that the Government continues to maintain that there are no legal obstacles impeding women to access posts as judges, while at the same time, the Government, in its report under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), indicates that women can only be employed in the Department of Public Investigations and are not allowed to work in the Administration of Justice Division and the Department of Public Prosecutions "for a variety of reasons" (CEDAW/C/KWT/1-2, 1 May 2003, page 25). ***The Committee asks the Government to indicate the reasons for these restrictions on women's employment in the Administration of Justice and the Department of Public Prosecutors, and urges it to examine the manner in which it can remove the practical restrictions to access of women to posts as judges who sit in court, to promote women's access to judicial careers in general and to indicate the results achieved in its next report.***

3. *Discrimination on the basis of race and national extraction.* Concerning the manner in which protection is afforded in law or in practice against discrimination on the basis of race and national extraction in conformity with the Convention, the Committee notes that the Government continues to repeat its statements that no discrimination on the basis of race exists in Kuwait. The Government further indicates that it will keep the Committee informed of the progress

made in the adoption of the legislative proposals to include two sections concerning racial discrimination in the Penal Code. Having in mind the diverse labour force in Kuwait, including the high number of foreign workers from different ethnic and racial backgrounds; recalling also its previous comments regarding the need for the effective protection of migrant domestic workers, many of whom are women, against discriminatory treatment, the Committee is concerned over repeated statements by the Government that no racial discrimination exists in the country without providing full details on the employment situation of this highly diverse labour force. It is also concerned about the apparent lack of Government commitment to adopt measures to ensure that no person, including foreign workers, is subjected to discrimination and unequal treatment on the basis of race or national extraction. ***The Committee trusts that the next Government's report will contain full information on the specific action taken or envisaged to prevent discrimination against all workers on the basis of race, colour and national extraction in regard to employment and occupation, including measures to foster public understanding and acceptance of the principles of non-discrimination and equality.***

4. *National policy on equality.* The Committee draws the Government's attention to *Articles 2 and 3 of the Convention*, which require the Government to declare and implement a national policy designed to promote equality of opportunity and treatment in employment and occupation with a view to eliminating any discrimination on the grounds of race, colour, sex, religion, political opinion, national extraction or social origin. It recalls that the effective application of such a policy requires the implementation of specific measures and programmes to promote genuine equality in law as well as in practice, and correct de facto inequalities which may exist in training, employment and conditions of work. ***The Committee hopes that the Government's next report will be able to show progress in the development and application of a national policy, and asks to be kept informed in this regard, in particular of the results achieved of any specific measures and programmes undertaken.***

The Committee is raising other and related points in a request addressed directly to the Government.

Liberia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1959)

The Committee refers to its general observation regarding the country's obligations to report on ratified Conventions.

Taking due account of the crisis which has affected the country and having previously noted that there was no legislation or national policy to implement the Convention, the Committee hopes the Government will soon be in a position to provide full information on any administrative, legislative or other measures which are explicitly designed to eliminate discrimination based on all of the seven grounds prohibited by the Convention (race, colour, sex, religion, political opinion, national extraction or social origin) and to promote equality of opportunity and treatment in respect of employment and occupation. The Committee also requests the Government to provide full information on how the Convention is applied in practice in conformity with Parts II to V of the report form.

Malawi

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1965)

1. *Application of the principle in the civil service.* For a number of years, the Committee has been asking the Government to provide statistical information disaggregated by sex that would enable it to assess the application of the Convention in the civil service. The Committee notes that a new civil service job grades and salary structure came into effect in October 2004 which consist of 18 grades and salary scales, ranging from A (the highest) to R (the lowest). It also notes with some regret that the Government continues to provide its previous explanations that it is not possible to provide sex-disaggregated statistics on the civil service because salaries apply across the board and therefore apply equally to men and women. At the same time, the Government indicates that women occupy only 14.3 per cent of managerial positions in the civil service from grades S4/P4 and above which, under the new system, correspond to grades "E" to "A". Noting the low percentage of women holding managerial posts, the Committee points out once again that one of the causes of pay differentials between men and women is horizontal and vertical occupational segregation of women into lower paying jobs or occupations and lower positions without promotion opportunities. The Committee also points out that statistical information on the employment of women and men according to occupational groups, and their corresponding salary levels, is essential to allow an adequate evaluation of the nature, extent and causes of the pay differentials between men and women. ***It therefore asks the Government:***

- (a) ***to provide information on the measures taken or envisaged to promote the principles of the Convention through policies aimed at labour market desegregation (e.g. promoting equal access of women to all occupations and economic sectors and to jobs with decision-making and management responsibilities), and their impact on reducing the remuneration gap between men and women; and***
- (b) ***to provide statistical information, disaggregated by sex, on the participation of men and women in employment in all the different grades of the public service, and their corresponding salary levels.***

2. *Wage disparities between men and women in rural areas.* The Committee draws the Government's attention to its previous observation in which it had commented on the communication submitted by the International Confederation of Free Trade Unions (ICFTU) concerning the discrimination faced by rural women. It had also noted the Government's indication that some wage disparities existed between men and women workers in rural areas and that in some cases employers were paying employees less than the recommended statutory minimum wage. In this regard, the Committee had referred to the need to take measures to inform employers and men and women in rural areas about the requirements of the Convention and the national legislation concerning equal pay. The Committee notes the Government's statement that the labour inspectors have taken on this task and that there are no wage differences between men and women in rural areas. The Government further explains that Malawi has a two-tier minimum wage system which applies to all sectors but that no minimum wages have been set for the agricultural sector. Moreover, in most agricultural undertakings women prefer to work fewer hours than men because of family and household responsibilities.

3. The Committee reminds the Government that the minimum wage is a significant means of ensuring the application of the principle of equal remuneration for men and women for work of equal value. Furthermore, it wishes to emphasize the importance of promoting measures to facilitate reconciliation of work and family responsibilities and the equal sharing of family responsibilities between men and women in order to promote the application of the Convention. **Accordingly, the Committee asks the Government:**

- (a) *to indicate whether it intends to establish a minimum wage for the agricultural sector or to adopt any other appropriate measures in order to ensure improved application of the principle of equal remuneration for work of equal value for men and women workers in this sector;*
- (b) *to indicate the measures taken or envisaged to assist rural women in reconciling their work and family responsibilities and to promote a more equitable sharing of family responsibilities between men and women workers; and*
- (c) *to provide statistical data, disaggregated by sex, on the number of men and women employed in agricultural undertakings, and their corresponding occupations, earning levels and hours of work, and to continue to keep the Committee informed of any wage disparities between men and women reported by the labour inspection services in remote rural areas, and the corrective action taken.*

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1965)

Equality of treatment between men and women

1. *Articles 1 and 3 of the Convention.* The Committee recalls its previous observation which, among other issues, addressed the low number of managerial posts held by women in the public service (11.2 per cent at the P2/S2 ranks and 10.38 per cent in the P3/S3 ranks), the very high adult female illiteracy rate (71 per cent) and the low level of education, especially of rural women, and the discrimination they face in accessing productive resources that would improve their working and living conditions. These issues had also been the subject of comments raised by the International Confederation of Free Trade Unions (ICFTU) in 2002. The Committee had noted the Government's reply that it was committed to reaching a target of 30 per cent of women in political and decision-making structures by 2005. It also noted the Government's efforts to correct disparities in educational opportunities for girls and boys such as, among others, the girls' attainment of basic literacy and education (GABLE) programme, and providing credit facilities to rural women. The Committee had requested further information on the implementation of the abovementioned initiatives, including the results achieved.

2. *Access of women to the public service.* Further to its observation on Convention No. 100, the Committee notes from the new civil service job grades and salary structure that the managerial positions P4/S4 and above now correspond to grades "E" to "A". The Committee also notes the Government's explanations that the statistics of July 2004 show that women in managerial positions from P4/S4 and above total 14 per cent. However, it must observe that this information merely confirms previous figures without providing further details on the specific measures taken to promote women's employment in those public service posts in which they are under-represented, and to reach the target of 30 per cent. The Committee recalls the importance of the State's responsibility in pursuing a policy of equality of opportunity and treatment in respect of employment under its control. ***It therefore requests the Government to indicate in its next report, the measures taken or envisaged, especially with regard to its recruitment policy and further training policy, to achieve an overall increase in the participation of women in higher level posts in the public service. Please also provide statistical information, disaggregated by sex, on the results obtained.***

3. *Equality of opportunity and treatment with respect to productive resources.* With respect to access of rural women farmers to productive resources, the Committee notes that the National Association for Business Women (NABW) has trained 15,000 women in rural and urban areas on how to run small businesses and that the Foundation for International Community Assistance (FINCA) has assisted women in rural areas by providing them with soft loans as a way of reducing unemployment and poverty. While welcoming the abovementioned initiatives, the Committee also notes from the information submitted by the Malawi Congress of Trade Unions (MCTU), dated 26 December 2004, on

Convention No. 100, that rural women face tough loan conditions, especially from FINCA, a situation which is, however, denied by the Government in its reply received on 14 October 2005. *It asks the Government to provide information on the measures taken or envisaged to facilitate access to soft loans for rural women and to continue to supply information on the number of rural women who have benefited from the abovementioned credit facilities. Please also provide information on any other measures taken or envisaged to enhance equal opportunity and treatment for rural women in productive employment, and the results achieved.*

4. *Access to education.* The Committee notes the Government's statement that it is continuing the GABLE programme and that a number of girls have been admitted to university under its policy to facilitate women's admission to university. *Noting that the Government intends to supply the statistical data requested on women's and girls' educational attainment and on the results achieved of its programmes to correct disparities in education for girls and boys, the Committee trusts that such statistics will be included in the Government's next report.*

The Committee is raising other and related points in a request addressed directly to the Government.

Mexico

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1952)

1. *Equal remuneration for men and women for work of equal value.* For several years, the Committee has been asking the Government to indicate whether it is considering setting out in the legislation the principle laid down in *Article 1 of the Convention*. In its previous observation, the Committee regretted to note that the Government, reiterating the statements made in previous comments, replied that both article 123 of the Political Constitution of the United States of Mexico and section 86(VII) of the Federal Labour Act establish the right to equal pay for equal work performed in equal jobs, hours of work and conditions of efficiency, without taking into account either sex or nationality. The Committee has repeatedly indicated that the provisions of the Constitution of Mexico and the Federal Labour Act do not give full effect to the principle set out in the Convention. It has reminded the Government that the Convention goes beyond the reference made in the national legislation to "equal remuneration" for "equal work" and has referred as an element of comparison to the concept of work of "equal value". It has also recalled that, for the legislation to be in conformity with the Convention, it has to give expression to the principle of equal remuneration for men and women for work of equal value.

2. The Committee notes that, according to the Government's report, in the context of the Mexican Government's "New Labour Culture", a reform of the labour legislation is being prepared to assist in promoting skills, participation and fair remuneration for workers and that draft legislation to reform the Federal Labour Act was submitted as a Bill on 12 December 2002. The Committee also notes that the Government refers to the provisions of the Federal Labour Act of 11 June 2003 which aim to prevent and eliminate discrimination, but observes that this Act does not give expression to the concept of work of equal value either. Section 9(IV) of the Act provides that the establishment of differences in remuneration, benefits and conditions of work for equal work is discriminatory conduct. However, this principle is more restrictive than the principle set out in the Convention. The Committee points out that equal remuneration within the meaning of the Convention has to be provided for work of equal value, even if the work is of a different nature or is carried out under different conditions, or for different employers. Where legislation on equal remuneration exists, it should not be more restrictive than the Convention, or inconsistent with it. *The Committee therefore hopes once again that, when preparing the reform of the Federal Labour Act, the Government will take into account the Committee's comments so as to give legislative expression to the principle established by the Convention of equal remuneration for men and women for work of equal value.*

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

1. *Pregnancy tests and other similar discriminatory practices in export processing enterprises.* For a number of years, the Committee has been examining allegations received concerning a series of systematic discriminatory practices against women in access to employment in export processing zones (*maquiladoras*). These practices relate to the requirement of pregnancy tests and other similar discriminatory practices as a precondition for access to employment in export processing zones, with such practices also being applied against women who are already employed in these zones. In its previous observation, the Committee noted the comments made by the International Confederation of Free Trade Unions (ICFTU) according to which there exist grave cases of discrimination against pregnant women, particularly in export processing enterprises, where they are denied leave and other statutory rights related to maternity, or are compelled to work under hazardous and difficult conditions to dissuade them from continuing to work. The ICFTU also indicates that many employers require pregnancy tests prior to the recruitment of women and that in many cases the authorities are accomplices to these practices.

2. In its previous comments, the Committee once again reiterated that the alleged practices referred to in paragraph 1 would constitute discrimination in employment and occupation on the ground of sex and it requested the Government to investigate the existence of these practices and, where found, to take the necessary measures to punish and eliminate such discriminatory practices. In this context, it requested the Government to consider the possibility of amending the Federal

Labour Act (LFT) to prohibit explicitly discrimination based on sex and maternity in relation to recruitment and hiring for employment and in conditions of employment. The Committee also requested the Government to provide detailed information in its next report on any measures adopted and the progress achieved in eliminating such discriminatory practices, and it requested it to provide information on the cases lodged with local and federal conciliation and arbitration boards, or with Mexican courts alleging discrimination on grounds of sex.

3. The Committee notes the Government's reply on the various aspects of the issue that have been raised. It notes with interest the Government's indication that in 2002 the Secretary of Labour and Social Insurance and the President of the National Council of the Maquiladora Industry, A.C. (CNIME), concluded an agreement for concerted action to contribute to the continued improvement of labour conditions for women at work in the *maquiladora* industry. Through this agreement, the CNIME undertook, among other actions: to promote in each of its member *maquiladora* enterprises in the country the dissemination of national legislation and international treaties on the rights of women workers; to promote national and regional campaigns with the support of the services of the Secretariat of Labour; to recommend to its member enterprises that no kind of pregnancy test should be required; to promote working time arrangements which allow women who are mothers to be with their children for longer; and to promote and raise awareness that enterprises must not dismiss or exert pressure on woman workers on grounds of maternity. In the context of the above agreement, 15 further agreements have been signed with governments of federal States, employers' associations and associations of professional women, through which the Secretariat of Labour and Social Insurance is seeking to achieve an improvement in the working conditions of women. ***The Committee would be grateful if the Government would provide information on the implementation of this agreement, the number of workers covered by the agreement and the results achieved.***

4. The Committee also notes the information provided by the Government on the activities of the National Institute for Women, and particularly that emphasis has been placed on eliminating the requirement of pregnancy tests as a condition to obtain a job. The Government adds that the project More and Better Jobs for Women in Mexico, undertaken in collaboration with the ILO, launched a second project phase in December 2003 in Chiapas, Chihuahua, Veracruz and Yucatán. Its objective is to promote new job opportunities for women in the informal economy in Chiapas, Veracruz and Yucatán and to improve the labour rights of women employees in the *maquiladora* industry in Chihuahua and Yucatán by means of: awareness-raising campaigns on labour rights and obligations; training focusing on gender, human and vocational development, technical and administrative skills, and safety and health; and the establishment of micro-enterprises and sales outlets for products. ***The Committee would be grateful if the Government would continue to provide information on the activities of the National Institute for Women, including providing a copy of its annual report, and the results achieved by the project, particularly in maquiladora enterprises.***

5. While noting with interest the policies implemented by the Government to promote equality of opportunity and treatment and to eradicate the requirement of pregnancy tests and similar discriminatory practices in *maquiladoras*, the Committee regrets to note that the report does not contain information on the investigations carried out on such practices, and the penalties imposed or envisaged. The Committee hopes that the Government will develop mechanisms to investigate, and assess the extent and trends of such practices. Although the Committee is aware of the efforts made by the Government to prevent these practices, it considers that it would be appropriate to establish means of assessing the impact of the measures adopted by the Government and the progress achieved in this respect. ***It therefore once again requests the Government to provide information on any investigations carried out, the means of monitoring the situation and trends, and the penalties imposed or envisaged.***

6. *The legislation.* The Committee also notes that, in its reply, the Government once again indicates that sections 3(2) and 133 of the Federal Labour Act already prohibit employers from refusing to accept workers or from establishing distinctions on grounds of age or sex. The Government indicates that, in the framework of the "New Labour Culture", work is being carried out on a legislative reform which is intended to promote training, participation and the fair remuneration of workers. ***The Committee hopes that the Government will take the opportunity of this reform to establish an explicit prohibition of discrimination on the basis of sex and maternity in relation to recruitment, hiring for employment and conditions of employment, and that it will keep the Committee informed in this respect.***

7. The Committee notes with interest the adoption on 10 June 2003 of the federal Act to prevent and eliminate discrimination. This Act contains measures for the prevention of discrimination, for affirmative action and compensation to promote equality of opportunity and establishes a National Council for the Prevention of Discrimination. The Government indicates that section 4 of the Act provides that, for the purposes of the Act, discrimination shall mean any distinction, exclusion or restriction based, inter alia, on sex and pregnancy. Section 9(III, IV and V) of the Act considers to be discriminatory conduct, inter alia, the restriction of opportunities for access to, remaining in and progression in employment. The Committee notes that the Act does not establish penalties or sanctions, but rather promotional administrative measures, and that section 83, which governs these measures, provides that their imposition on individuals shall be conditional upon them having accepted the corresponding conciliation agreement. ***The Committee requests the Government to specify the private sector workers to whom these sections of the Act apply, including information in this respect on maquiladoras.***

8. *Complaint procedures.* The Government also indicates that complaints relating to the application of the Convention have so far not been lodged with the competent authorities. ***The Committee requests the Government to provide information on the complaints which have been made, the procedures that are available and the penalties***

applicable for the imposition of pregnancy tests and similar practices in the maquiladoras referred to in paragraph 1, and on the investigations carried out in this connection.

9. *Vacancy announcements that are discriminatory on grounds of race and colour.* The Committee notes the Government's observations on the comments made by the ICFTU, to which the Committee referred in the second paragraph of its previous observation. These comments indicated that vacancy announcements establish specific profiles of candidates, which often include light skin. In its reply, the Government states that, in addition to being a general and groundless allegation, no explanation is provided as to how the indigenous population is being discriminated against. The Committee refers to *Article 1, paragraph 2, of the Convention*, under the terms of which any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination, while *paragraph 1(a)* of the same Article sets forth the grounds on which the Convention explicitly prohibits any distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. As colour is one of the grounds explicitly prohibited by the Convention, a vacancy announcement which requires light skin would be discriminatory on the basis of a criterion prohibited by the Convention. In paragraph 33 of its General Survey of 1988, the Committee indicated, with reference to race and colour, that what is really at issue is the negative aspects that the author of the discrimination imputes to the person who is the object of discrimination. ***The Committee would be grateful if the Government would indicate whether this type of announcement is prohibited and requests it to provide information on any measures adopted or envisaged in this respect.***

10. The Committee notes that the Government has provided comments on the communication of the Mexico Union of Electricians dated 28 September 2001. The Committee will review these comments when it examines the application of the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

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

Republic of Moldova

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1996)***

1. *Article 1 of the Convention. Application in law.* The Committee notes with interest that the new Labour Code (Act No. 154-XV of 23 March 2003) contains several provisions applying the Convention. The Code recognizes the right to free choice of work, the prohibition of discrimination, and equality of rights and opportunities of all workers as basic principles of labour relations (section 5). Under section 8(1), any direct or indirect form of discrimination on the grounds of sex, age, race, nationality, creed, political convictions, social origin, place of residence, physical, intellectual or mental disability, membership in trade unions or participation in trade union activities, as well as other criteria which are unrelated to the professional qualification of the worker, is prohibited. The Committee notes that section 47 explicitly extends the prohibition of discrimination to the recruitment process. Enterprises must include in their internal regulations provisions concerning the observance of the principle of non-discrimination and elimination of any form of infringement of dignity at work (section 199). ***The Committee requests the Government to provide detailed information on the practical application and enforcement of the non-discrimination provisions of the Labour Code, including indications on the number, nature and outcomes of cases involving these provisions dealt with by the labour inspectors and the courts.***

2. *Prohibited grounds of discrimination – colour.* The Committee notes that sections 8, 47 and 128 prohibit discrimination on a number of grounds, but that the criteria of colour which is one of the prohibited grounds of discrimination listed in *Article 1(1)(a)* of the Convention, has been omitted. The Committee recalls that it has always emphasized that, where legislative provisions are adopted to give effect to the principle of the Convention, they should include all the grounds of discrimination laid down in *Article 1(1)(a)* of the Convention. ***The Committee therefore recommends that the prohibited ground of colour be included in the legislation in the course of future amendments and requests the Government to provide information on any steps taken in this regard.***

3. *Article 2. Measures to promote equality of opportunity and treatment in employment and occupation.* The Committee notes with interest that the Government has adopted a national plan for the promotion of gender equality in society (2003-05), which, inter alia, aims at eliminating gender discrimination in the labour market. The Parliament adopted a national plan of action in the field of human rights (2004-08), which envisages activities to promote equality of opportunity and treatment on the basis of sex and ethnic origin. ***The Government is requested to provide information on the concrete activities and programmes carried out under these plans with a view to promoting equality in the world of work irrespective of sex or ethnicity, including results achieved.***

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

Netherlands

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1973)***

The Committee notes the information in the Government's report and the extensive documentation attached. It also notes the comments and additional information supplied by the Netherlands Trade Union Confederation (FNV) in its communication dated 25 November 2004.

1. *Discrimination on the basis of colour, race, national extraction and religion.* The Committee notes that the Employment Minorities (Promotion) Act, 1998, which required employers to report on the ratio of ethnic minority employees and on the measures to achieve a greater proportional representation of ethnic minorities in their enterprise, expired in January 2004. In its previous comments, the Committee had noted the broad support for this Act and the increase in the number of reports filed by employers. It had also noted the various measures taken by the Government to follow up on the recommendations arising from the evaluation of the Act such as the "benchmarking tool" of public employment services, and the action taken against employers who did not fulfil their obligations prescribed by the Act. The Committee notes that, as a follow-up to the Act, the Government created the National Network on Diversity (DIV) to raise awareness among employers about the benefits of an enterprise (personnel) policy focusing on diversity, and that it is considering the voluntary registration by employers of the ratio of ethnic minorities. The Committee notes that the FNV, along with other organizations, attempted to prevent the expiration of the Act. The FNV maintains that information on the participation of ethnic minorities in employment and other areas has been more difficult to obtain since the expiration of the Act and that the "benchmarking tool" has not had any positive results. According to the FNV, the Government has not taken enough measures to promote non-discriminatory personnel and recruitment policies despite the fact that discrimination on the grounds of colour, race and national extraction is more prevalent. Different treatment persists with respect to access to employment, and unemployment of ethnic minorities, especially the young, has risen quite sharply during the recent economic recession. The national equality focal point within the Equal Treatment Commission (ETC) no longer exists and the capacity of the ETC to exercise its powers proactively is hampered by limited legal possibilities. The FNV also regrets that no information has been supplied about the unemployment situation of women of Moroccan origin, whose employment situation, as indicated in the Committee's previous comments, was particularly grim. It maintains that, although the Government published an Action Plan on Emancipation and Integration of Women and Girls from Ethnic Minorities in 2003, most of the specific measures and finances for target groups such as unemployed women from ethnic minorities have been discontinued.

2. The Committee notes that the Annual Reports of the Social and Cultural Planning Office on Ethnic Minorities and on Integration, published in October 2003 and September 2005, respectively, express similar concerns with respect to the weakened position of ethnic minorities in society and the labour market. The 2003 Annual Report on Ethnic Minorities points to the diminishing attention in labour market policy to the situation of ethnic minorities and mentions that with the expiration of the abovementioned Act employers are no longer actively encouraged to increase the proportion of ethnic minorities in their enterprise. Therefore, special measures targeting ethnic minorities are still necessary and require an adequate registration of the number of ethnic minority members in the labour market. The 2005 Annual Report on Integration confirms the sharp increase in the unemployment rate of ethnic minorities from 9 per cent in 2001 to 16 per cent in 2004, with youth unemployment (15-24 years of age) among ethnic minorities even rising to 23 per cent. It states that the weakened economy "wiped out many of the gains made by ethnic minorities between 1995 and 2001". The Annual Report further indicates that the proportion of ethnic minority members employed in occupations at the lowest end of the occupational ladder and under flexible contracts is still relatively high. Furthermore, the number of subsidized contracts, under which many female and older ethnic minorities are employed, is decreasing and having a concomitant impact on the job security of these workers. The Report concludes by expressing concern over the increased negative view concerning the presence of ethnic minorities in society, particularly Muslims.

3. The Committee notes from the Government's most recent periodical report under the United Nations Covenant on Economic, Social and Cultural Rights that the Government recognizes that ethnic minorities should not be disproportionately affected by the downturn in the labour market. It notes the range of past and present measures presented in the report to address race discrimination and to increase access to training and education of ethnic minority employees to improve their career opportunities and promote sustainable employability, including those under the European EQUAL Programme (E/1994/104/Add.30, 23 August 2005, pages 9-25). While welcoming these measures by the Government and the measures referred to in paragraph 1 of this observation, the Committee notes with concern the rapidly deteriorating labour market position of men and women from ethnic minorities and the apparent decline in efforts to eliminate employment discrimination of ethnic minorities. ***It therefore hopes that the Government will make every effort to ensure that past gains with respect to equality of ethnic minorities in employment and vocational training are not lost or put at risk. It asks the Government to step up its measures to address discrimination in employment and occupation on the basis of race, colour, ethnic origin or religion and to take active steps, along with the employers' and workers' organizations, to promote a climate of tolerance among the different ethnic groups in society. The Committee hopes that the Government's next report will contain information, including up-to-date statistics disaggregated by sex and ethnic origin, on the measures taken and the practical results obtained to put an end to discrimination in hiring***

and to promote access of both male and female ethnic minority members to employment and training, including by the DIV.

The Committee is raising other and related points in a request addressed directly to the Government.

New Zealand

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1983)

1. The Committee notes the extensive information provided by the Government in its report and the attached documentation, as well as the comments made by Business New Zealand and the New Zealand Council of Trade Unions (NZCTU), and the Government's response to these comments.

2. *Articles 1 and 2 of the Convention. Legislative developments.* The Committee recalls that in New Zealand equal remuneration for men and women who are performing the same or substantially similar work is required under several Acts, including the Employment Relations Act 2000 (ERA), the Human Rights Act 1993 (HRA) and the Equal Pay Act 1972 (EPA). Further definition of discrimination contained in the ERA appears to be restricted to cases where employees work for the same employer. The Committee previously emphasized the requirement in the Convention for equal remuneration to be paid for "work of equal value", a reference that goes beyond the concept of the same or similar work. In addition, with respect to the scope of comparison, the Committee considered that the scope should be as wide as allowed by the level at which wage policies, systems and structures are set.

3. The Committee notes that plans to adopt new equal pay legislation were abandoned in December 2004. The Government states that such legislation will instead be considered in conjunction with the development of the Government's other pay and employment equity initiatives. While acknowledging the need to update existing equal pay legislation to improve its workability and application, the NZCTU supported the withdrawal of the legislative amendments concerning equal pay until further work could be done to ensure that any updating of the legislation is consistent with the Convention. ***The Committee asks the Government to keep it informed of any new initiatives to amend the current equal pay legislation, and trusts that its comments will be taken into account, with a view to bringing the national legislation into conformity with the Convention.***

4. *Articles 2 and 3. Measures to promote equal remuneration.* The Committee notes with interest the report of the Task Force on Pay and Employment Equity in the Public Service and the Public Health and Public Education Sectors issued in March 2004. The Task Force has defined "pay equity" as "men and women receiving the same pay for the same work and for work which is different, but of equal value". It identified three key factors that affect women's pay and employment equity: (1) the jobs that women do; (2) how jobs are valued; and (3) how jobs are organized. ***Noting in particular the recommendations made by the Task Force with regard to collective bargaining, minimum wage setting, the development of a gender-neutral job evaluation tool, equal pay audits and the establishment of a process for remedial settlements of pay equity claims, the Committee asks the Government to provide information on the progress made in implementing the comprehensive set of recommendations and the plan of action put forward by the Task Force. The Government is also asked to provide information on the measures taken or envisaged to promote the application of the Convention in the private sector, including any cooperation with the social partners in this regard.***

5. *Complaints and enforcement mechanisms.* The Committee notes that the number of individual equal pay cases brought before the competent bodies remains low. While noting Business New Zealand's view that this could be explained by the fact that the concept of equal pay has been accepted in New Zealand, the Committee emphasizes that the absence of complaints does not indicate per se the absence of discrimination, but rather calls for an examination of the operation of complaints mechanisms currently available. The Committee also notes the NZCTU's position that, in order to ensure compliance with the Convention, equal pay audits and remedial settlement of equal pay claims should be underpinned by legally binding enforcement mechanisms. The Government expressed the view that compliance with the Convention could be achieved effectively by addressing the underlying causes of the gender pay gap, including the development of job evaluation tools and the use of existing accountability mechanisms and collective bargaining. The Committee considers however that the application of the Convention should be achieved through a combination of various means, including effective complaints and enforcement mechanisms. While it would be up to the Government, in consultation with the social partners, to determine the nature and structure of such mechanisms, their design and operation should contribute to the Convention's objective which is the elimination of unequal remuneration for men and women performing work of equal value. ***The Committee asks the Government to provide information on the measures taken to ensure that in those cases where men and women do receive unequal remuneration for work of equal value the matter can be addressed effectively through appropriate complaints and enforcement mechanisms.***

6. *The male-female earnings differential.* The Committee notes that according to the Household Labour Force Survey Income Supplement there was a 4 per cent increase in the female-to-male ratio of average hourly earnings between 1997 and 2003. Progress in closing the gender pay gap was made in the age groups of 24-54, while the gap slightly increased for the other age groups. According to the Government, the gender pay gap decreased similarly for the European, Maori and Pacific New Zealanders, but it remained widest among European New Zealanders. The Trust Diversity Survey Report 2004, issued by the Equal Employment Opportunity (EEO) Trust, indicates that the hourly earnings gap has increased since 2003, while the weekly earnings gap slightly decreased, indicating an increase in hours

worked by women. *The Committee asks the Government to continue to provide updates on statistical information concerning men's and women's earnings in the private and public sectors, including data disaggregated by sex and ethnic group. The Government is also asked to provide information on any measures taken to implement the Task Force's recommendation that further work should be done to determine what data would be appropriate for businesses and Statistics New Zealand to collect to give an overview on pay and employment equity.*

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1983)

1. The Committee notes the information provided by the Government in its report and the attached documentation, as well as the comments made by Business New Zealand (Business NZ) and the New Zealand Council of Trade Unions (NZCTU) and the Government's response to these comments. It recalls the comments submitted by the International Confederation of Free Trade Unions (ICFTU) dated 6 May 2003 and notes the Government's reply thereto.

2. *Articles 2 and 3 of the Convention. Equality of opportunity and treatment of Maori and Pacific workers.* The Committee notes the ICFTU's statement that social inequalities persist between the indigenous Maori and non-Maori populations, including higher unemployment levels than the national average, lower levels of formal qualifications and occupational segregation in low-paid jobs. As the extent to which these inequalities reflect employment discrimination against Maori and Pacific people was not clear, the ICFTU suggests that research on this issue should be undertaken. Business NZ expresses the view that employment difficulties of these ethnic groups were due to "educational deficiencies" limiting employment choices rather than discrimination.

3. The Committee notes from the Government's report that labour market inequalities between Maoris and Pacific people continue to exist, though some progress has been made in recent years. The average unemployment rate of Pacific people decreased from 16.8 per cent in 1997 to 7.6 per cent in 2004 (8.8 per cent for women), while the average unemployment rate for Maoris decreased from 10.8 per cent in March 2002 to 9.4 per cent in March 2004 (10.9 per cent for women). By comparison, the national average rate was at 4.6 per cent and the rate for European New Zealanders was at 3.4 per cent (3.9 per cent for European women). According to the Government, Pacific people continue to be over-represented among the unemployed, lower skilled and low-income earners, while Maoris and Pacific people are disproportionately distributed in the industry grouping of manufacturing and trades and the occupational group of plant and machine operators.

4. The Committee considers that where marked labour market inequalities along ethnic lines exist, a national policy to promote equality of opportunity and treatment, as envisaged in *Articles 2 and 3* of the Convention should include measures to promote equality of opportunity and treatment of members of all ethnic groups in respect to access to vocational training and guidance, placement services, employment and particular occupations, and terms and conditions of employment. In order to achieve the objective of the Convention it is necessary to address gaps in training and skills levels, as well as to examine and eliminate other difficulties and barriers that Maoris, Pacific people, and members of other ethnic groups, face in accessing and retaining employment in the various sectors and occupations. The Committee recalls that the Convention covers all discrimination, without referring to the intention of an author of a discriminatory act or even without there needing to be an identifiable author, as may be the case in situations of indirect discrimination (General Survey, 1988, paragraph 26). Indirect discrimination occurs when apparently neutral requirements or practices result in a disproportionately harsh impact on some members of ethnic groups. It therefore welcomes the Government's statement that a comprehensive approach needs to be taken to issues of discrimination and disadvantage, and it notes the various programmes and activities carried out by the different ministries and other public bodies to promote training and employment of Maori and Pacific people. *The Committee requests the Government to continue to provide detailed information on the measures taken and results achieved in promoting the access of Maori and Pacific people to training and private and public employment, including information on how many Maoris and Pacific people were employed or engaged in self-employment following participation in training and employment-creation schemes, as well as statistics on labour market participation and earnings disaggregated by ethnicity and sex.*

5. *Equality of opportunity and treatment of migrants.* The Committee notes that according to the NZCTU, research has indicated that a significant number of employers would be reluctant to employ a person who spoke English with a strong "foreign" accent. The NZCTU also states that employment agencies were less likely to put new settlers forward for an interview where a range of candidates was available. In this regard, the Committee further notes that the Human Rights Commission has pointed to difficulties of migrants in accessing appropriate employment in its 2004 report entitled "Human Rights in New Zealand today". *While noting that the Government has taken a number of general measures to assist migrants, the Committee recalls that the Convention is intended to protect all workers from direct and indirect discrimination on the grounds listed in its Article 1(1)(a) and requests the Government to provide information on the measures taken to ensure that migrant workers are not excluded from employment on the basis of their race, colour or national extraction, without an objective justification based on the inherent requirements of a particular job.*

6. *National machinery to promote equality.* The Committee notes with interest the establishment of an Equal Employment Opportunities (EEO) Commissioner within the Human Rights Commission in 2002 and the appointment of the first EEO Commissioner in 2003. The Commissioner's mandate includes, inter alia, providing leadership and advice

on EEO matters, to evaluate the role that legislation, guidelines and voluntary codes of practice play in promoting best practice in equal employment opportunities, and to monitor and analyse progress made in improving equal employment opportunities. Since the Commissioners appointment, the Human Rights Commission has issued the report “Framework for the future: Equal employment opportunities in New Zealand” in which a number of recommendations were made, including regarding the introduction of new legislation that would require private and public employers to develop and implement EEO plans and to report regularly on outcomes. *The Committee requests the Government to continue to provide information on the activities of the Human Rights Commission and the EEO Commissioner, as well as on any follow-up to the abovementioned report. The Government is also asked to continue to provide information on the progress made in achieving equal employment opportunities in the private and public sectors, as well as information on how the various bodies dealing with EEO issues cooperate with each other, and with employers’ and workers’ organizations.*

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

Nicaragua

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

1. *Civil Service and Administrative Careers Act.* With reference to its previous comments, the Committee notes with interest the adoption on 19 November 2003 of the Civil Service and Administrative Careers Act, No. 476, section 3(1) of which provides that the law guarantees the prerogatives, rights, mandate and opportunities deriving from its letter and spirit without discrimination on grounds of birth, nationality, political belief, race, sex, language, religion, opinion, origin, economic situation or social condition.

2. *Indigenous peoples and ethnic communities.* The Committee notes with interest Decree No. 3584 issuing regulations respecting the autonomous status of the Atlantic coast regions of Nicaragua, issued under the Act respecting the common property regime of indigenous peoples and ethnic communities in the autonomous regions of the Atlantic coast, published in Spanish, Mayangna, Misquito and English, as well as the translation into Misquito of the Code for Children and Young Persons. *The Committee requests the Government to provide information on the implementation of the above regulations and on any relevant measures that are adopted to promote equality of opportunity and treatment for indigenous peoples and ethnic communities in the autonomous regions of the Atlantic coast.*

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

Pakistan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

1. The Committee notes the Government’s first report and recalls the comments sent by both the International Confederation of Free Trade Unions (ICFTU) and the All Pakistan Federation of Trade Unions, dated 18 September 2001 and 9 July 2003, respectively. The All Pakistan Federation of Trade Unions stressed the need to adopt legislation and establish effective labour inspection services in order to enforce the Convention. The ICFTU alleged that women did not always receive equal treatment with their male counterparts in terms of pay and benefits.

2. The Committee notes the Government’s indication that the Minimum Wages Ordinance, 1961, provides for equal minimum wages for the different categories of workers in industrial undertakings without distinction on the ground of sex. However, while the Committee notes that the setting of minimum wages is an important means of applying the Convention, it also notes that this legislation contains no specific provisions on equal remuneration for men and women for work of equal value.

3. In this context, the Committee notes that the Labour Protection Policy prepared by the Government in 2005 states that gender equality with regard to pay and wage systems will be a key component of the Government’s new policy in the field of wages. The policy further envisages that minimum and above minimum wages will be paid on the basis of equal pay for equal work, and equal pay for work of equal value between men and women. The Committee also notes that the ILO Decent Work Country Programme in Pakistan includes measures to strengthen the application of the Convention. *It looks forward to receiving information on the specific measures taken or envisaged to implement the Government’s commitments and policies and on the progress made in strengthening the application of the Convention in law and practice.*

4. *Noting that the Government’s brief report has not yet enabled the Committee to examine fully the application of the Convention in Pakistan, the Committee asks the Government to provide additional information on the following points: (1) the application of the Convention in respect to workers not covered by minimum wage legislation, such as agricultural workers and government employees; (2) how it is ensured that the Convention’s principle is applied not only to wages but also to all aspects of remuneration as defined in Article 1(a) of the Convention; (3) how the principle of the Convention is taken into account in collective agreements; (4) the specific measures taken by the competent*

authorities to ensure the application in practice of the principle of equal remuneration for work of equal value; and (5) the mechanisms and procedures available for victims of pay discrimination.

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

1. *National policy to promote equality of opportunity and treatment in employment and occupation.* In its previous observation, the Committee drew the Government's attention to the fundamental nature of the right to non-discrimination and the importance of formulating and implementing a national policy in accordance with the requirements of the Convention. While noting that the Government's report does not contain any information in this regard, the Committee nevertheless notes that a new Labour Policy was adopted in 2002, following consultations with social partners, which highlights gender equality issues. The Committee also notes that the ILO Decent Work Country Programme for Pakistan provides for strategies and measures to promote and strengthen the application of the Convention. The Committee looks forward to receiving information on the outcomes of the programmes and activities envisaged.

2. *Export processing zones (EPZs) and special industrial zones (SIZs).* The Committee previously noted that separate labour laws covering EPZs and SIZs were under preparation and expressed its hope that the Government would take the steps necessary to ensure that the labour laws for these zones fully reflect the principles and objectives of the Convention, in particular the prohibition of discrimination on the grounds listed in *Article 1(1)(a) of the Convention*, including with regard to terms and conditions of employment and the prevention of and protection from sexual harassment. In this regard, the Committee notes that the Decent Work Country Programme for Pakistan envisages action to ensure that workers in these zones have legal protection in line with international labour standards. *The Committee requests the Government to provide information in its next report on any progress made in the preparation of the labour legislation applicable to EPZs and SIZs and the measures taken to ensure that it will reflect the principles and objectives of the Convention.*

3. *Discrimination on the basis of sex.* The Committee notes with interest that the 2002 Labour Policy identifies the elimination of gender discrimination as an important objective and acknowledges the need to improve the role and contribution of women in the labour force and to provide them with equal opportunities for employment. *The Committee requests the Government to provide detailed information on the different measures taken or envisaged to promote women's equal employment opportunities and to eliminate discrimination on the basis of sex. In this regard, the Committee reiterates its previous request for information on the structure, mandate and activities of the National Commission on the Status of Women. The Committee also asks the Government to provide statistical information on the labour force participation of women and men, both in the public and private sectors.*

4. The Committee notes that the Government's Labour Protection Policy elaborated in 2005 proposes the assessment of the nature and extent of sexual harassment in the workplace and the preparation a Code of Conduct to guide the actions of enterprises in addressing sexual harassment, depending on the outcome of such assessment. *The Committee encourages the Government to ensure that its 2002 general observation on sexual harassment is taken into account in this process. The Committee also requests the Government to provide information on the steps taken with a view to preparing and adopting the Code of Conduct on sexual harassment, and to provide information on any other measures adopted or envisaged, in law and in practice, to prohibit and prevent sexual harassment at work.*

5. The Committee stresses that promoting equal access of girls and women to education and training is an important strategy towards the elimination of discrimination against women and the realization of gender equality in employment and occupation. The Committee notes from the Human Development Report of 2004 that the adult literacy rate for women was as low as 28.5 per cent. According to information submitted previously by the Government, about 50 per cent of girls drop out of school before completing primary education, and the drop-out rate for girls in rural areas is as high as 75 per cent. *The Government is asked to provide further information on the measures taken and the progress made in increasing participation of girls and women in education, particularly in rural areas, and on action taken to change social attitudes that prevent them from enjoying their equal rights to education. The Committee also invites the Government to provide information on the steps taken to promote women's access to vocational training and measures for their social-economic empowerment. Finally, the Government is asked to supply statistical information on the level of participation of men and women in education and training.*

6. *Discrimination on the basis of other grounds.* The Committee recalls that a national policy to promote equality of opportunity and treatment should aim at the elimination of discrimination on all the grounds specified in the Convention. In this regard, the Committee notes that the Government's report contains no information in reply to the Committee's previous comments concerning discrimination on the basis of religion. *It therefore reiterates its request to the Government to provide information on the measures taken to guarantee in practice non-discrimination on the basis of religion for all aspects of employment, and on the situation of the various religious minorities in employment and occupation. The Committee also urges the Government to respond to its previous request for information on the strategy implemented by the Minorities Affairs Division of the Federal Government and on the work of the National Commission for Minorities, as far as related to the application of the Convention.*

7. Further, the Committee recalls its previous comments concerning the impact of certain provisions of the Penal Code (sections 295C, 298B and 298C) on the employment and occupation of members of the Qadiani, Lahori and Ahmadi religious groups. The Committee noted that sections 298B and 298C of the Penal Code establish sentences of imprisonment for up to three years for any members of the Qadiani, Lahori and Ahmadi religious groups who, inter alia, preach or propagate their faith, whether by spoken or written words, or by visible representation. The Committee also recalls that in order to obtain a passport, a declaration is required to the effect that the founder of the Ahmadi movement was a liar and an impostor, which is designed to prevent non-Muslims from obtaining passports which identify them as Muslims. ***The Committee remains concerned that the enjoyment of equality of opportunity and treatment in respect of education and employment for certain religious minorities is necessarily impaired by the application of the measures referred to above, and urges the Government to take the necessary measures to review them and to keep the Committee informed of any measures taken in this regard.***

Panama

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1958)

1. *Legislation.* In its previous comments, the Committee indicated that section 10 of the Labour Code does not adequately reflect the principle set out in the Convention because it provides that “equal wages shall be paid for equal work in the service of the same employer, performed in the same job, working day, conditions of efficiency and seniority”, whereas the principle set out in the Convention is broader, since it also applies to work that is different but of “equal value” and carried out for the same or another employer. In its observation in 2003, the Committee expressed the hope that the Government would make efforts to amend section 10 of the Labour Code to bring it into harmony with the principle set out in the Convention.

2. The Committee notes the Government’s indications in its report that section 10 of the Labour Code is based on article 63 of the Constitution, under the terms of which “equal wages or pay shall always be provided for equal work under identical conditions, irrespective of the persons performing it and without distinction on grounds of sex, nationality, age, race, social class or political or religious views”. The Government adds that the guiding standard maintains the broad meaning of equality without distinction on grounds of gender and that section 10 referred to above does not therefore merit amendment as it guarantees equal wages.

3. The Committee considers however that the principle set out in section 10 of the Labour Code is narrower than the principle established by the Convention. The Committee points out once again that equal remuneration within the meaning of the Convention is not limited to equal work, nor to work performed under identical conditions, but is broader and has to be applied to work of equal value, even where the work is of a different nature or is performed under different conditions, or for different employers. Where legislation exists covering equal remuneration, it must not be more restrictive than the Convention, nor inconsistent with it. ***The Committee therefore once again expresses the hope that the Government will make the necessary efforts to amend section 10 of the Labour Code to give legislative expression to the principle established by the Convention of equal remuneration for men and women for work of “equal value” and it requests the Government to continue providing information on this subject.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1966)

1. *Policies to promote equality for men and women in employment.* The Committee notes with interest that the text of Executive Decree No. 53 of 25 June 2002, which regulates Act No. 4 of 1999, establishing equality of opportunity, contains a series of provisions to ensure better application of the Convention. It notes in particular that Chapter V (Labour) provides for a number of mechanisms to apply the national policy on equal treatment for men and women in employment, and is supplemented by the Equal Opportunities Plan, “PIOM II”, adopted in May 2002. A series of measures have been applied under the above legislation and the Plan, concerning training, hiring incentives, wages, and studies in cooperation with workers’ and employers’ organizations. The Committee refers in greater detail to these matters in its direct request.

2. *Discrimination on political grounds.* In its previous comments, the Committee noted a communication sent in 2001 by the National Federation of Associations and Organizations of Public Servants (FENASEP) alleging that the Government had dismissed more than 19,000 public servants without establishing just cause and without following the statutory procedures. According to FENASEP, 80 per cent of those dismissed are registered members of a political party called the Democratic Revolutionary Party (PRD), and the dismissals constitute discrimination on grounds of political opinion, in breach of *Article 1 of the Convention*.

3. In its reply of 24 October 2001, the Government stated that the public servants in question had been appointed between June and September 1999, in a transitional period between two governments, and that the appointments constituted “arbitrary and indiscriminate recruitment of public servants” who were members of the coalition government of the time and did not meet the statutory requirements. According to the Government, this explains the fact that a large proportion of those dismissed turned out to be PRD members; however, they were dismissed not on political grounds but because they failed to meet the statutory requirements for appointment.

4. The Committee pointed out that exclusion arising out of inherent requirements of a particular job must be interpreted narrowly so as not to give rise to undue limitations on the protection afforded by the Convention, and requested detailed information on the criteria applied in determining the grounds for the dismissals. It also requested copies of any complaints against such dismissals and the court decisions handed down.

5. In its last report, sent in September 2004, the Government stated that the dismissals had been necessary in order to contain the growing numbers of state employees. As other grounds for the dismissals it gave foreign currency savings, investment in infrastructure, finalization of projects and suitability, but denied that political opinion had been a criterion. The Committee observes that the Government has not sent all the information requested. ***It accordingly reiterates its request for information on the legislation governing the dismissal and/or termination of service of public servants or other employees hired by the State, the manner in which the Government ensures that there are no dismissals on grounds of political opinion, the available means of redress, the number of complaints against dismissals filed with the courts of law in connection with the 19,000 dismissals referred to above, and copies of any complaints alleging political discrimination and of the sentences handed down.***

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

Paraguay

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

Discrimination on the basis of political opinion. In its earlier observation, the Committee noted with interest that, according to the Government's report, section 95 of the Bill on the Status of Civil Servants and Public Employees, which was before the National Parliament, would repeal Act No. 200 of 17 July 1970, which, by stating that "no public official may engage in activities contrary to public order or to the democratic system established by the Constitution", could give rise to discriminatory practices based on political opinion. The Committee notes from the Government's report that to date no Act in respect of public servants has been approved and that three Bills are before the National Parliament, of which one has the approval of the Drafting Committee. ***Recalling that it has been pointing out since 1985 that section 34 of the abovementioned Act is in contravention of Article 1(1)(a) of the Convention, the Committee again urges the Government to take the measures necessary to repeal Act No. 200 and requests it to continue to provide information in this respect.***

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

Peru

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1960)

1. *Equal remuneration for men and women for work of equal value.* The Committee notes with regret that, despite having reiterated for many years that the principle enshrined in the Convention is that of equal remuneration for men and women for work of equal value, the reports submitted by the Government continue to provide information on equal remuneration for equal work, which does not reflect the principle of the Convention. The Committee therefore notes with considerable regret that according to the Government's report, draft law No. 1110 which proposes to amend article 24 of Peru's Political Constitution by incorporating the phrase "a worker, male or female, is entitled to equal remuneration for equal work performed under identical conditions for the same employer" has been submitted to Congress for its opinion. This principle is far more restrictive than the Convention, since it introduces conditions of "equal work", "performed under identical conditions" and "for the same employer". In its General Survey of 1986 on equal remuneration, the Committee of Experts indicated that the principle of equal remuneration for work of equal value "inevitably broadens the field of comparison since jobs of a different nature have to be compared in terms of equal value. To compare the value of different jobs, it is important that there exist methods and procedures of easy use and ready access" (paragraph 255). Further, in paragraph 256 of the same survey, the Committee stated that "particular difficulties for job evaluation are experienced in areas where men and women are in practice segregated into different occupations, industries and specific jobs within enterprises (...) it is essential to ensure equal remuneration in an industry employing mostly women by having reference to a basis of comparison outside the limits of the establishment or enterprise concerned". In short, equal remuneration for equal work performed under identical conditions for the same employer does not reflect the principle enshrined in the Convention.

2. *Equal remuneration for men and women for work of equal value and the reflection of this principle in law.* The Government's report indicates that the principle enshrined in the Convention can be applied through various means and not only through national legislation. The Committee fully agrees with the Government's assertion, but reminds it that, while the Convention is flexible regarding the choice of measures to be taken for its implementation, it allows no compromise regarding the objective to be pursued. Where legislation concerning equal remuneration exists, it should not be more restrictive than, or contravene, the equal remuneration principle in the Convention. The Committee also reminds the Government that States have an obligation to promote the principle enshrined in the Convention and apply it directly

in certain cases (see the abovementioned General Survey, op. cit., paragraphs 25-30). In the Committee's opinion, the proposed amendment of article 24 of the Constitution does not contribute to either the promotion or application of the principle established in the Convention. ***The Committee therefore hopes that through the amendment of article 24 of the Constitution, the Government will do what is necessary to establish in legislation the principle of equal remuneration for work of equal value, and requests that it keep the Committee informed in this regard.***

3. *Other means of applying the principle laid down in the Convention and labour inspection.* In its previous direct request, the Committee noted the Government's statement that no methods had been established for an objective appraisal of jobs on the basis of the tasks they involved and reminded the Government that the concept of equal pay for men and women according to the value of their work necessarily implied the adoption of a suitable method for objectively measuring and comparing the relative value of the tasks performed. In the same direct request, the Committee noted the information contained in the communication issued by the Directorate of Prevention and Inspection (communication No. 97-02-DRTPSL-DPI-5.^a SDI), which was attached to the Government's report. According to that communication, "no procedure has been established through which it is possible to evaluate the work performed and its relation with the remuneration received", and according to conclusion No. 1 therein, "it is necessary for the Peruvian State, through substantive law, to issue appropriate standards to regulate specifically the area of equal remuneration for men and women workers for work of equal value, and by doing so it will provide labour inspectors with the tools needed to ensure compliance with that principle". The same communication indicates that there is a legal void in the legislation governing labour inspection and that the labour inspectorate can therefore only verify compliance with current legislation as regards the national minimum wage for all workers, without any discrimination.

4. The Committee expresses its concern regarding the absence both of legislation to promote the Convention's principle at different levels and of methods for carrying out an objective appraisal of jobs allowing for the comparison of tasks in different companies and sectors. Both of these are also required in order that the labour inspectorate can monitor the application of the principle laid down in the Convention. ***Consequently, the Committee urges the Government to adopt appropriate measures to bring its legislation into line with the Convention and to promote an objective appraisal of jobs on the basis of the work to be performed. Please provide information on the measures adopted in that regard. Also, please provide information on the other means being adopted to apply the principle laid down in the Convention, including details on how the Government cooperates with employers' and workers' organizations to give effect to the Convention's provisions.***

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

Poland

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1954)

1. *Articles 1 and 2 of the Convention. Application of the Convention in law.* With reference to its previous comments, the Committee notes with satisfaction that the principle of equal remuneration for men and women for work of equal value has been introduced in the Labour Code through amendments in 2001 and 2003. Remuneration has been widely defined as including all payments and benefits connected with work, irrespective of their name and character, paid to the worker in cash or in other form. Work of equal value has been defined as jobs the performance of which requires comparable vocational qualifications, confirmed by official documents, practice or experience, as well as responsibility and effort. ***The Government is asked to provide information on the promotion and enforcement of the equal remuneration provisions of the Labour Code, including the findings of the inspections conducted in 2003 and 2004 by the National Labour Inspectorate and to provide any relevant administrative or judicial decisions.***

2. *The gender wage gap – statistical information.* The Committee notes with interest the fact that the Government has conducted, compiled and provided detailed statistical information and analyses regarding the earning levels of men and women. According to this information women received 83.1 per cent of the earnings of men in October 2002. Women earned less than men in all occupational groups, even though they were better educated and performed more frequently work requiring higher qualifications. ***The Committee asks the Government to continue to provide similar information, as well as information on the measures taken to address and reduce the existing gender pay gap.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

1. *Article 1 of the Convention. Application of the Convention in law.* The Committee notes that amendments of 24 August 2001 and 14 November 2003, introduced a new provision on equality of opportunity and treatment to the Labour Code and that the Act on employment promotion and labour market institutions of 20 April 2004 likewise contains several provisions applying the Convention. The Committee notes with interest that these amendments extend the scope of legal protection from discrimination in employment and occupation. It notes in particular that:

- (a) under the new chapter of the Labour Code dealing with equal treatment, employees should be equally treated with respect to the conclusion and termination of employment relationships, working conditions, promotion and access to training to enhance vocational qualifications in particular, irrespective of sex, age, disability, race, religion,

nationality, convictions, sexual orientation, and on grounds of fixed-term contracts, or contracts of an indefinite duration or full or part-time work. Harassment, including sexual harassment, is considered a form of discrimination. The provisions also contain definitions of direct and indirect discrimination, exceptions to the principle of discrimination, and a provision shifting the burden of proof to the employer. In case of infringements, workers can apply to the National Labour Inspectorate, the courts or the conciliation commission. The Committee also notes that the employers shall disseminate within the enterprise written information on the regulatory texts concerning equal treatment. Under the new section 94(2b), employers are obliged to prevent discrimination at the workplace, which also implies their liability for discriminatory acts by their employees;

- (b) the relevant provisions of the Act on employment promotion and labour market institutions of 20 April 2004 prohibit discrimination against jobseekers with respect to job placement and vocational guidance by employment agencies and labour offices (sections 19(6), 36(4) and 38). Employers are prohibited from including discriminatory requirements in their vacancy notifications to labour offices (section 36(5)). These provisions contain a list of the following prohibited grounds: sex, age, disability, race, ethnic origin, nationality, sexual orientation, political opinion, religion and trade union membership. Infringements of these provisions can be sanctioned by fines not lower than PLN/3,000.

The Committee requests the Government to provide detailed information on the practical application and enforcement of the equal treatment provisions of the Labour Code and the Act on employment promotion and labour market institutions, including indications of the number, nature and outcomes of cases dealt with by the National Labour Inspectorate, the courts, the conciliation commission, and the Commissioner for the Protection of Civil Rights. Please also provide information on the activities promoting the Convention's application of the Government Plenipotentiary on the Equal Status of Women and Men.

2. *Discrimination on the ground of social origin.* The Committee notes that the equal treatment provisions of the Labour Code and the Act on employment promotion and labour market institutions do not refer to the prohibited ground of social origin. While noting the Government's indication that the Labour Code contained an open list of prohibited grounds and that discrimination on other grounds, including social origin, was also not permissible, the Committee notes that, where legislative measures are taken to give effect to the principle contained in the Convention, they should include all the grounds contained in *Article 1(1)(a)*. ***It therefore requests the Government to consider amending the legislation to explicitly include social origin as a prohibited ground of discrimination and to keep it informed of any progress in this regard.***

3. *Article 2. Discrimination on the grounds of race, colour and national extraction.* The Committee notes with interest that the Government adopted a national programme of counteracting racial discrimination, xenophobia and related intolerance to be implemented between 2004 and 2009. The Committee also notes the adoption by the Government of the "Programme in favour of the Roma community in Poland". ***The Government is requested to provide detailed information in its future reports on the concrete activities undertaken to implement these programmes and their impact on the enjoyment of the right to equality of opportunity and treatment in employment and occupation, irrespective of race, colour and national extraction.***

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

Portugal

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1959)

1. The Committee notes with interest that a new Labour Code was adopted in 2003. It also notes the adoption of Act No. 35/2004 of 29 July and the Second National Plan for Equality (2003-06), approved by Decision No. 184/2003 of 6 November of the Council of Ministers.

2. The Committee notes in particular that sections 22 to 26 of the Labour Code address equality and non-discrimination, and that sections 27 to 32 concern equality and non-discrimination on grounds of sex. Section 22(1) guarantees all workers the right to equality of opportunity and treatment in access to employment, vocational training and promotion and conditions of work; section 23 prohibits direct or indirect discrimination on grounds of extraction, age, sex, sexual orientation, civil status, family situation, genetic heritage, reduced capacity for work, disability or chronic illness, nationality, ethnic origin, religion, political or ideological convictions and trade union membership. Under the terms of section 23(3), anyone who considers herself or himself to be discriminated against has to designate the worker or workers in relation to whom such discrimination is considered to exist, and it is for the employer to demonstrate that the differences are not due to one of the prohibited grounds of discrimination. It also notes that sections 30 to 40 of Act No. 35/2004 give effect to the provisions referred to therein and contain, among other provisions, a definition of direct and indirect discrimination (section 32), provisions on collective agreements (section 39) and the obligation to keep records disaggregated by sex of job offers, pre-selected candidates and the persons recruited. ***The Committee notes with interest that this legislation can make an effective contribution to achieving equality in employment and occupation and requests the Government to provide information on its application and impact.***

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

Qatar

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1976)***

1. The Committee notes the report of the Government and the attached documentation along with the discussions in the Conference Committee on the Application of Standards in June 2002. Recalling the communication from the International Confederation of Arab Trade Unions (ICATU) dated 11 March 2002, alleging the existence in Qatar of discrimination on the basis of sex, race, religion and nationality, the Committee notes a subsequent communication from the ICATU dated 15 May 2002 withdrawing, in effect, its previous communication in light of the ongoing dialogue with government officials on these matters. The Government confirmed during the 2002 Conference Committee discussions that a constructive dialogue with ICATU to resolve the issues raised by them had indeed been initiated. ***The Committee commends both parties for their willingness to engage in constructive dialogue to address these outstanding issues of discrimination in employment and occupation, and it asks the Government to keep it informed on the progress and outcome of these discussions.***

2. *Article 1 of the Convention. Legislative developments.* The Committee notes the adoption in 2003 of the Permanent Constitution of the State of Qatar and in particular article 35, which prohibits discrimination on the basis of sex, race, language and religion. This article leaves unmodified the grounds of discrimination prohibited in earlier constitutional instruments and the Committee notes with regret that in promulgating the Permanent Constitution, the Government did not add the grounds of political opinion, national extraction and social origin which are covered by the Convention. Further, the Committee notes the new Labour Law of 2004 and the Government's statement that the new legislation applies to all workers without discrimination. The Committee recalls its previous observation in which it had expressed the hope that the Labour Law would fully reflect the principles and objectives of the Convention. While welcoming the legislation adopted, the Committee regrets that the Labour Law of 2004 only provides for equal opportunities and protection against discrimination on the basis of sex with respect to remuneration, training and promotion, and dismissal (sections 93 and 98), and that it excludes from its scope of application certain groups of workers which may be particularly vulnerable to discrimination, such as casual workers and domestic workers, the latter group being comprised primarily of women (section 3). The Committee has consistently held that where provisions are adopted in order to give effect to the principle contained in the Convention, they should include all the grounds of discrimination laid down in *Article 1(1)(a)* of the Convention (General Survey, 1988, paragraph 58). Further, non-discrimination on these grounds should be ensured for all workers with respect to access to vocational training and guidance, access to employment and particular occupation, including recruitment, as well as with respect to all terms and conditions of employment. ***The Committee therefore urges the Government to consider amending its labour legislation to include provisions that would more fully reflect the principle of equality of opportunity and treatment as set out in Article 1 of the Convention, including a prohibition of discrimination on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, in all aspects of employment and occupation.***

3. *Articles 2 and 3. National policy to promote equality.* The Committee notes that the Conference Committee emphasized the need for the Government to formulate and apply a policy of non-discrimination and equality for all men and women, and with respect to all the grounds of discrimination set out in the Convention. In this regard, the Committee recalls that although constitutional provisions on equality and the absence of discriminatory laws may be considered as elements of a national policy to promote equality as required under the Convention, it is not sufficient in itself to constitute such a policy. It considers that a national policy in accordance with *Articles 2 and 3* of the Convention should include measures, in law and in practice, that effectively provide protection from discrimination and promote equality in employment and occupation. While commending the Government for the measures taken to promote women's access to training and employment opportunities, the Committee nevertheless recalls that, in order to declare and pursue a national equality policy in accordance with the Convention, it is necessary for the Government to address discrimination on all the grounds covered by the Convention. Moreover, *Article 3(f)* of the Convention requires the Government to indicate in its reports on the application of the Convention the action taken in pursuance of the policy and the results achieved by such action. ***The Committee therefore requests the Government to provide information on the measures taken to promote and ensure equality of opportunity and treatment on all the grounds listed in the Convention in practice, such as information on awareness raising or training initiatives, research studies, surveys or similar activities carried out to address the various forms of discrimination.***

4. *Equality between men and women.* The Committee notes with interest the creation of a Training and Rehabilitation Centre for women through the Ministry of Civil Service Affairs and Housing. It also notes an increase in the enrolment of women, for instance, in studies at the Qatar Technical College where female students in fact outnumber their male counterparts. However, the Committee notes that in some instances, the distribution of men and women continues to reveal that certain specializations are exclusively pursued by women (e.g. all 540 students enrolled in the Advanced Institute for Nursing Care are women) while other studies are mostly pursued by men. For instance, 90 per cent of the 2,463 interns reported to have received training through Qatar-Communications between 2000 and 2001 were men.

In this regard, the Committee also notes that the statistics in the Government's report on training programmes offered through Qatar Petroleum are not disaggregated by sex, unlike the comparable figures included in the Government's report from 2001. This earlier data showed that of the 895 individuals enrolled in a variety of technical specialties, only 120 were woman and all of these women were enrolled in the secretarial programme. ***The Committee requests the Government to continue to provide information on any current or planned measures to promote equal access of men and women to all areas of training and education, and to supply statistics on the distribution of men and women among the various educational and training institutions. In particular, it asks the Government to give more detailed information on the number of men and women enrolled in training programmes offered through Qatar Petroleum as well as on the curriculum and operation of the newly created Training and Rehabilitation Centre.***

5. The Committee notes the information provided by the Government regarding the participation of women in the labour market and is encouraged in particular by the statistics showing an increase in the number of women employed in the scientific and technical sectors (6,944 in 2002 compared with 6,041 in 2001). With respect to employment in the public sector, the Government states that it has undertaken measures destined to give Qatari women the same chances as men to enter the civil service. While appreciating the data provided on the distribution of Qatari employees classified by occupation and sex, the Committee notes that the Government's report no longer includes detailed statistics on the distribution of male and female employees in the various ministries and other government bodies. The Committee wishes to remind the Government that in order to assess the practical impact of policies destined to enhance equality in employment and occupation, the Committee relies on the regular reporting of comparable data. ***The Committee requests the Government to continue to provide information on the measures taken or envisaged to promote the equal participation of women in the public service and private sector, including in higher-level posts. It requests the Government to supply in its future reports, up-to-date and comparable data regarding the participation of men and women workers in the private and public sectors. In particular for the public sector, the Government is asked to supply statistics on the distribution of men and women employed in the various ministries and government bodies and in the various occupations.***

6. Finally, the Committee wishes to draw the Government's attention to the need to ensure that policies and programmes to promote the application of the Convention are not based on stereotypes concerning the roles and abilities of men and women with respect to work and family responsibilities. In this regard, the Committee notes with some concern the statement in the Government's report that Qatari women are receiving increased attention in the area of vocational training in relation to their "nature and appropriate work". Elsewhere, the Government states that there has been notable progress in the recruitment of women in areas of work that are adapted to their "nature, availability and capabilities". The Committee wishes to remind the Government that stereotypes concerning the roles of men and women with respect to work and family responsibilities will often have a discriminatory effect on equality of opportunity and treatment. ***The Committee urges the Government to pursue inclusive training policies that do not limit the work opportunities of women according to their perceived nature, aptitude or potential but which encourage the widest range of opportunities.***

The Committee is raising related and other points in a request addressed directly to the Government.

Romania

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1973)***

The Committee notes the Government's report, as well as the comments from the National Trade Union Bloc (BNS) contained in its communication dated 4 September 2003, which relate to the practical application of non-discrimination legislation.

1. *Article 1 of the Convention. Prohibition of discrimination.* The Committee notes with interest that Romania has continued to enact legislation to prohibit discrimination and promote equality in employment and occupation, including the following:

- Section 5 of the new Labour Code (Act No. 53/2003) prohibits any direct and indirect discrimination against an employee based on criteria such as sex, sexual orientation, genetic characteristics, age, national origin, race, colour, ethnic origin, religion, political option, social origin, disability, family conditions or responsibilities, and union membership or activity, and provides for definitions of direct and indirect discrimination.
- Act No. 202/2002 on equal opportunities for women and men, as amended by Act No. 501/2004, prohibits sex-based discrimination at all stages of the employment process and requires employers to take certain measures to ensure non-discrimination and promote equal opportunities. The Act also contains a provision on the inclusion of non-discrimination clauses in collective agreements.
- Act No. 27/2004, amending Act No. 48/2002, which approved Ordinance No. 137/2000, introduces new prohibited grounds of discrimination (age, disability, non-contagious chronically diseases and HIV infection), a definition of indirect discrimination, and provisions on victimization, mediation, legal assistance and sanctions.

The Committee requests the Government to provide information on how the above legislation is applied in practice, including information on the number, nature and outcome of relevant cases brought before the courts, the National Council to Combat Discrimination, the National Agency for Equal Opportunities and the Ombudsperson. The Government is also requested to explain the manner in which the labour inspectorate is supervising equality and anti-discrimination legislation and to indicate the number, nature and outcome of the interventions made in this regard.

2. *Article 1(2). Inherent requirements of the job.* The Committee notes that section 50 of Act No. 188/1999 on civil servants, as amended and reissued in 2004, provides that “to hold public office a person shall meet the following conditions: ... (j) not have been carrying out an activity in the political police as defined by the law”. The Committee notes that this restriction regarding entry into the civil service may go beyond what would be a justifiable exclusion in respect of a particular job based on its inherent requirements as provided for under *Article 1(2)* of the Convention. ***In order to enable the Committee to examine the conformity of section 50(j) of Act No. 188/1999, as amended, with the Convention, the Government is requested to supply information on what constitutes an “activity in the political police” under section 50(j), including relevant laws and judicial decisions, and to provide detailed information on the rationale and practical application of this provision, including the number of persons that are excluded from the civil service on this basis.***

3. *Articles 2 and 3. Equality of opportunity and treatment on the grounds of race, colour and national extraction.* The Committee notes that the Ministerial Commission for Roma was established within the Ministry of Labour, which is responsible for the implementation of the employment-related measures provided for under the Strategy for the improvement of the conditions of the Roma. The Committee notes with interest that the Commission includes a Roma representative. In 2003, out of 23,961 unemployed persons receiving vocational training, only 202 were Roma. While 5,535 Roma were employed in 2002, this number rose to 8,781 in 2003. The Government has set the following annual targets: participation of at least 1,500 Roma in vocational training; legal employment of at least 10,000 Roma; and the establishment of at least 50 businesses by persons of Roma origin. Further, the Government envisaged the launching of a public information campaign on available employment services, the creation of active partnerships between Roma representatives, NGOs and decentralized units of the Ministry of Labour, as well as an awareness-raising campaign among employers. The Committee welcomes that certain progress has been made with regard to the promotion of equal access to employment of the Roma, but it considers that sustained efforts will be necessary in order to achieve lasting results. ***The Committee requests the Government to provide detailed information on the progress made in the implementation of the national programme for Roma employment, including progress in achieving the abovementioned annual targets. In this regard, the Government is asked to provide statistical information, disaggregated by sex, on the participation of the Roma and other national minorities in the labour market, including public employment.***

4. *National machinery to promote equality and eliminate discrimination.* The Committee notes with interest that a National Agency for Equal Opportunities for Men and Women (ANES) was set up under Government Ordinance No. 84/2004 which became operational on 1 March 2005. ANES is, inter alia, competent to receive complaints concerning gender equality, to undertake research and studies, and to develop governmental policy. Government Decision No. 85/2005 was adopted to reinforce the implementation of the National Action Plan on Equal Opportunities for Women and Men. The Committee notes that the former Inter-Ministerial Consultative Commission for Equal Opportunities for Women and Men (CODES) has been replaced by the National Commission for Equal Opportunities for Women and Men (CONES) which is comprised of representatives of ministries, other central administrative bodies and representatives of workers’ and employers’ organizations, as well as NGOs. ***The Committee requests the Government to provide information on the concrete activities undertaken by ANES and CONES to promote and ensure equality of opportunity and treatment of men and women in employment and occupation, including results achieved.***

5. The Committee notes that the National Council to Combat Discrimination established under Ordinance No. 137/2000 has adopted a National Plan to Combat Discrimination. The Council is mandated to make legislative proposals, to engage in awareness-raising and public information campaigns, to carry out research, and to cooperate with other bodies and organizations, and to monitor compliance with anti-discrimination legislation. As of June 2004, the Council had received a total of 764 complaints, the majority of which was related to discrimination on the basis of ethnicity or social origin. In 49 cases the Council found that discrimination had occurred and imposed 15 penal sanctions and 34 warnings. ***The Committee requests the Government to provide information on specific activities carried out by the National Council to Combat Discrimination with regard to equal treatment in employment and occupation, including indications regarding complaints received and their outcomes.***

6. *Measures of redress.* The Committee recalls that it has been following up on Recommendations Nos. 6 (requests for medical examinations due to treatment received while in custody, made by persons who went on strike in 1987 and who have been subsequently rehabilitated by the courts) and 18 (rebuilding of the houses destroyed as part of the systematization policy against certain minorities) of the report of the Commission of Inquiry (*Official Bulletin*, Volume LXXIV, 1991, Series B, Supplement 3). ***Noting that no information has been provided with regard to Recommendation No. 18, the Committee requests the Government to indicate the number of claims still pending for restitution of property and to provide information on any such restitution to the affected persons belonging to national minorities.*** As regards Recommendation No. 6, the Committee requested the Government to continue to provide information on the implementation of Act No. 118/1990, including with regard to requests for medical examinations made by persons who

took part in the strike of 1987. *Noting that no information has been provided on this matter, the Committee requests the Government to indicate whether any new requests for medical examination have been made in recent years.*

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

Rwanda

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1980)

The Committee refers to section 84 of the Labour Code which provides that equally competent workers carrying out the same type of work under the same conditions must be equally remunerated, without any consideration as to their origin, sex or age. In its previous observation the Committee noted that section 84 emphasizes comparing “the same type” of work, while the principle of equal remuneration for work of equal value, as contained in the Convention, is wider, requiring also the comparison of work which is of a different type, but still of equal value. The Committee draws the Government’s attention to the fact that this broader comparison is of particular importance in addressing sex-based discrimination in respect of remuneration in situations where men and women traditionally perform different types of jobs. ***The Committee asks the Government to indicate whether consideration is being given to amending the Labour Code in order to ensure that employers have an obligation to pay equal remuneration to men and women performing different types of jobs which are nevertheless of equal value, as determined on the basis of objective criteria.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1981)

1. *Article 1(1)(a) of the Convention. Prohibition of discrimination.* The Committee notes that under article 11 of the new Constitution of the Republic of Rwanda of 4 June 2003, all discrimination based on race, ethnicity, clan, tribe, skin colour, sex, region, social origin, religion or belief, opinion, wealth, cultural difference, language, social situation, physical or mental disability or any other form of discrimination, is prohibited and punishable by the law. The Committee notes with interest that article 11 provides increased constitutional protection from discrimination as compared to the previous Constitution by explicitly prohibiting discrimination and by introducing new prohibited grounds. It notes that no explicit reference is made in article 11 to national extraction, which is listed in *Article 1(1)(a)* of the Convention. The Committee recalls that the ground of national extraction relates to distinctions made on the basis of a person’s place of birth, ancestry or foreign origin. ***The Government is requested to indicate whether article 11 of the 2003 Constitution is intended to prohibit discrimination on the basis of national extraction, and to provide information on the application of article 11 in practice, including information on any cases brought under it before the courts or other competent bodies.***

2. The Committee refers to section 12 of the Labour Code (Act No. 51/2001) which provides that “any distinction, exclusion or preference made, in particular on the basis of race, colour, sex, religion, or political opinion, which would have the effect of nullifying or impairing equality of opportunity in employment or equality of treatment before the judicial instances in labour disputes, is prohibited”. The Committee noted previously that this provision makes no reference to the grounds of national extraction and social origin, which are listed in *Article 1(1)(a)* of the Convention. The Committee notes from the Government’s report, that the ground of national extraction had been omitted unintentionally, while no information is given with regard to the ground of social origin. ***The Committee requests the Government to take the measures necessary to amend the Labour Code to ensure that it prohibits discrimination on all the grounds listed in the Convention, including national extraction and social origin.***

3. *Article 1(3). Scope of protection.* Section 12 of the Labour Code provides for “equality of opportunity in employment or equality of treatment before the judicial instances in labour disputes”. The Committee recalls that the Convention is aimed at achieving equality in employment and occupation, which includes access to vocational training, access to employment and particular occupations, and terms and conditions of employment. ***The Committee requests the Government to clarify whether section 12 of the Labour Code prohibits discrimination in respect of all stages of the employment process, including vocational training, recruitment, access to particular occupations, as well as terms and conditions of employment.***

4. *Recruitment in public establishments.* For a number of years the Committee has been commenting on the requirement of an attestation or certificate of good conduct, lifestyle and morals in order to be employed in public establishments, which was contained in section 6 of the Presidential Order of 20 December 1976 establishing the conditions of service of personnel in public establishments. In this regard, the Committee notes with satisfaction that the Presidential Order has been repealed with the adoption of Act No. 22/2002 establishing the general conditions of service of public officials.

5. *Article 4. Measures to protect state security.* In its previous observation, the Committee requested the Government to indicate the measures that have been taken to ensure that a person cannot be refused employment for reasons related to the security of the State except within the limits prescribed by *Articles 1 and 2* of the Convention, and subject to the right of appeal set out in *Article 4*. ***The Committee trusts that the Government will provide the information requested in the near future, as indicated in its report.***

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

Slovakia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

The Committee notes the communication of 9 September 2004 by the Confederation of Trade Unions of the Slovak Republic (KOZ SR), which was sent to the Government on 15 October 2004 for its comments thereon.

1. *Work of equal value.* The Committee recalls its previous observation in which it noted that the wording in section 119(3) of the Labour Code provides that “wage conditions” must be equal for both men and women without any discrimination on grounds of sex and that women and men are entitled to equal wages for work of an equal level of complexity, responsibility and difficulty, performed under the same working conditions and upon achievement of the same efficiency and work results. In the Committee’s view this did not reflect fully the principle of the Convention of equal remuneration for work of equal value. The Committee notes the Government’s statement that the principle is indirectly guaranteed through the definition of the criteria of complexity, responsibility and difficulty. It notes with interest the adoption of Act No. 365/2004 Coll. on Equal Treatment in Some Areas and on Protection Against Discrimination and Amending and Supplementing Certain Acts (the Anti-Discrimination Act), amending section 13 of the Labour Code and reinforcing the prohibition of direct and indirect discrimination. However, in light of the Government’s explanations, the Committee notes with some regret that, although prohibiting sex-based discrimination with respect to remuneration, neither the adoption of the Anti-Discrimination Act nor the amendment of the Labour Code has led to the inclusion of a provision expressly providing for equal remuneration for men and women for work of equal value. The Committee is therefore bound to reiterate its concern that, while the definition applied to the terms “complexity, responsibility and difficulty” may indeed assist in objectively determining whether different jobs are of equal value, the notion of “the same working conditions, efficiency and results” does not reflect fully the principle of the Convention. ***The Committee reiterates its previous request to the Government to provide information on the measures taken to ensure that the relevant provisions of the Labour Code are applied in a manner consistent with the Convention, including any relevant administrative or judicial decisions.***

2. *Remuneration gap between men and women.* Further to its previous observation regarding the widening wage gap between men and women, the Committee notes the statistical information provided by the Government on the average earnings of men and women in the first quarter of 2004, for which it is grateful. The Committee notes that, despite the increase in the number of women in the labour market and the increase in their average wage, the wages of women nevertheless continue to be significantly lower than those of men, and that there are differences in remuneration in each age category. The data on average earnings show that, in the private sector, women’s earnings as a share of men’s have decreased from 77.4 per cent in 2001 to 75.5 per cent in 2004; in the public sector, the female/male ratio stabilized at around 84 per cent over the same period. In both the public and private sector the wage gap is the lowest for workers up to 20 years of age in the private sector, it is highest for the age categories between 30 and 39 years of age and those over 60 years of age (71 and 72 per cent respectively). In the public sector, wage differences are the highest in the age category from 50 to 54 years of age (77 per cent), while the earnings of women over 60 years of age are 90 per cent of those of men. When looking at average earnings according to occupation, statistics on for 2004 show that the female/male ratio is the lowest for legislators, managers and managerial staff (63 per cent in the private sector and 77 per cent in the public sector), craftspersons and qualified workers in affiliated professions (63 per cent in the private sector and 83 per cent in the public sector), servicing machines and equipment (72 per cent in the private sector and 77 per cent in the public sector) and operating staff in services and trade (78 per cent in the private sector and 72 per cent in the public sector). The Committee notes the Government’s statement that, in order to determine the precise gender wage gap, a deeper analysis would be necessary taking into account the various factors influencing the appraisal of wages of men and women. ***It asks the Government to continue to provide statistical information, disaggregated by sex, and to indicate in its next report any steps taken to undertake such an analysis and the results achieved.*** Noting further the Government’s statement that it is not possible through administrative or organizational measures to improve the representation of women in better paid occupations, the Committee recalls the importance of increasing women’s participation in higher paid jobs and in a wider variety of occupations and training courses as a means of implementing the principle of the Convention. ***It therefore urges the Government to investigate potential means and solutions to promote the access of women into higher paid sectors and positions, as well as any other measures to ensure that female-dominated sectors and occupations are not undervalued, and to report on the results achieved in its next report.***

3. *Collective agreements.* The Committee notes the Government’s statement that, in order to apply the principle of equal remuneration for work of equal value, all higher level collective agreements are formulated in a gender-neutral manner and work activities are classified into equal categories. Any violation of the principle would, under section 4(2)(a) of the Collective Bargaining Act (Act No. 2/1991), result in the clause being invalid. The Committee further notes that, pursuant to section 7 of the Act, the Government can, by means of regulations, extend a higher level collective agreement, including wage conditions, to employers with a similar economic activity. In this regard, the KOZ SR maintains that when supporting the application of the principle of the Convention through collective agreements, they meet, however, with the practice that the Government is not willing to extend collective agreements to the branch level, due to the resistance of

employers. The Committee recalls that the possibility of giving general binding force to collective agreements provides the State with an important means of supervising the contents of collective agreements, and in particular the principle of equal remuneration (see paragraphs 154 and 155 of the 1986 General Survey on equal remuneration). ***The Committee asks the Government to continue to provide copies of higher level collective agreements in the public and private sectors that apply the principle of the Convention and to indicate the measures taken to cooperate with the social partners to extend such agreements to the branch level. Please also indicate whether there have been any cases reported of violations of the principle of equal remuneration for work of equal value in collective agreements.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1993)

1. *Legislative measures to address discrimination in employment and occupation.* The Committee notes with interest the adoption of Act No. 365/2004 Coll. on Equal Treatment in Some Areas and on Protection Against Discrimination and Amending and Supplementing Certain Acts (the Anti-Discrimination Act). The Act prohibits and defines direct and indirect discrimination and harassment, protects against victimization and incitement or instructions to discrimination, and provides for the adoption of measures for the protection against discrimination. More specifically, the Act prohibits discrimination on the grounds of sex, religion or belief, racial, national or ethnic origin, disability, age and sexual orientation with respect to access to employment and occupation and other gainful activities, including recruitment and selection, conditions of work, including remuneration, promotion and dismissal, access to vocational training and guidance, professional upgrading and participation in labour market policy programmes, and membership in employers' and workers' organizations. The Committee further notes with interest that, in order to harmonize the legal framework, the Anti-Discrimination Act directly amends other Acts, including Act No. 311/2001 Coll. the Labour Code, Act No. 312/2001 Coll. on the Civil Service, Act No. 73/1998 Coll. on the Police Force, Act No. 315/2001 Coll. on Fire and Rescue Service and Act No. 5/2004 Coll. on Employment Services. As such, the Act introduces for the first time comprehensive protections against direct and indirect discrimination in employment and occupation in both the public and private sectors on the abovementioned grounds as well as the additional grounds of "marital status, family status, skin colour, language, political or other conviction, trade union activity, national or social origin, property, lineage or other status". The Committee further notes that section 8(8) of the Act provides for specific positive action to prevent disadvantages linked to racial or ethnic origin. However, according to the report of the Slovak National Centre for Human Rights of 2004, the Government has contested the constitutionality of this provision and a decision of the Constitutional Court is still pending. ***The Committee asks the Government to provide information on the implementation of the Anti-Discrimination Act and the non-discrimination provisions in the abovementioned Acts, as amended, including relevant judicial and administrative decisions, and to keep it informed of the decision of the Constitutional Court concerning section 8(8) of the Act.***

2. *Discrimination on the basis of race or national extraction.* In its previous observation, the Committee expressed concern over the discrimination in employment and education of the Roma community and the serious problems related to their integration in the labour market. It had requested the Government to provide full information on the measures taken to improve their situation and to promote respect, tolerance and understanding between the Roma communities and the other parts of the population. The Committee notes with interest the adoption of a National Action Plan on Social Exclusion 2002-06, which includes a comprehensive approach to tackling exclusion of the Roma communities. It notes in this respect, that the Integration Policy for Roma Communities (2003) comprises a set of short-, medium- and long-term solutions and concrete steps to support the inclusion of the Roma communities in the areas of education, employment, welfare, housing, health, human rights and culture; with respect to employment, programmes under the "Sectoral Operational Programme – Human Resources" primarily focus on creating equal opportunities for Roma in the labour market, with an emphasis on women, in the areas of skills development, job creation and alternative employment services. With respect to access to employment, the Committee notes the information in the Government's report that, by virtue of Act No. 5/2004 V Coll. on Employment Services, measures have been taken to increase the employability of disadvantaged jobseeker groups, which could include members of the Roma communities if they meet the characteristics of those groups. ***The Committee requests the Government to indicate, in its next report, the number of men and women jobseekers from Roma communities who have entered or re-entered the labour market as a result of the measures taken under the Employment Services Act, and to provide information on the extent to which the abovementioned programmes have increased the skills and employment of the Roma men and women. Please also continue to provide full information on the efforts made to promote equality of opportunity and treatment and to eliminate discrimination against members of the Roma community, including measures to promote respect, tolerance and understanding between the Roma communities and the other parts of the population.***

3. *Equality of opportunity and treatment between men and women.* In its previous comments, the Committee noted the overemphasis on legislative protection and cultural promotion of traditional roles of women. It also noted the Government's recognition that the labour market was highly segregated, that women continued to be concentrated in the health-care and education sectors and that their educational and qualification potential was not utilized. The Committee notes that the statistics provided by the Government for the years 2002 and 2003 continue to confirm this trend, but that the Government is taking measures to improve the situation of women in the labour market. It notes in particular that the

“Sectoral Operational Programme – Human Resources” and its measure 2.2 “Elimination of barriers which prevent equality between men and women in the labour market, with emphasis on reconciliation of work and family life” will be used as a tool to eliminate discrimination in the labour market. The Government indicates that these and other projects are expected to address the low remuneration of women, the feminization of certain sectors, the phenomenon of the “glass ceiling”, the under-representation of women in the business sphere, the traditional occupational segregation into so-called typically female and male occupations, and obstacles to harmonizing work and family. *The Committee welcomes these initiatives and requests the Government to provide further details in its next report on the results achieved, as well as how effective they have been to facilitate access of women to a wide range of occupational training and employment opportunities and to reduce discrimination against women in the labour market. Please also continue to provide information on labour market participation, disaggregated by sex, occupation and sector.*

The Committee is raising other and related points in a request addressed directly to the Government.

Slovenia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1992)

The Committee notes the information provided in the Government’s report.

1. *Article 1 of the Convention. Legislative developments.* In its previous comments, the Committee noted with interest the adoption of legislation expressly addressing direct and indirect discrimination in employment. The Committee notes that this legislation, the Employment Relations Act, came into force on 1 January 2003. Further, the Committee notes with interest the adoption and entry into force in May 2004 of the Act Implementing the Principle of Equal Treatment, which prohibits direct and indirect discrimination “in every field of social life”, including education, employment and labour relations, on the grounds of any kind of personal circumstances. An indicative list of “personal circumstances” is provided in the Act: “such as nationality, racial or ethnic origin, sex, state of health, disability, language, religion or other conviction, age, sexual orientation, education, financial state, social status or other personal circumstances.” (Article 1(1)). This Act also establishes the position of the Advocate of the Principle of Equality, working in the Equal Opportunities Office, to hear cases of discrimination covered by the Act. The Committee expresses the hope that this machinery will be given sufficient visibility, authority and resources to promote equality effectively. *The Committee requests the Government to provide information on the implementation of these two Acts, as well as the Act on Equal Opportunities for Men and Women, 2002. It further requests the Government to provide information on the functioning of the Advocate of the Principle of Equality, and to forward a copy of the annual report.*

2. *Article 2. Equality between men and women.* The Committee, referring to comments of the International Confederation of Free Trade Unions (ICFTU), asked the Government to indicate positive measures undertaken to improve women’s employment opportunities. The Government states in response that within the framework of the active employment policies, it was decided that special programmes specifically for women would not be formulated; rather, within the framework of every measure there is a determined share of women that must be included. The Government acknowledges that in future special attention will need to be devoted to the prevention of vertical and horizontal segregation based on gender. In this context, it refers to a system of labour market indicators developed by the Ministry of Labour, Family and Social Affairs, which will make it possible to monitor disparities between women and men in the labour market and plan future measures. Reference is also made to a programme under the European EQUAL initiative, which aims, inter alia, at developing and testing new solutions for combating discrimination in the labour market. Specific gender objectives are also included in the National Employment Action Plan, the National Programme for the Development of the Labour Market and Employment, and the Single Programme Document for Structural Funds. *The Committee requests the Government to provide information regarding the progress and results of these various initiatives.*

3. *Equality of opportunity and treatment of the Roma.* In the context of comments by the ICFTU that Roma suffer disproportionately higher unemployment than other groups, the Committee requested information on positive measures to target specifically the Roma, and to improve the level of educational attainment of Roma children. The Government acknowledges that the current labour market situation is not favourable to the Roma, due to a lack of basic qualifications, functional illiteracy, and prejudice of employers. The unemployment rate of the Roma continues to be relatively high. The Committee notes the wide range of measures to which the Government refers, including the establishment of an inter-ministerial commission for the protection of the Roma, special programmes of active employment policy for unemployed Roma, programmes of social inclusion, national public works programme on “increasing Roma employability”, expansion of local public works programmes, and a project on “Roma in processes of European integration/the position in Slovenia, Austria and Croatia: development of models for education and training.” Measures targeting Roma children are also mentioned, including granting of additional teaching hours, decreased class size, scholarships for teacher training and the establishment of a special working group for the preparation of a strategy for the integration of Roma into the education system. *The Committee encourages the Government to continue to pursue measures to promote equality of opportunity and treatment of Roma, and requests it to provide information on the progress and results of the various initiatives. The Committee also suggests that efforts be made to address the prejudicial attitudes of employers noted by the*

Government, through, for example, awareness-raising campaigns, in collaboration with workers' and employers' organizations.

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

Syrian Arab Republic

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1960)***

1. *Articles 2 and 3 of the Convention. Denial of discrimination – requirement to adopt a national policy on equality.*

Over a number of years, the Committee has been noting the continuing statements by the Government to the effect that discrimination on the grounds listed in *Article 1(1)(a)* of the Convention does not exist in the Syrian Arab Republic and that no further measures are necessary, given that the principle of equality is embodied in national legislation. The Committee had repeatedly explained in this regard that such an attitude was difficult to accept because no society is free from discrimination. The denial of the existence of discrimination is a serious obstacle to addressing it and inhibits any proactive measures to be taken to promote equality in employment and occupation, as required by *Articles 2 and 3* of the Convention.

2. The Committee notes with concern that the Government in its report once again merely lists the relevant legislation and continues to assert that no cases of discrimination exist in law, customs or history, or have been reported upon by the judiciary. The Committee recalls that the mere absence of reported cases of discrimination is not to be regarded as an indication as to its non-existence. Hence, it feels compelled to point out that the failure to acknowledge the existence of any cases of discrimination and the lack of information on the concrete measures taken to apply fully the provisions of the Convention in practice, raises doubts as to the satisfactory application of *Articles 2 and 3* of the Convention. ***Therefore, the Committee urges the Government to provide full information in its next report on the following points:***

- (a) the measures taken or envisaged to ensure the practical application of the Convention in the public and private sectors;***
- (b) statistical data disaggregated by sex, and by ethnic origin or religion if available, as well as any other information that would permit an evaluation of the progress achieved in attaining equality in employment and occupation, in law and in practice, on the basis of all the grounds set out in the Convention;***
- (c) the measures taken or contemplated to promote and increase knowledge and understanding among men and women workers, including ethnic minority Kurds and Bedouins, of the legal provisions providing for equality of opportunity in employment and occupation;***
- (d) the measures taken, through surveys or otherwise, to undertake an evaluation of the effectiveness of the complaint procedures, including any practical difficulties or obstacles encountered by men or women, including ethnic minority Kurds and Bedouins, in seeking judicial remedies with regard to cases of discrimination in employment and occupation on the basis of all the grounds listed in the Convention.***

3. *Access of women to employment and occupation.* The Committee notes from the statistics provided by the Government in its report that the number of female judges (12 per cent) remains low and that, representing 20 per cent of the employees in the public sector, women constitute the largest segment of the education sector. The data further indicate that 25.5 per cent and 14 per cent of the workers employed respectively in agriculture and industry are women. In its previous observation, the Committee had welcomed the Government's intention to address existing inequalities affecting women's development and had requested information on the specific action taken by the responsible authorities as well as the National Women's Confederation towards the implementation of the national strategy on women. In this regard, the Committee notes with interest that a number of laws and decrees on women have been promulgated since 2001, including Legislative Decree No. 330 of 25 September 2002 on the ratification by the Syrian Arab Republic of the Convention on the Elimination of All Forms of Discrimination against Women. ***The Committee requests the Government to continue to provide statistical information on the distribution of both women and men in the various sectors of economic activity and occupational groups, and at the decision-making and management levels. Please also provide information on the specific measures taken or envisaged under the national strategy on women to increase the number of female judges and promote the access of women to a wide range of occupations in both the private and public sectors, including the results achieved.***

4. *Access of women to vocational training and guidance.* Concerning measures to promote the participation of women in non-traditional training, the Committee notes the Government's statement that the rate of women participating in vocational training increased to 20 per cent. While welcoming this information, the Committee notes that the Government's report does not reply to its previous request to provide a list of the recommendations made by the Fourth Conference on Educational Development (1998) related to promoting equal access of women to non-traditional training and education, as well as information on any follow-up action taken. ***The Committee hopes the Government will provide this information in its next report as well as any available statistics on the participation of women and men in training and education at all levels and in the various specializations, including in respect to vocational training centres.***

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

Trinidad and Tobago

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

The Committee notes the information provided by the Government in its report, including the statistical data. It also notes the communication submitted by the Employers' Consultative Association (ECA) of Trinidad and Tobago, dated 12 August 2005, which has been sent to the Government for its comments thereon.

Article 1 of the Convention. Discrimination on grounds of sex. The Committee had previously pointed out that the wage differentials contained in some collective agreements between workers and public sector employers, such as Port-of-Spain City Corporation, San Fernando City Corporation and regional corporations, which were based on the grounds of sex rather than on criteria relating to the work performed, are not in conformity with the Convention's principle of equal remuneration for work of equal value. The Committee notes ECA's comment that the Government should implement policies and procedures to eliminate these sex-based wage differentials and to ensure that there is closer adherence to the Convention. In this regard, the Committee notes the information in the Government's report that it approaches the removal of sex-based differentials in the salary scales in some agreements by promoting objective job appraisal exercises. ***Noting further the Government's indication that some collective agreements make express provisions for job evaluation exercises to be carried out jointly between the employer and trade union, the Committee asks the Government to provide information on any job evaluation exercises carried out in the sectors covered by the agreements referred to above and the progress made in removing the sex-based wage differentials contained in them. Please also indicate any other measures taken to ensure that men and women have equal access to jobs covered by the collective agreements and to ensure that other such agreements entered into in the future do not include sex-based wage differentials.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1970)

The Committee notes the Government's report and the attached statistical information. It also notes the communication from the Employers' Consultative Association (ECA) of Trinidad and Tobago of 12 August 2005, which has been sent to the Government for its comments thereon.

1. *Article 1 of the Convention. Application in law.* The Committee notes the Government's confirmation that the Equal Opportunity Act was declared unconstitutional by the High Court of Trinidad and Tobago on 10 May 2004 and that an appeal was subsequently filed against this decision. Owing to this, the Equal Opportunity Commission remains at present inoperable. The Committee notes further the statement by the ECA that a review of the law is being undertaken. ***The Committee asks the Government to keep it informed about the appeal of the High Court decision and any new developments with respect to the status of the Equal Opportunity Act, or any other legislation adopted relating to equality of opportunity and treatment in employment and occupation.***

2. For over 15 years the Committee has expressed its concern about the discriminatory nature of provisions of several government regulations, which provide that married female officers may have their employment terminated if family obligations affect their efficient performance of duties (section 57 of the Public Service Commission Regulations; section 52 of the Police Commission Regulations; and section 58 of the Statutory Authorities' Service Commission Regulation). It also noted that a female officer who marries must report the fact of her marriage to the Public Service Commission (section 14(2) of the Civil Service Regulations). With respect to section 14(2) of the Civil Service Regulations, the Committee had taken note of the Government's view that this provision is not considered discriminatory in Trinidad and Tobago, as it is an administrative matter related to the practice of women changing their names upon marriage. However, in order to avoid the potential discriminatory impact of such a provision on women, the Committee had suggested that the Civil Service Regulations be amended to require notification of name change of both men and women. ***The Committee regrets that, despite the fact that the Government has repeated for many years that measures had been taken to repeal and amend the discriminatory provisions of the various Regulations noted above, no such action has yet been undertaken. It is, therefore, bound to recall that under Article 3(c) of the Convention, every Member must, by methods appropriate to national conditions and practice, repeal any statutory provisions and modify any administrative instructions or practices that are inconsistent with the policy designed to promote equality of opportunity and treatment in respect of employment and occupation. The Committee urges the Government to take serious action to bring the aforementioned legal provisions into conformity with the Convention and to submit copies of the revised legislation as soon as adopted.***

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

Turkey

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1967)

Articles 1 and 2 of the Convention. Legislative developments. The Committee notes that section 26(4) of Labour Act No. 1474, which provided for equal wages for men and women for work of the same nature with the same output, has been repealed by the new Labour Act of 22 May 2003 (No. 4857). Recalling its previous comments concerning section 26(4) of Act No. 1474, the Committee notes with satisfaction that section 5(4) of the new Labour Act provides that a lower wage cannot be fixed for the same work or work of equal value on the ground of sex, which is in accordance with the Convention. A violation of section 5 constitutes an administrative offence punishable with a fine of 50 million Turkish liras (section 99). ***The Committee asks the Government to provide information in its future reports on the practical application and enforcement of section 5(4) of the Labour Act. Such information should include indications concerning the measures taken by the labour inspectors to monitor compliance with section 5(4), relevant judicial and administrative decisions and any sanctions imposed for non-compliance.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

1. The Committee notes the Government's report and the comments made by the Confederation of Progressive Trade Unions of Turkey (DISK), the Confederation of Turkish Trade Unions (TÜRK-IS), the Turkish Confederation of Public Workers Associations (Türkiye KAMU-SEN), as well as the Turkish Confederation of Employers Association (TISK). The Committee also recalls the communication from the International Confederation of Free Trade Unions (ICFTU) dated 15 December 2003, which relates to gender equality in employment and occupation.

2. *Article 1 of the Convention. Prohibition of discrimination.* The Committee notes that section 5(1) of the Labour Act of 22 May 2003 (No. 4857) prohibits any discrimination based on language, race, sex, political opinion, philosophical belief, religion and sect or similar reasons in the employment relationship, while no specific reference is made in this provision to the grounds of social origin, colour and national extraction which are listed in *Article 1(1)(a)* of the Convention. Section 5(3) provides that the employer shall not discriminate against an employee, either directly or indirectly, in respect of the conclusion, conditions, execution and termination of the employment contract due to the employee's sex or pregnancy. The Committee also notes that a violation of section 5 constitutes an administrative offence and that victims of discrimination may claim compensation under section 5(6) of the Act. ***The Committee welcomes these provisions and asks the Government to provide information on the application in practice of the Labour Act's equal treatment provisions, including information on the measures taken by the labour inspectorate, relevant judicial and administrative decisions and any sanctions imposed for non-compliance. In order to allow the Committee to appreciate fully the equal treatment provisions of the Labour Act in the light of the Convention's requirements, further information on a number of points is requested from the Government in a direct request.***

3. *Discrimination on the grounds of political opinion.* The Committee recalls its previous observations concerning the need to ensure that journalists, writers or publishers are not deprived of their employment or occupation for peacefully expressing their political opinion. In this regard, it notes from the Government's report, as well as from information provided by the Government to the Committee of Ministers of the Council of Europe (Appendix 2 to Interim Resolution ResDH(2004)38, adopted by the Council of Ministers on 2 June 2004) that a number of legislative amendments have been made in order to bring Turkish law into conformity with the requirements of Article 10 (freedom of expression) of the European Convention on Human Rights, in particular the repeal of section 8 of the Anti-Terrorism Act, and the modifications of section 7 of the same Act, and of sections 159 and 312 of the Criminal Code. ***The Committee trusts that the Government will continue to take measures to ensure that journalists, writers and publishers are not restricted in the exercise of their employment or occupation because of political opinions expressed by them, and it requests the Government to keep the Committee informed on any further legislative or other measures taken to this end. The Government is also requested to provide information on the number, nature and outcome of cases involving convictions of journalists, writers and publishers under the Anti-Terrorism Act or the Penal Code, including indications as to whether any prison sentences have been pronounced in such cases.***

4. *Discrimination on the grounds of religion and sex.* Recalling its previous comments concerning the existing restrictions on university students wearing Islamic headscarves, the Committee notes the statements by the Government, DISK, TÜRK-IS, and TISK to the effect that these restrictions were in accordance with the national Constitution and with the European Convention on Human Rights, and were necessary because the headscarf issue has been used by some political parties to advocate constitutional change that ultimately would abolish established human rights guarantees. The Committee notes the judgement of the European Court of Human Rights in the case of *Leyla Şahin v. Turkey* of 29 June 2004, which the Government has supplied with its report. In this case, the Court ruled that regulations imposing restrictions on wearing of Islamic headscarves in universities constituted an interference with the applicant's right to manifest her religion. However, no violation of the European Convention had occurred, because, in the prevailing Turkish context, the restrictions were necessary in a democratic society to protect the rights and freedoms of others. The

Committee notes that the Grand Chamber of the European Court of Human Rights issued a judgement on 10 November 2005 confirming the decision of 29 June 2004.

5. The Committee recalls that, in principle, where restrictions or exclusions based on a religious practice are made, which have the effect of nullifying or impairing equality of opportunity and treatment in employment and occupation, discrimination, as defined in the Convention, may have occurred. It maintains that restrictions on the wearing of head coverings may have the effect of nullifying or impairing the access to university education of women who feel obliged to or wish to wear, a headscarf out of religious obligation or conviction. The Committee trusts that the Government will keep the evolving situation under continuous review in order to determine whether such a general restriction is still necessary, and to ensure that the right of equal access to education and training at the university level of women who feel obliged to or wish to wear a headscarf out of religious conviction is not restricted, contrary to the Convention. The Committee remains concerned that the current restrictions may, in practice, keep women away from university education and training. ***In order to allow the Committee to obtain a better understanding of the situation, the Government is requested to provide in its next report its assessment of the impact of the current prohibition for university students to wear dress manifesting a religion on the participation of women in higher education, including an indication of the number of female students expelled from universities for wearing headscarves on university premises.***

6. *Article 2. Equality of opportunity and treatment of men and women.* The Committee notes with interest that article 10 of the Constitution has been amended and now provides that the State shall guarantee effective equality of men and women. The Committee also notes that important progress has been made in establishing equal rights of men and women with the adoption of the new Civil Code which entered into force on 1 January 2002, which it believes can make a positive contribution to moving towards gender equality in employment and occupation. At the same time, the Committee is concerned to note statistical information indicating that the position of women in the labour market remains very weak. According to statistical data compiled by the ILO on the economically active population, the activity rate for women decreased from 26.9 per cent in 2002 to 25.4 per cent in 2004. The male activity rate increased from 70.5 per cent to 73.3 per cent during the same period. The Committee also notes from the data supplied by the Government that women with university educations are under-represented in executive and managerial jobs, compared to men at the same level of education. Some 58 per cent of economically active women worked in the agricultural sector in 2003, four out of five as unpaid family workers. The Committee also notes that while some progress has been made towards the equal participation of girls and boys in education, girls continue to be particularly affected by illiteracy and lag behind in almost all levels of education and particularly in higher education. ***The Committee encourages the Government to continue to take measures to promote equality of opportunity and treatment of men and women in education and employment and to continue to provide information on the progress made. The Government is also asked to provide information on the concrete steps taken to ensure effective gender equality in employment, in implementation of article 10 of the Constitution.***

7. *Equality of opportunity and treatment irrespective of race, colour, national extraction and social origin.* In its previous observation, the Committee requested the Government to provide information on the measures taken or envisaged to promote equality of opportunity and treatment in employment and occupation of all parts of the population irrespective of race, colour, national extraction or social origin. The Committee notes that section 5 of the new Labour Act prohibits discrimination on the bases of language and race. ***The Committee recommends to the Government that it include the grounds of colour, national extraction, and social origin in section 5 of the Labour Act. Further, the Government is requested to provide information on the measures taken or envisaged to ensure and promote equal access to employment and occupation in practice, irrespective of ethnic or social background.***

8. *Article 3(d). Security investigations.* The Committee recalls that personnel to be employed in public bodies and institutions holding classified information and documents are subject to security investigations under the Regulations on Security Investigations and Investigation of Records of 14 February 2004. The Committee notes from the Government's report that security investigations are required for persons to be employed in a very broad range of public institutions dealing with matters unrelated to state security, such as research, education, labour and social affairs, media, culture, history, meteorology, statistics and trade. The Committee also recalls that security investigations do not only involve a checking of criminal convictions but also of any contact with the police and intelligence units. The Committee remains concerned that this kind of security investigation may lead to exclusions from employment contrary to the requirements of the Convention, for instance due to having peacefully expressed political opinions. ***The Committee once again emphasizes the need to ensure that the measures taken by the authorities authorized to request and conduct security investigations are in practice in line with the requirements of the Convention. It asks the Government to assess the extent to which security investigations have led to exclusions from public employment and the reasons thereof. Finally, the Committee encourages the Government to review, in the context of the ongoing reforms in Turkey, whether the scope of security investigations could be further limited, and invites the Government to provide information on any measures taken in this regard.***

The Committee is raising other and related points in a request addressed directly to the Government.

Ukraine

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

1. The Committee notes the Government's report. It also notes the communication dated 31 August 2004 from the Confederation of Free Trade Unions of Ukraine (KSPU) which contains comments on the application of Convention No. 100. As these comments relate to gender equality in employment more generally, the Committee is addressing them under Convention No. 111. The Committee also notes the additional comments from the KSPU which the Government forwarded to the ILO in September 2005.

2. *Articles 2 and 3 of the Convention. Discrimination on the basis of sex.* According to KSPU, women face many obstacles with regard to equal participation in the labour market. It alleges that widespread discrimination by employers against women in recruitment limits their employment opportunities and that women are increasingly concentrated in low-paid jobs, occupations and sectors. It further alleges that private and public sector employers openly indicate preferences for employing male workers and that the State Employment Service supports such discrimination by requesting employers to indicate the desired sex of workers to be employed and by including the sex of the worker in vacancy announcements. Labour inspectors are inadequately trained to deal with discriminatory recruitment practices and no statistical information regarding the number of complaints and contraventions involving discrimination exists. In its reply to KSPU's communication, the Government generally states that it is taking steps to ensure that all citizens enjoy equal labour rights regardless of sex and outlines the provisions relating to equal employment opportunities contained in the Constitution and labour legislation. ***While noting the KSPU's statement that the Government was trying to address sex discrimination in the labour market, the Committee requests the Government to provide detailed information on the specific measures taken to eliminate discriminatory recruitment practices in the private and public sectors.***

3. The Committee also refers to its previous comments on existing gender inequalities in the Ukrainian labour market where it emphasizes that the banning of discrimination is generally insufficient to eliminate it. In order to achieve the objectives of the Convention, it is necessary to take concrete and continuous measures to ensure and promote the enjoyment in practice of equality of opportunity and treatment for men and women who work or are looking for work. The Committee recommends that, in the given context, such measures should include the following: action to enhance the understanding and awareness of the principle of equality among public officials, workers, employers and society at large; measures to enable both men and women to reconcile work with family responsibilities in accordance with Convention No. 156, which the Ukraine has ratified; the promotion of equal opportunities for men and women in vocational training, retraining and career development; the enforcement of legal provisions on equality in employment and occupation; and the realization of workplace equality through collective bargaining. ***The Committee requests the Government to indicate in its next report the specific measures taken or envisaged for tackling existing inequalities between men and women in employment and occupation, any cooperation undertaken with workers' and employers' organizations in this regard, as well as the results achieved through the action taken.***

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

United Kingdom

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1971)

1. *Remuneration gap.* The Committee notes from the 2005 annual earnings survey produced by the Office of National Statistics that women's average hourly pay (excluding overtime) was 17.2 per cent less than men's. The report also indicates that the pay gap between men and women remained smaller in the public sector than in the private sector (9.8 per cent and 22.5 per cent respectively in 2003). The Committee notes that since the Equal Pay Act became operational in 1975, the pay gap has only moderately declined by 10.7 per cent. It notes, in this regard, the concern expressed by the Equal Opportunities Commission (EOC) regarding the latest pay gap figures, which it considers to be grim. According to information provided by the EOC, the Act has now reached the limits of its usefulness and radical new action is required to protect another generation of women from the injustice of unequal pay.

2. *Measures to address the existing remuneration gap.* Further to the above, the Committee notes that the Government is of the opinion that new policies on shortening pay ranges, developing transparent pay progression systems and addressing pay issues in recruitment and promotion will have an immediate impact on further reducing the relatively small pay gap in the civil service. With regard to the private sector, the Committee notes that the Government continues to favour voluntary pay reviews and has taken measures aimed at further reducing the pay gap such as the development of an equal pay review kit for employers and an equal pay questionnaire procedure for employees, the creation of a statutory right to request flexible working time and the adoption of new regulations to streamline equal pay tribunal cases. However, the Committee understands from the EOC that two-thirds of employers have no plans to review their pay systems to see if they deliver equal pay. The EOC is of the view that the Government must take more proactive steps to address this persistent problem through the introduction of a duty on employers to promote gender equality and eliminate sex discrimination in the workplace. While welcoming the measures taken by the Government, the Committee nevertheless remains concerned about the slow progress in reducing the pay gap between men and women. ***It asks the***

Government to provide information in its next report on the measurable impact of these initiatives for reducing pay inequalities between men and women, particularly in the private sector, and whether, in light of the EOC's conclusions, it is considering more proactive measures to address the persistent pay gap. Noting also that government departments and agencies expect the civil service policies to take between three and five years to mature fully, the Committee asks the Government to provide up-to-date information on the implementation and impact of these policies along with information on subsequent equal pay reviews undertaken in the public sector.

3. *Part-time and flexible work.* The Committee notes that the hourly wage gap between part-time female workers and full-time male workers remains significant (38.5 per cent in 2005). In this regard, the Committee notes that the Government commissioned a research project to look at the characteristics of the pay gap with respect to part-time work, comparing the characteristics of part-time work in the United Kingdom with other European Union countries. It also notes that the EOC published an interim report based on its own investigations into flexible and part-time work entitled "Part-time is no crime – so why the penalty?" The Committee notes from this report that over the past 30 years of equal pay legislation, the percentage by which part-time female workers earn less per hour than full-time working men has not meaningfully changed (from 41.6 per cent in 1975 to 38.5 per cent in 2005). The report points out that 78 per cent of part-time workers are women, who suffer the most in terms of the effect on earnings and earning power and that the unequal use of flexible work creates a two-tier system (the "mummy track"), which reinforces the pay gap between men and women. *Noting the interim recommendations from the EOC investigation, the Committee asks the Government to indicate what additional measures it intends to take to address this persistent part-time pay gap. It further asks the Government to keep it informed as to the ongoing investigations of the EOC into part-time work, and to provide information on the key findings and follow-up measures from its research into the characteristics of the part-time pay gap in the context of the European Union.*

The Committee is raising related and other points in a request addressed directly to the Government.

Uruguay

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1989)

1. The Committee notes that, according to the communication of the Inter-Union Assembly of Workers – National Convention of Workers (PIT-CNT), received in October 2002, Act No. 16045, which prohibits all discrimination that violates the principle of equality of treatment and opportunities for both sexes, has hardly been applied in practice due to its poor dissemination, including among magistrates, lawyers and teachers. The trade union further emphasizes that the Act is inadequate and requires amendment. Among other measures, accessible remedial procedures should be established, since the procedure envisaged by the Act is understood to have been abolished by the current General Procedural Code; the burden of proof should be reversed, placing the onus on employers, and protection should be afforded to workers against reprisals; sufficiently dissuasive penalties should be established, as well as economic incentives and bonuses for employers who adopt measures to promote equality. The workers' organization adds that there is no adequate control of compliance with existing provisions and that, although this is a function of the labour inspectorate, labour inspectors have accorded insufficient importance to the issue of discrimination. The PIT-CNT also indicates that the Tripartite Commission on Equality of Opportunity and Treatment in Employment lacks institutional support and the necessary infrastructure to discharge its functions. In conclusion, it notes that women's unemployment rates are higher than those of men. The Committee notes that these issues are related to the general equality issues covered by the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The principle of equality is indivisible and many of the difficulties which arise when endeavouring to give effect to equal remuneration for work of equal value are closely connected to the situation of women and men in employment and society. In a general context of inequality, it is not possible to secure non-discriminatory evaluation of the work done by men and women nor to ensure that everyone is entitled to all the components of remuneration, without discrimination based on sex.

2. *The Committee therefore asks the Government to provide its comments on the communication of the PIT-CNT, and particularly on the effect given to Act No. 16045, the efforts made to adopt accessible recourse procedures, to which the Committee also refers in its comments on Convention No. 111, the progress achieved in strengthening the activities of the labour inspectorate in relation to equality and the support provided for the Tripartite Commission referred to above.*

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1989)

Remedial procedures. With regard to the comments by the Inter-Union Assembly of Workers – National Convention of Workers (PIT-CNT) concerning instances of discrimination based on sex in the National Administration of Electricity Plants and Distribution (UTE), in particular with respect to social security, which the Committee discussed in its previous comments, the Committee notes that in 2001 and 2002, there were no retirement incentive plans in the UTE and that there have been no initiatives of a nature similar to the case examined by the Committee. The Committee recalls that the trade union in question availed itself of the special, summary procedure provided for in Act No. 16045, which

prohibits all discrimination that offends against the principle of equal treatment and opportunity for both sexes. The courts (of first and second instance) held that the abovementioned procedure has been repealed by the general rules under the General Code of Procedure. The Committee recalls that the availability of expedited procedures, which are inexpensive and easily accessible, is an important element in the application of the policy to promote equality of opportunity and treatment in employment and occupation (*General Survey on equality in employment and occupation*, 1988, paragraphs 216-230). ***It hopes that the Government will provide information on the claims that are pending, particularly those applying to Act No. 16045, and on the eventual adoption of any expedited procedures in this area.***

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

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 100** (*Albania, Algeria, Angola, Australia: Norfolk Island, Austria, Azerbaijan, Bahamas, Barbados, Belize, Bosnia and Herzegovina, Botswana, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Chile, Comoros, Congo, Côte d'Ivoire, Cuba, Cyprus, Democratic Republic of the Congo, Djibouti, Dominica, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, France, France: French Guiana, France: French Polynesia, France: Guadeloupe, France: Martinique, France: New Caledonia, France: Réunion, France: St. Pierre and Miquelon, Gabon, Gambia, Georgia, Ghana, Grenada, Guinea, Guyana, Haiti, Honduras, Iceland, India, Islamic Republic of Iran, Israel, Jamaica, Republic of Korea, Kyrgyzstan, Lebanon, Lesotho, Libyan Arab Jamahiriya, Malawi, Mali, Mauritius, Mexico, Republic of Moldova, Nepal, Netherlands, New Zealand, New Zealand: Tokelau, Nicaragua, Niger, Nigeria, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Romania, Russian Federation, Rwanda, Saint Lucia, San Marino, Sao Tome and Principe, Senegal, Seychelles, Singapore, Slovakia, Swaziland, Sweden, Switzerland, Syrian Arab Republic, United Republic of Tanzania, Thailand, Trinidad and Tobago, Turkey, Ukraine, United Kingdom, Uruguay, Uzbekistan, Zambia*); **Convention No. 111** (*Albania, Algeria, Angola, Antigua and Barbuda, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belize, Bosnia and Herzegovina, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Chile, Congo, Côte d'Ivoire, Cuba, Czech Republic, Democratic Republic of the Congo, Dominica, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Fiji, France, France: French Guiana, France: French Polynesia, France: French Southern and Antarctic Territories, France: Guadeloupe, France: Martinique, France: New Caledonia, France: Réunion, France: St. Pierre and Miquelon, Gabon, Gambia, Georgia, Ghana, Guinea, Guyana, Haiti, Honduras, Iceland, India, Islamic Republic of Iran, Israel, Jamaica, Kazakhstan, Republic of Korea, Kuwait, Lebanon, Lesotho, Madagascar, Malawi, Mali, Mauritius, Mexico, Republic of Moldova, Nepal, Netherlands, New Zealand, New Zealand: Tokelau, Nicaragua, Niger, Nigeria, Panama, Peru, Poland, Portugal, Qatar, Romania, Russian Federation, Rwanda, Saint Lucia, Sao Tome and Principe, Senegal, Seychelles, Slovakia, Slovenia, Swaziland, Sweden, Switzerland, Syrian Arab Republic, United Republic of Tanzania, Trinidad and Tobago, Turkey, Ukraine, United Kingdom, Uruguay, Uzbekistan, Zambia*); **Convention No. 156** (*Slovakia*).

Tripartite Consultation

Albania

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1999)

1. The Committee notes the information provided by the Government's report received in September 2005, as well as the comments of the Confederation of Trade Unions of Albania (CTUA), which were forwarded to the Government in October 2004.

2. *Tripartite consultations required by the Convention.* In its report, the Government recalls that, according to section 200 of the Labour Code and Decision No. 730 of the Council of Ministers, ILO activities are addressed by the National Council of Labour (NCL) and by its specialized commissions. The NCL holds consultations with the most representative employers' and workers' organizations, with regard to Conventions to be ratified and denounced, as well as on measures to be taken concerning the implementation of Conventions. During the reporting period, the Government indicates that Conventions Nos. 88, 122 and 168 were discussed by the NCL and its specialized commissions. The Government also indicates that all the expenses necessary for the organization of the NCL's meetings and its specialized commissions were covered by the budget of the NCL and that seminars and workshops have been organized with the employers' and workers' organizations and their expenses were covered by the Ministry of Labour and Social Affairs or by non-profit organizations.

3. The Government further indicates that consultations required under *Article 5 of the Convention* are scheduled according to a yearly plan. In addition, unplanned meetings can be held with regard to various issues, upon the request of the social partners who are represented in the NCL. The Government points out that during the reporting period, several studies have been the object of consultations and discussions, amongst which it states the following: "Defining the minimum wage according to the sectors of the economy", amendments of the Law on "Promotion of Employment and Social Insurances", discussion on the draft Law on "System of Labour Inspection and the State of Labour Inspectorate". The Committee takes due note of this information.

4. For its part, the CTUA states in its October 2004 comments that many important issues that should be discussed at the NCL level are set aside and that the current status of the NCL's secretariat prevents it from being truly efficient. ***In this regard, the Committee asks the Government to address the CTUA's comments in its next report. It also recalls that the Government and the social partners should establish procedures which ensure effective consultations in a manner that is satisfactory to all parties concerned. It asks the Government to keep providing detailed information on the measures taken in order to ensure effective tripartite consultations within the meaning of the Convention, including further information of the consultations held by the NCL on each of the subjects listed in Article 5 during the period covered by the next report.***

Algeria

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1993)

1. *Tripartite consultations required by the Convention.* In a report received in May 2005, the Government indicates that it communicates documents and working papers on a regular and systematic basis to the representative organizations in accordance with article 23 of the ILO Constitution. In this respect, the Committee once again draws the Government's attention to the fact that the obligation to consult set forth in *Article 5, paragraph 1(d)*, goes beyond the obligation to communicate reports under article 23, paragraph 2, of the ILO Constitution, as it consists of holding consultations on any problems which may arise out of such reports (paragraph 92 of the General Survey of 2000 on tripartite consultation, ILC, 88th Session). ***The Committee once again requests the Government to provide full and detailed information on the consultations held on each of the matters set out in Article 5, paragraph 1, of the Convention during the period covered by the next report, specifying their subject and frequency and the nature of any reports or recommendations resulting from the consultations.***

2. *Effective tripartite consultations.* The Government indicates that bipartite and tripartite meetings are organized regularly on economic and social issues relating to the concerns of the social partners. The Government refers, by way of illustration, to the tripartite meeting held on 3 and 4 March 2005, which resulted in the formulation of a national economic and social pact to which all the social partners adhered. The Committee takes due note of this information and recalls that in the past the Government had envisaged the establishment of a tripartite body specifically covering matters relating to international labour standards. It once again trusts that the Government's next report will indicate that real progress has been achieved in this respect and encourages the Government to consult the representative organizations on the nature and form of the procedures to ensure effective consultations within a tripartite body (*Article 2 of the Convention*).

3. *Free choice of representatives and equality of representation.* With reference to its previous comments, ***the Committee requests the Government to describe in detail the manner in which the representatives of the General Federation of Algerian Trade Unions (UGTA) are chosen for workers, and those of the General Confederation of Algerian Economic Operators (CGOEA), the National Confederation of Algerian Employers (CNPA) and the Algerian Confederation of Employers (CAP) for employers for the purposes of this Convention and to indicate the measures taken to ensure their representation on an equal footing on any bodies through which consultations are undertaken (Article 3).***

4. *Administrative support.* The Committee recalls that this administrative support includes, among other elements, making meeting rooms available, correspondence and, where appropriate, the assistance of a secretariat (paragraph 124 of the General Survey of 2000 on tripartite consultation) and ***it requests the Government to describe the manner in which such support is provided, with an indication of the authority that is competent in this field (Article 4, paragraph 1).***

5. *Financing of training.* The Committee recalls that, where training for participants in the consultations proves to be necessary to enable them to perform their functions effectively, its financing should be provided through appropriate arrangements between the Government and the representative organizations (paragraphs 125 and 126 of the General Survey of 2000 on tripartite consultation). ***It once again requests the Government to indicate whether such arrangements have been made and, if so, to describe them (Article 4, paragraph 2).***

6. *Operation of the consultation procedures.* The Committee recalls that *Article 6* does not impose an obligation to issue an annual report, but that it does require tripartite consultations to be held on whether or not such a report should be issued. The General Survey of 2000 indicates in this respect that the annual report could, for example, include information on the composition of the consultative bodies, the number of meetings, their agenda, the proposals made and the conclusions reached (paragraph 131). ***The Committee once again requests the Government to indicate whether the representative organizations have been consulted on this matter, with an indication, where appropriate, of the outcome of these consultations.***

Argentina

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1987)

Strengthening social dialogue. The Committee notes the Government's detailed reply to its previous comments. The Government reports on the tripartite consultations held for the ratification of maritime Conventions and on other matters covered by the Convention. The consultations required by the Convention have been held in the context of the National Tripartite Consultative Committee, in which the Confederation of Argentinian Workers (CTA), the General Confederation of Labour (CGT) and the Industrial Union of Argentina (UIA) participate. In relation to ILO activities, the Government also refers to the initiatives taken with the social partners to promote decent work. The Committee notes further the full particulars provided on the tripartite activities carried out within the framework of the MERCOSUR Social and Labour Commission. ***The Committee trusts that detailed information will continue to be provided in future reports on the progress achieved by the Government and the social partners in pursuing effective tripartite consultations on the matters covered by the Convention (Articles 2 and 5 of the Convention).***

Belarus

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1993)

1. In its 2004 observation, the Committee noted the report of the Commission of Inquiry appointed under article 26 of the ILO Constitution to examine the situation of trade union rights in Belarus. It expressed the hope that the important measures that the Government was called upon to adopt in order to respond to the recommendations of the Commission of Inquiry would also ensure the effective application of Convention No. 144. It requested the Government to report on the progress made, particularly in the application of *Articles 1, 2 and 5 of the Convention*.

2. The Committee notes the Government's report on the application of the Convention received in September 2005 which includes an observation formulated by the Belarusian Congress of Democratic Trade Unions (CDTU). It notes the minutes of the meeting held by the tripartite group of experts on the application of ILO Conventions in April and July 2005. In its report, the Government also indicates that the Ministry of Labour and Social Protection assumes responsibility for the administrative support of the group of experts, including sending the invitations to participate in its meetings.

3. *Free choice of workers' representatives.* In its communication, the CDTU points out that the Government invited, in July 2005, its representative to the National Council for Labour and Social Issues to participate in the meeting of the tripartite group of experts on the application of ILO Conventions. The CDTU expresses its concerns about the fact that the Government decided unilaterally the appointment of the workers' representative to the meetings of the group of experts, in violation of *Article 3, paragraph 1*, of the Convention. The CDTU indicates that it is not for the Government to decide who represents the workers' organizations in the process of social dialogue. The CDTU urges the Government to

restore its elected representative to represent the organization in the National Council for Labour and Social Issues. In this regard, the Committee recalls that *Article 3* of the Convention provides that “the representatives of employers and workers for the purposes of the procedures provided for in this Convention shall be freely chosen by their representative organizations”. The Committee reminds that the principle of free choice is respected if the organizations themselves appoint their representatives directly (paragraph 44 of the General Survey of 2000 on tripartite consultation). It further recalls that the determination of the most representative organizations must be based on objective, pre-established and precise criteria so as to avoid any possibility of bias or abuse. In addition, the Commission of Inquiry recommended that the CDTU should be allowed to participate *through whichever representative it designates* to the work of the National Council on Labour and Social Issues. ***The Committee therefore asks the Government to ensure the free choice of workers’ representatives in the tripartite consultation on international labour standards as required by the Convention and to respond to the recommendations of the Commission of Inquiry on this important issue. It again asks the Government to report in detail on the measures taken in order to implement effective tripartite consultation in the sense of the Convention.***

[The Government is asked to report in detail to the present comments in 2006.]

Brazil

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

Strengthening social dialogue. With reference to its observation of 2003, the Committee notes with interest the detailed report provided by the Government in September 2005 in which it reports the establishment of the Tripartite Commission on International Relations (CTRI) (*Portaria* No. 447 of 19 August 2004). The Government has included the detailed reports of the three meetings held by the CTRI in which it discussed, among other subjects, the matters covered by the Convention. The Committee notes that tripartite consultations were held on the submission of instruments to the National Congress. Tripartite consultations have also been planned to discuss the denunciation of an obsolete Convention, the Inspection of Emigrants Convention, 1926 (No. 21). The Committee trusts that detailed information will continue to be provided in future reports on the progress made by the Government and the social partners in continuing to hold effective tripartite consultations on the subjects covered by the Convention (*Articles 2 and 5 of the Convention*).

China

Hong Kong Special Administrative Region

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (notification: 1997)

1. The Committee notes the Government’s report for the period ending in May 2005. It also notes the comments formulated by the Hong Kong Confederation of Trade Unions (HKCTU) in November 2004 and the Government’s reply to the said comments, which were appended to the Government’s report.

2. *Tripartite consultations required by the Convention.* With reference to the Committee’s previous request, the Government indicates that the latest report of the Labour Advisory Board (LAB), which will be published at the end of 2005, covers the responsibilities of the Committee on the Implementation of International Labour Standards (CIILS). During the period ending in May 2005, the CIILS met to advise on the possibility of applying new Conventions to the Hong Kong Special Administrative Region, as well as on the application of the Conventions that are already applicable to it. The Committee would appreciate receiving information in the next report about the consultations held on all the matters covered by the Convention.

3. *Free choice of workers’ representatives.* In its communication, the Hong Kong Confederation of Trade Unions (HKCTU) expressed the view that the current method of appointing workers’ representatives to the LAB was in violation of *Article 3, paragraph 1, of the Convention*. The HKCTU explains that, under the current system, one workers’ representative is appointed by the Government *ad personam*, while the other five are elected by trade unions regardless of their “most representative” character. The HKCTU considers that this election system is unfair to trade unions with a large membership base and may result in a LAB composition and in a decision-taking process which may be unfair to the most representative trade unions. In this regard, the Committee recalls that *Article 3* of the Convention provides that “the representatives of employers and workers for the purposes of the procedures provided for in this Convention shall be freely chosen by their representative organizations”. The Committee reminds that the principle of free choice is respected if the organizations themselves appoint their representatives directly (paragraph 44 of the 2000 General Survey on tripartite consultation). It further recalls that the determination of the most representative organizations must be based on objective, pre-established and precise criteria so as to avoid any possibility of bias or abuse. The Committee takes note that, on this question, the Government is ready to consider the views of the HKCTU and review the method for electing workers’ members before the next LAB term begins in 2007. ***It therefore hopes that the Government and the social***

partners concerned will examine how the representatives of workers for the procedures provided for in the Convention are chosen (Articles 1 and 3) and that the Government's next report will contain indications on the measures taken in order to implement effective tripartite consultation in the sense of the Convention.

Czech Republic

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2000)

1. The Committee notes the Government's report, which includes detailed observations from the Czech-Moravian Confederation of Trade Unions (CMKOS). The Committee further notes the information provided by the Government with regard to the consultations required on matters set out in *Article 5, paragraph 1(c) and (e), of the Convention*.

2. *Questions arising out of article 22 reports.* The CMKOS indicates that, while draft reports have been received before being sent to the Office, the views and observations of the CMKOS have not been reflected in the final versions. As the final versions of the reports sent to the Office have not been made available to the CMKOS, it does not know whether and to what extent its observations have been reflected in the final reports received by the Committee of Experts. In its reply, the Government indicates that the system for elaboration of article 22 reports was reviewed in 2003. Drafts reports are communicated to the social partners for comments before they are sent to the Office. It is the Government's intention to ensure that the final texts of the reports are supplied to the social partners. The Committee further notes the special meeting held when preparing the report on Convention No. 98. The Committee recalls that the reports to be submitted under article 22 of the ILO Constitution are generally prepared in collaboration with the social partners, except in certain cases where the Government simply communicates to them a copy of the report sent to the Office. In this regard, it also recalls that the obligation of consultation laid down in *Article 5, paragraph 1(d)*, goes beyond the obligation of communication of reports under article 23, paragraph 2, of the ILO Constitution as it consists, in this case, in holding consultations on matters that may arise from those reports. Reports that the employers' and workers' organizations may transmit to the Office cannot replace the consultations, which have to be held during the preparation of the reports (paragraph 92 of the 2000 General Survey on tripartite consultation). ***The Committee invites the Government and the social partners to deepen tripartite consultations on this matter and to include in the next report information on any new development in this regard (Article 5, paragraph 1(d)).***

Democratic Republic of the Congo

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2001)

The Committee notes the comments of the Confederation of Trade Unions of the Congo (CSC), supported by the World Confederation of Labour (WCL) and transmitted by the Government in September 2005, concerning, among other matters, the failure to transmit the report on the Convention to trade union organizations. The Committee requests the Government to provide its observations on this subject. Furthermore, it recalls that its previous comments related to the following points.

1. *Effective tripartite consultations.* The Committee noted from the Government's previous report that the National Labour Council, a tripartite advisory body, has general competence in the field of labour and that a tripartite committee for the implementation of international labour standards was to be established. It also noted that, since the procedure is in the process of being established, there had not been any consultations on the matters set out in *Article 5, paragraph 1, of the Convention*. In this respect, the Committee once again draws the Government's attention to the fact that each Member which ratifies the Convention undertakes to operate procedures which ensure effective consultations on all aspects covered by *Article 5*. The nature and form of such procedures are to be determined in each country in accordance with national practice, after consultation with the representative organizations, where such procedures have not yet been established. ***The Committee hopes that the Government will be in a position in its next report to provide information on the operation of procedures established in accordance with Article 2 and on the content of consultations which have been held during the period covered by the next report on each of the matters set out in the Article 5, paragraph 1, indicating their frequency and the nature of any reports or recommendations resulting from these consultations. It also hopes that the Government will be in a position to supply information on the administrative support provided for the procedures envisaged in the Convention (Article 4, paragraph 1) and on any consultations held with the representative organizations concerning the working of the procedures (Article 6). The Committee also requests the Government to provide detailed information on the consultations held in the National Labour Council on the subjects covered by the Convention.***

2. *Free choice of representatives.* With reference to its previous comments and to the recent observations made by the CSC, ***the Committee requests the Government to describe in its next report the manner in which the representatives of employers and workers are selected for the purposes of the Convention (Article 3, paragraph 1).***

Gabon

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1988)

1. *Tripartite consultations required by the Convention.* In its last report, the Government indicates that, despite the existence of the Advisory Labour Commission and the Advisory Occupational Safety and Health Technical Committee, these bodies are still not operational as it has not been possible to identify the most representative occupational organizations in the country. The Government explains that consultations are held in an informal manner and consist of the transmission of reports prepared by the Government to the social partners to seek their comments. *The Committee notes this information and expresses the firm hope that the country's advisory bodies will be operational in the near future and that the Government will be in a position to provide all the necessary information in its next report on the application of the Convention and on the consultations held with representative organizations, which should be determined on the basis of objective, pre-established and precise criteria. Furthermore, it requests the Government to provide a report containing detailed information on the consultations held on the matters covered by Article 5, paragraph 1, of the Convention, including information on the work of the Advisory Labour Commission when it has become operational once again.*

2. *Operation of the consultation procedures.* The Committee trusts that consultations will be held in the near future with representative organizations on the working of the procedures provided for in the Convention (*Article 6*) and that the Government will be in a position to provide information on this subject in its next report.

Grenada

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

The Committee notes with regret that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its 2002 direct request, which read as follows:

Article 2 of the Convention. The Government is requested to describe the form of the consultation procedures established within the Labour Advisory Board by forwarding copies of the texts governing its composition and operation. In order to ensure the application of this Article, in accordance with paragraph 1, the consultations envisaged by the Convention have to address each of the matters enumerated in Article 5, paragraph 1. The consultation procedures must be effective, that is they must provide employers' and workers' organizations with an opportunity to express their views usefully on the above matters. To this effect, the consultations must necessarily be held prior to the definitive decision by the Government.

Article 5, paragraph 1. Please give particulars of the consultations held on each of the matters referred to below, including information as to the frequency of such consultations and the nature of any reports or recommendations made as a result of them. In this respect, the Committee recalls that certain of the matters covered (replies to questionnaires, submissions to the competent authorities, reports to be made to the ILO) imply an annual consultation, while others (re-examination of unratified Conventions and of Recommendations, proposals for the denunciation of ratified Conventions) require less frequent examination.

- (a) (Items on the agenda of the Conference.) Under this provision, the Government is bound to consult the representative organizations of employers and workers before finalizing the text of its replies to ILO questionnaires.
- (b) (Submission to the competent authorities of Conventions and Recommendations.) On this matter, the Committee refers to the comments that it has been making for several years regretting that the Government has not provided information on the submission to Parliament of the instruments adopted by the Conference. It recalls that the Convention goes beyond the obligation set out in article 19 of the ILO Constitution by calling upon the Government to consult the representative organizations before finalizing the proposals to be submitted to Parliament in relation to the obligation to submit the instruments adopted by the Conference.
- (c) (Re-examination of unratified Conventions and of Recommendations.) Tripartite consultations on this subject are intended to promote the implementation of international labour standards by enabling the Government to envisage, in the light of changes in national law and practice, measures which could be taken with a view to facilitating the ratification of a Convention or the application of a Recommendation to which it was not possible to give effect at the time of their submission.
- (d) (Reports on ratified Conventions.) This provision goes beyond the obligation set out in article 23, paragraph 2, of the Constitution to communicate reports; it consists of undertaking consultations on the problems which may arise in the reports due under article 22 on the application of ratified Conventions; in general, these consultations concern the contents of replies to the comments of the supervisory bodies.
- (e) (Proposals for the denunciation of ratified Conventions.) Under the terms of this provision, the Government is bound to consult the representative organizations when it envisages denouncing a ratified Convention. For example, the Government could consider making use of this provision of the Convention to give effect to the recommendations of the Governing Body of the ILO, which has invited States parties to the Recruiting of Indigenous Workers Convention, 1936 (No. 50), the Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64), the Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65), and the Contracts of Employment (Indigenous Workers) Convention, 1947 (No. 86), which have all been ratified and are still in force in Grenada, to envisage the ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and the simultaneous denunciation of Conventions Nos. 50, 64, 65 and 86.

Article 6. In accordance with this provision, the Government is under the obligation to consult the representative organizations of employers and workers on the necessity of issuing an annual report on the working of the procedures provided for in the Convention. **Please give particulars of the consultations that have taken place on this question and their outcome.**

The Committee recalls that the Government can call upon, if it considers it appropriate, the advice and assistance of the Office on this subject.

Guinea

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)

1. *Tripartite consultations required by the Convention.* In a report received in May 2005, the Government recalls that, with a view to holding tripartite consultations on matters relating to ILO activities, it established an Advisory Committee on Labour and Social Legislation (CCTLS) in 1995. However, the Government recognizes that this body has met rarely since its establishment and that there has been no tripartite dialogue on the items on the agenda of the Conference. The Government indicates that this situation is due, among other factors, to the lack of reaction of the social partners. Furthermore, the Government reports that, following a tripartite workshop on international labour standards held in October 2004, the Department of Employment and the Public Service renewed the officers of the CCTLS and relaunched legislative activities. The Committee notes this information and expresses the firm hope that the Government will be in a position to provide information in its next report on the measures adopted to ensure effective tripartite consultations on the matters covered by the Convention. **In particular, it requests the Government to provide reports regularly containing detailed information on the consultations held on all the subjects covered by Article 5, paragraph 1, of the Convention, including precise information on the activities of the Advisory Committee on Labour and Social Legislation.**

2. *Financing of training.* The Government indicates that there are no specific arrangements for the training of participants. However, when training is initiated at the national level by the competent authority in the context of social consultations, it is generally tripartite in nature. In this respect, the Committee recalls that, where training for participants in the consultations proves to be necessary to enable them to perform their functions effectively, its financing should be covered by appropriate arrangements between the Government and the representative organizations (see paragraphs 125 and 126 of the General Survey of 2000 on tripartite consultation). It requests the Government to take measures for this purpose and to describe in its next report, where appropriate, the content of these arrangements (*Article 4, paragraph 2*). Finally, the Government indicates that a training programme was envisaged in the context of the Regional Programme for the Promotion of Social Dialogue in French-speaking Africa (PRODIAF), but that, in the absence of any reaction by the social partners, it was limited to activities initiated by the Ministry of Employment and the Public Service and carried out at the national level. **The Committee notes this information and requests the Government to describe in its next report the training activities undertaken in relation to international labour standards. It also requests it to continue providing information on any progress achieved in the implementation of the PRODIAF programme in relation to the necessary training for participants in the consultation procedures, as required by the Convention.**

Indonesia

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1990)

Tripartite consultations required by the Convention. In its report received in September 2005, the Government indicates that a tripartite cooperative body (LKS Tripartit) was established by Governmental Regulation No. 8/2005, composed of representatives of the government, workers and employers. This tripartite cooperative body shall be established at national, provincial and municipal levels. The Committee takes due note of this information. With reference to its previous comments, the Committee noted the establishment of a tripartite committee for ILO matters under Ministerial Decree No. 92/Men/2003. **The Committee would appreciate receiving more details on the activities of these two bodies – the LKS Tripartit and the tripartite committee for ILO matters – on the matters covered by the Convention, including data on the “effective consultations” held in order to enable employers’ and workers’ organizations to comment usefully on all the matters listed in Article 5, paragraph 1, of the Convention.**

Lesotho

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1998)

1. *Tripartite consultations required by the Convention.* In its reply to the Committee’s 2001 direct request, the Government has merely indicated that no reports on the work of the National Advisory Committee on Labour (NACL) have been prepared since 2001 and that no consultations with the social partners have taken place in the last few years on

the issues covered by the Convention. The Government nevertheless indicates that it is preparing reports in this regard and that the necessary consultations required by the Convention will be placed before the NACL in due course.

2. *Effective tripartite consultations.* **The Committee requests the Government to provide details of the consultations held on the Government's replies to questionnaires concerning items on the agenda of the Conference and the Government's comments on proposed texts to be discussed by the Conference (Article 5, paragraph 1(a), of the Convention) and on denunciation of ratified Conventions (Article 5, paragraph 1(e)).** In this regard, the Committee recalls that the ILO Governing Body has invited States parties to the Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64), and the Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65) – which Lesotho has ratified – to contemplate ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and denouncing Conventions Nos. 64 and 65 at the same time. States parties to the Underground Work (Women) Convention, 1935 (No. 45), are invited to contemplate ratifying the Safety and Health in Mines Convention, 1995 (No. 176).

3. *Operation of the consultative procedures.* **The Committee also requests the Government to provide particulars of any consultations that may have taken place with the representative organizations on the question of issuing an annual report “on the working of the procedures provided for in the Convention” (Article 6).**

Malawi

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1986)

1. The Committee notes the observations made by the Malawi Congress of Trade Unions (MCTU), forwarded to the Government in April 2005.

2. *Tripartite consultations required by the Convention.* In its communication, the MCTU indicates that the Government does not always carry out the consultations required by the Convention. It further states that the Government does not consult in order to seek the opinions of workers on matters to be discussed on the agenda before leaving for the Conference. The MCTU also indicates that the Employment Act was amended without consultation with the social partners, and that the Government removed the service charge for hotel, food processing and catering workers without consulting the union. In this regard, the Committee recalls that the Convention requires to operate procedures which ensure effective consultations, with respect to the matters concerning international labour standards set out in *Article 5, paragraph 1, of the Convention* between representatives of the Government, of the employers and of the workers. **The Committee requests the Government to provide detailed information on the consultations held on each matter set out in Article 5, paragraph 1 during the period covered by the next report, specifying their purpose and frequency, and the nature of any reports or recommendations resulting from the consultations.**

Nepal

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)

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

1. *Restoration of democracy.* The Committee notes the deep concern expressed in the Conference Committee in June 2005 at the current situation pertaining to the respect of fundamental rights in the country and its impact on the exercise of tripartite consultations. It recalls that the Conference Committee requested the Government to supply a report for this session of the Committee of Experts on the progress achieved in guaranteeing effective tripartite consultation in a manner satisfactory to all the parties concerned, including information on the functioning of the procedures provided for in the Convention.

2. *Social dialogue.* The Committee reaffirms its conviction that social dialogue, and in particular the tripartite consultation required by Convention No. 144, could contribute to the restoration of democracy and to the process of peace building. The Office could contribute, through technical assistance, to promoting a sincere and constructive social dialogue among all the parties concerned within the scope of Convention No. 144. The Committee invites again the Government to take all appropriate measures to promote tripartite dialogue on international labour standards.

3. *Effective tripartite consultations.* In its 2004 observation, the Committee requested the Government to describe in detail the procedures established to ensure effective tripartite consultations, indicating how the nature and form of these procedures are determined and whether consultations with the representative organizations took place for this purpose (*Article 2 of the Convention*).

4. *Free choice of representatives and equal representation.* The Government had indicated in its previous report that the representatives of employers and workers are freely chosen by their representative organizations and that they are represented on an equal footing in all consultative bodies. The Committee invites again the Government to describe how these representatives are chosen, indicating the measures taken to ensure their representation on an equal footing in these bodies (*Article 3*).

5. *Administrative support and training.* The Government had mentioned the setting up in 2004 of a permanent secretariat at the Central Labour Advisory Board, further to the request made by the representative organizations. The Committee requests the Government to indicate whether this secretariat is responsible for providing administrative support for the procedures covered by the Convention and invites it to provide information on the arrangements made for financing any necessary training of participants in these procedures (*Article 4*).

6. *Tripartite consultations required by the Convention.* The Government had indicated that consultations took place on the matters covered by *Article 5, paragraph 1*, following the assistance of the ILO Kathmandu Office concerning a possible ratification of Conventions Nos. 87 and 105. The Committee recalls once again that the reports to be submitted under article 22 of the ILO Constitution are generally prepared in collaboration with the social partners, except in certain cases where the Government simply communicates to them a copy of the report sent to the Office. In this regard, it emphasizes again that the obligation of consultation laid down in *Article 5, paragraph 1(d)*, goes beyond the obligation of communication of reports under article 23, paragraph 2, of the ILO Constitution as it consists, in this case, in holding consultations on matters that may arise from those reports. Reports that the employers' and workers' organizations may transmit to the Office cannot replace the consultations which have to be held during the preparation of the reports (paragraph 92 of the 2000 General Survey on tripartite consultation). The Committee invites the Government to indicate how observance of this provision is ensured and requests it in general to continue to provide detailed information on the consultations held on each of the matters set out in *Article 5, paragraph 1*, during the period covered by the report, specifying their purpose, their frequency and the nature of any reports or recommendations resulting from these consultations. Please also report on progress made in relation to the tripartite consultations held for ratifying Conventions Nos. 29, 87, and 169.

7. *Operation of the consultative procedures.* The Committee again requests the Government to indicate whether the representative organizations were consulted with regard to the production of an annual report on the working of the procedures covered by the Convention and, if so, to state the outcome of these consultations. Please communicate a copy of any report drawn up under *Article 6* or any other useful information on the practical application of the Convention.

8. *Strengthening social dialogue. Support of the Office. The Committee remains convinced that, in view of present circumstances in the country, there are opportunities to deepen tripartite consultations still further and to intensify social dialogue in Nepal. The Office has the technical capacity to help strengthen social dialogue and support the activities that governments, employers' and workers' organizations undertake for the consultations required by the Convention, as a contribution to restoration of democracy and to the process of peace building.*

9. *In view of the importance of tripartite consultations on international labour standards, the Committee trusts that the Government will provide a report containing information on progress made in holding effective consultations on the subjects covered by the Convention.*

10. *The Committee hopes that the national authorities and the social partners will be able to benefit from the Office's technical assistance and trusts that the Government's next report will contain replies to all the matters raised in this observation.*

[The Government is asked to reply in detail to the present comments in 2006.]

Netherlands

Aruba

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its 2003 observation which read as follows:

In the report supplied by the Government of Aruba, received in November 2002, it noted the strong regret of the Committee with regard to denouncing the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Rural Workers' Organisations Convention, 1975 (No. 141), without prior consultation with the employers' and workers' organizations. The Government states that it has taken due account of the Committee's comments. It also indicates that the ILO Matters Tripartite Committee is momentarily non-active as it only convened for the purpose of the Government's reporting obligations for the past reporting period. The Government will make additional efforts to formalize such consultation by means of a state decree and encourage regular and continuous consultations. The Government also indicates that the Tripartite Committee has too many members, which made it difficult for effective consultation meetings. The Committee refers to its 2003 observation on the Continuity of Employment (Seafarers) Convention, 1976 (No. 145), and recalls again that proposals regarding the denunciation of ratified Conventions must, under *Article 5, paragraph 1(e)*, of the Convention, be subject to consultations and that under *Article 2, paragraph 1*, the procedures must ensure "effective" consultations, that is, consultations able to influence the decision by the Government. *The Committee hopes that the Government will regularly supply particulars of the consultations held on each of matters set out in Article 5, paragraph 1, of the Convention, including information on the frequency of such consultations and the nature of any reports or recommendations made as a result of the consultations. Please also provide information on any revision implemented to ensure the effectiveness of the tripartite consultations on each of the matters covered by the Convention.*

Pakistan

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

Effective tripartite consultations. The Committee notes the reply provided by the Government in September 2005 on the consultations being held on the process of consolidation and simplification of labour laws. It further notes the different forums where representatives of employers and workers are convened, like the Tripartite Labour Standing Committee at the federal level and the Tripartite Labour Advisory Boards at the provincial level. It further notes the All Pakistan Federation of Trade Unions' observation, forwarded to the Government in June 2005, which indicates that the Government has failed to carry out the principles of Convention No. 144 since no statutory tripartite body has been established to carry out consultation on the prescribed subjects laid down in the Convention. The All Pakistan Federation of Trade Unions also indicates that no meeting on a tripartite basis are being held to consider submission of the instruments adopted by the Conference to Parliament (*Majlis-e-Shoora*) or to deal with the other matters concerning international labour standards covered by the Convention. In its previous observations, the Committee had asked the Government to inform it of any consultation undertaken on the adoption of a specific tripartite procedure (*Article 2 of the Convention*) and to report on the consultations undertaken concerning the questions covered in *Article 5, paragraph 1*, including details on all reports and recommendations arising therefrom. **The Committee invites the Government to take all appropriate measures to promote tripartite dialogue on international labour standards. It also requests the Government to supply a detailed report on the progress achieved in guaranteeing effective tripartite consultation in a manner satisfactory to all the parties concerned, including full and detailed information on the consultations held during the period covered by the next report on each of the questions set forth in paragraph 1.**

Sao Tome and Principe

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1992)

1. *Mechanisms for tripartite consultations and consultations required by the Convention.* The Committee takes note of the letter from the World Confederation of Labour (WCL) forwarding a statement by the General Union of Workers of Sao Tome and Principe (UGT-STP) to the effect that the National Council for Social Consultation, established in 1999, had never fulfilled its role. The UGT-STP asserts that the Council has held only two seminars with support from the Promotion of Social Dialogue Project (PRODIAL), and has discussed two bills on collective agreements and collective bargaining which have not been implemented. The Office sent the WCL's communication to the Government in October 2005.

2. In its observation of 2003, the Committee noted the minutes of a meeting of the National Council for Social Consultation that took place on 10 March 2003. It also noted the activities carried out by PRODIAL (a project financed by the Government of Portugal and executed by the Office). **The Committee requests the Government to supply a detailed report on the application of the Convention, containing information on progress in strengthening tripartism and social dialogue. It again requests the Government in its next report to provide specific information on the consultations that have been held on all the aspects of international labour standards referred to in Article 5, paragraph 1, of the Convention.**

Slovakia

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)

1. Following its previous comments, the Committee notes the Government's report received in January 2005, which contains replies to the comments formulated by the Confederation of Trade Unions of the Slovak Republic (KOZ SR) in October 2004. In its comments, KOZ SR had expressed its concern with shortcomings in social dialogue in 2003-04. In July 2003, KOZ SR requested the ratification of Conventions Nos. 135, 150, 151, 154, 158 and 181, but the tripartite working group that was established only met once, and has not resumed its activities since. It also observed that the Government had reduced the tripartite delegation to the Conference in 2003 and 2004, without prior consultation with the social partners. KOZ SR indicated that, in 2004, the Government stopped submitting draft acts and amendments to the Council of Economic and Social Agreement (CESA) and approved new regulations concerning public health service reform, law on family and other social laws, without prior consultations with the social partners. In the view of KOZ SR, the new rules place social partners in the role of statistic partners, with no tools and opportunities to influence efficiently the Government's policy with regard to the decision-making process in the matters of economic and social development.

2. In its reply, the Government indicates that the procedure for ratification of ILO Conventions was interrupted because amendments to national legislation were required. The delegation to the Conference was reduced for budgetary reasons. The Government also indicates that amendments to the law of 1999 on social dialogue were approved by

Parliament on 21 October 2004. The CESA terminated its activities on 30 November 2004 and the Council of Economic Partnership and Social Partnership was established on 1 December 2004 as the new advisory and consultative body of the Government. The Government expects that, as a result of this legal adjustment, the dialogue with the social partners will improve. The Committee notes the statute of the Council of Economic and Social Partnership of the Slovak Republic, which entered into force on 1 December 2004, attached to the report.

3. The Committee further notes that the Government included in its report extracts of the Memorandum to the Government of the Slovak Republic on a draft law to amend the act on competence and the Act on Collective Bargaining, prepared by the International Labour Office in July 2004 – which was also sent to the social partners in August 2004. The Office recommended that the Government consult the social partners before preparing its regulation defining the composition, the rules and the mandate of the new Council for the Economic and Social Partnership of the Slovak Republic. The Office further recommended that particular consideration be given to creating within this Council a subcommittee dealing with international labour standards and ILO matters in general, within which tripartite consultation over international labour standards could take place between the Government and the social partners, which is common practice in a number of European Union countries. ***In light of the above, the Committee again invites the Government and the social partners to promote and reinforce tripartism and social dialogue on the matters covered by the Convention. It also asks the Government to indicate in its next report if the subcommittee dealing with international labour standards within the new Council has been established. Please also report on the progress made in the establishment of effective tripartite consultations on all the matters covered by Article 5, paragraph 1, of the Convention during the period covered by the next report.***

Swaziland

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1981)

1. The Committee notes the Government's report received in November 2004 in reply to its 2001 direct request, as well as the communication from the Swaziland Federation of Trade Unions (SFTU) forwarded to the Government in November 2004.

2. *Tripartite consultations required by the Convention.* In its latest report, the Government indicates that it is contemplating denouncing the Recruiting of Indigenous Workers Convention, 1936 (No. 50), the Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64), the Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65), and the Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 (No. 104), and that it will inform the Committee on developments regarding the ratification of the Safety and Health in Mines Convention, 1995 (No. 176). In this regard, the Committee recalls that the ILO Governing Body has invited States parties to contemplate ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and denouncing Conventions Nos. 50, 64, 65 and 104 at the same time. ***The Committee asks the Government to keep it informed of any developments in this regard (Article 5, paragraph 1(e), of the Convention).***

3. The Government also indicates that the Labour Advisory Board (LAB) is currently perusing the draft strategic action plan proposed by the Tripartite Workshop held in July 2004 under ILO auspices. ***While taking due note of this information, the Committee requests the Government to provide detailed information on the consultations held by the LAB on each of the other matters set out in Article 5, paragraph 1, and to include information on the nature of the recommendations made by the LAB as a result of the consultations.***

4. ***The Committee asks the Government to continue to include in its next report information on any consultations on the working of the procedures provided for in the Convention (Article 6).***

5. Finally, in relation to the comments formulated by the Swaziland Federation of Trade Unions to the effect that workers' organizations were prevented from submitting their views in the Constitution-making process on issues related to their fundamental rights, the Committee recalls that, at its 90th Session (June 2002), the Conference adopted a resolution concerning tripartism and social dialogue in which it emphasized that social dialogue and tripartism have proven to be valuable and democratic means to address social concerns, build consensus, help elaborate international labour standards and examine a wide range of labour issues in which the social partners play a direct, legitimate and irreplaceable role. ***The Committee trusts that the Government's next report will contain indications on any measures taken in order to improve social dialogue in the country and to implement effective tripartite consultation in the sense of the Convention (Articles 2 and 5).***

Switzerland

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2000)

1. The Committee notes the Government's report received in December 2004 and the record of the meeting of the Tripartite Federal Commission on 26 May 2004. It also notes the communications from the Swiss Federation of Trade Unions (USS) and of the Confederation of Swiss Employers (UPS) attached to the Government's report.

2. *Tripartite consultations required by the Convention. Administrative support and training.* In its report, the Government indicates that the Tripartite Federal Commission includes, in addition to representatives and experts from the administration, representatives of the social partners concerned by ILO matters. With regard to the consultations envisaged in *Article 5, paragraph 1(d), of the Convention*, the Government indicates that draft reports on the application of Conventions prepared by the federal administration are forwarded, for consultation, in draft form to the central associations of employers and workers, leaving them a period of around four weeks to take up a position. Furthermore, with regard to the financing of training of participants in consultation procedures (*Article 4, paragraph 2*), the Government states that an allocation is made to employers' and trade union organizations of which the Swiss Employers' and Workers' delegates participating at the Conference are members and which are members of the Tripartite Federal Commission.

3. The Committee also notes that the UPS in its communication does not make any specific criticisms with regard to the working of the Tripartite Federal Commission and considers that there is no particular need for training of participants in the work of the Federal Commission. In its communication, the USS indicates that it is difficult for the social partners to reply within a period of three or four weeks to the consultations made by the Government concerning the many reports submitted to them so that they can take a position before they are forwarded to the ILO. The USS adds that the funds allocated to the social partners are inadequate and cannot really be used for training.

4. *The Committee hopes that the Government's next report will contain up-to-date information on the tripartite consultations required by the Convention, and particularly on the work of the Tripartite Federal Commission.*

Bolivarian Republic of Venezuela

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

1. *Tripartite consultations required by the Convention.* In reply to the observation of 2003, the Government indicates in a report received in September 2004 that it sent to the social partners a copy of the report as already prepared by the National Government, and of the comments made by the Committee of Experts, on the understanding that if the organizations made comments they would be annexed to the report immediately. The Committee recalls that it pointed out in previous comments that when consultations are carried out in writing the Government should transmit a draft report to the representative organizations to obtain their views before finalizing the report (*Article 5, paragraph 1(d), of the Convention*). *The Committee also refers to the observation that it has been making for many years on compliance with the obligation to submit the instruments adopted by the Conference to the National Assembly (Article 5, paragraph 1(b)) and it would be grateful if the Government would provide updated information in its next report on the tripartite consultations held in practice on each of the items covered by the Convention (Articles 2 and 5).*

2. Taking into account national circumstances, the Committee once again refers to the resolution concerning tripartism and social dialogue (adopted by the Conference at its 90th Session in 2002), which emphasizes that social dialogue and tripartism have proved to be valuable and democratic means to address social concerns, build consensus, help elaborate international labour standards and examine a wide range of labour issues on which the social partners play a direct, legitimate and irreplaceable role. *In this respect, the Committee trusts that the Government will also provide information in its next report on the manner in which the "consultation policies" to which it refers in its last report include measures to ensure that the consultations required by Convention No. 144 are carried out with "representative organizations" enjoying the right of freedom of association (Article 1 of the Convention).*

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 144** (Azerbaijan, Bahamas, Bangladesh, Barbados, Belize, Botswana, Bulgaria, Burkina Faso, Chad, China: Macau Special Administrative Region, Colombia, Congo, Costa Rica, Côte d'Ivoire, El Salvador, Fiji, France: French Polynesia, France: New Caledonia, Greece, Guyana, Ireland, Jamaica, Japan, Kazakhstan, Kuwait, Mongolia, Saint Kitts and Nevis, Trinidad and Tobago, Ukraine, Zambia).

Labour Administration and Inspection

Barbados

Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

The Committee notes the Government's report, which responds in part to its previous comments, and the attached observations of the Barbados Employers' Confederation (BEC) and the Congress of Trade Unions and Staff Associations of Barbados (CTUSAB). *The Committee invites the Government to continue providing detailed information on the application of the Convention, particularly with regard to the following aspects.*

1. *Staffing and resources of the labour inspectorate.* The Committee notes that, in the view of the CTUSAB, the number of labour inspectors should be increased and they should be provided with adequate training and additional resources to allow them to do their work effectively. The BEC considers that there is a lack of inspectors to deal with the growing number of complaints. The Government emphasizes that the constantly increasing work load has not been accompanied by the increase in staffing required to handle it. *The Committee requests the Government to indicate the measures adopted or envisaged to ensure that the number of labour inspectors is sufficient to secure the effective discharge of their duties, particularly in view of the forthcoming adoption of new legislation on occupational safety and health, which should reinforce their functions in this field (Article 10 of the Convention). It also requests the Government to continue to provide information on the measures adopted to furnish labour inspectors with the necessary transport facilities and to reimburse their travelling expenses (Article 11).*

2. *Adequate penalties.* The Committee notes the assurances given by the Government that the question of the provisions respecting penalties will be addressed in the context of the current reform of the labour legislation so as to ensure that the penalties established for violations of the labour legislation are sufficiently dissuasive, in accordance with Article 18 of the Convention. *It requests the Government to indicate the progress made in the legislative reform in this connection.*

3. *Publication of an annual report.* The Committee notes that no annual report on the labour inspection services has been supplied to the ILO since the communication in 2001 of the annual reports of the Department of Labour for the years 1997, 1998 and 1999. *The Committee requests the Government to ensure that an annual report on the inspection services is published and transmitted to the Office within the time limits set out in Article 20 of the Convention and that it contains all the required information, including statistics of occupational diseases, in accordance with Article 21(g) of the Convention.*

Bosnia and Herzegovina

Labour Inspection Convention, 1947 (No. 81) (ratification: 1993)

The Committee notes with regret that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

Article 12, paragraph 1(a), of the Convention. With reference to its previous comments, the Committee once again reminds the Government that, further to a joint representation made to the ILO on 9 October 1999 under article 24 of the ILO Constitution by the Union of Autonomous Trade Unions of Bosnia and Herzegovina (USIBH) and the Union of Metalworkers (SM), alleging violation by the Government of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the committee entrusted by the Governing Body of the ILO with its examination considered that the facts submitted constituted a violation of Article 12, paragraph 1, of Convention No. 81, concerning the right of labour inspectors to enter freely enterprises and workplaces liable to inspection. Further to the recommendations of the latter committee, the Committee of Experts made an observation to the Government in 2001 requesting it to adopt, as soon as possible, all necessary measures to repeal from the legislation the requirement that labour inspectors must seek the authorization of a higher authority to enter enterprises and workplaces liable to their inspection. *The Committee once again requests the Government to provide the information requested on this matter.*

Articles 4, 20 and 21. *The Committee would be grateful if the Government would indicate whether the national inspection system is placed under the supervision and control of a central authority or, as envisaged in paragraph 2 of Article 4, under that of the authorities of each federated entity.*

In any case, the Committee trusts that effect will rapidly be given to the obligation of the central authority, as required by Articles 20 and 21, to publish and transmit to the ILO a general annual report on the activities of the inspection services under its control and requests the Government to provide information on the measures taken for this purpose.

The Government is also asked to provide the information requested by the report form for the Convention under each of its provisions, and in Parts IV and V.

Cape Verde

Labour Inspection Convention, 1947 (No. 81) (ratification: 1979)

The Committee notes the Government's report for the period ending 1 September 2005 and the elements of information that it contains in reply to its previous comments, as well as the comments made by the Commercial,

Industrial and Agricultural Association of Barlavento (ACIAB), the National Union of Workers of Cape Verde – Trade Union Confederation (UNTC-CS) and the Cape Verde Confederation of Free Trade Unions (CCSL), which were forwarded by the Government. ***It requests the Government to provide detailed information in its next report on the following points.***

1. *Means of action of the labour inspectorate.* The Committee notes that, in the view of the CCSL, the labour inspectorate is not functional due to the lack of material and human resources. The low number of inspectors means that it is not possible to exercise effective supervision in all the islands of the country and travel by inspectors is infrequent due to the lack of transport facilities. In this respect, the UNTC-CS considers that the Government should allocate greater resources to ensure effective labour inspection. The Government indicates that it is planning to take measures to establish new inspection services in islands where employment has grown the most over recent years. The Committee also notes that the Government is proposing to organize the recruitment by competition of new labour inspectors and their training in the near future with the support of Brazilian cooperation. ***The Committee requests the Government to continue providing detailed information on any further measures taken to ensure that inspectors are sufficient in number to secure the effective discharge of their duties (Article 10 of the Convention), that they have the necessary material resources and transport facilities (Article 11) and receive adequate initial and further training (Article 7).***

2. *Functions and duties of inspectors.* The Committee notes the Government's indication in its report that new mediation and conciliation functions are to be attributed to labour inspectors by the draft Labour Code that is currently being adopted. It also notes that the Government plans to revise the general conditions of service of the labour inspectorate. With reference to its previous comments, ***the Committee is confident that the Government will ensure that the new functions which may be entrusted to labour inspectors are not such as to interfere with the effective discharge of their primary duties (Article 3, paragraph 2).*** Furthermore, the Committee notes the Government's assurances that the revision of the general conditions of service of the labour inspectorate will take into account the need for provisions prohibiting inspectors from revealing, even after leaving the service, any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties, in accordance with *Article 15(b)* of the Convention.

3. *Notification of cases of occupational disease.* The Committee notes the view of the ACIAB that it is important for the labour inspectorate to be notified not only of industrial accidents, but also of cases of occupational disease so that it can compile statistics on occupational risks, take preventive action and ensure the appropriate coverage of the victims. The Committee notes that, in reply to its previous comments on this subject, the Government provides assurances that account will be taken, in the context of the adoption of the new Labour Code, of the need to supplement the legislation so that it establishes the obligation to notify the labour inspectorate of cases of occupational disease, in accordance with *Article 14* of the Convention.

4. *Publication of an annual report.* The Committee notes the reports from the various inspection offices of the inspections carried out during the years 1999 to 2005, which were transmitted by the Government with its report. The Committee observes that these are reports submitted to the central inspection authority, in accordance with *Article 19* of the Convention; they cannot replace the annual report which, under the terms of *Article 20* of the Convention, has to be published by the central inspection authority and transmitted to the ILO within a reasonable period. With reference to the comments that it has been making for many years on this subject, ***the Committee trusts that the Government will take the necessary measures in the near future to ensure that an annual report on the matters set out in Article 21 of the Convention is published within the required time limits.***

Central African Republic

Labour Inspection Convention, 1947 (No. 81) (ratification: 1964)

Material resources for inspection. The Committee notes the brief indications provided by the Government in reply to its previous comments. It notes with concern the Government's confirmation that it still does not pay the travel expenses of labour inspectors and that, due to the lack of transport facilities, labour inspectors devote more of their time to resolving disputes than inspecting enterprises. ***The Committee trusts that the Government will take the necessary measures in the near future to furnish labour inspectors with the material resources and transport facilities necessary for the performance of their duties (Article 11 of the Convention), so that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the legal provisions relating to conditions of work and the protection of workers (Article 16). It hopes that, where necessary, international cooperation and ILO technical support will be able to facilitate the more effective application of this priority Convention. The Committee requests the Government to describe in its next report of the measures adopted for this purpose.***

Chad

Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)

The Committee notes the Government's report and the useful information supplied in answer to its previous comments. *It requests the Government to continue to provide information in as much detail as possible on the following points.*

1. *Legislation.* Further to its previous requests, the Committee observes that the Government reports no progress in the enactment of enabling legislation for the provisions of Labour Code regarding the duties and prerogatives of labour inspectors, or the draft decree issuing the general conditions of service of labour inspectors to which the Committee has been referring for many years. *It hopes that the Government will shortly be in a position to indicate that progress has been achieved in the enactment of legislation to apply the Convention (Part I of the report form).*

2. *Inspection staff and material resources.* The Committee notes that, according to the Government, the labour inspection services comprise 15 inspectors distributed among three inspectorates and four offices. *It requests the Government to state whether it deems this number sufficient for the effective discharge of labour inspection duties in the light of the criteria set in Article 10 of the Convention.* The Committee also notes with interest that the Government plans to make use of funding from international cooperation to provide labour inspectors with the material resources and transport facilities they need to carry out their duties, as required by *Article 11* of the Convention. *It asks the Government to describe any measures it takes in this respect with a view to ensuring, inter alia, that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions (Article 16).*

3. *Publication of an annual report.* The Committee recalls the importance it attaches to the publication, within a reasonable time, of an annual report by the central inspection authority, to be transmitted to the International Labour Office, in accordance with *Article 20* of the Convention. It points out that section 469 of the Labour Code provides for such a report. *It hopes that the Government will soon be in a position to ensure that a labour inspection report is published covering the subjects listed in Article 21 of the Convention.*

Comoros

Labour Inspection Convention, 1947 (No. 81) (ratification: 1978)

The Committee notes with regret that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

Referring also to its previous observation, the Committee notes that the Government reiterates its request for technical assistance with a view to strengthening the capacity of the labour administration. It also notes that the Government has communicated the observation formulated by the Union of Autonomous Workers' Organizations of Comoros (USATC) concerning the implementation of the Convention as well as the Government's reply to the issues raised.

According to the USATC, the Government is not granting the labour inspectorate the status it deserves in view of the importance of its mission. It stresses, in this regard, the need to grant a larger budget to the labour inspectorate in order to make it operational. The union also suggests that specific projects should be prepared and implemented with support from the ILO and the Regional Programme for the Promotion of Social Dialogue in French-speaking Africa (PRODIAF) in order to strengthen the human resources capacity of the labour inspectorate and social partners.

The Government recognizes the relevance of the USATC observation regarding the need to strengthen organizational capacity and the training of labour inspectors and social partners. The Committee notes the Government's hope of achieving this through technical assistance from the ILO and from PRODIAF. *The Committee hopes that the Government has taken the necessary steps to this end and that it will provide information in its next report on the results achieved. It would also be grateful if it would gather and communicate to the ILO, as requested in its previous observation, data available on labour legislation and on human and material resources available to the labour inspectorate, and indicate the state structures and, where appropriate, private structures exercising direct competence in the field of inspection or cooperating therein.*

Côte d'Ivoire

Labour Inspection Convention, 1947 (No. 81) (ratification: 1987)

Human and material resources of the labour inspectorate. With reference to its previous comments, *the Committee requests the Government to provide information that is as full and detailed as possible in its next report in reply to the questions contained in the report form approved by the Governing Body. Please indicate in particular whether measures have been taken for the establishment of the national register of enterprises, referred to by the Government in a previous report. Please also specify the financial resources allocated for the labour inspectorate so that it has sufficient staff and the necessary material resources and transport facilities (Articles 10 and 11 of the Convention).*

Democratic Republic of the Congo

Labour Inspection Convention, 1947 (No. 81) (ratification: 1968)

The Committee takes note of comments received from the Confederation of Trade Unions of Congo (CSC) in September 2005, which were transmitted to the Government. It notes with regret that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

The Committee notes the comments on the application of the Convention communicated to the ILO by the Confederation of Trade Unions of Congo (CSC) by a letter of 31 May 2004, which were forwarded by the ILO to the Government on 16 July 2004, supported by a statement by the World Confederation of Labour (WCL) of 28 July, forwarded to the Government on 16 August 2004.

According to the CSC: (i) the Government has not sent any report to workers' organizations; (ii) in exchange for financial inducements to labour inspectors, employers are allowed to dismiss workers on the occasion of both individual and collective disputes; and (iii) a number of labour inspectors divide their working day between the role of heads of personnel in an enterprise in the morning and labour inspectors in the afternoon.

The Committee would be grateful if the Government would provide any comments that it considers useful on the points indicated above in relation to Articles 6 and 15(a) of the Convention. The comments of the CSC and the WCL will be examined together with any clarifications that the Government wishes to make at the next session of the Committee.

Guinea

Labour Inspection Convention, 1947 (No. 81) (ratification: 1959)

Resources of the labour inspectorate. The Committee notes with concern that the information provided by the Government in its report for the period ending June 2005 reveals that the labour inspectorate suffers from a persistent shortage of resources. It notes, in particular, that retired labour inspectors are no longer being replaced and that the inspection services as a whole suffer from a lack of computer equipment and transport facilities. It notes, moreover, that labour inspectors have not received any training since 2000. ***The Committee hopes that the Government will soon be in a position to furnish the labour inspectorate with the resources it needs to operate effectively, in particular in order to ensure that the number of labour inspectors is sufficient (Article 10 of the Convention), that they are furnished with the material means and transport facilities necessary for the performance of their duties (Article 11) and that they receive adequate training for the performance of their duties (Article 7, paragraph 3). The Government is requested to transmit information on any progress made in this regard in its next report.***

Publication of an annual report. The Committee notes that no annual inspection report has been transmitted since that covering the period of 15 October 1994 to 15 October 1995. Referring to its previous requests, ***it once again requests the Government to take any appropriate measures with a view to the fulfilment by the central inspection authority of its obligation to publish and transmit to the International Labour Office an annual report in accordance with Articles 20 and 21 of the Convention.***

Guyana

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)

The Committee notes with regret that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

The Committee notes the Government's report and the annual reports on the activities of the Labour Department for 1998, 2000 and 2002.

Articles 26 and 27 of the Convention. While noting with interest the information included in the annual reports on the activities of the Ministry of Labour on inspection in agricultural enterprises and the data on employment accidents in agriculture provided by the Government, the Committee once again emphasizes the importance, from both a national and an international point of view, of the publication and communication to the ILO of an annual report of the activities of the labour inspectorate. ***It therefore once again hopes that the Government will take the necessary measures in practice to ensure that the central inspection authority fulfils this obligation set out in the Convention.*** In this respect, the Committee draws the Government's attention to the various forms that the report may take in accordance with *Article 26*, while emphasizing the need to include information that is as detailed as possible on each of the items covered by *Article 27*, with specific reference to the agricultural sector.

The Committee is addressing a request directly to the Government on another point.

Haiti

Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

With reference to its previous comments, the Committee takes due note of the Government's assurances that it will soon provide a detailed report on the application of the Convention. It notes the appointment of a new coordinator of regional labour inspection offices, as part of a series of measures to re-establish the inspection services throughout the

country. *The Committee requests the Government to describe the progress achieved in this respect in its next report, providing replies that are as detailed as possible to the questions contained in the report form approved by the Governing Body of the ILO.*

Luxembourg

Labour Inspection Convention, 1947 (No. 81) (ratification: 1958)

The Committee notes with regret that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

The Committee notes with satisfaction the information contained in the Government's report and its "Note to the Government in Council on the reform of the inspectorate of labour and mines" for the joint implementation of a labour inspection system based on the recommendations of the tripartite audit mission prepared and organized by the ILO, and intended to improve the application of the fundamental principles enshrined in the Convention.

Attentive to any changes in the situation, the Committee requests the Government to keep the ILO informed of any new developments.

A request is being addressed directly to the Government on certain points.

Madagascar

Labour Inspection Convention, 1947 (No. 81) (ratification: 1971)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

The Committee notes with interest the Government's detailed replies to its previous comments. It also notes the organization in September 2004, under the direction of the ILO Regional Office in Antananarivo, in collaboration with the Government, and with the very active participation of representatives of the Government and of the social partners and non-governmental organizations concerned, of a series of events aimed at strengthening tripartism in the context of labour administration. The Committee notes in particular with interest: (i) the holding of a tripartite monitoring workshop focusing on the definition of a suitable methodological approach for carrying out a study concerning observance of the fundamental rights and conditions of work of workers in "free enterprises" (*entreprises franches*); (ii) a workshop for the validation of a study on forced labour and the adoption of a relevant plan of action; and (iii) a day of work focusing on labour inspection, which was attended not only by representatives of the Government and the social partners, but also by managers, inspectors (40 in service and 20 receiving training at the National School of Administration) and labour controllers. According to the information available to the ILO, the importance of the role of the labour inspection system was recognized by all categories of participants in the above meeting. In addition, the Committee notes with interest the existence of high-level competence in the labour administration, as well as the expression of a genuine political will on the part of the Government to set up an effective labour inspection system. It notes, however, that a critical lack of material and financial means is currently a major obstacle to achieving this objective.

The Committee notes that the imbalance between available resources and needs is accentuated even further by the extent of the duties and areas of competence of the labour inspection system pursuant to the legislation. *Noting that a draft Labour Code is currently being promulgated, the Committee hopes that a copy will be sent to the ILO and that measures will be taken to ensure that the texts necessary for the application of its provisions in relation to the matters covered by the Convention meet the requirements of the latter, and that needs are covered in a progressive manner, in the light of available resources and priorities adopted, in all legislative areas which come under the competence of the labour inspectors.* The above measures should be taken with regard to the following matters:

- (i) the principle functions of the labour inspection system (controls, technical advice and information and contributing towards improving the legislation covered by the Convention);
- (ii) methods and means of control and supervision by a central authority;
- (iii) measures promoting spheres of cooperation with other public and private institutions, as well as methods of collaboration with the social partners and the development of procedures for: (a) notifying the labour inspectorate of industrial accidents and occupational diseases; (b) making an inventory of workplaces which are legally liable to inspection; and (c) communicating judicial decisions handed down with regard to employers found guilty of contraventions;
- (iv) the status and conditions of service of labour inspectors;
- (v) enhancing and developing the competencies of labour inspection staff;
- (vi) the provision of appropriate logistical and financial means to services;
- (vii) the scope of inspectors' powers and their obligations;
- (viii) the effective application of dissuasive sanctions with respect to those responsible for contraventions.

The Committee trusts that the Government will communicate to the Office practical and legislative information (acts, decrees, regulations, circulars and instructions) concerning the development of the labour inspection system vis-à-vis the provisions of the Convention and inform it of any measures taken, where appropriate, to obtain international financial aid for this purpose and of any difficulties encountered.

Malaysia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

Publication of an annual report. The Committee regrets to note that, although the Government indicates in its report that an annual report is compiled by the labour inspectorate, it has nevertheless omitted to transmit this report. With

reference to the repeated requests that it has been making for many years in this connection, *the Committee trusts that the Government will take the necessary measures in the near future to ensure that the annual report required by Articles 20 and 21 of the Convention is published and transmitted to the ILO.*

Mozambique

Labour Inspection Convention, 1947 (No. 81) (ratification: 1977)

Resources of labour inspectors. The Committee notes the Government's report for the period ending 31 May 2005. It is concerned by the fact that the Government reports a significant drop in the number of establishments inspected, from 4,978 in 2000 to 2,935 in 2004. Referring to its previous comments, the Committee notes in this regard that the lack of financial resources and scarce transport facilities continue to present an obstacle to the effective exercise of inspection functions throughout the country. *The Committee requests the Government to describe in its next report any measures taken, where appropriate, with the technical assistance of the ILO and the support of international cooperation, in order to ensure labour inspectors are furnished with the material means and the transport facilities required to ensure that establishments are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions relating to work conditions and the protection of the workers, in accordance with Articles 11 and 16 of the Convention.*

A request regarding certain other points is being addressed directly to the Government.

Nigeria

Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

Further to its previous comments, the Committee notes with regret that the very brief report sent by the Government does not contain information allowing the Committee to assess the effect given to the Convention. *It trusts that in its next report the Government will provide full information and that it will take care in particular to reply in detail to the points below, which the Committee has been raising for several years.*

Staff of the labour inspectorate. *The Committee requests the Government to describe the manner in which the status and conditions of service of the inspection staff assure them of stability of employment and make them independent of changes of government and of improper external influences, in accordance with Article 6 of the Convention. It also asks the Government to indicate what conditions are applied to their recruitment and what arrangements exist for their initial training and subsequent training (Article 7). The Government is also asked to indicate the strength and geographical distribution of the inspection staff, specifying to what extent these secure the effective discharge of the inspectorate's duties (Article 10).*

Publication of an annual report. The Committee observes that no annual labour inspection report has been sent by the Government since 1995. *It hopes that the Government will shortly be in a position to ensure that an annual report on all the subjects covered by Article 21 of the Convention is published every year and is sent to the Office within the prescribed time limits, in accordance with Article 20.*

Pakistan

Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)

The Committee notes the brief report received in January 2005 and the elements of a reply to its previous observation provided in September 2005. The Committee also notes a communication from the All Pakistan Federation of Trade Unions (APFTU), a copy of which was forwarded by the Government.

1. *Supervision and control by a central authority.* The Committee notes that the APFTU alleges a general failure to apply the Convention in the two largest provinces in the country, namely Punjab and Sind, through the failure of the provincial governments to fulfil their constitutional and legal obligations. The Committee notes in this respect the Government's statement that labour inspection is placed under the control of the provincial authorities, which themselves answer to the federal authorities. *The Committee requests the Government to specify the effect given in relation to the provinces of Punjab and Sind to the provisions of Article 4 of the Convention, which provides that labour inspection shall be placed under the supervision and control of a central authority.*

2. *Labour inspection policy.* The Committee notes that the Government is in the process of formulating a labour protection and labour inspection policy with the assistance of the Asian Development Bank. It notes that a tripartite task force has been appointed for this purpose and that the policy will be aimed at reorganizing and streamlining labour inspection services in the provinces. *The Committee requests the Government to continue providing information on the projects undertaken and the progress achieved in this field, with an indication of the manner in which they contribute to strengthening the application of the Convention.*

3. *Publication of an annual report.* The Committee notes the Government's assurances that an annual report on labour inspection should soon be published once again and transmitted to the ILO. Recalling that the last annual report

received by the ILO covered the year 1995, *the Committee hopes that the Government will be in a position in the near future to publish and transmit, within the time limits prescribed, an annual report established in accordance with Article 20, and that the report will contain all the information required by Article 21 of the Convention.*

Paraguay

Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

The Committee notes with regret that it has not received a report. It notes, moreover, that no report has been received since 1999 and that the Government has not accepted the invitation to transmit its comments on an observation received in June 2002 from the Ibero-American Confederation of Labour Inspectors (CIIT). *The Committee trusts that the Government will provide a full report for examination at its next session and that it will contain detailed information on all the points raised in its previous observations.*

A request relating to certain issues is again addressed directly to the Government.

Poland

Labour Inspection Convention, 1947 (No. 81) (ratification: 1995)

Free access of inspectors to workplaces liable to inspection. The Committee notes the Government's report for the period ending in June 2005 and the attached report of the National Labour Inspectorate on its activities for 2004. The Committee notes the adoption of the Act of 2 July 2004 on freedom of economic activity, which amends the Act of 6 March 1981 on the National Labour Inspectorate. The Committee notes that section 8(3), as amended, of the Act provides that inspections may be carried out only upon presentation of an authorization from the Chief Labour Inspector or her or his deputies, or district labour inspectors or their deputies, except where circumstances warrant immediate inspection, in which case the labour inspector must present the authorization within three days of the commencement of the inspection. The same section requires the authorization to determine the scope of the inspection in terms of its subject and to indicate the date of commencement and the expected date of completion of the inspection. The Committee further notes that section 80 of the Act on freedom of economic activity requires the employer's presence at inspections (except in the instances cited in the same section); that section 82 forbids more than one inspection of the enterprise at the same time, so that where an inspection is being performed by an authority other than the inspection service, the labour inspector must postpone her or his visit and set a new date in agreement with the employer; and that section 83 sets limits for the duration, frequency and scope of inspections (other than for the exceptions cited in the same section).

The Committee recalls that, under *Article 12 of the Convention*, labour inspectors provided with proper credentials shall be empowered to enter freely and without prior notice any workplace liable to inspection and need notify the employer of their presence only if they deem that such notification is unlikely to be prejudicial to the performance of their duties. The Committee also points out that under *Article 16*, workplaces have to be inspected as often and as thoroughly as is necessary to ensure the effective application of the legal provisions governing working conditions and the protection of workers. In the Committee's view, the restrictions that the Act on freedom of economic activity imposes on the performance of labour inspection duties are liable to impair freedom of inspectors to inspect workplaces as often as is necessary. *The Committee accordingly asks the Government to re-examine the provisions of this Act in the light of the provisions and objectives of the Convention.*

The Committee is addressing a request concerning other matters directly to the Government.

Romania

Labour Inspection Convention, 1947 (No. 81) (ratification: 1973)

The Committee notes the Government's reports received in May and August 2005. It notes the discussion that took place in the Conference Committee on the Application of Standards in June 2005 and that Committee's conclusions, and a communication from the National Trade Union Bloc (BNS) received in September 2005.

1. *Legislation.* The Committee notes the Government's useful clarifications regarding the legislation governing the organization and operation of the labour inspectorate. It notes that, according to the BNS, a draft amendment to Act No. 108 of 1999 on the establishment and organization of the labour inspectorate was to be submitted to the trade union organizations in October 2005 and that draft conditions of service of labour inspectors were to be submitted to the social partners. *The Committee requests the Government to continue to provide information on any new legislative or regulatory measures affecting the application of the Convention (Part I of the report form).*

2. *Training of labour inspectors.* The Committee notes the information on the training activities conducted by the Centre for the Training and Further Training of Labour Inspectors and in the context of a project to strengthen the inspectorate's institutional capacity, being carried out in partnership with the Spanish Ministry of Labour and Social Affairs. It notes that the BNS reports other technical cooperation activities with the Governments of France and Sweden in the area of the training of trainers. *The Committee requests the Government to continue to provide information on the*

nature and volume of the arrangements for the initial training and subsequent training of labour inspectors (Article 7 of the Convention).

3. *Sanctions.* The Committee notes the information on the trends in the number and severity of penalties applied for breaches of the labour legislation. It notes that in the view of the BNS, the penalties established in the revised Labour Code in consultation with the social partners are such as to deter employers from infringing the rights of workers. *The Committee requests the Government to continue to provide information on the measures taken to ensure that the penalties remain dissuasive (Article 18 of the Convention).*

4. *Publication of an annual report.* The Committee notes the detailed and useful information contained in the labour inspection report for 2003. *It requests the Government to specify whether this yearly report is published in accordance with Article 20, paragraph 2, of the Convention. It invites the Government to ensure that such an annual report is communicated regularly to the ILO within the prescribed time limits and that it contains all the requisite information, including statistics of occupational diseases as prescribed by Article 21(f) of the Convention.*

Sao Tome and Principe

Labour Inspection Convention, 1947 (No. 81) (ratification: 1982)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

The Committee notes the Government's incomplete replies to its previous comments and the two reports on labour inspection attached thereto.

Article 14 of the Convention. The Committee would be grateful if the Government would take prompt measures to ensure that the labour inspectorate is informed of industrial accidents and cases of occupational disease in such cases and in such manner as may be prescribed by national laws or regulations, and provide relevant information.

Articles 20 and 21. The Committee notes that the inspection reports sent by the Government fall short, both in form and in substance, of the requirements set by the Convention. *The Committee once again expresses the hope that the Government will soon be able to report that measures have been taken to ensure that the central inspection authority has fulfilled, if necessary with ILO technical assistance, the obligations laid down by the above provisions of the Convention.*

The Committee is addressing a request on other points directly to the Government.

Swaziland

Labour Inspection Convention, 1947 (No. 81) (ratification: 1981)

The Committee notes with interest the information provided in reply to its previous comments, and the very complete data contained in the 2004 annual report of the Department of Labour. *It requests the Government to continue transmitting this report regularly to the ILO, in accordance with Article 20, paragraph 3, of the Convention.*

Syrian Arab Republic

Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

The Committee notes the Government's report and the documents attached. Referring to its previous comments, *it requests the Government to provide in its next report additional information on the following points.*

Collaboration between employers and workers. Please describe the measures taken or envisaged in accordance with Article 5(b) of the Convention in order to encourage collaboration between the labour inspection services and the employers or workers or their organizations with a view, among other things, to the implementation of preventive occupational safety measures.

Publication of an annual report. The Committee notes that since 2001 no annual report on the work of the inspection services has been communicated to the International Labour Office. It points out in this regard the importance of publishing and communicating regularly to the International Labour Office an annual report that complies in both form and substance with the provisions of *Articles 20 and 21* of the Convention. *The Committee invites the Government to ensure that such a report is regularly published and communicated to the International Labour Office.*

United Republic of Tanzania

Tanganyika

Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

Articles 11 and 16 of the Convention. The Committee notes with interest that, as a result of to the technical cooperation project for the reinforcement of labour relations in East Africa (ILO/SLAREA), the Government was able to make available to the inspection services ten motorcycles, thus improving their ability to travel to the establishments under their supervision. It notes, however, that these were not appropriate for travel in areas containing wild animal reserves and that the Government counts on ILO support in the framework of the above project, to obtain financing for four-wheeled vehicles for this purpose.

Articles 20 and 21. The Committee notes that, due to the persistence of economic constraints and the unattractive conditions of service of labour inspectors, the conditions required for the formulation of an annual inspection report have still not been met. It nevertheless notes the Government's hope that during the implementation stage of the recommendations of the Labour Law Reform Task Force, and with ILO support, more resources will be allocated to the fulfilment of this obligation.

The Committee is addressing a request on other points directly to the Government.

Uganda

Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

The information supplied by the Government in its report again brings to light the following two facts:

- (1) The labour inspection system, already seriously affected by the country's economic difficulties before decentralization, continues to deteriorate owing to the persistence of the economic downturn and to the manner in which decentralization is being implemented.
- (2) Being based on the principle of a labour inspectorate placed under the control of a central supervisory authority, the existing legal framework governing the powers, organization and working of the labour inspection service is no longer practicable and cannot be applied because, with decentralization and the transfer of powers to the districts, the central authority has yielded control to the districts over their budgetary resources.

1. *Decentralization and labour inspection.* With reference to its previous comments and the discussions in the Conference Committee at the 2001 and 2003 sessions of the International Labour Conference, the Committee of Experts notes that the country is currently engaged in an in-depth reform of its institutions which appears to aim ultimately at decentralizing many state functions. However, as the Government itself observes, decentralization does not comply with *Article 4 of the Convention* and a central authority is needed to supervise and control the labour inspection system.

The information provided by the Government shows that the central labour inspection authority is now devoid of all substance: the little authority that the Ministry retains in law cannot be exercised for want of the necessary structure and resources and some heads of districts take the attitude that to maintain or establish local labour inspection services serves little purpose.

All this is particularly worrying in terms of the Convention's social and economic objectives, to which the Government subscribed formally through the solemn act of ratification. ***The Committee accordingly urges the Government to reconsider, if not the principle of a decentralized labour inspectorate which now appears firmly to be a part of the overall national project, at least the methods and means of implementing decentralization.*** One necessary principle is that the labour inspection system should come under a central authority, within the meaning of *Article 4* of the Convention taken as a whole – the restructuring in Uganda seems to be moving towards a kind of “federalism”, in which the districts are like the “federated units” referred to in *paragraph 2* of this Article. The Committee points out that the obligations laid down under *article 2* of the ILO Constitution that the Government assumed on ratifying the Convention must in any event remain the responsibility of the State. It is a duty of the State to ensure that the conditions needed to apply the Convention exist nationwide. National laws and regulations must ensure that authority for labour inspection is shared between the central bodies of the labour administration and the decentralized authorities, and there must be uniform legislation governing the status, conditions of service and training of inspection staff (*Articles 6 and 7*). Furthermore, there must be scrupulous observance of the need to ensure the establishment either of a labour inspection system in each district or, possibly, a system in which authority would be determined on a broader, regional basis if such an option is deemed better suited to the more rational use of available resources. In any event, resources must be assigned on a legal basis to labour inspection in order to make available to labour inspection services the staff, material and logistic resources necessary to perform their duties (*Articles 6, 7, 9, 10 and 11*).

2. *Establishment of an inspection system suited to economic and social needs: urgent preliminary measures.* The fact that it has been impossible for many years to produce an annual report on the work of the inspection services (*Articles 20 and 21*) not only reflects the extent to which the labour system has been dismantled but, even more regrettably, prevents any assessment of needs either at the national or regional level. As a result, it is impossible to determine any priorities for action and evaluate the resources needed. The effects of globalization on working conditions and workers' rights need to be studied and anticipated on a tripartite basis to secure the social partners' attachment to the principle that an effective labour inspection service needs to be established in the twofold interest of social protection and improved productivity. The Committee notes that the ILO is endeavouring, through technical assistance under the SLAREA project, to draw the Government's attention to the importance of the tripartite dimension of labour administration. ***It hopes that measures will be taken in this area, particularly in the context of the application of this Convention.***

The Committee urges the Government, in the light of the foregoing and its earlier and repeated comments, to take all the preliminary steps necessary for the establishment of an inspection system that meets the requirements of the Convention; to keep the Office informed of any developments; to provide copies of relevant legislative, regulations and administrative texts; and to report any difficulties encountered.

Viet Nam

Labour Inspection Convention, 1947 (No. 81) (ratification: 1994)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

The Committee notes the Government's report for the period ending 31 May 2003, the annual inspection report for 2002 and the report covering 2002 of the inspection services of the province of Binh Duong.

Establishment of an integrated inspection system. With reference to its previous comments, the Committee notes with satisfaction that, in the context of the national ILO/Viet Nam project on SafeWork and integrated labour inspection, a labour inspection system which also covers occupational safety and health has been established by the Decree of 31 March 2003 of the Ministry of Labour, Invalids and Social Affairs (MOLISA). The Committee also notes that a new Department of Inspection has been established within the MOLISA by Decree No. 1118 of 10 September 2003 and that a training programme for labour inspectors has been established within the context of the above project. ***It would be grateful if the Government would provide a copy of the Decree and supply detailed information on the training planned within the context of the programme referred to above.***

The Committee is addressing a request directly to the Government on other matters.

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 63** (Barbados, Cuba, Kenya, Myanmar, Nicaragua, Syrian Arab Republic); **Convention No. 81** (Antigua and Barbuda, Azerbaijan, Belarus, Burundi, Cuba, Djibouti, Dominica, Ecuador, Egypt, France: Guadeloupe, France: Martinique, France: Réunion, Ghana, Grenada, Guinea-Bissau, Guyana, Hungary, Jamaica, Kazakhstan, Republic of Korea, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Mali, Malta, Mauritius, Morocco, Mozambique, Netherlands, Netherlands: Aruba, Netherlands: Netherlands Antilles, Paraguay, Poland, Qatar, Russian Federation, Saint Vincent and the Grenadines, Sao Tome and Principe, Senegal, Serbia and Montenegro, Sierra Leone, Spain, Suriname, United Republic of Tanzania: Tanganyika, United Kingdom: Isle of Man, Viet Nam); **Convention No. 129** (Argentina, Azerbaijan, Côte d'Ivoire, Croatia, Egypt, France: Guadeloupe, France: Martinique, France: Réunion, Guyana, Hungary, Kazakhstan, Malta, Morocco, Poland, Romania, Serbia and Montenegro); **Convention No. 150** (Belize, Burkina Faso, Cambodia, China, China: Macau Special Administrative Region, Costa Rica, Cyprus, Democratic Republic of the Congo, Gabon, Guinea, Guyana, Israel, Republic of Korea, Lesotho, Namibia, Netherlands, Portugal, Seychelles, Zambia); **Convention No. 160** (Belarus, Brazil, Cyprus, Czech Republic, Germany, Italy, Kyrgyzstan, Lithuania, Poland, San Marino, Slovakia, Swaziland, United Kingdom: Isle of Man, United States).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 160** (Denmark).

Employment Policy and Promotion

General remarks

Employment Policy Convention, 1964 (No. 122)

After the discussion that took place at the Conference Committee in 2004 of its General Survey on the Conventions and Recommendations related to the promotion of full, productive and freely chosen employment, the Committee completed at this session the examination of the reports of the member States that have already ratified this priority Convention. As in previous years, the Committee benefited from technical input provided by the Employment Sector of the Office including analysis by employment specialists providing assistance in the field.

By ratifying Convention No. 122, 95 member States are committed to pursue an active employment policy, which has as a major goal of macroeconomic policy, a focus on the design and implementation of an active employment policy. The achievement of full and productive employment should not be an afterthought, but should be considered throughout the macroeconomic policy formulation stage. The Convention also stresses the need for governments to keep employment policies under review, and to consult with employer's and worker's organizations and all those affected by employment policies.

In this respect, the Committee observes with interest that at the 2005 World Summit Outcome, the Heads of States and Governments expressed their resolution "to make the goals of full and productive employment and decent work for all, including for women and young people, a central objective of our relevant national and international policies as well as our national development strategies, including poverty reduction strategies, as part of our efforts to achieve the Millennium Development Goals".¹

In this regard, in reviewing the application of Convention No. 122, the Committee has examined the information contained in the Government's reports concerning employment and unemployment trends overall, and for groups historically disadvantaged in the labour market, such as young people, women, minorities, indigenous peoples and workers in the informal economy. It has also been of particular concern for the Committee to gather information about the extent to which economic growth translates into better labour market outcomes and poverty reduction. The Committee noted with interest that the social protection schemes have been expanded in **Thailand** where unemployment benefits have been implemented as a complement to its employment policy.

Certain trends emerged from this year's governments' reports. For instance, the Committee noted the importance of monitoring the economic activity rate. The technical definition of unemployed requires that persons have some active attachment to the labour force. In some countries, a significant percentage of working-age persons, including men, are not deemed to be unemployed, and thus are not counted in the labour force. As a result, the unemployment statistics, while correct, do not reveal the full extent of lack of decent work in the economy. In this regard, the Committee notes that **Poland** and the **Russian Federation** are experiencing very low economic activity rates, reflecting the fact that some transition economies in Central and Eastern Europe are experiencing a contraction in their economies.

Several reports identified university graduates as a group having problems in the labour market. This phenomenon was mentioned by **Morocco**, the **Philippines**, **Sudan**, **Tunisia** and **Uganda**. This mismatch between the skill set of the highly educated and jobs available in the labour market is a matter of concern. In this regard, governments and social partners might consider it useful to implement the measures concerning education, training and lifelong learning contained in the Human Resources Development Recommendation adopted by the International Labour Conference at its 92nd Session (2004).

In some highly developed economies where longevity is increasing and the birth rate is low, the governments reported an interest in keeping people, especially those over age 50, in work longer. **Austria**, **Denmark**, the **Netherlands**, the **United Kingdom**, as well as the **Republic of Korea**, reported on measures to encourage older persons to continue in the labour force.

The Committee noted with interest the detailed and comprehensive information provided by many governments (for instance, **Brazil**, **Colombia**, **Germany**, **Japan**, **Slovakia**, **Slovenia**) on the application of Convention No. 159 which requests that the employment policies include adequate measures to integrate people with disabilities in the labour market. The Committee praises again the action taken by **Ireland** – in cooperation with the Office – to promote Convention No. 159 at national and international levels. In its reports on Convention No. 122, the Governments of **Canada** and **New Zealand** reported on active measures taken to ensure the labour insertion of workers with disabilities in the open labour market. In **New Zealand**, the Government provided information on the evaluation of three labour market measures aimed at getting disabled persons into work. Schemes that combined training with work experience were the least effective of the three. Opportunity schemes, for instance, where disabled persons were given assistance to set up their own small businesses, were found to be useful for some. The most successful were matching programmes, such as schemes that

¹ Paragraph 47 of the resolution adopted at the High-level Plenary Meeting of the General Assembly by the General Assembly at its 59th Session, September 2005 also referred to the eradication of the worst forms of child labour and of forced labour, as well as the full respect for fundamental principles and rights at work.

combined wage subsidies with work experience. The Committee welcomes this example of a government setting out to identify which labour market policies are most effective and have the most positive impact with regard to the employment of most vulnerable groups, as it gives an example of best practices of the implementation of the Convention's requirement that governments keep policies under review with the aim of ensuring full and productive employment freely chosen.

In some cases, the Committee noted the concerns voiced by the observations of the social partners concerning their insufficient involvement in the design and evaluation of employment policies. The Committee recalls that the Convention provides that the measures to be taken in relation to employment policy should take fully into account the experience and views of the social partners with a view to securing their full cooperation in formulating and implementing employment policies, including the opinions of those working in the rural sector and the informal economy. The Committee hopes that in future reports more governments will show progress in implementing the goals of Conventions and Recommendations related to employment promotion that play a critical role in combating poverty and social exclusion.

Algeria

Employment Service Convention, 1948 (No. 88) (ratification: 1962)

1. *Cooperation of workers' and employers' representatives.* In its previous comments, the Committee requested the Government to take appropriate steps to bring the national regulations into conformity with the Articles of the Convention that aim to secure the cooperation of employers' and workers' representatives in the organization and functioning of the employment service and the development of employment service policy. In response to those comments, the Government states that in 1990, the National Employment Agency (ANEM) replaced the National Manpower Office. The National Employment and Poverty Reduction Observatory, created in 2005, comprises representatives of the administration, employers, unions, research and study institutes, and representatives of community-based associations. ***The Committee notes this information with interest and, referring to its observation on the Employment Policy Convention, 1964 (No. 122), requests the Government to continue to report on measures taken by ANEM and the National Employment and Poverty Reduction Observatory to ensure, in cooperation with the social partners, that the public employment service is run efficiently and free of charge, and that it comprises a network of offices sufficient in number to meet the specific needs of jobseekers and employers countrywide (Articles 1 to 7 of the Convention). Please also provide statistical information on the number of existing public employment offices, job applications received, job offers notified and persons placed in employment by these offices.***

2. *Cooperation in the administration of unemployment insurance.* The Committee notes that ANEM cooperates with the National Unemployment Insurance Fund (CNDA) in the issuance of unemployment attestations and the grant of unemployment allowance for workers who have been made redundant (*Article 6(d)*). ***The Committee would be grateful if the Government would continue to send information on the cooperation between ANEM and the CNDA to provide relief for the unemployed.***

Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

1. *Implementation of an active employment policy.* In a report received in May 2004, the Government refers to the components of a national employment policy contained in a study published by the ILO in October 2003. The Government also refers to the ILO study concerning reform of the National Employment Agency (ANEM) in the Algerian intermediary system on the labour market (December 2003) and the national consultation on the theme of "freedom from poverty through work", held in October 2003. In the light of the labour market analysis carried out in October 2003, some recommendations have been made with a view to adopting a global approach for the elaboration and implementation of a national employment policy. The employment situation in Algeria, the institutional modifications linked to the employment policy, as well as the essential place of an effective employment service for improved efficiency of the employment policy, showed that reform of the ANEM should not be delayed further. In the Committee's view, implementation of these recommendations should encourage the pursuit of the objectives of the Convention, which provides that employment promotion policies and programmes must be decided on and kept under review within the framework of a coordinated economic and social policy (*Article 2 of the Convention*). ***The Committee requests the Government to supply a report containing detailed information on the measures taken to implement an active employment policy within the meaning of the Convention subsequent to the assistance received from the ILO.***

2. *Collection and use of employment data.* The Committee notes that lack of information on job offers results in irregular production of data on the labour market, restrictive circulation, selective processing of the data collected and the instruments for analysis which are not in keeping with current economic changes (ILO, *Marché du travail et emploi en Algérie: éléments pour une politique nationale de l'emploi*, 2003, page 66). ***The Committee hopes that in its next report the Government will give an account of the progress made to improve the labour market information system and that it will include detailed statistics on the situation and trends in employment, specifying the manner in which the data was used to determine and review employment policy measures.***

3. *Labour market policies and training.* The Committee observes that the high unemployment rate continued during the period 2002-04, despite the establishment of programmes and institutions aimed at combating unemployment and its social consequences. While the unemployment rate fell in the period under consideration due to the impact of improved

economic growth, it was still 23.7 per cent in 2003 and mainly affected young people and first-time entrants to the labour market. In addition, the Committee notes a rise in unemployment among young people holding a higher education qualification, which was 56 per cent for 15-24 year-olds and 31 per cent for 25-34 year-olds, which appears to reflect a mismatch between training possibilities and market needs and can be a source of social exclusion. Finally, the Committee notes the existence of support programmes for the creation of enterprises, particularly in the form of microcredits, which benefit on average about 18,000 people a year. The programmes, intended to improve regional and local infrastructure, receive around 280,000 people a year. In its last report of August 2005, the Government refers to the recent decrees and regulations on the development and promotion of micro-enterprises and microcredits. ***In this regard, the Committee requests the Government to provide information on the creation of sustainable employment as a consequence of the various programmes mentioned. Please also indicate measures adopted with a view to coordinating education and training policies with employment prospects.***

4. *Participation of the social partners in policy preparation and implementation.* The Committee recalls that *Article 3* of the Convention calls for consultation with all the persons affected, and in particular the representatives of employers and workers, in the formulation and implementation of employment policies. It is the joint responsibility of governments and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see paragraph 493 of the General Survey of 2004 on promoting employment). The Committee trusts that the Government will supply detailed information on this matter in its next report.

5. Finally, the Committee recalls that the provision of documents by the Government must not be a substitute for the preparation of a detailed report including replies to the matters raised in this observation. The preparation of a detailed report will undoubtedly allow the Government and the social partners to assess the achievement of the objective of full productive employment stipulated by the Convention.

Argentina

Employment Service Convention, 1948 (No. 88) (ratification: 1956)

1. *Contribution of the employment services to employment promotion.* In relation to its observation of 2004, the Government indicates that, by means of Ministerial Decision No. 176 of March 2005, an Employment Services Unit has been established, the objectives of which include introducing a system for the establishment and strengthening of institutions providing employment services, assisting the provincial services involved in the management of the Federal Employment Services Network and providing technical assistance to local employment offices belonging to government institutions or civil society organizations with a view to diversifying and improving the quality of the services provided. The Committee notes the increase of 2.4 per cent in the employed population between the first quarter of 2004 and the first quarter of 2005 (the creation of 312,000 jobs in urban areas throughout the country) and that the unemployment rate fell from 14.4 per cent to 13 per cent over the same period, according to data provided by the Government in its report on the Unemployment Convention, 1919 (No. 2). ***The Committee would be grateful if the Government would continue to provide information on the results achieved through the establishment of the Employment Services Unit in achieving the best possible organization of the employment market, so as to meet the new requirements of the economy and the active population (Articles 1 and 3 of the Convention).***

2. *Cooperation of the social partners.* The Government indicates that the General Employment Promotion Plan creates a space in which the views of employers, trade unions and training and development institutes can be integrated in relation to labour, employment and production issues. The Committee notes with interest the sectoral agreements concluded between the Ministry of Labour and the social partners in specific productive sectors (textiles, construction, ceramics, metallurgy and mechanics, etc.), both at the national level and at the provincial and local levels with a view to promoting employment. ***The Committee refers once again to the provisions of Articles 4 and 5 of the Convention and would be grateful if the Government would provide information in its next report on the manner in which the representatives of the social partners may have been associated with the Federal Employment Services Network.*** For many years, the Committee has been pointing out that the above provisions of the Convention require the establishment of advisory committees to secure the full cooperation of representatives of employers and workers in the organization and operation of the employment service.

3. *Strengthening of employment services through technical cooperation.* The Committee notes with interest the information provided in the Government's report on the AREA project, in which the ILO and the Government of Italy are also participating. The AREA project, which is planned for three years (2004-06), covers seven regions. ***The Committee would be grateful if the Government would provide information in its next report on the manner in which this project has contributed to the strengthening of the free public employment service. The Committee hopes that the Government's next report will also include statistical information on the number of public employment offices established, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices (Part IV of the report form).***

Bahamas

Employment Service Convention, 1948 (No. 88) (ratification: 1976)

The Committee notes the reply to its previous direct request received in September 2000 as well as the Government's report for the period ending in June 2005.

1. *Participation of the social partners.* In reply to its previous comments, the Government indicates that the Joint Tripartite Advisory Committee (JTAC) for employment service and labour relations was instituted via ministerial regulations. It also indicates that the representatives of employers and workers who participate in the JTAC were nominated by their respective organizations. ***The Committee notes this information with interest and requests the Government to continue to provide information on the measures adopted, in collaboration with the social partners, within the framework of the JTAC, to ensure the effective functioning of a free public employment service (Articles 1 to 5 of the Convention).***

2. *Measures for particular categories of applicants for employment.* The Committee notes that a draft programme aiming at creating more employment opportunities for persons with disabilities is before Cabinet. ***It would appreciate receiving further indications on the measures taken to meet adequately the needs of particular categories of applicants for employment, such as persons with disabilities (Article 7).***

3. *Cooperation with private employment agencies.* The Government reports that it is in the process of drafting legislation to regulate private employment agencies. The Government might consider it useful to refer to the Private Employment Agencies Convention, 1997 (No. 181) and the accompanying Recommendation No. 188, which are the most recent instruments adopted by the International Labour Conference to formulate and establish conditions to promote cooperation between the public employment service and private employment agencies.

4. *Practical application.* ***Please continue to provide statistical information concerning the number of public employment offices established, the number of applications for employment received, the number of vacancies notified, and the number of persons placed in employment by such offices (Part IV of the report form).***

Cambodia

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

1. The Committee notes with regret that for the fifth consecutive year the Government's report has not been received. It expresses the hope that the Government will be able to supply a report for examination by the Committee at its next session.

2. The Committee notes the *Better Factories Cambodia* programme established in 2001, which is managed by the ILO and supported by the Government, the Garment Manufacturers' Association in Cambodia (GMAC) and trade unions (see <http://www.betterfactories.org/ILO/>). The programme is funded by the Governments of the United States, France and Cambodia, as well as by GMAC and international buyers. *Better Factories Cambodia* is creating services to help the industry improve working conditions, while at the same time improving quality and productivity. It offers to the industry a progressive range of training opportunities and resources. ***The Committee would appreciate receiving further information on the outcome of this programme and how it contributes to employment creation.***

3. In previous reports received until 2000, the Government had indicated that employment generation was the most important strategy for poverty reduction. The Committee had previously noted that greater diversification of the economy was needed to achieve poverty reduction and employment creation. ***It would thus appreciate receiving further information on progress made to diversify the economy, particularly concerning agricultural and rural development. It also requests the Government to provide information in its next report on the measures taken to ensure that employment, as a key element of poverty reduction, is central to macroeconomic and social policies.*** It would also be important to be able to examine information on the results achieved in improving the supply of vocational and technical training and promoting an enterprise culture (*Articles 1 and 2 of the Convention* and the *Job Creation in Small and Medium-Sized Enterprises Recommendation*, 1998 (No. 189)).

4. The Committee had previously noted that the country's statistics were not very reliable and that the ILO had provided support to the relevant ministry to develop labour market indicators. ***In this regard, the Committee recalls the importance of establishing a system for the compilation of labour market data and asks the Government to inform it on any progress made in this field and to provide in its next report information on the employment policy measures adopted following the establishment of new information systems.***

5. *Participation of the social partners.* The Committee had previously noted that a tripartite Labour Advisory Committee was formed in 1999. ***Please supply information on the activities of the Labour Advisory Committee, including information on whether it is consulted on the development and review of employment policies and programmes. Please also supply information on how the views of the persons affected, such as rural and informal sector workers, are taken into account (Article 3).***

6. Finally, the Committee emphasizes the fact that the preparation of a detailed report, including the indications requested in this observation, will provide the Government and the social partners with an opportunity to evaluate the achievement of the objectives of full and productive employment of the Convention. The Committee draws the Government's attention to the technical assistance offered by the Office, which may assist it to comply with the reporting obligations and for the implementation of an active employment policy in the sense of the Convention.

Comoros

Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

1. The Committee notes that the Government's report has not been received. It is therefore bound to reiterate the principal points raised in its observation of 2004.

2. *Coordination of employment policy with poverty reduction.* The Committee noted previously the missions of the Technical and Vocational Training Office and the employment promotion activities carried out under the AMIE project. **The Committee requests the Government to provide detailed information on the measures adopted to ensure that employment, as a key element of poverty reduction, is placed at the heart of macroeconomic and social policy.** It would also be important to be able to examine information on the results achieved by the measures adopted to improve the supply of technical and vocational training and the promotion of an enterprise culture (*Articles 1 and 2 of the Convention and the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189)*).

3. The Committee once again emphasizes the importance of establishing a system for the compilation of labour market data so that policies can be based on an accurate appraisal of labour market conditions. **It requests the Government to provide information on any progress achieved in this field and also, in its next report, to provide information on the employment policy measures adopted as a result of the establishment of new labour market information systems.**

4. *Participation of the social partners in the formulation and application of policies.* The Committee recalls that it is the joint responsibility of the Government and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see paragraph 493 of the General Survey of 2004 on promoting employment). **The Committee requests the Government to provide detailed information on the consultations envisaged by Article 3 of the Convention, which requires the consultation of all the persons affected, and in particular representatives of employers and workers, when declaring and pursuing employment policies.**

[The Government is asked to reply in detail to the present comments in 2006.]

Guinea

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its 2004 observation, which read as follows:

1. *Coordination of employment policy with poverty reduction.* The Committee notes the report received in February 2004 containing information on the establishment of the "employment" component of the Poverty Reduction Strategy approved in 2002. It is planned to enhance the range of vocational and technical training available, promote small and medium-sized enterprises, promote labour-intensive work and improve access to employment for women (conclusions of the workshop held in Conakry in September 2003 for approving the framework document for employment policy in Guinea). The Government also points out the distinct trend towards self-employment in the informal economy, resulting in the urgent need to set up a genuine micro-enterprise development programme. The Committee once again notes the objectives of the Labour and Employment Statistical Information Network (RISET), the establishment of which was already noted in its previous comments. **It requests the Government to provide up-to-date information in its next report on the measures taken to guarantee that employment, as a key component in poverty reduction, is at the heart of macroeconomic and social policies. The Committee asks the Government in particular to provide information on the results achieved, by group such as for young people and for women, by the measures taken to improve the range of vocational and technical training available, on the promotion of small and micro-enterprises and on the jobs created by labour-intensive programmes (Articles 1 and 2 of the Convention).**

2. *Participation of the social partners in the formulation and application of policies.* The Committee recalls that *Article 3* of the Convention requires consultations with all interested parties – in particular representatives of employers and workers – in the establishment and implementation of employment policies. It is the joint responsibility of the Government and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see paragraph 493 of the 2004 General Survey on promoting employment). **The Committee trusts that the Government will include detailed information in this regard in its next report.**

3. Finally, it once again asks the Government to describe in its next report the action taken to implement an active employment policy within the meaning of the Convention further to the technical assistance received from the ILO.

Islamic Republic of Iran

Employment Policy Convention, 1964 (No. 122) (ratification: 1972)

The Committee notes that the Government's report has not been received. It must therefore repeat its 2004 observation which read as follows:

1. *Formulation of an employment strategy.* The Committee notes, from the statistical data provided by the Government in its report, that the unemployment rate fell from 14.2 per cent in 2001 to 12.8 per cent in 2002, principally due to its decline in rural areas. The characteristics of the distribution of employment and/of unemployment which gave rise to concern remain however: the activity rate of women is still extremely low and they continue to experience a higher unemployment rate than men, and the proportion of long-term unemployment in total unemployment rose once again, as 70.9 per cent of the unemployed in 2002 had been seeking a job for more than one year, compared with 66 per cent in 2001. In this context, the Committee, which notes the fundamental importance given to job creation in both the Third and draft Fourth Five-Year Plans, notes with interest the Government's reference to the formulation of an employment strategy in collaboration with ILO employment specialists. Following a national workshop, held on 30 June and 1 July 2003, and bringing together representatives of the various ministries concerned, employers' and workers' organizations, non-governmental organizations, universities and researchers, a report was prepared for the Government containing a series of recommendations on short-term measures and the long-term strategy covering macroeconomic policy, labour market and industrial relations policies, skills development, the creation of employment through small and medium-sized enterprises, the promotion of gender equality and social security. In the view of the Committee, taking these recommendations into consideration should promote the achievement of the objectives of the Convention, which provides that employment promotion policies and programmes shall be decided on and kept under review within the framework of a coordinated economic and social policy (*Article 2 of the Convention*). It further notes that, in addition to its contribution to the formulation of the employment strategy, the Government refers to the ILO's advisory and technical cooperation activities in relation to vocational training and the promotion of women's employment. **It requests the Government to indicate any actions taken as a result of these activities, which should promote the application of the Convention (Part V of the report form).**

2. *Overall and sectoral economic policies.* The Committee notes the Government's reference to the provisions adopted in relation to investment, exports and the reduction of government monopolies as policy measures with an indirect effect on employment. Recalling that, under the terms of the Convention, the measures to be taken to achieve employment objectives should be decided on and kept under review "within the framework of a coordinated economic and social policy" (*Article 2(a)*), **the Committee requests the Government to indicate the manner in which the overall and sectoral economic policies contribute to the promotion of full, productive and freely chosen employment.**

3. *Labour market and training policies.* The Committee notes the various incentives for recruitment based on the reduction of employers' contributions and tax incentives for investments which create employment in the less developed regions. **It asks the Government to provide any available assessment of the results achieved through these measures.** The Committee notes that the Government has undertaken to modernize the employment services and the employment information system. It requests it to report on the progress achieved in this respect. **Also noting the emphasis placed on the reinforcement of the training system, and on the need for better coordination of education and training policies with the objective of full employment, the Committee requests the Government to describe the measures adopted for this purpose.** With reference to its comments on the application of Convention No. 111, the Committee notes with interest the information on the increase in the participation of women in apprenticeship and vocational training activities. **It requests the Government to continue providing such information, with an indication of the measures adopted to ensure that this progress is translated into an increase in the participation rate of women in economic activity.** In this respect, the Committee notes the relevant recommendations adopted by the Conference on the Promotion of Women's Employment, Autonomy and Equality, held on 8 and 9 March 2004 under the auspices of the Ministry of Labour and Social Affairs and the ILO.

4. *Participation of the social partners in the formulation and application of policies.* **With reference to the requests that it has been making for several years, the Committee once again asks the Government to indicate the manner in which effect is given to Article 3 of the Convention. The Committee emphasizes once again the importance of this Article which provides that representatives of the persons affected by the measures to be taken, and in particular representatives of employers and workers, shall be consulted concerning employment policies. Please indicate whether procedures have been established for the purpose of holding such consultations and whether representatives of persons engaged in the rural sector and the informal economy are associated with such consultations.**

Ireland

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1986)

1. The Committee notes with interest the report provided by the Government for the period ending in May 2005. Among other initiatives for mainstreaming services to people with disabilities, the Government mentions the *Workway* (www.workway.ie), a joint initiative of the Irish Congress of Trade Unions and the Irish Business and Employers Confederation. Its objectives are to raise awareness of, and address the issue of, barriers to employment for people with disabilities in the private sector. It involves the establishment of a number of regional networks around the country to raise awareness, explore skills availability among people with disabilities, identify local employment opportunities and provide information on support which are available to people with disabilities and to employers.

2. In its 2000 general observation, the Committee encouraged member States to explore ways to share ideas and resources. In this respect, the Committee notes with satisfaction that as part of the ILO/Development Corporation Ireland (DCI) Partnership Programme 2001-04, the Government of Ireland has provided support to selected governments of Asia and Africa to enhance their capacity to implement effective legislation concerning the employment of people with disabilities. A knowledge base on existing laws and policies in the selected countries has been developed, technical consultations have been held with governments, employers, workers and disabled persons' representatives and

parliamentarians on the steps required to improve the practical effectiveness of the laws and policies; technical support in the form of legal advice or support to consultative workshops has been provided to governments in developing or revising disability-related legislation and/or policies; guidelines have been developed on employment-related legislation for persons with disabilities; and a compendium of methodologies used in collecting statistical data on persons with disabilities in the labour force has been compiled. In most cases, the process initiated is still under way and support will be continued in Phase 2 of the Partnership Programme 2005-07. In this phase, technical support will be provided as before, a training course for key stakeholders will be conducted in collaboration with an appropriate national training institution, and support will be provided to a media campaign to promote positive images of persons with disabilities at work. ***The Committee notes with satisfaction the information provided and highly commends the Government's approach that promotes the Convention at national and international levels, and asks the Government to continue providing information on measures adopted to promote employment in favour of persons with disabilities in the context of its national policy and international cooperation.***

Japan

Employment Service Convention, 1948 (No. 88) (ratification: 1953)

Organization and functions of the employment service. The Committee notes the Government's detailed report on the application of the Convention for the period 1998-2005. The Japanese Trade Union Confederation (JTUC-RENGO) observed in its report that, since 2005, there has been a partial privatization of sectors linked to the Public Employment Security Offices. JTUC-RENGO expresses its concern that this may lead to the opening of the Public Employment Security Offices to the private sector in the future. ***The Committee refers to its comments on the application of the Employment Policy Convention, 1964 (No. 122) and of the Private Employment Agencies Convention, 1997 (No. 181), and requests the Government to describe more precisely the manner in which, in the context of the new organization referred to by JTUC-RENGO, a national system of employment offices under the direction of a national authority (Article 2 of the Convention), carries out the functions contemplated in Article 6 of the Convention.***

[The Government is asked to reply in detail to the present comments in 2007.]

Kyrgyzstan

Employment Policy Convention, 1964 (No. 122) (ratification: 1992)

1. *Coordination of employment policy with poverty reduction.* The Committee takes note of the Government's report requested by its 2004 observation. The Government enumerates the aims of the National Employment Policy, which was established in the context of the national poverty reduction strategy 2003-05, and was approved by Decree No. 126 on 14 March 2005. The objectives of the employment policy aimed, amongst others, at assisting unemployed citizens in choosing an occupation and placement; improving vocational training and retraining for unemployed; organizing temporary employment and voluntary work; preventing the rise of unemployment by eliminating or reducing the effect of the factors which lead to mass unemployment; and supporting entrepreneurship and self-employment. The Government further indicates that the employment rate fell slightly from 92.5 per cent in 2000 to 91.1 per cent in 2003. The unemployed young people account for 53 per cent of all unemployment and remain one of the most problematic issues (as mentioned in the Poverty Reduction Strategy Paper Progress Report of July 2004). In 2001, the poverty rate was estimated by the World Bank to be quite high between 45 per cent and 56.4 per cent. The Committee also notes the Government's indication that the goals of employment policies and their relation to social and economic development are reflected in the programme on the "Comprehensive basis of development of the Kyrgyz Republic until 2010", which was adopted on 29 May 2001. ***The Committee hopes the Government will supply, in its next report, information on the measures taken to ensure that employment, as a key element of poverty reduction, is central to macroeconomic and social policies.*** Indeed, the Committee considers that it is essential from the outset for employment objectives to be included "as a major goal" in the formulation of economic and social policy if these objectives are truly to be an integral part of the policies that are adopted (paragraph 490 of the General Survey of 2004 on promoting employment). ***Please provide detailed information on the results and progress achieved with the implementation of the measures envisaged by the National Employment Plan, including information on the employment situation of socially vulnerable groups such as women, young persons and older workers (Articles 1 and 2 of the Convention).***

2. The Committee also requests the Government to include in its next report, information on the following matters that were raised in its 2004 observation:

- training and retraining measures for workers affected by structural reforms (such as the declining of the Kumtor gold mine);
- the impact of the different programmes the Government has adopted that concern specific groups of workers, such as the "National programme *Zhashtyk* on youth development until 2010" and the "State programme *New Generation* for the protection of children's rights".

3. *Participation of the social partners.* The Government reports that a tripartite committee has been created to regulate issues of employment promotion, which held its first session on 17 May 1999. The basic tasks of the tripartite committee were the preparation of the national employment policy up to 2010; the development of corresponding measures to determine future directions in reducing tensions in the labour market; and the development of proposals to introduce amendments in Kyrgyz legislation on employment promotion and other regulatory acts in application of employment policy. ***The Committee invites the Government to continue to provide specific information about the operation of the abovementioned tripartite committee, as well as the involvement of social partners in the formulation and implementation of the National Employment Plan. Please also indicate the measures taken or contemplated to involve in the consultations required by the Convention, the representatives of other sectors of the active population, such as persons working in the rural sector or in the informal economy (Article 3).***

Libyan Arab Jamahiriya

Employment Service Convention, 1948 (No. 88) (ratification: 1962)

1. In reply to its previous comments, the Committee notes the information provided by the Government in its reports received in September 2003 and August 2004 indicating that the General Authority for Manpower, Training and Employment (equivalent to a Ministry of Labour) was recently established. The new structure will be responsible for the formulation of manpower policies, as well as management of labour and employment matters in order to reinforce the socio-economic development based on the participation of individuals through promotion of small enterprise development.

2. *Participation of the social partners.* With regard to the request for information on the participation of employers' and workers' representatives in the development of the employment service, the Government refers to a technical committee: the Committee on Civil Service and Employment, which is composed of several experts and specialists in planning, management, manpower and the economy, and members of professional associations, which are members of the General Federation of Producers and the General Union for Public Officials. At the national level, the Government also refers to the Public Planning Council, which has a number of councils at the municipal level to ensure the participation of all regions in the formulation of socio-economic policies. ***The Committee requests the Government to provide, in its next report, specific examples of the activities of these committees and to indicate how their views were taken into account in the organization and operation of employment services and in the formulation of an employment services policy. It also asks the Government to continue to provide information on the measures adopted, in collaboration with the social partners, to ensure the effective functioning of a free public employment service with a network of offices sufficient in number to meet the needs of employers and workers nationwide (Articles 4 and 5 of the Convention).***

3. *Activities of the employment service.* ***The Committee once again asks the Government to indicate all measures taken by the employment service to carry out effectively the activities listed by Article 6 of the Convention.***

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

1. *Implementation of an active employment policy.* The Committee takes note of the Government's report of August 2004 enumerating the aims of the employment policy adopted by the People's Assembly of the Jamahiriya. The objectives of the employment policy aim, amongst others, at attaining full employment, at raising the performance standards of workers, at ensuring the participation of the social partners as well as the realization of all categories of workers including women, disabled and youth in the different socio-economic activities, at linking workers' earnings with the nature of work while ensuring a minimum rate of wages, at regulating the informal sector in the labour market and at adapting educational plans with training in order to fulfil the needs of the labour market. ***While taking due note of these objectives, the Committee hopes the Government will provide, in its next report, detailed statistical information on employment, both in the aggregate and in the various sectors of economic activity. It further hopes that the Government will supply statistical data as detailed and up to date as possible on the level and trends of employment, underemployment and unemployment. In particular, the Committee requests the Government to provide additional information on the training measures and their impact on the employment of the persons concerned and to indicate in particular the results of these measures aimed at increasing the participation rate of women. The Government is also requested to state the manner in which education and training policies are coordinated with prospective employment opportunities, particularly for young people.***

2. *Participation of the social partners in the formulation and application of policies.* The Committee recalls that *Article 3 of the Convention* requires consultations with all interested parties – in particular representatives of employers and workers – in the establishment and implementation of employment policies. It is the joint responsibility of the Government and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see paragraph 493 of the General Survey of 2004 on promoting employment). The Committee trusts that the Government will include detailed information in this regard in its next report.

3. As in its 2003 observation, the Committee underlines that the preparation of a detailed report will certainly provide the Government and social partners with an opportunity to evaluate the achievement of the objectives of full and productive employment. The Committee recalls that the assistance of the Office is available for the technical implementation of an active employment policy in the sense of the Convention.

Republic of Moldova

Employment Policy Convention, 1964 (No. 122) (ratification: 1996)

1. *Integration of employment policy with economic and social policies.* The Committee notes the Government's report which contains detailed information in relation with its previous comment. The Government refers, among other legislative measures, to Law No. 102-XV of 13 March 2003 on the Employment of the Population and Social Protection of Job Seekers and to the Decision No. 224 of 1 March 2003 by which a National Programme for the Employment of the Population for 2003-2005 was approved. The 2003-05 programme envisages the creation of 53,200 new jobs and some 35 per cent of the persons registered with the National Population Employment Agency will be provided with training in order to reintegrate the labour market. The Committee hopes that in its next report the Government will be able to provide information on the results achieved in this regard. It also recalls that success in employment creation is linked to the successful coordination of macroeconomic policies as well as structural policies. ***It therefore asks the Government to also report on how employment policy measures are reviewed regularly within the framework of a coordinated economic and social policy (Article 1, paragraph 3, and Article 2(a) of the Convention).***

2. The Committee notes that according to the data provided by the Government, the number of unemployed reached 117,000 persons in 2003 and the level of unemployment amounted to 7.9 per cent (the active population reduced from 1,615,000 persons in 2002 to 1,474,000 persons in 2003). The Government also refers to statistical and analytical data obtained through studies done in cooperation with the Office. The Committee notes with interest that the results of the surveys are being used in the process of elaboration of the National Employment Strategy. It also notes the Government's interest to obtain further cooperation from the Office in this area. ***The Committee would appreciate receiving in the Government's next report data drawn from the labour force survey, in particular on the employment situation of socially vulnerable groups such as young persons, women jobseekers, ethnic minorities and people with disabilities.***

3. The Committee further notes the proactive measures adopted to promote employment opportunities of the population as well as the vocational guidance and services provided. ***It would welcome further information on the evaluation of these measures especially regarding the number of participants that find employment after participation in these programmes.***

4. The Committee notes that advisory services and assistance in starting business activities are provided to unemployed persons. Please continue to report on the measures taken to improve the legislative and regulatory basis for small and medium enterprises as well as on efforts made to shift activities from the informal economy to the formal economy. The Government may deem useful to consult the provisions of the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189).

5. *Participation by the social partners in the formulation and application of policies.* The Government indicates that its cooperation with the employers' organization and trade unions in the field of promoting the population employment policy has been more intensive in the last years. During the meetings of the National Commission on Collective Bargaining several issues concerning employment policy such as the implementation of the State Programme of Small Business Support were examined. The tripartite advisory board of the Population Employment Agency has also taken measures to develop jointly with the Confederation of Free Trade Unions of the Republic of Moldova activities in the field of employment promotion. ***The Committee asks the Government to continue to provide specific information about the operation of tripartite bodies as well as the involvement of social partners in the formulation and implementation of the National Programme for the Employment of the Population. Please also indicate the measures taken or contemplated to involve in the consultations required by the Convention not only the employers' and workers' representatives but also representatives of other sectors of the active population, such as persons working in the rural sector or in the informal economy (Article 3).***

6. *ILO technical cooperation.* The Committee understands that the Office is also currently participating in policy reviews in order to assist the Stability Pact Countries in their implementation and help them prepare for the future European Union accession process. ***It asks the Government to indicate in its next report any action taken to promote active employment policies as a result of the implementation of ILO technical cooperation projects (Part V of the report form).***

Myanmar

Unemployment Convention, 1919 (No. 2) (ratification: 1921)

Advisory committees on the operation of free public employment agencies. In reply to the Committee's previous comments, the Government indicates that a limited number of township labour offices have been established since 1946

under the provisions of the Employment and Training Act, 1950. The employment services have gradually been strengthened and enhanced. Seventy-seven township labour offices operated by the Department of Labour exist throughout the country providing services for job seekers and employers. The Government also indicates that according to section 3(2) of the Employment and Training Act, a high level human resources development committee has been established. Representatives of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCC), as well as governmental officials, are members of the committee, which collaborates with the concerned organizations on matters related to the employment and skill development of workers. In this respect, the Committee expresses again its concern with regard to the lack of free and independent workers' organizations in the country, as highlighted in its long-standing comments on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). ***The Committee therefore asks the Government to state how the committees appointed to advise on matters concerning the operation of a system of free public employment agencies are appointed and constituted and the method adopted for selecting representatives of employers and workers, as requested under Article 2, paragraph 1, of the Convention.***

Netherlands

Employment Service Convention, 1948 (No. 88) (ratification: 1950)

The Committee notes the Government's report for the period ending in June 2004, including information on the new organization of the employment service as a result of the Work and Income (Implementation Structure) Act of 29 November 2001. It also notes the observations made concerning the report by the Trade Union Confederation of Middle and Higher Level Employees (MHP) and the National Federation of Christian Trade Unions (CNV). The Committee invites the Government to continue providing detailed information in its next report on the application of the Convention, as well as further indications on the following points.

1. *Organization and functions of the employment service.* The Government indicates that the new organization of the employment service includes basic services, which are provided by the 128 offices of the Centre for Work and Income, and reintegration services, which are the responsibility of employees' insurance systems for persons in receipt of unemployment benefit and of municipalities for persons in receipt of national assistance benefits. The MHP claims that the unity of the former employment service, which incorporated in the same organization the activities of placement, reintegration, vocational training and the provision of benefits, has been lost. ***The Committee requests the Government to describe more precisely the manner in which, in the context of the new organization, a national system of employment offices under the direction of a national authority, as required by Article 2 of the Convention, discharges all the functions assigned to it by Article 6 of the Convention. The Committee also notes that the organization of the employment service will be the subject of an overall evaluation in 2006. It requests the Government to provide the results of this evaluation.***

2. *Cooperation of the social partners.* The Committee notes that, according to the Government, the consultation structure has been considerably simplified with the establishment, on the one hand, of the Council for Work and Income and, on the other, of the network of regional labour market platforms, the composition of which is not restricted to the social partners. The MHP and the CNV indicate that these platforms are funded by the local authorities, with their role varying according to their location. The CNV considers that the role of the social partners, which was previously co-management, has been reduced to an advisory function in the new system. ***The Committee recalls in this respect that, under the terms of Articles 4 and 5 of the Convention, the cooperation of representatives of employers and workers in the organization and operation of the employment service and in the development of employment service policy has to be ensured through the establishment of one or more national advisory committees, and where necessary regional and local committees. It requests the Government to describe the measures adopted or envisaged to give full effect to this important provision of the Convention in the context of the new organization of the employment service.***

3. *Cooperation between the public employment service and private employment agencies.* The Committee notes that, with a view to facilitating a rapid return to employment, temporary employment agencies are present in most of the offices of the Council for Work and Income. ***The Committee requests the Government to provide detailed statistical information on the number of placements made by the public employment service and by private employment agencies, respectively, with an indication of the nature of the contracts offered in the context of these placements.***

[The Government is asked to reply in detail to the present comments in 2007.]

Employment Policy Convention, 1964 (No. 122) (ratification: 1967)

1. The Committee notes the information contained in the Government's report for the period ending in June 2004, as well as the National Action Plan for Employment 2003, attached. The Committee also notes the comments included in the Government's report formulated by the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation for Middle and Higher Level Employees (MHP). The comments of the Netherlands Trade Union Confederation (FNV) were received and transmitted to the Government in November-December 2004.

2. *Implementation of an employment policy in the framework of a coordinated economic and social policy.* The Government indicates in its report that the labour market trends reflect the economic slowdown of the years 2002-04.

While the unemployment rate rose from 3.9 per cent in 2002 to 6.5 per cent in 2004, which translated into 238,000 more people being jobless, the employment rate for the whole population was still above 70 per cent, thus meeting the quantitative employment targets defined by the European Union. The Government aims to increase the employment rate, mainly by improving the effectiveness of various social security schemes (for instance, by revising some aspects of the unemployment benefit schemes), by taking measures to encourage labour force participation among certain groups (e.g. older workers), and by increasing the effectiveness of reintegration policy and giving people a financial incentive to move from claiming benefit to paid work. The Government also wants to curtail the steady growth in the number of work-disabled people, which means that a reform of the invalidity insurance system seems also inevitable. The Committee recalls that its General Survey of 2004 highlighted the procedures of policy coordination in the Netherlands (see General Survey of 2004 on promoting employment, box I.4). ***The Committee asks the Government to continue to report on how measures to promote full employment operate within a “framework of a coordinated economic and social policy” (Article 2, paragraph (a) of the Convention) and to indicate the difficulties encountered and the results obtained by its employment policy orientations.*** Further, concerning the reforms envisaged for the methods of providing unemployment benefit, the Committee recalls that the measures taken to promote productive employment should be taken in coordination with employment policy means (see General Survey, op. cit., paragraph 47). ***In this regard, the Committee would appreciate if the Government could clarify how the revision of the unemployment benefit schemes will contribute to promoting the re-entry into employment of the beneficiaries.***

3. In its 2002 observation, the Committee had noted with interest that the Government had called for “investment-oriented collective labour agreements” to be negotiated with a view to establish a relationship between responsible pay increases, qualitative investments and flexible pay structures. The Government reports that in 2002, an average of 2.5 per cent pay increase for 2003 was agreed upon. An increase of 0 per cent was also agreed upon for 2004 and 2005. The Government indicates that reaching an agreement on early retirement and pre-pensioning systems has not yet been possible. ***The Committee would appreciate being kept informed on the efforts made by the Government and the social partners to promote employment and the measures taken with regard to income and wages.***

4. *Youth employment. Ethnic minorities.* The Government further indicates that objectives have been set up concerning unemployment among young people. The Government’s target is that youth unemployment (aged 15-22 excluding school children and students) over the period 2003-07 should not be more than twice the total unemployment rate. A youth unemployment action plan has thus been put forward and the objective is that every unemployed young person should be in work and/or studying again within six months. The Government also states that another objective is to increase the employment rate among ethnic minorities from 50 per cent in 2002 to 54 per cent by 2005 and points out that equal opportunities and minorities policy will play an important role in achieving this target. ***The Committee looks forward to receive from the Government in its next report an assessment of the impact of these measures in achieving its objectives of increasing the labour force and reducing unemployment for young people and ethnic minorities.***

5. *Older workers.* With regard to the participation rate of older workers, the Government indicates that it has set a target to increase labour market participation of older workers from 37 per cent to 40 per cent by 2007. Furthermore, the Government mentions the introduction, as of 1 May 2004, of the Equal Treatment of Older Workers Act, which bans age discrimination in hiring and selection of new personnel, promotion, dismissals, wages, secondary benefits, etc., unless there exists objective reasons for age limits. ***The Committee welcomes these measures and asks the Government to continue to supply information on the assessment and the outcome of these efforts to increase the participation rate of older workers.***

6. *Participation of the social partners in the formulation and application of policies.* The Committee notes the comments formulated by the FNV to the effect that during the reporting period, on several occasions the FNV has presented to the Government alternatives that would have resulted in more effective labour market and employment policies, but the Government has not taken these alternatives seriously into account. According to the FNV, this was the case in particular when the Government introduced the early retirement and pre-pension measures. The FNV considers that unbalanced economic policies, ineffective labour market policies and intimidating social policies will increase tensions in society as a whole and negatively impact on relations between trade unions and employers’ organizations. The Committee recalls that *Article 3* of the Convention provides that the measures to be taken in relation to employment policy should take fully into account the experience and views of the representatives of employers’ and workers’ organizations with a view to securing their full cooperation in formulating and implementing employment policies. Governments and representative organizations of employers and workers share responsibility for ensuring that representatives of the more vulnerable or marginalized sectors of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see General Survey, op. cit., paragraph 493). ***The Committee trusts that the Government will be able to provide indications in its next report on the manner in which it has actively sought the views of employers’ and workers’ representatives concerning all issues related to employment policies, with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies.***

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1988)

The Committee notes the information provided by the Government in its report received in September 2004 regarding the various types of leave under the Work and Care Act and on the Government's responsibilities for providing employment services and employee insurances under the Act on structure of the organization of implementation in the area of work and income (SUWI Act). The Government has also provided information on the Gatekeeper Improvement Act and on the Act on the extension of the obligation to continue paying wages in the event of sickness. In its comments, the Netherlands Trade Union Confederation (FNV) notes that the Work and Care Act and the SUWI Act might not be relevant to the application of the Convention. The FNV also notes that the report does not supply statistical data with regard to the rehabilitation of workers with disabilities. *In this respect, the Committee asks the Government to describe in detail the national policy on vocational rehabilitation and employment for workers with disabilities including practical data on the achievements in promoting employment opportunities for persons with disabilities in the open labour market, in particular for women workers with disabilities, as required by Articles 2, 3 and 4 of the Convention. The Committee also refers to its observation under Convention No. 122.*

[The Government is asked to reply in detail to the present comments in 2007.]

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 1999)

1. The Committee notes the Government's report and the information provided in reply to its previous direct request. It also notes the observations made by the Trade Union Confederation of Middle and Higher-level Employees' Unions (MHP) in October 2004 concerning the free movement of workers within the European Union. *The Committee requests the Government to continue providing information that is as detailed as possible, as well as any relevant extracts of reports and statistics which enable it to assess the manner in which effect is given to the Convention in practice (Part V of the report form).*

2. *Cooperation between the public employment service and private employment agencies.* Also referring to its observation on the application of the Employment Service Convention, 1948 (No. 88), particularly in the context of the new organization of the employment services, *the Committee requests the Government to describe the measures adopted, in accordance with Article 13, paragraph 1, of the Convention, with a view to formulating, establishing and reviewing conditions to promote cooperation between the public employment service and private employment agencies.*

[The Government is asked to reply in detail to the present comments in 2007.]

New Zealand

Employment Service Convention, 1948 (No. 88) (ratification: 1949)

The Committee has taken note of the detailed information contained in the Government's report received in November 2004, as well as the comments of the New Zealand Council of Trade Unions (NZCTU) and Business New Zealand communicated by the Government.

1. *Cooperation of employers' and workers' representatives.* Regarding consultations with employers' and workers' organizations concerning employment service policy, the Government indicates that, as a general principle, it consults with those affected by employment-related policies and the scope and level of consultation is tailored to the particular policy, taking into account the nature of the issues involved, their scope and scale and the extent of the expected impact. The Government explains that the Ministry of Social Development has a number of advisory bodies and committees and provides a list of the groups advising specifically on employment policies.

2. The Committee notes that the NZCTU, while acknowledging the range of employment policy advisory committees and bodies with external participants, considers that this does not constitute full and meaningful consultation, especially where there has been no direct consultation with organizations representing workers' interests to seek nominees, nor any mechanism for seeking the organizations' views. The Committee further notes that Business New Zealand considers that where there is a good reason for the Government to consult social partners, consultation does occur, a typical example being cooperation over the promotion of workplace-based learning. However, Business New Zealand considers that there would appear to be no good reason for specific consultation over the development and operation of a state-run employment service. In this regard, the Committee refers to its 1998 observation and recalls that the Convention requires that suitable arrangements should be made through advisory committees for the cooperation of representatives of employers and workers in the organization and operation of the employment service and in the development of employment service policy, and that the representatives on these committees should be appointed after consultation with representative organizations of employers and workers. Furthermore, the general policy of the employment service in regard to referral of workers to available employment should be developed after consultation with representatives of employers and workers through these advisory committees. *The Committee trusts that the necessary measures will be taken to give full effect to the essential requirements provided by Articles 4 and 5 of the Convention. It asks the Government to provide in its next report detailed information on the consultations which have taken place with regard to the abovementioned provisions.*

Employment Policy Convention, 1964 (No. 122) (ratification: 1965)

The Committee takes note of the very comprehensive Government's report received in November 2004, including replies to the 2002 observation and the 2003 direct request, as well as the comments of the New Zealand Council of Trade Unions (NZCTU) and Business New Zealand and the corresponding replies by the Government.

1. *Labour market policies.* The Government reports on the implementation of an overarching employment strategy since September 2000, which was reviewed in November 2002, following which a number of changes were made to reflect emerging priorities. The overarching objectives now place greater emphasis on sustainable employment, quality of employment and increasing productivity. Strong economic growth translated into employment growth of 1.5 per cent in the year to March 2003 and 3.2 per cent in the year to March 2004. As growth in employment outstripped growth in the labour force, the unemployment rate has fallen from 5.2 per cent in the March 2002 quarter to 4.3 per cent in the March 2004 quarter.

2. Concerning training, including training for youth, the Committee notes with interest the Government's indication that it has recently agreed to a strategy to improve the foundation competencies of adults. While the first phase will increase the emphasis on foundation learning in a wide range of tertiary education provision through the development of a set of aligned initiatives that will improve quality and build knowledge, the second phase will involve the introduction of a new funding mechanism and a focus on broadening provision to ensure that priority groups can access quality learning opportunities. The Committee also takes note with interest of the statistical information on participation and achievement levels in the *Industry Training Strategy* report, as well as the document entitled *Education Priorities for New Zealand (2004)*.

3. The Committee also took note with interest of the latest report on progress in implementing the *New Zealand Disability Strategy* as well as statistics and indicators concerning the current trends of the social well-being of working-age people with regard to employment. Concerning the Government's *Employment Evaluation Strategy*, the Committee has taken note with interest of the document entitled *Synthesis of evaluations of active labour market policies* which reviewed the programmes and services delivered through the Work and Income Service Unit of the Ministry of Social Development. The most effective programme in getting jobseekers off benefits was the opportunity creation programme. That programme was appropriate for the small proportion of jobseekers who wanted to start their own businesses. Matching programmes, such as wage subsidy programmes and job placement services, were the next most effective in providing job opportunities. Least successful programmes were training and work experience programmes. When work experience programmes were combined with a wage subsidy, they showed increased effectiveness. The Committee welcomes this evaluation of the results regarding active labour market measures that are being implemented by the Government. The Committee highlighted the need to monitor progress and to analyse data, as even the best-designed policies can have unexpected effects, can become outdated due to changing circumstances, or may need to be modified to achieve maximum benefit (see General Survey of 2004 on promoting employment, paragraph 491). ***It would, therefore, be grateful for the Government to keep providing detailed information on all measures demonstrating the effectiveness of an active employment policy. It also wishes to express its interest in receiving information on how measures taken to promote employment operate within a "framework of a coordinated economic and social policy" (Article 2, paragraph (a), of the Convention) and would appreciate it if the Government could indicate how the key elements of monetary and fiscal policies contribute to the employment objectives.***

4. *Participation of the social partners in the formulation and application of policies.* The Committee takes note of the Government's statement that, as a general principle, it consults with those affected by employment policies and that the scope and level of consultation is tailored to the particular policy. The Government provides examples of consultation which include the *Partnership for quality* agreement originally agreed between the Government and the Public Service Association in 2000 and revised in 2003, and the paid parental leave scheme of 2003. On the question of consultations, the Committee notes the comments of Business New Zealand to the effect that, while that organization acknowledges being frequently consulted about government policy proposals, its views about likely effects are just as frequently ignored. For its part, NZCTU expresses its concern about the effect of free trade agreements undercutting job initiatives by weakening some sectors and wonders how should government policies look to minimize the trend for manufacturing and production companies to either move offshore or to outsource their production offshore. ***In this regard, the Committee trusts that the Government will continue to actively seek the views of employers' and workers' representatives concerning all issues related to employment policies, in order to take fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies (Article 3).***

Nicaragua

Employment Policy Convention, 1964 (No. 122) (ratification: 1981)

1. *Coordination of employment policy and poverty reduction.* The Committee notes the report received in September 2004, which contains information on the Enhanced Economic Growth and Poverty Reduction Strategy and the proposed National Development Plan. The National Development Plan indicates that the overall unemployment rate did not change significantly between 1998 and 2001 (it was 11.6 per cent in 2002 and 10.2 per cent in 2003). The unemployment rate is higher among poor households (25.6 per cent). Some 46 out of every 100 employed persons at the

national level are in the informal economy, with most of them (28 out of every 100) in own-account activities with very low productivity and income levels. Furthermore, 18 out of every 1,000 employed persons are in the traditional small-scale rural and indigenous production sector. Open underemployment (defined as jobs with fewer than 40 hours a week) accounts for one-third of total employment. The regions with the highest rates of open underemployment are the Pacific and the Atlantic. In order to halve extreme poverty by 2015, it will be necessary to achieve average annual GDP growth rates of 5 per cent (GDP growth was 4 per cent in 2004). The Committee notes with interest that the proposed National Development Plan indicates that “the employment generation policy, understood both from the viewpoint of demand (productive investment) and supply (investment in human capital), is the principal objective of both economic and social policy. Economic growth produced by a conducive macroeconomic environment and social investment has to be articulated so that economic growth objectives benefit the majority of the population, thereby improving the productivity and utility of both large enterprises and small and medium-sized enterprises. In this manner, basic wage income will be increased through the integration of the unemployed and the underemployed (informal sector) into the formal labour market, thereby serving a triple objective: (i) economic reactivation; (ii) the provision of more and better social services; and (iii) the growth of fiscal income, which will in turn reinforce public investment as an instrument of economic reactivation and social development, thereby creating a positive multiplier effect”. The Committee notes with interest the information on the process of consultation and participation for the preparation of the National Development Plan, and the assistance received from the ILO for the formulation of the National Employment Policy.

2. As it did in its previous observations, the Committee hopes that the Government will continue its efforts to ensure that the creation of productive employment is central to macroeconomic and social policies when preparing and implementing the national poverty reduction strategy. Indeed, the Committee considers it essential from the outset for employment objectives to be included “as a major goal” in the formulation of economic and social policy if these objectives are truly to be an integral part of the policies that are adopted (paragraph 490 of the General Survey of 2004 on promoting employment). ***The Committee hopes that the Government’s next report will contain information enabling it to assess the measures adopted for the implementation of the National Development Plan which contribute to achieving the objectives of the Convention (Articles 1 and 2 of the Convention).***

3. In this respect, the Committee welcomes the reports prepared by the Office in the framework of the assistance provided to the Government for the formulation of the National Employment Policy, and it trusts that the next report will contain information on the measures adopted as a result of the assistance received from the ILO (*Part V of the report form*).

4. ***The Committee asks the Government to provide information in its report on the manner in which lasting employment has been created for the vulnerable groups defined in the National Development Plan. As on previous occasions, the Committee would be grateful to be provided with information on the situation, level and trends of employment, unemployment and underemployment, with an indication of the extent to which they affect the most vulnerable categories (women, young persons, older workers, workers with disabilities, rural workers and the informal economy). In particular, the Committee requests the Government to provide information on the contribution of export processing zones to the creation of high-quality lasting employment.***

5. Other matters relating to migrant workers and the functioning of employment services are addressed in comments on the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), and the Employment Service Convention, 1948 (No. 88).

Pakistan

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1952)

1. The Committee notes the comments made by the All Pakistan Federation of Trade Unions (APFTU) on the application of the Convention which were forwarded to the Government in June 2005. The APFTU states that agencies are allowed to charge fees for recruitment abroad and that some of them are involved in human trafficking. ***The Committee invites the Government to reply to the said comments (Article 5, paragraph 2(d), of the Convention).***

2. In addition, the Committee notes with regret that the Government’s report has not been received. It must therefore repeat its 1999 observation which read as follows:

Part II of the Convention. 1. The Committee recalls that it had in particular requested the Government to give details of the measures taken with a view to adopting the draft Rules under the Fee-Charging Employment Agencies (Regulation) Act, 1976, to which the Government had referred for many years, so as to undertake the abolition of fee-charging employment agencies “within a limited period of time”, but not “until a public employment service is established”, in accordance with *Article 3 of the Convention*. ***The Committee urges the Government to take the necessary measures in the near future and to report on the progress towards achieving adoption of the Rules.***

2. The Committee noted the information regarding measures taken to supervise overseas employment promoters under the Emigration Ordinance of 1979 and rules there under. It noted that a license was issued to these agencies for an initial period of three years, then renewed for periods which vary depending on the way in which the agencies operate. The Committee recalls that, under *Article 5, paragraph 2(b)*, of the Convention, these agencies are required to be in possession of a yearly licence

renewable at the discretion of the competent authority. *It asks the Government to indicate in its next report the measures taken or envisaged to give full effect to this provision of the Convention in respect of overseas employment promoters.*

3. The Committee noted the information regarding penalties imposed on overseas employment promoters following contraventions. *It asks the Government to continue to supply such information and also to include the information required under Article 9 of the Convention on the number of these agencies, as well as on the nature and volume of their activities. Please supply all available information on the application of the Convention in practice (Part V of the report form).*

3. Finally, the Committee recalls that the ILO Governing Body invites the States parties to Convention No. 96 to contemplate ratifying, as appropriate, the Private Employment Agencies Convention, 1997 (No. 181), the ratification of which will, *ipso jure*, involve the immediate denunciation of Convention No. 96 (document GB.273/LILS/4(Rev.1), 273rd Session, Geneva, November 1998).

[The Government is asked to reply in detail to the present comments in 2006.]

Philippines

Employment Policy Convention, 1964 (No. 122) (ratification: 1976)

1. *Coordination of employment policy with poverty reduction.* The Committee takes note of the Government's report received in September 2004 and observes that one of the main achievements accomplished in recent years has been an overall reduction in the incidence of poverty, from 45.4 per cent in 1991 to 30.4 per cent in 2003. Also, overall employment increased by 3.6 per cent between 2003 and 2004, both in the service and industrial sectors. However, such growth in employment was outpaced by a greater increase in the size of the labour force, which resulted in a higher estimated unemployment rate of 13.7 per cent in 2004. The statistics provided by the Government also show that there was a slump in agricultural employment and an increase in the underemployment rate, despite a higher estimated real GDP growth rate in 2004. Furthermore, there is a high rate of youth unemployment, as well as notable unemployment amongst the better educated, and a significant share of unemployed persons who did not look for work because they believed that no work was available. *In this regard, the Committee would appreciate receiving further information about the extent to which economic growth translates into better labour market outcomes and poverty reduction, and what may constitute the underlying structural factors that determine labour market outcomes in different regions and sectors. In this respect, the Committee asks the Government to continue to provide detailed information on the measures taken to ensure that employment, as a key element of poverty reduction, is at the heart of macroeconomic and social policies. It would also appreciate receiving information on how measures taken to promote employment operate within a "framework of a coordinated economic and social policy" (Article 2(a) of the Convention).*

2. *Participation of the social partners in the formulation and application of policies (Article 3).* Regarding consultations with representatives of employers, workers and other groups, such as rural and informal sector workers, the Government indicates that, while it is true that representation in tripartite bodies comes from the formal sector, there exist national councils which cover the needs of the majority of the labour force, i.e. young workers, small and medium-sized enterprise workers and informal sector workers. One such body giving representation to informal sector workers in tripartite bodies is the National Anti-Poverty Commission (NAPC). The Government indicates that during the NAPC's meeting of July 2004, several directives putting forth the interests of informal sector workers were issued. *The Committee takes note of this information and asks the Government to keep providing information on the manner in which consultations are held with representatives of employers, workers and other groups, such as those in the rural sector and in the informal economy, and on the outcome of these consultations.*

3. *ILO technical assistance (Part V of the report form).* The Government indicates that the Department of Labor and Employment, in cooperation with the ILO's Subregional Office in Manila and the sectoral representatives from the workers and employers, are currently working on the Second Country Programme on Decent Work. *The Committee requests the Government to provide details, as well as results achieved, following the implementation of this Programme, and to continue to submit information on the technical cooperation or advisory activities of the ILO concerning employment promotion and actions taken as a result thereof.*

Poland

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

The Committee notes the information contained in the Government's report received in September 2004.

1. *Policies to promote employment.* The Committee notes from the Government's report as well as from data supplemented by the technical units of the Office that, after having reached extremely low levels of only 44 per cent of the working age population in employment, which represents the lowest employment rate in the 25 EU Member States, employment showed some signs of recovery towards the end of 2004. At 20 per cent on average in 2003 and 18 per cent in the fourth quarter of 2004, the unemployment rate remained at its highest level since the start of economic transition and is one of the highest in OECD countries, but the rapid pace of economic growth is leading to a slight improvement. The Committee further notes that the unemployment rate among the age group 15-24 was 37 per cent in the last quarter of

2004, over twice the level of the population as a whole. Moreover, gender gaps in unemployment are also significant and there are persistent regional disparities in the level of unemployment.

2. The Committee notes the detailed information provided by the Government concerning the law on pre-retirement benefits, the Government's strategy "Entrepreneurship-Development-Labour" aimed at a more employment-friendly environment and support of entrepreneurship, the "First Job" programme for young people and the programme "50+" for elderly workers. *While taking note of this information, the Committee would appreciate if the Government could provide an assessment of the effectiveness of the respective programmes, including information on the number of participants and the percentage of them who have found regular employment after their participation in these programmes. The Committee would appreciate receiving further information on how the measures taken to promote full and productive employment operate within a "framework of a coordinated economic and social policy". It further asks the Government to submit information on the measures taken to increase the employment rate among older workers and to protect workers affected by structural changes in the economy (Articles 1 and 2 of the Convention).*

3. *Participation of the social partners in the formulation and application of policies.* With reference to its previous comments, the Committee notes with interest that the Government has held consultations with the social partners on a wide variety of issues, both at the national and regional levels, through the Tripartite Commission for Socio-Economic Issues, various employment councils and the Supreme Employment Council, which has been enlarged to include representatives of voivodship councils as well as representatives of non-governmental organizations of national range. *In this regard, the Committee asks the Government to continue to supply information on the manner in which representatives of the persons affected (both in the formal and informal economy and in rural areas) are consulted concerning employment policies including information on the consultation held at the regional level on the matters covered by the Convention (Article 3).*

Romania

Employment Policy Convention, 1964 (No. 122) (ratification: 1973)

The Committee takes note of the detailed information contained in the Government's report received in August 2004. It also notes the observations made by the World Confederation of Labour and Cartel Alfa and the Government's reply received in January 2004.

1. *Integration of an active employment policy with economic and social policy.* The Committee notes that the survey of the active population places overall unemployment at 6.6 per cent in 2003, which was lower than in previous years. For some groups of workers, the risk of being unemployed is, however, substantially higher as the unemployment rate for the age group 15-24 is 18.7 per cent. Also, the share of long-term unemployed is increasing, amounting to almost two-thirds of the total unemployed population. The members of the Rom minority, almost three-quarters of whom live below the poverty line, are especially affected. Furthermore, although the regional disparity of unemployment has been reduced, it still remains relatively high. The Government indicates that the National Action Plan for Employment for the period 2004-05 was adopted and the National Employment Strategy 2004-06 was approved in August 2004. The Government also indicates that its objective is to increase the employment rate, to enhance the quality of labour, to increase productivity and income, to improve social cohesion and to fight against discrimination in the labour market. The new legislative framework (on minimum wages, on combating marginalization, on employment promotion and unemployment benefits) combines measures for social security and welfare. The Committee recalls that success in employment creation is linked to the successful coordination of macroeconomic policies as well as structural policies. *It therefore asks the Government to report on how employment policy measures are reviewed regularly within the framework of a coordinated economic and social policy. In particular, the Committee requests the Government to provide information on the results and progress achieved with the implementation of the measures envisaged by the Plan for Employment and the National Employment Strategy, including information on the employment situation of socially vulnerable groups such as young persons, women jobseekers, and workers of Rom origin. The Committee further requests the Government to include in its next report disaggregated data on the level and trends of employment, unemployment and underemployment. Please also indicate the measures taken to reduce labour market differentials in the country (according to data provided by the Office, the unemployment rate in the Bucharest region is 2.8 per cent while in the regions of Vaslui and Huedoara it is over 11 per cent) (Articles 1 and 2 of the Convention).*

2. *Labour market and training policies.* The Government indicates that 2 per cent of the budget for the active labour market measures was allocated to training and retraining. In accordance with the provisions of the employment law, the National Employment Agency develops a yearly National Vocational Education Plan, its main objective being to increase employment by providing skills for which there is either present or future market demand. The Government indicates that in the context of this plan, a special focus has been given to disadvantaged groups. In this regard, the Committee would be grateful to be kept informed of the results of the National Plan and if the Government could indicate the measures taken to ensure that skills supply and demand do coincide. The Committee hopes that in implementing measures to provide skills to jobseekers, the Government will also take into account the instruments most directly related with Convention No. 122, such as the Human Resources Development Convention (No. 142), and Recommendation (No. 195) of 2004. The Government may consider useful to refer to the above instruments when including information in its

next report on the results of the measures taken to coordinate its vocational guidance and training initiatives with the employment policy measures adopted.

3. *Participation of the social partners in the formulation and application of policies.* As concerns have been voiced by Cartel Alfa and the World Confederation of Labour in their communication of August 2004 concerning the fact that trade unions' involvement in the design and evaluation of employment policies is insufficient, the Committee notes the information provided by the Government on the consultation held by the administrative council of the National Employment Agency and the National Commission for Employment Promotion. The Committee recalls that *Article 3* of the Convention provides that the measures to be taken in relation to employment policy should take fully into account the experience and views of the representatives of employers' and workers' organizations with a view to securing their full cooperation in formulating and implementing employment policies. ***The Committee trusts that in its next report, the Government will be able to provide further details on the efforts made to hold the consultations required by this important provision and will also indicate the manner in which the views of the representatives of persons affected by employment policy measures, including the opinions of representatives of those working in the rural sector and in the informal economy, are taken into account so as to ensure that the objectives of the Convention are being achieved.***

Russian Federation

Employment Policy Convention, 1964 (No. 122) (ratification: 1967)

1. *Integration of an active employment policy with economic and social policy.* The Committee notes the detailed information on the labour market situation, on the activities of the employment service in 2003 and 2004, and on the legislative amendments to the law concerning employment provided by the Government's report received in October 2004. The Government indicates that the number of people employed was around 66 million. The unemployment rate as of mid-2004 was 8.5 per cent, with a total of 6,133,000 workers unemployed, of which 1,628,000 were registered with the employment services. The number of workers dismissed because of redundancies and closure of firms grew by 20 per cent in the first quarter of 2004 and totalled some 162,000 workers. With regard to regional disparities, the situation of the labour market was favourable in major cities like Moscow and Saint Petersburg, but high levels of unemployment were noted in some territories such as the Republic of Ingushetia and Dagestan. The Committee notes that there has been a decline in the economically active population at a time when the working age population is growing. The Committee notes that success in employment creation is linked to the successful coordination of macroeconomic policies as well as structural policies. ***It therefore asks the Government to report on how employment policy measures are reviewed regularly within the framework of a coordinated economic and social policy. The Committee also requests the Government to provide information in its next report on the difficulties encountered and the results obtained for the implementation of an integrated employment policy, in the sense of the Convention. Please also include in the report information on the employment situation of socially vulnerable groups such as young persons, women jobseekers, and dismissed workers. The Committee would appreciate continuing to receive disaggregated data on the level and trends of employment, unemployment and underemployment. Please also indicate the measures taken to reduce labour market differentials in the country and how the unemployment benefit has been expanded in order to cover a large rate of the unemployed and promote the re-entry into employment of the beneficiaries (Articles 1 and 2 of the Convention).***

2. The Committee further notes the measures taken to establish a system of quotas to promote the employment of workers with disabilities. ***It asks the Government to include information in its next report on the outcomes of the schemes implemented with a view to integrate workers with disabilities in the open labour market. It hopes that the Government will also report on the pending issues with regard to the application of the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159).***

3. *Participation of the social partners in the formulation and application of policies.* The Committee notes that the amendments introduced to the Law on Employment increased the responsibilities of the federal state authorities in relation with employment policies and that the level of the unemployment benefit will also be decided by the federal Government. In this regard, the Committee recalls that *Article 3* of the Convention provides that the measures to be taken in relation to employment policy should take fully into account the experience and views of the representatives of employers' and workers' organizations with a view to securing their full cooperation in formulating and implementing employment policies. It further recalls its interest to examine information on the efforts made to hold the consultations required by this important provision, and ***requests the Government to include in its next report indications on the manner in which the views of the representatives of persons affected by employment policy measures, including the opinions of representatives of those working in the informal economy, are taken into account so as to ensure that the objectives of the Convention are being achieved.***

4. *ILO technical assistance.* The Committee also recalls its interest in examining information on the action taken as a result of ILO technical and advisory cooperation activities in the field of employment in the framework of the programmes of cooperation between the Russian Federation and the ILO (*Part V of the report form*).

Sao Tome and Principe

Employment Service Convention, 1948 (No. 88) (ratification: 1982)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its 2002 observation which read as follows:

1. *Please provide information on the arrangements made in accordance with Articles 4 and 5 of the Convention by the National Council for Social Dialogue (CNCS) or the Directorate of Public Employment Services to ensure the cooperation of representatives of employers and workers in the organization and operation of the employment service and in the development of employment service policy.*
2. *Please indicate the manner in which the employment service is organized and the activities which it performs in order to achieve effectively the objectives and carry out the functions set out in Article 6 of the Convention.*
3. *Please also provide the detailed information requested in the report form concerning the effect given to Articles 7, 8, 9, 10 and 11 of the Convention.*
4. *Part IV of the report form. Please furnish statistical information concerning the number of public employment offices established, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices.*
5. The Committee recalls that the Office is available to provide the Government with technical advice and assistance for the implementation of a public employment service within the meaning of the Convention.

Slovakia

Employment Policy Convention, 1964 (No. 122) (ratification: 1993)

1. The Committee notes the report provided by the Government in August 2004 and the comments supplied by the Confederation of Trade Unions of the Slovak Republic (KOZ SR) in September 2004.

2. It also notes the discussion on the application of the Convention in the Committee on the Application of Standards at the 92nd Session (June 2004) of the Conference. The Conference Committee hoped that the Government would be in a position to state in its report that the difficulties encountered in the labour market in Slovakia were being overcome and that, in particular, a more balanced regional development was being achieved, with employment created in rural areas and responses found to the specific needs of the most vulnerable workers, namely youth and the Roma population.

3. The Government indicates in its report that there has been a rising employment trend in the labour market accompanied by a decline in unemployment. From the regional aspect, the employment rate increased in all the regions – the difference between regions with the highest and the lowest employment rates declined by two percentage points. In 2003, the decline in the employment rate of young people gradually came to a halt. The Committee notes that, in spite of the positive economic growth, the employment rate in Slovakia (63.3 per cent for men and 52.2 per cent for women) remains low in relation with the European Union goals. The unemployment rate declined from 17.5 to 15.19 per cent, but remains very high for youth (34.5 per cent) and for long-term unemployment (11.1 per cent). The estimated unemployment rate of the Roma minority is extremely high, close to 70 per cent, and almost 100 per cent in the segregated settlements. Regional disparities remain considerable and are mainly caused by the Bratislava region, where strong performance seems to be in striking contrasts with the rest of the country.

4. The Government further indicates in its report that measures were taken to reduce the differences between individual regions, including financial incentives under the new Employment Services Act. The Government lists the allocations provided by the European Social Fund for individual national projects (for the support of the unemployed persons with an emphasis on the long-term unemployed and disadvantaged groups on the labour market, some €26 million were allocated; for the employment of people with disabilities, some €9 million; for training of unemployed persons, some €10 million and for the reintegration to labour market of the long-term unemployed, some €12.5 million). In this regard, the Committee recalls that, as required by the Convention, success in employment creation is linked to the successful coordination of macroeconomic policies as well as structural policies. *It therefore asks the Government to report in detail on how employment policy measures are reviewed regularly within the framework of a coordinated economic and social policy. In particular, the Committee asks the Government to provide information on the results and progress achieved with the implementation of the measures envisaged by the National Action Plan for Employment for the period 2004-06, including information on the employment situation of socially vulnerable groups such as young persons, women jobseekers, long-term unemployed and workers with disabilities. The Committee further requests the Government to include, in its next report, disaggregated data on the level and trends of employment, unemployment and underemployment. Please also indicate the measures taken to reduce labour market differentials in the country (Articles 1 and 2 of the Convention).*

5. *Equal opportunities for the Roma minority.* In reply to previous comments, the Government states that since the number of registered jobseekers from the Roma minority was not monitored statistically, it is impossible to indicate their participation in programmes implemented in the labour market. The Government further indicates that Act No. 5/2004 on employment services regulates the rights and duties of citizens in the field of employment based on civil principles and not ethnic, religious or other principles. The system integrated into the Employment Services Act is aimed at the reduction

of direct and indirect discrimination in access to employment. The Committee recalls that an employment policy, in conformity with Convention No. 122, must aim at ensuring freedom of choice of employment and the fullest possible opportunity in employment and training, in particular for vulnerable groups like the Roma minority (*Article 1, paragraph 2(c)*). See also paragraph 109 of the General Survey of 2004 on promoting employment). ***The Committee therefore requests the Government to also include in its next report detailed information on the effectiveness of the measures taken and the placement on the labour market of the beneficiaries of the active labour measures designed for disadvantaged jobseekers such as those of the Roma minority.***

6. *Participation of the social partners in the formulation and application of policies.* The Committee notes the comment made by KOZ SR indicating that trade unions and employers have been excluded from the active participation in dialogue which should take place in the context of the Council of Economic and Social Agreement (CESA). The KOZ SR indicates that the critical opinions of the social partners in relation to important social and economic matters were unacceptable for the Government. The KOZ SR refused to be a part of the formal evaluation of the NEP for 2003 and hopes that the Government will avoid the same mistakes with regard to the implementation of the NEP for 2004-06. The Conference Committee had urged the Government to renew its efforts to strengthen social dialogue on employment policy, as the participation of the social partners in the formulation of employment policy and in securing support for the achievement of the objective of full employment was an essential requirement of this priority Convention. The Committee recalls that *Article 3* of the Convention provides that, the measures to be taken in relation to employment policy should take fully into account the experience and views of the representatives of employers' and workers' organizations with a view to securing their full cooperation in formulating and implementing employment policies. Governments and representative organizations of employers and workers share responsibility for ensuring that representatives of the more vulnerable or marginalized sectors of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see General Survey, op. cit., paragraph 493). ***The Committee, in the same way as the Conference Committee, trusts that the Government will be able to provide indications in its next report on the progress made to obtain the involvement of the social partners in order to ensure that the objectives of the Convention are being achieved. Please also indicate the manner in which the views of the representatives of persons affected by the employment policy measures, including the opinions of representatives of the Roma population, have been taken into account with regard to the employment policy measures designed for disadvantaged jobseekers.***

Sudan

Employment Policy Convention, 1964 (No. 122) (ratification: 1970)

The Committee takes note of the Government's very brief report received in November 2004.

1. *Policies to promote employment and coordination with poverty reduction.* The Government indicates that it has under consideration a programme for the period 2005-06 to combat unemployment with special reference to university graduates, and lists the main elements of this programme. The Government also indicates that it is in the process of preparing, with the assistance of the ILO, the Poverty Reduction Strategy Paper. ***The Committee requests the Government to provide detailed information in its next report on the measures taken to ensure that employment, as a key element of poverty reduction, is central to macroeconomic and social policies. Furthermore, the Committee emphasizes the importance of establishing a system for compilation of labour market data and requests the Government to inform it of any progress made in this field and to provide in its next report disaggregated data on trends in the labour market, including information on the situation, level and trends of employment, underemployment and unemployment throughout the country and the extent to which they affect the most vulnerable categories of workers (such as women, young persons and rural workers). The Committee also asks the Government to inform it of the status of the Poverty Reduction Strategy Paper as well as any evaluation on the impact of its programme to combat unemployment focusing on university graduates (Articles 1 and 2 of the Convention).***

2. *Participation of the social partners in the formulation and application of policies.* The Committee recalls that *Article 3* of the Convention requires consultations with representatives of all persons affected, and particularly representatives of employers and workers, in the formulation and implementation of employment policies. It is the joint responsibility of the Government and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see paragraph 493 of the General Survey of 2004 on promoting employment). The Committee trusts that the Government will provide detailed information in this respect in its next report.

3. *Part V of the report form.* ***Finally, it requests the Government to describe in its next report the actions it has taken to implement an active employment policy within the meaning of the Convention following the technical assistance received from the ILO.***

4. The Committee underlines that the preparation of a detailed report, including the information requested in this observation, will certainly provide the Government and the social partners with an opportunity to evaluate the achievements concerning the objective of full and productive employment laid down in the Convention.

Suriname

Employment Service Convention, 1948 (No. 88) (ratification: 1976)

1. The Committee takes note of the Government's report received in September 2004. The Government indicates that in July 2000, a labour project was launched in the region with the support of the United States Department of Labor. The goal of this project is to establish an automated Internet-based job bank that could interface with the country labour market information system. The project provided the Ministry of Labour with skills and tools necessary to employment services systems, increased cooperation between the Ministry of Labor and the social partners on employment services issues, and established resource centres for jobseekers and employers. The Government further reports that the One Stop Resource Center was inaugurated in Suriname on August 2002. The Labour Exchange Unit and the Foundation for Labour Mobilization and Development are cooperating. The foundation has established different programmes to provide technical training to "dropouts", juveniles, self-employed workers, and training in business management and administration. *The Committee would appreciate receiving further information on progress made in expanding the role of public employment services in employment promotion.*

2. *Participation of the social partners.* The Committee notes the Government's statement that there are no advisory committees concerning labour exchange. The Committee once again recalls the importance of advisory committees for the cooperation of representatives of employers and workers in the organization and operation of the employment service, and in the development of employment service policy. *It asks the Government to take all necessary steps in the near future to ensure the application of Articles 4 and 5 of the Convention.*

3. *Activities of the employment service.* The Committee notes the information provided by the Government regarding the manner in which the Labour Exchange unit provides services to jobseekers. *It would appreciate receiving indications on the measures that have been taken by the employment service to favour the professional or geographic mobility of workers, and to facilitate movement of migrant workers (Article 6(b)).*

4. *Measures for particular categories of applicants for employment.* The Government declares that the Labour Exchange Unit is not specialized in mediating for particular categories of workers or sectors. The Committee recalls that *Article 7* requires that measures be taken to facilitate specialization of employment offices by occupation and industry, and to meet the needs of particular categories of workers. *The Committee asks the Government to indicate the measures adopted or envisaged to give effect to this provision of the Convention in relation with disadvantaged jobseekers such as people with disabilities.*

5. *Special arrangements for young workers.* The Government indicates that the Foundation of Labour Mobilization and Development have established training and re-training programmes for young workers. *The Committee notes this information with interest and it asks the Government to continue to provide information on the activities of the employment service in relation to youth employment (Article 8).*

Swaziland

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1981)

The Committee notes with regret that the Government's report has not been received. *It must therefore again ask the Government to supply information required in Part V of the report form on the practical application of the Convention, in particular with regard to the recruiting of persons for employment on foreign contracts of employment under Part IX of Employment Act No. 5 of 1980. It asks the Government to supply specific information on this matter, as well as a detailed report on the application of the provisions of Part III of the Convention.*

[The Government is asked to reply in detail to the present comments in 2006.]

Thailand

Employment Service Convention, 1948 (No. 88) (ratification: 1969)

The Committee notes the information in the Government's report received in November 2004, which responded to the comments made in the Committee's 1999 direct request. In February 2005, the Committee received from the National Congress of Thai Labour (NCTL) an observation to which the Government supplied its own comments.

1. *Measures to facilitate the movement of migrant workers and cooperation with private employment agencies.* The NCTL states that fraudulent practices are still used against jobseekers wishing to work overseas. Part of the problem is the lack of confidence jobseekers have in the services provided by the Government or in the fairness of government regulations. The NCTL invites the Government to be more proactive in publicizing its public employment services in order to reach greater numbers of jobseekers wishing to work overseas. It also invites the Government to regularly review the measures taken. In this respect, the NCTL adds that the Committee on the Development of Employment and Jobseekers Protection (CDEJP) functions inefficiently, and many jobseekers are unaware of the CDEJP's services. The NCTL recommends providing the CDEJP with greater governmental support so that it can play a more active role.

2. In its reply, the Government enumerates the measures taken to address the deception against and exploitation of jobseekers by private recruitment agencies:

- *Defensive measures:* Private recruitment agencies are monitored to ensure compliance with national legislation, and violations result in severe punishment. The Department of Employment collaborates with the Immigration Bureau to monitor workers going overseas. At airport checkpoints, workers must report in person and show valid documents indicating authorization to work abroad. The Government is continually engaged in campaigns to provide jobseekers with information on the procedures required to work abroad legally.
- *Offensive measures:* The Government has established counter-fraudulence centres in employment offices at the provincial level to distribute information about overseas employment as well as to receive claims from jobseekers deceived by private recruiters. The sanctions taken against private recruitment agencies in violation of laws are also duly registered.

3. The Committee recalls that the public employment service shall take appropriate measures to “facilitate any movement of workers from one country to another which may have been approved by the governments concerned” (*Article 6, subparagraph (b)(iv) of the Convention* and Paragraph 27(2) of the Employment Service Recommendation, 1948 (No. 83), regarding international cooperation among employment services in the field of international migration). Furthermore, necessary measures shall be taken to secure effective cooperation between the public employment service and private employment agencies (*Article 11 of Convention No. 88*). Also keeping in mind the Committee’s comments on the application of the Employment Policy Convention, 1964 (No. 122), ***the Committee hopes that the Government will strengthen its public employment service in order to adequately protect migrant workers. It asks the Government to provide further details on the arrangements made to give full effect to Article 11 of Convention No. 88. The Committee also refers to the more recent provisions adopted by the International Labour Conference at its 85th Session (1997) concerning the prevention of abuse against migrant workers recruited by private employment agencies contained in Convention No. 181 and Recommendation No. 188.*** It recalls that Convention No. 181 recognizes the role played by private employment agencies in the labour market and the need for cooperation between the public employment service and private employment agencies.

[The Government is requested to reply in detail to the present comments in 2006.]

Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

The Committee notes the information provided by the Government in its report received in November 2004. The ILO Subregional Office in Bangkok has also brought to the Committee’s attention additional information concerning the application of the Convention.

1. *Employment policy and social protection.* In its 2002 direct request, the Committee encouraged the Government to follow an integrated approach to social protection and employment promotion and requested the Government to report on the implementation of unemployment benefits as a complement to its employment policies. The Committee notes with interest that the Government began collecting contributions for unemployment insurance on 1 January 2004 and issuing benefit payments on 1 July 2004. The Committee understands that the National Health Office has introduced a universal health-care scheme and that the Social Security Office is considering the extension of social security to the non-covered population. ***The Committee welcomes these developments and hopes that the Government will continue to report on the progress of extending adequate social protection to the entire population and the steps taken to coordinate its employment policy with the unemployment benefit system.***

2. *Coordination of employment policy with poverty reduction.* The Committee notes with interest that the number of people in poverty has been decreasing since the period of financial crisis in 1997 from 8.9 million in 2000 to 6.2 million in 2002. The Government indicates that its objective is to eradicate poverty by 2009 by increasing income, reducing expenses and expanding opportunities. The Government has set up the National Centre to Fight against Poverty and the Subcommittee on Occupation and Employment Promotion, which is chaired by the Deputy Prime Minister. The Committee also notes that, although the number of poor has decreased, the share of income of the poorest quintile has remained at 4 per cent over the past decade. The Committee asks the Government to provide information on the results achieved with the implementation of the measures under the Ninth National Economic and Social Development Plan (2002-06), including information on the situation of socially vulnerable groups, such as workers in the rural sector and the informal economy. ***In this regard, the Committee stresses the need for measures ensuring that employment, as a key element of poverty reduction, is at the heart of macroeconomic and social policies. It would appreciate detailed statistics on labour market trends and further information on the extent to which economic growth leads to an improved labour market and reduction in poverty levels. The Committee would also appreciate receiving information on how measures taken to promote employment operate within a “framework of a coordinated economic and social policy” (Article 2, paragraph (a), of the Convention). Please indicate how concerns to improve the quantity and quality of employment are taken into account in economic policies, such as bilateral and multilateral trade agreements on employment.***

3. *Labour market and training policies.* The Committee notes that the Department of Employment, the Department of Skill Development, and the Ministry of Education have implemented vocational training programmes to students, women in poor regions or from religious minority groups, persons with disabilities and other categories of unemployed

peoples. The Ministry of Social Development and Human Security oversees labour policies related to trafficking, disadvantaged workers and persons with disabilities; yet other socially vulnerable groups, such as home and rural workers, are protected by ministerial regulations issued by the Ministry of Labour. The Committee notes the progress achieved through these various measures; for example, the Subcommittee's Roadmap for Employment Promotion has already yielded results with respect to youth employment. ***The Committee would appreciate being informed of the results of the various training programmes and the measures taken to ensure that skills acquired under the training programmes meet the demands of the labour market. It would appreciate information on how the various governmental departments are coordinating employment, labour market and training policies.*** The Committee refers to the provisions of the Human Resources Development Convention, 1975 (No. 142), and of the recently adopted Human Resources Development Recommendation, 2004 (No. 195).

4. *Prevention of discrimination (Article 1, paragraph 2(c)).*

- *Women.* The Government states that section 38 of the Labour Protection Act of 1998 and Ministerial Regulation No. 2, which proscribes employers from requiring women workers to engage in specified harmful work, were designed with the purpose to provide special protection to women workers and not to discriminate based on sex. The Committee notes that, in 2004, labour force participation rates in Thailand were lower for women (65.1 per cent) than for men (81.8 per cent). Women remain over-represented in financially unstable work such as homework, agriculture and manufacturing. ***The Committee asks the Government to provide updated information on the efforts to monitor the opportunities of women workers to obtain and retain jobs and to promote equal access to education, training and employment.***
- *Persons with disabilities.* The Committee notes that persons with disabilities accounted for 1.8 per cent of the population or 1.1 million people in 2001 and received two-thirds of the income earned by other workers. The Committee understands that people registered with a disability (357,753 in 2003) are entitled to some state assistance and that the Government is revising the Rehabilitation of Disabled Persons Act. ***It would appreciate receiving indications on the progress of integrating persons with disabilities in the open labour market.***
- *Migrant workers.* In its last report, the Government expressed concern regarding the protection of regular and irregular workers and the prevalence of trafficking in persons. In order to regulate the flow of migrant workers in its efforts to provide them with protection, the Government has signed bilateral Memorandums of Understanding with neighbouring countries including Cambodia, Lao People's Democratic Republic and Myanmar. The Committee understands that, in July 2004, about 1.28 million people were registered as foreign migrant workers and were given permission to work, seek employment or stay as dependents in Thailand until 30 June 2005. Some 800,000 workers obtained work permits. ***It asks the Government to continue to report on the action taken within the framework of an active employment policy to prevent abuse in the recruitment of labour and the exploitation of migrant workers in Thailand (see Part X of the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)).***
- *Workers in the rural sector and the informal economy.* The Committee notes with interest that the Government is cooperating with the Office in the Informal Economy Project with a view to provide workers in this sector greater protection. The Department of Employment has organized vocational guidance in villages, and training is provided to homeworkers in order to increase their productivity and safeguard their occupational safety and health. The Committee notes that a special ministerial regulation for the protection of homeworkers and a ministerial regulation on the protection of workers in the agricultural sector were adopted in 2004. ***It would appreciate receiving further information on the measures taken to increase employment opportunities and to improve working conditions for those in the rural sector and the informal economy.***

5. *Consultation of representatives of the persons affected.* The Committee notes the satisfaction expressed by the National Congress of Thai Labour (NCTL) regarding the overall performance of the Ministry of Labour. The Committee further notes that the Government has taken into account the recommendation made by the National Labour Advisory Development Council in formulating and implementing employment policies, in particular, the unemployment insurance scheme mentioned previously. However, the NCTL indicates that consultations held in the tripartite bodies concerned with skills development policy lack practical effect. The NCTL invites the Government to give more weight to the viewpoints of the social partners and to provide assurance that consultations will be taken in good faith. It is the Committee's view that governments and representative organizations of employers and workers share responsibility for ensuring that representatives of marginalized sectors of the active population have a meaningful part in the formulation and implementation of policies of which they are the prime beneficiaries (paragraph 493 of the General Survey of 2004 on promoting employment). ***It accordingly requests the Government to provide information on tripartite consultations dealing with employment policies, and to indicate the measures taken or envisaged to ensure that representatives of the rural sector and the informal economy are likewise part of such consultations. With respect to migrant workers, the Committee asks the Government to provide information on the involvement of employers' and workers' representatives, including representatives of migrant workers, in the development and implementation of migration measures. It also encourages the Government to inform both employers and workers of government policies and labour standards protecting the rights of migrant workers.***

Uganda

Employment Policy Convention, 1964 (No. 122) (ratification: 1967)

The Committee takes note of the Government's report received in June 2004.

1. *Coordination of employment policy with poverty reduction.* The Committee recalls that the efforts by Uganda to formulate a comprehensive employment policy dates back to 1996, when the Ministry of Labour and Social Welfare prepared, with ILO assistance, a comprehensive national employment policy. In its latest report, the Government indicates that the draft National Employment Policy was to be submitted by the Ministry of Labour and Social Welfare to Cabinet in July 2004 for consideration and adoption. While the Government explains that the draft National Employment Policy represents the first comprehensive action to address the problems of unemployment, underemployment, labour productivity and poverty in the country, it acknowledges that employment remains one of its greatest challenges since more than half of the population lives below the poverty line. Unemployment and underemployment are rampant among women, youth and graduates from institutions of higher learning, tertiary and other institutions. The Government has thus included employment objectives in the development plans and programmes, such as the Poverty Eradication Action Plan aimed at accelerating economic growth and the eradication of poverty.

2. The Government further indicates that within the employment policy framework, it aims to protect vulnerable groups such as women, youth and persons with disabilities and to assist them with special compensatory programmes, including those envisaged under the Poverty Eradication Action Plan. The Government also states that vocational training is being offered under the Directorate of Industrial Training and that it will ensure that these programmes are demand-driven through greater involvement of the private sector. ***The Committee requests the Government to provide detailed information in its next report on the measures taken to ensure that employment, as a key element of poverty reduction, is central to macroeconomic and social policies. The Committee emphasizes the importance of establishing a system for compilation of labour market data and requests the Government to report on any progress made in this field and to provide in its next report disaggregated data on trends in the labour market, including information on the situation, level and trends of employment, underemployment and unemployment throughout the country and the extent to which they affect the most vulnerable categories of workers (such as women, young persons and rural workers). The Committee also asks the Government to inform it of the status of the draft National Employment Policy and the Poverty Eradication Action Plan, as well as any evaluation on the impact of its programme to combat unemployment focusing on university graduates (Articles 1 and 2 of the Convention).***

3. *Participation of the social partners.* The Government indicates that during the development of the draft National Employment Policy, the views of all affected persons were taken into account through the various workshops held. The Committee takes due note of this information and recalls that *Article 3* of the Convention requires consultations with representatives of all persons affected, and particularly representatives of employers and workers, in the formulation and implementation of employment policies. It is the joint responsibility of the Government and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see paragraph 493 of the General Survey of 2004 on promoting employment). ***The Committee would appreciate continuing to receive information on the involvement of the social partners on the matters covered by the Convention.***

Ukraine

Employment Policy Convention, 1964 (No. 122) (ratification: 1968)

1. The Committee has taken note of the information contained in the Government's reports received in May 2003 and October 2004. It also notes the comments formulated by the Free Trade Unions of Ukraine (KSPU) dated 9 September 2004 concerning issues related to school closures, as well as the reply of the Government to the said comments.

2. *Adoption of an active employment policy within the framework of a coordinated economic and social policy.* The Government indicated in its report that, in 2003, the number of employed people between 15 and 70 years of age rose by 154,000 to over 20.5 million people. The unemployment rate was 10.1 per cent of the economically active population, while youth unemployment also represented a serious problem, as it stood at 24 per cent. The Government also indicated that the rate of long-term unemployment had fallen in recent years. In addition, the number of workers on leave without pay at the instigation of the administration of enterprises had significantly dropped compared to previous years, while the number of part-time workers had fallen by 12.7 per cent, resulting in a significant decrease in working time loss. The Government stated that, in order to provide employment for citizens with physical disabilities and other groups of socially disadvantaged people, a national programme for the vocational rehabilitation and employment of persons with physical disabilities for 2001-05 had been established. Furthermore, the Government indicated in its report of October 2004 that vocational training for unemployed people was organized by the state employment service depending on the specialist areas which are in demand in the regional labour market, in order for people to be recruited to specific jobs. To this end, the state employment service provided training to 175,500 people in 2003 and to 108,800 people in the first five months of 2004.

3. The Committee understands that the Government newly elected in 2004 intends to create an annual 1 million jobs from 2006 through 2009, most of them emerging in the sphere of high technology production, in farming, in the social spheres in rural areas, in services and in the tourist industry. To that end, Parliament is to adopt new legislation on job training and retraining of personnel, on the creation of incentives to employers to retrain personnel and on educational and research programmes. In this regard, the Committee recalls that it is essential from the outset for employment objectives to be included as a major goal in the formulation of economic and social policy if these objectives are truly to be an integral part of the policies that are adopted. The Committee encourages governments, in consultation with the social partners, to ensure that the competent authorities responsible for other policy areas are aware of their obligation to consider employment objectives when formulating economic and social policy (paragraph 490 of the General Survey of 2004 on promoting employment). ***The Committee hopes that the Government's next report will contain information on labour market policies, with a detailed description of the manner in which the main aspects of general economic policy contribute to employment promotion. In particular, it requests the Government to indicate the manner in which employment objectives are taken into account in the adoption of measures in such fields as monetary, budgetary and taxation policy, and price, income and wage policy. Please also describe the measures adopted or envisaged with regard to job creation in regions where mines are being closed and miners laid off, areas that suffered following the Chernobyl disaster, small towns dependent on a single industry and depressed areas.***

4. *Employment statistics.* The Committee hopes that, in its next report, the Government will provide detailed statistics on the situation and trends of employment and that it will be in a position to specify how these statistics are used in deciding on and reviewing employment policy measures (*Article 2 of the Convention*).

5. *Participation of the social partners in the formulation and application of policies.* The Committee recalls that governments and representative organizations of employers and workers share responsibility for ensuring that representatives of the more vulnerable or marginalized sectors of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries (see General Survey, op. cit., paragraph 493). ***The Committee trusts that the Government will provide information in its next report on the consultations held on the subjects covered by the Convention with the representatives of employers' and workers' organizations, as well as representatives of rural workers and of the informal economy (Article 3).***

United Kingdom

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

The Committee has taken note with interest of the detailed information contained in the Government's report received in January 2005, the National Plan for Employment 2004, as well as several other reports and publications annexed to it.

1. *Employment strategy and trends.* The Government recalls that the three key objectives of the European Employment Strategy are full employment, quality and productivity and cohesion and social inclusion. These have been supplemented by employment taskforce recommendations prioritizing: increasing the adaptability of workers and enterprises; attracting more people to enter and remain on the labour market; investing more effectively in human capital and lifelong learning; ensuring effective implementation of reforms through better governance; and promoting gender equality in the labour market. The Government indicates that the country has a strong labour market with high levels of employment at 74.7 per cent, and low levels of unemployment, the lowest in the G7, at 4.8 per cent in 2004. For men, the employment rate stood at 79.5 per cent while the unemployment rate was 5.1 per cent. For women, the employment rate was 69.8 per cent and the unemployment rate was 4.5 per cent. The Government emphasizes that the number of employed people in the United Kingdom is at record levels, up 250,000 persons since 2003, while unemployment is the lowest for about 30 years and continues to fall, with major improvement in long-term unemployment, which is at its lowest level in three decades. The Committee takes due note of this information and would appreciate continuing to receive detailed disaggregated data on labour market trends. It also reminds the Government of the interest it attaches to information relating to the manner in which measures adopted under the general economic policy, and in particular income and wages policies, contribute "within the framework of a coordinated economic and social policy" to pursuing "as a major goal" the objective of full, productive and freely chosen employment (*Articles 1 and 2 of the Convention*).

2. *Labour market policies.* In December 2003, the Government published the report "Full employment in every region". The paper sets out the Government's strategy to achieve full employment by tackling areas of disadvantage and concentrations of worklessness. The Government, actively seeking to combat discrimination in the workplace, has launched Equality Direct, which enables employers to access information and advice on equal opportunities by telephone or through the Internet. Furthermore, the Employment Equality (Religion or Belief) Regulations 2003 and the Employment Equality (Sexual Orientation) Regulations came into effect in December 2003. These regulations prohibit discrimination on grounds of religion or belief, and sexual orientation in employment, self-employment, occupation and vocational training. The Government also indicates that the Pensions Green Paper "Simplicity, security and choice: Working and saving for retirement" of December 2002 announced measures to give older people more opportunity to remain in work longer. The Government has in fact set a new target for 2005-08 to increase the employment rate of people aged 50-69 and reduce the gap between their employment rate and the overall employment rate.

3. The Government further indicates that following the success of the New Deal for Disabled People, which was the first programme specifically designed to support people on disability and health-related benefits in finding and retaining paid employment, this programme was extended to March 2006. Regarding education and training policies, the Government states that the key target of the learning and skills councils is that by 2010, 90 per cent of young people by age 22 should have participated in a full-time programme fitting them for entry into higher education or skilled employment. Moreover, the Government wants 50 per cent of the 18-30 year-olds to participate in higher education by the year 2010. This target is driven by strong economic and social arguments and the bulk of the increase should come through new types of qualification tailored to the needs of students and the economy. The Government also states that the network of Jobcentre Plus offices is currently being modernized and increased and at completion is expected to include a network of around 1,000 sites. ***The Committee takes note with interest of these developments, as well as the various programmes described in detail in the report, and looks forward to receive from the Government, in its next report, an assessment of the impact of its active labour market measures, in particular with regard to vulnerable groups like working-age people claiming sickness and disability benefits and low-paid women in part-time work. The Committee would also appreciate continuing to receive information and data on successes, problems encountered and lessons to be learned from the experience of social partners in the United Kingdom with regard to the application of the Convention.***

Uruguay

Employment Policy Convention, 1964 (No. 122) (ratification: 1977)

1. The Committee notes the Government's detailed report for the period ending in May 2004, which contains useful information relating both to the measures adopted and the 2003 observation.

2. *Application of employment policy within the framework of a coordinated economic and social policy.* The report indicates that it had been impossible to prevent the poverty level from rising to affect 20.5 per cent of households. Almost one-third of the population lives below the poverty line. Unemployment affects all groups of workers. The Government summarized the compensatory policy instruments that form a large part of the activities of the National Directorate of Employment (Vocational Training Programme, Productive Investment Programme and Productive Training Programme, as well as other specific programmes aimed at young people, women and rural workers). The report also mentions welfare measures (such as food-related welfare programmes and unemployment benefit). According to more recent information, in the last quarter of 2004, the unemployment rate stood at 12.1 per cent of the economically active population. In comparison to the unemployment rate registered in the same three months of 2003, a downward trend in the rate of unemployment was maintained. Furthermore, the trend in the rate of employment remained positive and employment increased by 1.5 percentage points (in terms of the Uruguayan urban total, just over 50 of every 100 people of 14 years of age or over were employed by the end of 2004).

3. ***The Committee asks the Government, in its next report, to indicate the impact of the programmes adopted, particularly using funds from the Occupational Retraining Fund, to incorporate unemployed persons into the labour market. In general, the Committee would like some information that would enable it to assess the way in which the promotion of employment is a central objective of all available macroeconomic policy mechanisms, especially of monetary, financial, budgetary, trade and development policies.*** The Committee reminds the Government that it is important from the outset to consider employment objectives "as a major goal" in the formulation of economic and social policy if these objectives are truly to be an integral part of the policies that are adopted (see paragraphs 487 and 490 of the General Survey of 2004 on promoting employment). ***The Committee requests that the Government, in its next report, include information on the way in which due account has been taken of the objectives of full employment when formulating new approaches to economic and social policy.***

4. In reference to the 2003 observation, the Government indicates that it has made the defence of dignified and decent work, as advocated by the ILO, one of its main arguments for the reduction of the agricultural subsidies that the main developed countries pay its producers and that it is in favour of fair and balanced globalization. ***Please continue to include information on the measures taken within the MERCOSUR framework to promote active policies for full employment and on the progress made in adapting labour market measures to changes in international trade.***

5. *ILO technical assistance.* The Committee notes with interest that, in November 2002, views were exchanged with specialists from the ILO subregional office in order to prepare the Direct Employment Programme and the Micro and Small Undertakings Programme. The Government also mentions ILO studies that have been used by the research division of the National Directorate of Employment (DINAE). Furthermore, a technical audit report on the beneficiaries of the Community Activities Programme (December 2003, prepared by an ILO consultant) is attached to the report. ***The Committee would be grateful if the Government, in its next report, could continue to provide information on the activities undertaken, as a result of ILO assistance, to improve the coordination of and strengthen the programmes aimed at creating productive employment in accordance with the Convention.***

Bolivarian Republic of Venezuela

Employment Service Convention, 1948 (No. 88) (ratification: 1964)

1. *Contribution of the public employment service to the promotion of employment.* The Committee notes the information provided by the Government in September 2004 in relation to its observation of 2001. The Government reports on the progress achieved by the employment services provided through the network of 29 employment offices which benefit from automated technical support. With a view to achieving the best possible organization of the employment market, efforts are being made to include an employment benefits scheme to insure against the contingency of involuntary loss of employment and unemployment in the context of a new Organic Social Security Act, which would be under the responsibility of the National Employment Institute of the Social Security System. Taking into account the labour market situation which continues to be monitored in its comments on the application of the Employment Policy Convention, 1964 (No. 122), ***the Committee requests the Government to indicate in its next report the coordination that has been established between the network of agencies of the national employment service and the National Employment Institute to provide assistance to the unemployed. The Committee reiterates its interest in receiving updated statistical data, in published annual or periodical reports, concerning the number of public employment offices established, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices (Part IV of the report form).***

2. *Cooperation of the social partners. Follow-up of a representation.* In its previous comments, the Committee requested information on the number of advisory committees established at the national and regional levels, the manner in which they have been constituted and the procedure adopted for the appointment of employers' and workers' representatives. With reference to the recommendations made by a tripartite committee in 1993, information was requested on any amendment to section 604 of the Organic Labour Act to ensure its full conformity with *Articles 4 and 5* of the Convention, which do not establish any distinction between employers' and workers' organizations with regard to the operation of the employment service. In its last report, the Government states that advisory committees have not been constituted formally at the national, regional and local levels. The Government adds that it has encouraged the necessary mechanisms with a view to achieving the cooperation of the labour and employers' sectors in order to promote and consolidate the various programmes and services which are provided to the user population through the network of public agencies which constitute the National Employment Service. Finally, the Government indicates that, in the context of a legislative reform that is currently under way, the national provisions will be brought into harmony with the requirements of the Convention. ***The Committee refers to the comments that it has been making for many years and hopes that the Government will indicate in the near future the measures adopted to comply with the recommendations of the tripartite committee which were approved by the ILO Governing Body in May 1993.***

[The Government is asked to reply in detail to the present comments in 2007.]

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 2** (Estonia, Guyana, Iceland, Morocco); **Convention No. 88** (Angola, Azerbaijan, Belarus, Belize, Central African Republic, Colombia, Democratic Republic of the Congo, Egypt, Georgia, Ghana, Greece, Guatemala, Indonesia, Kazakhstan, Republic of Korea, Lebanon, Lithuania, Madagascar, Republic of Moldova, Mozambique, Netherlands: Aruba, Nicaragua, Philippines, Romania, San Marino, Slovakia, Spain, Switzerland, United Republic of Tanzania: Tanganyika); **Convention No. 96** (Algeria, Bangladesh, Côte d'Ivoire, Egypt, France, Gabon, Guatemala, Israel); **Convention No. 122** (Australia, Australia: Norfolk Island, Austria, Barbados, Canada, Croatia, Cuba, Cyprus, Denmark, Denmark: Greenland, France: French Polynesia, France: St. Pierre and Miquelon, Greece, Iceland, Ireland, Israel, Jamaica, Japan, Kazakhstan, Republic of Korea, Madagascar, Mauritania, Morocco, Mozambique, Netherlands: Aruba, Netherlands: Netherlands Antilles, Norway, Panama, Paraguay, Senegal, Slovenia, Spain, Suriname, Sweden, Tunisia, Uzbekistan, Bolivarian Republic of Venezuela, Yemen, Zambia); **Convention No. 159** (Azerbaijan, Bahrain, Bolivia, Burkina Faso, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Egypt, Ethiopia, Guinea, Iceland, Japan, Republic of Korea, Kuwait, Kyrgyzstan, Madagascar, Malawi, Pakistan, Paraguay, Russian Federation, Sao Tome and Principe, Trinidad and Tobago, Uganda, Zambia); **Convention No. 181** (Albania, Finland, Georgia, Japan, Republic of Moldova, Morocco, Portugal).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 2** (Ukraine).

Vocational Guidance and Training

Guinea

Paid Educational Leave Convention, 1974 (No. 140) (ratification: 1976)

The Committee notes with regret that the Government's report has not been received for the fifth year in succession. It is therefore bound to reiterate its 1998 observation which requested the Government to provide the text of Ordinance No. 91/026 of 11 March 1991 and to specify the provisions taken to ensure the granting of paid educational leave to public servants. *It asks the Government to provide full information in its next report in response to each of the questions of the report form.*

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 140** (Chile, Serbia and Montenegro, Slovenia, Bolivarian Republic of Venezuela); **Convention No. 142** (France, Republic of Korea, San Marino, Serbia and Montenegro, Switzerland).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 142** (Spain).

Employment Security

Gabon

Termination of Employment Convention, 1982 (No. 158) (ratification: 1988)

1. The Committee notes the statement in the Government's report received in September 2005 that application of the National Pact for Employment, concluded in June 2000, has not involved any mass lay-offs of foreign workers, the replacement of foreign workers by a process of "gabonization" being only one of many possibilities available to the public authorities for working towards full employment for Gabonese nationals. The Government also indicates that, in practice, employers and the public authorities often come to a compromise on this question.

2. The Committee notes the importance the Government attaches to full employment for its nationals. In the Committee's view, measures to promote full employment should allow the Government to create conditions that are conducive to the generation of productive and lasting employment in conditions that are socially adequate for all concerned.

3. For many years the Committee has been commenting on the policy of "gabonization" of jobs and the need for its implementation to be consistent with the provisions of the Convention. The Committee noted that, according to *Article 2*, the Convention applies to all employed persons and *Articles 8 and 9* applies to foreigners as well as nationals. The Committee stressed that, in order for implementation of the "gabonization" policy to be in conformity with the provisions of *Article 4*, there must be a valid reason for termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service.

4. *The Committee points out that in the absence of any other valid reason, the "gabonization" of jobs may not be relied on as a valid reason for termination within the meaning of the Convention. The Government is asked to include practical information in its next report on the application of the provisions of the Convention, in particular the number of appeals against termination filed by foreign workers and national workers, the outcome of such appeals, the nature of the remedies awarded and the average time taken for the appeals to be processed, and on the number of terminations, if any, connected to the implementation of the new employment policy (Part V of the report form).*

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 158** (*Bosnia and Herzegovina, Papua New Guinea, Serbia and Montenegro*).

Wages

Albania

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 2001)

The Committee notes the Government's communication dated 5 May 2005 in reply to the observations made by the Trade Unions Confederation of Albania (CTUA) regarding the application of the Convention. The Government states that the Tripartite Wages Commission, after consulting with the social partners, has proposed the establishment of a national minimum wage. ***In this connection, the Committee reiterates its previous request for additional information, including copies of any relevant legal texts, on the mandate, composition and functioning of the Wages Commission.***

The Committee also notes that, according to the Government's report, a study has been undertaken regarding the possible increase of the differentiated minimum wage rates for specific professions. This study was carried out by an intra-ministerial group set up under the instructions of the Minister of Labour. The Government states that this initiative was acknowledged by both the trade unions and the employers' organizations at the National Labour Council's meeting but it was agreed that further tripartite consultations were necessary before the group was able to recommend sector-specific minimum wage levels. ***The Committee asks the Government to supply in its next report full particulars on the practical results of the work of the abovementioned group, as well as detailed and documented information on all the issues addressed in the Committee's last direct request.***

Protection of Wages Convention, 1949 (No. 95) (ratification: 2001)

The Committee notes the Government's communication dated 5 May 2005 in reply to the observations made by the Trade Unions Confederation of Albania (CTUA) regarding the application of the Convention. The Committee considers, however, that the Government's comments are not relevant to the provisions of the Convention nor do they respond to the specific points raised in the communications of the CTUA, especially as regards the cases of unjustified wage deductions for the payment of municipal taxes without such deductions being provided for in the law. ***The Committee therefore asks the Government to supply in its next report clearer explanations on these points as well as detailed and documented information on all the issues addressed in the Committee's last direct request.***

Moreover, the Committee notes with interest the Government's recent ratification of the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173), and the acceptance of the obligations of Part II of this Convention providing for the protection of workers' claims by means of a privilege, which involves *ipso jure* the termination of its obligations under *Article 11* of Convention No. 95.

Angola

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1976)

The Committee takes note of the information provided by the Government in its report and the attached documentation.

Article 3, paragraph 2(2), of the Convention. The Committee notes the Government's indications concerning the tripartite composition of the National Council of Social Dialogue and the equal representation (four representatives each) of employers' and workers' organizations in this advisory body. ***The Committee requests the Government to transmit, together with its next report, a copy of the legal instrument establishing the National Council of Social Dialogue and setting out its terms of reference.***

Article 3, paragraph 2(3). The Committee notes that the current level of the national minimum wage has been fixed by Decree No. 34/03 of 20 June 2003 and is equivalent to US\$50 per month. The Committee understands, however, that in June 2005, the National Council of Social Dialogue has considered the possibility of increasing the national minimum wage by 20 per cent in light of changes in the cost of living. To this end, the Council has recommended that a technical study be undertaken by a working group with a view to examining the repercussions of the minimum wage increase on economic growth and unemployment. ***The Committee requests the Government to keep it informed of further developments in this respect and to communicate full particulars, including copies of relevant legal texts, on any decision regarding the readjustment of the national minimum wage rate.***

Article 4. The Committee notes that, under section 45 of Decree No. 11/03 of 11 March 2003, paying wages at less than the national minimum wage rate in contravention of the binding force of the national minimum wage set out in section 164(4) of the General Labour Law is a punishable offence and carries a monetary penalty of five to ten times the average wage paid in the employing enterprise. ***The Committee would appreciate receiving additional information on the functioning of the system of inspection which ensures the observance of the national minimum wage.***

Article 5 and Part V of the report form. Further to its previous comments, the Committee would be grateful if the Government would make an effort to collect and communicate in its next report concrete information on the effect given to the Convention in practice, including, for instance, extracts from official reports or studies related to the national minimum wage, surveys, policy papers or other similar documents issued by the National Council of Social Dialogue, statistics on the number of workers covered by the relevant legislation or remunerated at the minimum wage rate, data on inspection visits and the results obtained in matters covered by the Convention, etc.

Bolivia

Protection of Wages Convention, 1949 (No. 95) (ratification: 1977)

The Committee recalls that it has been making comments since 1983 on the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), and the present Convention regarding alleged abuses in the payment of wages to agricultural workers. It notes with regret that the Government confines itself in its report to indicating that there has been no follow-up on the matter raised in the Committee's previous observations and that investigations have not been carried out on the subject. The Government adds that, in the context of its policy, it is seeking, among other aims, to resolve the problems encountered by all salaried workers not covered by the General Labour Act.

In this respect, the Committee notes the study entitled *Enganche y Servidumbre por Deudas en Bolivia* ("The trap of debt bondage in Bolivia"), prepared in 2004 and published by the Office in January 2005, which reports practices resulting in tens of thousands of indigenous agricultural workers being in a situation of debt bondage, with some of them being subject to conditions of permanent or semi-permanent forced labour. According to this study, the methods used include systems of advances on wages, stores located in camps which charge excessive rates in relation to market prices, compulsory deductions from wages for savings schemes, payments in kind and the deferred payment of wages. These practices are found, in one form or another, in the regions of Santa Cruz and Tarija (sugar cane harvest), in the north of Amazonia (chestnut picking) and in the region of Chaco (work in ranches), with this latter region experiencing the worst cases of forced labour in the Andean region. The Committee also notes that the conclusions and recommendations of this study were validated at a tripartite seminar held in La Paz in August 2004. The recommendations of the study included the ratification of the Forced Labour Convention, 1930 (No. 29), and the formulation of a national plan of action to eradicate and combat forced labour in all its forms. Noting with interest that the Government ratified Convention No. 29 on 31 May 2005, *the Committee draws the Government's attention to the fact that the practices referred to in the study raise problems relating to the application of Article 4 (payment in kind), Article 6 (freedom of the worker to dispose of his or her wages), Article 7 (works stores), Article 8 (deductions from wages) and Article 12 (regular payment of wages) of Convention No. 95. It therefore requests the Government to provide detailed information on the measures adopted for the formulation and implementation of a national plan of action to bring these practices to an end.*

The Committee is addressing other points, including the scope of application of the General Labour Act and its extension to agricultural workers, in a request addressed directly to the Government.

Brazil

Protection of Wages Convention, 1949 (No. 95) (ratification: 1957)

The Committee notes the comments made by the Seafarers' Union of the Port of Rio Grande (SINDIMAR) dated 22 April 2004, and the comments made by the Union of the Port Services Workers of Rio Grande (SINDIPORG) jointly with the Union of Port Workers of Rio Grande Do Sul (UPERSUL), dated 28 January 2005, concerning the application of the Convention as well as the Government's explanations given in reply.

According to SINDIMAR, the Brazilian Maritime Authority issued a temporary registration certificate (TRC) to two vessels, *N/T Dunay* and *N/T Borislav*, both flying the Ukrainian flag despite a number of irregular labour practices, including the non-payment of wages, overtime pay and wage supplements and the refusal to provide the crew with payslips. In its response, the Government refers to the reports of two labour inspection visits carried out four days after the official complaint was received and affirms that no irregularities were observed with respect to the working and living conditions aboard these vessels.

As regards SINDIPORG and UPERSUL, they denounce the persistent failure of the Government of the State of Rio Grande to settle accumulated wage debts totalling BRL 120 million. According to the two trade unions, portworkers are experiencing problems of non-payment of wages since 1998 and despite judicial action and favourable pay orders no real progress has been made. The Government in its reply indicates that because of the specific status of the employees of the port of Rio Grande, the procedure for the settlement of the wage arrears raises constitutional questions and falls within the jurisdiction of the Supreme Federal Tribunal. The Committee notes the Government's explanations but recalls its primary responsibility for ensuring the scrupulous application and effective enforcement of the Convention. *It therefore asks the Government to keep it informed of the evolution of the situation and of any concrete measures taken with a view to settling the outstanding payments and compensating the workers for the injury suffered.*

In addition, the Committee recalls that, in its previous observation, it requested the Government to provide clarifications on the exact number of outstanding wage claims and any progress achieved towards the final settlement of the amounts due to former employees of the Technical Assistance and Rural Development Enterprise (EMATER) of the State of Minas Gerais. ***In the absence of any clear reply in this regard, the Committee reiterates its request and hopes that the Government will supply in its next report full particulars on this matter.***

Moreover, the Committee would appreciate receiving up-to-date information concerning the enforcement of the national legislation on wage protection, including statistics on violations reported and sanctions imposed, especially following the enactment of Ministerial Order No. 1.601 of 1996 on the organization of wage debts proceedings and Law No. 9.777 of 1998 on strengthening law enforcement against degrading labour practices.

Burundi

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1963)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 2 of the Convention. Further to its previous comments, the Committee is bound to recall that, under *Article 2, paragraphs 1 and 2*, of the Convention, the workers employed in public contracts are entitled to wages and labour conditions at least as good as those normally observed for the kind of work in question, whether determined by collective agreements, arbitration or legislation. The reason the Convention refers to collective agreements first is that collective agreements, or agreements reached through some kind of negotiation or arbitration, normally prescribe more favourable conditions than the conditions flowing from legislation. The insertion therefore of labour clauses in public contracts seeks to guarantee that the workers concerned enjoy labour conditions not less favourable than whichever is the most favourable of the three alternatives provided for in the Convention, i.e. collective negotiation, arbitration or legislation. ***Therefore, while noting that collective agreements by sectors have not as yet been concluded, the Committee asks the Government to indicate the measures taken or envisaged to ensure that section 2 of Presidential Decree No. 100/49 of 11 July 1986 is applied in practice in a manner consistent with the requirements of the Convention.***

In addition, the Committee notes that no specific measures have been taken to ensure that persons tendering for contracts are aware of the terms of the labour clauses. In fact, section 26 of Decree No. 100/120 of 18 August 1990 concerning the specifications of public contracts does not expressly provide that invitations to tender should contain information on the labour clauses. ***The Committee therefore requests the Government to take all appropriate measures to ensure that the terms of the labour clauses are brought to the notice of tenderers in accordance with Article 2, paragraph 4, of the Convention.***

Part V of the report form. ***The Committee requests the Government to continue to provide, in accordance with Article 6 of the Convention and Part V of the report form, all available information on the practical application of the Convention, including, for instance, copies of public contracts containing labour clauses, extracts from official reports, information concerning the number of contracts awarded during the reporting period and the number of workers covered by relevant legislation, statistics from inspection services on the supervision and enforcement of relevant legislation and any other information bearing on the practical implementation of the requirements of the Convention.***

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

Central African Republic

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1964)

The Committee notes the Government's report and the attached documentation. It notes with regret that it has not been possible to make any significant progress, as the Government confines itself to noting the observations made by the Committee, while reiterating its commitment to establish the requirement in the new Labour Code for the inclusion of labour clauses in public contracts. The Committee is bound to remind the Government that it has been announcing its intention to give effect to the Committee's suggestions for over 20 years without practical results. ***It therefore repeats its request concerning the amendment of the two Decrees of 1961, respecting public contracts for the supply of goods and services, insofar as they are still in force.*** It would be sufficient to amend these Decrees by introducing provisions similar to those of section 16(3) of Decree No. 61/136, determining the schedule of general administrative clauses applicable for the implementation of public works contracts, with references to the appropriate collective agreements. ***The Committee also requests the Government to keep it informed of any development in relation to the formulation and adoption of the new Labour Code.***

With a view to assisting the Government in its efforts to give effect to the Convention, the Committee is providing in annex a copy of an explanatory note prepared by the Office on the objectives and provisions of the Convention. This note includes, in particular, a model legislative text to give effect to the provisions of the Convention. ***The Committee urges the Government to make every effort to ensure that the necessary measures are adopted in the very near future.***

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

The Committee notes the Government's last report, which provides general information on the application of various provisions of the Convention, in terms that are moreover identical with those of previous reports, but does not reply to the Committee's recent comments. The Committee recalls, for example, that the Government has still not replied to the comments made by the Christian Confederation of Workers of Central Africa (CCTC) in 2002 concerning wage arrears in the public service. The Committee also notes that the statistics provided by the Government on the wage mass of public officials, and the report on personnel management, provide no clarification on the number of workers affected by arrears, the total amount of the sums due or the practical measures taken to eliminate such phenomena. *The Committee therefore once again requests the Government to provide up-to-date information on developments in the situation with regard to the deferred payment of wages and to report any new measures taken to resolve the situation. The Committee hopes that, in the interest of maintaining a constructive dialogue with the Organization's supervisory bodies, the Government will not fail to prepare a detailed report on the problems raised so that it can be examined at the Committee's next session.*

The Committee takes the opportunity to recall, as emphasized in paragraph 355 of its General Survey of 2003 on the protection of wages, that the quintessence of wage protection is the assurance of a periodic payment allowing the worker to organize his everyday life with a reasonable degree of certainty and security. Consequently, the delayed payment of wages or the accumulation of wage debts clearly contravene the letter and spirit of the Convention and render the application of most of its other provisions simply meaningless.

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

Chad

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1960)

The Committee notes with regret that the Government's report responds only partially to its previous comments.

Article 3 of the Convention. The Committee notes that the guaranteed interoccupational minimum wage (SMIG) and the guaranteed minimum agricultural wage (SMAG) remain at their 1995 level, or CFA25,480 (approximately US\$50) per month. With regard to the public sector, the Government indicates that the SMIG applies to this sector since 2003, following the adoption of a protocol of agreement establishing a joint committee to determine the wage scales applicable to workers in the public sector. The Government also states that, in accordance with the protocol, there have recently been wage increases. *The Committee requests the Government to supply a copy of the 2003 protocol of agreement and also to specify the minimum wage for public sector employees currently in effect.*

As regards the equal representation of employers' and workers' organizations in the minimum wage fixing machinery, the Committee notes that Decree No. 247/PR/MFPTE/DG/DTESS/02 of 25 November 2002 provides for the participation of nine employers' and nine workers' representatives in the joint committee responsible for formulating new wage scales. *The Committee would be interested in receiving additional information on the functioning of the joint committee, including full particulars on the criteria used in determining minimum pay rates.*

In the absence of any meaningful progress in adjusting minimum wage rates to take account of the country's evolving socio-economic conditions, the Committee is obliged to recall its previous comments, as well as the conclusions of the Conference Committee on the Application of Standards at the 87th Session of the International Labour Conference (June 1999), according to which the primary function of the minimum wage system envisaged in the Convention is to serve as a measure of social protection and poverty reduction ensuring decent minimum wage levels for the low-paid, unskilled workers. This implies that minimum rates of pay that have come to represent only a fraction of the real needs of the workers and their families can hardly meet the requirements of the Convention. *Therefore, the Committee once again asks the Government to look into existing minimum wage levels for agricultural and non-agricultural workers and make every effort to ensure that any possible increases adequately reflect the real needs of workers and their families, for instance by maintaining their purchasing power in relation to a basic basket of essential consumer goods.*

Article 5 and Part V of the report form. The Committee notes that the Government has not provided in recent years any information on the practical application of the Convention. *The Committee requests, therefore, the Government to communicate in its next report general information on the effect given to the Convention in practice, including, for instance, extracts from inspection reports showing the number of infringements and sanctions imposed for minimum wage-related offences, recent surveys and studies on matters covered by the Convention, any official documents on minimum wage policy prepared by the abovementioned joint committee, available statistics on the number of workers remunerated at the SMIG or the SMAG rate, as well as any other particulars which would enable the Committee to appreciate the progress achieved or the difficulties encountered by the Government in discharging its obligations under the Convention.*

Colombia

Protection of Wages Convention, 1949 (No. 95) (ratification: 1963)

The Committee notes the communications of the National Association of Health, Social Security and Complementary Services' Workers and Public Employees (ANTHOC) and the Workers' Union of *Administradora de Seguridad Limitada* (SINTRACONSEGURIDAD), both of which were forwarded to the Government on 16 September 2005. It also notes another communication of SINTRACONSEGURIDAD dated 19 September 2005 which was forwarded to the Government on 20 October 2005. In its comments, ANTHOC indicates that the majority of the 146 employees of the *San Juan de Dios* public hospital have not received their wages, wage supplements and holiday pay since October 2003. As regards SINTRACONSEGURIDAD, it alleges that the process of judicial liquidation of *Banco Cafetero*, which was initiated in March 2005, risks to further compromise the settlement of pay claims of former employees of *Conseguridad*.

The Committee requests that the Government transmits its comments in this regard so that it may examine these points at its next meeting. In addition, the Committee asks the Government to keep it informed of any developments concerning the matters raised in its previous observation, i.e. the settlement of outstanding payments to employees and pensioners of the Merchant Navy Investment Company and the accumulation of wage debts in the Intercontinental Aviation Company, following earlier comments of the Union of Maritime and Inland Water Transport Industry Workers (UNIMAR) and the Colombian Association of Airline Pilots (ACDAC).

Congo

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

With regard to the accumulated wage arrears owing to state employees, the Committee notes from the Government's report that the wage debt is estimated at 187.6 billion CFA which corresponds to the wage bill of 23 months. The Government states that in accordance with the Protocol of Agreement of 9 August 2003, the settlement of outstanding payments should commence in the fourth quarter of 2004. The Government adds that since 2000 all steps have been taken to prevent the further deterioration of the situation and that currently state employees receive their salaries regularly. *While noting the extent and seriousness of the ongoing wage crisis, the Committee requests the Government to transmit a copy of the above referenced Protocol of Agreement and to supply in its next report detailed information on the number of workers affected, the amount of arrears settled according to the terms of that Protocol and the time schedule for the repayment of the sums remaining due. The Committee urges the Government to accelerate its efforts to put an end to the phenomenon of delayed payment or non-payment of wages* and wishes to refer in this connection to paragraph 355 of its 2003 General Survey on the protection of wages in which it pointed out that the quintessence of wage protection is the assurance of a periodic payment allowing the worker to organize his everyday life with a reasonable degree of certainty and security whereas the delayed payment of wages or the accumulation of wage debts clearly contravene the letter and the spirit of the Convention and render the application of most of its other provisions simply meaningless.

With respect to the payment of the sums due to the former workers of the Ogoúé Mining Company (COMILOG) to which the Committee has been drawing attention for several years, the Committee notes the Government's indication that the question has been discussed with the Government of Gabon at Libreville in July 2003. More concretely, the Government refers to a Protocol of Agreement signed on 19 July 2003 according to which COMILOG accepted to pay a lump sum of 1.2 billion CFA in final settlement of all workers' claims and ceded to the Government of the Republic of the Congo the proprietary rights to all its movable and immovable assets in the country. The Government further states that the reimbursement of the amounts due to the former workers of COMILOG can thus be effected once the practical arrangements for such payment have been settled. The Committee notes the positive developments with regard to the recovery by the former workers of COMILOG of all the amounts due to them some ten years after the matter was first brought to the knowledge of the International Labour Office. In this regard, the Committee wishes to reiterate, as it observed in paragraph 398 of the abovementioned General Survey, that the principle of the regular payment of wages, set out in *Article 12 of the Convention*, finds its full expression not only in the periodicity of wage payments, as may be regulated by national laws and regulations or collective agreements, but also in the complementary obligation to settle swiftly and in full all outstanding payments upon the termination of the contract of employment. *The Committee therefore asks the Government to speed up and closely monitor the process of settling the outstanding payments to the workers concerned and to supply in its next report full particulars on the progress made in this regard. The Committee would also appreciate receiving a copy of the Protocol of Agreement of 19 July 2003.*

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

Costa Rica

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

The Committee notes the Government's report and the information that it contains in reply to its previous comments.

Article 3, paragraph 1, of the Convention. Payment of wages in legal tender. The Committee notes the Bill to amend section 165 of the Labour Code (Act No. 2 of 27 August 1943). Under the terms of this Bill, in the coffee plantations where, during the harvest, it is the custom to provide workers with receipts for the work performed, employers will be obliged to indicate on these documents that they are not negotiable or transferable and to pay directly to the worker

in legal tender the amount corresponding to the total value of these receipts within one week of them being issued. The Committee is of the opinion that such receipts by their nature continue to represent debt vouchers or promissory notes. ***It therefore requests the Government to explain how the rules set forth in the amended section 165(3) of the Labour Code would differ from those currently in force.*** Indeed, if the Government's intention is effectively to impose the payment of wages in legal tender for all workers, the Committee wonders why the Government is not ready quite simply to repeal subsection 3 so as to eliminate specific rules applicable to workers in coffee plantations, thereby preventing the risk of abuse in their regard. While recalling that the Convention establishes an absolute prohibition on the payment of wages in the form of promissory notes or other forms alleged to represent legal tender, ***the Committee requests the Government to provide any relevant information on this subject in its next report.***

Article 4, paragraph 2. Value attributed to allowances in kind. The Committee notes the Bill to amend section 166(3) of the Labour Code, under the terms of which: "For all legal effects and purposes, where the value of remuneration in kind has not been determined in each specific case, it shall be deemed to be equivalent to 50 per cent of the wage received by the worker in cash. In any case, the employer is under the obligation to ensure that allowances in kind are appropriate for the personal use and benefit of the worker and her or his family and that the value attributed to such allowances is fair and reasonable." The Committee notes that the second part of this amendment reproduces textually the provisions of clauses (a) and (b) of *Article 4, paragraph 2*, of the Convention. However, it notes that in its Bill, the Government has not removed the possibility of determining the value of allowances in kind at a flat rate (50 per cent of the wages paid in cash), on which the Committee commented previously. The Committee draws the Government's attention to the fact that the maintenance of this rule would not ensure that section 166 of the Labour Code is in conformity with the Convention, despite the new obligation imposed on employers, as a flat-rate evaluation of allowances in kind runs the risk of being arbitrary and does not guarantee that the value attributed to such allowances is in all cases fair and reasonable. ***The Committee trusts that the Government will take the necessary measures as soon as possible to amend section 166 of the Labour Code to ensure that it is in full conformity with the Convention on this point.***

Articles 8 and 12, paragraph 1. Deductions from wages and the regular payment of wages. The Committee refers to its previous comment, relating to the observations made by the Transport Workers' Union of Costa Rica (SICOTRA) and the Confederation of Workers Rerum Novarum (CTRN) alleging abusive pay practices in the public transport and road transport sector, including unjustified wage reductions and the irregular payment of wages. Further to the information provided previously by the Government on the inspections carried out in three road transport enterprises, the Committee notes the Government's indications in its last report that it is not currently in a position to provide the statistical data requested by the Committee concerning the total number of enterprises and workers employed in this sector. ***The Committee requests the Government to continue providing all available information on the measures adopted to ensure the enforcement of legal provisions respecting the protection of wages in the road transport sector and in other branches of economic activity in which pay irregularities have been reported or are suspected.***

Djibouti

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1978)

The Committee notes that, following the amendment of the Labour Code of 1997, no minimum level of remuneration is established in law and all the previous provisions respecting the minimum wage have been repealed. According to the Government's report, these changes reflect its will to let the law of supply and demand prevail, together with wage negotiations in this field.

The Committee is bound to recall once more that the Convention requires, irrespective of the machinery for fixing minimum wages, compliance with certain principles, such as the need for the minimum rates determined to be binding, the participation of the social partners in all stages of wage negotiations and the imposition of appropriate penalties for violations of the rates that are in force. ***The Committee again requests the Government to indicate the standards which guarantee these principles in the system for the fixing of minimum wage rates through collective bargaining which has been introduced following the abandonment of the system of the guaranteed inter-occupational minimum wage (SMIG).***

Furthermore, the Committee would be grateful to the Government if it would provide with its next report, as the Committee requested it to do in its previous comment, practical information concerning the branches of economic activity and the various categories of workers covered by collective agreements, copies of recent collective agreements containing clauses fixing minimum wages, and the approximate number of workers whose remuneration is not regulated by collective agreement.

The Committee hopes that the Government will make every effort to give full effect to the provisions of the Convention. It would also like to be kept informed of the work on the formulation of the new Labour Code and it requests the Government to provide a copy of the new text once it has been finalized.

[The Government is asked to reply full particulars to the Conference at its 95th Session.]

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1978)

The Committee notes that the Government's brief statements do not contain a reply to its previous comments. It is therefore bound to recall its previous observations concerning the fact that the Government has still not proceeded to the adoption of legislation giving effect to the Convention. The Committee regrets that, despite its repeated comments, no real progress has been achieved for over 20 years in relation to the inclusion of labour clauses in public contracts. In its latest report, the Government states that it is planning to examine the necessary measures to give effect to the Convention in the overall context of the forthcoming revision of labour laws and regulations which it hopes to undertake with the Office's assistance as soon as the conditions have been fulfilled for the organization of a national tripartite consultation.

While recalling that the Government's report in 2000 contained a statement couched in identical terms, the Committee requests the Government to take the necessary measures without further ado to bring national law and practice into conformity with the provisions and objectives of the Convention.

Egypt

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1960)

The Committee notes the Government's report which essentially reproduces information communicated to the Office before. The Committee recalls that it has been commenting on the application of the Convention since its ratification by Egypt and regrets that the Government is once again unable to indicate any real progress in bringing its national legislation into conformity with the requirements of the Convention. The Government makes renewed reference to section 79 of the new Labour Code of 2003 even though the Committee has already noted that this provision, as much as section 57 of the former Labour Code of 1981, does not suffice for the application of *Article 2 of the Convention* which explicitly requires the insertion of labour clauses in those public procurement contracts meeting the conditions specified in *Article 1* of the Convention. The Committee further considers that sections 3, 5, 34, 35 and 76 of the new Labour Code to which reference is also made in the Government's report are not strictly relevant to the subject matter of the Convention and therefore may not be regarded as giving effect to its provisions. The general principles set out in the Labour Code regarding minimum wage fixing, maximum working hours or occupational safety and health cannot automatically guarantee to the workers concerned labour conditions which are not less favourable than whichever is the most favourable of the three alternatives provided for in the Convention, i.e. collective negotiation, arbitration or legislation.

As the Committee has stated on a number of occasions, the legislation to which the Government refers in most cases lays down minimum standards, for instance as regards wage levels, and does not necessarily reflect the actual working conditions of workers. Thus, if the legislation lays down a minimum wage but workers in a particular profession are actually receiving higher wages, the Convention would require that any workers engaged in the execution of a public contract be entitled to receive the wage that is generally paid rather than the minimum wage prescribed in the legislation. In other terms, the application of the general labour legislation is not enough in itself to ensure the application of the Convention, inasmuch as the minimum standards fixed by law are often improved upon by means of collective agreement or otherwise.

Therefore, in the interest of maintaining a constructive dialogue, the Committee would appreciate if the Government would specify in its next report any concrete measures taken or contemplated to implement the Convention in law and practice, and recalls in this respect that the inclusion of labour clauses in all the public contracts covered by the Convention does not necessarily call for legislative enactment but may also be effected by means of administrative instructions or circulars.

Ghana

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1961)

The Committee notes the information provided by the Government in its report, in particular the enactment of the new Labour Act, 2003 (Act 651) which entered into force in March 2004. The Government refers to sections 9 and 13 of the new Labour Act and states that, as agreed by the National Tripartite Committee, these provisions suffice to ensure the application of the Convention since they deal with the obligation of every employer to specify in writing in any contract of employment the rights and duties of the two parties to the employment relationship, including issues relating to remuneration, occupational safety and health and other working conditions. The Committee regrets that despite its persistent comments and the expert advice provided by the Office on several occasions, the Government does not appear to have fully appreciated the basic philosophy and requirements of the Convention.

In fact, the Convention's main purpose is much more specific than the general obligation of keeping workers informed of the wage particulars and other working conditions under which they are employed. The Convention relates exclusively to public contracts (i.e., contracts concluded by a Government department, agency or institution which involve

the employment of workers by the other party to the contract and provide for the construction of public works, the manufacture of equipment or the supply of services) and requires the insertion of a clause expressly guaranteeing that any worker employed by a contractor under these contracts will be entitled to wages (including allowances), hours of work and other conditions of labour which are not less favourable than those established under the collective agreement in force for the sector concerned or applicable to employees engaged in similar work in the same area.

Moreover, the Committee has already stressed that a system of certification according to which only persons obtaining clearance by the Labour Department as regards their compliance with labour legislation are qualified to bid for the award of public contracts, may offer adequate guarantee as to the tenderers' socially responsible past record but falls short of meeting the requirements of *Articles 2 and 5 of the Convention* (inclusion of labour clauses in public contracts and application of adequate sanctions and measures to ensure the payment of wages).

With a view to assisting the Government in its effort to seize the aims of the Convention and adapt its national legislation accordingly, the Committee attaches herewith a copy of an explanatory note prepared by the International Labour Office to this effect. The note includes also a model text illustrating one of several ways in which legislative conformity with the Convention may be ensured. ***The Committee asks the Government to take without further delay all the necessary measures in order to apply effectively the Convention in both law and practice.***

Guatemala

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1988)

Further to its previous observation, the Committee notes that no reply has so far been received to the extensive comments made by the Trade Union of Workers of Guatemala (UNSI TRAGUA) on 28 October and 16 November 2004, and which were communicated to the Government on 26 November and 1 December 2004 respectively.

1. According to the trade union organization, the current levels of minimum wage rates are not sufficient to cover even 50 per cent of the cost of the basic basket of essential consumer goods. UNSI TRAGUA further alleges that, without taking into account inflation or the loss of purchasing power of the national currency, the existing gap between the minimum wage and the cost of a basic basket of essential goods is more than 110 per cent. In fact, according to the National Institute for Statistics, in September 2004, the cost of the basic basket of essential goods stood at 2,520 quetzal per month, whereas the minimum wages for agricultural and non-agricultural workers remained set at 1,158 and 1,190 quetzal per month respectively. UNSI TRAGUA also refers to the meeting of the National Wages Commission, held in November 2004, in which it was decided not to recommend an increase of the minimum wage rates despite the calls of the workers' representatives for a 40 per cent increase of those rates. The Committee recalls that one of the fundamental objectives of minimum wages is to ensure that workers have an income which can provide a satisfactory standard of living for them and their families and therefore minimum rates of pay should preserve their purchasing power in relation to essential needs such as food, clothing, housing, health, education, social security, hygiene and transport or leisure. The Committee wishes to emphasize that a minimum wage system loses much of its relevance if it is out of all relation to the economic and social realities of the country.

2. Moreover, UNSI TRAGUA denounces the illegal practices of certain employers who pay sub-minimum wages, and gives the example of coffee plantation female workers and temporary workers performing piece work who are mostly concerned by such practices. The Committee notes, in this respect, that section 103 of the Labour Code requires that minimum wages be fixed in such a manner that the earnings of those remunerated on a piece-work basis or those engaged to perform a specific task are not prejudiced.

3. In addition, UNSI TRAGUA refers to the Constitutional Court's decision to suspend for a period of five months the application of Government Agreement No. 765-2003 setting the minimum wages for 2004. It also indicates that, on 26 October 2004, an agreement was concluded between the President and two employers' organizations known as VESTEX and AGENXPRONT whereby it was decided not to increase the minimum wages in 2005 and to establish minimum wage rates based on productivity. According to UNSI TRAGUA, setting production targets for the payment of minimum wages leads workers to work abnormally long hours while workers who do not manage to meet the target are paid at less than the statutory minimum rate. The trade union organization is of the view that productivity-based minimum wages may only serve employers' interests and that they break with the idea of fixed, stable and concrete minimum wage rates to be replaced by changeable and indeterminate ones. UNSI TRAGUA states that the adoption of productivity as the principal criterion for fixing minimum wages leads to constant and unlimited devaluation of work.

The Committee recalls in this connection that, due to the binding nature of minimum wages, these may not be subject to abatement for whatever reason such as, for instance, the non-fulfilment of production quotas or non-compliance with quality standards. The Committee has consistently pointed out that factors such as the quantity and the quality of the work performed should not affect the right to payment of a minimum wage, which should be the guarantee of a fair remuneration in return for work duly performed during a stated period. For these reasons also, where a minimum wage system is based primarily on piece rates, great care needs to be exercised to ensure that, under normal conditions, workers can earn enough to be able to maintain an adequate standard of living, and that their output, and consequently their earnings, are not unduly limited by conditions independent of their own efforts.

The Committee requests the Government to provide its observations on the matters raised in the above comments.

Guinea

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1966)

The Committee has been commenting for several years on the absence of specific legislation or regulations concerning public contracts. It has also been pointing out that the mere application of the general labour legislation to public procurement contracts does not produce the same legal effects as the insertion of labour clauses expressly required under the terms of the Convention. The Convention seeks to ensure that the workers engaged in the execution of public contracts enjoy labour conditions at least as favourable as those applicable to workers performing similar work in the same area. It may not be sufficient therefore to refer to legislation that only provides for minimum standards, if more favourable conditions are established by collective agreements, other recognized machinery of negotiation or arbitration. The underlying reason is that in making a contractual commitment for the expenditure of public funds, the State should act as a model employer and therefore should not apply conditions that are less favourable than the most favourable practised in the area and the sector concerned.

The Committee regrets that despite its previous detailed observations and the direct contacts mission undertaken by the International Labour Office in 1981, the conditions for applying the Convention are still not fulfilled. In order to assist ratifying States in devising measures to comply with the Convention, the Office has also drafted an explanatory note outlining the legislative amendments which may be needed to ensure the inclusion and application of labour clauses.

While recalling the Government's earlier assurances that it plans to examine the existing provisions concerning public contracts and to draft measures to comply with the Convention, the Committee urges the Government to take appropriate action and to include in its next report full details on the steps effectively taken to this end.

Islamic Republic of Iran

Protection of Wages Convention, 1949 (No. 95) (ratification: 1972)

The Committee notes the discussion that took place in the Committee on the Application of Standards at the 93rd Session of the International Labour Conference (June 2005). It notes, in particular, the Government's explanations regarding the problems of unemployment, low productivity and insufficient private investment that have led to a crisis in the textile industry and to the bankruptcy or restructuring of a large number of enterprises. It also notes the Government's wish to remedy the situation and to receive technical assistance for this purpose from the ILO. The Committee understands that a technical assistance mission has already been planned in consultation with the Government and is to address not only the non-payment of wages but also the issues of productivity and competitiveness in enterprises. Lastly, the Committee notes that the Conference Committee on the Application of Standards asked the Government to provide a detailed report for the present session of the Committee of Experts containing specific information on the sectors, types of establishment and number of workers concerned, the total amount of wage arrears, the average delay in payment of wages, the number of inspection visits conducted, the infringements reported and the penalties imposed, complaints by workers that have succeeded and failed, the timetable for the settlement of unrecovered wage debts and a detailed description of the means of redress available under the Labour Code.

In its report received on 28 September 2005, the Government indicates that over the last decade a large number of enterprises have had to cope with an acute financial crisis as a result of globalization and, more particularly, low productivity in local industries. According to the information supplied by the Government, the textile industry has been the hardest hit, with 120 factories being affected by restructuring and some 35,000 workers having lost their jobs. Other sectors, such as building materials, food industries, metal industries, wood and paper industries, and electrical appliance industries, are also affected by the need for renovation, restructuring and downsizing. The Government gives a detailed account of the measures taken to boost certain sectors of the national economy, inter alia, by means of low-interest rate credit loans. As to wage arrears, the Government states that dispute settlement boards have so far resolved 90 per cent of disputes countrywide but that a number of claims are still pending, largely pertaining to fringe benefits.

While noting the Government's explanations, the Committee would appreciate more detailed information on the total amount of wage arrears, the number of workers concerned and the average delay in payment. It would also appreciate information on any measures taken or envisaged by the Government to strengthen the inspection services, on the results obtained and on legislative amendments to improve enforcement of the provisions of the Convention concerning regular payment of wages. It asks the Government in particular to provide details on the practice of purchasing the services of some 15,000 workers in the textile industry on the basis of three months' salary per year.

The Committee takes note of the comments of 31 August 2005 sent by the International Confederation of Free Trade Unions (ICFTU) on the application of the Convention. According to the ICFTU, the non-payment of wages continues to be a recurrent problem in both the private and the public sectors. The problem is to be found in many sectors, such as textiles, communications, agriculture, mining and the medical sector. Factories producing steel, plastics, refrigerators,

plaster, bricks, footwear and records have also been affected. In the ICFTU's view, the failure of many state-owned companies to pay wages shows that the Government should comply with its own laws and its international obligations. The ICFTU further indicates that when companies shut down, in many cases workers' back pay is not settled. Furthermore, workers have no recourse to effective machinery for compensation for late payment of wages and financial losses caused by such delays.

The Committee takes this opportunity to recall that as it is stated in paragraph 355 of its General Survey of 2003 on the protection of wages, the quintessence of wage protection is the assurance of periodic payment allowing the worker to organize his everyday life with a reasonable degree of certainty and security. Inversely, the delayed payment of wages or the accumulation of wage debts clearly contravene the letter and the spirit of the Convention and render the application of most of its other provisions simply meaningless.

The Committee hopes that the Government will not fail to step up its efforts and use all available means to contain and gradually eliminate the non-payment or delayed payment of wages before the problem becomes more serious. It also invites the Government to provide a detailed reply to the ICFTU's latest comments.

Republic of Korea

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 2001)

See under Convention No. 131.

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 2001)

The Committee notes the observations of the International Confederation of Free Trade Unions (ICFTU) dated 6 September 2005, concerning the application of the Convention. In its comments, the ICFTU alleges that the decision of the Minimum Wage Council (MWC) of 29 June 2005 on the new minimum wage was taken in formal and material breach of the Minimum Wage Act and considers that the Government has failed to ensure conditions of real consultations and equitable representation of workers' and employers' interests in the operation of the minimum wage-fixing machinery. *The Committee asks the Government to transmit its reply to the ICFTU's comments so that it may examine these points at its next meeting.*

Libyan Arab Jamahiriya

Protection of Wages Convention, 1949 (No. 95) (ratification: 1962)

Further to its previous observations, the Committee regrets that the Government is still not in a position to provide concrete information, as requested, concerning the alleged non-payment of wages to thousands of foreign workers who have been expelled from the country in recent years. The Government confines itself to asserting that no regular migrant workers have been forced to leave the country whereas migrants in irregular status have been deported in coordination with the embassies of their home countries. Despite the Committee's persistent requests for specific information on the circumstances surrounding the deportation of migrants in irregular status, the number of workers affected, the total amount of any outstanding payments, the Government has shown little interest in communicating detailed particulars on how these situations were handled and what measures were taken to effectively enable the workers concerned to recover all sums due to them.

Under the circumstances, the Committee is obliged to draw the Government's attention once more to two important obligations arising out of *Article 12, paragraph 2, of the Convention*; first, the Government is bound to extend the protective coverage of the Convention to all persons to whom wages are paid or payable, irrespective of the existence of a valid employment permit or formal contract. Secondly, the Government bears the overall responsibility for ensuring that wages are paid regularly and in full and that any claims in respect of existing wage debts are promptly settled.

In the interest of maintaining a meaningful dialogue with the supervisory organs of the ILO, the Committee urges the Government to transmit in its next report documented information showing the nature and extent of any problems of deferred payment or non-payment of wages the country may have experienced in the past decade with relation to foreign workers, as well as the measures taken in response and the results obtained.

As regards the Government's explanations concerning the application of *Articles 2, 4, 7 and 8* of the Convention, on which the Committee has been commenting for more than 25 years, the Committee notes with regret that the situation has barely evolved and that the national legislation continues to give little or no effect to the basic requirements of the Convention, such as: (i) the application of the Convention to all persons to whom wages are paid, including agricultural workers; (ii) the strictly partial character of the payment of wages in kind; (iii) the regulation of the operation of works stores for the workers' benefit; and (iv) the limitation of wage deductions to the extent necessary for the maintenance of the worker and his/her family. The Committee further notes the Government's indication that the promulgation of the new Labour Code will require some time to allow an in-depth study by all stakeholders and the social partners. The Committee is therefore bound to observe that the Government's repeated reassurances to the effect that legislative action would be

undertaken to ensure strict compliance with the provisions of the Convention have so far remained without any practical result. *It therefore strongly insists that the Government take appropriate steps without delay in order to bring its legislation into full conformity with the Convention and recalls that the technical assistance of the Office, if necessary, remains at its disposal.*

[The Government is asked to supply full particulars to the Conference at its 95th Session and to reply in detail to the present comments in 2006.]

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1971)

The Committee has been requesting the Government for a number of years to provide concrete information on the operation of the minimum wage fixing machinery, especially as regards the participation of the social partners, the periodicity of adjustment of minimum wages and the criteria used for such adjustment. The Committee regrets that the information, which has so far been received in response, is not always clear or relevant. *It therefore urges the Government to indicate in its next report the measures taken to give full effect both in law and practice to the provisions of the Convention.*

Article 3 of the Convention. The Committee notes that, according to the Government's report, the level of minimum wages is determined on the basis of regular studies relating to the standard of living which are undertaken by the General Authority of Information, Certification and Communication. The Government indicates that the needs of the workers and their families are duly taken into account and refers to the subsidizing of food products, the granting of a housing allowance, and the free education and medical care, as being factors which are also considered in the process of minimum wage fixing. *The Committee requests the Government to specify the legal provisions setting out the social and economic parameters according to which minimum wage rates are periodically adjusted. Moreover, the Committee requests the Government to provide additional information on the composition of the General Authority of Information, Certification and Communication and its mandate in matters related to minimum wage fixing, and also to communicate a copy of its most recent study which served for the last revision of the minimum wage.*

Article 4. The Committee notes the Government's general reference to the Wages Advisory Board and its terms of reference, as laid down in section 108 of the Labour Code of 1970. *The Committee asks the Government to indicate whether the Wages Advisory Board has effectively been set up and functioning and, if so, to communicate a copy of the ministerial order which prescribes the functions and procedure of the Board, the periodicity of its meetings, the method of adopting recommendations, the method of appointment and number of workers' and employers' members and the duration of the members' term of office. Moreover, the Committee would be interested in eventually receiving documented information on the Board's current composition and its most recent recommendations in matters related to wage policy and minimum wage levels.*

Article 5 and Part V of the report form. The Committee notes that, according to the Government's report, many cases of violations of the minimum wage have been detected in a number of workplaces and corrective action has been undertaken. *The Committee requests the Government to provide up-to-date information concerning the practical application of the Convention, including the approximate number of workers earning the minimum wage, extracts from inspection reports showing the number of infringements observed and penalties imposed, etc. Finally, the Committee asks the Government to specify whether the minimum wage currently in force is of general application or whether minimum wage rates vary according to geographical region or occupation and to transmit copies of all relevant texts.*

Mauritania

Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)

The Committee notes with interest the adoption of Act No. 2004-017, of 6 July 2004, establishing the Labour Code.

The Committee also takes note of the Government's response to the repeated comments concerning the settlement of all wages due to persons expelled from Mauritania following the events of April 1989. In its report, the Government states that all of those persons forced to leave the country who had contracts of employment and who returned following the normalization of the situation, have been reintegrated. The Government also states that there are currently no requests or claims before the competent bodies and that important sums of money have been granted concerning this issue. Whilst noting the reassuring indications given by the Government stating that, since 1996, instructions have been given regarding the rapid and diligent processing of all requests from the workers concerned, the Committee is surprised that, 15 years after the events in question took place, the Government is still not in a position to supply the slightest concrete element or documented information corroborating its statements. *It requests the Government to provide in this regard all necessary information. The Committee trusts that the Government will spare no effort in ensuring that, in the future, situations calling into question the principles of regular payment of wages and prompt settlement of wages upon the termination of employment, will be examined with all the necessary rigour and efficiency to ensure the application of the Convention.*

Myanmar

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1954)

The Committee notes the Government's report. It regrets that despite its repeated comments made in the past years, the Government has not as yet been in a position to take any substantive measures with a view to readjusting the minimum wage rates in force or expanding the coverage of the minimum wage legislation to industries other than the rice-milling and the cigar- and cheroots-rolling industries.

Article 1, paragraph 1, and Article 3, paragraph 2(2), of the Convention. The Committee recalls that the Government has been reporting for a number of years that the extension of the minimum wage-fixing machinery to the printing, oil-milling and garment industries is under consideration. In addition, the Government has been indicating that the minimum wage rates in force for the rice-milling and the cigar- and cheroots-rolling industries, established in 1993 and 1995 respectively, no longer reflect market wages and need to be revised. However, no active steps have been taken in either direction and therefore minimum wage levels remain unchanged for more than a decade and continue to apply to only a small fraction of low-paid workers.

The Committee has consistently taken the view that when minimum rates of pay are left to lose most of their value so that they ultimately bear no relationship with the real needs of the workers, minimum wage fixing is in fact reduced to a mere formality void of any substance. *The Committee therefore requests the Government to indicate the measures it intends to take to ensure that the minimum wage fulfils a meaningful role in social policy, which implies that it should not be allowed to fall below a socially acceptable "subsistence level" and that it should maintain its purchasing power in relation to a basic basket of essential consumer goods. The Committee also requests the Government to keep it informed of any developments concerning the establishment of new minimum wage councils and the determination of minimum rates of pay for industries other than rice-milling and cigar and cheroots rolling.*

Article 5 and Part V of the report form. The Committee notes the statistical information provided by the Government concerning the number of establishments subject to minimum wages orders and the number of workers covered. More concretely, in 2003-04 there were 4,371 enterprises employing 8,186 workers in the rice-milling industry and 609 enterprises employing 3,243 workers in the cigar- and cheroots-rolling industry. *The Committee requests the Government to continue to provide up-to-date information concerning the application of the Convention in practice, in particular the minimum wage rates currently in force in the above industries, the evolution of these rates in recent years as compared to the evolution of economic indicators such as the inflation rate or the national average wage, extracts from official reports and relevant studies, data on inspection visits and the results obtained in matters covered by the Convention, as well as any other particulars which would enable the Committee to better appreciate the operation of the system of minimum wages in both law and practice.*

[The Government is asked to reply in detail to the present comments in 2006.]

Niger

Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)

The Committee recalls that for many years it has referred to section 206 of Decree No. 67-126/MFP/T of 1967 which exempts all agricultural, industrial and commercial undertakings from the obligation to pay at regular intervals not exceeding 15 days the wages of workers employed on a daily or weekly basis, and which is therefore incompatible with *Article 12, paragraph 1, of the Convention*. In its latest report, the Government repeats the declarations it made previously, namely that section 158 of the 1996 Labour Code, which stipulates that employers may not limit in any manner the freedom of workers to dispose of their wages as they choose, renders the prescriptions of section 206 of the aforementioned decree null and void and that, moreover, this section has long had no practical application. Once again, the Committee must stress that the Government's reference to section 158 of the Labour Code is strictly irrelevant to the principle of payment of wages at regular intervals since this section relates to the worker's freedom to dispose of his/her wages once received. *It therefore urges the Government to take the necessary measures to abrogate section 206 of the 1967 Decree as soon as possible and thus guarantee application of Article 12, paragraph 1, of the Convention.* The Committee also notes that the draft Regulations implementing the Labour Code have still not been finalized. *It therefore requests the Government to keep it informed of any progress made in this respect and to furnish a copy of the new regulations once adopted.*

Furthermore, the Committee notes that in its complaint against the Government of Niger submitted in June 2003 and examined by the Committee on Freedom of Association in March 2004 (Case No. 2288), the Democratic Federation of Workers of Niger (CDTN) alleged an accumulation of wage arrears and failure by the Government to comply with the payments schedule. *While recalling the conclusions of the Committee which stressed the importance of consultation with trade union organizations when rationalization or restructuring programmes are envisaged in public enterprises or institutions, the Committee requests the Government to supply in its next report detailed information on the nature and extent of the problem of delayed payment of wages, the number of workers concerned and the sectors chiefly*

affected, as well as measures taken to put an end to such practices. In this connection, the Committee refers to paragraph 374 of its 2003 General Survey on the protection of wages in which it stated that bringing the accumulation of wage arrears to an end requires sustained efforts, an open and continuous dialogue with the social partners and a wide range of measures, not only at the legislative level but also in practice. The Committee also considers that in view of the complexity of the issues related to the deferred payment of wages, viable solutions may be found only in cooperation with the social partners since social dialogue is the only way of sharing the burden of economic reforms and especially painful structural changes while preserving social peace.

Finally, the Committee requests the Government to include in its next report specific explanations in response to the matters raised in the Committee's last direct request.

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1980)

With reference to its previous comments, the Committee notes the Government's statement to the effect that consideration is being given to holding discussions with the social partners regarding the adjustment of the guaranteed minimum inter-occupational wage (SMIG). The Committee is aware that minimum wage rates depend heavily on the economic, social and political conditions in each country and that Niger has been suffering a serious economic and social crisis for many years. Nevertheless, the Committee recalls that the fundamental purpose of the Convention is to guarantee workers a minimum wage allowing them a decent standard of living and that this purpose can be truly pursued only if minimum wage rates are re-examined periodically on the basis of the evolution of the country's various socio-economic indicators. The Committee also recalls the conclusions of the Committee on Freedom of Association which, in the framework of the complaint presented by the Democratic Federation of Workers of Niger (CDTN) (Case No. 2288), stressed the importance of a true and constructive social dialogue with a view to remedying the difficult economic situation the country has been experiencing for 20 years. *The Committee trusts that the Government will spare no effort to readjust the SMIG, in accordance with Article 4, paragraph 1, of the Convention, and requests the Government to indicate in its next report any progress made in this regard.*

Poland

Protection of Wages Convention, 1949 (No. 95) (ratification: 1954)

The Committee notes the Government's report and the detailed information communicated in response to its previous observation.

1. *The evolution of the situation with respect to wage arrears.* The Committee notes the Government's statement that in spite of the dropping trend, the scale of problems in this area of labour protection should be still considered as alarming. According to the results of 1,155 inspection visits carried out in 2004, half of the controlled employers fail to pay holiday and overtime pay. Most revealed irregularities related to small and medium-sized enterprises, mainly in the private sector, while most of the pay decisions issued by the labour inspection services concern enterprises in sectors such as manufacturing, construction as well as trade and repair. The Government adds that the number of employers who fail to comply with labour court decisions gradually declines even though 255 cases of non-compliance were recorded in 2004 as a result of 690 inspections. Most of non-complied-with decisions relate to non-payment of remuneration and other dues in respect of the employment relationship, and the main reason is the bad economic situation of employers. Moreover, the Government indicates that the situation is likely to improve following the forthcoming amendment of public procurement legislation, which provides for the exclusion from public procurement proceedings of those employers condemned by court decision for offences against the rights of gainfully employed persons. The draft law introducing this regulation was adopted by the Council of Ministers on 7 June 2005. *The Committee would appreciate receiving a copy of the new legislation once it is formally enacted.*

In addition, the Committee notes that according to a recent report published by the Polish National Labour Inspectorate (*Polska Inspekcja Pracy – PIP*), the number of employers not paying wages at regular intervals decreased from 62 per cent in 2003 to 55.9 per cent in 2004, but the number of employees experiencing delays in the payment of their wages has increased. Moreover, the total amount in unpaid wages during the first half of 2004 came to 71.5 per cent of the previous year's total. *The Committee expresses its concern at the particularly high rate of employers who, according to labour inspection statistics, are in violation of the national legislation on labour remuneration, and asks the Government to continue providing detailed information on all future developments in this regard.*

2. *The wage crisis in the health sector.* The Committee notes the observations of the All-Poland Understanding of Trade Unions (OPZZ) dated 4 October 2004 concerning the ongoing problems of non-payment of wages in the health sector. According to the OPZZ, despite long discussions and promises, no progress has been made and it would therefore be necessary to keep under close scrutiny the situation in the health sector and also to look carefully into similar phenomena affecting other sectors.

In its reply, the Government indicates that the Act on public aid and restructuring of public health-care establishments was adopted on 15 April 2005 (Dz. U. No. 78, Text 684). According to the information provided by the Government, the law determines methods of writing off the debts of health-care establishments, and settling the problems of non-payment of wages and wage increase in health-care establishments. Concretely, the law provides that the

restructuring of individual employee claims consists in concluding an agreement with the employee, which may provide that establishments' liabilities towards the employee will be paid in instalments, determine the schedule of their payment, or contain a provision on resignation of interest for delay.

The Government adds that, as of 31 March 2005, the liabilities of independent public health-care establishments towards employees amounted to 1,400 million PLN (approximately 358 million euros), including 661.9 million PLN (approximately 170 million euros) of liabilities in respect of non-compliance with article 4(a) of the "203 Act". The Government further states that precise data as to the number of health-care personnel affected by the problem of delayed payment of wages are not currently available but will only be known when health-care establishments will file applications for restructuring proceedings under the new law. In a new communication received on 9 November 2005, the Government indicates that the state budget for 2005 provides for a loan reserve of 2.2 billion PLN primarily intended for the repayment of accumulated liabilities to employees under the "203 Act" for the period 2001-04. It also states that some 551 health-care establishments would be prepared to apply to the State Treasury for loans of an aggregate value of 1.7 billion PLN.

While noting the Government's explanations, the Committee intends to examine the new Act on public aid and restructuring of public health-care establishments in greater detail, as soon as the translation of this text becomes available, in the light of the requirements arising from *Article 3 and Article 12 of the Convention*, and also in the light of the informal opinion given by the Office in April 2004 on a previous draft. ***While recalling that, in June 2004, the Government undertook before the Conference Committee on the Application of Standards to eliminate the problem of payment of outstanding wages in the health-care sector within two years, the Committee asks the Government to supply up-to-date information on the current situation prevailing in the country, including, for instance, any negotiated time schedule for the settlement of the wage debt, the amount of wage arrears already settled, detailed particulars on any individual agreements which may have already been concluded with health-care personnel under the new Act on restructuring, etc.***

[The Government is asked to reply in detail to the present comments in 2006.]

Russian Federation

Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)

The Committee notes the detailed information supplied by the Government in its last report.

1. *Current situation of wage arrears.* The Government states that although the total amount of wage arrears is constantly decreasing, the problem of deferred payment of wages remains acute affecting some 7.3 million workers employed in 44,200 enterprises. According to the national statistical institution (Goskomstat), the wage debt stood at 29.9 billion roubles (approximately US\$1 billion), of which 24.9 billion in the industrial sector, 4.2 billion in the sector of social services, and 0.8 billion in all other branches. Wage arrears persist mostly in construction, agriculture, transport and public utilities while among the principal reasons for the deterioration of the situation are the failure of consumers to pay for products received or services rendered, the severe lack of funds for the purchase of raw materials and spare parts, and the extensive use of barter for settling debts. As regards the public sector, the Government reports that particular attention is paid to branches, such as education and health, and that in most cases either wage debts are totally paid off or the length of the delay is reduced to two weeks. The Government adds, however, that in certain areas such as the Republic of Sakha, the territory of Krasnoyarsk and the regions of Irkutsk, Kemerovo and Kamtchatka, the wage situation has not improved and additional resources from the federal budget are constantly needed.

2. *Legislative developments.* The Government indicates that the legislative guarantees for the protection of the workers' right to remuneration remain at times inoperative. It refers, for instance, to section 145.1 of the Penal Code, as amended, which provides for penal proceedings against heads of enterprises, institutions or organizations in case of non payment of wages for reasons of greed or other self-interest, and points out that tribunals have been in great difficulty proving the causality between the delayed payment of wages and any personal motives of enterprise directors.

The Government hopes, however, that the severe measures introduced by the new Labour Code, Federal Act No. 197-FZ of 31 December 2001, regarding the protection of wages will help to contain the phenomenon of wage arrears by accelerating the settlement of outstanding payments. The Government refers, in particular, to section 131 of the Labour Code limiting the part of wages which may be paid in kind to 20 per cent; section 142 which provides that a worker is entitled to suspend his/her work if payment is deferred for more than 15 days; and section 235 which requires employers to pay interest for each day of delay.

3. *Enforcement measures.* The Government states that the federal labour inspection services continued carrying out extensive controls to monitor the regular payment of wages and the proper use of public funds to this end. The Government affirms that, during the reporting period, some 54,700 inspections were carried out, 29,900 summons were issued, and over 5.3 billion roubles worth of wages were recovered. Moreover, the Government gives a summary account of some of the most typical examples of wage-related infringements revealed through labour inspection visits, such as sub-minimum pay rates, embezzlement of wage funds, overpayment or advanced payment of wages to certain workers despite existing wage arrears, and non-payment of holiday pay. Finally, the Government provides a list of enterprise directors who

have been inflicted administrative fines ranging from 2,500 roubles (approximately US\$90) to 5,000 roubles for gross violations of the labour legislation on wage protection.

The Committee considers that almost ten years after it first examined the situation of wage arrears in the country, the fundamental problem – failure to apply the Convention in practice – still persists. The Committee notes the Government’s continued efforts to put an end to pay abuses and the positive results obtained in some respects. However, certain disturbing practices continue unabated, as the Government admits by referring to the “persistent gravity of the wage situation”. The Committee is particularly concerned by the fact that, as indicated by the Government in its report, wage arrears are not always due to cash shortages, or other material impossibility of enterprises to honour their financial obligations, but rather to the wilful decision of certain company managers or executives to misappropriate wage money and direct these resources towards other uses. In this connection, the Committee wishes to refer to paragraph 507 of its 2003 General Survey on protection of wages in which it considered that “in case enterprises deliberately choose to apply for other purposes funds which should have been used for the payment of employees’ wages, it is not admissible for States through their supervisory services to fail to take vigorous and effective action so as to comply with the Convention and to put an end to such blatant abuse.” *The Committee therefore requests the Government to intensify its campaign so as to prevent the phenomenon of wage arrears from becoming cyclical or endemic; fight effectively against the demonetization of the economy and the use of money surrogates; and rigorously enforce labour laws in the face of particularly tenacious patterns of disrespect. It would appreciate if the Government would continue to communicate specific information on the evolution of the situation and any further measures taken to ensure compliance with the Convention, especially as regards the application of truly dissuasive sanctions proportionate to the seriousness of the offence and likely to produce tangible results, that is to say a sizeable reduction in the number of workers suffering from arrears in the payment of their wages.*

[The Government is asked to reply in detail to the present comments in 2006.]

Serbia and Montenegro

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 2000)

The Committee takes note of the observations concerning the application of the Convention by the Republic of Serbia made by the World Confederation of Labour (WCL) on behalf of the Confederation of Autonomous Trade Unions of Serbia (CATUS). These comments were transmitted to the Government in January 2004, but no reply has so far been received.

According to the WCL, the Labour Law of the Republic of Serbia, which was adopted on 21 December 2001, fails in many respects to secure the effective observance of the Convention and considers its provisions on minimum wages to be retrogressive compared with those of the former Law on Labour Relations of the Republic of Serbia. More concretely, the WCL indicates that section 84 of the Labour Law of 2001 does not explicitly provide for the binding force of minimum wages nor does it refer to the prohibition of abatement of minimum wages once fixed. The WCL adds that the legal nature of the tripartite agreement, or the Government decision, as the case may be, fixing the minimum wage is not clear and further estimates that the absence of specific provisions on penal or other sanctions in the case of infringement of the minimum wage regulations is yet another indication of the inconsistency of the Serbian labour legislation with the requirements of the Convention. Finally, the WCL raises the question of procedural mechanisms enabling workers to recover sums by which they may have been underpaid and considers that the labour law offers no protection in this respect.

The Committee notes that since these comments were made, the Labour Law of the Republic of Serbia of 2001 has been superseded by a new labour law, which was adopted in March 2005 and subsequently amended in July 2005. The Committee also notes that the new labour law of the Republic of Serbia essentially reproduces the provisions on minimum wages of the previous labour law and therefore most of the comments of the WCL may be deemed to apply by analogy to the new labour legislation. *The Committee therefore asks the Government to reply to the points raised by the WCL so that these points may be examined in detail at its next session.*

The Committee is raising a number of points in a request addressed directly to the Government.

Sudan

Protection of Wages Convention, 1949 (No. 95) (ratification: 1970)

The Committee notes that the succinct report of the Government replies only partially to its previous observation. The Committee regrets that despite repeated comments, numerous divergencies in the national legislation continue to exist and the Government is still unable to take remedial action in a prompt manner. *The Committee hopes that, in the interest of maintaining a meaningful dialogue with the supervisory organs of the ILO, the Government will make every effort to ensure closer conformity with the Convention in the very near future.*

Following up on its previous observation concerning the scope of application of the Convention within the meaning of Article 2, the Committee notes the Government’s statement that the new draft Labour Code, which is in the process of

adoption, covers agricultural workers and that the Domestic Service Act of 1995 is being revised. ***The Committee asks the Government to transmit copies of the new legislation as soon as it is adopted. It would also appreciate receiving information on any progress made towards the extension of the application of the Convention to other categories of workers currently excluded from its coverage.***

For the remainder, the Committee notes that the Government's report provides very little information on the application of *Articles 3* (payment in legal tender), *4* (partial payment of wages in kind), *6* (freedom of workers to dispose of their wages), *7* (regulation of works stores), *8* (deductions from wages), *10* (attachment or assignment of wages), *13, paragraph 2* (place of wage payment), *14* (notification of wage conditions and statement of earnings) and *15(d)* (maintenance of records). ***As the Government does not appear to have taken into account the Committee's earlier comments in respect of these Articles, the Committee is obliged to reiterate its request for appropriate action in order to bring the national legislation into line with the requirements of the Convention.*** The Committee recalls that the Government may avail itself of the technical assistance of the Office, if it so wishes, in relation to the matters raised above. It also recalls that the Government may find useful guidance in the Committee's 2003 General Survey on the protection of wages which offers a global view of the effect given in law and practice to this Convention and may thus contribute to a better understanding of the principles and rules set out therein.

[The Government is asked to reply in detail to the present comments in 2006.]

Ukraine

Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)

The Committee notes the Government's report and the detailed information communicated in response to its previous observation. Regarding the wage arrears situation in the Nikanor-Nova coalmine, the Government states that the labour inspection services of the Lugansk district carried out repeated inspections in the period 2003-05 and reported a number of violations relating to the regular payment of workers' wages. Among other irregularities, the inspection revealed that wages are paid once a month in contravention of section 115 of the Labour Code; wages are not paid for the three days before the beginning of a period of leave in contravention of section 21 of the Act on leave; and also that only a part of the company's turn-over is used to pay wages although section 97(5) of the Labour Code provides that workers' wages must be paid as a priority before any other payments can be made by the employer. According to the latest statistics, the wage debt continued to increase, and in March 2005 stood at 9.7 million grivnas. Moreover, the Government indicates that administrative proceedings had been initiated against the three acting directors of the mine who had been appointed in the last three years for failure to put an end to violations of labour legislation and also for non-implementation of compliance orders issued by labour inspectors.

The Committee notes with concern that the wage crisis in the Nikanor-Nova coalmine appears to be out of control despite the changes in management, regular controls, and imposition of sanctions. ***It asks the Government to step up its efforts to contain the further deterioration of the wage debt before it reaches critical proportions.*** The situation seems all the more distressing as, according to the Government's account, the problem is not always related to liquidity difficulties but rather to mismanagement of available resources. The Committee further recalls that in some earlier comments the Workers' Union of the Nikanor-Nova coalmine had indicated that the wage rates applied at the enterprise were much lower than the statutory minimum pay rates depriving the entire population of the town of Zorinsk of a decent level of living. ***The Committee requests the Government to look into these allegations and provide full particulars in its next report together with up-to-date information on the evolution of the wage arrears situation in the coalmine in question.***

Moreover, the Committee notes the information supplied by the Government in reply to the comments made by the Confederation of Free Trade Unions (KSPU). According to the workers' organization, the figures provided by the Government showing a downward trend in wage arrears are questionable as in August 2004, the total amount of the wage debt exceeded 2 billion grivnas (approximately US\$450 million), including 796 million grivnas in the coal industry. Based on the statistics communicated by KSPU, the wage arrears in certain mining companies amounted to eight times, ten times and even 32 times the monthly wage bill and totalled from 12 million grivnas (US\$2.2 million) to 67 million grivnas (US\$12.6 million). The KSPU further alleges that employers persisted in the practice of paying workers their entire wages in goods and products produced at their own factories. It also criticizes existing insolvency legislation which provides that if the value of assets of an undertaking following liquidation is insufficient, workers' wage claims are deemed to be settled.

In its reply, the Government acknowledges that wage arrears is a widespread and long-standing problem but specifies that in only ten months in 2004, the total amount of those arrears fell by 1 billion grivnas, or 57.5 per cent, to 763 million grivnas and the number of state-employed workers not receiving their wages on time fell by 890,000 or 68 per cent. With reference to the situation in the coal industry, which the Government describes as "extremely tense", the Government indicates that state-owned enterprises have been provided with interest-free loans from the budget in order to pay off wage debts, and as a result arrears in the coal industry have fallen by 455 million grivnas, or 79.4 per cent, to 118 million grivnas. It adds that timetables for enterprises to clear their current wage arrears by the end of the year were drawn up by central and local executive authorities in consultation with trade unions and that additional sources of funding were

being sought for this purpose. As regards the partial payment of wages in kind, the Government insists that payment in kind currently takes place only in agriculture, forestry and fisheries, i.e. in those sectors or industries in which payment in kind is customary and also one of the principal material incentives for workers.

While noting the Government's explanations, the Committee considers that the wage situation in the country remains a source of serious concern. As the Committee has emphasized in the past, every effort should be made to prevent a "culture" of deferred payment of wages from infecting the national economy as a whole, and also that effective corrective measures should seek not only to remedy current deficiencies but most importantly to guarantee with a reasonable degree of certainty that phenomena of this nature and this scale would not be experienced again in the future. ***The Committee therefore asks the Government to continue devoting the necessary time, energy and resources to the supervision and control of the wage crisis, especially in the sectors where firm action is most needed, such as the mining industry, and to keep the Committee informed of all further developments in this regard.***

In addition, the Committee notes the communication of the Confederation of Free Trade Unions of the Lugansk Region (KSPLO), which was received on 17 August 2005 and forwarded to the Government on 20 October 2005, regarding the social situation in the Lugansk region and in particular the problem of non-payment of wages by the state-owned Nikanor-Nova mine. ***The Committee requests the Government to transmit for its next meeting its observations in this regard so that it may examine in detail the points raised in this communication.***

With respect to the possible establishment of a wage guarantee fund for the settlement of workers' wage claims in the event of the employer's insolvency, the Government refers to a draft bill concerning the protection of workers' financial claims in the event of the employer's insolvency which is now in the process of revision following the 2004 presidential elections and the ensuing Government change. According to the Government's report, certain government agencies have recently raised objections to the creation of the fund and have expressed reservations as to the availability of adequate budget funds and the additional expense which employers would incur as a result. The Committee understands that the Government has taken steps, in consultation with its social partners and with the technical assistance of the Office, to examine the possibility of setting up a wage guarantee institution in line with the provisions of Convention No. 173 for the protection of future workers' claims arising from bankruptcy or insolvency situations. ***The Committee would appreciate receiving more specific information on the current state of revision of the draft bill and recalls that the advisory services of the Office are at its disposal in this regard.***

[The Government is asked to reply in detail to the present comments in 2006.]

Uruguay

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1954)

The Committee notes the information provided by the Government in reply to its previous comments.

Article 2, paragraph 1, of the Convention. The Committee notes the Government's intention to amend section 34 of Decree No. 8/990, as the Committee has been suggesting for several years, and to reintroduce the wording of section 1 of Decree No. 114/982 which was fully consonant with the provisions of this Article of the Convention. The Government indicates that the Ministry of Labour and Social Security has already prepared a text to this effect and states that a copy of the draft Decree was annexed to its report. ***Since no such document has been received by the Office, the Committee would be grateful if the Government would forward another copy of the draft text and report on any further developments regarding its adoption.***

In addition, the Committee has been requesting the Government to indicate how it is ensured in law and in practice the insertion of labour clauses in all public contracts other than those related to construction of public works. In its reply, the Government indicates that all contractors, and not only those who have been awarded contracts for the construction of public works, are under the obligation to apply the wage rates and other working conditions as may be established by collective agreements in their respective sectors. ***The Committee requests the Government to specify whether all categories of workers who may be employed for the execution of public contracts, whether with respect to construction work, supply of services or procurement of goods, are effectively covered by sectoral collective agreements and, if not, to indicate the manner in which these workers are guaranteed wages, hours of work and other labour conditions at least as favourable as the most favourable established for work of the same character in the same area.***

Article 2, paragraph 3. The Committee notes the Government's statement to the effect that the social partners actively participate through collective bargaining to the determination of the working conditions applicable to each sector or branch of economic activity. However, the Committee feels obliged to point out that this Article of the Convention only relates to consultations bearing exclusively on the specific terms of the clauses to be included in the contracts. ***It therefore once again asks the Government to take appropriate action to ensure that any decision as to the scope and content of the labour clauses is taken after real and effective consultations with employers' and workers' representatives.***

Moreover, the Committee recalls its previous comments in which it drew attention to the need for sufficient publicity to be given to the working conditions applicable to workers concerned, for instance by posting of notices in conspicuous places at the workplace, as required under *Article 4(a)(iii)* of the Convention. The Committee notes the Government's

reference to Decree No. 392/80 which requires a Work Register (*Planilla de Trabajo*) containing full particulars on hours of work performed and wages paid to be kept at all times at a place that is reasonably accessible to the workers. The Government further refers to the recent Decree No. 186/004 of 8 June 2004 which qualifies and punishes as a serious breach of the labour legislation the failure to display the Work Register in a visible place in the work establishment. *The Committee would appreciate receiving a copy of the text of Decree No. 392/80.*

Finally, the Committee would be grateful to the Government for supplying, in accordance with Article 6 and Part V of the report form, up-to-date information on the practical application of the Convention, including for instance copies of public contracts containing labour clauses, available statistics on the number of contracts awarded and the number of workers employed under these contracts during the reporting period, as well as information from labour inspection services on the supervision of the national laws and regulations regarding public procurement.

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1977)

Further to its previous observations, the Committee notes with satisfaction that the Government has taken significant steps with a view to rationalizing the national minimum wage system and implementing the Convention in a more meaningful manner. It notes, in particular, the adoption of Act No. 17.856 of 20 December 2004 which dissociates the minimum wage from the calculation of social security benefits. According to the terms of the new legislation, a new reference wage (*Base de Prestaciones y Contribuciones – BPC*) will be used for the determination of social security benefits and contributions and will replace all previous references to the national minimum wage. In this manner, the Government intends to avoid the technical and legal difficulties experienced so far basically due to the fiscal implications of minimum wage increases. The new reference wage will be readjusted depending on the economic situation of the country and will follow the evolution of the consumer price index. The Committee also notes with interest the adoption of the Presidential Decrees of 2 January 2005 by which the national minimum wage rate was increased by almost 50 per cent from 1,310 to 2,050 pesos per month; the minimum wage rate for domestic workers was set at 2,150 pesos per month or 10,75 pesos per hour; and monthly and daily minimum wage rates were fixed for various categories of agricultural workers.

The Committee is satisfied that these positive developments have been made possible with the technical assistance of the Office. In November 2004, for instance, a tripartite workshop was organized at the initiative of the ILO Subregional Office for the South Cone of Latin America to evaluate the functioning of the national minimum wage system in the light of the Committee's persistent comments and to identify policy options which would allow the national minimum wage to effectively serve as a tool of social protection and poverty reduction.

While noting the recent signs of progress concerning the application of the Convention, the Committee requests once again the Government to indicate whether and how the representative organizations of employers and workers concerned were consulted in relation to the latest increases of minimum wage rates. The Committee would appreciate receiving, in this connection, detailed information on the institutional framework within which such consultations may have taken place and the specific employers' and workers' organizations which may have participated in the consultation process. Moreover, the Committee would be grateful if the Government would supply up-to-date information on the evolution of indicators such as the average wage, the inflation rate, or the consumer price index, in recent years in order to enable the Committee to better appreciate whether current minimum wage levels are sufficient to ensure a decent living standard for workers and their families. The Committee expresses the firm hope that the Government will continue its efforts for the establishment of a minimum wage fixing machinery guaranteeing full and regular consultations with the social partners and affording true protection to wage earners with regard to minimum permissible levels of wages.

Zambia

Protection of Wages Convention, 1949 (No. 95) (ratification: 1979)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee has been commenting for several years on the problem of wage arrears experienced by thousands of local council employees, drawing the Government's attention to the need to ensure the regular payment of wages irrespective of the poor financial situation of most local councils or any retrenchment exercises undertaken by local authorities. The Committee notes that according to some reports the Government would require close to K500 billion (over US\$100 million) to clear outstanding arrears and terminal packages for council workers. It further notes that the situation is particularly tense in certain councils, such as the Luanshya municipal council, where workers have reportedly been unpaid for six months.

The Committee takes this opportunity to refer to paragraph 412 of the 2003 General Survey on the protection of wages in which it emphasized that none of the reasons normally advanced by way of excuse, such as the implementation of structural adjustment or "rationalization" plans, falling profit margins or the weakness of the economic situation, can be accepted as valid pretexts for the failure to ensure the timely and full payment to workers of the wages due for work already performed or services already rendered, as required by *Article 12 of the Convention*. The financial straits of a private enterprise or a public administration may be addressed in many ways, but not by the deferred payment or non-payment of the outstanding wages due to workers. *The Committee therefore urges the Government to supply in its next report detailed and up-to-date information as to the total amount of wage debts, the number of employees affected and the time schedule for the settlement of accumulated arrears.*

In addition, the Committee notes that the Zambia Local Authorities Workers' Union has taken a number of councils to the High Court to ensure payment of wages. *The Committee would be grateful if the Government could transmit copies of any decisions that the High Court may have rendered so far as well as practical information on the implementation of these decisions.*

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

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 26** (Guinea-Bissau, Solomon Islands, Uganda, United Kingdom: Montserrat); **Convention No. 94** (Algeria, Mauritania, Sierra Leone, Solomon Islands, United Republic of Tanzania, Uganda); **Convention No. 95** (Belize, Bolivia, Central African Republic, Kyrgyzstan, Mali, Saint Vincent and the Grenadines, Sierra Leone, Solomon Islands, United Kingdom: Montserrat); **Convention No. 99** (Republic of Moldova); **Convention No. 131** (Serbia and Montenegro, Swaziland, Zambia); **Convention No. 173** (Botswana, Latvia, Madagascar, Slovenia, Zambia).

Working Time

Bolivia

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1973)

Article 6, paragraph 1(a), of the Convention. Permanent exceptions – intermittent work. The Committee notes that under section 46 of the General Labour Act of 8 December 1942, the rules on working hours laid down by the Act do not apply to wage earners who engage in discontinuous work. ***The Committee requests the Government to indicate the types of work covered by this exception.***

Articles 3 and 6, paragraph 1(b). Additional hours of work. The Committee notes from the information supplied by the Government in its report that the labour inspectorate is not, as the Committee said in its previous comments, authorized by section 50 of the General Labour Act to allow up to two additional hours of work a day under any circumstances. It also notes that in support of that assertion, the Government refers to section 37 of Decree No. 244 of 1943 issuing implementing regulations for the General Labour Act, under which additional hours of work may be authorized only “in unforeseeable circumstances, to the extent necessary to avoid hindrance of the normal running of the establishment and to prevent accidents or carry out unpostponable repairs or adjustments on the machinery or plant”. The Committee notes that the exception in section 37 is covered by the exceptions allowed under *Article 3* of the Convention. However, the Committee also notes that according to the Government’s report the internal rules of enterprises specify the hours of work and the circumstances in which additional hours of work may exceptionally be authorized. The Committee accordingly understands that the instances in which additional hours of work may be allowed are not limited to those set forth in section 37 of Decree No. 244. It again recalls that *Article 6, paragraph 1(b)*, of the Convention allows the granting of temporary exceptions to the rules on hours of work only in order to enable establishments to deal with cases of abnormal pressure of work. While noting the Government’s statement that because of the present political and social crisis it is unable to ensure that new labour legislation will be enacted in the near future, but that it will make every effort gradually to amend the existing legislation on an ad hoc basis, ***the Committee again expresses the hope that the Government will take the necessary steps as soon as possible to give full effect to the Convention on this point. It strongly encourages the Government to contact the International Labour Office, and more particularly its regional office in Lima, in order to set up a specific technical assistance programme able to facilitate its search for solutions.***

Part VI of the report form. The Committee notes the information supplied by the Government on the practical application of the Convention, including the court decisions regarding payment of additional hours of work, copies of which were attached to the report. ***The Government is invited to continue to provide such information, more particularly on the construction and manufacturing industries, where, according to the Government, overtime occurs most frequently. For example, the Government might send extracts of inspection reports and, if possible, information on the number and nature of contraventions of the rules on working hours.***

[The Government is asked to reply in detail to the present comments in 2006.]

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1973)

Article 7, paragraph 1(a), of the Convention. Permanent exceptions – intermittent work. The Committee notes that under section 46 of the General Labour Act of 1942, the rules on working hours laid down by the Act do not apply to wage earners who engage in discontinuous work. ***The Committee requests the Government to indicate the types of work covered by this exception.***

Article 7, paragraph 2. Additional hours of work. The Committee notes from the information supplied by the Government in its report that the labour inspectorate is not, as the Committee said in its previous comments, authorized by section 50 of the General Labour Act to allow additional hours of work under any circumstances. It also notes that in support of that assertion, the Government refers to section 37 of Decree No. 244 of 1943 issuing implementing regulations for the General Labour Act, under which additional hours of work may be authorized only “in unforeseeable circumstances, to the extent necessary to avoid hindrance of the normal running of the establishment and to prevent accidents or carry out unpostponable repairs or adjustments on the machinery or plant”. The Committee observes that the exception set forth in section 37 is covered by the exceptions allowed in *Article 7, paragraph 2(a)*, of the Convention.

However, the Committee also notes two judgements of the Constitutional Court of Bolivia, attached to the Government’s report regarding Convention No. 1 (judgement No. 149 of 26 April 2002, *Maria Lourdes Villegas de Aguirre v. Banco del Estado en Liquidación*, and judgement No. 257 of 10 November 2001, *Humberto Rodríguez v. Ex-Banco del Estado*). In both decisions the Court held that the definition of overtime (*horas extraordinarias*) implied that such work was “out of the ordinary” and performed occasionally. The Court also ruled that it was for employers to prove that they needed to impose overtime and that overtime must be authorized by the labour inspector. The Committee notes that the above decisions make no reference to unforeseeable circumstances, accident prevention or urgent repair of machinery. The Committee accordingly understands that the instances in which additional hours of work may be allowed are not limited to those set forth in section 37 of Decree No. 244.

The Committee points out that *Article 7, paragraph 2*, of the Convention allows the granting of temporary exceptions to rules on working hours (apart from the cases of unforeseeable circumstances, accident prevention or urgent repair of machinery) only in the following cases: in order to prevent the loss of perishable goods or avoid endangering the technical results of the work; in order to allow for special work (stocktaking, preparation of balance sheets, closing of accounts, etc.); or to enable establishments to deal with cases of abnormal pressure of work due to special circumstances. While noting the Government's statement that because of the present political and social crisis it is unable to ensure that new labour legislation will be enacted in the near future, but that it will make every effort gradually to amend the existing legislation on an ad hoc basis, ***the Committee again expresses the hope that the Government will take the necessary steps as soon as possible to give full effect to the Convention on this point. It strongly encourages the Government to contact the International Labour Office, and more particularly its regional office in Lima, in order to set up a specific technical assistance programme able to facilitate its search for solutions.***

Part V of the report form. The Government is invited to continue to provide information on the application of the Convention in practice, including extracts of inspection reports and, if possible, data on the number and nature of breaches of the rules on working hours.

[The Government is asked to reply in detail to the present comments in 2006.]

Bosnia and Herzegovina

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1993)

The Committee notes with interest that the Government's first detailed report on the application of this Convention, the ratification of which was registered in 1993, has now been received. It also notes the observations made by the Confederation of Trade Unions of the Republika Srpska referring to serious problems of implementation of the labour laws in the territory of Bosnia and Herzegovina. According to these comments, the legal provisions on weekly rest are violated in the public and the private sectors alike, the situation being especially difficult in commerce and among women workers due to the fact that most stores are open almost 24 hours. The workers' organization also refers to the problem of the grey economy or informal sector which represents well beyond 40 per cent of the workforce and which leaves matters such as working hours, weekly rest or annual leave totally unregulated. ***The Committee asks the Government to transmit any comments it may wish to make with regard to the observations of the Confederation of Trade Unions of the Republika Srpska so that these points be examined at its next session.***

The Committee is also addressing a request on certain other points directly to the Government.

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1993)

The Committee notes with interest that the Government's first detailed report on the application of this Convention, the instrument of ratification of which was registered in 1993, has now been received. It also notes the observations made by the Confederation of Independent Trade Unions of Bosnia and Herzegovina (SSSBiH), originally transmitted on its behalf by the International Confederation of Free Trade Unions (ICFTU), concerning the application of the Convention. According to the allegations of the SSSBiH, the majority of employers contravene the provisions of the labour legislation by preventing workers from using their weekly rest and by imposing working schedules that amount to 260 or more hours monthly. The Committee further notes the comments made by the Confederation of Trade Unions of the Republika Srpska according to which those employed in commerce, who are principally female employees, enjoy no weekly rest given the fact that stores remain open almost round-the-clock. ***The Committee asks the Government to transmit any comments it may wish to make with regard to the observations of the two workers' organizations so that these points be examined at its next session.***

The Committee is also addressing a request on certain other points directly to the Government.

Holidays with Pay Convention (Revised), 1970 (No. 132) (ratification: 1993)

The Committee notes with interest that the Government's first detailed report on the application of the Convention, the ratification of which was registered in 1993, has now been received. It also notes the observations made by the Confederation of Trade Unions of the Republika Srpska referring to serious problems of implementation of the labour laws in the territory of Bosnia and Herzegovina. According to these comments, workers often cannot take their annual leave within the prescribed time limit due to work requirements and therefore accumulate days of unused leave which are eventually lost since employers refuse to grant any holidays after such time limit. The workers' organization also refers to the problem of the grey economy or informal sector which represents well beyond 40 per cent of the workforce and which leaves matters such as working hours, weekly rest or annual leave totally unregulated. ***The Committee asks the Government to transmit any comments it may wish to make with regard to the observations of the Confederation of Trade Unions of the Republika Srpska so that these points be examined at its next session.***

The Committee is also addressing a request on certain other points directly to the Government.

Central African Republic

Night Work (Women) Convention (Revised), 1934 (No. 41) (ratification: 1960)

Further to its previous comments, the Committee notes the Government's reassurances that section 3 of Order No. 3759 of 25 November 1954 will be amended to be brought into line with the requirements of the Convention.

The Committee once again takes this opportunity to invite the Government to give favourable consideration to the ratification of either the Night Work (Women) Convention (Revised), 1948 (No. 89), and its Protocol of 1990, or the Night Work Convention, 1990 (No. 171), which allow for greater flexibility and set out modern standards for night workers. The Committee recalls its 2001 General Survey on the nightwork of women in industry in which it concluded that Conventions Nos. 4 and 41 no longer make a useful contribution to attaining the objectives of the Organization, their relevance is diminishing, and that States parties to those Conventions should be prepared eventually to take appropriate action (paragraphs 193-194). Similarly, the Governing Body, based on the recommendations of the Working Party on Policy regarding the Revision of Standards, decided to retain Conventions Nos. 4 and 41 as candidates for possible abrogation considering that they no longer correspond to current needs and have become obsolete (see GB.283/LILS/WP/PRS/1/2, paragraphs 31-32 and 38).

In this respect, the Committee recalls that, whereas the possible ratification of Convention No. 89 will *ipso jure* involve the immediate denunciation of Convention No. 41, as provided for in *Article 14, paragraph 1(a)*, of this latter Convention, the ratification of Convention No. 171 does not produce any similar effects and therefore the denunciation of Convention No. 41 will have to be undertaken separately. According to established practice, Convention No. 41 may be denounced every ten years but only during an interval of one year and will again be open to denunciation from 22 November 2006 to 22 November 2007. On the contrary, Convention No. 4 may be denounced at any time provided that the representative organizations of employers and workers are fully consulted in advance.

In light of the preceding observations, therefore, the Committee hopes that the Government will take appropriate action shortly in respect of obsolete Conventions Nos. 4 and 41 and asks the Government to keep the Office informed of any decisions taken in this regard.

Colombia

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1969)

Article 8, paragraph 3, of the Convention. Temporary exceptions. The Committee notes that in its report the Government confines itself to indicating that the legislation has not been amended. It also notes that the Government has not replied to its previous comment. The Committee recalls that, since the Government's first report on the application of the Convention, or for over 30 years, it has been commenting on the need to amend section 180 of the Labour Code, under the terms of which a worker who works on the compulsory rest day may choose between compensatory paid leave and financial compensation. The Committee once again draws the Government's attention to the fact that, in accordance with *Article 8, paragraph 3*, of the Convention, where temporary exceptions are made, the persons concerned must be granted compensatory rest of a total duration of at least 24 consecutive hours. As the Committee emphasized in its General Survey of 1964 on weekly rest (paragraph 200), compensation in the form of higher wages is completely incompatible with the Convention. The fact that a worker opts for this form of compensation her or himself does not affect this principle. Indeed, financial compensation for working on the weekly rest day is contrary to the very objective of the Convention, which is to ensure a minimum rest period for workers to protect their health. *The Committee expresses the firm hope that the Government will take the necessary measures without further delay to bring its legislation into conformity with this provision of the Convention.*

Part V of the report form. The Committee requests the Government to provide general information on the manner in which the Convention is applied in practice, including, for instance, statistical data on the number of workers covered by the legislation, reports of the inspection services and information on the number and nature of the contraventions reported.

Ecuador

Holidays with Pay (Agriculture) Convention, 1952 (No. 101) (ratification: 1969)

Further to the comments it has been making for almost 25 years, the Committee notes that the Government, in its report, indicates that it will make every effort to amend its legislation as expeditiously as possible, taking into account national practice and the Committee's comments. *The Committee trusts that the Labour Code will be amended in the very near future so as to be brought into line with the Convention's provisions in the way described below.*

Articles 1 and 8 of the Convention. Postponement of annual paid holiday by the worker. The Committee notes that Article 75 of the Labour Code still allows the worker to forego his annual paid holiday for three consecutive years so that

he can take it cumulatively in the fourth year. As the Committee pointed out in its General Survey of 1964 on annual holidays with pay (paragraph 177), the fact that the Convention provides for the obligation to grant workers “annual” holidays (*Article 1*) and prohibits the renunciation of this right (*Article 8*) is taken to mean that the postponement of holidays – which may nullify the whole purpose of the Convention – is not permitted. Should certain exceptions be considered as acceptable because they respond to the interests of both workers and employers, “it is essential to maintain the principle that, in the course of the year, the worker must be granted at least part of his leave in order to enjoy a minimum amount of rest and leisure”. *The Committee therefore requests that the Government take the necessary measures to ensure, in the event that the postponement of annual holiday continues to be permitted, that this will not affect a certain minimum part of the holiday, which must be granted each year.*

The Committee is also addressing a request directly to the Government on other points.

Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153) (ratification: 1988)

Further to its previous observations, the Committee notes with regret that no significant progress has been made up to now in the application of the Convention. Indeed, according to the Government’s indications in its report, sections 322-336 of the Labour Code, which are not in conformity with the principal provisions of the Convention, continue to regulate work in transport enterprises. The Government adds that a tripartite meeting will be organized to determine the government policies and legal provisions which would enable it to bring the law into conformity with the Convention. In this respect, it is the Committee’s understanding that the Government had prepared a draft Ministerial Order intended to give effect to the provisions of the Convention.

The Committee recalls that during the course of the 17 years which have elapsed since the ratification of the Convention, the Government has not brought national law and practice into conformity with the requirements of the Convention, despite the repeated comments made by the Committee of Experts, the conclusions adopted in June 2003 by the Conference Committee on the Application of Standards, and also the many technical assistance missions carried out by the Office. *The Committee requests the Government to keep it informed of any development relating to the adoption of the draft Ministerial Order referred to above and the results of the tripartite meeting to which the Government refers in its report. It trusts that the Government will make every effort, if necessary with the technical assistance of the Office, to give full effect to the provisions of the Convention without further delay.*

Guatemala

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1988)

The Committee notes the new comments of the Trade Union of Workers of Operators of Plants, Wells and Guards of the Municipal Water Company and its annexes (SITOPGEMA), dated 18 July 2005. These comments contain allegations concerning the procedure followed in the context of the legal action taken by the trade union to obtain payment of the overtime hours imposed upon workers by the municipal water enterprise of the city of Guatemala (EMPAGUA) and follow other comments made by the trade union organization received in July 2004 on the same subject, to which a reply has not yet been received. *The Committee requests the Government to provide its observations in response to the comments of the SITOPGEMA and to reply in detail to the comments that it made in 2003 and 2004 concerning the application of the Convention.*

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1961)

The Committee notes the comments communicated by the Trade Union of Workers of Guatemala (UNSITRAGUA) on 2 June 2005 providing information on the categories of civil servants in the judicial system and auxiliary staff of law courts covered by, or excluded from, the scope of application of the Convention in accordance with the Law of Civil Servants in the Judicial System (Decree No. 48-99) and the Law on Judicial Career (Decree No. 41-99). *The Committee hopes that the Government in its next report will reply to these observations as well as to two other observations communicated by UNSITRAGUA in October 2002 and August 2003 concerning unpaid or otherwise non-compensated overtime work, especially in bank offices and the judiciary. The Committee also hopes that the Government will provide a detailed response to the points raised in its previous observation concerning the application of the Convention.*

India

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1921)

The Committee notes the Government’s report and the explanations provided in reply to its previous observation. It wishes to raise the following points in this regard.

Article 6 of the Convention. Permanent exceptions. Referring to its previous comments following the observation made by Central Railway Mazdoor Sangh, the Committee notes that, by virtue of section 132(1) of the Railways Act of 1989, a railway servant whose employment is essentially intermittent may not be employed for more than 75 hours in any

week. Moreover, the Committee notes that, according to the indications supplied by the Government in its latest report, the Hours of Employment Regulations were adopted following the recommendations made by the Railway Labour Tribunal, 1969. The Government also specifies that this Tribunal was established following an agreement concluded between the trade union organizations and the management of the railways. The Government therefore considers that the Tribunal's recommendations ensue from an agreement between the trade union organizations and the Government.

The Committee recalls, however, that the regulations establishing permanent exceptions to the normal duration of work must be made after consultations carried out directly with employers' and workers' organizations and must specifically address the issues dealt with as a part of those consultations. **Consequently, it requests the Government to indicate whether these organizations have been effectively consulted on the setting of a 75-hour limit to the duration of the working week for railway servants whose work is essentially intermittent.** The Committee considers that the agreement concluded between the trade union organizations and the management of the railway regarding the establishment of the Railway Labour Tribunal does not seem to suffice in this regard. **The Government is also invited to forward a copy of the regulation on the hours of work and the recommendations adopted by the abovementioned tribunal, which have, as yet, not been made available to the Office.**

Temporary exceptions. The Committee notes that, by virtue of section 132(4) of the Railways Act of 1989, the competent authority may make temporary exceptions to the duration of the normal working week if it is of the opinion that such exceptions are necessary to avoid serious interference with the ordinary working of the railway; or in cases of accident, actual or threatened; or when urgent work is required to be done, in any emergency which could not have been foreseen or prevented; or in other cases of exceptional pressure of work. The Committee draws the Government's attention to the fact that the introduction of such temporary exceptions requires, as in the case of the permanent exceptions examined above, consultations with employers' and workers' organizations. **It therefore requests the Government to indicate whether and in which manner consultations have been carried out.**

Article 10. Special provisions applicable to India. The Committee notes the Government's new declaration stating that the use of the term "British India" in Article 10 of the Convention is highly objectionable. The Committee appreciates the concerns and understands that the Office is currently studying the possibility of a suitable arrangement which is both pragmatic and in line with the constitutional procedures of the Organization. **The Committee hopes that the Government will soon be in a position to accept, through a declaration, the application of all the provisions of the Convention in this regard, as has been suggested in the past.**

Part IV of the report form. The Committee notes that, in its report of 1996, the Government indicated that, following an observation made by the Bijli Mazdour Panchayat organization, legal proceedings were launched in the Province of Gujarat against the enterprise M/S Shital Traders, accused of having employed certain workers for 12 hours a day without paying them overtime. **The Committee requests the Government to provide information on the outcome of these proceedings.** The Committee also notes that, according to the information forwarded by the Government in 2002 and 2003 concerning the legal proceedings launched against the enterprise M/S Model Construction (P) Ltd. in the Province of Goa, the courts have still not handed down a definite ruling. **It therefore requests the Government to continue to keep the Office informed of any progress regarding these proceedings. The Government is invited to indicate in general whether courts have handed down rulings on questions of principle regarding the application of the Convention, and if so, to forward the text of these decisions.**

Part V of the report form. **The Committee requests the Government to provide general indications on the manner in which the Convention is applied in practice, providing, for example, labour inspectorate reports and, if possible, statistical data on the number of workers protected by the relevant legislation and the nature of the violations recorded.**

Night Work (Women) Convention (Revised), 1948 (No. 89) (ratification: 1950)

The Committee takes note of the information supplied by the Government in response to its previous observation. It also notes the comments of the Centre of Indian Trade Unions (CITU), dated 24 August 2005, on the application of the Convention.

Article 1, paragraph 1(a), of the Protocol. The Committee notes that according to the terms of the proposed amendment to section 66 of the Factories Act, 1948, the employment of women workers between 7 p.m. and 6 a.m. is to be allowed provided that adequate safeguards are made by the occupier of the factory as regards occupational health and safety, equal opportunity for women workers, adequate protection of their dignity, honour and safety and their transportation from the factory premises to the nearest point of their residence. The revised text also provides for prior consultations with the concerned employer, or employers' organization, and workers, or workers' representative organizations. The Committee recalls, in this respect, that under Article 1(1)(a) of the Protocol, exemptions from the prohibition of night work or variations in the duration of the night period in a specific branch of activity or occupation may be permitted only if the representative organizations of the employers and workers concerned have concluded an agreement to this effect or have given their agreement. **The Committee draws therefore the Government's attention to the need to modify the draft amendment, which requires mere consultation with the concerned employers and workers, in order to ensure full conformity with the provisions of the Protocol.**

In this connection, the Committee notes the comments made by the CITU according to which the proposed amendment does not require any specific agreement between the employers and employees, its provisions on

transportation are vague while the responsibility does not lie with the employer but with the occupier of the factory. The CITU argues that the amendment is not based on any proper study of the current situation, concerns or needs of women workers. It also denounces existing practices whereby even pregnant and breastfeeding women are threatened and forced to work at night despite the ban on women's night work in force. ***The Committee requests the Government to transmit together with its next report any comments it may wish to make with regard to the observations of the CITU.***

Article 2, paragraph 1. The Committee notes the Government's indication that under section 5 of the Maternity Benefit Act, 1961, a woman is entitled to the payment of maternity benefit at the rate of the average daily wage for a maximum period of 12 weeks of which not more than six weeks must precede the date of her expected delivery. The Committee also notes the Government's statement that there is no explicit provision under the proposed amendment to the Factories Act prohibiting the employment of women factory workers during the night period before and after childbirth for at least 16 weeks, as required under this Article of the Protocol. ***The Committee therefore requests the Government to indicate the measures taken or envisaged in order to give full effect to the requirements of the Protocol in this regard.***

Article 3 and Parts IV and V of the report form. The Committee notes the information provided by the Government concerning the decision of the Madras High Court of December 2000 by which the prohibition of night work for women was declared unconstitutional and discriminatory and which eventually led the Government to introduce in July 2003 a Bill to amend section 66 of the Factories Act. It also notes the brief account on the views expressed by trade unions, women's organizations and other interested groups during the examination of this Bill by the Standing Committee on Labour and Welfare of the National Parliament in October 2003. Moreover, the Committee notes the statistical information supplied by the Government concerning the number of women workers employed in the various states and the exemptions which have been granted to certain textile/spinning industries and food industries permitting the employment of women up to 10 p.m. ***The Committee would be grateful if the Government would continue to provide up-to-date information concerning the application of the Convention and its Protocol in practice, especially once the amendment to the Factories Act is formally enacted and takes effect.***

Finally, the Committee notes the Government's statement to the effect that the ratification of the Night Work Convention, 1990 (No. 171), might be considered once the relevant laws and regulations are brought into conformity with the requirements of that Convention. ***The Committee once again invites the Government to make its best effort to give favourable consideration to the ratification of Convention No. 171, which, contrary to Convention No. 89, no longer follows a gender-oriented perspective but addresses the issue of night work for both men and women in its occupational safety and health dimension. The Committee asks the Government to keep it informed of any further developments in this regard.***

Mali

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1960)

Article 5 of the Convention. Compensatory periods of rest. The Committee notes with regret that, in its report, the Government does not reply to its previous comments and confines itself to indicating that the Labour Code does not provide for compensatory periods of rest when the suspensions or diminutions in weekly rest are granted in virtue of *Article 4* of the Convention. In its 2004 report, the Government indicates that such periods of rest were provided for in agreements and local customs as allowed in *Article 5* of the Convention. Despite the Committee's request, the Government has supplied no information on these agreements and local customs. ***The Committee is bound to request the Government once again to supply such information.*** In this respect, the Committee draws the Government's attention to the importance of compensatory rest periods since, as it emphasized in its 1964 General Survey on weekly rest (paragraph 197), "it is obvious that abnormal work on the weekly rest day, even if it lasts only a short while, disturbs the workers' family and social life".

Article 7. Posting of notices and keeping of rosters. The Committee notes that the Government's report does not reply either on this matter to its previous comments and indicates only that there are no legislative provisions giving effect to this Article of the Convention. In its previous report, the Government stated that agreements respecting the arrangements and distribution of working hours concluded in an enterprise or establishment were brought to the knowledge of the workers by posting of notices. ***The Committee once again asks the Government to supply copies of such agreements and examples of notices and rosters by which the staff is informed of weekly rest days and times.***

The Committee is also addressing a request on certain other points directly to the Government.

Netherlands

Holidays with Pay (Agriculture) Convention, 1952 (No. 101) (ratification: 1958)

The Committee notes the Government's report and the information supplied in response to its previous comments. It also notes the observations made by the Confederation of the Netherlands Trade Union Movement (FNV).

Article 8 of the Convention. The Committee notes the Government's statement that under section 638(1) of the Civil Code, as amended, employers are obliged to provide employees every year with the occasion to take their annual leave but there is no obligation for employees to effectively take all or part of the leave during the year of the acquisition of the right to leave, any unused days of leave being in fact saved for next years up to a maximum period of five years. The Committee also notes the Government's clarification concerning sections 634 and 642 of the Civil Code according to which employees are allowed: (i) to forgo the current year's leave entitlements for monetary compensation only in so far as these entitlements exceed the minimum statutory leave; and (ii) to forgo for cash accumulated leave from past years (whether minimum statutory leave or extra paid holidays). The Government places particular emphasis on the full discretion of employees to exercise their right to annual leave or not and considers that replacing accumulated annual leave entitlements by allowances in lieu does not erode the recuperation function of the legally guaranteed minimum annual leave.

While noting the Government's observations on the views expressed by the FNV, the Committee considers that the amendment to the holiday with pay legislation, which became effective in February 2001 and which allows employees to relinquish the part of their annual holidays which exceeds the statutory minimum, calls for two comments: first, the Committee is of the view that it is essential to maintain the principle that, in the course of the year, the worker must be granted at least part of his/her leave in order to enjoy a minimum amount of rest and leisure. As the Committee stated on numerous occasions (see, for instance, the 1964 General Survey on annual holidays with pay, paragraphs 177 and 181), the postponement or deferment of annual leave, where authorized, should not normally be allowed to affect a specified minimum part of the holiday which must be granted annually. In this sense, therefore, the idea that workers may freely decide to "save" for a number of years their whole vacation is not consistent with the basic purpose of the Convention as well as with the spirit of annual holidays which is to afford workers the benefit of a period of physical relaxation essential for their health and welfare.

Secondly, the Committee wishes to recall that under this Article of the Convention, the voiding of any agreement for the relinquishment of the holiday refers to the whole of the acquired holiday, whatever its length, and not to a fixed statutory minimum per year (see the 1964 General Survey on annual holidays with pay, paragraph 193). It should also be noted that in an informal opinion given by the Office in 1962 on the same question, it was concluded that the possibility of permitting some exceptions to the rule prohibiting agreements in virtue of which workers relinquish their right to an annual holiday with pay, or forgo such a holiday, was fully considered prior to the adoption of the Convention and was not accepted (see *Official Bulletin*, 1962, Vol. XLV, No. 3, p. 234).

Moreover, the Committee considers it appropriate to recall the reasons underlying the categorical nature of the provisions of *Article 8* of the Convention. Both social considerations and considerations relating to the health of agricultural workers, whose employment is of a particular arduous nature, evidently make it indispensable that it should not be open to them to relinquish their right to holidays or to forgo holidays to which they are entitled. ***The Committee hopes that the Government will take the necessary measures to ensure that full effect is given to this Article of the Convention and requests the Government to indicate, in its next report, any progress made in this regard.***

Finally, the Committee notes that a Dutch court has asked the European Court of Justice for an interpretation of section 7(2) of the EU Council Directive 93/104/EC which prohibits the replacement of the minimum period of paid annual leave by an allowance in lieu, except in the case of termination of the employment relationship. In this context, the Committee also notes the references in some decisions of the European Court of Justice to the fundamental nature of the right to paid annual leave in Directive No. 93/104/EC (for example, *R v. Secretary of State for Trade and Industry ex parte BECTU*, Case C-173/99). ***The Committee requests the Government to keep it informed of all future developments in this respect.***

Part V of the report form. The Committee notes the information provided by the Government concerning the number of paid holidays per year set by the Collective Agriculture Labour Agreement (CAO-Open Teelten 2004) for full-time and part-time employees, as well as for employees younger than 18 years and those of 50 or more years of age. ***The Committee would be grateful to the Government for continuing to provide information on the practical application of the Convention, including the number of agricultural workers covered by the statutory provisions on annual paid leave, specific information on supervision and inspection results in the agricultural sector, data concerning the number of violations recorded of the relevant legislation, etc.***

Panama

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1959)

Article 7, paragraphs 2 and 3, of the Convention. Temporary exceptions – annual limits to additional hours. The Committee notes with regret that in its report, the Government merely repeats that it maintains its decision not to amend the Labour Code for the time being and that there is no consensus among the social partners on this matter. The Committee is therefore bound to point out once again that since the adoption of the Labour Code in 1971, i.e., for more than 30 years, it has been stressing the need to amend section 36(4) of the Code which sets only daily and weekly limits for overtime, whereas the Convention requires also an annual limit to be set with respect to the temporary exceptions. The

Committee notes that the Government has stated that it is aware of its obligations under the Convention and has asked the Office to have the matter of its application dealt with in the course of a technical assistance mission on freedom of association that is scheduled for February 2006. The Committee recalls that a bill to bring the legislation into line with the Convention was drafted as long ago as 1977 in the context of a direct contacts mission. ***It trusts that, following the technical assistance mission that has been scheduled, the Government will do its utmost to ensure without further delay that its legislation is brought into line with the Convention on this point.***

The Committee also notes from the information supplied by the Government in its report that the labour courts are responsible for the procedures pertaining to overtime. ***It requests the Government to provide more detailed information on this aspect.***

Part V of the report form. The Committee notes the information sent by the Government and asks it to continue to provide general information on the manner in which the Convention is applied in practice.

[The Government is asked to reply in detail to the present comments in 2006.]

Peru

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1945)

Further to its previous comment, the Committee notes the Government's explanations concerning the system of inspection, including standard and special visits, responsible for ensuring compliance with the national legislation on working time, as provided for in section 13 of Supreme Decree No. 007-2002-TR.

In addition, the Committee notes the comments made by the Trade Union of Toquepala Workers (STTA), dated 1 August 2003, alleging abusive practices with respect to working hours in the Southern Peru Copper Corporation. According to the trade union organization, as of 10 April 2000, the southern Peru mining company imposed a compulsory 12-hour working day and 60-hour working week to 300 mineworkers in violation of article 25 of the National Constitution and also in contravention with section 22 of the collective agreement concluded by the enterprise on 24 October 2001. The STTA denounces this unilateral decision taken under section 9 of Supreme Decree No. 003-97-TR, Act on productivity and labour competitiveness (Legislative Decree No. 728) that allows employers to modify work schedules according to their needs. The trade union organization further alleges that the long working hours have already had serious consequences on the health and safety of workers, including some fatal accidents. Moreover, the Committee notes that, following legal action taken by the STTA against the Southern Peru Copper Corporation, the Constitutional Tribunal rendered a decision on 27 September 2002 declaring the petition unfounded. ***The Committee requests the Government to transmit any observations it may wish to make in connection with the points raised by the STTA and also to specify the legal provisions currently regulating the averaging of working hours in industrial undertakings.***

Part V of the report form. The Committee requests the Government to provide in its next report general information on the application of the Convention in practice, including, for instance, extracts from inspection reports showing the number of violations observed and the penalties imposed, the different categories and approximate number of workers covered by relevant legislation, copies of collective agreements including special working time arrangements, etc.

Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67) (ratification: 1962)

The Committee notes the Government's report, as well as the two observations, dated 2 November and 13 December 2004, transmitted by the Single Trade Union of Drivers of the Public Service in Lima. These observations have been transmitted to the Government, which has not, to date, replied. Referring to its previous comments on the application of the Convention, made for many years, the Committee regrets that it has still not received clear and full replies from the Government and is obliged to raise the following points again.

Article 1 of the Convention. Scope of application. The Committee notes the adoption of General Act No. 27181 of 5 October 1999 on land transport and traffic and the national traffic regulation, promulgated by Supreme Decree No. 033-2001-MTC of 23 July 2001. It notes however that these two documents do not address the question of working hours in the road transport sector. Furthermore, in its observations, the Single Trade Union of Drivers of the Public Service in Lima alleges that the administrative transport regulation, adopted by Supreme Decree No. 040-2001-MTC, applying General Act No. 27181, has never been implemented owing to the fact that the employers of the transport sector and the municipality of Lima were opposed to section 110, by virtue of which drivers employed by transport enterprises must be registered. ***The Committee requests the Government to indicate whether the abovementioned regulation is in force and whether it addresses the question of working hours in the road transport sector. Should this be the case, the Government is requested to transmit a copy of this regulation and to provide its comments in response to the observations made by the abovementioned trade union organization concerning the non-application of this text.***

Article 3. Owners of vehicles. The Committee notes that the laws and regulations referred to by the Government in its reports only apply to employees. It draws the Government's attention to the fact that the possibility of excluding owners of vehicles and members of their families who are not employees from the application of the provisions of the

Convention is subject to precise conditions. In this regard, the Committee notes that, in its comments, the Single Trade Union of Drivers of the Public Service in Lima asserts that workers employed in the road transport sector work more than 16 hours a day, be they owners of their vehicles or employees of a transport company. ***The Committee requests the Government to provide information on the rules regarding working hours applicable to workers in the sector who own their vehicles and to transmit its comments in reply to the observations made by this trade union organization.***

Article 7. Daily hours of work. The Committee notes that, in its report of 1999, the Government referred to *Article 7, paragraph 3*, of the Convention, by virtue of which the daily limit for hours of work may exceed eight hours, especially in respect of persons whose work is frequently interrupted by periods of mere attendance. The Government asserted that section 57 of Supreme Decree No. 05-95-MTC regulating the public interprovincial road transport service for passengers by bus, which allows up to 12 hours' driving to be accumulated in each 24-hour period, should be read in conjunction with section 56 of the same Decree. Under the terms of the latter section, when the journey exceeds 400 kilometres on tarmacked road, or 250 kilometres on non-tarmacked road, two drivers must be on board. The Government indicated that, in this case, whilst one of the two drivers drives, the other is merely in attendance, thus rendering *Article 7, paragraph 3*, of the Convention applicable. ***The Committee requests the Government to indicate the daily limit of working hours applicable when the journey to be made is shorter than the distances mentioned above.*** In such a case indeed, a single driver is present on the bus and his work is therefore not interrupted by periods of mere attendance. In this regard, the Committee notes that in its comments the Single Trade Union of Drivers of the Public Service in Lima mentions working days of over 16 hours in the road transport sector. ***The Committee requests the Government to reply to the observations made by this trade union organization.***

Article 15. Daily rest. The Committee notes that, in reply to its previous observation on the provisions of Supreme Decree No. 05-95-MTC, the Government, in its report of 1999, asserted that *Article 15* of the Convention allows for the daily period of rest to be reduced in the case of certain services subject to breaks of considerable duration or on a prescribed number of days in the week, on the condition that the average duration of the daily period of rest, calculated on a weekly basis, should be no lower than 12 hours. The Government also referred to Legislative Decree No. 713, by virtue of which the employer may set alternative or cumulative schemes of work and rest when rendered necessary owing to production-related needs. The Committee notes, however, that the abovementioned Legislative Decree only applies to workers in the private sector and that its scope of application is therefore different from that of Supreme Decree No. 05-95-MTC. Moreover, it only covers the weekly rest, public holidays and annual leave and not the daily rest. ***Consequently, the Committee requests the Government to indicate in what manner the workers covered by Supreme Decree No. 05-95-MTC are assured a period of rest comprising at least 12 consecutive hours in every period of 24 hours.***

Article 16, paragraph 1. Weekly rest. The Committee notes that the Government's report does not contain any response to its previous comment on the minimum weekly rest prescribed by the Convention. The Committee is therefore bound to recall that, according to *Article 16, paragraph 1*, of the Convention, in every period of seven days a period of rest comprising at least 30 consecutive hours of which not less than 22 fall within the same calendar day must be granted. In its previous report, the Government asserted that the minimum weekly rest period of 24 consecutive hours provided for in section 1 of Legislative Decree No. 713 was supplemented by the daily rest period of the preceding day. As the Committee emphasized in its previous comment, this interpretation of a general text applying to the private sector only is insufficient to ensure that the 30 consecutive hours of weekly rest are granted to all workers, in both the public sector and the private sector, to whom the Convention applies. ***The Committee hopes that the Government will soon be in a position to bring its legislation into line with the Convention on this point.***

Article 18, paragraph 3. Individual control book. The Committee notes that, in its report, the Government does not respond to its previous comment on this point. ***It trusts that the Government will soon be in a position to take measures with a view to establishing an individual control book which must be issued to every person covered by the Convention.*** The Committee recalls that this book must contain particulars regarding the hours of work and rest periods of the worker concerned.

More generally, the Committee recalls that, following a proposal by the Working Party on Policy regarding the Revision of Standards, the ILO Governing Body considered that Convention No. 67 is out of date and invited the States parties to that Convention to contemplate ratifying the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153) (see GB.283/LILS/WP/PRS/1/2, paragraph 12). The ratification of Convention No. 153 by a State party to Convention No. 67 *ipso jure* involves the immediate denunciation of the latter Convention. The Committee notes that, in its report of 1988, the Government indicated that, following consultations with representatives of the transporters, it decided that it would be preferable not to ratify Convention No. 153. ***The Committee requests the Government to indicate if this issue has been re-examined since that decision was taken and to keep the Office informed of any developments in this regard.***

Moreover, the Committee transmits a direct request to the Government concerning other points.

Syrian Arab Republic

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1960)

The Committee notes with satisfaction the adoption, by Act No. 24 of 10 December 2000, of the amended section 117 of the Labour Code, under the terms of which workers are no longer obliged to be present at the workplace beyond the statutory or contractual working hours.

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

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 1** (Angola, Argentina, China: Macau Special Administrative Region, Ghana, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Malta, Pakistan, Paraguay, Syrian Arab Republic, United Arab Emirates, Uruguay); **Convention No. 4** (Cambodia); **Convention No. 14** (Antigua and Barbuda, Bahrain, Belize, Bosnia and Herzegovina, Chad, China: Macau Special Administrative Region, Denmark: Faeroe Islands, Denmark: Greenland, Dominica, Ghana, Haiti, Kyrgyzstan, Madagascar, Mali, Pakistan, Peru, Saint Lucia, Serbia and Montenegro, Solomon Islands, Swaziland, Thailand, United Kingdom: Montserrat, Yemen); **Convention No. 30** (Ghana, Lebanon, Luxembourg, Paraguay, Syrian Arab Republic); **Convention No. 41** (Chad); **Convention No. 47** (Uzbekistan); **Convention No. 52** (Comoros, Denmark, France: Réunion, Georgia, Kyrgyzstan, Libyan Arab Jamahiriya, Paraguay, Russian Federation, Uzbekistan); **Convention No. 67** (Peru); **Convention No. 89** (Bosnia and Herzegovina, Burundi, Malawi, Pakistan, Paraguay, Swaziland); **Convention No. 101** (Antigua and Barbuda, Burundi, China: Hong Kong Special Administrative Region, Ecuador, Saint Vincent and the Grenadines, United Republic of Tanzania: Tanganyika); **Convention No. 106** (Bosnia and Herzegovina, Cameroon, China: Macau Special Administrative Region, Croatia, Denmark: Faeroe Islands, Denmark: Greenland, Djibouti, France: New Caledonia, Ghana, Haiti, Pakistan, Serbia and Montenegro, Sri Lanka); **Convention No. 132** (Belgium, Bosnia and Herzegovina, Brazil, Chad, Hungary, Republic of Moldova, Yemen); **Convention No. 153** (Uruguay); **Convention No. 171** (Brazil, Dominican Republic, Lithuania, Slovakia); **Convention No. 175** (Luxembourg, Mauritius, Sweden).

Occupational Safety and Health

Algeria

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1962)

1. The Committee notes the Government's report. It also notes its indication that white lead has not been used in the manufacture of paint since the adoption of the Order of 4 March 1950. The Committee further notes that, according to the discussions held by the Government with the management of the Association of Paint, Varnish and Adhesive Manufacturers of the National Paint Company and the Paint Company of West Algeria, producers have abandoned the use of this ingredient in the preparation of paint. Furthermore, according to the Government's report, a survey undertaken by the Ministry of Industry confirms that paint manufacturers do not use lead or its compounds.

2. The Committee notes Decree No. 97-254 of 8 July 1997 determining the conditions and procedures for issuing and withdrawing authorization prior to the manufacture and/or import of consumer products of a toxic nature or presenting a specific risk, as well as the Ministerial Order of 28 December 1997 and its annexes. The Committee notes that item 11 of Annex III specifies that the acceptable dose limit for lead and its compounds is set at 5g/kg for paint.

3. As indicated by the Government, the texts referred to above apply to the final product and do not make a distinction between the various applications of paint. Indeed, for 40 years, the Committee has been reminding the Government that there are no specific provisions in force giving effect to the Convention. The very serious risks arising from lead compounds are generally recognized and the Committee deplores the fact that the Government has not yet taken the necessary measures to secure the application of the Convention. The Committee is therefore bound to recall the main principles of the Convention: (i) the prohibition of the use of white lead and sulphate of lead in the internal painting of buildings; (ii) the regulation of the use of white lead in artistic painting; (iii) the prohibition of the employment of young men under 18 years of age and all women in any painting work involving the use of white lead; and (iv) the regulation of the use of white lead in painting work for which its use is not prohibited. Finally, *the Committee requests the Government to provide statistics with regard to lead poisoning among working painters, as required by Article 7 of the Convention. The Committee requests the Government to take all the necessary measures without delay to bring the national law and practice into conformity with the terms and objectives of the Convention.*

Barbados

Radiation Protection Convention, 1960 (No. 115) (ratification: 1967)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

1. The Committee noted in its previous comment that the Advisory Committee on Radiation Protection (ACRP), first established in 1979, was being reactivated. In this respect, it notes the Government's indication that a number of persons have been invited to sit on the ACRP, namely representatives from the University of the West Indies, the Ministry of the Environment, the Barbados Dental Association, medical and nursing personnel working in hospitals, as well as two representatives from the industry sector of which, however, one has refused to join this Committee because of the rather limited use of radiation. To the Committee's understanding, the above advisory committee has not resumed functioning yet. With regard to the numerous tasks of the ACRP, which are enumerated in the "Advisory Committee on Radiation Protection – Terms of reference", the Committee recalls that the functioning of the ACRP is instrumental in the preparation and implementation of legislative or other measures in order to provide an effective protection to workers exposed to ionizing radiation in the course of their work and thus in the application of the Convention. *The Committee therefore urges the Government to take appropriate action to make the ACRP operational. It requests the Government to keep the Committee informed on any progress achieved in this regard.*

2. With reference to its previous comments, the Committee draws the Government's attention to the following points.

Articles 2 and 4 of the Convention. The Committee noted the Government's indication that the regulatory body to monitor the exposure of workers to ionizing radiation has not been established yet. It further notes that, the ACRP has not yet given directives regarding protective measures to be taken against ionizing radiation, or time limits for the application of such measures. Referring to its introductory comments, *the Committee urges the Government to take the appropriate steps to make the ACRP operational and thus creating the framework for the monitoring of workers' exposure to ionizing radiation and the issuing of directives regarding protective measures, which falls, according to the Committee's understanding, in the area of competence of the ACRP.*

Articles 3 and 6. With regard to the fixing of maximum permissible doses of ionizing radiation, necessary in order to comply with the requirement to ensure effective protection of workers in the light of "knowledge available at the time" and in the light of "current knowledge", the Committee noted from the Government's report that the radiation protection officer, being a hospital physician and the chairperson of the ACRP, is well aware of the recent revised dose limits of the International Commission on Radiological Protection (ICRP). In this regard, the Government indicates that reports on the doses of ionizing radiation received by workers show that the limits recommended by the ICRP were not exceeded. However, in particular cases recorded for cardiac catheterization doctors and one radiologist, the dose of radiation absorbed was beyond this limitation, which subsequently has been brought to their attention. The Committee, noting that the observance of the dose limits for ionizing radiation, as recommended by the ICRP in 1990, do not seem to set a problem to the Government in practice, *requests therefore the Government to reconsider the possibility to fix maximum permissible dose levels of ionizing radiations with legally binding effect in order to guarantee by means of enforceable provisions an effective protection of workers exposed to ionizing radiations, in accordance with Articles 3 and 6 of the Convention.*

Article 5. With regard to the installation of a computerized system, type “Selectron HDR”, in 1990 which reduces the number of workers dealing with radiation sources to an extent that the probable exposure to radiation would turn to zero, the Committee noted the Government’s indication that this system is used in the treatment of cancer of the uterine cervix and related problems. However, its use in other medical disciplines has to be planned since logistical problems regarding the necessary equipment and the movement of staff working in related disciplines need to be resolved. **The Committee hopes that the Government will take the necessary action to enable the use of the “Selectron HDR” system in all medical disciplines where appropriate in order to restrict the exposure of workers to the lowest practicable level and to avoid any unnecessary exposure of workers. The Committee requests the Government to supply information on experiences already collected in applying the system in the field of the treatment of cancer of the uterine cervix.**

Article 7. The Committee noted the Government’s indication that no legislation is in place to set a lower limit on the age of radiation workers. However, since it is a very fundamental issue, it is hoped that it will appear in the amended Radiation Act. In the meantime it belongs to the radiation protection officer’s tasks to ensure that adequate structural shielding in place is provided, such as area monitoring, warning lights or alarm where appropriate and that only qualified workers are employed to operate machines producing radiation. In this respect, the Committee notes again the Government’s indication provided with its 1998 report to the effect that the minimum age for engagement in radiation work was 16. Recalling the provision of *Article 7, paragraph 2*, of the Convention which provides for a minimum age of 16 to become engaged in work involving ionizing radiation, **the Committee requests again the Government to specify the legal basis providing for the prohibition to engage young persons under 16 years of age in work involving exposure to ionizing radiations.** Moreover, the Committee recalls the provision of *Article 7, paragraph 1(a)*, of the Convention, providing for the fixation of appropriate levels of exposure to ionizing radiations for workers who are directly engaged in radiation work and are aged 18 and over. **The Committee therefore asks the Government once again to indicate the measures taken or contemplated in order to fix appropriate levels for this group of workers. Since the Committee understands from the Government’s indication that an amendment of the Radiation Act is intended, it would invite the Government to consider the possibility to incorporate such appropriate levels in the amendment of the above Act.**

Article 8. With regard to dose limits to be set for workers not directly engaged in radiation work, the Government indicated that the reports on radiation received by these workers show either negligible or zero doses. While the Committee noted this information with interest, it nevertheless wishes to point out that *Article 8* of the Convention obliges every ratifying State to fix appropriate levels of exposure to ionizing radiations for this category of workers, in accordance with *Article 6*, read together with *Article 3, paragraph 1*, of the Convention, that is in the *light of knowledge available at the time*. In this respect, the Committee would draw the Government’s attention to paragraph 14 of its 1992 general observation under the Convention as well as to section 5.4.5 of the ILO code of practice on the radiation protection of workers (ionizing radiations) of 1986, explaining that the employer has the same obligations towards workers not engaged in radiation work, as far as restricting their radiation exposure is concerned, as if they were members of the public with respect to sources of practices under the employer’s control. The annual dose limits should be those applied to individual members of the public. According to the 1990 ICRP Recommendations, the annual dose limit for members of the public is 1 mSv. **The Committee therefore asks the Government to indicate the measures envisaged to fulfil its obligation under this Article of the Convention.**

Article 9. The Committee noted the information supplied with the Government’s report on the functions of the alarm systems used in those units at hospitals where radiation treatment is carried out. It also notes the existence of appropriate warning signs fixed on the doors to indicate the presence of hazards arising from ionizing radiations. However, with regard to adequate instructions of workers directly engaged in radiation work, the Committee calls again the Government’s attention to section 2.4 of the 1986 ILO code of practice on the radiation protection of workers (ionizing radiations) which contains general principles for informing, instructing and training of workers. **The Government is requested to indicate the measures taken or envisaged to ensure that workers are adequately instructed in the precautions to be taken for their protection in conformity with Article 9, paragraph 2, of the Convention.**

Article 11. The Committee noted the Government’s indication to the effect that the workers designated to perform radiation work are presently monitored by TLD radiation monitoring badges supplied by the universities of the West Indies. **The Committee requests the Government to explain more in detail the characteristics of this specific monitoring and the manner in which it is carried out.**

Article 12. With regard to appropriate medical examination of workers directly engaged in radiation work, the Government indicated that a medical examination is still a prerequisite for an appointment to the public service. In addition, all workers assuming duties at the hospital are tested subsequently after they have taken up their work on a voluntary basis. In this respect, the Committee wishes to underline that subsequent medical examinations of workers directly engaged in radiation work have to be carried out on a mandatory basis and thus cannot be left to the discretion of the workers concerned whether or not they want to undergo a medical examination once they have been employed. **The Government is accordingly requested to indicate the measures taken or envisaged ensuring that all workers engaged in radiation work are obliged to undergo appropriate medical examinations, not only prior to their employment, but also subsequently at appropriate intervals.**

Article 13. With regard to the measures to be taken in emergency situations, the Government indicated that no such measures are in place yet, but that it is hoped that the development of emergency plans will be one of the tasks of the proposed regulatory body. In this respect, the Committee states that the ACRP is responsible, inter alia, to prepare a detailed radiation protection programme for Barbados (point (3) of the Advisory Committee on Radiation Protection – Terms of reference). The Committee thinks that the preparation of measures to be taken in emergency situations would form an integral part of its task. The Committee therefore hopes that the ACRP will resume its functions in the near future and that it will, within the framework of its duties, elaborate plans for emergency situations. **To this effect, the Committee invites the Government again to refer to its 1987 general observation under the Convention as well as to paragraphs 16 to 27 of its 1992 general observation under the Convention concerning occupational exposure during and after an emergency which intend to give guidance regarding the measures to be taken in emergency situations. The Committee hopes that the Government will report on any progress made in this respect.**

Article 14. In absence of any additional information regarding alternative employment of workers with premature accumulation of their lifetime dose, **the Committee requests once again the Government to indicate whether and, if so, under which provisions, it is ensured that a worker who is medically advised to avoid exposure to ionizing radiations is not assigned to work involving such exposure, or is transferred to another suitable employment if he or she has already been assigned.**

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

Belgium

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1951)

1. The Committee notes with satisfaction the Government's comprehensive reply to its previous direct request including copies of relevant legislation, information concerning the adoption of new legislation ensuring increased implementation of the provisions of the Convention concerning first aid, hoisting appliances and temporary and mobile construction sites, and the continued provision of statistical information required by *Articles 4 and 6 of the Convention*. The Committee also notes with satisfaction the amendment of 9 March 2005 to Chapter V of the *Loi du 4 août 1996 relative au bien-être des travailleurs lors de l'exécution de leur travail*, prescribing, in detail, conditions and modalities for the appointment of coordinators at construction sites and their required qualifications including training in occupational safety and health matters.

2. *Articles 4 and 6 of the Convention. Statistics. The Committee invites the Government to continue to submit statistical information as required by the Convention to enable the Committee to evaluate the way in which safety provisions laid down in the Convention are applied in practice.*

3. Finally, the Committee draws the Government's attention to the Safety and Health in Construction Convention, 1988 (No. 167), which revises Convention No. 62 of 1937 and which might be more adapted to the current situation of the building industry. The Committee recalls that the Governing Body of the ILO had invited member States parties to Convention No. 62, to contemplate ratifying Convention No. 167, the ratification of which will, *ipso jure*, imply the immediate denunciation of Convention No. 62 (document GB.268/8/2). *The Committee requests the Government to keep it informed of any developments in this regard.*

Asbestos Convention, 1986 (No. 162) (ratification: 1996)

1. The Committee notes the information provided by the Government in its report. It notes the adoption of Royal Decree of 23 October 2001, on the marketing and use of certain substances and products (asbestos); Royal Decree of 11 March 2002, concerning the protection of risks for safety and health of workers related to chemical agents in the world of work; Royal Decree of 26 May 2002, amending Royal Decree of 28 March 1969, concerning the occupational diseases creating entitlement for compensation; Royal Decree of 28 August 2002, determining persons in charge to monitor the application of the Act of 4 August 1996, concerning the well-being of workers during the accomplishment of their work, including executive orders; and Royal Decree of 28 May 2003, concerning the monitoring of workers' health, as amended by several decrees in the course of 2004. The Committee notes with satisfaction that this legislation gives effect to *Article 2, paragraphs (d) and (g), Article 6, paragraph 3, Article 11, paragraph 2, Article 20, paragraphs 1, 2 and 4, Article 21, paragraphs 2 and 4, and Article 22, paragraph 2, of the Convention.*

2. The Committee is addressing a request on certain points directly to the Government.

Brazil

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1992)

1. The Committee notes the Government's latest comprehensive report including information in reply to the Committee's previous comments. The Government is invited to provide additional information on the following issues.

2. *Articles 1 and 2 of the Convention. Application of the Convention to all branches of economic activity and to all workers in the covered branches.* The Committee notes with interest the information provided regarding efforts by the Government to extend occupational safety and health protection to all Brazilian workers, inter alia, through legislation conferring the right to such protection also to workers in the informal economy of the country. *The Committee welcomes this initiative, which holds an interesting promise of an increased scope of application of this Convention, and requests the Government to keep it informed not only of the progress achieved, but also of the manner in which this initiative is translated into practice.*

3. *Articles 4 and 8. Consultation with representative employers' and workers' organizations on the formulation, implementation and periodical review of the national occupational safety and health policy.* The Government indicates that the Permanent Joint Tripartite Commission (CTPP) has become a forum for active discussion and deliberation on occupational safety and health issues; and that one of the issues under discussion is the question of enhancing the representativity of the Commission by including representatives of the public sector. The Committee welcomes this initiative which could contribute to an increasingly effective implementation of the national policy on occupational safety and health and the prevention of accidents and injury to health arising out of, linked with or occurring in the course of work. *The Government is requested to keep the Committee informed of any developments in this respect.*

4. The Committee notes the information provided by the Government in reply to its previous comments based on observations from several trade unions in different industries and invites the Government to comment on the following issues.

5. *The shoe industry.* The Committee notes the information provided in reply to observations from the Democratic Federation of Shoemakers of the State of Rio Grande do Sul and the Union of Workers in the Shoe Industry of Dois Irmãos and MRRO Reuter, including information on inspections of enterprises in this sector. It notes that according to the Regional Inspectorate Office, working conditions in such enterprises in the State of Rio Grande do Sul are improving, as is demonstrated by statistical data submitted. Noting that these improvements seem to contribute to an application of *Article 7* of the Convention calling for a review of the situation regarding occupational safety and health at appropriate intervals with a view to identifying problems, developing effective methods for dealing with them and setting priorities of actions, ***the Committee requests the Government to keep the Committee informed of any developments in this respect.***

6. *The marble, granite and lime industry.* The Committee notes the information provided in reply to observations from the Union of Workers from the Marble, Granite and Lime Industry of the State of Espírito Santo (SINDIMARMORE) including the indication that the rate of mortalities caused by occupational accidents in the mining sector is decreasing and that this decrease appears to be statistically confirmed by data provided by the Government. The Committee also notes the information provided on positive results achieved through different activities undertaken in order to improve the general situation with occupational safety and health. Nevertheless, and as recognized by the Government, the level of mortality still remains high, especially in the extraction of stone, sand and clay industries in spite of the efforts made including targeting mining in the annual macro targets for the state and regional inspections such as those in the States of Minas Gerais and Espírito Santo. ***The Committee would be grateful if the Government would continue to provide information on the measures taken and results attained in improving the overall occupational safety and health in the marble, granite and lime industries.***

7. *The fishing sector.* The Committee notes the information provided in reply to observations from the Union of Fishermen of Angra dos Reis including the information that the Government is in the process of increasing the effectiveness of its inspection services by targeting its control of specifically hazardous activities and that accordingly the Ministry of Labour and Employment has prioritized inspections in the fishing sector. The Committee notes the Government's statement that as a result, the working conditions in this sector have considerably improved. The Committee notes with interest the Government's reference to a major training programme for its auditors-fiscal, especially those responsible for law enforcement in the area of occupational safety and health including refresher courses and advanced training for over 500 auditors-fiscal from the whole of Brazil on ergonomics, occupational risk management, accident analysis methodology, rural work and strategic auditing. Noting that the potential positive impact of this initiative would not be limited to the fishing sector, ***the Committee requests the Government to provide in its next report information on results of such programmes and courses as well as its impact on the occupational safety and health situation not only in the fishing sector, but also in other sectors.***

8. *The public services sector.* The Committee notes the information provided in reply to observations from the Federal Union of Public Service Workers of the State of Goiás (SINDSEP-GO), including the information that the impact of initiatives to improve the occupational safety and health in the public sector including the members of SINDSEP-GO, has been limited, inter alia, because of the distribution of competencies between federal and local government as regards the municipal and state public service respectively. This limits the possibility for the Labour Inspectorate of the Ministry of Labour and Employment to take direct and effective actions and their activities in this area become difficult and dispersed. Noting the initiative mentioned above (see paragraph 3) to consider increasing the representativity of the CTPP by including representatives of the public sector, ***the Committee expresses the hope that appropriate measures will be taken to ensure an effective application of the Convention in the public services sector and requests the Government to continue to provide information on the measures taken and results attained in this respect.***

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

Burundi

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1963)

1. The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

Article 4 of the Convention. The Committee notes the Government's statement that, in practice, labour inspectors carry out few visits in the construction sector because they lack the necessary technical competence, training being needed in masonry, electricity, plumbing and carpentry. ***The Committee asks the Government to take the necessary steps to ensure that training for labour inspectors is adapted to supervision of safety prescriptions in the construction sector.***

Article 6 and Part V of the report form. The Committee recalls that it had taken note of the statistical information sent by the Government with its report in 1991. It notes that since then, the Government's reports contain no statistical information as required by *Article 6* of the Convention and the corresponding report form. The Committee further recalls that under the abovementioned Article, Members ratifying the Convention undertake to supply with their reports the most up-to-date statistics available on the number and classification of accidents occurring to persons occupied on work within the scope of the Convention

and that, according to the report form on this Convention, governments are asked to supply in addition as many details as possible regarding the number of persons occupied in the construction industry and covered by the statistics.

In the absence of the abovementioned statistics, the Committee is unable to assess the manner in which the safety provisions established by the Convention are applied in practice, which is the more regrettable as construction is among the sectors with the highest accident risks. **The Committee therefore asks the Government not to fail to provide all the statistical information required by the abovementioned Article of the Convention in its next report.**

Articles 7 to 15. The Committee notes the provisions of Rwanda-Urundi (ORU) Ordinance, No. 222/167 of 20 March 1958, issuing general provisions on safety in the workplace. It notes in particular the provisions of section 16 on stairways, ladders, gangways, platforms, etc.

The Committee notes that the texts cited by the Government as applying the provisions of the Convention apply it only in part. The Committee notes that the Government no longer refers in its report to the ORU, No. 21/94 of 24 July 1953, establishing the legal framework for occupational safety in the construction industry, as amended by ORU No. 23/148 of 11 October 1955, several provisions of which apply those of the Convention. It further notes that the provisions of the Act of 29 June 1962 stipulate that: "in so far as they are not contrary to the Constitution of Burundi, regulatory provisions issued by a competent authority shall remain in force until they are expressly repealed or superseded in their entirety by an order (decree or ordinance) issued by the competent body of the Executive of Burundi", and section 306 of the Labour Code of 7 July 1993 providing that "earlier provisions which are not contrary to the present Code shall remain in force until the date of their express revocation". **The Committee asks the Government to indicate the texts currently in force and those which have been expressly repealed or superseded in their entirety, and to supply the Office with the texts amending the national legislation so that the Committee can ascertain whether the latter gives effect to the provisions of the Convention.**

In view of the express reference made by the Government in its report to Ordinance No. 222/167 and the technical and social changes that have occurred since its adoption, **the Committee asks the Government to provide detailed information, article by article, on the application of Articles 7 to 10 of the Convention concerning scaffolding and Articles 11 to 15 of the Convention concerning hoisting equipment.**

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

Cameroon

Asbestos Convention, 1986 (No. 162) (ratification: 1989)

1. The Committee notes the information supplied by the Government in its report. It notes in particular that the Government has just requested assistance of various kinds from the ILO so that it can ensure that the Convention is applied. The Committee also notes the observations of the General Confederation of Labour-*Liberté* (CGT-*Liberté*) on the amendment of the schedule of occupational diseases.

2. The Committee notes the Government's indication that it is experiencing difficulties in applying the Convention, in particular owing to the low level of economic development. The Committee notes, however, that the report contains no information in response to the matters raised by the Committee concerning the application of the Convention. **It is therefore bound once again to draw the Government's attention to the subjects for which, in accordance with Article 3, paragraph 1, of the Convention, national laws and regulations must prescribe measures to give effect to the Convention:**

- employers' responsibility for compliance with the prescribed measures (*Article 6, paragraph 1*);
- adoption by the competent authority of general procedures for cooperation between employers undertaking activities simultaneously at one workplace (*Article 6, paragraph 2*);
- preparation by employers, in cooperation with the occupational safety and health services, of procedures for dealing with emergency situations (*Article 6, paragraph 3*);
- compliance by workers, within the limits of their responsibility, with prescribed safety and hygiene procedures (*Article 7*);
- close cooperation between employers and workers or their representatives in applying the measures prescribed (*Article 8*);
- prevention or control of exposure to asbestos by subjecting work in which exposure to asbestos may occur to adequate engineering controls and work practices (*Article 9(a)*);
- adoption of special rules and procedures, including authorization, for the use of asbestos (*Article 9(b)*);
- replacement of asbestos or of certain types of asbestos or products containing asbestos by other materials or products or the use of alternative technology, scientifically evaluated as harmless or less harmful, whenever this is possible (*Article 10(a)*);
- total or partial prohibition of the use of asbestos or of certain types of asbestos or products containing asbestos in certain work processes (*Article 10(b)*);
- prohibition of the use of crocidolite or products containing this fibre (*Article 11, paragraph 1*);
- prohibition of the spraying of asbestos (*Article 12, paragraph 1*);
- notification of work involving exposure to asbestos (*Article 13*);

- adequate labelling of containers and products containing asbestos (*Article 14*);
- determination by the competent authority of limits for the exposure of workers to asbestos (*Article 15, paragraph 1*);
- periodical review of exposure limits in the light of technological progress and advances in technological and scientific knowledge (*Article 15, paragraph 2*);
- adoption of appropriate measures to prevent or control the release of asbestos dust into the air, to ensure that the exposure limits or other exposure criteria are complied with (*Article 15, paragraph 3*);
- provision by the employer of adequate respiratory protective equipment and special protective clothing where collective technical prevention measures are inadequate (*Article 15, paragraph 4*);
- adoption of practical measures by the employer for the prevention and control of the exposure of workers to asbestos and for their protection against hazards due to asbestos (*Article 16*);
- demolition of plants or structures containing friable asbestos materials solely by employers and contractors who are recognized as qualified by the competent authority (*Article 17, paragraph 1*);
- preparation by the employer or contractor of a work plan specifying the measures to be taken before starting demolition work (*Article 17, paragraph 2*);
- consultation of workers or their representatives on the demolition work plan (*Article 17, paragraph 3*);
- provision of appropriate work clothing, not to be worn outside the workplace, where workers' personal clothing may become contaminated (*Article 18, paragraph 1*);
- cleaning of work clothing and special protective clothing carried out under controlled conditions to prevent the release of asbestos dust (*Article 18, paragraph 2*);
- prohibition of the taking home of work clothing and special protective clothing and of personal protective equipment (*Article 18, paragraph 3*);
- provision of facilities for workers exposed to asbestos to wash, take a bath or shower at the workplace (*Article 18, paragraph 5*);
- disposal of waste containing asbestos in a manner that does not pose a health risk to the workers concerned or to the population in the vicinity of the enterprise (*Article 19, paragraph 1*);
- adoption by the competent authority and employers of appropriate measures to prevent pollution of the general environment by asbestos dust released from the workplace (*Article 19, paragraph 2*);
- measurement by the employer of concentrations of airborne asbestos dust in workplaces (*Article 20, paragraph 1*);
- determination of a period during which records of the monitoring of the working environment and of the exposure of workers to asbestos must be kept (*Article 20, paragraph 2*);
- access to the above records for workers (*Article 20, paragraph 3*);
- right of workers to request the monitoring of the working environment and to appeal to the competent authority concerning the results of the monitoring (*Article 20, paragraph 4*);
- medical examination of workers (*Article 21, paragraph 1*);
- monitoring of workers' health to be free of charge (*Article 21, paragraph 2*);
- workers to be informed of the results of their medical examinations and to receive individual advice concerning their health in relation to their work (*Article 21, paragraph 3*);
- means of maintaining their income to be given to workers unable, for medical reasons, to continue to do work involving exposure to asbestos (*Article 21, paragraph 4*);
- development by the competent authority of a system of notification of occupational diseases caused by asbestos (*Article 21, paragraph 5*);
- dissemination of information and the education of all concerned regarding health hazards due to exposure to asbestos (*Article 22, paragraph 1*);
- establishment by employers of written policies and procedures on measures for the education and periodic training of workers on asbestos hazards (*Article 22, paragraph 2*); and
- information and instruction of workers by employers regarding health hazards related to their work and preventive measures and correct work practices (*Article 22, paragraph 3*).

3. **The Committee hopes that the most representative organizations of employers and workers concerned will be consulted, in accordance with Article 4 of the Convention, when the necessary measures are taken to give effect to the Convention**, and that the enforcement of the laws and regulations adopted as a result will be secured by an adequate and appropriate system of inspection, in accordance with *Article 5* of the Convention. Furthermore, in the interests of proper application of the Convention, the Committee wishes to remind the Government that *Article 2* of the Convention defines the terms “asbestos”, “asbestos dust”, “airborne asbestos dust”, “respirable asbestos fibres” and “exposure to asbestos”,

and the terms “workers” and “workers’ representatives”, and that it would be advisable to include these definitions in the national legislation.

4. The Committee also notes section 96 of the Labour Code under which, where working conditions not covered by the orders provided for in section 95 of the Labour Code are deemed to be dangerous for the safety and health of workers, the labour inspector or the works’ medical inspector shall report the said conditions to the National Occupational Safety and Health Commission with a view to appropriate regulations being prepared if necessary. *The Committee asks the Government to indicate whether any labour inspectors or works’ medical inspectors have initiated such a process in connection with hazards related to exposure to asbestos and, if so, to provide information on any resulting legal texts.*

5. *Article 19. Disposal of waste.* In earlier comments the Committee asked the Government to provide copies of any decrees adopted pursuant to section 3 of Act No. 89/027 of 29 December 1989 on toxic and hazardous wastes, which provides that arrangements for the elimination of such wastes are to be set by decree. *It hopes that the Government will send copies of any such decrees with its next report.*

6. *The Committee invites the Government to take all necessary measures as soon as possible to apply the Convention. It hopes that the Government will follow up on its intention of seeking technical assistance from the Office, and that in its next report it will be in a position to inform the Committee of significant progress.*

Central African Republic

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1960)

1. With reference to its previous comments, the Committee regrets to note that the Government confines itself to reiterating, as it has done since 1992, that no statistics are available on morbidity and mortality resulting from lead poisoning among working painters.

2. *It is therefore bound once again to express its hope that the Government will take the necessary measures so that the Central African Social Security Office (OCSS), which is responsible for compiling the necessary statistics, takes the necessary action to compile and provide the statistics in question, in accordance with Article 7 of the Convention.*

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1964)

1. The Committee notes that the Government’s report contains no reply to its previous comments. It must therefore repeat its previous observation, which read as follows:

The Committee notes the information that the Government has taken due note of the comments of the Committee and that the necessary measures will be taken within the overall revision of the legislative and regulatory texts on labour envisaged by the Department of Labour and that the technical assistance of the ILO’s multidisciplinary advisory team for Central Africa will be requested. The Committee trusts this overall revision will be accomplished soon and that the Government will not fail to address the Committee’s previous comments as set out below.

Introduction into national legislation of the standards set forth in ratified Conventions. In its previous comments, the Committee drew the Government’s attention to the need to adopt measures in laws and regulations to give effect to the provisions contained in the Convention even if, as stated by the Government, under the Constitution of 4 January 1995, international agreements, treaties and Conventions that are duly ratified by the Republic have the force of national law.

The Committee recalls that the incorporation into national legislation of the provisions of ratified Conventions, from the mere fact of their ratification, is not sufficient to give effect to them at the national level in all cases in which the provisions are not self-executing, that is where they require special measures for their application, which is the case, at least, for Part I of the Convention. Furthermore, special measures are also needed to establish penalties for non-observance of the standards set forth in the instrument, which is the case of *Article 3(c) of the Convention*.

The Committee once again draws the Government’s attention to *Article 1, paragraph 1*, of the Convention, in accordance with which each Member which ratifies the Convention undertakes to maintain in force, laws or regulations which ensure the application of the General Rules set forth in *Parts II to IV* of the Convention. In this respect, the Committee recalls that draft texts were prepared following the direct contacts which took place in 1978 and 1980 with the responsible government services. The Committee is bound to express the firm hope that the relevant texts will be adopted in the very near future.

Statistics of accidents (Article 6 of the Convention). For a number of years, the Committee has been noting the absence, in the Government’s reports, of statistical information relating to the number and classification of accidents occurring in the building sector. In its last report, the Government states that the Labour Department does not currently have at its disposal reliable statistics in this field.

The Committee recalls that, under this Article of the Convention, each Member which ratifies the Convention undertakes to communicate the latest statistical information indicating the number and classification of accidents in an enterprise or sector. *The Committee once again hopes that the Government will soon be in a position to indicate the measures which have been taken to give effect to the Convention on this point and to supply the appropriate statistical information.*

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

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)

1. The Committee notes that the Government’s report contains no reply to its previous comments. It must therefore repeat its previous observation, which read as follows:

Further to the comments which it has made for many years on the application of Article 2, paragraphs 3 and 4, of the Convention, the Committee notes that the implementing regulations provided for in section 37(3) of General Order No. 3758 of 25 November 1954, with a view to designating machinery or dangerous parts thereof, have still not been adopted. The Committee again notes the Government's statement that the Bill is being prepared by the competent authorities.

The Committee hopes that the future implementing regulations will also give effect to Article 10, paragraph 1, of the Convention establishing the obligation of an employer to take steps to bring national laws or regulations relating to the guarding of machinery and to the dangers arising and the precautions to be observed in the use of the machinery to the notice of workers, as well as to Article 11 which provides that workers shall not use machinery without the guards provided being in position, nor make such guards inoperative, while guaranteeing that, irrespective of the circumstances, workers shall not be required to use machinery when the guards provided are not in position or when they are inoperative.

The Committee recalls that, should it consider it to be appropriate, the Government may seek the assistance of the International Labour Office in the preparation of this text.

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

Chile

Maximum Weight Convention, 1967 (No. 127) (ratification: 1972)

1. The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes the Government's last report and the information supplied by the Government in reply to its previous comments. In response to the Committee's preceding observation the Government indicates that no regulations have been issued under the Labour Code. The Committee again accordingly draws the Government's attention to the following points on which it has focused for several years.

1. *Article 3 of the Convention.* The Committee notes from the list of legislation, contained in the Government's report, that Presidential Decree No. 655 of 7 March 1941, issuing general regulations on occupational safety and health, is still in force. Section 57 fixes the maximum weight of a load that may be transported by a single male worker at 80 kg. In contrast, Circular No. 30 of 4 December 1985, issued by the Director of Labour and communicated to the Regional Directors of Labour and the Regional and Communal Labour Inspectors, which lays down instructions on the maximum weight that may be manually transported by workers, establishes a maximum weight of 55 kg for the manual transport of loads by a single worker. Noting the divergent maximum weight values of the above two texts, the Committee would consider that the Circular, contrary to the Presidential Decree, does not have a legal thus binding character. The Committee accordingly hopes that the maximum weight value suggested in the Circular is applied in practice in the country, for, as the Committee had already noted in 1988, it would give effect to *Articles 3, 4 and 7, paragraph 2, of the Convention. The Committee however urges the Government to adopt regulations that will provide for clear limits for the different categories of workers concerning the maximum weights in load lifting and carrying.* In this context, the Committee again notes the Government's indication that, in view of the adoption of regulations to be issued under the Labour Code, the different actors involved in the drafting process support different maximum weight limits. The Superintendent of Social Security, through its medical department, proposed that the maximum weight limit for the transport of loads by a single worker should be set at 50 kg, whereas the Chilean Safety Association, being one of the mutual benefit societies of employers that administers social assistance in the field of employment injury, proposed to establish a maximum weight limit of 55 kg. The Occupational Health Department of the Ministry of Health, which the Government had consulted, considered that the provisions of sections 187 and 202 of the Labour Code of 1994 were insufficient to ensure the application of measures provided for by the Convention. The Minister concluded that the regulations concerning the basic health and environment conditions in workplaces have to be amended to enable the incorporation of provisions concerning the ergonomic risks to which workers are exposed. In this respect, the Committee notes that the National Ergonomic Commission, in its 202nd session of 29 November 2000, has approved and published in the *Official Gazette* of 15 December 2000, the classification of 1,371 occupational activities of which 1,249 have been determined as heavy and 122 have been qualified as not being heavy. Among the 1,249 activities that have been qualified as heavy, a number of them involve the lifting and carrying of loads. The Government indicates that the loads to be transported during that work have a weight of 61 kg and above. *In view of these facts, the Committee expresses its firm hope that, while the maximum weight limits proposed of both the Chilean Safety Association and the Superintendent of Social Security would comply with the maximum weight recommended in paragraph 14 of the Maximum Weight Recommendation, 1967 (No. 128), the Government will soon adopt regulations to lower considerably the existing maximum weight limits applied in the country, in order to fully apply this provision of the Convention.*

2. Moreover, the Committee recalls that it has raised a certain number of points concerning other provisions of the Convention. The Government however has not provided any information in this regard. Recalling these questions, *the Committee expresses its firm hope that the Government will take the necessary action in the very near future, and that the next report of the Government will indicate the progress achieved in this respect.*

Article 6. The Committee has noted section 8 of Circular No. 30 of 4 December 1985 providing for the use of mechanical devices for the transportation of loads in excess of 55 kg. The Committee again recalls that, while this represents an improvement over the previous weight limit of 80 kg required for the use of such mechanical devices, *Article 6* of the Convention calls for the universal use of suitable technical devices whenever possible and irrespective of the weight of the loads to be transported. *The Committee hopes that the Government, in the framework of its indicated legal action, will take the necessary measures to give full effect to this Article of the Convention.*

Article 7, paragraph 1. The Committee has noted that Circular No. 30 does not contain a provision to limit the assignment of women and young workers to the manual transportation of loads other than light loads. *The Committee accordingly reiterates its hope that the Government will take the necessary measures to this end in the framework of its above-indicated legislative action.*

Article 7, paragraph 2. The Committee has noted that section 4 of the above Circular No. 30 prescribes in general terms that the maximum weight of loads for women and young workers shall be substantially less than that permitted for men, without

specifying maximum weight limits. *The Committee trusts that the Government will take the necessary measures to fix appropriate maximum weight limits for women and young workers, in order to fully apply this Article of the Convention.*

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

Occupational Health Services Convention, 1985 (No. 161) (ratification: 1999)

1. The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes the comments of the Confederation of Autonomous Workers (CAT) forwarded by the Latin American Confederation of Workers (CLAT), and those of the World Confederation of Labour (WCL) dated 1 April, 3 May and 22 July 2004 respectively, alleging among other objections, shortcomings in the way the Convention is applied to workers of the Chilean National Copper Corporation *CODELCO, División Andina*. *The Committee notes the abovementioned comments and requests the Government to provide detailed information on the matters raised in them.* At its next meeting the Committee will examine the comments, together with any observations the Government may wish to make on them, in the light of the information contained in the Government's earlier reports.

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

Asbestos Convention, 1986 (No. 162) (ratification: 1994)

1. The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee refers to its earlier observation in which it noted the comments made by the World Federation of Trade Unions (WFTU) and the documentation sent by the National Trade Union Confederation of Chilean Construction, Wood, Construction Materials and Allied Workers. The WFTU's comments concern the use of asbestos by a number of enterprises and its harmful effects both on the workers exposed to it and on the population in the vicinity.

The Committee notes the Government's comments indicating that the exposure of workers had occurred many years earlier, even before the Convention was adopted, and when the dangers of exposure to asbestos were not realized. The Government indicates that at the time the Convention was ratified, the Supreme Decree No. 745/92 concerning the Regulation on basic health and environmental conditions in workplaces was already in force. According to the Government, this instrument contains an obligation for the employer to maintain in workplaces the necessary conditions to protect the life and health of the workers. The Government however indicates that the time when asbestos is dangerous is when it is being handled during manufacture of products. It indicates, furthermore, that as from July 2000 the Ministry of Housing and Urbanism has prohibited the use of products or elements containing asbestos cement in construction work. It also indicates that by mistake asbestos cement and free asbestos have been assimilated and classed as having similar levels of toxic hazard. The Government recalls that in 1991 the Ministry of Health indicated, through the Department of Occupational Health, that "the risk of cancer is probably undetectable or extremely low and has not been really quantified". The Government indicates that the firm mentioned in the WFTU's comments, the *Sociedad Industrial Pizarreño, S.A.*, did manufacture fibre cement products for construction, using asbestos as a raw material. Nevertheless, the Government indicates that this firm has not manufactured products with asbestos since 1999. Since that year, according to the Government, asbestos-free processes have been used by firms of very different sizes, embracing over 80 per cent of national fibre cement production which has consequently involved a reduction in imports of asbestos in the same proportion. Finally, the Government indicates that the affected persons concerned have legal advice and access to the courts.

Noting the Government's comments, the Committee wishes to recall that, as indicated inter alia in the preparatory work on Convention No. 162, "The health consequences of asbestos exposure were recognized rather late ... The main reason for these delays has been the long latency – up to several decades – between the start of work with asbestos and the development of clinical signs of the diseases. The illness can also appear many years after cessation of work in persons who had left jobs where they had been exposed to asbestos without any evident health impairment" (ILO: Report VI(1), International Labour Conference, 71st Session, Geneva, 1985, pages 3 and 4). Consequently, the protection measures to be adopted must take into account the fact that workers who were exposed to the harmful effects of asbestos even before the Convention was adopted or ratified by a specific state. Proof is furnished by the fact that, as the Government indicates, provisions had been adopted in Chile before ratification of the Convention. Moreover, the fact that a number of firms have stopped using asbestos in their manufacturing processes does not mean that the harmful effects of the material on workers' health have disappeared, all the more so since the Committee understands from the Government's statement that the number of firms may be very large. Consequently, it is now that the harmful effects of exposure to asbestos are being felt and it is now that workers who were exposed should be provided, inter alia, with such medical examinations as are necessary to supervise their health in relation to the occupational hazard they incurred, as provided in *Article 21, paragraph 1, of the Convention*. Furthermore, the same Report of the Conference also states that "Although there is no evidence of adverse effects of commercial use of asbestos on the health of the general population, the question of possible long-term health effects arises because of the uncertainty about safe limits of exposure to carcinogens" (ILO: Report VI(1), International Labour Conference, 71st Session, Geneva, 1985, page 5). *The Committee accordingly considers that appropriate measures should be taken to prevent pollution of the general environment by asbestos dust released from the workplace, as provided in Article 19, paragraph 2, of the Convention, and that action should be taken to screen those persons of the population who have been subject to exposure to asbestos, in order to adopt appropriate measures in favour of them.*

The Committee therefore requests the Government to adopt all necessary measures to give effect to national legislation covering activities related to exposure to asbestos, thus guaranteeing application of the relevant provisions of the Convention.

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

Comoros

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1978)

1. The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

1. The Committee notes the comments made by the Union of Autonomous Comorian Workers' Organizations (USATC) and the Government's reply.

The Union of Autonomous Comorian Workers' Organizations (USATC) observes that, owing to the lack of occupational health services, it is difficult to confirm categorically the non-existence of victims of lead poisoning. This being the case, the USATC requests that occupational health services be established, taking account of developments in the use of chemical products.

In its reply, the Government indicates that in view of the lack of a statistics department and an occupational health service, the labour administration service is unable to provide reliable statistics on morbidity and mortality due to lead poisoning.

2. In addition, the Committee notes the brief information communicated by the Government in reply to its previous comments in which it reiterated the need for statistics to be provided on morbidity and mortality due to lead poisoning, pursuant to *Article 7 of the Convention*. In this regard the Government indicates that there is no enterprise in Comoros which uses chemical products capable of causing lead poisoning. In view of the comment by the USATC and the Government's observations, *the Committee considers that the Government should take all necessary steps to evaluate the situation in the country concerning the use of white lead, lead sulphate and all products containing these pigments, which would be harmful to the health of workers, and consequently to establish statistics on the subject of lead poisoning in working painters*. These statistics must cover both morbidity and mortality, in conformity with *Article 7* of the Convention. The Government hopes to adopt the necessary measures to this end, while requesting technical assistance from the ILO in the context of strengthening the capacity of the labour administration, in particular by the training of labour inspectors and occupational health physicians. *The Committee therefore hopes that the Government will provide relevant information on the progress made with regard to the adoption of these measures.*

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

Croatia

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1991)

1. The Committee notes the report of the Government and the observations submitted by the Association of Workers affected by Asbestosis-Vranjic concerning the application of the Asbestos Convention, 1986 (No. 162), and refers to the concerns expressed in its comments under that Convention this year regarding the health hazards that workers at the Salonit factory, as well as the population in the vicinity, are facing due to exposure to asbestos.

2. The Committee is addressing a request directly to the Government on certain other points.

Asbestos Convention, 1986 (No. 162) (ratification: 1991)

1. The Committee notes the information in the Government's brief report submitted in September 2005. The Committee also notes the observations received from the Association of Workers Affected by Asbestosis-Vranjic (hereinafter, the Association) in 2004, and the Government's response thereto in a communication dated 26 October 2004. The Committee further notes the observations submitted by the Association this year, which have been transmitted to the Government for its comments. In its submission the Association provides certain new observations related to a proposed new draft law, but in other respects the observations made are in all essential parts the same as those raised in their 2004 submission, to which the Government has responded in detail in its 26 October 2004 communication. The Committee notes that in its 2005 report the Government has not made any further comment, nor submitted any further information in respect of the observations made by the Association in 2004.

2. *Article 3 of the Convention. Measures taken for the prevention and control of, and protection of workers against, health hazards due to occupational exposure to asbestos.* Reference is made to the concerns raised by the Association in the Committee's previous comment and to the additional information provided by the Association this year. The Committee notes that according thereto the conditions at the Salonit factory detailed in its earlier observations have not improved but on the contrary have deteriorated (see paragraph 6 below). The Committee regrets to note that the Government's 2005 report contains no information regarding measures taken for the prevention and control of, and protection of workers against, health hazards due to occupational exposure to asbestos at this factory. *Against this background, the Committee expresses deep concern over the ongoing life-threatening working conditions at the Salonit factory and requests the Government urgently to take all the appropriate measures required to address this situation and to limit the risk for further damage that may be caused to the health, not only of workers at the factory, but also of those living in the vicinity. The Committee requests the Government to provide it with a detailed report on all the measures taken for the prevention and control of, and protection of workers against, health hazards due to occupational exposure to asbestos at the Salonit factory.*

3. *Articles 3 and 4. Framing of national laws and regulations.* With reference to its previous comments regarding the absence of national legislation giving effect to the Convention, the Committee notes that the Government refers to a draft final bill on the entitlement to old-age pensions for workers who have been occupationally exposed to asbestos and

indicates that a list of toxic agents is being developed including reference to asbestos fibres which prohibits the production, marketing and use of asbestos fibres. The Committee also notes that the Government indicates that draft rules on occupational safety in work with asbestos to give effect to the provisions of the Convention are being prepared. In this context, the Committee recalls that it had in its direct request of 2003 drawn the attention of the Government to the need to take appropriate legislative measures to give effect to *Articles 9, 10, paragraph (a), 13 and 20, paragraph 2*, of the Convention. Further, in its most recent submission the Association indicates that it was aware of this new draft, but that it had not been consulted thereon. The Association further submits highly critical observations against the drafting process of this law as the person in charge of preparing the draft law is the vice-president of the supervisory council of the Saloniit factory and as none of the competent state organs has consulted with the Association on the proposed draft law, and is also highly critical of the content of the draft law as it only appears to prohibit the production of asbestos but does not regulate all other asbestos-related activities such as the handling of asbestos waste, and as it appears to include provisions which are unduly favourable to the employer. ***While inviting the Government to respond to the observations made by the Association, the Committee urges the Government to take all appropriate measures in the near future to ensure the full application of the Convention, to consult with the most representative organizations of employers and workers on any draft legislation to give effect to the Convention, to ensure that the draft legislation is adopted and effectively implemented, and to submit a copy of the said legislation to the Committee as soon as it has been adopted. The Committee also invites the Government to seek the assistance of the ILO by submitting any draft law to it for examination in the light of the provisions of the present Convention.***

4. *Article 5. Inspection.* The Committee takes note of the Association's observation indicating that there are shortcomings with regard to the carrying out of inspections by the State Inspectorate, Industrial Safety Section, Branch Office, Split, and that the inspectors do not appear to have adequate technical equipment at their disposal to measure the concentration of asbestos at workplaces. ***The Committee requests the Government to provide information on the manner, frequency and adequacy of inspection and the technical equipment used by the concerned inspectors to measure the concentration of asbestos in the Saloniit factory.***

5. *Article 18. Special protective clothing and washing facilities.* The Committee takes note of the Association's renewed observations indicating that no special protective clothing is provided to the concerned workers and that the work clothing provided by the employer (Saloniit) is simple clothing used in general industrial processes, that there are no facilities for the handling, storage and cleaning of used work clothing, nor any washing facilities available for the workers concerned. The Committee recalls that it had in its direct request of 2003 drawn the attention of the Government to the need to review section 126 of the Rules on Safety at Work in Processing Non-Metallic Raw Materials, 1986, in the light of the requirements of *Article 18, paragraphs 2 and 3*, of the Convention and to take necessary measures to give effect to *Article 18, paragraph 4*, of the Convention. ***Noting that the Government's report is silent on these issues, the Committee reiterates its request to the Government to indicate the measures taken or envisaged to address these issues.***

6. *Article 19. Disposal of waste containing asbestos.* The Committee takes note of the Association's observation that disposal of waste containing asbestos in open air in the factory space of Saloniit continues up to this date even after the ruling issued in July 2004 by the inspectors obliging the employer to cover temporarily stored asbestos with an impermeable foil. It alleges that this situation has come about because of the lack of proper monitoring. It further alleges that this situation puts not just the concerned workers at risk but also the population in the vicinity as the factory is located only 50 metres away from a highly urbanized area. The Association also indicates that any further delay in addressing the situation will result in enormous damage to the health of the workers concerned and the population in the vicinity. The Committee recalls that, in its previous comments, it had stressed the need for taking necessary measures in this regard expeditiously as the handling of asbestos waste by the factory seems to jeopardize not only the health of workers exposed, but also the health of the general public which comes into contact with asbestos released into the air due to the incorrect handling of asbestos waste. ***The Committee requests the Government to immediately take the necessary measures to ensure that the disposal of the asbestos-containing waste from the Saloniit factory takes place in a manner that does not pose any health risk to the workers concerned and to the population in the vicinity of the factory and to indicate the measures so taken in its next report.***

7. *Article 21, paragraph 2. Monitoring of workers' health.* The Committee takes note of the Association's observation that more than 200 workers of the factory have died due to pleural mesothelioma and that, in addition, the majority of the remaining workers suffer from asbestosis, pleural mesothelioma or lung cancer caused by exposure to asbestos. The Committee also notes the indication of the Association that the competent health authorities have not made sufficient efforts to identify the potentially large number of persons – including both present and former workers as well as inhabitants in the vicinity of the factory - that may have been exposed to asbestos and that may be at risk for developing asbestos-related diseases. ***The Committee therefore requests the Government to indicate the measures taken by the competent health authorities to regularly monitor the health of the workers of the factory. It also requests the Government to provide the statistics maintained in this respect along with its next report.***

8. *Article 21, paragraph 4. Efforts made to provide workers unable to pursue their work for medical reasons with other means of maintaining their income.* The Committee notes the Association's observation that 51 workers in Saloniit for whom continued assignment to work involving exposure to asbestos was found to be medically inadvisable, were assigned to other work that substantially reduced their income. With reference to the requirement in this Article for the

Government to make every effort, consistent with national conditions and practice, to provide workers concerned with other means of maintaining their income, ***the Government is requested to provide details regarding all efforts made to give effect to this provision of the Convention.***

9. *Article 22. Information and education of workers.* The Committee takes note of the Association's observations that no arrangements have been made for the promotion of dissemination of information and the education of the concerned workers with regard to health hazards due to exposure to asbestos and the methods of its prevention and control. The Committee recalls in this context that it had in its direct request of 2003 requested the Government to indicate whether the education and training activities set forth under sections 27-30 of the Act on Safety and Health Protection at the Workplace, 1996 are founded on the basis of written policies and procedures and if that was not the case, to take the necessary measures obliging the employer to establish written policies and procedures on measures for the education and periodic training of workers. ***Noting that the Government has not provided any information in this respect in its report, the Committee urges the Government to take the most expeditious action to provide the appropriate information and education to the workers concerned with regard to health hazards due to exposure to asbestos and the methods of prevention and control, and to inform the Committee on this issue in its next report.***

10. *Part V of the report form. Practical application of the Convention.* ***The Committee invites the Government to continue to provide information on the practical application of the Convention. It also once again requests the Government to indicate whether the Saloniit factory still produces products containing asbestos and whether any action has been taken also to protect the general public which might have been in contact with and used these products.***

[The Government is asked to supply full particulars to the Conference at its 95th Session and to reply in detail to the present comments in 2006.]

Cuba

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1982)

1. The Committee notes the information provided in the Government's last report. In this respect, it wishes to draw the Government's attention to the following matters.

2. *Articles 4 and 8. Laws and regulations respecting the national policy.* The Committee notes with interest the adoption of several resolutions respecting occupational safety and health, namely: resolution No. 31 of 31 July 2002, which contains in annex the general practical procedures for the identification, evaluation and control of risk factors at work; resolution No. 19/03 of 8 September 2003, for the recording of employment accidents; and resolution No. 32/2001 of 1 October 2001, establishing the centre for the registration and approval of personal protective equipment. The Committee also notes the establishment of the National Occupational Safety and Health Group, which is responsible for the application in practice of the above resolutions. ***It requests the Government to keep it informed of any developments in this respect.***

3. *Part V of the report form.* ***The Committee requests the Government to provide extracts from labour inspection reports and, where such statistics exist, information on the number of workers covered by the legislation, disaggregated by sex if possible, the number and nature of the contraventions reported, and the number, nature and cause of the accidents reported.***

Czech Republic

Radiation Protection Convention, 1960 (No. 115) (ratification: 1993)

1. The Committee notes with interest the information in the Government's report including replies to comments made by the Committee as well as the information regarding amendments to Act No. 18/1997 on the peaceful use of nuclear energy and ionizing radiation by Act No. 13/2002, and the adoption of the following Decrees: No. 307/2002 on requirements for securing radiation protection (replacing No. 184/1997 on the same subject); No. 419/2002 on personal radiation passports; No. 318/2002 on details to ensure disaster prevention in nuclear installations and workplaces with ionizing radiation sources and on requirements made on the contents of internal disaster prevention plans and disaster prevention rules; and No. 317/2002, amending Decree No. 146/1997 specifying activities directly affecting nuclear safety and activities and especially important for radiation protection. As further examined below, the newly adopted legislation appears to give effect to most aspects of *Articles 1, 5 and 8*. The texts of the new pieces of legislation were not, however, appended to the report. The Committee also notes the observations of the Czech-Moravian Confederation of Trade Unions reflected in the report and according to which a more detailed comparison of the legislative changes introduced by the new legislation should have been presented by the Government. ***Against this background, the Committee requests the Government to provide with its next report copies of the new pieces of legislation, including, if possible, translations thereof into one of the working languages of the ILO, to enable the Committee to examine them in detail.*** In the meantime, and on the basis of the information in the Government's report, the Committee draws the attention of the Government to the following points.

2. *Article 1. Tripartite consultations.* The Committee notes with interest that in reply to the Committee's previous comments, the Government indicates that consultations with the tripartite constituents, as well as other interested institutions, are provided for in general rules concerning the procedure to follow for developing and adopting legislation. ***The Committee notes this information and requests the Government to indicate the manner in which it is ensured that consultations are held with the representatives of employers and workers on questions also related to the implementation of laws and regulations or other measures giving effect to the Convention.***

3. *Article 8. Dose limits for non-radiation workers; Article 12. Medical examinations.* The Committee notes with interest that in reply to its previous comments on these issues, the Government indicates that section 19 of Decree No. 307/2002 provides for an annual dose limit of 1 mSv for non-radiation workers which is in conformity with the 1990 recommendations of the International Commission on Radiological Protection (ICRP) and section 28, subsection 3(a) of Decree No. 307/2002 provides for a pre-employment medical examination and that section 28, subsection 3(b) of the same decree prescribes a periodical medical check-up of category-A workers once a year. ***As regards the latter point, the Committee requests the Government to provide some further information on the medical examinations required for different categories of workers.***

4. *Article 5. Exposure to ionizing radiations.* The Committee notes the Government's indications that radiation exposure limits are set down in sections 19 to 23 of Decree No. 307/2002 and that protection against ionizing radiation is based on the internationally recognized principle of optimization referred to in section 17 of the same Decree. Accordingly, all radiation should be planned and kept at a level as low as reasonably achievable with regard to economic and social factors. The Government also indicates that when setting down the optimization measures for an individual activity leading to radiation, the competent authority takes into account existing experience with such activities and sources, so that the level of radiation protection is not lower than that already achieved, and takes into account a possible influence of other activities and sources, so that the overall excess of radiation limits is prevented. ***The Committee once again draws the attention of the Government to the fact that the Convention requires the restriction of exposure "to the lowest practicable level", and requests the Government to indicate to what extent economic and social factors have been taken into consideration in this context and to take the necessary measures to ensure that exposure of workers is restricted to the lowest practicable level in accordance with the Convention.***

5. *Article 7, paragraph 2. Prohibition against engaging workers under the age of 16 in work involving ionizing radiation.* The Committee notes that in reply to its previous comment on this issue the Government refers to section 24 of Decree No. 307/2002 which provides that persons below the age of 18 cannot be given a job potentially leading to radiation exposure at a level exceeding general limits, and must be given such conditions and such a level of radiation protection as for the general population. The Committee also notes, however, that the Government elsewhere in the report indicates that section 21 of Decree No. 307/2002 sets radiation limits for apprentices and students who are 16 to 18 years old and that section 23 of the same Decree sets radiation limits for special cases. ***The Committee requests the Government to provide further information about the radiation limits prescribed for apprentices and students from 16 to 18 years of age and how these rules are applied in practice, as well as further information on the apparent exceptions possible for "special cases", the modalities therefor and the measures taken or envisaged to ensure that no worker under the age of 16 years is engaged in work involving ionizing radiations.***

6. *Part V of the report form. Application in practice.* The Committee notes with interest the detailed information provided by the Government in its report concerning the manner in which work involving radiation is being supervised, as well as the outcome of this supervision. The Committee also notes with interest the introduction by Decree No. 419/2002 of personal radiation cards or passports issued to external workers on a contract in a controlled zone of a different operator. ***The Committee invites the Government to continue to provide such information on the practical application of the Convention including information on the measures taken to limit the cases where workers accidentally are exposed to doses exceeding the prescribed maximum levels as well as on the experiences gained with the personal radiation passports.***

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1993)

1. The Committee notes the information contained in the Government's report concerning the adoption of Acts Nos. 247/2003 and 46/2004, amending the Labour Code and of Government Order No. 178/2001, as amended by Regulation No. 441/2004. The Committee also notes the information that observations received from the Czech-Moravian Trade Union Confederation have been incorporated in the Government's report.

2. *Article 1. Prohibited substances or subject to authorization.* The Committee notes with interest the Government's indication that section 134(d) of the Labour Code, as amended, prohibits the substances listed therein, with the exception for research, laboratory work, analytical work, work on liquidation of useless stocks, waste and equipment containing these substances and work on liquidation of the processing of other substances or formulation, and that the same section of the Labour Code also prohibits work with asbestos, the application of asbestos in spray painting and work procedures, including use of thermo- or acoustic-isolation materials of density under 1 g/cm³ containing asbestos. ***The Committee requests the Government to provide information on how these exceptions are applied in practice.***

3. The Committee notes with satisfaction that work with substances subject to authorization and inspection is listed in Annex 9 of Government Order No. 178/2001, as amended by Regulation No. 441/2004.

4. The Committee is raising certain other points in a request addressed directly to the Government.

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1993)

1. The Committee notes with interest the Government's comprehensive report, including references to the adoption in 2003 of a new National Occupational Safety and Health Policy, and to a series of legislative changes including significant amendments to the occupational safety and health provisions in the Labour Law (Act No. 65/1965, as amended) and the adoption of a new law on Labour Inspection (Act No. 251/2005), all contributing to an increased application of the Convention in the country. The Committee also notes, however, the observations made by the Czech-Moravian Confederation of Trade Unions (CMKOS), reflected in the Government's report, in which CMKOS regrets that the Government does not further detail how the Convention is applied in practice and that efforts have not been made to enable a ratification of the Protocol to Convention No. 155. Against this background, ***the Government is requested to comment on the observations of CMKOS in the report to be submitted to the Committee at its next session, including, in accordance with Part V of the report form, a general appreciation of the manner in which the Convention is applied in the country and information about the number of workers covered by the measures giving effect to the Convention, disaggregated by sex, if available, the number and nature of infringements reported, etc. and to supply relevant extracts from inspection reports. The Committee also requests the Government to submit copies of the relevant documents and legislation including, as available, translations into one of the working languages of the ILO, to enable a more detailed examination thereof by the Committee.***

2. *Article 2 of the Convention. Scope of application.* The Committee notes with interest that the Government highlights in its report that the scope of application of the Labour Code also includes homeworkers i.e. employees who do not work at the employer's workplaces but, in accordance with terms and conditions agreed by the employment contract, perform the agreed work at home under their own distribution of working hours, but that such homeworkers are not subject to the provisions on the distribution of weekly working time, and those on idle time, that they have no right to compensation of wages in the event of impediments to work, and that they are not entitled to pay increases for overtime and work holidays and to other wage components provided by wage regulations. ***The Committee requests the Government to indicate in more detail the statutory provisions which regulate their working conditions and how these provisions are applied in practice.***

3. The Committee is raising certain other points in a request addressed directly to the Government.

[The Government is asked to reply in detail to the present comments in 2006.]

Occupational Health Services Convention, 1985 (No. 161) (ratification: 1993)

1. The Committee notes the detailed information supplied by the Government in its report and information on the adoption of several new pieces of legislation including Act No. 155/2000 to amend the Labour Code, Act No. 95/2004 on terms of acquisition and recognition of professional qualifications, as well as Act No. 96/2004 on terms of acquisition and recognition of non-medical occupations and Decree No. 424/2004 stipulating activities of the health-services employees, and introducing a new specialization – nurse for occupational health care. The Committee also notes the observations of the Czech-Moravian Confederation of Trade Unions (CMKOS), included in the Government's report.

2. *Article 5 of the Convention. Occupational health services.* The Committee notes that, according to the CMKOS, no measures have been taken to address the problems related to the general shortage of occupational health physicians, and that, as a result, occupational health physicians do not take part in the development of programmes for the improvement of work practices, the testing and evaluation of health aspects of new equipment. The CMKOS also indicates the requirement in Act No. 155/2000 that employers should refer workers to medical establishments for the provision of occupational health services, including vaccinations and preventive medical examinations required by their function cannot be fulfilled by most employers. Noting that the Government does not provide any further information on this issue, ***the Committee requests the Government to indicate measures taken or envisaged to ensure that the occupational health services in the country are able to fulfil their functions according to this Article.***

3. *Article 10. Professional independence.* The Committee notes that the CMKOS considers that the provisions requiring that occupational health services should be professionally independent are not fully applied in practice. In their view, the fact that the medical centres at enterprises employ their own physicians to perform occupational care compromises the independence of the occupational health services. Noting that the Government does not provide any further information on this issue, ***the Committee requests the Government to indicate measures taken or envisaged to ensure the professional independence of occupational health physicians.***

4. *Article 11. Qualifications required for personnel providing occupational health services.* The Committee notes the Government's reference to new legislation in this area, including Acts Nos. 95/2004 and 96/2004, concerning qualification requirements for occupational health physicians and nurses respectively. The Committee also notes the statement by CMKOS that this new legislation is not adequately applied in practice, as occupational health services, when performed, are often performed by general practitioners. ***The Committee requests the Government to indicate measures taken or envisaged to ensure a full application in practice of this Article of the Convention.***

5. The Committee is raising certain other points in a request addressed directly to the Government.

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2000)

1. The Committee notes the information contained in the Government's reports for the years 2003, 2004 and 2005 including the observations of the Czech-Moravian Confederation of Trade Unions (CM KOS) made in 2005.

2. *Measures to improve safety and health standards in mines and in black coal mines.* The Committee notes that according to the information provided by the Government the number of fatal accidents in mines increased over the years 2003 and 2004 and that in these years there were 20 and 21 fatal accidents, respectively with the highest number of fatal accidents occurring in black coal mines. The Committee also notes that the number of work injuries requiring hospitalization for more than five days appears to be on the rise, with 58 such injuries having occurred in 2004 and 34 of these injuries occurring in black coal mines. The Committee notes that CM KOS has expressed serious concerns regarding the increasing number of fatalities and that, in an effort to address these concerns, measures had been taken in cooperation between CM KOS, occupational safety inspectors of the Trade Union of Workers in Mines, Geology and Oil Industry (OS-PGHN), the Czech Mining Office (ČBÚ) and the State Labour Inspection Office. The Committee notes with interest the information submitted by the Government that the state mining administration bodies inspected the status, cause and consequence of each fatality, that proceedings were commenced against every organization concerned, that sanctions were applied if safety norms were breached and that fines were imposed during inspections by the local mining offices for infringement of safety norms. *The Committee requests the Government to provide further detailed information on measures taken to address the concerns addressed in this comment including information on the results of the specific cooperation between CM KOS, OS-PGHN, ČBÚ and the State Labour Inspection Office. Furthermore, and in the light of the fact that the highest number of fatal accidents and the highest number of injuries requiring hospitalization for more than five days in both 2003 and 2004 have taken place in black coal mines, the Committee requests the Government to indicate specific measures taken to improve safety and health standards in black coal mines, apart from the imposition of sanctions.*

3. The Committee is raising certain other points in a request addressed directly to the Government.

Democratic Republic of the Congo

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1967)

1. The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes the Government's report. It recalls with regret that for over 30 years it has been requesting the Government to take the necessary measures to give effect to the provisions of *Articles 2 to 4 of the Convention*.

Its last report, the Government indicates that Ministerial Order No. 0057/71 of 20 December 1971, issuing regulations respecting safety at the workplace, gives effect to the provisions of the Convention. However, this text, which was provided by the Government in 1973, has already been examined by the Committee. It concluded that this Ministerial Order only partially gave effect to the provisions of the Convention and, since 1974, it has been requesting the adoption of a text setting forth the prohibition, as required by the Convention, of the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts are without appropriate guards.

The Committee notes that the Government refers in its report to a new draft Labour Code containing provisions prohibiting the sale, hire, exhibition or transfer in any other manner of machinery of which the dangerous parts are without appropriate guards, accompanied by provisions setting forth penalties. It also notes that the procedures for dealing with violations of this prohibition are to be determined by order. In its previous reports, the Government has referred on several occasions to a draft order respecting the guarding of machinery and to the revision of the Labour Code, in the context of which provisions designed to give effect to the above Articles of the Convention were to be adopted. The Committee understands that the new draft Labour Code is the result of the revision which was previously envisaged and confirmed by Government representatives during the ILO's technical advisory mission in 1997. *In view of the fact that the Committee has for nearly 30 years been pointing out the need to take measures, either by legislative or any other appropriate means, to give effect to the above provisions of the Convention, it trusts that the Government will in the near future adopt the text of the above Labour Code and of the Order and that it will provide copies thereof with its next report.*

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

Djibouti

Radiation Protection Convention, 1960 (No. 115) (ratification: 1978)

1. With reference to comments it has been making for several years, the Committee notes that the Government's report does not contain any new element in response to its previous comments. The Committee is therefore bound to reiterate its comments, which concerned the following points.

1. The Committee notes the Government's indication that the work undertaken to bring the Labour Code and texts for its application up to date is not finished and, therefore, it is not possible to indicate the measures taken in the light of current knowledge as called for in *Article 3, paragraph 1, of the Convention*. In this regard, the Committee would recall that, under *Article 3, paragraph 1*, and *Article 6, paragraph 2*, all appropriate steps shall be taken to ensure effective protection of workers against ionizing radiations and to review maximum permissible doses of ionizing radiations in the light of current knowledge. Referring to its 1992 general observation under this Convention, the Committee would draw the Government's attention to the

revised dose limits for exposure to ionizing radiation established on the basis of new physiological findings by the International Commission on Radiological Protection (ICRP) in its 1990 recommendations. **The Government is requested to indicate, in its next report, the steps taken or being considered in relation to the matters raised in the conclusions to the general observation.**

2. *Article 7, paragraphs 1(b) and 2.* In its previous comments, the Committee had noted that there were no provisions in Order No. 1010/SG/CG of 3 July 1968 concerning the protection of workers against ionizing radiation in hospitals and health-care institutions, or in Order No. 72-60/SG/CG of 12 January 1972 on occupational medicine, prohibiting the employment of children under 16 years of age in radiation work and fixing maximum permissible doses for persons between 16 and 18 who are directly engaged in radiation work, as called for by this Article of the Convention. It notes the Government's indication that, since the revision of the Labour Code and the texts for its application is not finished, no measures have been taken in this regard. **The Committee once again expresses the hope that the Government will take the necessary measures to ensure the application of this Article in the near future and requests the Government to indicate, in its next report, the progress made in this regard.**

3. The Committee notes with regret that the information provided in the Government's report contains no reply to the general observation of 1987. The Committee would now call the Government's attention to paragraphs 16 to 17 of its 1992 general observation under this Convention which concern the occupational exposure during and after an emergency. **The Government is requested to indicate whether, in emergency situations, exceptions are permitted to the normally tolerated dose limits for exposure to ionizing radiation and, if so, to indicate the exceptional levels of exposure allowed in these circumstances and to specify the manner in which these circumstances are defined.**

2. The Committee trusts that the Government's next report will contain information on measures taken giving full effect to the Convention with due account given to the Committee's general observations of 1992, including reference to the 1990 recommendations of the International Commission on Radiological Protection (ICRP).

[The Government is asked to reply in detail to the present comments in 2006.]

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1978)

1. The Committee notes that the Government's report contains no reply to its previous comments. It must therefore repeat its previous observation, which read as follows:

With reference to the comments it has been making for many years, the Committee notes the Government's statement that the necessary measures will be taken in the general context of the next revision of labour laws and regulations which it wishes to undertake with ILO assistance as soon as conditions allow the organization of tripartite consultations, in order to give effect to the Convention. The Committee hopes that the Government will undertake as soon as possible the necessary measures to comply fully with *Articles 10, 11, 13, 14, 15, 16, 18 and 19 of the Convention*. It requests the Government to provide detailed information on any progress made in this respect.

2. The Committee trusts that the Government's next report will contain information on the adoption of provisions giving full effect to the Convention.

[The Government is asked to reply in detail to the present comments in 2006.]

Ecuador

Radiation Protection Convention, 1960 (No. 115) (ratification: 1970)

1. The Committee notes the information provided in the Government's report and wishes to draw its attention to the points raised on many occasions in its previous comments.

2. *Article 3, paragraph 1, and Article 6, paragraph 2, of the Convention.* Measures taken in the light of the knowledge available. The Committee notes the Government's indication that the Ecuadorian Commission on Atomic Energy (CEEA) has given an undertaking to the International Atomic Energy Agency (IAEA) to amend the Regulations on radiological safety (RSR) of 1979 during the course of the technical assistance cycle 2005-06 with a view to bringing the national regulations into conformity with international standards on the maximum permissible dose limits for the exposure of workers adopted by the International Commission on Radiological Protection (ICRP) in 1990, which were reflected in the 1994 International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources established under the auspices of the IAEA, ILO, WHO and three other international organizations. **The Committee requests the Government to take the necessary measures rapidly with a view to bringing its legislation into conformity with these provisions of the Convention with due consideration being given to the general observation of 1992 and to provide a copy of the amended regulations as soon as they have been adopted.**

3. *Article 7. Workers under the age of 18 directly engaged in radiation work.* The Committee notes that section 3 of the Regulations on radiological safety of 1979 defines radiation areas as areas where the radiation doses may be higher than 5 mrem per hour and that this definition will also be amended during the course of the technical assistance cycle 2005-06 so that young persons under the age of 18 cannot be assigned to work involving exposure to ionizing radiations. It also notes the information that the CEEA does not authorize work permits for young persons under the age of 18 to perform work involving ionizing radiations or in "radiation areas". **The Committee once again requests the Government to take the necessary measures rapidly and to provide it with a copy of the amended regulations as soon as they have been adopted.**

4. *Article 14. Alternative employment or other measures offered for maintaining income where continued assignment to work involving exposure is medically inadvisable.* The Committee notes the information that workers who, for medical reasons, can no longer work under conditions involving exposure to ionizing radiations may be granted

compensation following classification as being affected by an occupational disease by the Ecuadorian Social Security Institute (IESS). In this context, the Committee wishes to draw the attention of the Government to paragraph 32 of the 1992 general observation under the Convention where it is indicated that every effort must be made to provide the workers concerned with suitable alternative employment, or to maintain their income through social security measures or otherwise where continued assignment to work involving exposure to ionizing radiations is found to be medically inadvisable. ***In the light of the foregoing, the Committee requests the Government to consider appropriate measures to ensure that no worker shall be employed or shall continue to be employed in work by reason of which the worker could be the subject of exposure to ionizing radiation contrary to medical advice and that for such workers, every effort is made to provide them with suitable alternative employment or to offer them other means to maintain their income and requests the Government to keep it informed in this respect.***

5. *Exposure during emergency situations.* The Committee notes that exposure during emergency situations is regulated by the *Manual on normal procedures and in cases of emergency*, which requires the information on radioactive sources in the country to be updated. It also notes that this manual is prepared for each individual user and that it is regularly updated to ensure that it is in conformity with the international recommendations determining the admissible dose levels in cases of emergency. ***The Committee requests the Government to provide a copy of one of these manuals.***

Asbestos Convention, 1986 (No. 162) (ratification: 1990)

1 The Committee notes the information provided in the Government's report, and particularly the adoption of the Regulations on the use of asbestos under safe conditions, of 9 August 2000 (Accord No. 0100). It wishes to draw the Government's attention to the following points.

2. *Articles 11 and 12. Use of crocidolite and the pulverization of asbestos.* The Committee also notes that points 5.1 and 5.2 above prohibit the use of crocidolite and the pulverization of all forms of asbestos and provide for possible derogations by the competent authority where there is no other alternative and on condition that the health of workers is not endangered. ***The Committee requests the Government to indicate the measures adopted in practice to ensure that the health of workers is not endangered.***

3. *Article 17, paragraphs 1 and 2. Demolition of plants containing friable asbestos materials.* The Committee notes that the Regulations on the use of asbestos under safe conditions do not contain any specific provisions that the demolition of plants containing friable asbestos materials is to be undertaken only by employers or contractors recognized by the competent authority as qualified to carry out such work, nor on the work plan which has to be drawn up before starting such work. ***The Committee requests the Government to take the necessary measures to give effect to this Article of the Convention.***

4. *Article 21, paragraph 4. Efforts made to provide workers unable to pursue their work for medical reasons with other means of maintaining their income.* The Committee notes the information that the Ecuadorian Social Security Institute (IESS) does not provide economic means to workers whose continued assignment to work involving exposure to asbestos is found to be medically inadvisable and the information that the Ministry of Labour, through the Department of Work Placement, is responsible for offers of alternative employment to allow workers to maintain a suitable income. With reference to the requirement in this Article for the Government to make every effort, consistent with national conditions and practice, to provide workers concerned with other means of maintaining their income, ***the Government is requested to provide details regarding the efforts made in practice to find alternative employment for workers unable to pursue their work for medical reasons, including details regarding the types of employment offered and received and the salaries they have received, as well as to provide information on all other measures taken or envisaged to give effect to this provision of the Convention.***

El Salvador

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2000)

1. The Committee notes the information provided in the Government's last report, particularly in reply to the observations made by the Inter-Union Commission concerning the national occupational safety and health policy in El Salvador. In this respect, the Committee wishes to draw the Government's attention to the following points.

2. *Article 4. National policy.* The Committee notes with interest the preparation of a draft national policy, the principal objectives of which are to issue directives for the prevention of work-related accidents and diseases and the promotion of occupational safety and health as a value and practice by contributing to the development of a participatory culture in this respect, in accordance with Convention No. 155. The Committee notes that this draft text, prepared by the National Occupational Safety and Health Commission (CONASSO), was the subject of a discussion on 18 August 2005 with the participation of the employer, worker and government members of the General Assembly of the Higher Labour Council, and the most representative trade union organizations, who made a significant contribution, which will be analysed with a view to its incorporation. The Committee also notes that the final document will be submitted in the very near future to the executive body for approval. ***The Committee requests the Government to provide a copy of the final document as soon as it has been adopted.***

3. *Articles 4 and 8. Laws and regulations relating to the national policy.* The Committee notes the formulation of provisions to give effect to the fundamental principles of the national policy, namely: the strategic plan for occupational safety and health and the General Bill on the prevention of risks at the workplace. The Committee also notes the information that this Bill is now at an advanced stage and will be adopted in the near future, as will its implementing regulations, thereby giving effect to the provisions of the Convention. In this respect, the Committee reminds the Government that it can avail itself, if it so wishes, of the technical assistance of the Office. ***It hopes that the various texts referred to above will be adopted in the near future and requests the Government to provide copies as soon as they are adopted.***

4. The Committee notes the implementation of a development assistance project, which has been replaced by the progressive implementation of a plan to strengthen the labour inspectorate with a view to improving its effectiveness and enforcing the law in practice. ***In this respect, the Committee requests the Government to keep it informed of any developments in the situation.***

5. *Part V of the report form. Practical application.* ***The Committee requests the Government to provide extracts from inspection reports and, where such statistics exist, information on the number of workers covered by the legislation, disaggregated by sex, if available, the number and nature of the contraventions reported, and the number, nature and cause of the accidents reported, as well as other relevant information that would allow the Committee to better appreciate the manner in which the Convention is applied in practice in the country.***

Ethiopia

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1991)

1. With reference to its previous comments, the Committee notes with interest the information in the Government's report of this year, including a copy of a document entitled "Occupational Safety and Health Directive 2003" by the Ministry of Labour and Social Affairs. While the content of this document represents a promising development in this area, the Committee notes that the Government refers thereto as a "draft Directive on OSH" and that its status therefore remains unclear. ***The Committee asks the Government to clarify the status of the Occupational Safety and Health Directive 2003 and – if this is draft legislation – to indicate whether it has been adopted and, in that case, to transmit a copy thereof to the Committee as soon as it has been adopted.***

2. *Article 1, paragraphs 1, 2 and 3 of the Convention. Adequate protection to public servants.* The Committee also notes with interest that, in reply to previous comments on this issue, the Government indicates that two new laws – Proclamations No. 377/2003 (amending Labour Proclamation No. 42/1993) and Proclamation No. 262/2002 on "public civil servants" – have been adopted, ensuring the safety, health and welfare of public servants. The Government did not, however, include copies thereof in its report. ***The Committee requests the Government to submit to it copies of Proclamation Nos. 377/2003 and 262/2002, as well as any other relevant legislation that may have been adopted subsequently to enable the Committee to examine the application of this Convention in the country.***

3. *Technical assistance.* The Committee notes the interest of the Government in receiving technical assistance from the Office to develop structures for effective cooperation at the institutional level in the country and to improve its system of labour inspection and expresses the hope that a request would be along those lines.

France

Radiation Protection Convention, 1960 (No. 115) (ratification: 1971)

1. The Committee notes with interest the Government's detailed report, as well as the reform of the operational organization of the radiation protection system through the adoption of Act No. 2004-806 of 9 August 2004 relating to public health policy and the establishment in 2002 of an institute for the inspection of radiation protection – the Institute for Radiological Protection and Nuclear Safety (IRSN) – responsible for monitoring, for a single nuclear activity, the application of the provisions of the Public Health Code and the Labour Code concerning protection against radiation. The Committee also notes the reference made to the adoption of Ordinance No. 2001-270 of 28 March 2001 introducing the general principles of radiation protection into the Public Health Code and harmonizing the provisions relating to the protection of workers with the so-called "pro rata" principle according to which exposure level – defined over a period of 12 months – is adjusted pro rata to the effective time of the contract in order to protect the workers who work under short-term or temporary contracts.

2. *Article 8 of the Convention. Workers not engaged in radiation work.* The Committee notes with interest the Government's explanations regarding sections R.1333-8 and R.1333-9 of the Public Health Code which provide that exposure to radiation due to nuclear work must not exceed 1 mSv per year for workers whose exposure is not the result of their professional activities.

3. *Article 14. Alternative employment or other measures offered for maintaining income where continued assignment to work involving exposure is medically inadvisable.* The Committee notes the Government's response

indicating that sections R.231-96, R.231-76 and R.231-77 of the Decree of 31 March 2003, read in conjunction with sections L.122-3-17 and L.124-22 of the Labour Code, ensure the application of Article 14.

In this context, the Committee wishes to draw the attention of the Government to paragraph 32 of the 1992 general observation under the Convention where it is indicated that every effort must be made to provide the workers concerned with suitable alternative employment or to maintain their income through social security measures or otherwise where continued assignment to work involving exposure to ionizing radiations is found to be medically inadvisable. *In the light of the foregoing, the Committee requests the Government to consider appropriate measures to ensure that no worker shall be employed or shall continue to be employed in work by reason of which the worker could be the subject of exposure to ionizing radiation contrary to medical advice and that for such workers, every effort is made to provide them with suitable alternative employment or to offer them other means to maintain their income and requests the Government to keep it informed in this respect.*

4. The Committee is addressing a request directly to the Government concerning the application of certain other provisions of the Convention.

Benzene Convention, 1971 (No. 136) (ratification: 1972)

1. The Committee notes the information provided by the Government in its report, including the adoption of Decree No. 2001-97 of 1 February 2001 establishing the specific rules on prevention of carcinogenic, mutagenic or toxic risks to reproduction, amending the Labour Code (R.231-56 and following and R.231-58 and following) and repealing Decree No. 86-269 of 13 February 1986 relating to the protection of workers exposed to benzene. The Committee notes with satisfaction that, through the adoption of Decree No. 2001-97 of 1 February 2001 and the amendments to the Labour Code, effect is given to *Articles 1, 4(2), 9(1) and 10(2), of the Convention.*

2. The Committee is also addressing a direct request to the Government on certain other points.

French Guiana

Radiation Protection Convention, 1960 (No. 115)

Please refer to the comments made under Convention No. 115, France.

French Polynesia

Radiation Protection Convention, 1960 (No. 115)

1. The Committee notes the Government's report including information concerning the adoption of Order No. 1201/CM of 23 September 2002, establishing the form of the progress report on industrial doctors and Order No. 1756/CM of 20 December 2002, relating to the list of work requiring special medical monitoring. Referring to previous observations, the Committee notes with regret that no substantial changes have been introduced. Thus, it reiterates the points raised in its previous direct request, with read as follows:

In its previous comments the Committee took note of Deliberation No. 91-019 AT of 17 January 1991 adopted pursuant to Act No. 86-845 of 17 July 1986, fixing the specific measures for the protection of workers against the danger resulting from external exposure to ionizing radiation.

The Committee noted that the dose limits set forth in section 5 of the Deliberation did not correspond to the revised dose limits set forth in the 1990 Recommendations of the International Commission on Radiological Protection (ICRP). Referring to *Article 3, paragraph 1, and Article 6, paragraph 2, of the Convention*, the Committee requested the Government to report on steps taken or envisaged in the light of current knowledge to amend dose limits for occupational exposure and to ensure effective protection of pregnant women.

The Committee also noted that under section 3 of the Deliberation exposed workers were defined as those who because of their work may be exposed to annual doses of ionizing radiation greater than one-tenth of the limit set for workers. With reference to *Article 8 of the Convention* which calls for maximum permissible dose levels to be fixed for workers not directly engaged in radiation work but who remain or pass where they may be exposed to ionizing radiation or radioactive substances, the Committee requested the Government to indicate steps taken or envisaged to ensure that non-radiation workers are not exposed to doses of radiation greater than those set for the general public (i.e. 1 mSv per year).

The Committee further requested the Government to indicate measures taken or envisaged to ensure the effective protection of workers against internal exposure to ionizing radiation in conformity with *Article 6* which calls for dose limits to be set not only for external, but also for internal exposure.

The Committee notes the Government's information in its report that preparations have commenced, in consultation with employers' and workers' representatives, for a revision of the labour legislation including on protection against ionizing radiation and that this process is expected to be finalized by the end of the first term of 1996. The Committee notes with interest the information that the revision will take into account the 1990 Recommendations of the ICRP with respect to the matters raised in the Committee's previous comments. In particular, it notes with interest that the 1990 ICRP Recommendations will be incorporated with regard to maximum permissible dose of ionizing radiation received from sources external to the body for workers who are directly engaged in radiation work and for pregnant women (*Articles 3 and 6*), for workers not directly engaged in radiation work but who remain or pass where they may be exposed to ionizing radiation or radioactive substances (*Article 8*), as well as with regard to limits for internal exposure to ionizing radiation (*Article 6*) of workers of nuclear radiology. *Referring also to its 1992 general observation on the Convention the Committee hopes that the Government will soon be in a position to*

supply information on the provisions adopted that fully apply the Convention and are consistent with the 1990 Recommendations of the ICRP and the 1994 International Basic Safety Standards.

Emergency situations. Referring to the explanations given in paragraphs 16 to 27 and 35(c) of its 1992 general observation under the Convention and in the light of paragraphs 233 and 236 of the 1994 International Basic Safety Standards, *the Committee hopes that the Government will provide information on the measures taken or contemplated in relation to emergency situations.*

The provision of alternative employment. With reference to paragraphs 28 to 34 and 35(d) of its 1992 general observation under the Convention and the principles reflected in paragraphs 96 and 238 of the 1994 International Basic Safety Standards, *the Committee requests the Government to provide information on measures taken or contemplated to ensure effective protection of workers who have accumulated exposure beyond which an unacceptable risk of detriment is to occur and who may thus be faced with the dilemma that protecting their health means losing their employment.*

2. The Committee also notes that the Government indicates in its report that, during a tripartite meeting in June 2005, the social partners expressed the wish that measures be taken regarding better protection for employees from ionizing radiations, in particular with regard to medical care for employees during their professional careers and beyond, that the regulations be applied to public servants working in the health sector as well as the conditions regulating work carried out by employees at former nuclear testing sites. *The Government is requested to indicate the measures taken or envisaged to address the issues raised by the social partners.*

[The Government is asked to reply in detail to the present comments in 2006.]

Maximum Weight Convention, 1967 (No. 127)

1. The Committee notes the Government's report and the information it contains in response to the Committee's comments. It notes in particular that since the previous report no changes have been made to the provisions on maximum weight. The Committee wishes to draw the Government's attention to the following points.

2. *Article 3 of the Convention. Maximum weight.* The Committee notes that according to the Government, the Technical Advisory Committee for occupational risk prevention discussed a proposal to lower the maximum weight from 55 to 35 kg, but the discussion led to no changes in the law. The Committee notes that Order No. 91-013 AT of 19 January 1991 is therefore still in force, that the maximum weight a worker may carry is still 55 kg, and that workers may still be allowed to carry regularly loads of over 55 kg provided that the company doctor has certified that they are fit to do so. The Committee would be interested in knowing the basis on which company doctors may conclude that workers are fit to transport manually loads of over 55 kg on a regular basis without harming their health or safety. Moreover, the Committee is concerned at the maximum weight that women may be allowed to carry, which is set at 25 kg in section 3 of Order No. 276/CM of 29 March 1994. The Committee again reminds the Government that according to the publication "Maximum weights in load lifting and carrying" (Occupational safety and health series, No. 59, Geneva, 1998), 15 kg is the maximum weight recommended from the ergonomic point of view, of a load which may be transported occasionally by adult women. *In view of the foregoing, the Committee requests the Government to indicate all measures taken in this connection.*

3. *Articles 4, 6 and 7.* The Committee notes that the Order of 29 March 1994 refers to the working conditions applying specifically to women and young workers. The Committee points out that the principles laid down in the abovementioned Articles of the Convention apply to all workers. *It accordingly reiterates its request to the Government to indicate the measures taken to ensure that these provisions of the Convention are applied to all workers.*

Martinique

Radiation Protection Convention, 1960 (No. 115)

Please refer to the comments made under Convention No. 115, France.

New Caledonia

Maximum Weight Convention, 1967 (No. 127)

1. The Committee notes the information supplied in the Government's last reports and echoes the concern expressed by the social partners and by social organizations and the public authorities that, according to the statistics supplied by the Government, the share of manual load handling in occupational accidents increased from 30 per cent in 1999 to 37.7 per cent in 2002. The Committee notes that, as regards the application of the Convention, there have been no legislative or administrative changes. It requests the Government to continue to provide information on the practical effect given to the provisions on the maximum weight of loads that may be transported manually, and particularly on the measures taken to prevent occupational accidents in this area, and is again bound to repeat its comments on a number of points raised in its previous observation:

The Committee notes the Government's report and its reply to its previous comment. It notes that the provisions of the Labour Code of 1926, and particularly sections R.231-72, establish limits in the merchant marine sector for loads for which the manual transport is inevitable. The Committee also notes the Government's announcement that a draft order prepared by the Medical Labour Inspector will be submitted to the Government with a view to improving the regulations in force along the lines indicated by the Committee. In this respect, the Committee notes that the only regulation currently in force concerning the manual

transportation of loads by workers is Order No. 1211 T of 19 March 1993, which gives effect to section 5 of Order No. 34/CP of 23 February 1989, which itself only establishes minimum safety and health requirements for the manual transport of loads which constitute a risk for workers, and particularly to their backs and lumbar regions. The Committee recalls that, in its previous comment, it noted the information provided by the Government, and particularly the findings of a survey of occupational physicians.

Articles 3 and 7 of the Convention. The Committee noted the finding of this survey that in general heavy loads are only handled occasionally, except in the case of certain activities, and particularly removals and the unloading of containers loaded with imported products. Furthermore, in practice, the average weight of loads is lower than 55 kg, except in the case of the lifting of sick persons and their transport on stretchers. With regard to the criteria applied by occupational physicians to conclude that a worker is fit for the manual transport of loads over 55 kg, account is taken of Order No. 1211-T of 19 March 1993, giving effect to section 5 of Order No. 34/CP of 23 February 1989, respecting minimum safety and health requirements for the manual transport of loads which constitute a risk for workers, and particularly to their backs and lumbar regions. In this respect, the Committee noted that section 3 above remained unchanged. The absolute limit is set at 105 kg, and a worker may even be permitted to carry regularly loads heavier than 55 kg if he has been found fit by the occupational physician. While noting the findings of the above survey, the Committee therefore requested the Government to indicate the measures which had been taken or were envisaged to ensure that workers could not be required to engage in the manual transport of a load heavier than 55 kg. Once again, the Committee referred to the ILO publication *Maximum weight in lifting and carrying* (Occupational Safety and Health Series, No. 59, Geneva, 1988), in which it is indicated that 55 kg is the limit recommended from the ergonomic point of view for the admissible weight of loads to be transported occasionally by a male worker between 19 and 45 years of age. Similarly, it states that 15 kg is the limit recommended from an ergonomic point of view for the admissible weight of loads to be transported *occasionally* by adult women. The Committee emphasizes that it has been raising this matter for many years. ***It therefore hopes that the Government will take the necessary measures to give effect to the provisions of the Convention.***

Articles 4 and 6. The Committee had noted the technical devices (trolleys, lifts, fixed or travelling cranes) used by workers depending on the financial means of the enterprise to limit or facilitate the manual transport of loads. ***The Committee requests the Government to continue providing information on the application of this Article in practice.***

Part V of the report form. The Committee notes the information provided concerning occupational accidents. The Committee requests the Government to continue providing information on the effect given in practice to the provisions respecting the maximum weight of loads which may be transported manually and, in particular, on the action taken to prevent this type of occupational accident. ***The Committee hopes that the Government will take the necessary measures, as soon as possible, for the adoption of the above draft order and to ensure that this text reflects the points raised by the Committee in its comments and to provide effective protection for workers called upon to lift and transport loads manually.***

2. The Committee firmly hopes that the Government will take the necessary legislative and/or other measures as soon as possible to ensure effective protection for workers who have to lift and transport loads manually.

Réunion

Radiation Protection Convention, 1960 (No. 115)

Please refer to the comments made under Convention No. 115, France.

Germany

Radiation Protection Convention, 1960 (No. 115) (ratification: 1973)

The Committee notes the information contained in the Government's most recent report and notes with satisfaction that, according to the information submitted in reply to its previous comments regarding *Article 13, Occupational exposure during an emergency*, the Government has applied effectively, in law and in practice, this Article of the Convention.

The Committee is addressing a request directly to the Government on another point.

Asbestos Convention, 1986 (No. 162) (ratification: 1993)

1. The Committee notes the information provided in the Government's report including replies to its previous comments. It also notes the information that the Hazardous Substances Ordinance (Gefarhstoffverordnung-GefStoffV) of 23 December 2004 (BGBl. I S 3758) came into force on 1 January 2005 and that an amended version of the Technical Rules for Hazardous Substances (TRGS) 519 Asbestos: Demolition, Reconstruction or Maintenance Work was issued in September 2001.

2. *Article 6, paragraph 3, and Article 17, paragraph 3, of the Convention. Procedures preparing for emergency situations and consultations with workers or their representatives regarding workplans.* The Committee notes with satisfaction that in reply to its previous comments regarding preparations for emergency procedures, the Government refers to Annex III, paragraph 2.4.2, of the newly adopted Hazardous Substances Ordinance requiring prior notification to the competent authority of any demolition, reconstruction or maintenance work (DRM work) involving products or materials containing asbestos and that through this procedure, the competent authority can, in each case, satisfy itself whether an emergency scenario is envisaged. The same ordinance, in section 20, subsection 4, entitles the competent authority to order any measures that would be called for in such cases. The Committee also notes with satisfaction that in reply to its comments regarding consultations with workers or their representatives, the Government refers to section 11, subsection 3, of the Hazardous Substances Ordinance which specifically provides for such consultations, specifically in

relation to DMR work, on measures to limit exposure of workers as far as possible and to ensure protection of workers during such activities.

3. *Article 21, paragraph 4. Provision of other means of maintaining income.* The Committee notes that in reply to its previous comments on this issue, the Government indicates that section 16, subsection 5, of the Hazardous Substances Ordinance provides that additional protective measures required must be taken if the employer is aware that, owing to the conditions at the workplace, there are health reasons why an employee should not continue carrying out the activity. The Committee further notes that the Government indicates that this includes the possibility of assigning the employee to another activity that does not involve risk for further exposure. Recalling that Article 21, paragraph 4, of the Convention requires that every effort should be made, consistent with national conditions and practice, to provide the workers concerned with other means of maintaining their income, ***the Committee requests the Government to indicate the measures taken or envisaged, including their application in practice, to ensure a full application of this provision of the Convention.***

Ghana

Radiation Protection Convention, 1960 (No. 115) (ratification: 1961)

1. *The application of all Articles of the Convention.* The Committee has on numerous occasions previously drawn attention to the urgent need for the Government to adopt legislative binding measures in order to ensure the full application of the Convention. Unfortunately, the Committee notes from the Government's latest report that it still has not provided any reply to previous comments, that it continues to refer to the Radiation Protection and Safety Guides it has adopted, which the Government recognizes are not legally binding and which therefore do not ensure the application of the Convention. The Committee also notes that the Government still has not provided copies of documents required by the Committee for an appropriate appreciation of the manner in which the Convention is applied in Ghana. The Committee therefore feels obliged to once again repeat its previously expressed serious concern of the manner in which the Government applies the Convention and hopes that measures are taken with urgency in order to ensure the full effective protection of workers against ionizing radiation at the workplace, based on the dose limits for exposure adopted by the International Commission on Radiological Protection (ICRP) in 1990. ***The Committee urges the Government to provide detailed information in its next report on all legislative measures taken or envisaged to ensure the full application of the Convention.***

2. The Committee notes the reference made by the Government to the Radiation Protection Instrument No. 1559 of 1993, adopted under the Atomic Energy Act No. 204 of 1963, regulating inter alia the control and use of radiation sources and application of ionizing radiation to persons. Noting that a new Atomic Energy Act was adopted in 2000 (Act No. 588 of 2000), ***the Committee requests the Government to clarify whether Act No. 204 of 1963 has been replaced or supplemented by Act No. 588 of 2000, to provide a copy of the latter Act and to provide information in its next report on measures taken or envisaged to adopt a new radiation protection instrument in order to ensure the effective protection of workers against ionizing radiation at the workplace.***

3. The Committee also notes from reports submitted under Convention Nos. 29, 98 and 182 that on 8 October 2003 a new Labour Act (Act No. 651) has been adopted and that it entered into force on 31 March 2004, indicating that legislative measures are in the process of being undertaken. It notes in particular that Part XV regulates general safety and health conditions and that sections 121 and 174(e) provide the possibility for the minister to issue regulations providing for specific measures to be taken by employers to safeguard the health and safety of workers employed by them. The Committee also notes that under section 122(a) labour inspections shall be carried out in order to ensure the enforcement of provisions relating to the safety, health and welfare of workers under the Labour Act. ***The Committee requests the Government to provide information in its next report on measures taken or envisaged to issue legally binding instruments under the Labour Act in order to give effect to the Convention and to provide copies of any proposed and/or adopted legislation. It also asks the Government to provide information with its next report on labour inspections carried out with respect to radiation work.***

[The Government is asked to reply in detail to the present comments in 2006.]

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1965)

1. The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes that the Government's report does not contain a reply to its previous comments. It is therefore bound to repeat its observations on the measures which should be adopted to give effect to the provisions of the Convention in all branches of economic activity in the country.

Articles 1 and 17 of the Convention. In the comments that it has been making for many years, the Committee has drawn the Government's attention to the fact that the Factories, Offices and Shops Act, 1970, and the Mining Regulations, 1970, only give effect to the Convention in a limited number of sectors of economic activity. Certain branches of activity, such as agriculture, forestry, road and rail transport and shipping, are not covered by it. In its report for the period ending 30 June 1993, the Government stated that the issue had been referred to the tripartite National Advisory Committee on Labour which was to make recommendations for the adoption of appropriate measures to give effect to the Convention in the above sectors. The Committee recalls in this respect that the Government has been indicating, at least since 1986, that it would refer the Committee's

observations to the tripartite National Advisory Committee on Labour for examination with a view to the adoption of the necessary measures.

The Committee notes that once again in its last report the Government has not provided any new information. ***It once again requests the Government to provide detailed information on the measures taken to ensure the guarding of machinery in all branches of economic activity, and particularly in agriculture, forestry, road and rail transport and shipping.***

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

Guatemala

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1975)

1. The Committee notes the information provided by the Government in its last report. However, it wishes to draw the Government's attention to the following points.

2. *Articles 2 and 4 of the Convention.* The Committee notes with satisfaction the progress achieved in the field of occupational hygiene and the work currently carried out by the National Occupational Hygiene, Safety and Health Council (Consejo Nacional de Salud, Higiene y Seguridad Ocupacional – CONASSO). It notes in particular the establishment of a tripartite committee responsible for formulating public policy in the field of occupational safety and health, the integration of an adviser from the Safety and Health Assistance Foundation within CONASSO and the Occupational Safety and Health Department of the Ministry of Labour. In the legislative field, the Committee notes the preparation of a draft text to establish a council at a higher institutional level and the revision of a preliminary draft proposed by employers' representatives in May 2005 with a view to amending the 1957 Safety and Health Regulations. ***In this respect, the Committee would be grateful if the Government would keep it informed and provide the relevant texts once they have been adopted.***

3. *Part V of the report form.* The Committee notes the information that an occupational health project will be established in the near future and that health and safety committees are currently being established in commercial enterprises to disseminate information on national and international occupational safety and health standards. ***The Committee requests the Government to keep it informed of the progress achieved in this field.***

Asbestos Convention, 1986 (No. 162) (ratification: 1989)

1. The Committee notes the information provided in the Government's report, particularly concerning the draft reform of the Occupational Safety and Health Regulations, which is still under discussion. It also notes that a preliminary draft text proposed by the employer members of the National Occupational Safety and Health Commission is currently being analysed.

2. ***The Committee requests the Government to take all the necessary measures rapidly to ensure the application of the provisions of the Convention. It hopes that the next report will indicate the progress achieved in this respect and requests the Government to provide a copy of the above texts as soon as they have been adopted.***

Guinea

Radiation Protection Convention, 1960 (No. 115) (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

1. The Committee notes the information provided by the Government in reply to its comments. The Government indicates that a draft Order respecting air pollution, noise and vibration, cesspools, drinking water and protection against radiations had been prepared, but was subsequently separated into several draft Orders to make them more easily applicable. These draft Orders should have been adopted some time ago. However, the Advisory Commission on Labour and Social Legislation, as a tripartite commission, is composed of various members with very different concerns and sometimes constraints at the national level, which prevented it from completing its usual session. Furthermore, the Government states that the State of Guinea has priorities, even with regard to the adoption of laws and regulations. The Committee states that the Government has been expressing the intention for many years of adopting regulations to protect workers against ionizing radiations, without however in practice taking the necessary measures to this effect. It notes with regret that the Government's attitude disregards the urgency of taking the necessary legislative action for the adoption of regulations respecting protection against ionizing radiations. In this respect, the Committee recalls that this Convention was ratified by Guinea in 1966 and that since then the Committee has had to comment on various points concerning the application of the Convention. The Committee recalls that, when the Government takes the sovereign decision to ratify a Convention, it undertakes to adopt all the necessary measures to give effect to the provisions of the Convention in question. The Committee also considers that, while the Government may cite the existence of other matters which must take priority in the adoption of laws and regulations, it would be appropriate after the number of years that have elapsed for it to take the necessary measures to ensure that the draft Orders relating to the application of the provisions of this Convention are adopted as soon as possible. The Committee therefore once again hopes that the Government will soon be in a position to report on the adoption of provisions covering all activities involving the exposure of workers to ionizing radiations in the course of their work and in conformity with the dose limits referred to in its general observation of 1992, in the light of current knowledge, such as that contained in the 1990 Recommendations of the International Commission on Radiological Protection (ICRP) and in the Basic Safety Standards for Protection Against Ionising Radiation and for the Safety of Radiation Sources of 1994.

2. Further to its previous comments, the Committee once again draws the Government's attention to the following points.

Articles 2, 3, paragraph 1, 6 and 7 of the Convention. In its previous comment, the Committee noted the Government's statement that the current dose limits correspond to an equivalent of an annual dose of 50 mSv for persons exposed to ionizing radiations. The Committee had recalled the maximum dose limits for ionizing radiations established in the 1990 Recommendations of the International Commission on Radiological Protection and in the 1994 Basic International Safety Standards for Radiation Protection. For workers directly engaged in work exposed to radiation, this limit is 20 mSv per year averaged over five years (100 mSv over five years), and the actual dose must not exceed 50 mSv in any year. The Committee also draws attention to the dose limits envisaged for apprentices aged from 16 to 18 years, set out in Annex II, paragraph II-6, of the 1994 Basic International Safety Standards for Radiation Protection.

The Committee once again hopes that the maximum doses and quantities to be included in the Government's draft Order will be in conformity with the maximum permitted doses and quantities, and that the Government does indeed envisage adopting the above draft Order.

Situations of exposure in emergencies: provision of alternative employment. The Committee once again requests the Government to indicate the measures which have been taken or are envisaged in relation to the points raised in paragraphs 35(c) and (d) of the conclusions of its 1992 general observation under this Convention.

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

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1966)

1. The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

1. The Committee notes that the Government, in implementation of section 171 of the Labour Code, will be submitting draft decrees concerning sanitary facilities in workplaces and concerning the provision of drinking-water and non-alcoholic drinks in enterprises and establishments. The Committee also notes the draft decree establishing Committees on Hygiene, Safety and Working Conditions (CHSCT).

2. The Committee recalls that, since 1989, it has been asking the Government to adopt ministerial orders, in accordance with section 171 of the Labour Code, in the following areas: ventilation (*Article 8 of the Convention*); lighting (*Article 9*); drinking water (*Article 12*); seats for all workers (*Article 14*); and noise and vibrations (*Article 18*), in order to give effect to these provisions of the Convention. The Committee hopes that such decrees will be adopted after consultation with the representative organizations of employers and workers, in accordance with *Article 5* of the Convention.

3. *Article 1.* Lastly, the Committee recalls its previous observation in which it drew attention to the fact that all workers who are mainly engaged in office work, including workers in the public services, are covered by the Convention. The Committee hopes that the Government will take the necessary measures in the near future to ensure full application of the Convention to the public services and requests the Government to indicate the progress made in this regard.

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

Guyana

Benzene Convention, 1971 (No. 136) (ratification: 1983)

1. The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes that the Occupational Safety and Health Act, 1997, has been adopted. It notes that this Act does not contain any specific provision which regulates the use of benzene and products containing benzene as provided for in the Convention. In this respect, the Committee notes the Government's indication that, in the absence of measures giving effect to the provisions of the Convention, the Occupational Safety and Health Division of the Ministry of Labour has been requested to take legal initiative in order to bring the national legislation into conformity with the Convention. To this effect, the Committee would draw the Government's attention once again to the following points.

Article 2 of the Convention. Measures to ensure that harmless or less harmful substitute products are used instead of benzene or products containing benzene.

Article 4. Prohibition of the use of benzene or products containing benzene in certain processes.

Article 5. Occupational hygiene and technical measures to ensure effective protection of exposed workers.

Article 6, paragraph 1. Measures to prevent escape of benzene into the air or places of employment.

Article 6, paragraph 2. Determination by the competent authority of the maximum permissible concentration of benzene in the air of places of employment.

Article 6, paragraph 3. Directions issued by the competent authority for measuring benzene in the air.

Article 7, paragraph 1. Measures to ensure that, as far as practicable, processes involving the use of benzene are carried out in enclosed systems.

Article 8, paragraph 1. Measures to ensure that workers are provided with appropriate means of personal protection against the risk of absorbing benzene through the skin.

Articles 9 and 10. Measures to provide for medical examinations of workers employed in work processes involving exposure to benzene.

Article 12. Measures to ensure that containers containing benzene are clearly marked with danger symbols.

The Committee reiterates its hope that the Government will take the necessary measures and will soon be in a position to report on progress made towards the adoption of measures required under the Convention to protect workers against hazards of poisoning arising from benzene.

Article 11. The Committee notes that section 41, paragraph 1, of the Occupational Safety and Health Act, 1997, provides for a general prohibition to employ children in any factory or in the business of a factory outside the factory. In this respect, it would point out that *Article 11* calls for measures to prohibit the employment of young persons *under 18 years of age*, pregnant women and nursing mothers in work processes involving exposure to benzene. The Committee would therefore request the Government to indicate the measures adopted or envisaged to ensure that full effect is given to this Article of the Convention.

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

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1983)

1 The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes the Government's report. It notes the Government's indication that the draft regulations on the safe use of chemicals at work, to be issued in application of section 75 of the Occupational Safety and Health Act, 1997, which contain preventive and proactive measures to protect workers against the risks of exposure to carcinogenic substances and agents is currently being drafted by an ILO consultant and discussed with the stakeholders. The Committee hopes that the above regulations will be adopted in the near future and that they will give effect to the Convention and in particular to the following Articles of the Convention.

1. *Article 1, paragraphs 1 and 2, of the Convention.* In its previous comments, the Committee had noted that pursuant to section 59 of the Occupational Safety and Health Act, 1997, the use or intended use of chemical, biological or physical agents may be prohibited, limited or restricted or made subject to conditions, if their use, in the opinion of the Occupational Safety and Health Authority, is likely to endanger the health of workers. However, the Government had indicated that neither a regulatory mechanism existed to prohibit or grant certifications specifying the conditions under which reasonable exposure of carcinogenic substances can be met, nor did the Occupational Safety and Health Department determine specific exposure levels for chemical substances proven to be carcinogenic. The Committee, recalling the provision of *Article 1* of the Convention, had requested the Government to indicate the measures taken or contemplated to establish a mechanism ensuring that the substances or agents to which occupational exposure is prohibited or subject to authorization and control are determined periodically, so that it is not left to the discretion of the Occupational Safety and Health Authority to determine case by case whether a substance or agent endangers the health of the worker. In this respect, the Government merely indicates in its report that the country does not dispose of a formal list determining carcinogenic substances and agents, but that Guyana is guided by research done by the American Conference of Government Industrial Hygienists (ACGIH). The Committee accordingly requests the Government to explain the framework in which such guidance takes place and to indicate the results of this guidance with regard to the application of this Article of the Convention.

2. *Article 2.* With regard to the replacement of carcinogenic substances and agents to which workers may be exposed in the course of their work by non-carcinogenic or less harmful substances, the Committee notes the Government's indication to the effect that the National Agriculture Research Institute (NARI) does the necessary research and that it gives advice to importers to import chemicals that are not carcinogenic. In addition, farmers and their organizations are educated on the need to use less carcinogenic chemicals. The Committee understands from the Government's indications that the final decision concerning the possible substitution of carcinogenic substances and agents by non- or less harmful substances and agents is left to the discretion of the importers and users, like farmers. It accordingly hopes that the draft regulations on the safe use of chemicals at work will contain a regulation providing for the obligation to substitute carcinogenic substances and agents whenever possible. The Committee further hopes that the above regulations will also provide for the reduction of the number of workers as well as the duration and degree of exposure to carcinogenic substances and agents to the minimum compatible with safety, in order to give full effect to this Article of the Convention.

3. *Article 3.* Referring to its previous comments and with regard to the establishment of permissible exposure limits in the framework of measures to be taken pursuant to *Article 3* of the Convention to protect the workers against the risks of exposure, the Committee notes the Government's indication that Guyana is guided by research done by the ACGIH. The Committee, noting that one of the main activities of the ACGIH is the establishment of threshold limit values for chemical substances and physical agents, requests the Government to indicate whether the threshold limits set forth by the ACGIH have a binding character and are in deed observed in the country. As to the establishment of an appropriate system of records of exposure of workers at risk, the Committee recalls again that the provision of section 61 of the Occupational Safety and Health Act, 1997, does not give full effect to *Article 3* of the Convention, since it obliges only the employer to establish and maintain an inventory of all hazardous chemicals and physical agents present at the workplace. The Committee therefore draws the Government's attention to Paragraph 15, subparagraphs 1 and 2, of the Occupational Cancer Recommendation, 1974 (No. 147), recommending the establishment and maintenance of a system of records by the competent authority in association with individual employers. Moreover, it is indicated in the ILO publication *Occupational cancer: Prevention and control*, Occupational Safety and Health Series No. 39, that the purpose of a register containing the names of exposed persons, the result of technical monitoring, special medical examinations and laboratory tests performed on these workers is to permit the competent authority "to keep a close watch on the magnitude of the problem of occupational cancer in the country, the level of risk involved in the various types of exposure, the dose-response relationship and the effectiveness of preventive action. In this way, increased knowledge of the various aspects of occupational epidemiology can be gained". The Committee accordingly requests the Government to take the necessary measures to establish an appropriate system of records on national level in order to evaluate the different aspects of occupational cancer.

4. *Article 5.* The Committee notes the Government's indication that there is currently no regulation providing for medical examinations of workers during the period of employment and thereafter, but that this requirement will be addressed in the proposed draft regulations on chemicals which is being drafted by an ILO consultant. The Committee therefore hopes that the above draft regulations will be adopted in the near future to ensure that workers will be provided with, inter alia, medical examinations during the period of employment and thereafter, to give effect to this Article of the Convention.

5. *Article 6(a).* The Committee notes the Government's indication that the existing legislation applicable, namely the Occupational Safety and Health Act, 1997, will soon be supplemented by regulations in order to give full effect to the provisions

of the Convention. The Committee requests the Government to keep it informed on every progress accomplished with regard to the elaboration of the regulations on chemicals.

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

India

Radiation Protection Convention, 1960 (No. 115) (ratification: 1975)

1. The Committee notes the information and appended documentation in the Government's report including the Atomic Energy (Radiation Protection) Rules, 2004, the Atomic Energy Regulation Board (AERB) safety manual on radiation protection for nuclear facilities and the Annual Report of the AERB for the period 2003-04. The Committee also notes the information that notifications under the Atomic Energy (Radiation Protection) Rules, 2004, are being developed and **requests the Government to transmit copies thereof once they have been issued.**

2. The Committee notes with interest the clarifications and additional information provided by the Government in reply to its previous comments concerning the protection of pregnant women engaged in radiation work, protection against accidents and during emergency situations, and the enforcement of legislation on radiation protection and **requests the Government to keep it informed of further developments, in law and in practice, in these areas.**

3. *Article 1 of the Convention. Consultation with representatives of employers and workers.* In reply to the Committee's previous comments, the Committee notes the indication of the Government that the Atomic Energy (Radiation Protection) Rules, 2004, were prepared by specialists in radiological safety and other experts of nuclear and radiation facilities, and that all aspects related to safety of workers and the public were duly considered. It regrets, however, to note that the Government indicates that these rules were adopted without consultation with representatives of employers and workers. While noting the explanation of the Government that it was found impracticable to refer the draft rules to the large number of representative bodies of employers and workers, the Committee wishes to emphasize that *Article 1* of the Convention requires the competent authority to consult with representatives of employers and workers while applying the provisions of the Convention. The Committee recalls that it drew the attention of the Government to this obligation in its comments made in 1987 and that in response, the Government indicated in 1990 that the Department of Atomic Energy would take into consideration the requirements of *Article 1* while framing rules. Furthermore, in its report submitted in 2000, the Government indicated that the draft of the Radiation Protection Rules, 2004, would be sent to the representatives of all the concerned employers' and workers' organizations for their comments. Under these circumstances, in the light of the importance of the consultation required under *Article 1*, the Committee expresses the firm hope that the competent authority will take appropriate measures in the future to consult with the concerned representatives of employers and workers on all aspects related to the application of the Convention, including the development and reviews of relevant legislation such as the ongoing development of notifications under the Atomic Energy (Radiation Protection) Rules, 2004. **The Committee requests the Government to keep it informed in this respect.**

4. *Article 3, paragraph 1, and Article 6, paragraph 2. Effective protection of workers against ionizing radiation.* The Committee notes that, in reply to its previous comments, the Government clarifies that the AERB Safety Directive No. 7-1999, on radiation exposure adopted in 1999 in accordance with the recommendations of the International Commission of Radiological Protection (ICRP) 60 (1990), prescribe a maximum permissible dose limit of 30 mSv for workers involved in radiation activities, subject to a cumulative dose over a defined block of five years not exceeding 100 mSv. It also notes, with interest, the Government's further explanation that an exposure of 10 mSv at any time in the year triggers a review of the work practice of the exposed worker and the taking of remedial measures, as appropriate, to ensure that the annual dose limit is not exceeded, and that such reviews have actually helped in instituting appropriate remedial measures. Noting that the AERB Directives do not seem to regulate such a review, **the Committee requests the Government to indicate the specific provision of national legislation or the specific directive that requires a review of work practice when the dose of a worker exceeds 10 mSv and to keep the Committee informed of the application of this review process.**

5. *Article 14. Alternative employment or other measures offered for maintaining income where continued assignment to work involving exposure is medically inadvisable.* The Committee notes the indications of the Government in response to its previous comments that all instances where workers are exposed to ionizing radiation in excess of the prescribed limits are reviewed by specialist committees and appropriate directives are issued to the licensee. The directives would include a prescribed discontinuation of radiation work by the worker and the engagement of the worker in alternative work for a specified period. The Government also indicates that such provision of alternative work for a specified period has never been a problem for the licensee and that no case of loss of wages in the case of such alternative employment has been brought to the notice of the AERB. The Committee notes that there is thus a possibility for workers who have been subjected to excessive exposure to secure alternative employment for a specific period. The Committee notes however that the information furnished by the Government does not appear to cover all cases where continued assignment to work involving exposure to ionizing radiations is found to be medically inadvisable nor does it seem to apply generally as it is limited to specific time periods. In this context, the Committee wishes to draw the attention of the Government to paragraph 32 of its 1992 general observation under the Convention where it is indicated that every effort

must be made to provide the workers concerned with suitable alternative employment, or to maintain their income through social security measures or otherwise where continued assignment to work involving exposure to ionizing radiations is found to be medically inadvisable. ***In the light of the above indication, the Committee requests the Government to consider taking appropriate measures to ensure that no worker shall be employed or shall continue to be employed in work by reason of which the worker could be the subject of exposure to ionizing radiation contrary to medical advice and that for such workers, every effort is made to provide them with suitable alternative employment or to offer them other means to maintain their income and requests the Government to keep it informed in this respect.***

Iraq

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1966)

1. The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

Article 7 of the Convention. The Committee notes the Government's indication to the effect that it does not dispose of any statistics concerning the lead poisoning among working painters for the period ending 30 June 1999. For a number of years, the Committee has been recalling to the Government that *Article 7* of the Convention requires the establishment of statistics on lead poisoning among working painters. In this respect, the Committee once again refers to section 8(a) of the Instructions for the Prevention of Lead Poisoning among Painting Workers, according to which cases of lead poisoning shall be reported and statistics kept. The Committee notes the Government's indication that cases of lead poisoning must be notified to the Labour Inspectorate, and the Ministry of Health is the competent authority responsible for keeping statistics concerning the morbidity and the mortality of working painters due to lead poisoning. The Committee, taking note of this information supplied by the Government in its report, requests the Government to indicate the measures taken or envisaged to establish statistics on lead poisoning of working painters, as required under section 8(a) of the Instructions for the Prevention of Lead Poisoning among Painting Workers.

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

Radiation Protection Convention, 1960 (No. 115) (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

The Committee notes the information supplied with the Government's report. It notes that the report does only contain a few new elements in reply to comments it has been made since 1992. The Committee is therefore bound to draw again the Government's attention to the following points.

1. *Articles 3, 4, 5, 6, 7 and 8 of the Convention.* The Committee had noted in previous comments that the provisions found in Act No. 99 of 1980 concerning protection against ionizing radiations does not specify detailed measures necessary for the application of the Convention, but does provide for instructions to be established ensuring implementation of the Act. With regard to the issuing authorities, section 10 of the above Act empowers the Radiation Protection Board to issue these instructions concerning measures to be taken to prevent accidents. In this context, the Committee notes the Government's indication that the authority responsible for radiation protection has issued circulars indicating the limits of safe exposure to radiation, in application of section 8 of Act No. 99, 1980, proving for the responsibility of the Radiation Protection Board to set maximum dose limits permissible for exposure to ionizing radiations. The Committee requests the Government to supply a copy of these circulars for further examination to enable the Committee to determine whether the limits prescribed in these circulars cover the different categories of workers, in accordance with *Articles 7 and 8* of the Convention.

As concerns protective measures to be taken when exposed to radiation, the Committee had noted in previous comments that section 8 of Act No. 99, 1980, obliges the Radiation Protection Board to issue, inter alia, the necessary instructions in this regard. The Government accordingly is requested to indicate the steps taken or being considered in this regard to ensure effective protection of workers against ionizing radiations and to restrict the exposure of workers to the lowest practicable level avoiding any unnecessary exposure, as prescribed under *Article 3, paragraph 1, Article 5 and Article 6, paragraph 2*, of the Convention.

Article 9. The Committee notes the Government's indication to the effect that this Article of the Convention is applied on the basis of instructions and Recommendations issued by the Radiation Protection Centre. However, there are no legal texts specifically covering this matter. In this respect, the Committee notes again section 107 of the labour code providing for the employer's obligation to inform workers in writing, prior to their assignment, of the occupational hazards involved in the work in question and the protective measures to be taken. By virtue of this section, the employer must also post instructions concerning occupational dangers and the protective measures to be taken, in accordance with instructions drawn up by the Minister of Labour and Social Affairs. The Committee asks the Government to enlighten the character of the instructions and Recommendations issued by the Radiation Protection Centre, particularly with a view to their impact and their possible binding effect, although they do not constitute legal texts. The Government is also requested to provide copies of the above instructions and recommendations for further examination.

Article 11. The Committee notes the Government's indication that section 11 of Act No. 99, 1980, concerning inspection, and section 12, specifying the obligations of the owner of an ionizing radiation source, cover the matters dealt with in this Article of the Convention. The Committee therefore points out that *Article 11* of the Convention calls for appropriate monitoring of workers and places of work to evaluate the exposure of workers to ionizing radiations and radioactive substances, with a view to ascertain that the levels of exposure fixed by the competent authority are observed. The Committee ventures to call the Government's attention to paragraphs 17 to 19 of the Radiation Protection Recommendation, 1960 (No. 114), which propose a number of measures to be taken in this connection. The Government is requested to indicate the measures taken or envisaged in order to ensure that both workers and places of work are appropriately monitored in order to determine whether the dose limits fixed are respected.

Articles 12 and 13(a). Further to its previous comments, the Committee notes again section 12, subsection 5 of Act No. 99, 1980, providing that owners of a source emitting ionizing radiations shall submit exposed workers to preliminary and periodic medical examinations in conformity with the instructions. In its report for 1986, the Government had indicated that instructions had been established providing for pre-employment and periodic medical examinations. The Committee notes with regret that the Government did not transmit yet a copy of these instructions. The Government is once again requested to supply a copy of these instructions in order to enable the Committee to examine the type and nature of the examinations required as well as the circumstances in which, because of the nature or degree of exposure or both, workers shall undergo appropriate medical examinations.

2. With reference to its previous comments, the Committee recalls that, under *Article 2, paragraph 1*, this Convention applies to all activities involving exposure of workers to ionizing radiations in the course of their work. In the direct requests the Committee has addressed to the Government since 1982, it had noted that Act No. 99, 1980, under the terms of section 2, only applies to the use of radiation sources for peaceful purposes. The Government had indicated in its report for 1986 that a permanent central committee had been established to examine cases of radiation exposure on a regular basis. It further indicated that workers engaged in research were covered by Act No. 99. Section IV of Instructions No. 1 issued by the Radiation Protection Board provides that the Centre for Radiation Protection will examine each case where persons not covered by Act No. 99 present a request to the Radiation Protection Board. The Centre will transmit its recommendations in this regard to the Board, which shall then make an appropriate decision. The Government is again requested to indicate the manner in which the provisions of this Convention are applied to activities not covered by Act No. 99, in particular, in respect of defence work involving exposure to ionizing radiations. Furthermore, the Government is again requested to provide additional information on the composition and competence of the Centre for Radiation Protection, as well as its duties, responsibilities and enforcement powers.

3. Finally, the Committee calls once again the Government's attention to paragraphs 16 to 27 and 35(c) of its 1992 general observation under this Convention concerning occupational exposure during and after an emergency. The Government is again requested to indicate whether, in emergency situations, exceptions are permitted to the normally tolerated dose limits prescribed for exposure to ionizing radiations and, if so, to indicate the exceptional levels of exposure allowed in such circumstances and to specify the manner in which these circumstances are defined.

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

Italy

Maximum Weight Convention, 1967 (No. 127) (ratification: 1971)

The Committee notes the information provided in the Government's last two reports. It notes in particular the Government's statement, dated 22 May 2002, that to avoid any doubts that might persist, it considers it appropriate to refer the matter to the legal authorities so that the prohibition set forth in *Article 3 of the Convention* is included in a law. In this respect, the Committee recalls that, in accordance with this Article of the Convention, read in conjunction with paragraph 14 of the Maximum Weight Recommendation, 1967 (No. 128), the maximum weight which may be transported manually by one adult male worker may in no circumstances be more than 55 kg. **The Committee therefore requests the Government to inform it of any developments in this respect and to provide a copy of the relevant text when it has been adopted.**

Japan

Radiation Protection Convention, 1960 (No. 115) (ratification: 1973)

1. The Committee notes the Government's comprehensive report, including the revised provisions of the Ordinance on Industrial Safety and Health and the Ordinance on the Prevention of Ionizing Radiation Hazards (as amended in March 2001), the revised Regulations on the Special Education for Nuclear Fuel Substance Handling Operations (Notification No. 1 of 30 January 2000), as well as Ordinance No. 21 on the Prevention of Mariner Exposure to Ionizing Radiation Hazards of 23 June 1973 (as amended until April 2001).

2. *Article 3, paragraph 1 and Article 6, paragraph 2. Effective protection of workers against ionizing radiation.* The Committee notes with satisfaction the indication of the Government that the Ordinance on the Prevention of Ionizing Radiation Hazards was amended in March 2001, thus revising the exposure limit of workers engaged in radiation work. The effective dose limits are now 100 mSv for a block of five years and 50 mSv for any single year. In respect of pregnant women, the effective dose by internal exposure is limited to 1 mSv for the duration of the pregnancy, with a dose equivalent at the abdominal surface of 2 mSv. The Committee notes with interest that the Ordinance on the Prevention of Mariner Exposure to Ionizing Radiation Hazards was similarly revised in April 2001.

3. *Emergency exposure situations.* The Committee notes with satisfaction the indication of the Government that the Ordinance on the Prevention of Ionizing Radiation Hazards was amended in March 2001 to stipulate the exposure limits in emergency operations, taking into consideration the 1990 ICRP recommendations and that 100 mSv is the effective dose, 300 mSv, the lenticular dose equivalent and 1 mSv, the dermal dose equivalent. The Committee also notes with interest the indication of the Government that similar amendments have been made to the Ordinance on the Prevention of Mariner Exposure to Ionizing Radiation Hazards in April 2001.

4. *Article 14. Alternative employment or other measures offered for maintaining income where continued assignment to work involving exposure is medically inadvisable.* The Committee notes that, in reply to its previous comments, the Government has indicated that the effective dose to which workers may be exposed in a year is less than

the prescribed level, and that situations where workers in radiation work need to be provided with alternative employment are unlikely to arise, unless there is an accident. While noting that measures have been taken to limit the exposure of workers, the Committee wishes to point out that there may be situations where a worker is unable to continue in radiation work on legitimate health grounds. The Committee also wishes to draw the attention of the Government to paragraph 32 of the 1992 general observation under the Convention where it is indicated that every effort must be made to provide the workers concerned with suitable alternative employment, or to maintain their income through social security measures or otherwise where continued assignment to work involving exposure to ionizing radiations is found to be medically inadvisable. ***In the light of the above indications, the Committee requests the Government to consider taking appropriate measures to ensure that no worker shall be employed or shall continue to be employed in work by reason of which the worker could be the subject of exposure to ionizing radiation contrary to medical advice and that for such workers, every effort is made to provide them with suitable alternative employment or to offer them other means to maintain their income and requests the Government to keep it informed in this respect.***

Kazakhstan

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1996)

1. The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee noted the comments made by the Air Crew Trade Union of Alma Ata. The union indicated that 80 staff of Kazakhstan civil aviation who suffered occupational illness and became disabled as a result of noise and vibration in excess of the permitted levels, and members of the families of air crew staff who have been killed, have been awarded compensation from the State National Company NAAK "Kazakhstan aue zholy". On 20 August 1996, by a Government Decree and on the basis of NAAK assets, the state national airline "Air Kazakhstan", a closed joint stock company, was established and the state shares were transferred to it. Air Kazakhstan now refuses to pay the compensation awarded to the staff on grounds that it does not regard itself as the legal successor to NAAK with regard to payment of the latter's debts, since there is no specific mention of this in its constituent documents. Under sections 46 and 47 of the Kazakhstan Civil Code, if state-owned means of production are transferred, any obligations in respect of compensation to workers who become disabled as a result of work are also transferred. No mention of this was made in either the Government Decree which is the transfer document, or in any other documents of the new company.

The union further stated that in May 1997, the Prosecutor-General of the Republic of Kazakhstan acknowledged that the new law had been violated and proposed an appropriate amendment to the Government Decree and the company's constituent documents. However, the Government decided to go ahead with the closure of NAAK rather than bringing the Decree into conformity with the legislation. In February 1998, the NAAK was declared bankrupt. Under section 50(9) of the Civil Code, where such a company has insufficient assets to continue trading, the Government, as owner, was obliged to meet the legitimate demands of former employees of the state enterprise from its own funds, by returning part of the assets needed to meet the demands of creditors, especially citizens who have suffered loss because of the enterprise.

The union considered that, given sufficient goodwill, former aircrew members who are now disabled should have a legal basis for protecting their health and citizens below the age of majority should receive benefits for the loss of a parent.

The Committee recalled that *Article 11, paragraph 4, of the Convention*, requires that rights of workers under social security or social insurance legislation should not be adversely affected in implementing the Convention. It therefore requested the Government to provide full particulars regarding the rights of the workers involved under social security or social insurance legislation that may have been adversely affected in this regard.

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

Lebanon

Radiation Protection Convention, 1960 (No. 115) (ratification: 1977)

1. The Committee notes the information contained in the Government's report and the attached legislation.

2. *Articles 6(1) and 7(1) of the Convention. Dose limits.* The Committee notes with interest the adoption of Decree No. 11802 of 30 January 2004 regarding the organization of prevention, safety and professional hygiene in all establishments governed by the Labour Code ensuring the application of most of the Articles of the Convention. It notes with satisfaction that table 2 of the Decree provides for a maximum annual dose limit of 20 mSv over a five-year period for workers over 18 years of age involved in ionizing radiation work which reflects the dose limits for exposure to ionizing radiation in the 1990 Recommendation of the International Commission on Radiological Protection (ICRP) to which the Committee refers in its 1992 general observation under the Convention. The Committee also notes with satisfaction that section 14 of the Decree also includes provisions providing for alternative employment which, as the Committee noted in its 1992 general observation, is a general principle of occupational safety and health which appears in article 17 of the Occupational Health Services Recommendation, 1985 (No. 171), as well as in Paragraph 27 of the Radiation Protection Recommendation, 1960 (No. 114).

3. The Committee is raising certain other points in a request addressed directly to the Government.

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1977)

1. The Committee notes the information contained in the Government's report and the attached legislation.

2. *Article 5 of the Convention. National legislation.* The Committee notes with interest the adoption of Decree No. 11802 of 30 January 2004 regarding the organization of prevention, safety and professional hygiene in all establishments governed by the Labour Code. It notes that this Decree and the Ministry of Labour's Decision No. 493/1 of 7 September 1997 ensure the application of a majority of Articles of the Convention and notes with satisfaction that *Article 14* is now fully applied.

3. The Committee is raising certain other points in a request addressed directly to the Government.

Occupational Cancer Convention, 1974 (No. 139) (ratification: 2000)

1. The Committee notes the information contained in the Government's reports and the attached legislation.

2. *Article 1 of the Convention. Determination of carcinogenic substances and agents.* The Committee notes with interest the adoption of Decree No. 11802 of 30 January 2004 regarding the organization of prevention, safety and professional hygiene in all establishments governed by the Labour Code and Decree No. 135/1 of 10 August 2004 constituting a national committee to establish a list of dangerous chemical substances and carcinogenic chemical substances. The Committee notes that section 23 of Decree No. 11802 provides, inter alia, that the Ministry of Labour shall adopt decisions to organize safety at the workplace with respect to methods of work, materials and factors of exposures to be banned, limited or submitted for approval by the Minister, taking into account risks resulting from two or more substances or agents simultaneously. As regards the national committee established pursuant to Decree No. 135/1, the Committee notes that the Government reports that it has not yet been established, but that through this Committee the Government intends to take appropriate action to promote the application of the Convention. The Committee hopes that this committee soon will become operational and that, in the context of the determination of the carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorization, due account will be taken of codes of practice or guides published by the ILO in the light of current scientific knowledge such as *Occupational cancer: Prevention and control*, second revised edition, Occupational Safety and Health Series, No. 39, Geneva, 1989. *The Committee requests the Government to provide detailed information on measures taken or envisaged to establish a list of dangerous carcinogenic substances and agents, including providing it with a copy of such a list once it has been adopted, as well as information on promotional measures taken or envisaged by the committee to establish a list of dangerous chemical substances and carcinogenic chemical substances to ensure a full application of the Convention.*

3. The Committee is raising certain other points in a request addressed directly to the Government.

Lesotho

Safety and Health in Construction Convention, 1988 (No. 167) (ratification: 1998)

1. The Committee notes the information contained in the Government's first report and the attached legislation.

2. The Committee notes that the Labour Code Order, 1992, contains the general occupational safety and health rules for construction work and notes with interest the adoption, under section 100 of the Labour Code, of the Labour Code (Construction Safety) Regulations 2002 (Legal Notification No. 145 of 2002). It notes with satisfaction that these are applicable to all workplaces in which construction or demolition activities are carried out (section 2) and, in particular, that it ensures the full application of *Articles 2, 9, 13, 15, 16, 18, 19, 20, 22, 24, 25, 26, 29, 30, 32, 33 and 35 of the Convention.*

3. The Committee is raising certain other points in a request addressed directly to the Government.

Lithuania

Maximum Weight Convention, 1967 (No. 127) (ratification: 1994)

1. The Committee notes the Government's latest comprehensive report, which contains information on the application of the Convention as well as information on certain aspects of the practical application of this Convention.

2. The Committee also notes the observations of the Lietuvos Darbo Federacija (LDF) received in September 2004 regarding the application of the Convention in practice. The LDF points out that knowledge is not available concerning the practical application of the Convention in the country, which runs counter to the Law of international agreements of the Lithuanian Republic. With reference to the statistical data, supplied by the Government in its latest report with respect to target checks conducted in more than 80 per cent of undertakings where approximately 68,500 workers are engaged in manual handling of loads, focused on compliance with general regulations on the manual transport of loads, the Committee notes that on the basis of this information alone it is not possible to appreciate the application of the Convention in practice. *The Committee requests the Government to provide with its next report additional information*

concerning the application in practice of this Convention including data related to accidents reported and compensation claims raised or paid to enable the Committee to better appreciate the application of this Convention in practice.

Malta

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1988)

1. The Committee notes the information contained in the Government's report and the attached legislation.
2. *Article 1 of the Convention. Scope of application.* The Committee notes with interest the legislative measures taken to implement European Community legislation, in particular the adoption of the Occupational Health and Safety Authority Act (Chapter 424) (Act No. 27 of 2000), repealing the Occupational Health and Safety (Promotion) Act (Act No. 7 of 1994), the Occupational Health and Safety (Judicial Committee) (Procedure) Regulations, 1995, and sections 56 and 57 of the Factories (Health, Safety and Welfare) Regulations, 1986. It notes that Act No. 27 of 2000 applies to all branches of economic activity, in accordance with *Article 1* of the Convention. It notes the Government's statement that there are no specific regulations issued dealing with air pollution, which is considered as an occupational hazard within the scope of the Act. The Committee also notes with interest the adoption of the General Provisions for Health and Safety at Workplaces Regulation, 2003 (Legal Notice No. 36 of 2003), repealing sections 9, 11, 33, 43, 44, 45, 47, 48, 49, 50, 52, 53, 58, 59 and 60 of the Factories (Health, Safety and Welfare) Regulations, 1986. It notes that Legal Notice No. 36 of 2003 ensures the application of *Articles 1, 2, 5, 6, 7, 10, 13, 15 and 16* of the Convention.
3. *Article 5. Competent occupational safety and health authority.* The Committee notes that section 5 of Act No. 27 of 2000 establishes the Occupational Health and Safety Authority to ensure that the levels of occupational health and safety protection is respected, replacing the tripartite Commission for the Promotion of Occupational Health and Safety.
4. The Committee is raising certain other points in a request addressed directly to the Government.

Netherlands

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1991)

1. The Committee takes note of the Government's report and the information supplied including responses to the observations of the Netherlands Trade Union Confederation (FNV), the Trade Union Federation of Middle and Higher Level Employees (MHP) and the National Federation of Christian Trade Unions (CNV) made in the year 2004. The Committee also takes note of similar observations made by FNV, MHP and CNV this year.
2. *Article 9(1) of the Convention. Labour Inspectorate.* The Committee notes the information provided by the Government in respect of the number of inspectors, the number of health and safety inspections carried out on an average, the number of investigations into employee complaints and the number of fines imposed on an average. ***The Committee requests the Government to provide information on the total number of establishments in the country that are required to be inspected by the OSH inspectors, the frequency of such inspections and the functions of the OSH inspectors. In the light of the FNV's observations that complaints from workers regarding non-compliance with the laws are not always investigated, the Committee requests the Government to clarify whether all such complaints from workers are investigated.*** The Committee further notes the indication of the Government that, according to the internal regulations and procedures of the labour inspectorate, the anonymity of the person who makes the complaint is always protected. ***It requests the Government to transmit a copy of the relevant internal regulations of the labour inspectorate for its examination.*** The Committee also notes the indication of the Government that the works council always gets the opportunity to accompany the labour inspector together with the employer. It also notes that section 12 of the Working Conditions Act, 1998, requires the members of the works council to be given the opportunity to meet the concerned inspection officials during their visit to the company or the institute, without others being present and to be given the opportunity to accompany the said officials during their visit to the company or the institute, unless the officials state they have objections to this in connection with the proper implementation of their task. ***The Committee requests the Government to provide information in respect of the measures taken in practice, to give effect to these requirements.***
3. *Article 10. Safety and health covenants.* The Committee notes that the report submitted to Parliament on the results of the first nine safety and health covenants which lapsed in 2004 indicates that 57 per cent of the branches translate the agreements in the covenants into provisions contained in collective labour agreements entered into between the social partners at the branch level. It also notes the indication of the Government that such collective agreements would motivate the social partners to be continually vigilant about working conditions in their own sectors even after all the covenants lapse in the year 2006. ***The Committee requests the Government to indicate in its next report the measures taken to apply the provisions of the Convention in: (i) enterprises where no safety and health covenants had been concluded at all; and (ii) enterprises where safety and health covenants had been concluded but where no collective***

agreements have been entered into by the concerned social partners on the basis of the agreements contained in the covenants.

4. *Article 11, paragraph (c). Notification of occupational diseases.* The Committee takes note of the FNV's observation that there is under-reporting of occupational diseases to the Netherlands Centre for Occupational Sickness. It also notes the indication of the Government that the Netherlands Centre for Occupational Sickness is working together with the private occupational safety and health services to improve the reporting on occupational diseases. **The Committee requests the Government to indicate the measures taken in this respect, in its next report.**

5. *Part V of the report form. Practical application of the Convention.* The Committee notes the indication of the Government that the Dutch Occupational Health and Safety Platform (OHS Platform) was established at the initiative of social partners in order to make information on legal requirements and best practices on safety and health issues available to small and medium-sized businesses (SMEs) which constitute its main focus. It also notes that the OHS Platform is part of the network of National Focal Points in relation to the European Agency for Safety and Health at Work and is financially supported by the Ministry of Social Affairs and Employment. The Committee also notes that the FNV disagrees with the general conclusion of the Government that "on the whole the Dutch situation on occupational safety and health has clearly improved during the years 1999-2004". The FNV observes that for many years the total number of (deadly) accidents has remained unchanged. **The Committee requests the Government to continue providing information on the practical application of the provisions of the Convention, including information on the functioning of the OHS Platform.**

Prevention of Major Industrial Accidents Convention, 1993 (No. 174) (ratification: 1997)

1. The Committee notes the Government's report including the text of the Decree of 7 February 2004 amending the Working Conditions Decree, which the Committee now has been able to examine. It notes with satisfaction that the Decree gives effect to the provisions of the Convention. The Committee also notes the observations of the Netherlands Trade Union Confederation (FNV) on the Government's report of the year 2004 as well as the Government's reply to these observations concerning the contextual background to the recent legislative changes in the country including the implementation of a safety management system and the requirements to draw up additional risk inventory and evaluation documents (ARIE) for all installations combined and to have an ARIE document present at all installations. **The Committee requests the Government to provide additional information on the background to the legislative changes referred to above and the experiences gained in their practical application.**

2. *Practical application of the Convention.* The Committee notes that FNV considered that the Government's 2004 report was incomplete on the question of major industrial accidents that had occurred, while the Government replied that it had provided statistics on the number of enterprises covered by the relevant laws and regulations. Noting that the provision of statistics in respect of major industrial accidents involving hazardous substances is essential for the purpose of a general appreciation of the manner in which the Convention is applied, **the Committee requests the Government to continue to provide information on the practical application of the Convention including statistics of the major industrial accidents involving hazardous substances that occur in the reporting period.**

Norway

Radiation Protection Convention, 1960 (No. 115) (ratification: 1961)

1. The Committee notes the information contained in the Government's report and the attached documentation.

2. *Article 1 of the Convention. Giving effect to the Convention.* The Committee notes with interest the adoption of Ordinance No. 1362 of 21 November 2003 on Radiation Protection and Use of Radiation (as amended up to Ordinance No. 167 of 18 February 2005) (Ordinance No. 1362) that entered into force on 1 January 2004, implementing the provisions of Act No. 36 of 12 May on Radiation Protection and the Use of Radiation, replacing to a certain extent the Ordinance on work involving ionizing radiation (No. 1157 of 14 June 1985, as amended up to Ordinance No. 494 of 1 March 2004). The Committee notes the Government's statement that the harmonization between the two sets of rules is based upon the specialist competence possessed, respectively, by the Labour Inspection Authority (*Arbeidstilsynet*) and the Radiation Protection Authority (*Statens strålevern*). The Committee notes that the dose limits are regulated by the Radiation Protection Authority, while the provisions on medical examinations will continue to be regulated by the Ordinance on work involving ionizing radiation.

3. *Articles 3, paragraph 1, and 6, paragraph 2. Maximum permissible doses of ionizing radiation.* The Committee notes with satisfaction the Government's statement that Ordinance No. 1362 is based on recent recommendations from international organizations (ICRP, IAEA and EU) and that section 21 of Ordinance No. 1362 prescribes a dose limit of 20 mSv per calendar year for workers over the age of 18 years, provides that the dose limit for young workers (between the age of 16 and 18 years), as part of their vocational training, shall not exceed 5 mSv per year and that with respect to pregnant women (once the pregnancy has been notified) the dose to the foetus shall not exceed 1 mSv, which are all in compliance with the 1990 ICRP Recommendations.

4. The Committee is raising certain other points in a request addressed directly to the Government.

Paraguay

Radiation Protection Convention, 1960 (No. 115) (ratification: 1967)

1. The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

1. The Committee notes that the Minister of Public Health and Social Welfare has issued various resolutions concerning workers' exposure to ionizing radiations, in particular in the health sector. It further notes the Government's indication that resolution No. 678 of 16 July 1979 establishing standards concerning the risks related to the use of X-rays and radiotherapy in medical applications, has been repealed. The maximum permissible doses of ionizing radiations which may be received from sources external or internal to the body and maximum permissible amounts of radioactive substances which can be taken into the body are now fixed by resolution No. 488/90, issued by the Minister of Public Health and Social Welfare, approving technical standards and a manual on radiological protection and nuclear safety in the health sector. The Committee, noting that only the health sector is covered by resolution No. 488/90, requests the Government to indicate the activities, other than those in the health sector, which involve exposure to ionizing radiation and to provide information on the measures taken or contemplated to ensure that the provisions of the Convention are applied to *all* workers exposed to ionizing radiations in the course of their work, in accordance with *Article 2 of the Convention*.

2. *Article 3, paragraph 1, Article 6, paragraph 1, and Article 4.* The Committee notes that article 54 of resolution No. 488/90 refers to the dose limits established by the International Commission on Radiological Protection (ICRP) in 1990 to ensure effective protection of workers, which also served as a basis for the International Safety Standards of 1994. Pursuant to article 55(a) of resolution No. 488/90, the annual dose limit of exposure to ionizing radiation for workers directly engaged in radiation work is 50 mSv. The ICRP however adopted in 1990 a value of 20 mSv as the annual dose limit, averaged over five years (100 mSv), with the further provision that the effective dose should not exceed 50 mSv in any single year. With regard to the dose limits for pregnant women once the pregnancy is declared, article 58 in conjunction with article 66 of the above resolution provides for a dose limit which is three-tenths of the dose limits established for radiation workers, thus 15 mSv per year. The Committee would therefore draw the Government's attention to the explanations given in paragraph 13 of its 1992 general observation under the Convention where it referred to the Recommendations of the ICRP. In its current Recommendations, the ICRP recommends that the methods of protection at work for women who may be pregnant should provide a standard of protection for any unborn child broadly comparable with that provided for members of the general public, which are not to be exposed to more than 1 mSv. Once the pregnancy is declared, a supplementary equivalent dose limit of 2 mSv should be applied to the surface of the abdomen (lower trunk) for the remainder of the pregnancy. In this respect, the Committee notes with interest the Government's indication that in practice the dose limits adopted by the international organs are applied. At present, the Minister of Public Health and Social Welfare has submitted a draft law, which reflects the dose limits adopted by the ICRP in 1990. The Committee therefore requests the Government to indicate the present status of the above draft law within the legislative process. It further would ask the Government to supply a copy of the above draft law as soon as it has been adopted.

3. *Article 5.* The Committee notes that pursuant to article 54 of resolution No. 488/90, the objectives of effective radiation protection are determined by the application of the terms "justification", "optimization" and "limitation of individual doses", in conformity with the requirements set forth by the ICRP. It further notes that the above terms are defined in the introductory remarks to article 54 of resolution No. 488/90. However, this resolution as well as the other legislative texts adopted, neither do they really require that every effort has to be made to restrict the exposure of workers to the lowest practicable level, nor do they provide that any unnecessary exposure must be avoided by all parties concerned. The Committee therefore requests the Government to indicate the measures taken or contemplated to restrict workers' exposure to the lowest practicable level, and to ensure that any unnecessary exposure to ionizing radiations is avoided. In addition, the Committee asks the Government to explain the legal nature of the introductory remarks to each chapter of resolution No. 488/90, and to indicate in particular whether these remarks are binding and can therefore be used as a basis for legal claims.

4. *Article 6, paragraph 2.* The Committee notes that article 54 of resolution No. 488/90 refers to the dose limits established by the ICRP in order to optimize the protection of workers against ionizing radiations. The Committee understands from the above that the Government is obliged to review the maximum permissible dose limits established in the light of the current knowledge in order to comply with the dose limits adopted by the ICRP in 1990. In this respect, it notes again the Government's indication that a draft law is being prepared following the new dose limits adopted by the ICRP in 1990. The Committee hopes that the draft law will be adopted in the near future reflecting the current dose limits recommended by the ICRP concerning exposure to ionizing radiations.

5. *Article 7, paragraph 1(a).* Pursuant to article 55(a) of resolution No. 488/90, the dose limits for workers aged over 18 and who are directly engaged in radiation work is 50 mSv per year. The Committee recalls that the annual dose limit established by the ICRP for this category of workers is 20 mSv. The Committee accordingly hopes that the new draft law will be adopted in the near future and comply with the dose limit established by the ICRP which also served as a basis for the International Safety Standards of 1994.

6. *Part V of the report form.* The Committee notes the extracts of inspection reports which have been supplied with the Government's report, as well as the analysis of the results received by measurements carried out with dosimeters in order to supervise exposure to ionizing radiations of personnel employed at the "Centro de Imágenes Golden Center". The Committee invites the Government to continue to provide information on the practical application of the Convention in the country.

2. The Committee reiterates its deep concern on the serious situation shown in its previous comments, as well as the absence of new information. The Committee urges the Government to make every effort to take the necessary action in the very near future.

[The Government is asked to reply in detail to the present comments in 2006.]

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1967)

1. The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 6 and Part IV of the report form. The Committee notes the Government's indication that one of the inspection measures is the measurement of the temperature and the level of noise at the workplace. Depending on the results of these measurements, the inspector makes proposals and gives recommendations in order to improve the conditions prevailing at the workplace. The subsequent controls are carried out in intervals of 2, 7, 15, 30, 45, etc. days depending on the particular risk found during the inspection. The Committee, taking due note of this information, invites the Government to continue to supply information on the manner in which effect is given to the provisions of the Convention in practice.

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

Portugal

Asbestos Convention, 1986 (No. 162) (ratification: 1999)

1. The Committee notes the information provided in the Government's two reports, and particularly the observations of the General Confederation of Portuguese Workers (CGTP), criticizing the application of *Article 22, paragraph 3, of the Convention* relating to regular and continuing training of workers on the health hazards due to exposure to asbestos and methods of prevention and control. The Committee notes that this Article of the Convention is applied by section 278 of the new Labour Code. **However, the Committee would be grateful to be provided with additional information on the points raised by the CGTP.**

2. *Article 3, paragraph 2, and Article 15, paragraph 2. Periodical review and updating in the light of technical progress and advances in scientific knowledge.* The Committee notes the observations of the CGTP concerning the application of *Article 15, paragraph 2, of the Convention*. The CGTP indicates that there is no legal provision respecting the review and updating of exposure limits and criteria, and that the last review took place in 1993. In this respect, the Committee notes the information provided by the Government that the review and updating of the exposure limits set out in the national legislation will be undertaken when a directive is adopted by the Community for this purpose. **The Committee requests the Government to keep it informed of any developments in this respect and to provide a copy of the relevant national texts when they are adopted.**

3. The Committee is also addressing a request directly to the Government on certain other points.

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2002)

1. The Committee notes the information supplied in the Government's first report, the documentation attached to the report and the observations of the General Confederation of Portuguese Workers (CGTP). The CGTP raises objections about the application of the provisions on the evacuation of workers to a safe place when their health and safety are threatened, and the provisions to ensure that workplaces are healthy and safe (*Article 7, paragraphs (c), (d) and (e), Article 8 and Article 10, paragraphs (a), (b) and (c)*); the absence of special rules on safety and health representatives in mines; and the application of provisions on the selection and rights of health and safety representatives (*Article 13, paragraphs 1 and 2(b), (c), (d) and (f)*). In view of the above observations and the Government's response to them, and having examined the Government's first report, the Committee would appreciate receiving additional information on the following points.

2. *Article 7, paragraph (c), of the Convention. Measures to maintain the stability of the ground.* The Committee notes that, according to the CGTP, the specific provisions on health and safety in mines in the national legislation are not consistent with this Article of the Convention. The Committee notes in this connection that the regulations on health and safety in mines (Legislative Decree No. 162/90) appear to make no reference to steps to be taken in order to maintain the stability of the ground in areas to which persons have access in the context of their work. **The Committee requests the Government to indicate the measures taken or envisaged to ensure that full effect is given to this Article of the Convention.**

3. *Article 7, paragraph (d). Provision for two exits, each of which is connected to separate means of egress to the surface.* The Committee notes that in response to the CGTP's observations on this matter, the Government refers to section 7(7) of Legislative Decree No. 162/90, and section 5 of Order No. 198/96 setting minimum standards on emergency exits, which appear to give effect to this provision of the Convention. **The Government is requested to provide further information on the application of these provisions in practice.**

4. *Article 7, paragraph (e). Monitoring, assessment and regular inspection of mines and Part V of the report form. Practical application.* The Committee notes that in response to the CGTP's observations on this matter, the Government refers to sections 24, 39, 46, 130 and 44 of Legislative Decree No. 162/90, which contains provisions applying this Article of the Convention. In view of the CGTP's observations, **the Committee requests the Government to provide statistics and extracts of inspection reports, information on the number of workers covered by the legislation, disaggregated by sex, if available, the number and nature of contraventions reported and any information enabling the Committee to better assess the manner in which practical effect is given to the Convention throughout the country.**

5. *Article 8. Preparation of specific emergency response plans.* The Committee notes that in response to the CGTP's observations on this matter, the Government states that it sees no need to provide for specific measures in the event of emergencies in mines. **The Committee requests the Government to indicate the measures taken or envisaged to ensure that full effect is given to this Article of the Convention.**

6. *Article 10, paragraph (a). Training and instruction of miners.* The Committee notes that in response to the CGTP's observations on this subject, the Government refers to section 278(1) of the Labour Code under which for high risk work, employers are required to provide ongoing instruction for workers. This provision is supplemented by section 217 of Act No. 35/2004, which provides that pursuant to section 278(1) of the Labour Code, account must be taken of the size of the enterprise and the specific needs in the event of emergency, and by section 6 of Legislative Decree No. 324/95, which specifies that miners are entitled to receive proper instruction. **The Government is asked to provide more detailed information on the practical effect given to these provisions.**

7. *Article 10, paragraph (b). Supervision of mine work.* The Committee notes that in answer to the CGTP's observations on this subject, the Government refers to section 190 of the Labour Code containing general provisions on the organization of shift work. **The Committee requests the Government to indicate the measures taken or envisaged to ensure that full effect is given to this Article of the Convention.**

8. *Article 10, paragraph (c). System whereby the names and location of persons underground can be known.* Section 45(1) of Act No. 198/96 stipulates that the names of workers who are underground must be known at all times. The Committee reminds the Government that according to *Article 10, paragraph (c)*, of the Convention, a system must be established so that the names of all persons who are underground can be accurately known at any time, as well as their probable location. **The Committee requests the Government to indicate the measures taken or envisaged to ensure that this Article of the Convention is fully applied.**

9. *Article 13, paragraph 1(e). Right of workers to remove themselves from any location posing a serious danger, and Article 13, paragraph 2(b), (c), (e) and (f). Selection and duties of safety and health representatives in mines.* The Committee notes that in answer to the CGTP's general observations on this matter, the Government refers to the general provisions of the Labour Code and the Legislative Decree No. 162/90, which appear to give effect to these provisions of the Convention. **The Government is asked to provide more detailed information on the practical effect given to these provisions.**

Sierra Leone

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)

1. The Committee notes the Government's summary report submitted in June 2004 indicating that the Government had no new developments to report. It must therefore repeat its previous observation which read as follows:

For a number of years, the Committee has drawn the attention of the Government to the fact that the national legislation does not contain provisions to give effect to *Part II of the Convention* (prohibition of the sale, hire, transfer in any other manner and exhibition of unguarded machinery) and that it does not provide for the full application of *Article 17 of the Convention* (which applies to all sectors of economic activity), as it is not applicable to certain branches of activity, inter alia, sea, air or land transport and mining.

Since 1979, in reply to the Committee's comments, the Government has indicated in its reports that a Bill to revise the 1974 Factories Act was being drafted and would contain provisions consistent with those of the Convention, and would apply to all the branches of economic activity. In its latest report (received in 1986), the Government indicates that the draft Factories Bill, 1985, has been examined by the competent parliamentary committee and is to be submitted to Parliament for adoption.

With its report for the period ending 30 June 1991, the Government supplied a copy of extracts of the Factories Bill containing provisions which should give effect to *Part II* of the Convention. In this connection, the Government was requested to indicate the stage of the legislative procedure reached by the Bill and the body which was in the process of examination of the Bill. Since no information has been provided by the Government in this respect, the Committee once again expresses the hope that the abovementioned Bill will be adopted in the near future and requests the Government to provide a copy of this text, once it has been adopted.

2. The Committee urges the Government to make every effort to take the necessary action in the very near future.

Spain

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1985)

1. The Committee notes with interest the detailed information provided by the Government. It notes in particular that a large number of legislative texts – more than 100 according to the Government's report – have been adopted regarding occupational safety and health which, in the Government's view, have a particular importance to giving effect to the Convention: Decree No. 39/1999 of 5 November, on reconciling professional and family life; Legislative Decree No. 5/2000 of 4 August, approving the consolidated text of the Act on offences and penalties pertaining to social order; Decree No. 138/2000 of 4 February approving the regulation on organization and functioning of the work and social security inspector; Act No. 54/2003 of 12 December, reforming the framework of standards on occupational risk prevention; and Decree No. 171/2004 of 30 January, enlarging on the provisions of section 24 of Act No. 31/1995 of 8 November, on occupational risk prevention. The Government also draws the Committee's attention to the adoption of the following texts: Decree No. 614/2001 of 8 June, on minimum standards in protecting workers' safety and health against the risks involved in using electricity; Decree No. 374/2001 of 6 April, on protecting workers' safety and health

against the risks involved in the occupational use of chemical agents; Decree No. 681/2003 of 12 June, on protecting workers' safety and health against the risks of exposure to explosive agents; Decree No. 1124/2000 of 16 June, on protecting workers' safety and health against occupational exposure to carcinogenic agents; and Decree No. 349/2003 of 21 March, extending the latter's scope to mutagenic agents. ***Noting those important developments, the Committee requests the Government to submit a detailed report, indicating the manner in which this new legislation contributes to the application of the Convention, including succinct information on the principal changes from the previous situation.***

2. The Committee notes the information supplied in response to its comments of 2000 regarding the observations of the General Union of Workers (UGT) on occupational accidents in Spain. The Committee notes that the Government indicates that the high number of cases to which the UGT refers can be explained by the fact that the "occupational accident" definition, for the purpose of statistics, is broader in Spain than in other European countries, since Spain's data include occupational accidents that occur on the way to work and "non-traumatic pathologies", accidents concerning employers and self-employed workers, as well as accidents causing an interruption of work of less than three days. The Government also indicates that the accidents are notified in a way which unduly increases the numbers, but that this anomaly is being rectified. Finally, the Government specifies that, based on a detailed examination of workplace accidents that had occurred between 1999-2003 – which are the relevant accidents in the context of inspection and prevention – the majority of these accidents were "less serious" accidents. ***The Committee requests the Government to continue to provide information concerning the trends regarding occupational accidents, as well as further information regarding the type of accidents considered as "less serious", other more serious accidents, and on measures taken after such "more serious accidents".***

3. In its report, the Government also refers to specific measures taken at national and institutional level. These include the adoption, at sectoral meetings, of annual integrated programmes concerning the activities carried out by the Labour and Social Security Inspectorate in pursuing its objectives for improving occupational safety and health and reducing the number of occupational accidents. The Committee notes the information that one of the areas covered by the action plan to combat occupational accidents, adopted by the National Health and Safety Commission in 1998 is to "strengthen action in the areas of supervision, control and penalties". The Committee notes that this action plan was in particular aimed at establishing coordinated action between the various partners involved, such as the general state administration, the autonomous communities, and workers' and employers' organizations, in order to increase the efficiency of the various partners' activities. In addition to these general measures, the abovementioned programmes covered all actions aimed at reducing the number of occupational accidents, without prejudice to autonomous communities' specificities, as well as to the specific action for sectors with jobs that were deemed to be particularly dangerous or sectors having a higher number of accidents. ***The Committee requests the Government to continue to provide information on the above mentioned measures taken, as well as on their impact in practice. The Committee also requests the Government to indicate if a revision of the action plan is foreseen in the near future.***

4. The Committee notes the information that the legal reform referred to previously (paragraph 1) had become necessary, inter alia, to make employers more accountable with regard to the prevention of risks falling within their purview, and to extend their responsibility beyond a mere formal application of the obligations laid down in the collective agreement between the Government and the social partners. The abovementioned reform concerned the legal framework for risk prevention, taking into account new forms of work organization – in particular the use of subcontractors in the construction sector – and the strengthening of the supervisory system of the Labour and Social Security Inspectorate, inter alia, by stepping up activities to raise awareness and promote preventive action by setting up campaigns to inform the public about the prevention of occupational risks. The Committee notes in particular the information that Instruction No. 104/2001 on relations between the Labour and Social Security Inspectorate and the Public Prosecutor regarding criminal breaches of occupational safety and health was adopted, in order to promote greater coordination and efficiency in the application and defence of the penal provisions on offences pertaining to occupational safety and health. The Committee notes this information and observes that subject to a detailed examination of the newly adopted legislation, the efforts made during the period covered by the report hold promise for improved accident prevention countrywide. It hopes that all the Government's efforts, including the nationwide coordination of occupational safety and health activities will be reflected in the practice of enterprises and, ultimately, in the occupational accidents statistics. ***The Committee requests the Government in its next report to provide additional and detailed information on the manner in which the Convention is applied at the enterprise levels, including extracts of labour inspection reports and the number and nature of contraventions ordered.***

5. The Committee also notes the information provided by the Government in response to its comments of 2000 regarding the observations of the Democratic Confederation of Labour (CDT-Morocco) reporting acts of xenophobia, racism, and intolerance against migrant Moroccan workers and their families in El Ejido. The Committee notes that the Government refers to the report of the Labour and Social Security Inspectorate in Almeria, including the examination of the action undertaken regarding foreign workers. According to the Government, this examination, which started in September 2003 and lasted for nine months, covered 173 reports of contraventions and revealed that the Provincial Inspectorate was not informed by Moroccan workers of irregularities, discrimination, lack of supervision of employment and working conditions in rural areas, or bad treatment affecting the workers' dignity and physical and psychological integrity. The Government concludes that it is impossible to ascertain the existence of ill treatment and discrimination

against these workers. The Committee points out that in previous comments, likewise based on an observation from CDT-Morocco, it referred to particularly harsh working conditions in greenhouses, where migrant workers are often employed and that the government stated that an agreement between agriculturists' organizations and trade unions on the scrupulous application of the collective bargaining agreements and that occupational safety and health inspectors are also collaborating. The Committee notes that the Government's latest report contains no information in this respect. With reference to the significant efforts to improve the occupational safety and health situation in the country demonstrated by the legislative changes introduced, *the Committee urges the Government to take all necessary measures to ensure that all workers – irrespective of the nature of the employment relationship under which they work – are able to draw the benefit thereof through effective implementation of the relevant legislation, efficient dissemination of information regarding applicable laws and regulations including possible means of redress and further improvements of the labour inspection services including the development of appropriate methods to monitor the working conditions of all workers in the country. The Committee requests the Government to provide the information mentioned and to keep it informed of any progress made regarding the application of the legislation to all workers in the country.*

[The Government is asked to reply in detail to the present comment in 2006.]

Sweden

Radiation Protection Convention, 1960 (No. 115) (ratification: 1961)

1. The Committee notes the information contained in the Government's report and the numerous attachments.
2. *Article 3. Adoption of rules.* The Committee notes with interest that the Government continues to adopt rules to ensure the effective protection of workers against ionizing radiation. It notes, inter alia, that the Working Environment Authority has issued regulations under section 18 of the Working Environment Ordinance (SFS 1977:1166) which include provisions to limit exposure to radon and radon daughters. It notes, in particular, the updated occupational exposure limit values and measures against air contaminants (AFS 2000:3) and the regulations with respect to rock work (AFS 2003:2) and that sections 21 to 23 of the latter regulations state that low radon and radon daughter concentrations shall be aimed for in all workplaces below the ground.
3. *Article 15. Labour inspection.* The Committee notes with interest the Government's statement that during the last five years labour inspection of radioactive sources has become more intensified.

Switzerland

Asbestos Convention, 1986 (No. 162) (ratification: 1992)

1. The Committee notes with interest the information provided by the Government concerning the introduction of one of the world's most severe average exposure limits (VLM) concerning asbestos of 10,000 fibres per m³ or 0.01 fibres/ml air as of 1 January 2003.
2. The Committee also notes with interest the information provided regarding the measures taken by the Caisse nationale d'assurance en cas d'accidents – Swiss National Accident Insurance Fund (CNA/Suva) – in collaboration with its main partners (including the Federal Office for Public Health (OFSP), the Federal Office for the Environment, Forests and Land (OFEFP), the Federal Office for Building and Construction (OFCL), trade unions and employers) – to coordinate national action in relation to asbestos and to step up the dissemination of relevant information.
3. Finally, the Committee notes with interest the measures taken to identify persons who have been exposed to asbestos through, inter alia, a review of medical journals, direct contacts with the medical profession, as well as through the specific initiative to collaborate with relevant authorities in neighbouring Italy in order to trace Italian workers who previously have been employed in Switzerland and entitled to benefits.
4. *The Committee requests the Government to submit the relevant text prescribing the new VLM for asbestos and to keep it informed on further developments and progress in all the areas noted above.*
5. The Committee is addressing a request directly to the Government on other points.

United Kingdom

Radiation Protection Convention, 1960 (No. 115) (ratification: 1962)

1. The Committee notes the information contained in the Government's report and the attached legislation.
2. *Article 1 of the Convention. Giving effect to the Convention.* With regard to Northern Ireland, the Committee notes with interest the adoption of the Ionizing Radiations Regulations (Northern Ireland) 2000 (Statutory Rule No. 375 of 2000) (IRR(NI)), which came into force on 8 January 2001, replacing the Ionizing Radiations Regulations (Northern Ireland) 1985. It further notes with interest the Government's statement that the Health and Safety Commission, with the consent of the Minister of State for the Environment, Transport and the Regions of Northern Ireland, has adopted the Approved Code of Practice (ACoP) "Work with ionizing radiation" applicable to Great Britain and that Northern Ireland

does not intend to produce a separate code of practice. The Committee notes in this respect that the ACoP has a special legal status and may be relied upon in a court of law and that employers, workers' representatives and other interested parties are consulted during the development of an ACoP, in the same way as for regulations, in accordance with the Convention.

3. *Articles 3, paragraph 1, and 6, paragraph 2. Permitted dose limits.* With respect to Northern Ireland, the Committee notes with interest that Regulation 11 of the IRR(NI) 2000, together with paragraphs 1 and 2 of Schedule 4, Parts I and II, establishes dose limits for exposure to ionizing radiation which reflect the recommendations adopted by the International Commission on Radiological Protection (ICRP) in 1990 to which the Committee referred in its 1992 general observation under the Convention. The Committee also notes with interest Regulation 8(5)(a) of the Ionizing Radiation Regulations 1999 (IRR) under which women workers, once the pregnancy is declared, shall not be exposed to more than 1 mSv per year during the remainder of the pregnancy, in accordance with the ICRP recommendations. With respect to Northern Ireland, the Committee notes with interest Regulation 8(5)(a) of the IRR(NI) 2000 providing the same protection for pregnant women as for Great Britain.

4. *Article 7, paragraph 2. Young workers under the age of 16 years.* With respect to the general prohibition of engaging workers under the age of 16 years in work involving ionizing radiations, as required by the Convention, the Committee notes the Government's statement that it still intends, in consultation with the social partners, to introduce a general prohibition to engage workers under the age of 16 years in radiation work "when an appropriate legislative opportunity arises". ***The Committee, having previously urged the Government to take appropriate action to ensure the full application of this Article, hopes that this will be undertaken in the very near future and requests the Government to provide precise information in this respect in its next report.*** With respect to Northern Ireland, the Committee notes that Regulation 11 and Schedule 4, Regulation 11, Part I, Regulation 6 of the IRR(NI) provide that the effective dose for workers below the age of 16 shall not exceed 1 mSv in any calendar year. ***In this respect, the Committee recalls its comments on the legislation applicable to Great Britain and asks the Government to take appropriate action, in consultation with the social partners, towards the incorporation of a general interdiction to engage workers under the age of 16 years in radiation work in Northern Ireland, in conformity with this Article of the Convention. The Government is requested to provide information in this respect in its next report.***

5. *Article 13. Emergency work.* The Committee notes with interest the adoption of the Radiation (Emergency Preparedness and Public Information) Regulations 2001 (Statutory Instrument No. 2975 of 2001), which entered into force on 20 September 2001. It notes the obligation on employers to prepare an emergency plan (Regulation 7). The Committee notes, however, that "emergency exposure" under Regulation 2 (interpretation) is defined as "to bring help to endangered persons, prevent exposure of a large number of persons or save a valuable installation or goods". The Committee recalls the indication provided under paragraphs 16 to 27 and 35(c)(iii) of its 1992 general observation under the Convention and to paragraphs V.27 and V.30 of the International Basic Safety Standards, where it is explained that, according to the ICRP, the strict definition of circumstance in which exceptional exposure of workers, exceeding the normally tolerated dose limit, is to be allowed covers only situations of "immediate and urgent remedial work", thus exceptional exposure of workers may not be invoked to justify avoiding the "loss of valuable property". ***The Committee requests the Government to provide information in its next report on measures taken or envisaged to amend the definition of "emergency exposure" in order to fully apply the Convention.*** Furthermore, the Committee notes the obligation of medical surveillance to be carried out without delay in the event of a radiation emergency (Regulation 14(1)(d)) and that the competent authority, in this case, the Health and Safety Executive, shall be notified "without delay" (Regulation 13(1)). ***The Committee requests the Government to provide information in its next report on the interpretation of "without delay" in respect of medical examination and notification to the competent authority.***

6. With respect to Northern Ireland, the Committee notes with interest the adoption of the Radiation (Emergency Preparedness and Public Information) Regulations (Northern Ireland) 2001, providing for employers' obligation to prepare an emergency plan (Regulation 7). However, the Committee notes that "emergency exposure" under Regulation 2 (interpretation) is defined as "to bring help to endangered persons, prevent exposure of a large number of persons or save a valuable installation or goods". ***The Committee recalls the reference made above with respect to Great Britain and requests the Government to provide information on measures taken or envisaged to amend the definition of "emergency exposure".*** Furthermore, the Committee notes the obligation of medical surveillance to be carried out without delay in the event of a radiation emergency (Regulation 14(1)(d)) and that the competent authority, in this case the Health and Safety Executive, shall be notified "without delay" (Regulation 13(1)). ***The Committee requests the Government to provide information in its next report on the interpretation of "without delay" in respect of medical examination and notification to the competent authority.***

7. The Committee is raising certain other points in a request addressed directly to the Government.

Anguilla

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)

1. The Committee takes note of the Government's report. The Committee notes that in reply to its previous comments, the Government has indicated that no regulations have yet been issued to ensure the protection of workers against hazards due to air pollution. The Committee recalls in this regard that the obligations under this Convention in respect of air pollution were accepted and made applicable to Anguilla by declaration without modification dated 11 July 1980. The Committee further recalls that it had in several previous comments drawn the attention of the Government to *Article 4 of the Convention* which provides that national laws or regulations shall prescribe that measures be taken for the prevention and control of, and protection against, occupational hazards in the working environment due to air pollution and that provisions concerning the practical implementation of these measures may be adopted through technical standards, codes of practice or other appropriate methods.

2. The Committee also recalls that it had in several previous comments made since the year 1991 expressed the hope that the Government would take the necessary measures either by means of adopting regulations under section 20(1) of Labour Ordinance No. 8 of 1996 or by adopting other appropriate methods to ensure the protection of workers against hazards due to air pollution.

3. The Committee further recalls that the Government had in its report furnished in the year 2000 indicated that it intended before the end of the year to take measures to ensure that national laws and regulations are prescribed in accordance with the Convention. In the circumstances, the Committee regrets to note that the Government has still not taken the necessary measures to protect workers against the hazards caused by air pollution.

4. ***The Committee trusts that the Government will in the very near future take appropriate measures to protect workers against the hazards of air pollution and requests the Government to indicate in its next report, the measures taken or envisaged in this regard.***

Uruguay

Radiation Protection Convention, 1960 (No. 115) (ratification: 1992)

1. The Committee notes with satisfaction the adoption of Basic regulation of radiological protection and safety, Norma UY100, approved by resolution of 28 June 2002 of the Ministry of Industry, Energy and Mining, which establishes legally-fixed dose limits of exposure for various categories of workers (*Article 1, Article 3, paragraph 1, and Article 6, paragraph 2, of the Convention*), a dose limit of ionizing radiation, of the same level as for the general public, for workers not directly engaged in radiation work, but who remain or pass through places where they may be exposed to ionizing radiation (*Article 8*), the requirement to elaborate and supervise training programmes for workers, as well as to install an identification system for sources of potential exposure to radiation (*Article 9*), the requirement to draw up medical supervision programmes for workers (*Article 13(a)*), the arrangements to carry out inspection activities of the National Directorate of Nuclear Technology (*Article 15*) and the necessary arrangements for emergency situations and accidents.

2. The Committee is addressing a request directly to the Government on certain other matters.

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1980)

1. *Article 1 of the Convention. Periodical determination of the carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorization or control.* With reference to its previous comments regarding the information on the responsibility of the Ministry of Public Health to update and revise the tables, annexed and referred to in sections 2-6 of Decree No. 183/982 of 29 May 1982, on measures to protect workers against the hazards caused by carcinogenic substances or agents, the Committee notes with interest the adoption of the National Code of 18 February 2004 on the compulsory notification of diseases and sanitary events. The mentioned legal text contains a list of diseases, including occupational ones, which shall be declared within a prescribed deadline. The Committee points out that this text does not create any mechanism ensuring that the carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorization or control. ***The Committee urges the Government to make due efforts in order to give effect to this Article of the Convention.***

2. *Article 3. Practical measures to protect workers against the risks of exposure to carcinogenic substances and agents.* With reference to its previous comments regarding the establishment by the General Labour and Social Security Inspection Service (IGTSS) of a register of communications made by enterprises using carcinogenic substances and agents, in conformity with section 9 of the abovementioned Decree No. 183/982, the Committee notes that the Government's latest report is silent in relation to any action to ensure the application in practice of this Article. ***The Committee once again requests the Government to adopt the appropriate practical measures to give effect to this provision of the Convention.***

3. *Article 5. Workers' medical examination during the period of employment and thereafter.* The Committee notes with interest that article 1 of the resolution of the Ministry of Health establishes a basic scheme of chemical and physical

risk factors, the respective modalities of medical control for each factor, as well as the determination of specific periods of control. Article 2 of the same resolution prescribes that values of each substance will be updated once every year. A special health control plan can be required by a physician specialist in industrial medicine and occupational health which should include the periodicity of control, as is laid down in article 3 of the resolution. Taking due note of the mentioned provisions of the resolution in question, the Committee recalls that this article prescribes that medical examinations shall be carried out after employment. With reference to its previous comments and while the Government's latest report is silent with respect to the existence of any provision which gives effect to this point of the Convention, ***the Committee requests the Government to take necessary measures to ensure that medical examinations should be carried out after the period of employment.***

4. *Article 6, paragraph (c). Measures to provide that appropriate inspection is to be carried out.* With reference to its previous comments regarding the requirement to provide appropriate inspection services for supervising the application of the Convention, as well as regarding the specific plan for supervising the enterprises which handle or use carcinogenic substances that should be set up by the IGTSS, in accordance with article 11 of Decree No. 183/982, the Committee notes that the Government's latest report does not contain the information requested. The Committee refers to the indication made by the Government in its earlier report that inspections are carried out only as a result of declarations by workers. ***The Committee urges the Government to take necessary measures to adopt provisions in order to ensure the application of this Article of the Convention and requests the Government to provide information on the organization, functions and powers of the inspection services responsible for supervising the application of the provisions of the Convention.***

5. *Part IV of the report form. Statistical data.* In the absence of any information concerning practical application of the Convention which was requested in its previous comment, ***the Committee expresses the hope that the Government will take the necessary measures to collect and communicate statistics on the number of workers protected by legislation, or other measures which give effect to the Convention, disaggregated by sex if possible, the number and nature of the contraventions reported and the number, nature and cause of cases of disease.***

Zimbabwe

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2003)

1. The Committee notes the Government's comprehensive first report on the measures taken to give effect to the Convention, received in the ILO at the end of September 2005.

2. The Committee notes a communication received in September 2005 from the Zimbabwe Congress of Trade Unions (ZCTU), which contains observations concerning the application of the Convention by Zimbabwe. It notes that this communication was sent to the Government on 24 October 2005 for any comments it might wish to make on the matters raised therein. The Committee observes that no such comments have been received from the Government so far and hopes that the Government will communicate its comments with its next report, so as to enable the Committee to examine them at its next session.

[The Government is asked to reply in detail to the present comments in 2006.]

Occupational Health Services Convention, 1985 (No. 161) (ratification: 2003)

1. The Committee notes the Government's comprehensive first report on the measures taken to give effect to the Convention, received in the ILO at the end of September 2005.

2. The Committee notes a communication received in September 2005 from the Zimbabwe Congress of Trade Unions (ZCTU), which contains observations concerning the application of the Convention by Zimbabwe. It notes that this communication was sent to the Government on 24 October 2005 for any comments it might wish to make on the matters raised therein. The Committee observes that no such comments have been received from the Government so far and hopes that the Government will communicate its comments with its next report, so as to enable the Committee to examine them at its next session.

[The Government is asked to reply in detail to the present comments in 2006.]

Asbestos Convention, 1986 (No. 162) (ratification: 2003)

1. The Committee notes the Government's comprehensive first report on the measures taken to give effect to the Convention, received in the ILO at the end of September 2005.

2. The Committee notes a communication received in September 2005 from the Zimbabwe Congress of Trade Unions (ZCTU), which contains observations concerning the application of the Convention by Zimbabwe. It notes that this communication was sent to the Government on 24 October 2005 for any comments it might wish to make on the matters raised therein. ***The Committee observes that no such comments have been received from the Government so far and hopes that the Government will communicate its comments with its next report, so as to enable the Committee to examine them at its next session.***

[The Government is asked to reply in detail to the present comments in 2006.]

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2003)

1. The Committee notes the Government's comprehensive first report on the measures taken to give effect to the Convention, received in the ILO at the end of September 2005.

2. The Committee notes a communication received in September 2005 from the Zimbabwe Congress of Trade Unions (ZCTU), which contains observations concerning the application of the Convention by Zimbabwe. It notes that this communication was sent to the Government on 24 October 2005 for any comments it might wish to make on the matters raised therein. The Committee observes that no such comments have been received from the Government so far and hopes that the Government will communicate its comments with its next report, so as to enable the Committee to examine them at its next session.

[The Government is asked to reply in detail to the present comments in 2006.]

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 13** (Azerbaijan, Benin, Cambodia, Colombia, Côte d'Ivoire, Croatia, Czech Republic, Estonia, Finland, France: New Caledonia, Italy, Lao People's Democratic Republic, Serbia and Montenegro); **Convention No. 45** (Angola, Argentina, Austria, Azerbaijan, Bahamas, Bangladesh, Belarus, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Cameroon, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Dominican Republic, Ecuador, Egypt, Estonia, Fiji, France, France: French Guiana, France: French Polynesia, France: Martinique, France: New Caledonia, France: Réunion, France: St. Pierre and Miquelon, Gabon, Germany, Greece, Guatemala, Guinea-Bissau, Haiti, Honduras, Hungary, India, Indonesia, Italy, Japan, Lebanon, Lesotho, Malawi, Pakistan, Russian Federation, Saudi Arabia, Serbia and Montenegro, Sierra Leone, Solomon Islands, Swaziland, Switzerland, Syrian Arab Republic, Ukraine, United Kingdom: Falkland Islands (Malvinas), United Kingdom: Gibraltar, Bolivarian Republic of Venezuela); **Convention No. 62** (Democratic Republic of the Congo, Greece, Guinea, Ireland); **Convention No. 115** (Belarus, Belgium, Belize, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Denmark, Egypt, Finland, France, France: New Caledonia, France: St. Pierre and Miquelon, Germany, Guyana, Italy, Lebanon, Norway, Portugal, Sweden, Turkey, Ukraine, United Kingdom: Guernsey, United Kingdom: Jersey, Uruguay); **Convention No. 119** (Croatia, Paraguay, Serbia and Montenegro); **Convention No. 120** (Azerbaijan, Belarus, Brazil, Czech Republic, Denmark, Finland, France: New Caledonia, Ghana, Indonesia, Iraq, Italy, Japan, Lebanon, Norway, Russian Federation, Slovakia, Spain); **Convention No. 127** (France, Thailand); **Convention No. 136** (Chile, Colombia, Côte d'Ivoire, Croatia, Finland, France, France: Guadeloupe, France: Martinique, Guinea, Hungary, India, Iraq, Serbia and Montenegro, Zambia); **Convention No. 139** (Argentina, Brazil, Croatia, Czech Republic, Egypt, Finland, Guinea, Iceland, Ireland, Lebanon, Norway, Portugal, Serbia and Montenegro, Syrian Arab Republic); **Convention No. 148** (Azerbaijan, Belgium, China: Macau Special Administrative Region, Denmark, France, Ghana, Guinea, Italy, Kyrgyzstan, Latvia, Malta, Niger, San Marino, Serbia and Montenegro, Seychelles, Spain, Zambia); **Convention No. 155** (Belarus, Brazil, China: Macau Special Administrative Region, Croatia, Czech Republic, Denmark, Kazakhstan, Lesotho, Luxembourg, Mexico, Republic of Moldova, Mongolia, Portugal, Serbia and Montenegro, Slovenia, South Africa, Uruguay); **Convention No. 161** (Benin, Burkina Faso, Colombia, Czech Republic, Serbia and Montenegro, Slovakia); **Convention No. 162** (Belgium, Brazil, Canada, Chile, Colombia, Finland, Norway, Portugal, Serbia and Montenegro, Sweden, Switzerland); **Convention No. 167** (Belarus, China: Macau Special Administrative Region, Colombia, Iraq, Lesotho); **Convention No. 170** (Burkina Faso, China, Colombia, Sweden, Zimbabwe); **Convention No. 174** (Colombia, Estonia, Saudi Arabia); **Convention No. 176** (Austria, Botswana, Czech Republic, Finland, Germany, Ireland, Lebanon, Philippines, Poland, South Africa, Spain, Sweden, United States, Zambia); **Convention No. 184** (Finland, Republic of Moldova, Slovakia).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 120** (Belgium, China: Macau Special Administrative Region, Mexico); **Convention No. 139** (Belgium); **Convention No. 148** (United Kingdom).

Social Security

Antigua and Barbuda

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1983)

The Committee notes with regret that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

For many years the Committee has been drawing the Government's attention to the fact that the national legislation (Workmen's Compensation Ordinance, No. 24 of 1956, as amended) on compensation for occupational accidents does not allow full effect to be given to the Convention with regard to:

Article 5 of the Convention. Section 8 of the Workmen's Compensation Ordinance, No. 24 of 1956, should be amended so as to ensure that the compensation due in the event of accidents causing permanent incapacity shall be paid in the form of periodical payments, provided that it may be paid wholly or partially in a lump sum, if the competent authority is satisfied that it will be properly utilized.

Article 7. This provision of the Convention provides for additional compensation for victims of injuries who need the assistance of a third person. However, section 9 of the above Ordinance provides for additional compensation only in the event of temporary incapacity.

Article 9. According to section 6(3) of the above Ordinance, the employer is responsible for paying the "expenses and reasonable cost" of medical treatment undergone by a worker as a result of an occupational accident up to a prescribed amount, whereas the Convention does not prescribe any limits in such cases. Furthermore, the legislation does not appear to make express provision for surgical and pharmaceutical costs, contrary to this Article of the Convention. The Committee therefore asks the Government to take the necessary steps to give full effect to this provision of the Convention.

Article 10. The Committee notes that the legislation does not ensure the provision of surgical appliances and artificial limbs in general. Section 10 of the abovementioned Ordinance provides for the supply of artificial limbs only when this is likely to improve the earning capacity. The Committee recalls that this provision of the Convention requires surgical appliances and artificial limbs to be supplied in all cases in which they are recognized as necessary, and not only with a view to improving the earning capacity. The Committee therefore asks the Government to take the necessary measures to bring its legislation into full conformity with this Article of the Convention.

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

Barbados

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1974)

With reference to its previous observations, the Committee recalls that section 49 (in conjunction with section 48) of the National Insurance and Social Security (Benefits) Regulations of 1967 and section 25 of the Employment Injury (Benefits) Regulations of 1970 deprive a beneficiary residing abroad of the right to ask for the benefit to be paid directly to him at his place of residence, which is contrary to the provisions of *Article 5 of the Convention*. In its previous report of 2002, the Government stated that approval has been given for direct payment of the benefits in the country where the claimant is currently residing, that corresponding amendments of the National Insurance and Social Security Act were approved by the Government to bring it in accordance with *Article 5* of the Convention, and that the procedural steps were taken to submit these amendments to Parliament for enactment. In its latest report, received in June 2005, the Government indicates that a draft bill has been prepared for benefits to be paid to persons residing abroad and that a copy of the new provisions will be forwarded to the ILO as soon as they are adopted by Parliament. In addition, the report provides detailed statistics on the number and nationality of the beneficiaries to whom benefits are transferred abroad under the CARICOM Agreement on Social Security 1996 and the bilateral agreements with Canada and the United Kingdom. It also contains comments of the Congress of Trade Unions and Staff Associations of Barbados, which sees no reason why the Government of Barbados should not apply this Convention, particularly in view of the fact that Barbados is also bound by the CARICOM Agreement on Social Security 1996, which provides for equality of treatment for residents.

The Committee notes this information. It recalls that, in granting equality of treatment for residents of the contracting parties under their social security legislation, the CARICOM Agreement ensures protection and maintenance of the rights of beneficiaries "notwithstanding changes of residence among their respective territories – principles which underlie several of the Conventions of the International Labour Organization". The Committee wishes to recall in this respect that, in accordance with the principle of the maintenance of rights through the provision of benefits abroad, as established by Convention No. 118, Barbados shall guarantee direct payment of the benefits to all entitled beneficiaries at their place of residence, irrespective of the country in which they reside and even in the absence of a bilateral or multilateral agreement to that effect. ***It therefore trusts that the Government will make every effort to ensure that the bill is adopted in the very near future so as to ensure direct payment at their place of residence abroad of old-age, survivors' and employment injury benefits, both to its own nationals and to nationals of any other Member that has accepted the obligations of the Convention in respect of these branches. The Committee hopes that the Government's***

next report will contain a copy of the new provisions together with detailed statistics on the transfer of benefits abroad to beneficiaries, including Barbadian nationals, who are not covered by the CARICOM Agreement or bilateral agreements with Canada and the United Kingdom.

Central African Republic

Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) (ratification: 1964)

In its previous comments, the Committee recalled that, since the Convention came into force for the Central African Republic, it has been noting that the schedule of occupational diseases annexed to Ordinance No. 59/60 of 20 April 1959 does not give effect to the Convention. It has therefore drawn the Government's attention to the need to amend the above schedule, firstly by eliminating the limitative nature of the list of pathological manifestations which may be caused by lead and mercury poisoning and, secondly, by adding, among the kinds of work which may lead to anthrax infection, the operations of "loading and unloading or transport of merchandise" in general, in accordance with *Article 2 of the Convention*. The Committee recalls in this respect that in its report in 1980 the Government already referred to the adoption of a draft decree prepared following a direct contacts mission between a representative of the Director-General of the ILO and the competent national services with a view to bringing the legislation into conformity with the Convention. It also recalls that the Conference Committee indicated its concern in 1981 and 1983 at the absence of progress in the adoption of the above draft decree.

In its last report, the Government indicates, as in its previous reports, that the occupational disease branch is not yet covered and that it does not have precise information on the manner in which occupational diseases are compensated, as their coverage is established through collective agreements.

While taking due note of this information, the Committee once again expresses concern at the continued failure to establish an occupational disease branch in the country based on the general principles of the national legislation relating to compensation for industrial accidents. It notes that the Government makes no mention in its report of Ordinance No. 59/60 of 20 April 1959, whereas since the entry into force of this Convention for the Central African Republic, it had always referred to this text as being the legislation giving effect to the Convention in view of the absence of the schedule of occupational diseases which was to be established in accordance with Act No. 65/66 of 24 June 1965 establishing the scheme for the compensation and prevention of employment accidents and occupational diseases. The Committee recalls that, by ratifying the Convention, the Government undertook, firstly, to ensure that compensation shall be payable to workmen incapacitated by occupational diseases or to their dependants in accordance with the general principles of the national legislation relating to compensation for industrial accidents, in accordance with *Article 1* of the Convention and, secondly, to consider as occupational diseases those diseases and poisonings produced by the substances set forth in the Schedule appended to the Convention, in accordance with *Article 2*. ***Under these conditions, the Committee trusts that the Government will not fail to clarify this situation by specifying in its next report the texts governing occupational diseases and those establishing the schedule of diseases recognized as being occupational in origin; if the Ordinance of 1959 referred to above is still applicable, the Committee once again urges the Government to take the necessary measures to amend the schedule of occupational diseases appended to Ordinance No. 59/60, taking into account the comments made above.*** Please also provide information, in accordance with *Part V of the report form*, on the activities of the labour inspectorate relating to occupational diseases.

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1964)

The Committee notes that the Government's report once again contains no reply to previous comments. It is therefore bound to repeat its previous observation, which read as follows:

The Committee recalls that it has been commenting since 1968 on the issue of restrictions on payment abroad of employment injury benefit and old-age benefit, and that the matter has also been discussed on several occasions at the Conference Committee, most recently in June 1993. On that occasion, the Government stated that it had prepared the necessary draft to amend the legislation and that it wished to receive ILO technical assistance in this respect. In its report of 1997, the Government again referred to the draft texts under preparation. However, no mention of this text is made in the Government's latest report received in August 2001, which indicates only that the Committee's comments have been transmitted to the General Directorate of the Central African Social Security Office (OCSS). The Committee regrets to note that no new measure affecting the application of the Convention has been taken by the Government. ***In these circumstances, the Committee once again expresses the hope that the changes to the legislation mentioned by the Government since 1993 will be finalized and adopted in the very near future, by laws, regulations or other means, without the need for further reminders to be given to the Government. The Committee trusts that changes will be effected in legislation with a view to ensuring that full effect be given to the Convention with regard to the following points.***

Article 4 of the Convention (branch (g) (Employment injury benefit). Section 27 of Act No. 65-66 of 24 June 1965 on industrial accident compensation should be supplemented by an express provision that in the case of a victim of an employment injury who was a national of a State which has accepted the obligations of the Convention concerning employment injury benefit, his dependants (survivors), even if they were resident abroad at the time of the victim's death and continue to reside abroad, shall receive survivor's benefits, if it is proved that they were actually dependants at the time of his death.

Article 5 (branch (e)) (Old-age benefit). The national legislation should be amended to provide for payment of old-age benefit in case of residence abroad, both to nationals of the Central African Republic and to nationals of any other member State that has accepted the obligations of the Convention concerning *branch (e)*.

Article 6 of the Convention. Section 1 of Act No. 65-57 of 3 June 1965 on family benefits needs to be amended so as to provide express guarantees, both for nationals of the Central African Republic and to nationals of any other Member which has accepted the obligations of the Convention for *branch (i)* concerning family benefits, for payment of family benefits for children residing on the territory of such other Member, under conditions and within limits to be agreed upon by the Members concerned. (To date, the countries which have accepted the obligations for branch (i) are: Bolivia, Cape Verde, France, Guinea, Ireland, Israel, Italy, Libyan Arab Jamahiriya, Mauritania, Norway, Tunisia and Uruguay).

The Committee draws once again the Government's attention to the availability of technical assistance of the Office. The Committee is raising certain other points in a request addressed directly to the Government.

Colombia

Sickness Insurance (Industry) Convention, 1927 (No. 24) (ratification: 1933)

Non-payment of social security contributions by the company Intercontinental de Aviación. The Committee notes the information provided by the Government in its report in reply to the observations made in 2003 by the Colombian Association of Civil Pilots (ACDAC) concerning the non-payment of social security contributions by the company *Intercontinental de Aviación* in relation to its employees. It notes, in this respect, that an inspection of the above company carried out in July 2004 ascertained the failure to pay social security contributions for the period 1998 to 2004. The Government adds that the company has since been closed by order of the Civil Aviation Administrative Department and that the retroactive payment has been ordered of the sums due in respect of contributions to the global social security scheme. *The Committee notes this information and requests the Government to continue to keep it informed of the outcome of this matter and, in particular, of the situation of the workers of the above company in relation to health insurance for both the period prior to the closure of the company and the period since then. The Committee also takes the opportunity to request the Government to indicate the measures that have already been taken or are envisaged to ensure greater compliance in future with the obligations deriving from the Convention and to prevent such clear cases of non-compliance persisting over such long periods.*

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

Democratic Republic of the Congo

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1967)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

In reply to the Committee's previous comments, the Government had stated previously that it is not in a position to provide information that would enable the Committee to assess the application of *Articles 13, 14 and 18* (in relation with *Articles 19 and 20*), as well as *Articles 21, 23 and 24(2)* of the Convention, in view of the difficult political and economic situation experienced by the country. With regard to the draft text to add to the schedule of occupational diseases, in accordance with *Article 8* of the Convention, diseases caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series and diseases caused by benzene or its toxic homologues, the Government had undertaken to transmit the extended schedule of occupational diseases as soon as it has been adopted by the National Labour Council.

The Committee hopes that, despite the difficulties to which the Government is confronted, the extended schedule of occupational diseases will be adopted in the near future in order to give full effect to Article 8 of the Convention and that the Government will make every effort to provide information concerning the application of the other provisions of the Convention referred to above, as requested in its 1995 observation. The Committee would also be grateful if the Government would indicate any progress achieved in the formulation and adoption of the new Social Security Code.

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

Djibouti

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1978)

The Committee notes that, since the Convention was ratified in 1978, it has been drawing the Government's attention to the need to amend section 29 of Decree No. 57-245 of 1957 on the compensation of occupational accidents and diseases. The Committee has pointed out that under this provision, unlike nationals, foreign workers injured in industrial accidents who transfer their residence abroad receive, instead of the periodical payments paid to them previously, a lump sum payment equal to three times the periodical payments they received previously. The Committee observes that, although the Government has stated several times that this residence requirement is invoked only occasionally in practice, it has still not repealed this provision formally despite repeated requests from the Committee. In

the reports it has been sending since 2000, the Government has referred to a draft reform of the Labour Code enabling national laws and regulations to be brought fully into line with the Convention through repeal of the residence requirement set in the 1957 Decree. According to the Government, the draft new Labour Code should be adopted by the end of 2005 or in early 2006. *The Committee accordingly hopes that the Government will be in a position to inform the Committee in its next report that its legislation has been brought into conformity with Article 1, paragraph 2, of the Convention under which nationals of States that have ratified the Convention and their dependants are granted the same treatment as Djibouti grants to its own nationals in respect of workers' compensation, without any condition as to residence.*

[The Government is asked to reply in detail to the present comments in 2007.]

Ecuador

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1970)

The Committee notes the information supplied by the Government in its report. It notes the adoption on 30 November 2001 of the new Social Security Act. It asks the Government to indicate whether the new Act has come into force and, if so, to *please provide detailed information on the extent to which the new legislation gives effect to each of the provisions of the Convention, as well as the information requested in the report form, including statistics. The Committee also requests the Government to supply any regulations that have been adopted to apply the new Act.*

The Committee hopes that the next report will also contain information on the measures adopted to give effect to the following provisions, on which the Committee has been commenting for many years.

Article 5 of the Convention (in conjunction with Article 10). In earlier comments, the Committee noted the Government's statement that the payment abroad of old-age, invalidity and survivors' benefits, and of workers' compensation in cases of accidents, occupational diseases or the death of the worker, is made in each individual case on the basis of a resolution issued by the Benefits Committee of the Ecuadorean Social Security Institute (IESS). The Committee consequently expressed the hope that the Government would confirm this practice in its legislation, as it had expressed the intention of doing.

In its previous report, the Government stated that the basis in law of the procedure ensuring payment of social benefits abroad is the Ibero-American Social Security Convention, which is an integral part of Ecuador's legislation pursuant to Article 163 of the new Constitution. The Committee pointed out in this connection that, according to the information supplied by the Government, of the 38 countries that have ratified Convention No. 118, only five have signed the Ibero-American Social Security Convention. It would appear that implementation of the Ibero-American Convention necessarily involves the conclusion of bilateral administrative agreements between the countries concerned. In these circumstances, the Committee is bound to point out once again that, by ratifying Convention No. 118, the Government has undertaken to guarantee, in accordance with *Articles 5 and 10*, payment of the above benefits to the nationals of any other Member which has accepted the obligations of the Convention in respect of a given branch, as well as to its own nationals and to refugees and stateless persons, in the event of residence abroad, irrespective of the new country of residence or the conclusion of any reciprocity agreement. *The Committee therefore hopes that the Government will review this matter and establish the current practice in law by means of a specific provision ensuring that Articles 5 and 10 are applied both in law and in practice. The Committee requests the Government to provide information on the progress made in this area in its next report.*

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1978)

The Committee notes the information supplied by the Government in its report. It notes the adoption on 30 November 2001 of the new Social Security Act. It asks the Government to indicate whether the new Act has come into force and, if so, to *please provide detailed information on the extent to which the new legislation gives effect to each of the provisions of the Convention, as well as the information requested in the report form, including statistics. The Committee also requests the Government to supply any regulations that have been adopted to apply the new Act.*

The Committee hopes that the next report will also contain information on the measures adopted to give effect to the following provisions, on which the Committee has been commenting for many years.

Article 8 of the Convention. The Committee requests the Government to indicate whether the internal rules and regulations of the Ecuadorean Social Security Institute (IESS) which were preventing the application of a dual-list system of occupational diseases and work have been amended. In its last report, the Government referred to the provisions of the Labour Code, particularly sections 369 and 370, that deal with occupational diseases. The Government added that the presumption in favour of the worker regarding the occupational origin of the disease is taken into account in the decisions of the Risk Verification Commission pursuant to section 370 of the Labour Code. According to the Government, these decisions, which are intended to allow diseases not mentioned in the legislation to be recognized as occupational, exempt the worker from the burden of proof, thus in effect precluding interpretation of section 5 of the General Regulations on employment injury insurance. *The Committee hopes that, in order to avoid any ambiguity, the Government will be able*

to take the necessary measures to amend as soon as possible, as it undertook to do, sections 4 and 5 of the above General Regulations, so as to establish in the legislation the presumption of the occupational origin of the disease in favour of workers suffering from a disease enumerated in Schedule I of the Convention when they are engaged in the types of work mentioned in the Schedule. It also asks the Government to provide copies of relevant decisions taken pursuant to section 370 of the Labour Code (the Committee refers the Government to its comments in its direct request of 1996, under Article 8).

Article 9. In its previous comments, the Committee emphasized the need for measures to be taken to amend sections 12 and 19 of the General Regulations on employment injury insurance in order to give workers suffering from occupational diseases, whether acute or chronic, entitlement to the benefits envisaged by the Convention, irrespective of the period for which they have paid contributions. In its previous report, the Government indicated once again that, in cases where workers have been unable to pay the six contributions envisaged in the General Regulations on insurance (work) (sections 12 and 19), section 14 of the above Regulations is applied, under which acute occupational diseases are treated as employment accidents, so that the insured person is entitled to benefits in the form both of medical assistance and financial compensation. As it has said before, the Committee is well aware of the substance of section 14 of the General Regulations on employment injury insurance. It nonetheless wishes to emphasize that the provisions of the Convention, and particularly *Article 9*, which specifies that eligibility for benefits may not be subjected to length of employment, duration of insurance or payment of contributions, apply to both employment accidents and to acute occupational diseases (the latter, as is the case in Ecuador, are very often treated as employment accidents), as well as to chronic occupational diseases. ***In these circumstances, the Committee is bound to urge the Government once more to take the necessary steps to amend sections 12 and 19 of the General Regulations on employment injury insurance so that all workers suffering from occupational diseases, including chronic diseases, are eligible for the benefits envisaged by the Convention, irrespective of the period of contribution.***

Articles 13, 14 and 18 (in conjunction with Articles 19 and 20). Amount of periodical payments due in the event of the temporary or permanent incapacity or death of the family breadwinner. Further to its previous comments, the Committee notes the information supplied by the Government in its report. ***Taking as a basis the provisions of the new Social Security Act, please provide all the information required by the report form under Article 19 or Article 20, depending on which of these two provisions the Government has recourse.*** The Committee recalls the importance it attaches to the provision of such information, which it needs in order to determine whether the level of benefits due in the event of temporary or permanent incapacity or death attains the rate prescribed by the Convention for a standard beneficiary.

Article 21. In its previous report, the Government indicated that the National Wage Council determines and reviews the wages of workers in the country in the light of the minimum wage set for various activities and occupations. It also stated that the IESS calculates the benefits payable to workers on the basis of these minimum wages; wage increases are automatically reflected in old-age and invalidity pensions, and in benefits payable for employment accidents, in accordance with the provisions of *Article 21*. ***In view of the fact that the Government has not provided the information needed to assess the real impact of increases in pensions decided upon by the IESS in relation to fluctuations in the cost of living, the Committee requests it to provide the information required by the report form under Article 21.*** The Government may wish to avail itself of the Office's technical assistance for this purpose.

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) (ratification: 1978)

The Committee notes the information supplied by the Government in its report. It notes the adoption on 30 November 2001 of the new Social Security Act. It asks the Government to indicate whether the new Act has come into force and, if so, to ***please provide detailed information on the extent to which the new legislation gives effect to each of the provisions of the Convention, as well as the information requested in the report form, including statistics.*** The Committee also requests the Government to supply any regulations that have been adopted to apply the new Act.

The Committee hopes that the next report will also contain information on the measures adopted to give effect to the following provisions, on which the Committee has been commenting for many years.

Part I (General provisions), Article 4, paragraphs 2 and 3, of the Convention. The Committee noted previously that the temporary exceptions of which Ecuador availed itself upon ratifying the Convention concerned employees in the agricultural sector. These workers were later incorporated into the social security system under a special scheme for the protection of agricultural workers by virtue of Decree No. 21 of 1986. ***The Committee requests the Government to indicate whether the agricultural workers covered by the special compulsory social insurance scheme for the agricultural sector are entitled under the new legislation to the same invalidity, old-age and survivors' benefits as those granted to other categories of workers under the general scheme, and, if not, to specify the nature and level of the benefits granted to them.*** Finally, the Committee hopes that in its next report the Government will include the statistical information required by the report form under *Articles 9, paragraph 2, 16, paragraph 2, and 22, paragraph 2*, of the Convention (questions D or E), indicating in addition the number of agricultural workers covered under each branch.

Part V (Standards to be complied with by periodical payments), Articles 26 and 27 in conjunction with Articles 10, 17 and 23 (Amount of benefits) and with Article 29 (Review of benefits). In its previous comments, the Committee pointed

out that the continuing absence of the information requested in the report form makes it impossible to ascertain whether the amount of the invalidity, old-age and survivors' benefits attains the level prescribed by the Convention, and to assess the real impact of the pension increases, if any, in relation to changes in the general level of earnings or the cost-of-living index. The Committee is thus unable to assess whether Ecuador is fulfilling its obligation to keep the above social security benefits at the level prescribed by the Convention. ***The Committee hopes that the Government will make every effort to compile the relevant statistical information, availing itself of the ILO's technical assistance, if need be, and to supply this information in its next report.***

Part VI (Common provisions), Article 34, paragraph 2 (Right of appeal). In its previous comments, the Committee expressed the hope that, in view of existing practice, it would not be difficult for the Government to insert into the national social security legislation, when next revised, a provision explicitly guaranteeing the right of insured persons to be represented or assisted by a qualified person of their choice in appeals against refusal of a benefit or in complaints as to the quality or quantity of the benefit. ***The Committee asks the Government to indicate whether the new legislation makes explicit provision for this right and, if so, to indicate under which provision.*** The Committee again asks the Government to provide a sample of the form handed out by the Institute for complainants to write down their wish to be represented by a person of their choice in the respective administrative proceedings.

Medical Care and Sickness Benefits Convention, 1969 (No. 130) (ratification: 1978)

The Committee notes the adoption on 30 November 2001 of the new Social Security Act. It asks the Government to indicate whether the new Act has come into force and, if so, to ***please provide detailed information on the extent to which the new legislation gives effect to each of the provisions of the Convention, as well as the information requested in the report form, including statistics.*** The Committee also requests the Government to supply any regulations that have been adopted to apply the new Act.

The Committee hopes that the next report will also contain information on the measures adopted to give effect to the following provisions, on which the Committee has been commenting for a number of years.

Articles 11 and 12 of the Convention. In its previous report, the Government expressed the intention of ensuring free medical coverage for the spouses and children of insured persons, in accordance with these provisions of the Convention, either through the Ecuadorean Social Security Institute or other social security systems. ***The Committee requests the Government to indicate whether the new legislation ensures such coverage and, if so, to please indicate whether medical insurance has been extended in practice to the members of the insured person's family and, if so, please provide the information requested by the report form under Article 12.***

France

French Polynesia

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)

With reference to its previous comments, the Committee notes with satisfaction the adoption of Decision No. 2002-103 APF of 1 August 2002 amending Decree No. 57-245 of 24 February 1957 on the compensation and prevention of industrial accidents and occupational diseases in the overseas territories. In its previous comments, the Committee noted that, under the terms of section 29 of the Decree, foreign nationals who were victims of an industrial accident and their dependants who no longer reside in a country or territory dependent on the Republic of France or in Cameroon, received as compensation only a lump sum equal to three times the amount of the annuity they had been granted, while nationals continued to receive their regular benefits. Henceforth, a new provision introduced by the Decision of 1 August 2002 provides that section 29 of Decree No. 57-245 is not applicable to nationals of any of the States which have ratified Convention No. 19, who are entitled to the same benefits as French nationals without any condition as to residence.

The Committee is also addressing a request directly to the Government asking it to provide certain additional information.

Guinea

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1967)

The Committee notes with regret that the Government's report has once again not been received. It is therefore bound to repeat its previous observation, which read as follows:

Article 5 of the Convention. The Committee recalls that the Government, in its earlier reports, indicated that the new Social Security Code, when adopted, would give full effect to *Article 5* of the Convention under which the provision of old-age benefits, survivors benefits and death grants, and employment injury pensions must be guaranteed in the case of residence abroad, irrespective of the country of residence and even in the absence of agreements with such country, both to nationals of Guinea and to nationals of any other State which has accepted the obligations of the Convention for the corresponding branch. However, in

its last report, the Government indicates that the new Social Security Code does not entirely fulfil the requirements of the provisions of *Article 5* of the Convention, in that it does not provide for maintenance of payment of the various benefits in case of change of residence, and that this restriction is a constant feature of the legislation governing the field in the States in the subregion. However, the Government hopes that further negotiation of bilateral agreements with other States will make good this weakness in the Social Security Code.

In this connection, the Committee notes that under section 91, paragraphs 1 and 2, of the new Code, benefits are cancelled when the beneficiary definitively leaves the territory of the Republic of Guinea, or are suspended while she or he is not resident on national territory. It notes however that, under the last paragraph of that section, these provisions “are not applicable in the case of nationals of countries which have subscribed to the obligations of the international Conventions of the International Labour Office regarding social security ratified by the Republic of Guinea, or where there are reciprocal agreements or multilateral or bilateral social security agreements on the provision of benefits abroad”. Since, by virtue of this exception, the nationals of any State which has accepted the obligations of Convention No. 118 for the corresponding branch, may in principle now claim benefits in case of residence abroad, ***the Committee requests the Government to indicate whether this is in fact the case and, if so, whether a procedure for the transfer of benefits abroad has been established by the national social security fund, to meet the possible demands for such foreign transfer. In addition, the Committee requests the Government to state whether the exception provided in the last paragraph of section 91 is also applicable to Guinean nationals in the event of their transferring their residence abroad, in accordance with the principle of equal treatment established under Article 5 of the Convention as regards the payment of benefits abroad.***

Article 6. With reference to the comments it has been formulating for many years regarding the provision of family allowances in respect of children residing abroad, the Committee notes that, under section 94, paragraph 2, of the new Code, to obtain the right to family allowances, dependent children “must reside in the Republic of Guinea, subject to the special provisions of the international Conventions on social security of the International Labour Office, reciprocal agreements or bilateral or multilateral agreements”. With respect to reciprocal agreements or bilateral or multilateral agreements, the Committee recalls that to date Guinea has concluded no agreement of this sort for the payment of family allowances in respect of children residing abroad. Regarding the special provisions of the ILO Conventions, it recalls that under *Article 6* of Convention No. 118 any State which has accepted the obligations of the Convention for *branch (i)* (family benefit) must guarantee payment of family allowances both to its own nationals and to the nationals of any other member which has accepted the obligations of this Convention for that branch, as well as for refugees and stateless persons, in respect of children who reside on the territory of any such State, under conditions and within limits to be agreed upon by the States concerned. In this connection, the Government states in its report that the payment of family benefits is guaranteed to families of whom the breadwinner has been regularly insured by the social security system, and is in order regarding the payment of his own contributions, and those of his successive employers. ***The Committee therefore hopes that the Government will be able to confirm formally in its next report that the payment of family allowances will also be extended to cover insured persons up-to-date with their contributions, whether they are nationals, refugees, stateless persons or nationals of any other States which have accepted the obligations of the Convention for branch (i), whose children reside on the territory of one of these States and not in Guinea. The Committee would also like to know in these cases how the condition of residence is dispensed with for the application of section 99, paragraph 2, of the new Code, which only recognizes as dependent those children “that live with the insured person”, and also for section 101, which makes payment of family allowances subject to an annual medical examination of the child, up to the age where she or he comes under the school medical service, and the regular medical care for beneficiaries of school age attending courses in educational or vocational training establishments.***

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

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1967)

The Committee notes with regret that the Government’s report has once again not been received. It is therefore bound to repeat its previous observation which read as follows:

1. *Article 8 of the Convention.* ***The Committee asks the Government to provide a copy of the list of occupational diseases revised in 1992, indicating whether it is now in force.***

2. *Article 15(1).* In answer to the Committee’s previous comments, the Government indicates that, in accordance with the provisions of section 111 of the Social Security Code, periodical payments for employment injury are converted into a lump sum when the permanent incapacity is at most equal to 10 per cent. The Committee recalls, however, that its comments concerned the possibility of converting the benefit granted in the event of employment injury in the circumstances provided for in sections 114 (conversion after expiry of a five-year period) and 115 of the Social Security Code (conversion into a lump sum of part of the periodical payment at the request of the person concerned). ***The Committee again expresses the hope that the necessary measures will be taken to ensure that in all these cases periodical payments may be converted into a lump sum only in exceptional cases and with the consent of the victim where the competent authority has reason to believe that the lump sum will be utilized in a manner which is particularly advantageous for the injured person.***

3. *Articles 19 and 20.* In the absence of the statistical information requested which the Committee needs so that it can determine whether the amount of benefits paid in the event of temporary incapacity, permanent incapacity and death of the breadwinner, reaches the level prescribed by the Convention, ***the Committee once again asks the Government to indicate whether it avails itself of Article 19 or of Article 20 of the Convention in establishing that the percentages required by Schedule 2 of this instrument have been reached, and to provide the statistical information required by the report form adopted by the Governing Body under Article 19 or 20, depending on the Government’s choice.***

4. *Article 21.* In view of the importance it attaches to this provision of the Convention which establishes that the rates of employment injury benefits must be reviewed to take account of trends in the cost of living and the general level of earnings, ***the Committee hopes that the Government’s next report will contain information on the amount of the increases already established and that it will not fail to provide all the statistics required by the report form under this Article of the Convention.***

5. *Article 22(2).* ***The Committee once again expresses the hope that the Government will be able to take the necessary measures to ensure that, in all cases where employment injury benefits are suspended and particularly in the cases provided***

for in sections 121 and 129 of the Social Security Code, part of these benefits will be paid to the dependants of the person concerned in accordance with the provisions of this Article of the Convention.

6. The Committee notes the Government's statement that the provisions of the Conditions of Service of the Public Service give public servants and their families full satisfaction as regards social coverage. It once again asks the Government to provide the text of the provisions of the above Conditions of Service dealing with compensation for employment injury with its next report.

7. *Lastly, the Committee asks the Government in its future reports to provide information on any progress made in the revision of the Social Security Code, to which the Government referred previously.*

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

Haiti

Sickness Insurance (Industry) Convention, 1927 (No. 24) (ratification: 1955)

The Committee notes the report provided by the Government in which it refers to certain measures taken to improve the functioning of the Insurance Office for Occupational Injury, Sickness and Maternity (OFATMA) and requests the technical assistance of the Office to assist in the establishment of a sickness insurance system. The Committee notes this request and recalls that the Office already carried out a certain number of activities in the country between 2000 and 2002, one of the aims of which was to support the Government in order to extend social protection to cover excluded groups and to organize training workshops linked to the promotion of various micro-insurance systems. *The Committee hopes that the Office will continue to provide technical assistance in order to contribute to the establishment in the country of an operational sickness insurance system and gradually to help guarantee that the needs of the workers in the industry and agriculture sectors are adequately met.*

Sickness Insurance (Agriculture) Convention, 1927 (No. 25) (ratification: 1955)

Please refer to the comments under Convention No. 24.

Libyan Arab Jamahiriya

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1975)

The Committee notes the information provided by the Government in its report. It also notes with interest the mission carried out by the Office in July 2005, and the information provided to it by the technical committee responsible for reports. The Committee notes that the Libyan Government welcomed the mission and provided assurances of its commitment to comply with the obligations deriving from the Convention. The Committee notes with interest the Government's request to provide it with further technical assistance to formulate the legislation and to bring such legislation as well as the decisions taken by the Government in conformity with the ILO's social security Conventions. It hopes that, as a result of this assistance, the Government will take the necessary measures to give full effect in law and practice to the provisions of the Convention on which it has been commenting and that it will provide information in its next report on the following points.

1. *Part IV of the Convention. Unemployment benefit.* With reference to its previous comments, the Committee notes the Government's statement according to which it reiterates the information provided in its previous report on the application of Part IV of the Convention, especially after an actuarial study was undertaken by an ILO social security specialist, and that it will seek contributions relating to unemployment benefit. The Committee therefore wishes again to draw the Government's attention to the fact that the Convention is intended to afford effective protection against unemployment by means of a system of social security which makes it possible to finance unemployment benefit through collective contributions from all those concerned, thereby avoiding the situation in which they are payable directly by employers, which may become too burdensome if the level of unemployment in the country rises. *The Committee therefore hopes that the Government would endeavour, with the help of the ILO, to adopt the necessary regulations to permit the Social Security Fund to receive contributions and to pay unemployment benefit, thereby giving effect to Part IV of the Convention through a system of social security and taking into account more fully the principles of organization and financing set out in Articles 71 and 72.*

2. *Part VII. Family benefit.* In its previous comments, the Committee noted that section 24 of Act No. 13 of 1980 only provided for the granting of family allowances to pensioners under the social security system, whereas *Article 41 of the Convention* covers other categories of employees or residents. In its report, the Government indicates that the provisions of the Civil Service Act No. 55 of 1976, and amendments made thereto and its executive regulations shall apply to employees who are non-nationals who are contract holders. Other regulations shall also apply to them in accordance with section 18 of the regulations on employees who have contracts as non-nationals who are entitled to family benefits in the same way as their national counterparts. *The Committee notes this information. It hopes that the Government will provide copies of the administrative regulations with its next report.*

Equality of Treatment (Social Security) Convention, 1962 (No. 118) ***(ratification: 1975)***

The Committee notes the information provided by the Government in its report. It also notes with interest the mission carried out by the Office in July 2005, and the information provided to it by the technical committee responsible for reports. The Committee notes that the Libyan Government welcomed the mission and provided assurances of its commitment to comply with the obligations deriving from the Convention. The Committee notes with interest the Government's request to provide it with further technical assistance to formulate the legislation and to bring such legislation, as well as the decisions taken by the Government, into conformity with the ILO social security Conventions. According to the Government, the exchange of views that took place during the mission were very useful with respect to the amendments of a few sections of the Social Security Act, its implementing regulations and executive decisions. As amendments to the Act require some time, it will inform the Committee of any new developments in this regard. ***It hopes that, as a result of this assistance, the Government will take the necessary measures to give full effect in law and practice to the provisions of the Convention on which it has been commenting and that it will provide information in its next report on the following points.***

1. *Article 3, paragraph 1, of the Convention (in conjunction with Article 19).* (a) The Committee noted in its previous observations that section 38(b) of the Social Security Act, No. 13 of 1980, and Regulations 28 to 33 of the Pension Regulations of 1981 provide that non-Libyan residents receive only a lump sum in the event of premature termination of work, whereas nationals are guaranteed, under section 38(a) of the Act, the maintenance of their wages or remuneration. The Committee points out again the importance of abolishing the difference between Libyan workers and foreign workers in the event of premature termination of employment. It hopes that the Government will take all necessary steps to this end in the near future.

(b) In its previous comments, the Committee pointed out that, according to the information sent by the Government and pursuant to the national legislation (sections 5(c) and 8(b) of the Social Security Act), foreign workers engaged in the public administration and non-Libyan self-employed workers may be affiliated only on a voluntary basis to the social security scheme unless, in the case of the latter, an agreement exists with their country of origin. The Committee notes the indication by the Government that the purpose of the Libyan legislation is not to oblige self-employed workers to be subject to the Social Security Act. Contributing to social security should be based on their voluntary will and desire, because they may be covered by social insurance in their own countries of origin. In the Government's view, this is an advantage and not an act of discrimination towards this category of worker. However the comments made by the Committee will be taken into account if there is a reformulation of the above legislation. The Committee notes this information. It reiterates its view that, where affiliation of nationals to the social security scheme is compulsory, as it is in the Libyan Arab Jamahiriya, to make affiliation voluntary for some categories of foreign workers is contrary to the principle of equal treatment laid down in the Convention (except where arrangements exist between the Members concerned under *Article 9*). Foreigners are often unaware of their own rights and of the administrative steps that need to be taken to be protected and therefore cannot benefit from the advantages mentioned by the Government. It therefore reiterates the hope that the Government will take the necessary measures in the near future to bring the legislation into line with the Convention on this point.

(c) In its previous comments, the Committee pointed out that, under the terms of Regulation 16, paragraphs 2 and 3, and Regulation 95, paragraph 3, of the Pensions Regulations of 1981, and without prejudice to special social security agreements, non-nationals who have not completed a period of ten years' contributions to the social security scheme (years that may be supplemented, where appropriate, by years of contributions paid to the social insurance scheme) are entitled neither to an old-age pension nor to a pension for total incapacity due to an injury of non-occupational origin. Furthermore, Regulation 174, paragraph 2, of the above Regulations seems to imply *a contrario* that this qualifying period is also required for pensions and allowances due to survivors of the deceased person by virtue of Title IV of the Regulations, when death is due to a disease or an accident of non-occupational origin. Since such a qualifying period is not required for insured nationals, the Committee pointed out that the above provisions of the Pension Regulations of 1981 are incompatible with *Article 3, paragraph 1*, of the Convention. The Committee notes the indication by the Government, according to which there is an amendment to the Regulations by virtue of Order No. 328 of 1986 that establishes the entitlement of non-nationals to old-age benefits when they have spent 20 years in the service for which they pay contributions. Section 29 of the Order lays down the condition of five years of minimum service and contributions of insured persons who are non-nationals for the payment of benefits. It also notes that, according to the Government, Libyan citizens do not enjoy this advantage. The Committee would like the Government to communicate the text of the above Order. It would also like the Government to provide information on the measures taken to give full effect to this provision of the Convention as regards the other points mentioned above.

2. *Article 5.* In its previous comments, the Committee pointed out that Regulation 161 of the Pension Regulations of 1981 provides that pensions or other cash benefits may be transferred to beneficiaries resident abroad subject, where appropriate, to the agreements to which the Libyan Arab Jamahiriya is a party. The Committee recalled that, in accordance with *Article 5* of the Convention (read in conjunction with *Article 10*), each Member which has ratified the Convention has to guarantee both to its own nationals and to the nationals of any other Member that has accepted the obligations of the Convention in respect of the branch in question, as well as to refugees and stateless persons, when they are resident

abroad, the provision of invalidity benefits, old-age benefits, survivors' benefits, death grants and employment injury pensions. *The Committee notes the indication by the Government in this regard; that this matter will be examined when amending the Regulations so as to bring them into conformity with the provisions of the Convention. It hopes that the Government will adopt the necessary measures in the near future so as to give effect to this provision of the Convention.*

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1975)

The Committee notes the information provided by the Government in its report. It also notes with interest the mission carried out by the Office in July 2005, and the information provided to it by the technical committee responsible for reports. The Committee notes that the Libyan Government welcomes the mission and provides assurances of its commitment to comply with the obligations deriving from the Convention. The Committee notes with interest the Government's request to provide it with further technical assistance to formulate the legislation and to bring such legislation as well as the decisions taken by the Government into conformity with the ILO's social security Conventions. *It hopes that, as a result of this assistance, the Government will take the necessary measures to give full effect in law and practice to the provisions of the Convention on which it has been commenting.*

The Committee is raising a number of issues in a direct request and hopes that the Government will provide the information requested for examination at its next session.

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) (ratification: 1975)

The Committee notes the information provided by the Government in its report. It also notes with interest the mission carried out by the Office in July 2005, and the information provided to it by the technical committee responsible for reports. The Committee notes that the Libyan Government welcomes the mission and provides assurances of its commitment to comply with the obligations deriving from the Convention. The Committee notes with interest the Government's request to provide it with further technical assistance to formulate the legislation and to bring such legislation as well as the decisions taken by the Government into conformity with the ILO social security Conventions. *It hopes that, as a result of this assistance, the Government will take the necessary measures to give full effect in law and practice to the provisions of the Convention on which it has been commenting.*

Part II (Invalidity benefit), Article 9; Part III (Old-age benefit), Article 16; and Part IV (Survivors' benefit), Article 22, of the Convention. With reference to its previous comments, the Committee notes the Government's indication, according to which it acknowledges that, thanks to the explanations provided by the ILO mission, it was possible for the Government to provide the information requested on the amount of the different benefits. In this regard, the Committee notes the statistical information on the number and amount of social security benefits and the examples provided so as to clarify the provisions of Social Security Act No. 13 of 1980. *With regard to old-age and invalidity benefits, the Committee notes with satisfaction that, according to the information provided, the amount of these benefits attains the level prescribed by the Convention.*

The Committee is raising a number of issues in a direct request and hopes that the Government will provide the information requested for examination at its next session.

Medical Care and Sickness Benefits Convention, 1969 (No. 130) (ratification: 1975)

The Committee notes the information provided by the Government in its report. It also notes with interest the mission carried out by the Office in July 2005, and the information provided to it by the technical committee responsible for reports. The Committee notes that the Libyan Government welcomes the mission and provides assurances of its commitment to comply with the obligations deriving from the Convention. The Committee notes with interest the Government's request to provide it with further technical assistance to formulate the national legislation and to bring such legislation as well as the decisions taken by the Government into conformity with ILO's social security Conventions. *It hopes that, as a result of this assistance, the Government will take the necessary measures to give full effect in law and practice to the provisions of the Convention on which it has been commenting.*

The Committee is raising other matters in a request addressed directly to the Government and hopes that the Government will not fail to provide the information requested for examination at its next session.

Mauritania

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1968)

In reply to the Committee's previous comments, the Government has provided a number of indications, particularly on the conditions for entitlement to old-age and invalidity benefits, employment injury benefits and family benefits and

the methods of their calculation. It also provided information on the adjustment of long-term benefits and the number of active persons protected affiliated to the National Social Security Fund.

The Committee notes this information. However, it notes that the information provided is only partial and *therefore hopes that a detailed report will be provided for examination at its next session and that it will contain all the information required by the report form adopted by the Governing Body*. It once again draws the Government's attention to the possibility of having recourse, particularly in the fields of social security and labour statistics, to the technical assistance of the International Labour Office.

Equality of Treatment (Social Security) Convention, 1962 (No. 118) ***(ratification: 1968)***

For a number of years, the Committee has been requesting the Government to indicate the manner in which the payment of invalidity, old-age and survivors' benefits and employment injury pensions is guaranteed in practice in the case of residence abroad, both to Mauritians and to the nationals of countries which have accepted the obligations of the Convention for one or more branches of social security. In its report in 2001, the Government indicated that there are two methods for the payment of benefits in the case of residence abroad: by bank transfer or physical presence, but that any beneficiary resident abroad who makes her or his presence known, without distinction, will regain her or his entitlements in one manner or another, as demonstrated by detailed statistics on the total amount of benefits transferred abroad and the number and nationality of the beneficiaries. In its report in 2003, the Government indicated that, if a beneficiary is resident abroad, it is sufficient to provide her or his bank account number onto which the benefit will be paid and a certificate of existence. It is in this context that nearly all the national and foreign workers who left the country following the events of 1989 have received the benefits due under the sole condition that they appear in person at least once; thereafter, they can delegate a person provided with a procuration in due form and a certificate of existence. The Government also indicated that it does not have reliable statistics on the amount of the benefits transferred to beneficiaries residing outside the country and requested the ILO's assistance in the field of labour statistics.

The Committee takes due note of this information and requests the Government to provide precise replies in its next report to the following questions. Does physical presence in Mauritania at least once constitute a prior condition for entitlement to benefits and the organization of the transfer of benefits by bank onto the account of the beneficiary abroad? What is the advantage for a beneficiary residing abroad to delegate a person provided with a procuration if it is sufficient to indicate the number of the bank account onto which the benefit will be paid? Can a beneficiary residing in a country which does not have a bilateral social security agreement with Mauritania submit an application for a benefit, accompanied by a certificate of existence and the number of her or his bank account, by post, through consular channels or through a social security administration in her or his country of residence, without having to be physically present in Mauritania to do so, for example in the case of a survivor who has never been resident on the territory of Mauritania? With regard to the statistics of the amount of benefits transferred abroad and the number and nationality of beneficiaries, the Committee would be grateful if the Government would provide with its next report an update of the same data that the Government provided with its report in 2001.

Myanmar

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) ***(ratification: 1956)***

The Committee notes the information provided by the Government in its report, including the statistics on the cash benefits provided to injured workmen and their dependants in case of permanent disability or death. The Committee observes, however, that the Government does not supply information on the measures effectively taken in order to finalize the amendments necessary to bring the national laws and regulations into conformity with the Convention. It is therefore once again bound to note that no progress has been achieved in this respect in spite of the repeated commitments made by the Government since 1967 to amend the national legislation. The Committee recalls in this respect that section 4 of the Workmen's Compensation Act of 1923 provides that in case of personal injury followed by death or permanent disability, compensation is due in the form of a lump sum payment, whereas according to *Article 5 of the Convention*, it shall always be paid in the form of periodical payments and shall only be paid, wholly or partially, in a lump sum, if the competent authority has been assured that it will be properly utilized.

The Committee further notes that the report supplied by the Government does not indicate the measures taken to ensure the conformity of national laws and regulations with *Article 10* of the Convention. In this respect, both the Workmen's Compensation Act and the regulations taken under the Social Security Act of 1954 continue to impose a ceiling for the supply and normal renewal of necessary artificial limbs and surgical appliances to victims of occupational accidents in contradiction with the Convention, which does not authorize such limits to be set.

The Committee consequently urges the Government to take, in the very near future, all the necessary measures to bring the national laws and regulations into conformity with the Convention.

Netherlands

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) (ratification: 1969)

With reference to its previous observation concerning the extensive comments made by the Netherlands' Trade Union Confederation (FNV), in a letter dated 25 August 2003, on the application of the various provisions of the Convention, the Committee notes the Government's report for the period 1 June 2003 to 1 June 2005, which replies to some of the issues raised. This report and the replies of the Government were the subject of a further communication from the FNV dated 15 September 2005, in which the Confederation expresses concern about the application of most of the Articles of the Convention and provides copies of the relevant decisions of the Central Court of Appeal (CRvB). This communication was transmitted to the Government by the Office on 20 October 2005. Taking into account that the Government's report on the application of the Convention is due in 2006, ***the Committee hopes that it will not fail to provide detailed information on all the points raised, including statistical data, as well as an English translation of the relevant provisions of the legislation.*** In the meantime, taking into account the extensive and complex nature of the problems raised by the FNV, the Committee wishes to remind the parties that they can have recourse to the technical services of the Office, which might help to clarify the issues in question. In this respect, the Committee also refers to the questions raised in its direct request of 2002, which it will consider together with the Government's next report.

Niger

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1966)

The Committee notes the detailed information and statistics on the calculation of the level of benefits provided by the Government in its report in 2004. With regard to the situation of the legislation respecting social security in Niger, it notes certain problems in the application of the provisions of the Convention that it has been raising for several years concerning, among other matters, the qualifying conditions for old-age benefit and family benefit, for which appropriate responses or solutions have still not been found. With regard to the calculation of benefits, it is almost impossible to assess whether the level prescribed by the Convention is attained due to the fact that the reference wage of a standard beneficiary is not determined according to the precise methodology set forth in *Article 66 of the Convention*, but as a function of the minimum guaranteed interoccupational wage (SMIG), which has not been increased since 1980. Finally, pensions have not been adjusted for over 25 years to take into account the inflation that has occurred over that period and to follow fluctuations in the general level of earnings, as the adjustment of pensions is subject under the law to changes in the level of the SMIG. The Committee is addressing all of these matters in detail in a request addressed directly to the Government. Furthermore, it draws the Government's attention to the possibility of having recourse to ILO technical assistance.

Peru

Unemployment Provision Convention, 1934 (No. 44) (ratification: 1962)

The Committee notes the report submitted by the Government in response to its previous observation, in which it had noted the lack of progress towards the implementation of an unemployment protection system, as provided for in the Convention.

In this regard, the Committee observes that, while the Government continues to refer, as it has done up until now, to the system of compensation on the basis of length of service (Presidential Decree No. 001-97-TR) and the existence of compensation for unjustified dismissal (Legislative Decree No. 728, approved by Presidential Decree No. 003-97-TR), which may not be considered as constituting an unemployment protection system in accordance with the requirements set forth in this Convention, it indicates that recent draft laws contain proposals for the creation of an unemployment insurance system. The Government adds, however, that it does not yet have all the necessary data on the subject and that a preparatory study is currently aimed at determining the sustainability of an unemployment insurance system. The report also indicates that the various draft laws on the subject will be examined with a view to achieving consensus between all the social actors concerned by an unemployment insurance system.

The Committee notes this information. It notes that, henceforth, the Government appears to be studying in depth the creation of an unemployment insurance system with a view to bringing its national legislation into line with the provisions of the Convention. ***The Committee recalls that it is now over 40 years since Peru ratified the Convention and hopes that the Government will keep it duly informed of the results of the current initiative and that it will spare no effort to ensure that the necessary actuarial studies are carried out in the very near future and to establish an unemployment insurance system in accordance with the Convention.*** In this regard, the Committee recalls that, in order to give effect to the provisions of the Convention, ratifying States must ensure a benefit or an allowance to persons who are involuntarily unemployed, by means of a scheme which may be a compulsory insurance scheme, or a voluntary insurance scheme, or a combination of compulsory and voluntary schemes, or any of these alternatives combined with a complementary assistance scheme (*Article 1 of the Convention*).

Sao Tome and Principe

Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) (ratification: 1982)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

The Committee notes that the Ministry of Labour, in collaboration with the Ministry of Health, is to benefit from UNDP financing for the establishment of the schedule of occupational diseases supplementing Act No. 1/90 on social security. The examination of the framework legislation on social protection, which envisages the establishment of several social protection schemes, has commenced and should provide a basis for the establishment of the schedule of diseases recognized as occupational diseases. *The Committee hopes that the Government will be in a position to provide information in the very near future on the tangible progress achieved in this field for the establishment of a schedule of occupational diseases, including as a minimum those enumerated in the Schedule annexed to Article 2 of the Convention.* It recalls that there are currently no technical standards in the country identifying certain diseases as being occupational diseases and that no occupational disease has therefore been diagnosed or compensated.

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

Syrian Arab Republic

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1963)

Article 5 of the Convention. In its previous comments, the Committee took note of the adoption of section XXIV of Act No. 78 amending section 94 of the Social Insurance Code so as to enable the beneficiaries who leave the territory of the Syrian Arab Republic to request the transfer of the pensions due to them, to their country of residence, under conditions of equal treatment. The Committee asked the Government to adopt the necessary instructions and orders to give effect to this provision in practice. In its report, the Government indicates that the President of the Council of Ministers issued Order No. 13, dated 1 April 2002, section 24 of which provides for the right of each beneficiary to submit an application to the General Authority for Social Security to transfer his/her pension to the State to which he/she returns in accordance with section 94(a) of the Social Insurance Act. It also states that the Minister of Social Affairs and Labour issued Order No. 929 of 22 May 2005, which contains a table on conversion of pensions into a monetary allowance, a copy of which is annexed to the Government's report. *The Committee takes note, with interest, of this information and would be grateful if the Government would supply information in its next report on the implementation in practice of this provision.*

Article 10, paragraph 1. The Committee notes that, despite its long-standing comments on the need to explicitly include refugees and stateless persons within the field of application of the Social Insurance Code, the Government once again reiterates that the Code implicitly covers these persons on the basis of the general rule of law that unrestricted provisions have general application so far as no exceptions are made. The Committee wishes to point out, once more, that as far as the application of a provision of an international Convention in the national legislation is concerned, implicit application by reference to the general rule of law would not be sufficient to give effect to an explicit provision establishing a specific rule of law, such as that contained in *Article 10, paragraph 1*, of the Convention. *It trusts once again that the Government will not have any difficulty in explicitly including refugees and stateless persons in the scope of the Social Insurance Code, all the more so since under the Syrian legal system, as explained by the Government in its report, a provision of a ratified Convention not only has the force of national law, but prevails over existing national law.* Furthermore, the Government will in this way remove any ambiguity in the national law in that respect.

Uganda

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1963)

The Committee notes with regret that the Government's report once again has not been received. It is therefore bound to repeat its observation of 1999, which read as follows:

Article 5 of the Convention. The Committee notes the information provided by the Government in its last report that the Bill to revise the legislation on workers' compensation has received its first reading in Parliament. *It trusts that the Government will take all the necessary measures for the adoption of this Bill so as to give full effect to Article 5 of the Convention, on which the Committee has been commenting since 1966.* The Committee recalls that, under this provision of the Convention, the compensation payable in the event of accidents which result in permanent incapacity or death shall be paid in the form of periodical payments throughout the contingency, although these payments may be paid in the form of a lump sum if the competent authority is satisfied that it will be properly utilized. It requests the Government to provide a copy of the new Act as soon as it has been adopted.

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

Uruguay

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) (ratification: 1973)

1. *Article 29 of the Convention. Review of cash benefits currently payable.* With reference to its previous comments, the Committee notes the information concerning increases of pension benefits in relation to the general level of earnings and the cost-of-living index corresponding to the 1996-2000 period. It requests the Government to supply in its next report the statistical data required in this respect under Article 29 of the report form approved by the Governing Body.

2. *The Committee also requests the Government to supply detailed information on the extent to which Act No. 16713 of 3 September 1995 gives effect to each of the provisions of the Convention, transmitting to this effect the information, including statistics, requested under the report form approved by the Governing Body, both with regard to the old and the new pensions system.*

The Committee is addressing a request directly to the Government on other points.

Bolivarian Republic of Venezuela

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1982)

1. The Committee notes the information provided by the Government in its reports relating to Conventions Nos. 102, 118, 121, 128 and 130. It notes the adoption of the new Organic Act on the Social Security System, as well as that of the Acts regulating the pensions and health subsystems, which entered into force on 30 December 2002 and 31 December 2001, respectively. The Committee notes that, as stated in its first section, the objective of the new Organic Act is to establish the social security system, establish and regulate its mandate, organization, functioning and financing, the management of its benefit systems and the manner in which entitlement to social security benefits is given effect with regard to persons subject to its scope of application, as a non-profit public service. *The Committee requests the Government to provide detailed information on the extent to which its new legislation gives effect to each of the provisions of the Convention, transmitting in this regard the information requested in the report form approved by the Governing Body, including statistics with regard to Parts II and VIII of the Convention. The Committee also requests the Government to transmit the regulations concerning the application of the new legislation.*

2. *The Committee hopes that the next report will also contain information on the measures adopted to give effect to the following provisions with regard to which it has been making comments for several years: Articles 9 and 48 (scope of application of insurance with regard to medical assistance and maternity benefits); Article 10, paragraph 1(a) (specification in the legislation of the types of medical assistance which must be guaranteed for those persons covered); Article 50 (in relation with Article 65) and Article 52 (duration of maternity benefits).*

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1982)

1. The Committee notes the information provided by the Government in its reports relating to Conventions Nos. 102, 118, 121, 128 and 130. It notes the adoption of the new Organic Act on the Social Security System, as well as that of the Acts regulating the pensions and health subsystems, which entered into force on 30 December 2002 and 31 December 2001, respectively. The Committee notes that, as stated in its first section, the objective of the new Organic Act is to establish the social security system, establish and regulate its mandate, organization, functioning and financing, the management of its benefit systems and the way in which entitlement to social security benefits is given effect with regard to persons subject to its scope of application, as a non-profit public service. *The Committee requests the Government to provide detailed information on the extent of its new legislation which gives effect to each of the provisions of the Convention, transmitting in this regard the information requested in the report form, including statistics, approved by the Governing Body. The Committee also requests the Government to transmit the regulations concerning the application of the new legislation.*

2. *The Committee hopes that the next report will also contain full information on the measures adopted to give effect to the following provisions with regard to which it has been making comments for several years:*

Article 5 of the Convention (read in conjunction with Article 10) (concerning the following branches: (d) Invalidity benefits; (e) Old-age benefit; (f) Survivors' benefit; (g) Employment injury benefit). In its previous comments, the Committee pointed out that the conversion of pensions into a lump sum provided for in Regulation 173 of the General Regulations of the Social Security Act, as amended in 1990, and in section 50 of the Social Security Act, is not in itself sufficient to give full effect to Article 5 of the Convention. *The Committee requests the Government to indicate whether*

the above legal provisions remain in force and, if need be, to indicate the measures adopted to give full effect to the provisions of the Convention. It also requests the Government to provide information on the bilateral agreements concluded with regard to other countries, in particular with those countries with a large number of nationals residing in Venezuela.

With regard to the social security agreement concluded with Uruguay, the Committee would be grateful if the Government would explain how Articles 6, paragraph 1, 6, paragraph 2 and 25(b) of this bilateral agreement are applied in practice and under the terms of which: (i) the economic benefits recognized under the legislation of the contracting parties and provided for in the Convention cannot be reduced, suspended or abolished on the ground that the beneficiary resides on the territory of the other contracting party; (ii) each party is required to provide the benefits due to beneficiaries from the other contracting party, on a basis of equality, in cases where those beneficiaries are resident in a third country, and (iii) the competent authorities of the two contracting parties undertake to collaborate in the payment of benefits for the other party in the form to be determined. *It again requests the Government to indicate whether appropriate administrative arrangements have been made.*

The Committee again recalls that *Articles 5 and 10* require the Government to guarantee the payment of old-age, invalidity and survivors' benefits, as well as occupational accident and disease benefits, both for Venezuelan nationals and nationals of any other member State which has accepted the requirements of the Convention with respect to a corresponding branch, as well as for refugees and stateless persons, in the case of the beneficiary being resident abroad, regardless of the new country of residence and independent of the conclusion of any reciprocal agreement. *Consequently, the Committee hopes that the Government will shortly adopt the measures necessary to guarantee the full implementation of Articles 5 and 10 in law and in practice.*

Articles 7 and 8. The Committee again requests the Government to continue to transmit in future reports information on any new agreement concluded between member States for whom the Convention is in force, with a view to guaranteeing the maintenance of acquired rights and of rights in course of application.

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1982)

1. The Committee notes the information provided by the Government in its reports relating to Conventions Nos. 102, 118, 121, 128 and 130. It notes the adoption of the new Organic Act on the Social Security System, as well as that of the Acts regulating the pensions and health subsystems, which entered into force on 30 December 2002 and 31 December 2001, respectively. The Committee notes that, as stated in its first section, the objective of the new Organic Act is to establish the social security system, establish and regulate its mandate, organization, functioning and financing, the management of its benefit systems and the manner in which entitlement to social security benefits is given effect with regard to persons subject to its scope of application, as a non-profit public service. *The Committee requests the Government to provide detailed information on the extent of its new legislation gives effect to each of the provisions of the Convention, transmitting in this regard the information requested in the report form approved by the Governing Body, including statistics. The Committee also requests the Government to transmit the regulations concerning the application of the new legislation.*

2. *The Committee hopes that the next report will also contain information on the measures adopted to give effect to the following provisions with regard to which it has been making comments for several years: Article 4 (scope of application); Article 7 (commuting accidents); Article 8 (list of occupational diseases); Article 10, paragraph 1 (specification in the legislation of the types of medical assistance which must be guaranteed for those persons covered); Articles 13, 14, paragraph 2, and 18, paragraph 1 (read in conjunction with Article 19) (amount of cash benefits); Article 18 (read in conjunction with Article 1(e), (i)) (raising of the age until which minors are entitled to a survivor's pension); Article 21 (revision of long-term benefits); Article 22, paragraph 1(d) and (e) and paragraph 2 (suspension of benefits).*

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) (ratification: 1983)

1. The Committee notes the information provided by the Government in its reports relating to Conventions Nos. 102, 118, 121, 128 and 130. It notes the adoption of the new Organic Act on the Social Security System, as well as that of the Acts regulating the pensions and health subsystems, which entered into force on 30 December 2002 and 31 December 2001, respectively. The Committee notes that, as stated in its first section, the objective of the new Organic Act is to establish the social security system, establish and regulate its mandate, organization, functioning and financing, the management of its benefit systems and the manner in which entitlement to social security benefits is given effect with regard to persons subject to its scope of application, as a non-profit public service. *The Committee requests the Government to provide detailed information on the extent to which its new legislation gives effect to each of the provisions of the Convention, transmitting in this regard the information requested in the report form approved by the Governing Body, including statistics. The Committee also requests the Government to transmit the regulations concerning the application of the new legislation.*

2. *The Committee hopes that the next report will also contain information on the measures adopted to give effect to the following provisions with regard to which it has been making comments for several years: Articles 10, 17 and 23 (read in conjunction with Article 26) (amount of old-age, invalidity and survivors benefit); Article 21, paragraph 1 (read in conjunction with Article 1(h), (i)) (raising of age up to which minors have the right to a survivor's pension); Article 29 (revision of benefits); Article 32, paragraph 1(d) and (e) and paragraph 2 (suspension of benefits); and Article 38 (employees in the agriculture sector).*

Medical Care and Sickness Benefits Convention, 1969 (No. 130) (ratification: 1982)

1. The Committee notes the information provided by the Government in its reports relating to Conventions Nos. 102, 118, 121, 128 and 130. It notes the adoption of the new Organic Act on the Social Security System, as well as that of the Acts regulating the pensions and health sub-systems, which entered into force on 30 December 2002 and 31 December 2001, respectively. The Committee notes that, as stated in its first section, the objectives of the new Organic Act are to establish the social security system, establish and regulate its mandate, organization, functioning and financing, the management of its benefit system and the way in which entitlement to social security benefits is given effect with regard to persons subject to its scope of application, as a non-profit public service. *The Committee requests the Government to provide detailed information on the extent to which the new legislation gives effect to each of the provisions of the Convention, transmitting in this regard the information requested in the report form approved by the Governing Body, including statistics. The Committee also requests the Government to transmit the regulations implementing the new legislation.*

2. *The Committee hopes that the next report will also contain information on the measures adopted to give effect to the following provisions concerning which it has been making comments for several years: Articles 10, 19 (in conjunction with Article 5) (scope of application of insurance); Article 13 (specification in the legislation of medical assistance which has to be guaranteed to persons covered); Article 16, paragraph 1 (duration of medical assistance); Article 16, paragraphs 2 and 3 (continuation of medical assistance when the beneficiary ceases to belong to one of the groups of persons covered); Article 22 (in conjunction with Article 1(h)) (amount of sickness benefit); Article 28, paragraph 2 (suspension of sickness benefit).*

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 12** (Poland, Serbia and Montenegro); **Convention No. 17** (Bulgaria, Poland); **Convention No. 18** (Pakistan); **Convention No. 19** (Angola, Cape Verde, China: Macau Special Administrative Region, Denmark: Greenland, Djibouti, France: French Polynesia, Hungary, Kenya, Lithuania, Mali, Poland, Sao Tome and Principe, Senegal, Serbia and Montenegro, Slovenia); **Convention No. 24** (Colombia, Poland, United Kingdom: Guernsey); **Convention No. 25** (Colombia, Netherlands: Aruba, Poland, United Kingdom: Guernsey); **Convention No. 42** (Australia: Norfolk Island); **Convention No. 102** (Democratic Republic of the Congo, Germany, Libyan Arab Jamahiriya, Niger, Serbia and Montenegro); **Convention No. 118** (Central African Republic, Egypt, Guinea, Libyan Arab Jamahiriya); **Convention No. 121** (Libyan Arab Jamahiriya, Serbia and Montenegro); **Convention No. 128** (Germany, Libyan Arab Jamahiriya, Uruguay); **Convention No. 130** (Libyan Arab Jamahiriya).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 19** (Slovakia); **Convention No. 24** (Bulgaria); **Convention No. 128** (Sweden).

Maternity Protection

Chile

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1994)

The Committee notes the information supplied by the Government in its report. It notes with interest that Act No. 19.591 of 1998 has extended to domestic workers (*trabajadoras de casa particular*) the protection against dismissal laid down by the Labour Code applicable during pregnancy and until expiry of a period of one year from the end of maternity leave. The Committee also notes with interest the Government's indication that, in 2003, the *Contraloría General de la República* considered that the rules of the Labour Code concerning maternity protection are applicable to all women employed in state service, regardless of the statutory system to which they are affiliated.

The Committee wishes to draw the Government's attention to the following points.

Article 4, paragraph 3, of the Convention. In its previous comments, the Committee observed that section 30, paragraphs 2 and 4, of Act No. 18.469 of 1985 does not provide full application of this provision of the Convention. In fact, section 30 establishes the State's participation rate in the cost of medical care during confinement at 75 per cent for beneficiaries whose income exceeds a certain amount (categories C and D), whereas the Convention guarantees *ipso jure*, for all women within its scope fulfilling the required conditions, free medical benefits including prenatal, confinement and postnatal care. In its latest report, the Government states that Ministry of Health resolution No. 1.717 of 1985, as modified, has increased the percentage financed by the State for categories C and D to 90 and 80 per cent respectively. ***While noting this information with interest, the Committee is bound to urge the Government to re-examine the matter in order to ensure, in conformity with the Convention, that free medical benefits for confinement are available to all women within its scope, regardless of their income level. The Committee also requests the Government to supply with its next report a copy of resolution No. 1.717 referred to above.***

Furthermore, the Committee notes the Government's indication that an insured person who opts for the institutional system chooses to receive care in the public health system establishments. The Committee understands, in the light of this information, that in the public system insured persons have freedom of choice of doctor and hospital among those affiliated to the system. ***The Committee requests the Government to specify in its next report if this is in fact the case and to indicate the relevant legislation or regulations.*** The Committee recalls that the purpose of this provision of the Convention is to guarantee, inter alia, the principle of freedom of choice of the doctor and medical establishment by insured persons.

Article 4, paragraph 5. The Committee notes the Government's indication that there are no assistance benefits in cash for women who fail to qualify as a matter of right for cash benefits (section 4 of DFL No. 44 of 1978). The Committee recalls that under this provision of the Convention, women who fail to qualify for benefits as a matter of right shall be entitled to adequate benefits out of social assistance funds, subject to the means test required for social assistance. ***The Committee therefore once again requests the Government to indicate the measures taken or envisaged to ensure the application of this provision of the Convention for women who, since they do not fulfil the requirement of six months' affiliation and of three months' contributions during the prescribed period, are not entitled to cash benefits.***

Ghana

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1986)

The Committee notes the information provided by the Government in its report. It notes in particular the adoption in 2003 of the new Labour Act (No. 651) and wishes to draw the Government's attention to the following points.

Article 1, paragraph 3(h), of the Convention. The Committee notes with interest that, contrary to the previously applicable Labour Decree, the newly adopted Labour Act does not exclude domestic workers from its scope of application.

Article 3, paragraph 4. The Committee regrets to note that the Government did not insert, as it had stated, a provision in the new Labour Act establishing an extension of the prenatal maternity leave until the actual date of confinement when confinement takes place after the expected date. ***It therefore once again requests the Government to take the necessary steps to include in the provisions of national laws or regulations a provision in this regard.***

Article 4, paragraphs 4 and 8. The Committee notes that, according to section 57(2) of the Labour Act, a woman worker on maternity leave is entitled to be paid her full remuneration and other benefits to which she is otherwise entitled. The Government indicates that employers from the public and the private sectors pay their full remuneration to women workers on maternity leave. The Committee wishes to recall in this respect that, as it has been emphasized for a number of years, maternity benefits shall be provided either by means of *compulsory social insurance* or by means of *public funds* and that, in no case, the employer can be individually liable for the cost of such benefits due to women employed by him. ***The Committee consequently regrets that the Government has not taken the opportunity of the adoption of the new***

Labour Act to bring the national legislation into conformity with the Convention and hopes that it will indicate in its next report the measures taken or envisaged in this respect.

Article 6. The Committee notes that, in accordance with section 57(8) of the Labour Act, an employer cannot dismiss a woman worker *because of her absence from work* on maternity leave and that section 63(2)(e) further provides that, in the case of a woman worker, employment is terminated unfairly if the only reason for the termination is the pregnancy of the worker or the absence from work during maternity leave. It also notes that, by virtue of section 63(4) of the above Act, the burden of proving that the reasons for dismissal are fair rests on the employer.

In this respect, the Committee wishes to recall that this provision of the Convention stipulates that a woman absent from work on maternity leave cannot be dismissed or given notice of dismissal *during such absence* and that it does not allow dismissal to be made on any ground during the protected period. ***The Committee therefore requests the Government to examine the possibility of amending the Labour Act to bring it into conformity with Article 6 of the Convention.***

It also wishes to draw the Government's attention to the possibility to ratify Convention No. 183 on maternity protection of 2000, which prohibits dismissal only for reasons related to pregnancy or birth of the child and its consequences or nursing.

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

Guatemala

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1989)

Article 1 of the Convention. In its previous comments, the Committee requested the Government to provide detailed information, including statistics, on the progress achieved in the extension of the coverage of the sickness, maternity and employment injury insurance scheme, both in geographical terms to the various departments and regions of the country, and to the various categories of women workers and enterprises. In its report, the Government indicates that, in 2003, a total of 957,921 persons were affiliated to the social security system and specifies that it does not have statistics disaggregated by sex on this subject. It adds that the sickness and maternity insurance scheme currently covers 19 departments of the 22 in the country and that this coverage should soon be extended to the three departments which are currently still excluded (El Petén, El Progreso and Santa Rosa). The Government also indicates that, according to the information provided by the Guatemalan Social Security Institute (IGSS), of the 41,950 pregnancies reported in 2004, a total of 16,780 concerned women affiliated to the social security system and who were therefore covered by the maternity insurance scheme. The Committee notes this information. ***While observing with interest the trend for the progressive extension of the geographical coverage of the sickness and maternity insurance scheme throughout the national territory, the Committee trusts that the three departments which are currently excluded could very soon benefit from such coverage, as the Government had already expressed the hope of being able to achieve this extension in 2003.*** It recalls in this respect that, under the terms of *Article 1*, the Convention applies to women employed in industrial undertakings and in non-industrial and agricultural occupations, including women wage earners working at home, both in the public and private sectors and irrespective of the size of the enterprise. ***The Committee would therefore be grateful if the Government would keep it informed of any development in this respect, particularly by providing with its next report copies of the decisions relating to the successive extensions of the geographical coverage of the sickness and maternity insurance scheme. Finally, as such information was not included in the Government's report, the Committee once again requests it to provide detailed statistics on the number and categories of women workers actually covered by the sickness and maternity scheme of the IGSS in relation to the total number of women employed in the various departments of the country.***

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

Libyan Arab Jamahiriya

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1975)

The Committee notes with interest that in July 2005, an ILO technical assistance mission visited the Libyan Arab Jamahiriya to assist the Government in resolving difficulties in applying ratified social security Conventions, including Convention No. 103. The Committee hopes that with the Office's assistance, the Government will take the necessary steps to give full effect, in law and in practice, to the provisions of the Convention on which it has been commenting.

Article 1 of the Convention. Scope. The Committee notes that, in its report, the Government again states that the national legislation is in keeping with the Convention in terms of coverage. The Committee points out that since 1982 it has consistently drawn the Government's attention to the exclusion of certain categories of women workers from the scope of the Labour Code (domestic and similar workers, women engaged in stock-raising and agriculture – except those who work in enterprises processing agricultural products or repairing machinery necessary for agriculture – and permanent or temporary public officials working in state administrations and public bodies), and has asked the Government to take the necessary steps to extend maternity protection to them. The Committee also noted that there were

to be special regulations for some categories of these women workers. *Noting that none of the Government's successive reports has supplied the information requested on this matter, the Committee hopes that the Government will take all necessary measures to meet the Committee's concerns about the coverage of the Convention and to provide copies of the abovementioned special regulations together with particulars of the manner in which the women workers excluded from the scope of the Labour Code are provided with the protection laid down in the Convention under Article 3 (maternity leave), Article 5 (nursing breaks) and Article 6 (prohibition of dismissal).*

Article 2. The Committee notes that, although it has been asked to do so repeatedly since 1987, the Government has not included in its report the information the Committee requested in previous observations, in which it noted that under the terms of section 5 of the Regulation of 1982 on registration, contributions and inspection, registration under the social security system of non-Libyan officials is on a voluntary basis unless an agreement has been concluded with the countries of which these workers are nationals. *The Committee once again requests the Government to state the number of non-Libyan officials who are women and the number of any such women who are covered by the social security system.*

Article 3, paragraphs 2, 3 and 4. Duration of maternity leave. In its previous comments, the Committee noted that in its report for 2000, the Government stated that the incompatibility between Act No. 13 of 1980 on social security and the 1970 Labour Code has been eliminated in the new draft of the Labour and Employment Code to be submitted to the General People's Congress for examination and enactment. The Committee also noted that section 67 of the draft provides for maternity leave of 90 days, which may be extended to 100 days where the woman gives birth to more than one child. It further noted that in its report for 2001, the Government no longer made any mention of the new Labour and Employment Code or of progress in examining and enacting it. In its latest report, the Government refers to a draft revision of the Labour Code which provides for maternity leave of 14 weeks (not 12 weeks, as indicated in the report for 2000) extendable to 16 weeks in the event of the birth of more than one child. *The Committee hopes that in its next report the Government will not fail to provide a copy of the above draft together with information on its current status, and that it will send a copy of the text once it has been enacted.*

The Committee again notes that the Government's report contains none of the information requested on the other points raised previously. It accordingly draws the Government's attention once more to the following matters:

- (a) The Committee recalls that section 43 of the Labour Code makes the granting of maternity leave conditional upon the completion of a qualifying period of six consecutive months of service with an employer, which is contrary to the Convention. The Government indicated previously that, under the terms of section 25 of the Social Security Act, the implementing regulations fix a qualifying period of four months' contributions for entitlement to maternity cash benefits. It added that such a qualifying period is necessary to avoid abuse and that it is in conformity with *Article 4, paragraph 4*, of the Convention. While noting this information, the Committee wishes to emphasize that its comments did not concern the contribution requirements for entitlement to maternity benefit determined by the Social Security Act, but the six months' qualifying period provided for in section 43 of the Labour Code for the granting of maternity leave. *Since the Convention does not authorize any such requirement for entitlement to leave, the Committee hopes that this requirement will be eliminated in the near future when section 43 of the Labour Code is amended.*
- (b) The Committee once again points out that section 43 of the Labour Code does not provide, as does *Article 3, paragraph 4*, of the Convention, that where confinement occurs after the presumed date, prenatal leave must in all cases be extended until the actual date of confinement, and that the period of compulsory leave to be taken after confinement shall not be reduced on that account. *The Committee once again expresses the hope that it will be possible to supplement section 43 of the Labour Code by including a provision to this effect.*

Article 4, paragraphs 1, 4 and 8. Cash benefits. The Committee notes that, according to the information the Government has been supplying for many years, employers are required to pay cash benefits to women workers who are entitled to them and who are covered by the social security system, and that the social security fund shall guarantee the payment of these benefits where the employer is unable to pay them. The Committee asked the Government to take all necessary steps to bring section 25 of Social Security Act No. 13 of 1980 into conformity with the above provisions of the Convention by organizing the provision of cash benefits in a manner consistent with the Convention and by ensuring that in no circumstances shall the employer be individually liable for the cost of such benefits due to women employed by him either directly, by paying at his cost the benefits to which they are entitled, or indirectly by acting in place of the social security fund. In its latest report, the Government states that the benefits in question are paid by the compulsory social security system for women workers in the public and the private sectors and for self-employed women who have paid contributions, and by the social security fund for other categories. The Committee notes, however, that the Government's report contains no information as to the texts on which the above arrangements are based. *It hopes that in its next report the Government will provide this information together with copies of any relevant texts.*

In its previous comments, the Committee requested the Government to supply information on the adoption of the regulations implementing section 25 of Social Security Act No. 13 of 1980. *Since the latest report contains no information on this matter, the Committee again requests the Government to indicate whether these implementing regulations have been adopted and, if so, to provide a copy of them. If not, the Committee again expresses the hope that they will be adopted very shortly and will expressly provide that, in the event of the extension of the length of maternity leave in the circumstances envisaged in Article 3, paragraph 4, of the Convention (error in the presumed date of confinement), the period during which the maternity benefit is provided will be extended for an equivalent period.*

Part V of the report form. The Committee notes the information supplied by the Government on the number of women who have benefited from maternity protection. *It requests the Government to provide detailed information on the*

manner in which the Convention is applied in practice, including, for example, the total number of women workers to whom the maternity protection legislation applies, the number of them who have benefited from the protection during the reference period, and relevant extracts of reports of the inspection services and information on the number and nature of contraventions reported.

[The Government is asked to report in detail in 2006.]

Sri Lanka

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1993)

Application of the Convention to women workers in plantations. In its previous comments, the Committee observed the need for appropriate measures to be taken in order to make all women (estate) workers benefit from *medical and cash benefits*, as provided by *Article 4 of the Convention*. The Government indicates in its last report that although state sector plantations are currently in the process of privatization, it is considering further action in order to take into account the Committee's observations and that its next report will indicate the progress made in this respect. The Committee takes due note of this information. It recalls that, according to the Government's last report most of the (estate) hospitals do not provide maternity benefits. It also recalls that in the event of maternity, a number of workers, not covered by relevant collective agreements, receive cash maternity benefits below the level of two-thirds of the previous wage, contrary to the provisions of the Convention. ***The Committee therefore trusts that the Government will take all the necessary measures to guarantee to all (estate) workers the medical and cash maternity benefits to which they are entitled under the Convention.***

Article 3, paragraphs 2 and 3. The Committee had previously established the need to ensure full application of this provision of the Convention to all women workers covered by this instrument, *irrespective of the number of their children*, whereas national legislation provides for maternity leave not to exceed six weeks when the female worker gives birth to a third or subsequent child. The Government indicates in its last report that, although the necessary legislative amendments have so far not been carried out, measures are being taken in the public sector to ensure same benefits to all female workers regardless of the number of their children, and that in the private sector the matter is under consideration. ***While noting this information with interest, the Committee trusts the Government will be able to indicate in its next report the measures effectively taken to ensure the application of the Convention without discriminating as to the number of children.***

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

Uruguay

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1954)

The Committee notes the information provided by the Government in its reports in reply to its previous comments, and to the comments made by the Inter-Union Assembly of Workers – National Convention of Workers (PIT-CNT) concerning the application of the Convention. It wishes to draw the Government's attention to the following point.

Article 1 of the Convention. The Committee notes, from the comments made by the PIT-CNT that, following the adoption of Act No. 17,556 of 18 September 2002, women workers in the private sector covered by para-public social security institutions no longer benefit from medical coverage in relation to medical care provided during pregnancy and confinement, or cash benefits during maternity leave. The workers' organization indicates that the women workers concerned are essentially employed in insurance enterprises, administrative companies, savings and credit cooperatives and notarial studies. The Committee notes in this respect the Government's statement that the Ministry of Labour and Social Security sought information from the Social Insurance Bank concerning the number and category of workers who, following the adoption of the above text, have ceased to be covered by maternity benefits. It also notes the Government's indication that it requested information from para-public funds on the effect of the above Act on their beneficiaries and that it will inform the Committee as soon as possible of the replies received from these institutions. ***The Committee would therefore be grateful if the Government would indicate in its next report the situation of women workers covered by para-public funds with regard to all the rights guaranteed by the Convention and, if necessary, indicate the measures envisaged to secure for these workers the maternity protection afforded by the Convention.***

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

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 3** (Germany, Guinea); **Convention No. 103** (Bosnia and Herzegovina, Ghana, Guatemala, Mongolia, Sri Lanka, Uruguay, Uzbekistan); **Convention No. 183** (Italy, Romania).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 103** (Poland).

Social Policy

Brazil

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1969)

1. The Committee notes with interest the Government's detailed report for the period ending in June 2003. The Committee refers back to the comments on employment policy and on education and training policies that it made in 2004 in connection with the application of the Employment Policy Convention, 1964 (No. 122), and the Human Resources Development Convention, 1975 (No. 142). These comments addressed issues directly related to Convention No. 117.

2. *Parts I and II of the Convention. Improvement of standards of living.* The Government has provided information on the launch of the *Fome Zero* (Zero Hunger) programme, which aims to combat the poverty that, in 2001, affected 46 million people. According to the Government's report, most poverty is found, not in rural areas of Brazil, but in urban areas, mainly in medium and small-sized towns in the provinces. The rural population represents around 25 per cent of the poor; 7.7 million members of poor families are illiterate, which means that illiteracy affects 4.4 million families. The Government understands that combating hunger should not be considered as a "cost", but as an investment for the country. A special ministry is responsible for taking measures aimed at promoting food safety and combating hunger. Furthermore, a national agrarian reform plan has been drawn up. In its previous comments, the Committee referred to the situation of the "landless workers" and the measures taken within the framework of the Agrarian Reform and Settlement Institute (INCRA). *The Committee hopes that the Government will be able to include, in its next report, an update on the way in which it is ensured that "the improvement of standards of living" is regarded as "the principal objective in the planning of economic development" (Article 2 of the Convention) and that it will indicate the results achieved in its fight against poverty. In this regard, the Committee reminds the Government that, in order to ascertain the minimum standards of living of independent producers and wage earners "account shall be taken of such essential family needs of the workers as food and its nutritive value, housing, clothing, medical care and education" (Article 5, paragraph 2, of the Convention).*

3. *Part IV. Remuneration of workers.* In its previous comments, the Committee indicated that the provisions of the Consolidation of Labour Laws did not appear to give effect to all the requirements of *Article 12* of the Convention as regards advances on wages. *The Committee hopes that the Government's next report will indicate the measures envisaged or adopted to determine the maximum amount and manner of repayment of advances on wages in accordance with the Convention.*

Central African Republic

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1964)

Parts I and II of the Convention. Improvement of standards of living. The Committee notes with regret that the Government has not provided information on the application of the Convention for many years. *It requests the Government to provide information on the manner in which the provisions of Convention No. 117, which are intended to ensure that "all policies shall be primarily directed to the well-being and development of the population", have been taken into account in the formulation and implementation of the measures adopted in the context of its economic programmes and its poverty reduction strategy (Articles 1 and 2 of the Convention).*

Part IV. Remuneration of workers. The Committee recalls that, in its previous comments, it pointed out that, under the terms of *Article 12* of the Convention, the maximum amounts and manner of repayment of advances on wages are to be regulated by the competent authority. The Government had stated in previous reports that it was examining these questions in the private sector. *The Committee requests the Government to indicate the progress achieved in regulating the maximum amounts and manner of repayment of advances on wages.*

Part VI. Education and training. *The Committee requests the Government to provide information on the progress achieved in the field of vocational and informal training and, in particular, in primary education (Article 15).*

[The Government is asked to reply in detail to the present comments in 2006.]

Jamaica

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1966)

1. The Committee notes that the Government's report received in August 2003 essentially reproduces the information provided in the Government's report received in March 1998.

2. *Parts I and II of the Convention. Improvement of standards of living.* **The Committee asks the Government to provide, in its next report on the application of the Convention, updated data illustrating that the improvement of standards of living have been regarded as the principal objective in the planning of economic development. Please also supply information on the promotion of cooperatives and the improvement of standards of living for workers in the informal economy (Articles 4(e) and 5 of the Convention).** The Government might consider it useful to refer to the Promotion of Cooperatives Recommendation, 2002 (No. 193) and the resolution concerning decent work and the informal economy adopted by the International Labour Conference at its 90th Session (June 2002).

3. *Part IV. Remuneration of workers.* The Committee recalls the Government's statement indicating that the Labour Advisory Committee was reviewing all labour laws. The Government stated that the Convention is applied in practice despite the absence of legislative provisions. **It hopes that full consideration will be given to the questions raised in this observation in the framework of the labour law revision, so as to bring the national legislation in line with the provisions of the Convention.**

4. *Article 11, paragraph 1.* In its earlier direct requests, the Committee had noted that section 11(1)(c) of the Holidays with Pay Order, 1973, requires the employer to keep a record of normal wages, but this appears to mean wage rates (so as to calculate holiday pay) and not the wages actually paid. Section 16(1) of the Employment Act (Termination and Redundancy Payments), requires a record to be kept in such form and containing such particulars as may be prescribed, but there is no information on what has been prescribed under this provision. Section 11(b) of the Minimum Wage Act (as amended), requires records to be kept to show compliance with the Act (i.e. to pay wages at not less than the minimum rate). In this regard, the Committee recalls that *Article 11, paragraph 1*, of the Convention requires that the necessary measures be taken to ensure the proper payment not only of the minimum wage but of all wages earned.

5. **The Committee also asks the Government to indicate measures taken or contemplated:**

- (a) **to ensure the direct payment of wages to the individual worker (Article 11, paragraph 3);**
- (b) **to forbid the payment of wages in taverns or stores except to workers employed therein (paragraph 5);**
- (c) **to ensure the regular payment of wages (paragraph 6); and,**
- (d) **to prevent any unauthorized deductions from wages (paragraph 8(b)).**

6. *Article 12.* Noting the Government's indication concerning the regulation of the advances on wages in the government service under the Financial Administration and Audit Act and that the payment of wages advances is not at present regulated by law in the private sector, the Committee requests the Government to indicate measures taken or contemplated to regulate the advances on wages in the private sector in accordance with this Article of the Convention.

7. *Part VI. Education.* The Committee had previously noted that, under Education Act of 1980, the Minister may by Order declare: (a) any area within a radius of three miles from any school to be a compulsory education area; and (b) the compulsory school age in relation to such compulsory education area. **It requests once again the Government to supply a copy of the Order made under this provision, and also information on measures taken to prohibit the employment of persons below the school-leaving age (Article 15).**

Kuwait

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1963)

The Committee notes the information provided by the Government's reports received in November 2002 and March and October 2003 in reply to its previous observation.

1. *Parts I and II of the Convention. Improvement of standards of living.* The Committee notes the information provided on the development plan of the State of Kuwait "Future outlook and phased trends" which includes development programmes to promote employment, education and training. It hopes that the next report on the application of the Convention will contain practical information dealing with the economic and social development in Kuwait including updated data illustrating that the improvement of standards of living have been regarded as the principal objective in the planning of economic development.

2. *Part III. Migrant workers.* The Committee takes due note of the Technical Cooperation Agreement signed between the Governments of Kuwait and Bangladesh in October 2000, aimed at exchanging information and developing the cooperation between both countries on matters related to manpower. **The Committee asks the Government to provide information on the operation of any other agreement which might have been concluded for the protection of migrant workers and recalls that such agreements should provide protection and advantages for migrant workers not less than those enjoyed by workers residing in the member State which ratified this Convention (Article 8).** The Committee draws the Government's attention to the fact that it is difficult to avoid abusive practices in these settings which are more likely to escape controls and emphasizes the urgent need to grant effective protection to migrant workers. To this end, the non-binding multilateral framework for migrant workers in a global economy was designed in agreement with the tripartite constituents to assist member States in improving the effectiveness of their policies relating to labour migration. (*Provisional Record* No. 22, pages 60-61, ILC, 92nd Session, Geneva, 2004.)

3. *Part IV. Remuneration of workers.* The Committee previously requested the Government to indicate whether minimum rates of wage are fixed in consultation with representatives of the employers and workers (*Article 10, paragraph 2*), and what measures have been taken to ensure the enforcement of such minimum rates (*Article 10, paragraphs 3 and 4*). **As no mention of the draft Labour Code is made in the Government's latest reports, the Committee once again requests the Government to provide information on any development in respect of adopting a new legislation fixing minimum wage.**

4. *Payment of wages.* In its previous comments, the Committee had noted the Government's indications concerning measures taken to ensure the regular and timely payment of wages to workers. Among these measures, the Government had referred to Ministerial Order No. 108 of 29 June 1994 extending the system of a bank guarantee and Ministerial Order No. 110 of 7 January 1995 issued to require the transfer of wages to a Kuwaiti bank on the prescribed date of payment. **The Committee once again requests the Government to provide a copy of the relevant provisions of the abovementioned Ministerial Orders including information on their application to migrant workers (Article 11).**

5. *Advances on wages.* The Committee notes the Government's repeated indication that section 31 of the Labour Code in the private sector (Act No. 38 of 1964) provides that the maximum amount to be deducted from the worker's wage to repay his employers for advances on his wage shall not exceed 10 per cent of the worker's wage and that the employer shall not charge the worker any interest. The Committee points out once again that these national provisions seems to be insufficient to fulfil the specific requirements of *Article 12, paragraph 2*, of the Convention which, in addition to the manner of repayment of advances on wages, provides that the maximum amounts of advances on wages, including those which may be made to a worker in consideration of his taking up employment, shall be regulated by the competent authority. **The Committee asks the Government to state, in its next report, measures envisaged or taken in order to provide a legal framework to advances on wages, in conformity with the provisions of the Convention.**

Paraguay

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1969)

1. *Parts I and II of the Convention. Improvement of standards of living.* The Committee notes with regret that the Government's report has not been received. The Committee notes the reference to Convention No. 117 in the observations by the Dockers' Trade Union of Asunción (SEMA) and the Maritime Workers League of Paraguay (LOMP), sent to the Government in May 2005, concerning the application of Convention No. 98. **The Committee refers to its direct request of 2001 on Convention No. 117 and requests the Government to send an up-to-date appreciation of the manner in which it is ensured that "improvement in standards of living" has been regarded as the "principle objective in the planning of economic development" (Article 2) and to provide information on the results achieved in combating poverty.** The Committee reminds the Government that, according to the Convention, in order to ascertain minimum standards of living for independent producers and wage earners, "account shall be taken of such essential family needs of the workers as food and its nutritive value, housing, clothing, medical care and education" (*Article 5, paragraph 2*).

2. *Part III. Migrant workers.* **The Committee requests the Government to provide information on migration movements in the country and on the measures taken to give effect to Articles 6 and 7 of the Convention.**

3. *Part VI. Education and training.* **Please indicate the measures that have been taken for the progressive development of education, vocational training and apprenticeship and the manner in which the teaching of new production techniques has been organized as part of the social policy giving effect to the Convention (Articles 15 and 16).**

[The Government is asked to reply in detail to the present comments in 2006.]

United Kingdom

Bermuda

Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82)

1. *Part V. Remuneration of workers.* The Committee notes the information provided by the Government in its report of April 2004. It takes note with satisfaction of the adoption of the Employment Act 2000, which came into force in March 2002 and which addresses a number of issues previously raised by the Committee, relating to protection of wages (*Articles 15 and 16 of the Convention*). It particularly notes with interest the definition of wages contained in section 3 of the Act as well as the provisions of sections 7 and 8 concerning itemized pay statements and unauthorized deductions.

2. *Part III. Improvement of standards of living and other objectives of the social policy.* **The Committee hopes that in its next report the Government will keep providing information dealing with the economic and social development of Bermuda, including updated data illustrating that the improvement of standards of living has been regarded as the principal objective in the planning of economic development.**

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 82** (France: French Polynesia, New Zealand, United Kingdom: Anguilla, United Kingdom: British Virgin Islands, United Kingdom: Falkland Islands (Malvinas), United Kingdom: Gibraltar); **Convention No. 117** (Bahamas, Bolivia, Costa Rica, Democratic Republic of the Congo, Ecuador, Guinea, Jordan, Madagascar, Malta, Nicaragua, Niger, Panama, Portugal, Senegal, Spain, Syrian Arab Republic, Tunisia, Bolivarian Republic of Venezuela).

Migrant Workers

Malaysia

Sabah

Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 1964)

Article 6, paragraph 1(b) of the Convention. For many years now, the Committee has been pursuing a dialogue with the Government regarding differences in treatment between nationals and foreign workers with respect to payment of social security benefits. The Committee had considered that the transfer of foreign workers working in the private sector from the Employees' Social Security Scheme (ESS) to the Workmen's Compensation Scheme was not in conformity with *Article 6, paragraph 1(b)*, of the Convention as, under the new scheme, foreign workers were provided with a lump sum and no longer with a monthly payment. A review of the two schemes had also shown that the level of benefits in case of industrial accident provided under the ESS was substantially higher than that provided under the Workmen's Compensation Scheme.

The Committee regrets to note that the Government merely continues to state its main arguments for introducing the lump-sum system of payment, without giving elements of a detailed comparison of the benefits which would be awarded according to each system in identical circumstances.

The Committee trusts that the Government will make every effort to demonstrate in its next report that migrant workers do not receive treatment which is less favourable than that applied to nationals. It hopes in particular that the Government's report will contain full information on the action taken to ensure that the lump sum corresponds to the actuarial equivalent of the periodical payments provided to nationals under the ESS, as well as information comparing the benefits which would be awarded according to each system in identical circumstances.

The Committee also refers the Government to the comments made under Convention No. 19 with respect to Peninsular Malaysia and Sarawak.

Uganda

Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) (ratification: 1978)

The Committee notes with regret that for the past ten years the Government's report has not been received. The Committee recalls the Government's repeated statements that revised labour legislation would include provisions that prohibit clandestine migration movements and provide for equal treatment and opportunity between migrant workers and nationals. The Committee had expressed the hope in this regard that the revised legislation would also impose penal sanctions against the organizers of clandestine movements of migrants or against those who employ such workers in accordance with *Articles 3(b) and 6(1) of the Convention*, and that it would ensure that migrant workers have free choice of employment in accordance with *Article 14(a)* of the Convention.

The Committee understands that the Government has not yet adopted the revised legislation. The Committee is concerned over the slow progress made with respect to the matters raised above. *It urges the Government to take the necessary steps to give effect to Articles 3(b) and 6(1), 10 and 14(a) of the Convention, and hopes that the Government will be in a position to report positively on any results achieved in the near future.* It reminds the Government that the Office remains available to provide technical assistance upon request to support the Government in its efforts to apply the Convention.

Direct requests

In addition, a request regarding certain points is being addressed directly to: **Convention No. 97 (Madagascar)**.

Seafarers

Algeria

Accommodation of Crews Convention (Revised), 1949 (No. 92) (ratification: 1962)

Articles 6 to 17 of the Convention. Crew accommodation. Since 1981, the Committee has been asking the Government to send copies of the texts implementing section 446 of the Maritime Code, according to which the Minister sets by order detailed conditions concerning, inter alia, the installations and fittings for the accommodation of crews.

The Committee notes once again that no implementing texts have been enacted for section 446. According to the Government, a draft Executive Decree is being prepared in the context of the 2005 action plan of the Merchant Navy Directorate, and will be considered by the departments of the Government's general secretariat. *Since the Convention is still not fully applied in law, the Committee requests the Government to remedy the matter promptly by ensuring that the draft Executive Decree is considered and enacted as soon as possible. It requests the Government to provide a copy of the text as soon as it has been adopted.*

Argentina

Placing of Seamen Convention, 1920 (No. 9) (ratification: 1933)

Article 4 of the Convention. Organization of public employment offices. The Government indicates in its report that since June 2003 the Single Recruitment Centre for Seafarers (CUCGEMARA) has been responsible for the recruitment of seafarers and service staff. CUCGEMARA was created by an agreement between the parties when negotiating collective labour agreement No. 356/03. *The Committee requests the Government to indicate whether CUCGEMARA is a free employment centre for seafarers and the manner in which it is managed. It also requests the Government to provide with its next report the text of the agreement establishing CUCGEMARA and to indicate whether previous collective agreements, and particularly collective agreement No. 307/99, applicable to seafarers and service staff recruited on freezer ships, are still in force.* Furthermore, according to the information provided by the Government, the Argentinian Association of Fishing Vessel Masters and Owners is also seeking to establish its own recruitment centre. In this respect, the Committee recalls that employment offices for seafarers have to be without charge and that they may be organized and maintained by representative associations of shipowners on condition that they act jointly with representative associations of seafarers under the control of a central authority (*paragraph 1(a)*). It also emphasizes that, where employment offices of different types exist, steps have to be taken to coordinate them on a national basis (*paragraph 3*). *It requests the Government to take the necessary measures to bring national law and practice into conformity with these provisions.*

Article 5. Establishment of consultative committees. In its report, the Government indicates that there is no advisory committee as envisaged in this provision of the Convention and it notes that CUCGEMARA, which is responsible for the recruitment of seafarers, is administered in a bipartite manner. The Committee recalls that advisory committees, the establishment of which is envisaged in *Article 5*, are external bodies responsible for supervising and advising free employment offices for seafarers. *It therefore requests the Government to take measures for the establishment of such committees and to provide information in its next report on any developments in the situation.*

Article 10. Statistical information. According to the statistical information provided by the Government, 28,000 workers were registered on the list of personnel employed by the Merchant Navy in the census of 2002 and 5,300 job applications have now been registered by CUCGEMARA. The Government also reports the lack of jobs available, which makes the placement of seafarers more difficult. *The Committee therefore once again requests the Government to provide indications in its next report on the number of job applications received and vacancies notified, the number of persons placed in employment by free employment offices for seafarers and to provide statistical data on unemployment among seafarers.*

The Committee reminds the Government that the Governing Body of the International Labour Office has invited the States parties to Convention No. 9 to consider ratifying the Recruitment and Placement of Seafarers' Convention, 1996 (No. 179), which would involve the automatic denunciation of Convention No. 9 and would allow for the establishment of a private system of recruitment and placement services alongside, or in place of, a free public recruitment and placement service for seafarers (see paragraphs 47-51 of document GB.273/LILS/4(Rev.1) of November 1998). *The Committee would be grateful if the Government would provide information in its next report on any consultations held for this purpose.*

Seamen's Articles of Agreement Convention, 1926 (No. 22) (ratification: 1950)

The Committee notes with interest the progressive re-establishment of social dialogue in the maritime sector, which has led to the conclusion of several collective agreements. It also notes Decree No. 1010/2004, which has recently been adopted and repeals the provisions of Decree No. 1772/91. This Decree allows shipowners, who opted for the systems

introduced by earlier decrees, and particularly Decree No. 1772/91, to return to the national flag within two years. Before their reintegration, shipowners would only be authorized to engage in national coastal navigation. Furthermore, under certain conditions, national treatment would be granted to vessels or other bare-boat naval structures that are hired and flying a foreign flag. In exchange, the shipowners concerned would have to apply Argentinian legislation. As a result, the crew of the vessels concerned would have to be exclusively composed of Argentinian seafarers or, if no nationals were available, of foreign seafarers approved by the National Directorate for Migration under the terms of the General Migration Act. ***The Committee requests the Government to provide further information on this Decree. It also requests it to indicate in its next report the progress achieved in the total re-establishment of social dialogue.***

Article 5 of the Convention. Document containing a record of employment on board. The Committee notes that neither the Code of Commerce, nor Act No. 20094 of 15 January 1973 on shipping, nor Act No. 20744 of 13 May 1976, respecting the system of contracts of employment, contain provisions on this subject. It recalls that, in accordance with the Convention, every seafarer shall be given a document upon completion of service containing a record of his employment on board the vessel. The form of the document, the particulars to be recorded and the manner in which such particulars are to be entered in it shall be determined by national law. The document shall not contain any statement as to the quality of the seafarer's work or as to his wages. This is a different document from that envisaged in *Article 14* of the Convention and in section 986 of the Code of Commerce. ***The Committee requests the Government to indicate in its next report the measures adopted or envisaged to bring national law and practice into conformity with this provision.***

Article 8. Conditions of employment. According to this provision, in order that the seafarer may satisfy himself as to the nature and extent of his rights and obligations, national law shall lay down the measures to be taken to enable clear information to be obtained on board as to the conditions of employment, either by posting the conditions of the agreement in a place easily accessible from the crew's quarters, or by some other appropriate means. Under the terms of section 926 of the Code of Commerce, a crew register has to be established at the home port and shall contain: the name and registration of the vessel; the family name and first names of the seafarer; his age; marital status; nationality; the work to which he is assigned on board the vessel; the place and date of the conclusion of the contract; the voyage or voyages to be undertaken if they can be determined at the time of engagement; wages; bonuses; the conditions set out in the articles of agreement and their date of expiry. ***The Committee requests the Government to indicate whether this register is posted on board the vessel in such a way that the seafarer can satisfy himself as to his precise conditions of employment, as provided for by the Convention, or whether some other means are envisaged to meet this obligation.***

Further to its previous comments, the Committee also requests the Government to indicate in its next report whether the Regulations on maritime, river and lake navigation (REGINAVE) and the Regulations on the training and qualification of seagoing personnel in the Merchant Navy (REFOCAPEMM) are still in force.

Officers' Competency Certificates Convention, 1936 (No. 53) (ratification: 1955)

The Committee notes the Government's report and the rules applicable with regard to the recognition of certificates pursuant to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995, transmitted with the report.

The Committee notes with regret, however, that the Government has not replied to the requests for information made in its previous comments with regard to the practical application of the legislation on the recognition of foreign competency certificates. ***It requests the Government to transmit this information in its next report, as well as the number of national and foreign competency certificates recognized and issued during the course of the last examination period.***

Food and Catering (Ships' Crews) Convention, 1946 (No. 68) (ratification: 1956)

Article 5 of the Convention. Adoption of laws or regulations to secure the health and well-being of the crews. In reply to the Committee's comments, the Government indicates in its report that food and catering are governed by Act No. 20.094 of 15 January 1973. The Committee notes that the Act provides only that the captain is responsible for ensuring compliance with the relevant laws and regulations (article 131(i)). The Committee also notes that the quantity and quality of food on board vessels are regulated by collective agreements, to which all maritime unions are parties.

The Committee reminds the Government that, according to the Convention, every Member that has ratified it is required to maintain in force laws or regulations on food and catering designed to secure the health and well-being of the crews of vessels, whether publicly or privately owned, which are engaged in the transport of cargo or passengers and which are registered in its territory. Furthermore, according to *Article 5, paragraph 2*, of the Convention the laws or regulations maintained in force by a Member that has ratified the Convention must require: the provision of food and water supplies which, having regard to the size of the crew and the duration and nature of the voyage, are suitable in respect of quantity, nutritive value, quality and variety; and the arrangement and equipment of the catering department in every vessel in such a manner as to permit of the service of proper meals to the members of the crew. Such matters may not be regulated by collective agreements alone. ***The Committee urges the Government to take the necessary steps to***

bring the national legislation in line with the Convention. The Government is also asked to report on progress in this matter.

Barbados

Seafarers' Identity Documents Convention, 1958 (No. 108) (ratification: 1967)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

The Committee notes with regret from the Government's report that the seafarers' identity document required under the Convention does not exist for national seafarers in Barbados, and that foreign seafarers holding identity documents issued pursuant to the Convention are not accorded the facilities provided for in that instrument.

It further notes from the Government's report that the Immigration Department has no objections to accepting the responsibility for issuing the seafarers' identity document provided for in the Convention, although it has never been charged to do so. The report refers to two possible solutions: amending the Immigration Act; or enacting new legislation to empower the Immigration Department to issue such documents.

The Committee urges the Government to take the necessary steps to ensure that its obligations under the Convention are fully respected and to inform it of measures taken in this regard.

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

Belgium

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) (ratification: 1982)

The Committee notes the information in the Government's report. In the absence of a response to certain aspects of its previous observation, the Committee is obliged to reiterate its previous observation concerning *Article 2(f) of the Convention*.

Article 2(f). Inspections. The Committee requests that the Government continue to provide information on the inspections carried out with regard to the application of this Article of the Convention, the violations observed, the measures taken and the penalties imposed. In particular, it requests that the Government indicate the average number of inspections carried out annually to verify the application of the ratified maritime Conventions and the application of Convention No. 147 as regards vessels registered in Belgium and to provide any relevant documents in this regard.

The Committee hopes that the Government will do its best to include the current legislation in its next report.

Brazil

Accommodation of Crews Convention (Revised), 1949 (No. 92) (ratification: 1954)

In its previous comments, the Committee expressed the hope that the Government would be in a position to report on the progress made in adopting legislation to ensure the application of Parts II, III and IV of the Convention. It notes with interest the adoption of Regulatory Norm No. 30 of the Ministry of Labour and Employment (NR No. 30). This norm contains detailed requirements with respect to various conditions of employment on board, including the crew accommodation.

The Committee is also addressing to the Government a direct request on a number of points.

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) (ratification: 1992)

In its previous comments, the Committee expressed the hope that the Government would be in a position to report on progress made in adopting legislation to ensure the application of Parts II and III of the Accommodation of Crews Convention (Revised), 1949 (No. 92), and the provisions of Part II of this Convention. It notes with interest the adoption of Regulatory Norm No. 30 of the Ministry of Labour and Employment (NR No. 30). This norm contains detailed requirements with respect to various conditions of employment on board, including the crew accommodation.

The Committee is also addressing to the Government a direct request on a number of points.

Cameroon

Placing of Seamen Convention, 1920 (No. 9) (ratification: 1970)

Article 2, paragraph 2, of the Convention. Penal sanctions. In its report, the Government indicates that section 325 of the Merchant Shipping Code of the Central African Economic and Monetary Community expressly reproduces the first

paragraph of this provision of the Convention. The Committee draws the Government's attention to the fact that the Convention states that, "The law of each country shall provide punishment for any violation of the provisions of this Article" (*Article 2, paragraph 2*). **Consequently, the Committee requests the Government to take all necessary measures to introduce into the national legislation and apply the appropriate penal sanctions relating to any violation of this Article.**

Article 3. Exceptions. The Committee notes that there are eight private employment agencies carrying on the work of finding employment for seafarers in Douala. It recalls that, pursuant to this provision, "Each Member which ratifies this Convention agrees to take all practicable measures to abolish the practice of finding employment for seaman as a commercial enterprise for pecuniary gain as soon as possible". Any exceptional practices may only be permitted to continue temporarily (*Article 3, paragraph 1*). Under this Article of the Convention, the Government shall abolish the practice of finding employment for seafarers as a commercial enterprise for pecuniary gain as soon as possible. Thirty-five years have passed since the ratification of the Convention by Cameroon and the Government has had sufficient time to take the measures necessary to abolish the practice of finding employment for seafarers as a commercial enterprise for pecuniary gain. It notes that the Government places great emphasis on the seafarer training activities carried out by these employment agencies. **It requests the Government to separate these training activities (which may be carried out for pecuniary gain) from placing activities and to ensure that placing is not carried out for pecuniary gain.**

Article 5. Consultative committees. The Committee notes that since 1985 the Government has been considering the establishment of representative committees of seafarers and shipowners in the port of Douala which would be consulted with regard to the functioning of employment agencies. The situation has not changed in the past 20 years and this provision of the Convention remains unapplied to date. **The Committee hopes that the Government will take all such measures as are necessary in order to ensure the establishment of committees composed of an equal number of representatives of the shipowners and the seafarers.**

Article 10. Statistics. The Committee notes the renewal of the request for technical assistance made to the International Labour Office by the Government. **In order to guarantee the Government the best assistance possible, the Committee once again invites the Government to communicate all the information available to it in this regard.**

The Committee recalls that the Governing Body of the International Labour Office invited States parties to Convention No. 9 to envisage ratifying the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), the ratification of which would, *ipso jure*, involve the immediate denunciation of Convention No. 9 (see paragraphs 47 to 51 of document GB.273/LILS/4(Rev.1) of November 1998) and which would allow employment agencies to operate for pecuniary gain, under the conditions contained in the above Convention. **The Committee would be grateful if the Government would provide, in its next report, information on any consultations held to this end.**

Chile

Placing of Seamen Convention, 1920 (No. 9) (ratification: 1935)

Article 4, paragraph 1, of the Convention. Organization of public employment offices. For several years, the Government has been indicating in its reports that there is no free employment office specifically covering seafarers. Seafarers may have recourse to the free services of private agencies or of municipal employment offices which are open to all workers without distinction (Presidential Decree No. 146 of December 1989, approving the regulations issued under Legislative Decree No. 1 of 1989 respecting training and employment). The Committee notes, however, from the information provided by the Government in its last two reports, that the recruitment of crew and officers is henceforth being undertaken directly by the shipowner or through administrative shipping agencies. **The Committee requests the Government to provide further information in its next report on these agencies and emphasizes that the system of employment offices which has to be organized must be without charge.**

Article 4, paragraph 3. Existence of employment offices of different types. The Committee notes the additional information provided by the Government in the report received in 2003, according to which the electronic labour exchange, which is operational throughout the territory, now operates as a free public employment office for workers and appears to coordinate the activities of the various employment offices. **It requests the Government to indicate in detail in its next report the measures adopted for such coordination.**

Article 5. Establishment of consultative committees. In its previous comments, the Committee noted that this provision requires the establishment of advisory committees "consisting of an equal number of representatives" of shipowners and seafarers. In its report, the Government states that special committees consisting of shipowners and seafarers do not exist to monitor the proper functioning of free employment offices for seafarers. **The Committee requests the Government to indicate in its next report the measures adopted or envisaged to bring national law and practice into conformity with this provision.**

Article 10. Statistical information. The Government indicated in its report in 2003 that there were no specific statistics on seafarers, as this sector is covered by the general statistics compiled in the country. The Committee recalls once again that the transmission of data on the organization of the system of offices for finding employment for seafarers without charge contributes to ensuring that full effect is given to the Convention. **The Committee therefore trusts that the**

Government will soon be in a position to provide such data in order to ensure the full effectiveness of “an efficient and adequate system of employment offices” for finding employment for seafarers without charge.

The Committee reminds the Government that the Governing Body of the International Labour Office has invited States parties to Convention No. 9 to envisage ratifying the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), which would result in the automatic denunciation of Convention No. 9 (see document GB.273/LILS/4(Rev.1), paragraphs 47 to 51, November 1998). Convention No. 179 allows Members to maintain a free public recruitment and placement service for seafarers in the framework of a public employment service for all workers (*Article 2, paragraph 1(a)*). **The Committee would be grateful if the Government would provide information in its next report on any consultations held on this matter.**

China

Repatriation of Seamen Convention, 1926 (No. 23) (ratification: 1936)

For several years, the Committee has requested the Government to indicate the laws or regulations adopted to ensure the effective application of the provisions of the Convention. According to the information provided in the report, as yet no specific legislation exists concerning the repatriation of seafarers. The Government once again refers to the provisions contained in the seafarer’s articles of agreement and in the agreements directly concluded with the shipowner or the person in charge of the vessel. It states, however, that section 22 of the Maritime Act of 7 November 1992 contains provisions concerning repatriation. In this regard, the Committee notes that this section only provides that, in the case of a claim lodged by the seafarer, the cost of repatriation of crew members is included in the maritime claims which must be paid as a priority by the shipowner. It does not therefore guarantee the seafarer the right to repatriation. Moreover, it emphasizes that, under the Convention, the national legislation shall contain provisions providing that any seafarer who is landed during the term of his engagement or on its expiration shall be entitled to be taken back to his own country, or to the port at which he was engaged, or to the port at which the voyage commenced, regardless of any dispute (*Article 3 of the Convention*). **Consequently, the Committee requests the Government to take any such measures as may be necessary to ensure that the repatriation of seafarers is carried out automatically and in accordance with the provisions of the Convention.**

Part V of the report form. **The Committee requests the Government to provide general information on the manner in which the Convention is applied including, for instance, extracts from reports of the inspection and registration services and information on the number of seafarers signed on during the year covered by the report, the number and nature of contraventions, etc.**

Cuba

Seamen's Articles of Agreement Convention, 1926 (No. 22) (ratification: 1928)

The Committee notes the Government’s last report, as well as the sample articles of agreement used by the enterprise Naviera Petrocost when recruiting seafarers.

Article 5 of the Convention. Issue of a document containing a record of seafarer’s employment on board. In its previous comment, the Committee recalled that, pursuant to *Article 5, paragraph 1*, of the Convention, every seaman shall be given a document containing a record of his employment on board the vessel at the end of his contract. The form of the document, the particulars to be recorded and the manner in which such particulars are to be entered in it, shall be determined by national law. It shall not contain any statement as to the quality of the seaman’s work or as to his wages. **The Committee once again asks the Government to provide a specimen of a document issued to seafarers pursuant to this provision of the Convention in its next report.**

Article 6, paragraphs 2 and 3. Particulars of the agreement. The sample articles of agreement provided by the Government seem only to contain the obligations of the seafarer. In its report, the Government states that these sample articles of agreement are in conformity with the national regulations applicable to this sector. The Committee recalls that, under the terms of this provision, agreements must state clearly the respective rights and obligations of each of the parties. Mention must be made in particular of the provisions to be supplied to the seaman and the amount of his wages. **The Committee requests the Government to indicate, in its next report, the measures taken or envisaged to bring national law and practice into conformity with these provisions.**

Article 9. Termination of the agreement. Point 4 of the agreement used by the enterprise Naviera Petrocost relates to the termination of the agreement. It indicates that the seafarer must give at least 30 days’ notice when terminating the agreement; this notice may be given in written form or verbally in the presence of a witness. This point also provides that an agreement may only be terminated with the approval of the administrator and once a replacement has been found for the seafarer. The Committee recalls that termination of an agreement by one or other of the parties is a unilateral act that may not be linked to conditions such as the approval of a third person or the arrival of a replacement (*Article 9, paragraph 1*). Moreover, only in exceptional circumstances shall duly given notice not terminate the agreement (*Article*

9, paragraph 3). Finally, it emphasizes that *Article 9, paragraph 2*, of the Convention requires that notice be given in writing and does not authorize the giving of notice in verbal form, even in the presence of witnesses. Consequently, it seems that the agreement as well as the national legislation (the agreement used by Naviera Petrocost being, according to the Government, in conformity with the regulatory provisions applicable to this sector) contravene the provisions contained in the Convention. ***The Committee requests the Government to take all steps necessary to bring national law and practice into conformity with the Convention and to provide, in its next report, information on any developments in this regard.***

Seafarers' Identity Documents Convention, 1958 (No. 108) (ratification: 1975)

Article 3 of the Convention. Retention of seafarer's identity document by the seafarer. For many years, the Committee has been requesting the Government to indicate whether section 33 of Decree No. 26 of 1978 has been amended to ensure that the seafarer retains the identity document at all times. According to the information provided by the Government in its report, no amendment has been made. However, the Government indicates that, despite this provision, measures have been taken to ensure that a seafarer's passport is at his disposal whenever necessary. The Committee reminds the Government that, in accordance with the Convention, the seafarer's identity document shall remain in the seafarer's possession at all times, and not just whenever necessary. ***It urges the Government to take measures to bring national law and practice into conformity with this provision.***

The Committee notes the information provided by the Government that it is examining the possibility of ratifying the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185). ***It requests the Government to keep it informed of any developments in its examination of this matter.***

Djibouti

Sickness Insurance (Sea) Convention, 1936 (No. 56) (ratification: 1978)

The Committee notes that the report provided by the Government contains no new information beyond that provided in 2000. In these circumstances, it is therefore once again bound, as it has done for a number of years, to draw the Government's attention to the need to establish in the country a compulsory sickness insurance scheme applicable to seafarers employed on board vessels, other than ships of war, carrying out maritime navigation or sea-fishing, in accordance with the provisions of the Convention. The special compulsory sickness insurance scheme for seafarers, which must be established pursuant to the Maritime Affairs Code of 1982, has never been established owing to the low number of seafarers in Djibouti; as to the general social protection scheme established by Act No. 135/AN/3ème of 1997 establishing the social protection body, it does not comprise a compulsory sickness insurance branch. ***In these circumstances, the Committee once again expresses the hope that the Government will be able, in its next report, to inform it of the adoption of measures constituting real progress concerning the establishment of a sickness insurance system applicable to seafarers that will guarantee them protection in conformity with that envisaged by the Convention.***

Seafarers' Pensions Convention, 1946 (No. 71) (ratification: 1978)

The Committee notes the information provided by the Government in reply to its previous comments. It notes that, as the number of seafarers in Djibouti is very small, they are subject to the general retirement scheme for salaried employees and that the special pension insurance scheme for seafarers envisaged in section 142 of the Code of Maritime Affairs has not accordingly been established. ***The Committee would be grateful if the Government would indicate in its next report whether, as the Committee understands, the pensions scheme for salaried employees is governed by Act No. 154/AN/02/4ème of 31 January 2002 codifying the operation of the Social Protection Organization (OPS) and the general retirement scheme for salaried employees.*** This legislation guarantees, in accordance with the Convention, the right for salaried employees who have reached the age of 55 years to benefit from a pension at the rate of 2 per cent or 1.5 per cent (depending on the year of retirement) for all insurance annuities applied to the average wage for the past ten years subject to a ceiling.

Estonia

Placing of Seamen Convention, 1920 (No. 9) (ratification: 1923)

Article 2, paragraph 1, of the Convention. Prohibition of placing seafarers for pecuniary gain. Under section 7(3) of the Employment Services Act of 2000, the employment agencies, legal entities and sole proprietors entered into the commercial register shall provide employment services to seafarers (their recruitment and placement) free of charge. In its previous comments, the Committee noted that commercial enterprises are permitted to carry out the work of finding employment for seafarers, besides the state employment offices. The Committee requested the Government to indicate whether shipowners are charged for seafarer placement services. The Government was also asked to consider the possibility of ratifying the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), that allows the operation of private recruitment and placement services in conformity with a system of licensing or certification or other form of regulation.

In its report, the Government indicates, on the one hand, that it has no intention of ratifying the Recruitment and Placement of Seafarers Convention, 1996 (No. 179). On the other hand, it indicates that the employers may be required to pay for the recruitment and placement services provided by the legal entities and sole proprietors entered into the commercial register. The Committee recalls that, contrary to Convention No. 179 that allows the placement of seafarers by private agencies so long as no fees are borne by the seafarer, this Convention prohibits the placement of seafarers for profit. Neither the shipowner, nor the seafarer shall pay fees. The introduction into the national legislation of a provision prohibiting requests for payment of fees from seafarers is not sufficient to ensure the application of this provision. The Committee emphasizes moreover that each Member shall establish an effective system of public employment offices for finding employment for seafarers without charge (*Article 4*). It also notes that the exceptions granted to the principle of placement of seafarers free of charge under *Article 3* of the Convention should be temporary, the Government agreeing to take all practicable measures to abolish the practice of finding employment for seafarers as a commercial enterprise for pecuniary gain as soon as possible. Estonia ratified the Convention 82 years ago, in 1923. Private seafarer placement agencies continue to operate however. ***Consequently, the Committee requests the Government to take the steps necessary to bring its legislation and practice into conformity with the provisions of the Convention. It requests the Government to prohibit the placement of seafarers by any commercial enterprise for profit and to ensure that only public employment agencies operating free of charge be authorized to place seafarers.***

France

Seamen's Articles of Agreement Convention, 1926 (No. 22) (ratification: 1928)

Article 9(1) of the Convention. Termination of agreement. In its previous observation, the Committee requested the Government to indicate the measures it intends to take to bring its legislation into full conformity with this Article of the Convention. From the information supplied in the Government's latest report, the Committee notes with interest that sections 10-1, 101 and 102 of the Maritime Labour Code, read in conjunction, ensure application of the Convention.

Officers' Competency Certificates Convention, 1936 (No. 53) (ratification: 1947)

The Committee notes the information contained in the Government's report. It is addressing a request directly to the Government on some additional matters.

French Guiana

Seamen's Articles of Agreement Convention, 1926 (No. 22)

See under France.

Officers' Competency Certificates Convention, 1936 (No. 53)

See under France.

French Polynesia

Officers' Competency Certificates Convention, 1936 (No. 53)

See under France.

French Southern and Antarctic Territories

Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)

The Committee notes the information provided by the Government that the Overseas Programme Act No. 2003-660 of 21 July 2003 provides in section 62 that, under the conditions set out in article 38 of the Constitution, the Government is authorized to take, by ordinance, the necessary measures, in so far as they lie within the competence of the State, for the updating and adaptation of the law applicable in the French Southern and Antarctic Territories (TAAF) to seafarers, ports, vessels and other seagoing ships, as well as in relation to the law respecting labour, employment and vocational training, which will therefore make it possible to undertake the necessary updating and, in particular, to specify in so far as necessary the means of application of Convention No. 8. It also notes the Government's statement that the situation of seafarers engaged on vessels registered in the TAAF was dependent on the adoption of the Bill establishing the French International Register and that this Bill did in practice result in the adoption of Act No. 2005-412 of 3 May 2005, section 13(1) of which provides that "the conditions of recruitment, employment, labour and life on board a vessel registered on the French International Register may not be less favourable than those resulting from the international labour Conventions ratified by France".

The Government adds that the highest administrator of the French Southern and Antarctic Territories, by Order No. 10 dated 2 April 1992, declared the Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8), applicable. Although not self-executing, the provisions of the Convention are very succinct and precise, with the result that the Head of the Maritime Affairs Services of the TAAF, who is responsible for maritime labour inspection for the vessels concerned, can intervene at any time in relation to the vessels in question with a view to enforcing these provisions based, where necessary, on the above Order. No such case has however occurred up to now.

The Committee notes this information. It recalls in this respect the Government's statement in its previous report that the provisions of the Convention could usefully be considered in the form of an explicit reference in the context of a proposed amendment of the Overseas Labour Code, based on the provisions of the Act of 15 February 1929, adopted for Metropolitan France, which establishes an unemployment indemnity for seafarers in the event of the seizure, shipwreck or the declaration of the unseaworthiness of a vessel. Considering that it would indeed be desirable for measures to be adopted in laws or regulations to secure the full implementation of the provisions of the Convention in the French Southern and Antarctic Territories, as has been done for Metropolitan France, ***the Committee hopes that the Government will take the opportunity afforded by the Overseas Programme Act No. 2003-660 of 21 July 2003 and Act No. 2005-412 of 3 May 2005 establishing the International Register to adopt such measures in the very near future. It requests the Government to provide information on any progress achieved in this respect.***

Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)

The Committee notes the information supplied by the Government in its reports. In particular, it takes note of the list of shipowners' and seafarers' representatives nationwide to which the Government's reports are duly communicated.

Articles 2 and 3 of the Convention. Medical examination and re-examination. In its previous comments, the Committee recalled that section 1 of Territorial Order No. 22 of 10 June 1996, applicable in the French Southern and Antarctic Territories to the medical certification of fitness for maritime navigation permits, and this facility is commonly used in practice by foreign nationals, that physical fitness for maritime navigation can now be attested by a physician who is simply declared to the French consular authorities abroad. The Committee requested the Government to specify how foreign doctors declared with the consular authorities are approved by the competent authority. The Committee also requested the Government to supply statistical information regarding the manner in which the Convention is applied, and particularly the number and nature of the contraventions reported.

The Committee notes the Government's information to the effect that the possibility provided by section 1 of Territorial Order No. 22 of 10 June 1996 does not envisage any particular approval of the doctor by the maritime or French consular authority but only a declaration to the consular authorities. Doubtless, it seems difficult to impose a particular approval procedure and to exercise supervision over physicians who do not fall within the purview of the national administration. The Government indicates, nevertheless, that the attention of the relevant services will be duly drawn to this matter so that such physicians receive full, detailed information concerning the conditions of fitness required on such vessels, in application of Territorial Order No. 22 of 10 June 1996, including the particular case of young persons employed on board. The Committee notes the information regarding statistics supplied by the Government which states that, although no statistical records are made by the consular services, checks carried out by shipping safety inspectors show that medical examinations of seafarers sailing under the register of the French Southern and Antarctic Territories (TAAF) are actually conducted and carried out regularly. The Committee also notes that it would be possible to envisage compiling more precise statistics directly with the shipowners concerned. On this score, the Government indicates that modifications to the Overseas Labour Code are envisaged and that regulations will be studied in this context. ***The Committee requests the Government to supply information on any progress made in this matter.***

Seamen's Articles of Agreement Convention, 1926 (No. 22)

The Committee notes with interest the replies to its previous comments provided by the Government in its report.

Medical Examination (Seafarers) Convention, 1946 (No. 73)

The Committee notes the information provided by the Government in its reports.

In its previous comments, the Committee recalled that, in practice, the medical examination for non-French seafarers employed in ships on the TAAF register is carried out in their home country by a physician registered with the consular authority. However, unlike medical examinations carried out in metropolitan France, the overseas departments and other overseas territories, the Government has never kept statistics concerning seafarers' medical examinations abroad, although this category accounts for two-thirds of seafarers in ships on the TAAF register. Furthermore, the Committee recalled the statement made by a Government representative of France to the Conference Committee on the Application of Standards in 1998 that the Government wished to compile all the requested statistics as soon as possible, which could be done under the Territorial Order of 10 June 1996. It was explained that, in practice, most often seafarers' medical examinations abroad were carried out by the physician of the consular personnel. Consequent to the statement made by the Government in 1996, the Committee asked it to indicate measures taken to control the quality and reality of seafarers' medical examinations conducted in the seafarer's country of domicile and to indicate to the Committee when it will be supplied with statistics on these examinations.

The Committee notes the Government's information to the effect that the possibility provided by section 1 of Territorial Order No. 22 of 10 June 1996 does not envisage any particular approval of the doctor by the maritime or French consular authority but only a declaration to the consular authorities. Doubtless, it seems difficult to impose a particular approval procedure and to exercise supervision over physicians who do not fall within the purview of the national administration. The Government indicates, nevertheless, that the attention of the relevant services will be duly drawn to this matter so that such physicians receive full, detailed information concerning the conditions of fitness required on such vessels, in application of Territorial Order No. 22 of 10 June 1996, including the particular case of young persons employed on board. The Committee notes the information regarding statistics supplied by the Government which states that, although no statistical records are made by the consular services, checks carried out by shipping safety inspectors show that medical examinations of seafarers sailing under the register of the French Southern and Antarctic Territories (TAAF) are actually conducted and carried out regularly. The Committee also notes that it would be possible to envisage compiling more precise statistics directly with the shipowners concerned. On this score, the Government indicates that modifications to the Overseas Labour Code are envisaged and that regulations will be studied in this context. *The Committee requests the Government to supply information on any progress made on this matter.*

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)

The Committee notes with interest the information provided by the Government in its previous report. Moreover, it requests further information in a direct request addressed to the Government.

Articles 1, 2 and 3 of the Convention. Occupational accidents. The Committee requests the Government to transmit the annual report including the medical statistical data on accidents related to maritime labour.

The Committee requests the Government to transmit further information on the future document designed to amend the inquiry procedure and the questionnaire and to include quasi-accidents.

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

The Committee notes the information provided by the Government in its report that foreign seafarers enjoy employment conditions essentially comparable to those of French or assimilated seafarers. It notes however that the inspection of employment conditions, which is the responsibility of the Maritime Affairs Service for the French Southern and Antarctic Territories, the head of which is in charge of labour inspection of vessels registered in this territory, has not been completed. *It requests the Government to take all measures necessary to ensure the application of the relevant provisions concerning both vessels listed in the French Southern and Antarctic Territories' register and in its possible successor and vessels registered in metropolitan France.*

Guadeloupe

Seamen's Articles of Agreement Convention, 1926 (No. 22)

See under France.

Officers' Competency Certificates Convention, 1936 (No. 53)

See under France.

Martinique

Seamen's Articles of Agreement Convention, 1926 (No. 22)

See under France.

Officers' Competency Certificates Convention, 1936 (No. 53)

See under France.

Réunion

Seamen's Articles of Agreement Convention, 1926 (No. 22)

See under France.

Officers' Competency Certificates Convention, 1936 (No. 53)

See under France.

St. Pierre and Miquelon

Seamen's Articles of Agreement Convention, 1926 (No. 22)

See under France.

Officers' Competency Certificates Convention, 1936 (No. 53)

See under France.

Guinea

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (ratification: 1977)

For many years, the Committee has been asking the Government to indicate the specific instruments that govern the prevention of occupational accidents of seafarers. The Government has so far indicated that appropriate regulatory texts were in preparation and would be reviewed with the technical assistance of the ILO to ensure their compliance with the provisions of the Convention. In its last report, the Government refers only to the provisions of the Labour Code and Merchant Navy Code, noting that they provide for the adoption of regulations on occupational safety and health. The Government also indicates that the authorities responsible for framing and supervising maritime regulations were also to draft a whole series of texts in this area. The Committee points out that Guinea ratified this Convention 28 years ago, in 1977. It also points out that the provisions of the national legislation are general in nature and do not always ensure that full effect is given to the provisions of the Convention. *Consequently, the Committee once again expresses the hope that the Government will make every effort to ensure that texts giving full effect to the Convention are adopted in the very near future. It requests the Government to provide a copy of them as soon as they have been enacted.*

Part IV of the report form. The Committee requests the Government to indicate whether the courts of law or any other courts have handed down decisions involving matters of principle pertaining to the application of the Convention and, if so, to provide copies of them with its next report.

Part V of the report form. The Committee also asks the Government to provide general information on the manner in which the Convention is applied, supplying extracts of reports by the inspection services, information on the number of workers covered by the legislation, and the number and nature of contraventions and of occupational accidents reported.

Honduras

Seafarers' Identity Documents Convention, 1958 (No. 108) (ratification: 1960)

The Committee notes the information in the Government's report, as well as the comments made by the Authentic Trade Union of Workers of the Sea (SIAUTTRANSMAR).

Article 4, paragraph 2, of the Convention. Content of seafarer's identity document. The Committee notes that, although the photocopy of the seaman identification book transmitted by the Government contains, on its last page, a statement establishing that it is a seafarer's identity document for the purposes of the Convention, the original book, which was also transmitted, does not contain this statement, instead it bears a stamp for 5 *lempiras*, issued by the Central Bank of Honduras. *The Committee requests the Government to provide an explanation in this regard and to take any measures necessary to ensure that this declaration is inserted into each seaman identification book. It also requests the Government to transmit, in its next report, a specimen of this book.*

[The Government is asked to report in detail in 2007.]

Hungary

Repatriation of Seafarers Convention (Revised), 1987 (No. 166) (ratification: 1989)

For a number of years the Committee has been asking the Government to take the necessary measures to enact the legislation giving effect to the provisions of the Convention and to supply a complete and detailed report in the form approved by the Governing Body of the ILO, along with copies of relevant laws, collective agreements and regulations adopted, showing how each provision of the Convention is applied. It notes that the recent report of the Government does not reply to the comments. *The Committee once again asks the Government to supply the information requested.*

Italy

Accommodation of Crews Convention (Revised), 1949 (No. 92) (ratification: 1981)

The Committee notes the comments of CONFITARMA and the Government's indication in response to the Committee's previous observation that the regulations to be issued under section 34(1) of Legislative Decree No. 271 of 27 July 1999 have not yet been adopted, since consultations with the authorities concerned are still ongoing, and the text is being reviewed by the Ministry of Infrastructure and Transport according to the opinions expressed in the process. The

Committee further notes that, according to section 34(2) of the Decree, the entry into force of the regulations would entail the abrogation of Act No. 1045 of 16 June 1939. **Taking note of the text of the draft regulations as submitted by the Government, the Committee urges the Government to take all necessary measures to ensure that provisions giving effect to this Convention will be adopted in the very near future.**

The Committee also notes the Government's indication in reply to previous comments relating to inspections, that these are carried out in accordance with sections 18-21, 30 and 31 of Legislative Decree 271/1999 and with Legislative Decree No. 314 of 3 August 1998, as amended by Legislative Decree No. 169 of 19 May 2000. **It asks the Government to continue providing information on the numbers and results of inspections undertaken.**

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) (ratification: 1981)

Please refer to the comments the Committee has made under the Accommodation of Crews Convention (Revised), 1949 (No. 92).

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) (ratification: 1981)

The Committee notes the detailed information supplied by the Government and, in particular, the adoption of Legislative Decree 271/1999, Order 305/2003, Ministerial Order of 5 October 2000, as amended, and Presidential Decree 324/2001.

Article 2(a)(i) of the Convention. Laws or regulations laying down safety standards. The Committee notes with satisfaction that the provisions of section 11 of Decree 271/1999 lay down standards of hours of work so as to ensure safety of life on board ship by, inter alia, providing for limits on maximum hours of work and minimum hours of rest, and a table of shipboard working arrangements.

Article 2(f). Inspection of ships registered in the Member's territory. The Committee notes the Government's statement in response to its previous observation that the indicated number of inspections (16) only referred to the inspections performed by members of the Central Committee for Crew Hygiene, and that, additionally, the local Committees for Crew Hygiene had performed over 450 inspection visits. Referring to the statistics and other information on port State control supplied by the Government, the Committee points out that *Article 2(f)* exclusively relates to flag State control. **The Committee, therefore, again requests the Government to supply detailed information in respect of the inspection of ships registered in its territory, including numbers and results of inspection visits carried out, numbers and results of investigations of complaints and penalties imposed.**

Article 2(g). Official inquiries into serious marine casualties. The Committee notes the Government's indication in response to its previous observation that, from 1 January 1999 to 1 July 2004, 332 summary and formal investigations were conducted into accidents. It also takes note of the attached copies of reports of summary and formal investigations into accidents. According to section 26 of Decree 271/1999, the Ministry of Transport shall prepare, for the purpose of preventing accidents, an annual informative report to be communicated to the Ministry of Labour, the Ministry of Health, the interested parties, and the ILO. **The Committee, therefore, reiterates its request for a copy of the report.**

Part V of the report form. The Committee notes the comment submitted by the Federazione Nazionale UGL Mare asking the Government to take the necessary measures concerning hours of work or rest on board merchant ships, in order to give effect to EU Directive 1999/63/EC of 21 June 1999, concerning the Agreement on the organization of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST).

Jamaica

Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8) (ratification: 1963)

With reference to its previous comments, the Committee notes with satisfaction that the new Shipping Act of 1998 has made ineffective in Jamaica the United Kingdom Merchant Shipping Act, 1894, which specified in its section 157 that in all cases of wreck or loss of ship, proof that the seafarer has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages. It further notes that the new legislation does not contain such provision limiting the seafarers' right to unemployment indemnity in case of shipwreck.

The Committee is raising another issue in a request directly addressed to the Government.

Lebanon

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) (ratification: 1993)

For the last ten years the Committee of Experts has been repeatedly asking the Government to provide full information in respect of the application of each of the provisions of the Convention and to reply to each of the questions of the report form approved by the Governing Body in order to enable it to undertake an examination of the application of the Convention. It notes with regret that neither the first report nor subsequent reports, including the Government's latest report received in 2005, contain the information requested. *The Committee once again asks the Government to provide full information on the application in law and in practice of each of the provisions of the Convention.*

[The Government is asked to report in detail in 2007.]

Liberia

Seamen's Articles of Agreement Convention, 1926 (No. 22) (ratification: 1977)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

The Committee notes the Government's statement in its report that the Committee's comments have been referred to the Bureau of Maritime Affairs with instructions that the commission should review the provisions of the maritime laws and regulations with the aim of having them conform with the provisions of the Convention. The Committee hopes that the necessary measures will be taken to apply the Convention in law and in practice and that the Government will provide full particulars on any progress achieved, taking into consideration the Committee's comments since 1995 on *Article 3, paragraph 4, Article 9, paragraph 2, Article 13 and Article 14, paragraph 2, of the Convention.*

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

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55) (ratification: 1960)

The Committee notes with regret that the Government's report has once again not been received. It is therefore bound to repeat its previous observation which read as follows:

Article 1, paragraph 2, of the Convention. In reply to the Committee's previous comments, the Government refers to the provisions of section 51 of the Maritime Law concerning vessels which can be registered under Liberian law. *In this regard, the Committee wishes to draw the Government's attention to the fact that its comments concerned section 290-2 of the Law, which provides that persons employed on vessels of less than 75 net tons are not covered by the provisions of Chapter 10 of the Law relating specifically to the obligations of the shipowner in the event of seafarers' sickness or accident.*

Article 2, paragraph 1. The Committee noted that section 336-1 of the Maritime Law provides for payment of the wages, maintenance and medical care of the seaman in cases of sickness or accident while he is off the vessel provided that he is "off the vessel pursuant to an actual mission assigned to him by, or by the authority of, the master". The Committee recalls that under this provision of the Convention the shipowner is liable in all cases of sickness and injury occurring between the date specified in the articles of agreement for reporting for duty and the termination of the engagement.

Article 6, paragraph 2. The Committee noted that, contrary to this provision of the Convention, the approval of the competent authority is not required when a sick or injured seaman has to be repatriated to a port other than the port at which he was engaged, or the port at which the journey commenced, or a port in his own country or the country to which he belongs. Under section 342-1(b) of the Maritime Law, agreement between the seafarer and the master or shipowner suffices. The Government states that if there is agreement between the parties, administrative authorization is not necessary but that, in the event of disagreement, the parties may submit the matter to the Commissioner of Maritime Affairs by virtue of section 359 of the law. *The Committee wishes to draw the Government's attention to the need to include provisions in its legislation making it compulsory to seek the approval of the competent authority when the parties agree to a port of repatriation other than those laid down in Article 6, paragraph 2(a), (b) or (c), of the Convention.* In fact, the provisions of this Article of the Convention are designed to protect a sick or injured seafarer by preventing the master or the shipowner imposing on him a port of repatriation other than the port at which he was engaged, the home port of the vessel or a port in his own country or the country to which he belongs, without the approval of the competent authority; in the event of disagreement between the parties, an appeal to a conciliation authority is not sufficient in itself.

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

Minimum Age (Sea) Convention (Revised), 1936 (No. 58) (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

In its previous comments the Committee noted that section 326(1) of the Maritime Law, as amended, set 15 years as the minimum age for admission to employment or work on Liberian vessels registered in accordance with section 51 of the Maritime Law. Noting however that section 326(3) permits persons under the age of 15 to occasionally take part in the activities on board such vessels, the Committee has requested the Government in comments repeated since 1995 to indicate how such special

employment is limited to persons of not less than 14 years of age, taking into account all the conditions set forth in *Article 2, paragraph 2, of the Convention*.

Noting that the Government has submitted the matter to the Commissioner of the Bureau of Maritime Affairs with the instruction that the necessary steps be taken to make the required information available, the Committee hopes that such information will soon be provided.

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

Accommodation of Crews Convention (Revised), 1949 (No. 92) (ratification: 1977)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Please refer to the comment made under the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133).

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

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) (ratification: 1978)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

In the 89th Session of the International Labour Conference in June 2001 a Government representative indicated that the first report would be submitted to the Committee in the near future. In agreement with the findings of the Conference Committee on the Application of Standards during that Session of the International Labour Conference, the Committee reiterates the crucial importance of submitting first reports on the application of ratified Conventions and urges the Government to submit the report for the attention of the Committee at its next session.

The Committee notes the Government's response to the comments made by the Norwegian Union of Marine Engineers (NUME) that alleges non-observance by Liberia of Convention No. 92 and Convention No. 133. The Committee notes, in particular, the Government's indication that the ship "Sea Launch Commander" serves as the command ship, i.e. "mission control", for the launching of rockets from the seagoing launch platform M/S Odyssey. The rockets are assembled in the assembly bay of the "Sea Launch Commander" while the ship is in port moored to a dock and then transferred to M/S Odyssey. The Government points out that the "Sea Launch Commander" neither transports cargo or passengers for the purpose of trade nor does it engage in other traditional commercial activity while seagoing. According to the Government, the primary functions of the "Sea Launch Commander" are to serve as the assembly facility for the rockets when the ship is moored to the dock in port and to serve as command ship for the launching of rockets from the M/S Odyssey when the ships are at sea.

The Government considers that, based on the nature of its operations, the "Sea Launch Commander" is not a seagoing vessel for the purpose of trade or commercial activity in the sense envisioned by the relevant ILO Conventions. Therefore, it is the Republic of Liberia's determination that the aforementioned ILO Conventions do not apply to this ship and that the NUME complaint is neither appropriate nor applicable to the "Sea Launch Commander", and its "statement of claim" to the ILO is, therefore, without merit.

The Committee recalls that Convention No. 133 applies to every seagoing ship, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose, which is registered in a territory for which this Convention is in force (*Article 1, paragraph 1, of the Convention*). National laws or regulations shall determine when ships are to be regarded as seagoing ships for the purpose of this Convention (*Article 1, paragraph 2*). The Committee wishes to point out that under *Article 1, paragraph 1*, the Convention applies "to every seagoing ship ... employed for any other commercial purpose" and does not distinguish between traditional and non-traditional commercial activities.

Referring also to its 2002 observation, the Committee asks the Government to clarify: (i) whether the ship "Sea Launch Commander" under national laws or regulations is regarded as a "seagoing ship"; (ii) whether national laws or regulations contain the definition of the term "commercial activity"; and (iii) whether the launching of rockets from the seagoing launch platform M/S Odyssey is carried out for a commercial purpose.

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

Luxembourg

Food and Catering (Ships' Crews) Convention, 1946 (No. 68) (ratification: 1991)

The Committee notes the information provided by the Government in its report, in particular, the responses to its previous direct request, concerning *Articles 5, 8 and 10 of the Convention*. In its response to the Committee's last observation, the Government indicated that, with regard to most of the issues raised, it was to hold consultations with other national authorities and the social partners. It stated that it was ready to adapt the national legislation to the requirements of the Convention. The Committee notes with concern that, more than 14 years after the ratification of the Convention by Luxembourg, the texts required to give effect to the essential provisions of the Convention have still not been established. *In the absence of any information on the result of the consultations carried out by the Government*

with the other national authorities and the social partners, the Committee requests the Government to provide this information in its next report. It once again requests the Government to adopt the provisions needed to bring the national legislation in conformity with the requirements of the Convention and to take any such measures as are necessary to respond in detail to the questions already put forward by the Committee in its previous observation.

Article 2(a) and (b). Inspection. In its report the Government points out that, in Luxembourg's legal system, international law takes precedence over national law. This principle does not, however, render this Article directly applicable, because these provisions of the Convention require precise and clearly defined action on the part of the Government or the social partners. **Consequently, the Committee once again requests the Government to adopt the legislative texts that will give effect to the provisions of the Convention or to indicate the collective agreements that address the following points: preparation and application of regulations concerning food and water supplies; catering; construction; location; ventilation; heating; lighting; water systems and equipment of galleys; storerooms and refrigerated chambers; or for the storage, handling and preparation of food. Should such texts not exist, the Committee urges the Government to take the measures needed to legislate as soon as possible on these issues.**

Article 6. Supervisory system. The Committee notes the information concerning the inspection system currently in place for monitoring vessels registered in Luxembourg. It also notes that, since the formation of the Government that won the June 2004 election, the central maritime authority (*Commissariat aux affaires maritimes*) has been reporting directly to the Minister of the Economy and Foreign Trade. The Committee also notes the information concerning the results of the inspections undertaken indicating that classification societies carry out at least one audit per year per vessel, on the condition that the ISM Code is applicable. On the other hand, the Government indicates that only 18 inspections have been performed, without referring to any results. The Committee expresses its concern at the low number of inspections carried out. **Moreover, with regard to inspection by the flag State, the Committee invites the Government to provide the same type of information as that provided concerning inspection by the port State.**

Article 7. Inspection at sea. **The Committee once again requests the Government to adopt and indicate the texts giving effect to the obligation to provide for inspection at sea.**

Article 9, paragraph 1. Powers of inspectors. The Committee notes that the legislation in force makes no provision for inspectors to be given authority to make recommendations with a view to the improvement of the standard of catering. **It once again requests the Government to indicate the measures taken to bring the legislation in conformity with the Convention in this regard.**

Article 12. Information. **The Government is once again requested to provide information on the measures taken to give effect to this Article.**

Part V of the report form. **The Committee requests the Government to provide general information on the manner in which the Convention is applied in Luxembourg, including extracts from inspection and registration services reports, any information on the number and nature of complaints made by the crew (Article 8), the penalties imposed, etc. It also requests the Government to provide information on the number of certificates renewed, issued or denied to vessels registered in Luxembourg.**

Mauritania

Officers' Competency Certificates Convention, 1936 (No. 53) (ratification: 1963)

Article 4, paragraph 1(c), of the Convention. Certificate of competency. The Committee notes with satisfaction the adoption of Order No. 00288 of 25 March 2002 on the award of vocational certificates.

Article 3, paragraph 2. Exceptions. In its previous observation, the Committee noted that, under the terms of section 275 of the Maritime Code, in cases of recognized necessity the maritime authority may make exceptions to the requirement to hold a certificate to exercise the duties of master, officer, etc. **The Government is requested to indicate in detail the number of cases in which exceptions have been granted and the circumstances in which such exceptions have been authorized.**

Article 4, paragraph 2(b). Certificate of competency. The Committee reiterates its observation that the Government's report is silent on laws or regulations providing for the organization and supervision of examinations. According to this provision of the Convention, national laws or regulations shall provide for the organization and supervision by the competent authority of one or more examinations for the purpose of testing whether candidates for competency certificates possess the qualifications necessary for performing the duties corresponding to the certificates for which they are candidates. **The Committee requests the Government to indicate the measures adopted to ensure that the national legislation provides for the organization and supervision of examinations, in accordance with the Convention. Please indicate the nature of the examinations for each category of competency certificates (practical, theoretical), describe the examinations briefly and provide indications on the methods of the organization and supervision of the examinations by the competent authority.**

Article 5, paragraph 2. Detention of vessels. The Committee notes the Government's reply concerning the immobilization of any vessel in the event of fraud. **Nevertheless, it requests the Government to provide information on**

the national laws or regulations determining the cases in which a vessel may be detained on account of a breach of the provisions of this Convention and indicating the respective procedure.

Mauritius

Seafarers' Identity Documents Convention, 1958 (No. 108) (ratification: 1969)

In its previous comments the Committee asked the Government to report on the advancement of the review of the Merchant Shipping Act and to advise as to when the regulations reinstating the seafarers' identity document can be expected. It notes the Government's response that a new Merchant Shipping Bill was under consideration at the State Law Office. Under the new Merchant Shipping Act, the Passport and Immigration Office will be the issuing authority of the seafarers' identity documents (SID). Also, a technical committee has been set up by the Government to put these documents into effect. Furthermore, a new regulation to give full effect to the provisions of the Convention has been drafted by the Superintendent of Shipping and submitted to the State Law Office on 16 February 2005.

The Committee asks the Government to report on any progress made in this regard and to transmit a copy of the new act and regulation, when adopted.

Netherlands

Aruba

Continuity of Employment (Seafarers) Convention, 1976 (No. 145)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

1. In reply to the comments made since December 1995, the Government of Aruba indicates in the report received in January 2003 that it envisages denouncing the acceptance of the obligations of the Convention on behalf of Aruba. The authorities of Aruba explain in the report that the applicable laws are those inherited from the Netherlands which have been considered applicable to Aruba since 1986. However, it is not possible to give effect to these laws as the profession of seafarer does not exist in Aruba. The authorities of Aruba indicate that they will make efforts to consult the employers' and workers' organizations on the question of denunciation.

2. The Committee refers to its observation of 2002 on the application in Aruba of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), in which it expressed the hope that in future the items listed in Article 5, paragraph 1, of Convention No. 144 would be covered by "effective consultations", in particular in Aruba's tripartite committee on matters regarding ILO activities. It hopes that the authorities will ensure compliance with the provisions of Conventions that are in force and that they will keep the Committee of Experts and the Office informed of the consultations held and of any new developments relating to the denunciation of the acceptance of the obligations of Convention No. 145 on behalf of Aruba.

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

Nicaragua

Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8) (ratification: 1934)

Article 1, paragraph 1, of the Convention. In its previous comments, the Committee drew the Government's attention to section 161 of the Labour Code, which excludes masters and officers from the definition of maritime workers. It also noted that the indemnity envisaged in section 166 of the Labour Code in the event of shipwreck only appears to be payable to maritime workers, within the meaning of this term under the Labour Code, and not therefore to masters and officers, whereas the Convention does not authorize such exclusions, as it applies to all persons employed on any vessel engaged in maritime navigation. In its latest report, the Government indicates that, under the terms of section 2 of the Labour Code, the latter is applicable to all persons resident in Nicaragua. It adds that, by virtue of section 10 of the Labour Code, the masters of vessels have specific obligations towards other workers in their capacity as representatives of the employer. The Committee notes this information, through which the Government appears to wish to establish the application of the Labour Code to masters and officers of vessels. However, it notes that, while these provisions are of the general nature, the sections of the Labour Code specifically covering maritime employment and shipwreck explicitly provide for the exclusion of masters and officers from the definition of maritime workers (section 161 of the Code). *The Committee would therefore be grateful if the Government would provide information in its next report demonstrating that masters and officers employed on vessels which have been shipwrecked receive, for all the days during which they in fact remain unemployed and independently of whether they reside in Nicaragua or not, an indemnity at the same rate as the wages payable under the contract, but which may be limited to two months' wages. In any case, the Committee hopes that, in accordance with the assurances given in its previous report, the Government will envisage the possibility of issuing regulations under section 161 of the Labour Code with a view to bringing this provision into*

conformity with the Convention. The Committee also wishes to emphasize in this regard that the payment to seafarers of the unemployment benefits provided by the Convention must not be made conditional upon residence in the country.

Article 2, paragraph 2. The Committee notes that the Government's report does not contain a reply to its previous comments. It is therefore bound to recall once again that the provisions of the national legislation (section 166 of the Labour Code) are not sufficient to ensure the application of *Article 2, paragraph 2*, of the Convention. Indeed, the above provision of the Labour Code is confined to securing, where appropriate, payment to the seafarer of an indemnity in accordance with the legislation, without specifying either the nature of the indemnity or the conditions under which it is granted, whereas the Convention provides that the unemployment indemnity due to the seafarer in every case of the loss or foundering of the vessel shall be paid for the days during which the seafarer remains in fact unemployed, for a period of at least two months. *Under these conditions, the Committee once again hopes that the Government will re-examine the matter favourably and will take all the necessary measures to determine the means of application of section 167 above so as to secure in practice the protection afforded by this provision of the Convention.*

Placing of Seamen Convention, 1920 (No. 9) (ratification: 1934)

Organization of free employment offices for seafarers. The Committee notes that, despite the provisions of the first paragraph of section 164 of the Labour Code, there is still no labour exchange or specific free employment services for seafarers. The Government indicates that the Ministry of Labour is currently examining the "intermediary employment offices" established in certain departments near to maritime ports in which public employment offices provide a free service of placing seafarers into direct contact with the master of the vessel or the shipowner. The Committee recalls that the Convention provides that each Member agrees that there shall be organized an efficient system of employment offices for finding employment for seafarers without charge. These offices may be organized by the representative associations of shipowners and seafarers jointly under the control of a central authority, or by the State itself (*Article 4 of the Convention*). It also recalls that external advisory committees have to be constituted to supervise and advise on free employment offices (*Article 5*). *So as to give full effect to the provisions of the Convention, the Committee requests the Government to establish free employment offices for seafarers, as well as advisory committees.*

Finally, the Committee emphasizes that the law shall provide punishment for any violation of the principle of the free placement of seafarers (*Article 2, paragraph 2*). It notes in this respect, and according to the information provided by the Government in its report, that section 164(3) of the Labour Code provides that any person who is in breach of this principle and places seafarers in employment in exchange for remuneration shall engage solely her or his civil responsibility and shall be personally responsible for fulfilling the contractual obligations of the employer. *The Committee accordingly requests the Government to take all necessary measures to add to the legislation the penal sanctions required by the Convention.*

The Committee ventures to remind the Government that the Governing Body of the International Labour Office has invited the States parties to Convention No. 9 to consider ratifying the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), which would involve the automatic denunciation of Convention No. 9 and would allow the establishment of private employment offices (see paragraphs 47 to 51 of document GB.273/LILS/4(Rev.1) of November 1998). *The Committee would be grateful if the Government would provide information in its next report on any consultations held for this purpose.*

Nigeria

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) (ratification: 1973)

For a number of years, the Government has indicated in its reports that no statutory organization has been specifically charged with the implementation of the provisions of the Convention, and that it is not yet in a position to respond to the Committee's previous comments. The Seafarers' Services Department of the Joint Maritime Labour Industrial Council (JOMALIC), which would be responsible for the implementation of the provisions of the Convention, is still being structured. *The Committee raises a number of technical points in a letter directly addressed to the Government and hopes that the Government will make every effort to fully apply the provisions of the Convention in the near future. The Committee requests it to report on any progress made in this regard, as well as to reply in detail to its direct request.*

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (ratification: 1973)

The Committee notes with regret that the Government's report contains no reply to its previous comments. It must therefore repeat its previous observation which reads as follows:

Article 2 of the Convention. In its previous comments, the Committee requested the Government to supply copies of relevant extracts of reports of inquiry into occupational accidents, as well as samples of statistics compiled in conformity with the provisions of this Article, drawing the attention of the Government to the obligation of the competent authority to ensure that, in accordance with *Article 2, paragraphs 1 and 2*, of the Convention, all occupational accidents are adequately reported, that comprehensive statistics shall not be limited to fatalities or to accidents involving the ship, and that statistics of accidents are kept

and analysed. Taking into account the Government's indication that accidents on board ships had been reported only when the ship sustained structural damage or when there had been loss of life or serious injury, the Committee earlier expressed the hope that records of minor accidents kept by private and government shipping companies would be integrated into reporting procedures and statistics.

The Committee notes that no such information has been provided by the Government. ***It asks the Government to indicate measures taken to give effect to this Article and to supply copies or relevant extracts of reports of inquiry into occupational accidents, as well as samples of statistics compiled in accordance with the provisions of the Convention.***

Article 3. In its previous comments, the Committee, taking into consideration the Government's indication that the necessary measures would be undertaken for research to be conducted into the causes and prevention of accidents aboard Nigerian ships, expressed the hope that such research would be carried out and that the Government would provide detailed information on progress made in this respect.

Since no information has been supplied on this subject in the Government's latest report, the Committee, once again, asks the Government to supply such information on any research undertaken into general trends and hazards revealed by statistics, in order to provide a sound basis for the prevention of accidents which are due to particular hazards specific to maritime work.

Articles 4 and 5. In its previous comments, the Committee requested the Government to supply information concerning provisions adopted or contemplated in order to prevent occupational accidents and covering the specific field of stage and mooring ropes (*Article 4(3)(h)*) as well as the various matters listed in *Article 4(3)(a), (b), (c), (d) and (i)*. The Committee notes the Government's indication in its latest report that the Merchant Shipping (Life-saving Appliances) Rules 1967 provide for occupational accident prevention standards and deal extensively with *Article 4* of the Convention. ***The Committee would be grateful if the Government would supply details of provisions related to the prevention of occupational accidents of seafarers which are required by virtue of the abovementioned subparagraphs of Article 4 and to specific obligations of shipowners and seafarers in this respect under Article 5.***

Article 7. The Committee asked the Government to supply a copy of a statutory instrument establishing the responsibility of national surveyors and engineers, who are crew members, to conduct inspection on board ship, and duties of a safety or accident committee on board, chaired by the Master, with the Chief Engineer, the Chief Officer, the Second Engineer and the Radio Officer as members.

Since such an instrument has not been furnished with the Government's latest report, the Committee again requests the Government to supply a copy of any provisions which have been made to give effect to this Article.

Articles 8 and 9. In previous comments the Committee asked the Government to provide details concerning the tripartite establishment and implementation of programmes for the prevention of occupational accidents (*Article 8*) and the inclusion of instruction in accident prevention and health protection in the curricula of vocational training institutions for all categories and grades of seafarers (*Article 9, paragraph (1)*).

Since such information has not been supplied with the Government's latest report, the Committee again requests the Government to provide information on: (i) programmes which have been undertaken for the prevention of occupational accidents, indicating the manner in which the cooperation and participation of shipowners, seafarers, and their organizations are assured; and (ii) measures ensuring the inclusion, as part of the instruction in professional duties of all categories and grades of seafarers, of instruction in the prevention of accidents and in the protection of health in employment.

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

Norway

Seamen's Articles of Agreement Convention, 1926 (No. 22) (ratification: 1940)

For a number of years, the Committee has been asking the Government to bring the provisions of Act No. 37 of 1985 into conformity with the requirements of *Articles 3, 4, 9, 11, 12 and 15 of the Convention* with regard to seafarers who are neither residents in Norway nor Norwegian nationals, hired by a foreign employer and serve passengers on cruise ships. The Committee notes with regret the Government's indication in its latest report that the government authorities have, at present, no intention of taking any initiative for changing the situation.

In the absence of any progress made by the Government in this respect, the Committee reiterates its previous comments and requests the Government to take measures to ensure full compliance with the provisions of the Convention and to report on any progress made in this respect.

Panama

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55) (ratification: 1971)

Article 1 of the Convention. In its previous comments, the Committee requested the Government to specify the manner in which the competent national authorities interpret section 1(b) of the Legislative Decree of 1998 on work at sea and on navigable waterways, as this provision excludes from the scope of the Legislative Decree the provision of services which, due to the nature of the operations of the vessel, do not require the permanent presence of the worker on board, so that the worker is not required to be regularly and habitually away from his residence for a long period and does not have a different workplace which is far from his residence.

In its report, while indicating that the Office of the Attorney of the Administration has not yet issued the opinion requested in 2000 by the Maritime Authority of Panama, the Government states that, in practice, the persons excluded from the scope of the above Legislative Decree include apprentices and persons carrying out work on board vessels who, by reason of the nature of their activities, do not hold a seafarers' certificate, such as welders and night guards.

The Committee notes this information and is bound to recall that the Convention only authorizes the exclusion of certain limited categories of workers specified in *Article 1, paragraph 2*, such as persons employed solely in ports in repairing, cleaning, loading or unloading vessels. Outside these exclusions, the protection afforded by the Convention has to be secured for all persons employed on board any vessel, other than a ship of war, which is engaged in maritime navigation. Accordingly, while night guards and workers carrying out repairs on vessels may be excluded from the protection afforded by the Convention, apprentices must be covered by such protection. ***The Committee would therefore be grateful if the Government would indicate the manner in which apprentices benefit from the protection afforded by the Convention.***

Article 2. (a) The Committee notes the Government's indication that the Legislative Decree of 1998, referred to above, is only applicable to diseases and injuries that are occupational in their origin. Recalling that the objective of the Convention is to protect seafarers not only against occupational diseases or accidents, but also against sickness of common origin, ***the Committee requests the Government to indicate the manner in which the protection afforded by the Convention is secured in the case of diseases of common origin for seafarers employed on board Panamanian vessels engaged in maritime navigation.***

(b) In its report, the Government indicates that the provisions of the national legislation governing the liability of the shipowner in the event of occupational accidents to seafarers are sections 84, 86, 87, 88, 89 and 90 of the Legislative Decree of 1998. However, the Committee notes that these provisions are contained in Title II of Chapter 7, covering occupational risks in the event of disease, and that Title I, respecting occupational risks in the event of accident, does not establish such obligations for the shipowner. ***The Committee would therefore be grateful if the Government would indicate in its next report whether the obligations of the shipowner established by the above provisions are applicable to both occupational diseases and accidents.*** If this is indeed the case, the Committee considers that it would be appropriate to amend the Legislative Decree of 1998 to ensure that it establishes clearly and explicitly the liability of the shipowner in the event of sickness and injury occurring between the date specified in the articles of agreement for reporting for duty and the termination of the engagement.

Article 5. (a) Under the terms of section 89 of the Legislative Decree on work at sea and on navigable waterways, when the articles of agreement expire, the shipowner is relieved of liability in cases of sickness of the seafarer resulting in incapacity for work. In its report, the Government indicates that, in the regulations of this Legislative Decree, the necessary measures will be taken to bring the latter into conformity with the Convention. The Committee notes this information, but observes once again that no progress has been achieved on this matter. It therefore takes the opportunity to recall that under this provision of the Convention the shipowner is liable to pay wages in whole or in part, as appropriate, for a period which shall not be less than 16 weeks, irrespective of the date on which the articles of agreement may expire. ***The Committee would be grateful if the Government would indicate the measures adopted or envisaged to bring the legislation into conformity with this provision of the Convention.***

(b) The Committee also noted previously that, although section 89(2) of the above Legislative Decree limits the liability of the shipowner to pay the wages of a seafarer who is landed in the event of sickness which results in incapacity for work to a period of 12 months from the beginning of the sickness, this period is reduced to 30 days for vessels engaged in the international transport of passengers. However, under *Article 5, paragraph 2*, of the Convention, the limitation of the liability of the shipowner to pay wages in whole or in part in respect of a person no longer on board may only be limited to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness. While noting the information provided by the Government that measures are under examination to bring the legislation into conformity with the Convention, ***the Committee is once again bound to note the lack of progress achieved in this respect for many years. It trusts that the Government will make every effort to take the necessary measures on this matter in the very near future.***

Article 7, paragraph 1. In its previous comments, the Committee requested the Government to indicate the provisions under which the shipowner defrays the burial expenses in the case of death occurring on board, irrespective of the cause. In reply, the Government states that, despite the fact that the above Decree does not explicitly establish this obligation for the shipowner, such an obligation has to be set out in the articles of agreement, in accordance with section 35 of the Legislative Decree on work at sea and on navigable waterways. The Committee notes in this respect that in its previous comments it observed that this section only enumerates the subjects on which the articles of agreement must contain information, without indicating the nature of the liability of the shipowner in respect of these various matters. In view of the fact that the above Legislative Decree only establishes the obligation of the shipowner to defray burial expenses in the case of the death of the seafarer occurring on shore when, at the time of death, the seafarer was receiving assistance provided by the shipowner by reason of sickness, ***the Committee is of the view that this text has to be amended so as to establish explicitly, in accordance with the Convention, the liability of the shipowner to defray the burial expenses in the case of death occurring on board.***

Article 9. (a) The Committee notes that, according to the information provided by the Government, the two maritime labour tribunals envisaged in Chapter XI of the Legislative Decree on work at sea and on navigable waterways still have not been established. It notes that individual disputes occurring between shipowners and crew members are therefore referred to the Department of Labour Affairs of the Maritime Authority of Panama. The Committee also notes that disputes relating to occupational diseases and accidents, as they are considered to be of an extra-contractual nature, cannot be submitted to labour courts, which are only competent for disputes of a contractual nature; extra-contractual disputes are referred to the maritime tribunals established by Act No. 8 of 30 March 1982 establishing these tribunals. However, as the report does not indicate the manner and extent to which the rapid and inexpensive settlement of disputes concerning the liability of the shipowner is secured in practice, ***the Committee hopes that the Government will provide information on this subject in its next report. Please also provide more complete information on the average duration of procedures for the examination of disputes by maritime tribunals and the annual average number of cases concerning diseases and accidents affecting seafarers examined by the latter.***

(b) The Committee also previously requested the Government to indicate the rules applicable for the settlement of disputes where neither the shipowner nor the seafarer is resident in Panama. In its report, the Government indicates that judgments issued abroad become enforceable in Panama after the *exequatur* is obtained from the Supreme Court. While noting this information, the Committee observes that this is a procedure applicable in cases in which seafarers have had recourse to foreign jurisdictions to claim their rights and requires recognition to be sought for such rulings from Panamanian jurisdictions for them to be enforceable. As a result, this procedure is liable to become particularly long and burdensome. ***The Committee would therefore be grateful if the Government would indicate in its next report whether there are special means or procedures, for example involving consulates, for securing the rapid and inexpensive settlement of disputes concerning the liability of the shipowner, particularly in cases in which such disputes occur abroad.***

Finally, the Committee notes the Government's indication that it is not yet in a position to provide the statistical data on the application of the Convention in practice envisaged in *Part V of the report form* as the Maritime Authority does not have such data. ***The Committee hopes that in future the Government will take the necessary measures to compile this information and that it will be able to provide it in its next reports.*** It would be grateful if the Government would also provide copies of court rulings or arbitration awards involving questions of principle relating to the application of the Convention, in accordance with *Part IV of the report form*.

[The Government is asked to reply in detail to the present comments in 2006.]

Sickness Insurance (Sea) Convention, 1936 (No. 56) (ratification: 1971)

1. In its previous comments, the Committee pointed out that resolution No. 1348-83J.D. of 1983 is contrary to *Article 1 of the Convention* as it excludes from the social security regime foreign seamen married to a non-Panamanian woman or having children of non-Panamanian mother. The Government replied, in the report it sent in 2000, that the Technical Board of the Social Security Fund has approved a draft amendment to the above resolution. In the report sent this year, the Government indicates that the draft, which was to remedy the discrimination that had been unintentionally incorporated in the resolution, has again been referred to the Executive Board of the Social Security Fund for approval, but has not as yet been examined. While noting this information, the Committee observes that there has been no change in either law or practice. It also recalls that as long ago as 1986, the Government stated that the authorities of the Social Security Fund were to take the necessary measures to resolve the problem. ***In these circumstances, the Committee once again expresses the hope that the Government will, without delay, take all necessary steps for the adoption of the above draft at the earliest possible date so that all foreign workers, especially those married to non-Panamanian women, employed on Panamanian-registered vessels assigned to international service, or at least those residing in the Republic of Panama, are covered by the compulsory social security scheme.***

2. The Committee also drew the Government's attention previously to fact that entitlement to social security benefits, in particular sickness benefit, depended on payment of contributions by the employer, whereas the benefits provided for in the Convention may be withheld only in the circumstances described in *Article 2, paragraph 4*, and *Article 3, paragraph 3*, which make no reference to the possibility of non-payment of contributions by the employer. ***Noting that in its last report the Government provides no new information in this regard, the Committee is bound to ask it to reconsider this matter, as insured persons must not be penalized because employers fail to pay their contributions. It recalls that medical care has to be provided and sickness benefit paid to all persons covered by the Convention. Although the Convention allows the suspension of benefits in certain circumstances, the non-payment of contributions by employers is not one of them. The Committee hopes that the Government's next report will contain information on progress made in this respect.***

[The Government is asked to reply in detail to the present comments in 2006.]

Portugal

Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8) (ratification: 1981)

The Committee notes the information supplied by the Government in its report and wishes to draw its attention on the following point.

Article 2 of the Convention. For many years, the Committee has been drawing the Government's attention to section 239 of the Regulation on Maritime Employment which limits the period of unemployment indemnity and subjects the right to indemnities to the diligence shown by the crew in protecting the vessel. In its last report, the Government indicates that the above Regulation was repealed by Legislative Decree No. 280 of 23 October 2001 and refers to the provisions of the Labour Code of 2003, which are applicable to all workers, including maritime workers. It recalls that, in practice, seafarers no longer conclude employment contracts with a particular vessel, but with a shipowner, and in the event of shipwreck can therefore continue to work on another vessel belonging to the shipowner. In the event of a shipwreck resulting in the absolute and definitive impossibility for the worker to perform his work or for the employer to assign the worker to employment, the Government indicates that, in accordance with section 387 of the Labour Code, the contract of employment may be annulled. In such a case, by analogy with the provisions of section 390(5) of the Labour Code (read in conjunction with section 401) respecting the provision of compensation to workers in the event of the death of the employer or the closure of the enterprise, the worker benefits from compensation equal to one month's wages for each year of seniority in the enterprise.

The Committee notes this information. It understands that, under the terms of the legislation and in accordance with the indications provided by the Government, three types of situation may arise as a result of a shipwreck. Firstly, the enterprise may be closed down, in which case section 390 of the Labour Code explicitly provides for the award of compensation without qualifying conditions relating to service, in accordance with section 401 of the Labour Code. In this regard, while the Government only indicates that the above compensation is equal to one month of wages for each year of service, the Committee notes that section 401(3) of the Code provides that the latter is paid for a minimum period of three months. *It therefore requests the Government to clarify this matter considering that the Convention establishes a minimum period of two months for the payment of unemployment indemnities in case of shipwreck.*

In the other two cases where the enterprise is not closed down and the contract of employment is maintained; or the enterprise is closed down, but there exists, as provided for in section 387 of the Labour Code, an absolute impossibility to maintain the employment relationship, in which case the compensation envisaged by section 401 is also due, according to the information provided by the Government, by analogy with section 390 referred to above. However, the Committee notes that, while section 390(5) of the Labour Code explicitly provides for the award of the compensation envisaged in section 401, there is no such reference in section 387. *It would therefore be grateful if the Government would confirm in its next report whether the compensation envisaged in section 401 is in practice awarded in cases of the annulment of the employment relationship as a result of the absolute and definitive impossibility for the worker to perform his work or for the employer to reassign the worker. It would also be grateful if the Government would provide the information requested under Part V of the report form on the Convention.*

Seamen's Articles of Agreement Convention, 1926 (No. 22) (ratification: 1983)

Referring to its previous comments, the Committee asks the Government to clarify whether the revision of the legal regime governing individual contracts for maritime work has been concluded and, if so, to provide copies of the respective texts.

Accommodation of Crews Convention (Revised), 1949 (No. 92) (ratification: 1952)

In comments which the Committee has been making since 1981, it asked the Government to provide it its reports information on the application of *Article 5, paragraph (a), of the Convention*, including examples of inspection reports containing, among other particulars, information on the application of this provision of the Convention, which requires crew accommodation to be inspected on every occasion when a ship is registered or re-registered. The Committee notes with regret the Government's indication that it was not possible to send a new form on inspection of crew accommodation, since it has not yet been reformulated to comply with *Article 5, paragraph (a)*. *Once again, the Committee urges the Government to take all necessary measures to ensure the application of this provision of the Convention in law and practice and asks the Government to provide information on any progress made in this respect and to transmit a new form when adopted.*

Saint Vincent and the Grenadines

Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16) (ratification: 1998)

The Committee takes note of the Government's report and of the Shipping Act, 2004 sent by the Government. It notes the Government's indication that there is still no appropriate legislation to give effect to the provisions of the Convention. The Committee also notes that section 105 of the Shipping Act addresses in a very limited way the issue of medical treatment on board ship. Referring to its previous observation in 2004, the Committee requests the Government to provide information on the following points.

Parts III and V of the report form. The Committee once again asks the Government to: (i) indicate the authority or authorities responsible for the application of the Convention; (ii) provide full information concerning the number of young persons employed on vessels registered in Saint Vincent and the Grenadines; and (iii) provide full particulars concerning the pre-employment and periodic medical examinations they are given.

The Committee renews its request for the Government to enact legislation to give effect to the provisions of the Convention and to provide information in this regard in its next report.

[The Government is asked to report in detail in 2006.]

Seychelles

Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8) (ratification: 1978)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

Article 2, paragraph 1, of the Convention. In its previous comments, the Committee noted that the restriction provided under section 9(1) of the Merchant Shipping (Masters and Seamen) Regulations, 1995, is not compatible with the Convention. The entitlement of the seaman to receive wages in the event of shipwreck, provided for under section 10 of the same Regulations, is barred where it can be proved that the seaman has not exerted himself to the utmost to save the ship, cargo and stores. The Government states in this connection that this question has been referred once again to the competent ministry so that appropriate measures can be taken. It adds that it will do its utmost to fulfil its obligations under the ILO Constitution and that it undertakes to communicate with all stakeholders concerned to achieve this objective. The Committee notes this information. *It trusts that the Government will be able to provide information in its next report on the adoption of measures to bring the national legislation into line with Article 2, paragraph 1, of the Convention, which provides for the payment to seafarers of an unemployment indemnity during a period of at least two months in the event of shipwreck, without restriction.* The Committee requests the Government to supply a copy of any text adopted to this effect.

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

United Kingdom

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) (ratification: 1980)

The Committee notes the detailed information and statistics supplied by the Government concerning inspection and training. In particular, it notes with interest the adoption of the Merchant Shipping (Medical Examination) Regulations, 2002.

The Committee notes with satisfaction that Regulation 4 of the Merchant Shipping (Hours of Work) Regulations, 2002, as amended in 2004, entitled "General duty of company, person employing a seafarer, master", which sets forth the standards of hours of rest applicable in non-emergency situations, no longer contains the flexible notion "so far as is reasonably practicable". In this context, the Committee recalls the ratification by the United Kingdom of the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180), in 2001. For further comments concerning hours of work and manning, the Committee, therefore, refers to its comments under Convention No. 180.

Anguilla

Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

For a number of years the Government has failed to reply to the Committee's comments concerning the application to Anguilla of section 37 of the 1979 United Kingdom Merchant Shipping Act, which amended section 15 of the 1970 United Kingdom Merchant Shipping Act, removing the possibility to deprive seamen of the right to unemployment indemnity where they have failed to exert reasonable efforts to save the ship, persons and cargo.

The Committee therefore hopes that the Government will indicate in its next report whether measures have been taken to extend the above section 37 of the 1979 Merchant Shipping Act to Anguilla, so as to guarantee to seamen payment of unemployment indemnity for a period of at least two months in the event of loss or foundering of the vessel, and if so, to communicate the relevant text.

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

Falkland Islands (Malvinas)

Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

According to the Government's indications the United Kingdom Merchant Shipping Act 1970 (Overseas Territories) Order 1998 has brought the Falkland Islands within the scope of section 15 of the above Act (as amended by section 37 of the United Kingdom Merchant Shipping Act, 1979). However, the Government also indicates that under the above section 15, in the event of shipwreck the seamen shall receive an unemployment indemnity equivalent to two month's wages *unless it is proved that they have failed to exert reasonable efforts to save the ship, persons and cargo. Under these circumstances, the Committee asks the Government to indicate whether the 1998 Order has or has not extended to the Falkland Islands the application of section 37 of the United Kingdom Merchant Shipping Act 1979.*

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

Montserrat

Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous observation which read as follows:

According to the Government's indications, the provisions of section 37 of the 1979 United Kingdom Merchant Shipping Act, which amends section 15 of the 1970 United Kingdom Merchant Shipping Act, removing the possibility to deprive seamen of the right to unemployment indemnity where they have failed to exert reasonable efforts to save the ship, persons, and cargo, have not been extended to Montserrat. *The Committee hopes that the Government will be able to re-examine the question and indicate, in its next report, the steps taken to extend to Montserrat the application of section 37 of the 1979 Merchant Shipping Act cited above, so as to ensure to seamen the payment of an unemployment indemnity for a period of at least two months without restriction, in case of loss or foundering of the vessel in conformity with the Convention.*

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

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 7** (Latvia, Saint Lucia); **Convention No. 8** (Belgium, Bosnia and Herzegovina, Dominica, Ghana, Jamaica, Latvia, Lebanon, Netherlands: Aruba, Netherlands: Netherlands Antilles, Nigeria, Panama, Papua New Guinea, Poland, Romania, Saint Lucia, Seychelles, Singapore, Slovenia, Solomon Islands, Spain, United Kingdom, United Kingdom: British Virgin Islands, United Kingdom: Guernsey, United Kingdom: Jersey); **Convention No. 9** (Colombia, Croatia, France: French Guiana, France: Guadeloupe, France: Martinique, France: New Caledonia, France: Réunion, France: St. Pierre and Miquelon, Italy, Latvia, Lebanon, Netherlands, Poland, Serbia and Montenegro, Sweden); **Convention No. 16** (Azerbaijan, Bangladesh, China, Colombia, Dominica, France, France: French Guiana, France: French Polynesia, France: Guadeloupe, France: Martinique, France: New Caledonia, France: Réunion, France: St. Pierre and Miquelon, Guatemala, Guinea, Italy, Jamaica, Latvia, Malta, Mexico, Nicaragua, Pakistan, Panama, Poland, Romania, Russian Federation, Solomon Islands, Sri Lanka, United Republic of Tanzania, Trinidad and Tobago, Ukraine, Yemen); **Convention No. 22** (Bahamas, Belize, Brazil, Bulgaria, Colombia, Croatia, Estonia, Iraq, Malta, Nicaragua, Pakistan, Papua New Guinea, Poland, Romania, Singapore, United Kingdom: Anguilla); **Convention No. 23** (Bulgaria, Colombia, Croatia, Cyprus, Estonia, France, France: French Guiana, France: French Southern and Antarctic Territories, France: Guadeloupe, France: Martinique, France: Réunion, France: St. Pierre and Miquelon, Iraq, Italy, Philippines, Portugal, Russian Federation, Ukraine, United Kingdom: Anguilla); **Convention No. 53** (Brazil, Bulgaria, Croatia, Cuba, Finland, France, France: French Southern and Antarctic Territories, Italy, Liberia, Malta, Peru, Philippines, Slovenia); **Convention No. 55** (Belgium, Bulgaria, Djibouti, Luxembourg, Mexico, United States, United States: American Samoa, United States: Guam, United States: Puerto Rico, United States: United States Virgin Islands); **Convention No. 56** (Algeria, Bulgaria, Croatia, Luxembourg, United Kingdom: Guernsey); **Convention No. 58** (Guatemala, Lebanon, Peru, Sri Lanka, United Republic of Tanzania: Zanzibar, Yemen); **Convention No. 68** (Bulgaria, Italy, Peru, Poland, Portugal, Romania); **Convention No. 69** (Bulgaria, Croatia, Greece, Italy, Netherlands, Norway, Poland, Portugal, Ukraine); **Convention No. 71** (Lebanon); **Convention No. 73** (Argentina, Azerbaijan, Belgium, Bulgaria, China: Macau Special Administrative Region, Croatia, Djibouti, France, France: French Guiana, France: French Polynesia, France:

Guadeloupe, France; Martinique, France; New Caledonia, France; Réunion, Guinea-Bissau, Republic of Korea, Lebanon, Lithuania, Luxembourg, Malta, Netherlands, Norway, Peru, Poland, Portugal, Russian Federation, Slovenia, Ukraine); Convention No. 74 (Croatia, France, France: French Guiana, France: Guadeloupe, France: Martinique, France: Réunion, Italy, Malta, Netherlands, Poland, Portugal); Convention No. 91 (Algeria, Angola, Croatia); Convention No. 92 (Brazil, Croatia, Cuba, Cyprus, Guinea-Bissau, Luxembourg, Poland, Romania, Serbia and Montenegro, United Kingdom); Convention No. 108 (Algeria, Brazil, Bulgaria, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Estonia, Ghana, Guatemala, Iraq, Republic of Moldova, Poland, Portugal, Russian Federation, Saint Vincent and the Grenadines, Seychelles, United Republic of Tanzania: Tanganyika, Ukraine, United Kingdom: St. Helena, Uruguay); Convention No. 133 (Brazil, Guinea, Nigeria, Poland, Romania, Ukraine, United Kingdom); Convention No. 134 (Brazil, Finland, France: French Southern and Antarctic Territories, Italy); Convention No. 145 (Finland, France, France: French Guiana, France: Guadeloupe, France: Martinique, France: Réunion, Netherlands, Poland, Portugal, Sweden); Convention No. 146 (Brazil, France: French Southern and Antarctic Territories, Morocco, Netherlands: Aruba, Nicaragua, Portugal); Convention No. 147 (Barbados, Belgium, Brazil, Costa Rica, Croatia, Cyprus, Denmark, Finland, Germany, Greece, India, Iraq, Italy, Latvia, Liberia, Malta, Morocco, Netherlands, Netherlands: Aruba, Poland, Portugal, Romania, Russian Federation, Slovenia, Trinidad and Tobago, Ukraine, United Kingdom: Isle of Man, United States); Convention No. 163 (Brazil, Slovakia); Convention No. 164 (Brazil, Germany, Norway, Slovakia, Spain); Convention No. 165 (Hungary); Convention No. 166 (Brazil, Guyana, Romania, Spain); Convention No. 178 (Albania, Morocco, Poland, Sweden, United Kingdom: Isle of Man); Convention No. 179 (Finland, Norway, Philippines, Russian Federation); Convention No. 180 (Bulgaria, Finland, France, Greece, Malta, Saint Vincent and the Grenadines, United Kingdom, United Kingdom: Isle of Man).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 7** (*Saint Vincent and the Grenadines*); **Convention No. 8** (*Estonia*); **Convention No. 9** (*Belgium, Cuba*); **Convention No. 16** (*Brazil, Bulgaria, Cameroon, Chile, Costa Rica, Croatia, Cuba, Estonia, Finland, Kenya, New Zealand, Slovenia, Spain, Uruguay*); **Convention No. 22** (*France, France: French Guiana, France: French Polynesia, France: Guadeloupe, France: Martinique, France: Réunion, Myanmar, United Kingdom: Gibraltar, United Kingdom: Jersey*); **Convention No. 23** (*Poland, United Kingdom: Isle of Man*); **Convention No. 53** (*Djibouti*); **Convention No. 56** (*Norway*); **Convention No. 58** (*Australia, Mexico, United Kingdom: Gibraltar*); **Convention No. 68** (*France, France: French Southern and Antarctic Territories*); **Convention No. 69** (*Djibouti, Slovenia*); **Convention No. 71** (*Bulgaria*); **Convention No. 73** (*Algeria, Finland, Italy, Panama, Spain, Sweden, Tunisia, Uruguay*); **Convention No. 91** (*Djibouti*); **Convention No. 108** (*Belarus, France, France: French Southern and Antarctic Territories, Greece, Islamic Republic of Iran, Morocco*); **Convention No. 133** (*United Kingdom: Isle of Man*); **Convention No. 145** (*France: St. Pierre and Miquelon, Norway*); **Convention No. 146** (*France, France: French Guiana, France: Guadeloupe, France: Martinique, France: Réunion, Spain*); **Convention No. 147** (*France: New Caledonia, Israel, Sweden*).

Fishers

Liberia

Minimum Age (Fishermen) Convention, 1959 (No. 112) (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

Further to its previous comments, the Committee notes that under section 291 of the Liberian Maritime Law – Title II of the Liberian Code of Laws – a vessel means any vessel registered under Title II and a fishing vessel means a vessel used for catching fish, whales, seals, walrus and other living creatures at sea. Under section 326(1) of the Maritime Law the minimum age for admission to employment or work on Liberian vessels is 15 years.

The Committee notes that vessels eligible to be documented include by virtue of section 51 of the Maritime Law, inter alia, vessels of 20 net tons and over engaged in coastwise trade between ports of Liberia or between those of Liberia and other West African nations; and seagoing vessels of more than 1,600 tons engaged in foreign trade. The Committee recalls in this connection that the Convention applies to fishing vessels which under the terms of *Article 1 of the Convention* include all ships and boats, of any nature whatsoever, whether publicly or privately owned which are engaged in maritime fishing in salt waters. *The Committee hopes that the Government will provide information on measures taken or envisaged to apply the Convention to all fishing vessels coming under the purview of Article 1 of the Convention.*

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

Medical Examination (Fishermen) Convention, 1959 (No. 113) (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

For many years the Committee has asked the Government to indicate whether certain provisions applicable to merchant vessels, i.e. Requirements for Merchant Marine Personnel (RLM-118) and Maritime Regulation No. 10.325(ii) also apply to fishing vessels. *The Committee again expresses the hope that the Government will provide full explanations regarding the applicability of the Liberian Maritime Laws and Regulations to the medical examination of fishermen. The Government is requested to indicate whether consultations with the fishing-boat owners' and fishermen's organizations concerned, if they exist, had taken place prior to the adoption of the applicable laws and regulations on the nature of the medical examination and the particulars to be included in the medical certificate as required by Article 3, paragraph 1, and to provide particulars on how the age of the person to be examined and the nature of the duties to be performed are taken into account in prescribing the nature of the examination as required by Article 3, paragraph 2.*

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

Fishermen's Articles of Agreement Convention, 1959 (No. 114) (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

The Committee notes the Government's earlier indication that the Committee's comments have been submitted to the Commissioner of the Bureau of Maritime Affairs for immediate action. *Referring to its previous comments, the Committee requests the Government to provide information on any possible reaction by the Commissioner. It also urges the Government to provide full information on each of the provisions of the Convention and each question in the report form approved by the Governing Body.*

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

Sierra Leone

Fishermen's Competency Certificates Convention, 1966 (No. 125) (ratification: 1967)

The Committee has been commenting for a number of years on the absence of laws and regulations giving effect to the Convention. In its last report, the Government states that progress is being made in this respect and that a national workshop on the formulation of fishing policies was organized. The Government also indicates that copies of the new legislation and the texts defining the new policies will be communicated to the ILO as soon as they are adopted.

The Committee asks the Government to provide detailed information on the outcome of the national workshop on the formulation of fishing policies and on any concrete progress made in respect of the adoption of national laws implementing the Convention. The Committee understands that the Office remains ready to offer expert advice and respond favourably to any specific request for technical assistance in this regard. *Finally, the Committee would*

appreciate receiving up-to-date information concerning the fishing industry, including statistics on the composition and capacity of the country's fishing fleet, the approximate number of fishers gainfully employed in the sector, etc.

Trinidad and Tobago

Fishermen's Competency Certificates Convention, 1966 (No. 125) (ratification: 1972)

The Committee has been commenting for a number of years on the failure of the Government to take any measures to apply the Convention since its ratification in 1972. The Committee notes with regret that, based on the information contained in the Government's last report, no progress has been made regarding the adoption of laws and regulations giving effect to the provisions of Parts II (Certification), III (Examinations) and IV (Enforcement measures) of the Convention. The Government refers to the Shipping Act No. 24 of 1987 as partially applicable to the fishing sector but specifies that the ministerial regulations provided for in section 87(1) of the Act regarding the certification of competency of masters, officers and engineers of fishing vessels have not as yet been issued. The Government further indicates that the Caribbean Fisheries Training and Development Institute provides training for personnel in the fishing industry and issues certificates of participation upon the completion of its training programmes.

The Committee hopes that, in the interest of maintaining a meaningful dialogue with the supervisory organs of the ILO, the Government will make every effort, without further delay, to ensure full compliance with the requirements of the Convention in law and in practice. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this respect. *The Committee requests the Government to provide general information on the fishing sector including, for instance, up-to-date statistics on the number of registered fishermen, the type and number of fishing vessels, the activities of the Caribbean Fisheries Training and Development Institute and the number of fishermen trained per year, as well as any other particulars bearing on the manner the Convention is applied in practice.*

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 112** (Australia, Australia: Norfolk Island, France: French Guiana, France: Guadeloupe, France: Martinique, France: Réunion, Guatemala, Mauritania); **Convention No. 113** (France: French Guiana, France: Guadeloupe, France: Martinique, France: Réunion, Guinea, Netherlands: Aruba, Slovenia); **Convention No. 114** (Slovenia); **Convention No. 125** (Brazil, Djibouti, France, France: French Guiana, France: French Polynesia, France: Guadeloupe, France: Martinique, France: New Caledonia, France: Réunion, France: St. Pierre and Miquelon, Germany); **Convention No. 126** (Azerbaijan, Denmark, France: French Polynesia, France: New Caledonia, Germany, Greece, Panama, Russian Federation, Sierra Leone, Ukraine, United Kingdom).

Dockworkers

Angola

Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27) (ratification: 1976)

The Committee notes that the Government's report contains no reply to its previous comments. It must therefore repeat its previous observation, which read as follows:

The Committee notes that the General Labour Act No. 2/00 of 11 February 2000 has been adopted.

The Committee notes that this Act does not contain provisions giving effect to *Article 1, paragraph 1, of the Convention*, under the terms of which any package or object of 1,000 kg or more gross weight consigned for transport by sea or inland waterway shall have its gross weight plainly and durably marked upon it on the outside before it is loaded on a ship or vessel. The Committee therefore notes, as it has been doing for a certain number of years, the absence from the national legislation of provisions giving effect to this Article of the Convention. In this respect, the Committee notes that the Government, in its reports received in 1986 and 1987, stated its intention of taking the necessary measures to give effect to this provision of the Convention. Subsequently, the Committee noted on several occasions the Government's indication that a draft legislative text along these lines was under examination. However, in its last report the Government no longer refers to this draft text. The Committee is therefore bound to reiterate its firm hope that the Government will make every effort to ensure that a legislative text giving effect to *Article 1, paragraph 1, of the Convention* is adopted in the very near future, and that it will also give effect to *paragraph 4 of Article 1*, by indicating who is vested with the obligation to have the weight marked.

The Committee trusts that the Government's next report will contain information on the adoption of a legislative text giving full effect to the Convention.

Ecuador

Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) (ratification: 1988)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

The Committee noted with regret that, once again, the Government states that the Manual on Safety Standards and the Prevention of Risks for Dockworkers has not been amended and revision thereof is being considered in the context of the Inter-Agency Committee on Safety and Health. The Government states that the comments of the Committee will be taken into consideration in this context. The Committee recalls that the Government previously stated that it would be the Directorate of the Merchant Navy which would revise the regulations for the purpose of a complete revision of the abovementioned manual. Taking account of the fact that there has been a change in the institution to which the task of revising the manual has been assigned, the Committee regrets that the necessary action to avoid further delay to revision of the manual has not been taken and reiterates its hope that the Government will be able to eliminate all the delays which have prevented revision of the instrument which should give effect to the provisions of the Convention.

The Committee requests that the Government, when undertaking the abovementioned examination of the manual, take into account the detailed comments contained in a request which it is addressing directly to the Government.

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

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 32** (China, Serbia and Montenegro); **Convention No. 137** (United Republic of Tanzania); **Convention No. 152** (Congo, Denmark, Ecuador, Egypt, Guinea, Netherlands).

Indigenous and Tribal Peoples

Bolivia

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1991)

The Committee notes a communication from the International Confederation of Free Trade Unions (ICFTU), received on 25 August 2005, and the Government's reply, received on 17 November 2005, which also replies in part to its observation of 2004.

Comments of the ICFTU – Consultations on oil exploitation

Background

1. *Consultation, exploration and exploitation of natural resources.* In 2004, the Committee noted a communication from the International Confederation of Free Trade Unions (ICFTU) and the Government's reply. The communication referred to the Guaraní indigenous community of Tentayapi, in the Department of Chuquisaca, in the middle of a region coveted for its oil reserves, covering an area of 20,000 hectares with legal title. Despite this, an oil company (MAXUS-REPSOL) is seeking, according to the allegations, to undertake exploration and exploitation activities in their lands (*Bloque Caipependi*), without consulting or obtaining the approval of the communities concerned. According to the ICFTU, the enterprise obtained a few signatures by means of deceit, as the signatories were unable to read to understand what they were signing. The communication reports that the indigenous people have been very active in opposing these activities and that they even persuaded the Chamber of Deputies to approve a Bill to preserve Tentayapi in July 2004. Finally, it indicates that MAXUS-REPSOL started prospecting on the lands of the community on that very month.

2. The Committee also noted the Government's comments on the communication from the ICFTU and the two volumes of documents attached pertaining to studies carried out by MAXUS-REPSOL, which include a document for public distribution together with a copy (six pages), a document recording delivery and receipt of the latter, a document for public consultation in Tentayapi, signed by six inhabitants of Tentayapi, and a number of documents entitled "private document – agreement to obtain ownership, undertaking to compensate".

3. In 2004 the Committee observed, firstly, that the enterprise MAXUS-REPSOL held an information meeting with the Tentayapi community and, secondly, that the latter community is not satisfied with the procedure followed, nor the outcome, and that on the contrary it took its claims to various national bodies before sending its communication. The Committee recalls that consultation is a process, and not a mere act of information, involving a specific procedure and with the objective of reaching an agreement with the peoples concerned and that, in the case of natural resources, there are also other requirements. The Committee also noted previously that the obligation to ensure that consultations are held in a manner consistent with the requirements established in the Convention is an obligation to be discharged by governments, not by private individuals or companies.

4. The Committee expressed its hope previously that the Government would promote real dialogue with the communities concerned in the manner laid down in the Convention and that it would keep the Committee informed of any developments in the situation.

Communication of 2005

5. The Committee notes a further communication, also by the ICFTU, dated 25 August 2005, and forwarded to the Government on 1 September 2005. It notes the Government's observations received on 24 October 2005. According to this latest communication, up to the date on which it was sent, the Tentayapi community had still not been consulted on the oil exploration and exploitation activities which the company Maxus Bolivia Inc. (Repsol-YPF) has commenced and is seeking to undertake in its community lands of origin (TCO). The ICFTU refers to many activities undertaken by the community to defend its rights to its lands and indicates that, on 26 November 2004, Act No. 2921 was adopted declaring the Tentayapi community the "Historical, Cultural and Natural Heritage of the Guaraní-Simba". Nevertheless, the ICFTU contends that the Government has not replied to any of the letters sent by the community and has not made any effort to promote a process of consultation. It reiterates the need to hold consultations through adequate procedures, and particularly through representative institutions, in accordance with *Articles 6, 7 and 15 of the Convention*. Furthermore, it deplores the absence of measures by the Government, such as the suspension of the activities of the Maxus enterprise, to protect the rights of the community. It adds that the environmental impact assessment study carried out by the company Tarija Ecogestión SRL, under contract from Maxus, was prepared without the collaboration of the Tentayapi community, thereby exacerbating the lack of confidence, and that the only reference to the community in Chapter 13 (Identification of information gaps) is the mention "great difficulty in entering the various communities located in the project area" and "difficulty in obtaining information from the TCO Tentayapi". In conclusion, the ICFTU indicates that the isolation of the community is what has enabled it to survive up to now.

6. In its observations on the communication, the Government indicates that it has undertaken various actions to protect and safeguard the Tentayapi community, including the adoption of Act No. 2921 referred to above, and that due to

the political situation of the country it has not been possible to engage in an appropriate consultation process. It states that an Inter-institutional Commission has been established, under the responsibility of the Ministry of Indigenous Affairs and Peoples of Origin (MAIPO), the Ministry of Hydrocarbons, the Ministry of the President's Office and with the participation of indigenous organizations, the Eastern Bolivian Indigenous Confederation (CIDOB), the Guarani People's Assembly (APG) and the Capitanes de Chuquisaca Council (CCCH). It indicates that this Commission is planning to enter the Tentayapi community on 24 October 2005 to engage in the consultation process and that it will provide a detailed report on this process to the Committee. It adds that the Vice-Ministry of Justice is implementing the project "Indigenous Peoples and Empowerment", which has three offices, of which one, in Monteagudo, is closely following the dispute of the Tentayapi indigenous community. In conclusion, the Government states that the company MAXUS-REPSOL voluntarily ceased its activities on the lands owned by the Tentayapi community in July 2004, according to the information from the office in Monteagudo.

7. The Committee requests the Government to provide information on the impact in practice of the adoption of Act No. 2921 on the prospection and exploitation project referred to above. Noting that MAXUS-REPSOL has suspended its activities voluntarily, the Committee requests the Government to take the necessary measures to engage in prior consultation in accordance with Articles 15, 6 and 7 of the Convention before authorizing the recommencement of activities. The Committee once again recalls that ensuring that consultations are held in a manner that is compatible with the requirements established in the Convention is an obligation to be discharged by governments, not by private individuals or companies. **The Committee requests the Government to keep it informed of developments in the situation.**

Follow-up of a representation in 1999 on consultation and forest resources

8. In March 1999, the Governing Body adopted the report of the committee set up to examine the representation made by the Bolivian Central of Workers (COB) on the application of Convention No. 169 (document GB.274/16/7). The representation alleged that the National Forestry Superintendency had issued administrative decisions granting, without prior consultation, 27 renewable forestry concessions for a term of 40 years which overlap with community lands of origin. These lands are undergoing a process of review in order to determine third-party entitlements within them. The tripartite committee indicated that, in view of the measures to review title to the lands claimed, the expropriations and concessions for the exploitation of resources may directly affect the viability and interests of the indigenous peoples concerned and that *Article 15* of the Convention should be applied in conjunction with *Articles 6 and 7*, and it recalled that by ratifying the Convention, governments undertake to ensure that the indigenous communities concerned are consulted promptly and adequately on the extent and implications of exploration and exploitation activities, whether these are mining, oil or forestry activities. Furthermore, while noting that the lands with which the forestry concessions overlap had not been titled as community lands of origin, the tripartite committee observed that it had not received any evidence indicating that such consultations, whether under *Article 6(a)* or *Article 15(2)* of the Convention, had been carried out or whether provision had been made for the peoples concerned to participate, wherever possible, in the benefits of such activities.

9. In its last observation, the Committee noted that there was no new information on the main issues which had given rise to the representation. It requested the Government to provide detailed information in its next report on the action taken on the recommendations of the tripartite committee. In accordance with these recommendations, the Committee of Experts had been requesting the Government for several years to provide information on: (1) the measures adopted or envisaged to resolve the situations which gave rise to the representation, taking into account the need to establish an effective mechanism for prior consultation with the peoples concerned, as required by *Articles 6 and 15* of the Convention, before undertaking any programme of exploration or exploitation of the resources pertaining to their lands; (2) the progress achieved in practice with regard to the consultations held with the peoples located in the area in which the 27 forestry concessions overlap with the community lands of origin, including information on the participation of these peoples in the use, management and conservation of these resources and in the benefits of forestry activities, as well as the granting to them of fair compensation for any damages which they may sustain as a result of the exploration and exploitation in the area; (3) the progress made in the process of reviewing and granting ownership title to the peoples concerned who inhabit the areas affected by the overlapping forestry concessions; and (4) the specific situation of indigenous groups inhabiting the area covered by the concessions.

10. The Committee notes with interest that, in a communication of 17 November 2005, the Government indicates that concessions have not at present been granted in community lands of origin, but only in specially delimited lands.

11. With regard to the other remaining matters, the Government reiterates that the basis of the representation is not genuine, as it does not concern the delivery of new concessions, but the reconversion of pre-existing forestry concessions in indigenous lands to which title had not yet been granted, but was under review. As these matters were duly examined by the tripartite committee, the Committee of Experts will not reopen them. Furthermore, the Committee recalls that, under the terms of *Article 13, paragraph 2*, of the Convention, "the use of the term 'lands' in *Articles 15 and 16* shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use". It is accordingly necessary to engage in the consultations envisaged in *Article 15, paragraph 2*, even though the lands are undergoing a process of review and title has not yet been granted.

12. *The Committee accordingly urges the Government to: (1) take the necessary measures to resolve the situations which gave rise to the representation, taking into account the need to establish an effective mechanism for prior consultation with indigenous peoples, as required by Articles 6 and 15 of the Convention, before undertaking any programme of exploration or exploitation of the resources pertaining to their lands; (2) provide information on the progress achieved in practice with regard to the consultations held with the peoples located in the area in which the 27 forestry concessions overlap with the community lands of origin, including information on the participation of these peoples in the use, management and conservation of these resources and in the benefits of forestry activities, as well as the granting to them of fair compensation for any damages which they may sustain as a result of the exploration and exploitation in the area; (3) provide information on the progress achieved in the process of reviewing and granting ownership title to the peoples concerned who inhabit the areas affected by the overlapping forestry concessions; and (4) indicate the specific situation of the indigenous groups inhabiting the area covered by the concessions.* In brief, the Committee emphasizes the need to find solutions in consultation with the peoples concerned.

13. *Towards a culture of consultation.* The Committee recalls that the facts which gave rise to the COB's representation present the common trait with the ICFTU's communication that both of them refer to the need to apply in conjunction *Articles 6, 7 and 15* of the Convention and that no progress has been made in this respect, for which reason the issue of the lack of adequate consultation in relation to forestry concessions has arisen once again with regard to oil prospecting. The Committee notes that, according to the Government, the Ministry of Hydrocarbons has prepared a legislative proposal relating to compulsory consultations with indigenous peoples prior to the exploration and exploitation of natural resources pertaining to their lands, which has been forwarded to indigenous organizations for their observations. The Committee reminds the Government that it may request the technical assistance of the Office, if it considers it necessary, to lay the basis for the formulation of an appropriate framework for consultation, with the participation of indigenous peoples. *The Committee requests the Government to keep it informed of the measures adopted in relation to this paragraph.*

14. *Forced labour.* The Committee notes the study "Trapped in debt bondage in Bolivia", produced by the promotional programme on the Declaration on Fundamental Principles and Rights at Work. One of the recommendations of this study is the ratification of the Forced Labour Convention, 1930 (No. 29). The Committee notes with interest that, on 5 May 2005, Bolivia ratified Convention No. 29. It also notes with interest that it has commenced, with ILO technical assistance, the formulation of a plan of action to eradicate forced labour, which mainly affects the indigenous population, and that consultations on this plan are being held with workers' organizations, indigenous organizations and the Ministry of Indigenous Affairs and Peoples of Origin. *The Committee would be grateful if the Government would keep it informed of the outcome of the consultations on the plan of action.*

The Committee is addressing a request directly to the Government.

Colombia

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1991)

A. *Communication of the Workers' Trade Union Confederation*

1. The Committee notes the comments of the Workers' Trade Union Confederation (USO) on the application of the Convention, which were received on 31 August and transmitted to the Government on 7 September 2005. The Committee notes that the Government's observations on these comments have not yet been received. The USO indicates that the communication has the agreement and support of the representatives of the community councils of the Curbaradó and Jiguamiandó and that it was prepared jointly with the Inter-denominational Justice and Peace Commission, the Colombian Commission of Jurists and the José Alvear Restrepo Collective Corporation of Lawyers. Two additional CD-ROMs were subsequently received which, due to their late arrival, are not examined in the present observation, but have been forwarded to the Government for its consideration.

2. *Article 1 of the Convention. Individual scope of application.* The first part of the communication refers to discrimination against persons of African extraction, whose illiteracy rate is three times higher than that of the rest of the country, among whom the child mortality rate is 151 per thousand compared with a national average of 39 per thousand, and 76 per cent of whom live in conditions of extreme poverty. According to the communication, communities of African extraction in Colombia account for 26.83 per cent of the total population. However, most of the communication is related to two communities of African extraction, namely the Curbaradó and Jiguamiandó in the municipality of Carmen del Darién, Department of Chocó, in relation to their forced displacement and the extensive cultivation of the African palm in violation of their rights to the land and without prior consultation. The communication adds that the Curbaradó and Jiguamiandó communities fulfil the criteria for a tribal people set forth in the Convention, are composed of 2,125 persons and 515 families, a majority of whom are of African extraction, and that they have used their land in accordance with their ancestral and traditional practices. The communication indicates that Act No. 70, of 1993, provides in section 2(5) that "the black community consists of the combined families of Afro-Colombian extraction who have their own culture, a common history and their own traditions and customs in the context of the relation between occupied and rural areas, who

demonstrate and maintain awareness of identity which distinguishes them from other ethnic groups”. Reference is also made to the case law of the Constitutional Court (Ruling T-955, M.P.: Alvaro Tafur Galvis, 17 October 2003). In that ruling, the constitutional court found that the right of black communities to their collective lands “is based on the Political Charter and ILO Convention No. 169, without prejudice to the delimitation of their lands referred to in Act No. 70 (...), the concerned right to collective ownership includes and has always included the faculty of black communities to use, enjoy and dispose of the renewable natural resources existing on their lands in accordance with the criteria of sustainability (...). That is, since 1967, by virtue of Act No. 31, the right to collective ownership of the lands which they and their ancestors have occupied is recognized for national black communities, as tribal peoples”. The USO also notes that fundamental aspects of the Convention are developed in the law, with for example consultation being regulated by Act No. 70, while Decree No. 1320, of 1998, regulates consultations with indigenous communities and those of African extraction.

3. The Committee recalls that, in its first report on the Convention, the Government indicated that “the Afro-American communities of Colombia are not understood as being included within the scope of the Convention since, although sections of this population, the coastal communities on the Pacific coast, and certain populations with similar characteristics in the interfluvial valleys have been considered as ethnic groups, according to the new Constitution of Colombia, these groups are not understood by the Colombian Government as being included in the category of indigenous or tribal peoples”.

4. The Committee considers that, in the light of the information provided, the black communities of Curbaradó and Jiguamiandó appear to fulfil the requirements set out in *Article 1, paragraph 1(a)*, of the Convention, in accordance with which it applies to: “tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations”. Furthermore, *paragraph 2* of this Article provides that “self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply”. According to the information provided in the communication indicating that the representatives of the community councils of Curbaradó and Jiguamiandó participated in the preparation of the communication, it would appear that, in seeking the application of the Convention to their communities, they identify themselves as being tribal. Furthermore, the definition of “black community”, as set out in Act No. 70, appears to coincide with the definition of tribal peoples in the Convention. ***The Committee requests the Government and the USO to confirm whether these communities identify themselves as tribal communities within the meaning of Article 1, paragraph 1(a), of the Convention. It also requests the Government to provide information on the percentage of persons of African extraction who fulfil the requirements of Article 1, paragraph 1(a), of the Convention. It further requests the Government, if it considers that these communities do not constitute tribal peoples within the meaning of the Convention, to indicate its reasons.***

The Curbaradó and Jiguamiandó communities

5. The USO indicates that the members of these communities have been victims of systematic attacks against their life, freedom and integrity and of forced displacement. It states that, due to the crimes which, according to the communication, were committed for the most part by members of the public forces, or by military groups acting with their negligence, tolerance or acquiescence, and in certain cases by guerrilla groups, in August 2002, the 23 community councils of these peoples decided to declare themselves “Humanitarian Safety Zones”.

6. *Lands and natural resources.* The USO further indicates that since 2001 the perpetration of human rights violations against these communities has been related to the advance of the extensive cultivation of oil-bearing palms and African palms and stock-raising projects, which have been undertaken despite the existence of collective title to these lands. The USO adds that “the dispossession of the lands of these communities has also been achieved through unlawful legal acts by palm-growing enterprises by means, among others, of the conclusion of contracts in violation of Act No. 70, fraudulent misrepresentation, deceit, the drawing up of legal acts which purportedly give the approval of these communities, the misrepresentation of the functions of duly recognized and registered representatives of the communities, agreements for the establishment of agricultural exploitations facilitated by public officials who are members of the armed forces, coercion and direct threats against the occupants, who are frequently compelled to sell their property through fear or the absence of any other beneficial option”. In the communication of USO, examples are provided of death threats in March, April and June 2005 against members of these communities who had not yet left their lands with a view to forcing them to sell or abandon them. It concludes that the impact of intensive deforestation for the cultivation of African palms and stock-raising has given rise to devastating social and environmental harm.

7. *Consultations.* The USO refers to Decree No. 1745, issued under the third chapter of Act No. 70, which defines and determines the functions of the councils of communities of African extraction, and provides that community councils “are the highest internal administrative authority in the lands of black communities”. It indicates that these authorities were not consulted, but that meetings were held with persons not authorized to represent the communities, and cites examples.

8. *Action at the national level.* The communication reports various activities at the national level. It indicates that in November 2004 the Colombian Rural Development Institute (INCODER) estimated that 4,993 ha. of the collective lands of the Curbaradó and Jiguamiandó had been taken over for the cultivation of palms and 810 ha. for stock-raising. Some 93

per cent of the land used for the cultivation of palms is within their collective lands, with the remaining 7 per cent consisting of private property adjudicated by the INCORA before the entry into force of Act No. 70. It refers, among others, to Instruction No. 008, of 21 April 2005, in which the Public Prosecutor required the Codechocó Corporation, the body entrusted with monitoring the Environmental Act, and INCODER to “submit within 15 days a report on the action taken up to the present to guarantee effectively the protection of the traditional rights of these communities and persons and a plan of action to be undertaken for this purpose”. It also refers to resolution No. 30 of the Office of the Ombudsperson, of 2 June 2005, entitled “violation of human rights through the cultivation of the African palm in the collective lands of the Curbaradó and Jiguamiandó”, inter alia, requiring enterprises engaged in the cultivation of palms to suspend with immediate effect the extension of the cultivation of African palms, request the return of the indigenous collective lands and *resguardos* that are affected by the cultivation of oil-bearing palms and those intended for stock-raising and the exploitation of wood and urging specific public bodies to refrain from granting environmental permits, authorizations and licences relating to the collective lands of the Curbaradó and Jiguamiandó black communities and indigenous *resguardos* without full compliance with the requirements relating to the environment and lands.

9. The Committee refers to the comments contained in paragraph 4 above, according to which the communities referred to appear to fulfil the requirements to be covered by the Convention. Subject to any comments that the Government may make, the Committee notes that if it is confirmed that these communities are covered by the Convention, it is necessary to give effect to *Articles 6, 7 and 15* respecting consultations and natural resources and *Articles 13 to 19* with regard to lands. In particular, the Committee refers to the right of these peoples to return to their traditional lands as soon as the grounds for relocation and transfer cease to exist (*Article 16, paragraph 3*, of the Convention) and the measures envisaged by the Government against any unauthorized intrusion in the lands of the peoples concerned or any unauthorized use by persons alien to them (*Article 18* of the Convention). *Noting that the communication refers on various occasions to threats, coercion and a climate of terror, as well as the lack of penalties against those responsible for violations of the right to life, integrity and freedom which gave rise to the forced displacement, the Committee also requests the Government to make all the necessary efforts to protect the life and integrity of the members of these communities. The Committee would be grateful if the Government, in addition to its comments on the communication, would provide information on the measures adopted to follow up the resolution of the Office of the Ombudsperson and Instruction No. 008 of the Public Prosecutor’s Office. The Committee will continue to examine the communication together with the Government’s comments.*

B. The Government’s request for technical assistance

10. The Committee notes with interest that the Government has requested the Office’s technical assistance to facilitate consultations with the U’wa people in the context of the recommendations made by a tripartite committee in its report on a representation which was adopted by the Governing Body at its 212th Session (November 2001). *The Committee notes that this request will be confirmed in the near future and that the Office has indicated its readiness to contribute to improving the implementation of the recommendations of the supervisory bodies. The Committee awaits further information on the commencement and implementation of this assistance.*

[The Government is asked to reply in detail to the present comment in 2006.]

Denmark

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1996)

1. The Committee notes the Government’s report and the communications dated 11 November 2002 and 9 September 2003 submitted by the Greenlandic trade union Sulinermik Inuussutissarsiuqartut Kattuffiat (SIK), and the Government’s replies thereto. The Committee notes that the SIK’s communications deal with matters already considered by the Governing Body in the context of a representation made by the SIK in November 1999 under article 24 of the ILO Constitution concerning Denmark’s application of the Convention. The Committee recalls that the Governing Body’s March 2001 report concluding this representation procedure found that the measures taken by the Government were consistent with the Convention. However, the Governing Body requested the Government to provide information to the Committee of Experts on a number of points, as set out in the Committee’s previous observation.

2. In this regard, the Committee notes that the Danish Supreme Court delivered a judgement on 28 November 2003 concerning the appeal of the 20 August 1999 decision of the High Court of the eastern district of Denmark in the case arising out of the 1953 relocation of the population of the Uummannaq community in the Thule district of Greenland. The Committee notes that the Supreme Court upheld the High Court decision, including with regard to the level of compensation. It also notes the Government’s indication that the Thule tribe was granted free legal aid in the Supreme Court proceedings.

3. Concerning the question of consultations with the Home Rule authorities regarding future use of the land occupied by the Thule airbase, the Committee notes that the Danish Government and the Government of the United States agreed in an Exchange of Notes on 20 February 2003 to the effect that the Thule peninsula, where the Uummannaq community was located, will no longer be a part of the Thule airbase. Further, the Danish Government and the Greenland

Home Rule signed a Memorandum of Understanding on 20 February 2003 with the United States Government regarding cooperation in this respect. The Committee notes the Government's statement that the Thule peninsula is now being administered in the same way as the rest of Greenland, subject to certain restrictions under the Memorandum of Understanding.

The Committee is addressing a request directly to the Government concerning other matters.

Guatemala

Indigenous and Tribal Peoples Convention, 1989 (No. 169) ***(ratification: 1996)***

1. The Committee takes note of the Government's detailed report and the attachments thereto. It also notes: (1) the third report on compliance with the Convention in Guatemala, produced by the Council of Mayan Organizations of Guatemala (COMG), sent by the General Central Union of Guatemalan Workers (CGTG) on 2 November 2005; (2) general comments by the Government on the COMG's communication received on 31 March 2005; (3) a communication of 21 January 2005 from the Union of Guatemalan Workers (UNSITRAGUA); and (4) the Government's comments on the latter, received on 11 November 2005.

2. The Committee notes with interest that on 30 September 2005 a Guatemalan delegation, which was headed by the Vice-President of the Republic and included Rigoberta Menchu, winner of the Nobel Peace Prize, came to ILO headquarters in Geneva and made a request for technical assistance from the Office in connection with Convention No. 169 in relation to a number of disputes that have arisen regarding indigenous matters. The Government says that it is anxious to overcome the systematic exclusion of indigenous peoples from decision-making regarding policy and to find solutions to disputes (usually about land) and to establish better machinery for consultation.

3. The Committee also notes that in November 2005 the Governing Body declared receivable a representation submitted by the Federation of Rural and Urban Workers under article 24 of the ILO Constitution alleging non-compliance by the Government with some provisions of the Convention.

Articles 6 and 7 of the Convention. Consultation and participation

4. The Committee takes note of the information in the above third report by the COMG. According to the report, indigenous peoples constitute the largest population in Guatemala and the main workforce and that their rights need to be fully recognized. Efforts are made sporadically towards providing an institutional basis for participation of indigenous peoples; a number of judicial decisions and other measures give effect to the Convention, but the COMG emphasizes that there is no coherent policy on institutions that combines political, administrative and financial measures to attain the objectives of the Convention. The report indicates that participation continues to be symbolic and the political and electoral system remains an instrument of exclusion. The report indicates that there is no specific institutional machinery for consultation and that, during the previous administration, 31 concessions were granted for the exploitation of mineral resources and 135 for exploration, with no prior consultation with the indigenous peoples as to the viability of such activities or their environmental impact. These activities are still ongoing and there are no programmes to curtail the impact of the prospecting and exploitation or to compensate communities which may be adversely affected.

5. In its comments on the above report, the Government indicates that indigenous participation is being strengthened, and that the last few months of 2004 saw the establishment of a preparatory body of the Advisory Council on Indigenous Peoples and Pluri- and Inter-culturalism the task of which is to set up a Standing Advisory Council to advise the Government on public policy governing indigenous matters. The Committee notes that in March 2005 an Indigenous Advisory Council (CAI) was established. According to the Government, indigenous participation in political parties is a slow process but headway is being made, though it must be acknowledged that the parties need to revise their objectives and enhance participation and that the indigenous peoples ought to make more substantive proposals rather than formal ones. The Government acknowledges that there are no consultation mechanisms and that one of the main items on the agenda of the Joint Committee on Reform and Participation is the drafting of a "Bill on the consultation of indigenous peoples".

6. The Committee observes that since 1998 it has been requesting information on the consultation machinery set up pursuant to the Convention. It draws the Government's attention to the fact that the provisions on consultation, particularly *Article 6*, are the core provisions of the Convention and the basis for applying all the others. Consultation is the instrument that the Convention prescribes as an institutional basis for dialogue, with a view to ensuring inclusive development processes and preventing and settling disputes. The aim of consultation as prescribed by the Convention is to reconcile often conflicting interests by means of suitable procedures. ***The Committee notes with interest that the Government has given this situation attention by seeking technical assistance from the Office in order to give effect to the Convention's provisions on consultation. It invites the Government to continue along this path and hopes that next year it will be in a position to provide information on the legislative and practical measures taken to give effect to this key aspect of the Convention.***

Article 15, paragraph 2. Communication from UNSITRAGUA alleging failure to consult the peoples concerned to ascertain whether and to what degree their interests would be prejudiced by the granting of permits to Montana-Glamis Gold

7. The Committee notes that, according to UNSITRAGUA, the Government recently granted a permit for mining prospecting and exploitation in the departments of San Marcos and Izábal to Montana Exploradora S.A., a subsidiary of the Canadian mining company Glamis Gold. UNSITRAGUA indicates that the area involved contains two of Guatemala's main lakes – Atitlan and Izábal – where there are eco-tourism resorts. Mining operations, which would require 250,000 litres of water per hour, would place the potable water supply under serious risk of pollution. Furthermore, despite opposition to the mining activities by the population of Sololá and San Marcos, in an act of intimidation the Government allowed the company's equipment to be brought in under the escort of 1,300 members of the police and the army. This operation began on 11 January 2005. The local population staged public protests and blocked the road. According to UNSITRAGUA, the Government stated that the people were armed, although no weapons were seized. However, one villager died and many others were injured.

8. UNSITRAGUA emphasizes that the death is the consequence of a mining policy imposed – without prior consultation – on the premise that corporate interests rank higher than social interests and respect for the land, culture, beliefs and opinions of the indigenous peoples of Guatemala and even their lives. **The Committee asks the Government to provide information on what occurred, indicating whether the persons responsible have been identified, tried and punished.**

9. In its response, the Government indicates that Guatemalan legislation requires environmental impact studies to be carried out and submitted before any type of prospecting or exploitation permits are granted. The requisite studies were submitted by the Directorate General for Management of the Environment and Natural Resources of the Ministry for the Environment and Natural Resources which approved by resolution No. 779-2003/CRMM/EM the study submitted by Montana Exploradora. The permit was granted in the Department of San Marcos, but not in Izabál, and UNSITRAGUA's communication fails to explain how the damage to lakes Atitlan and Izabál was caused. The Government concedes that there is no institutional machinery for consultation with the indigenous peoples, but indicates that approaches have been made to the indigenous communities. For example, it cites the organization of the First National Forum on Mining in 2005 and indicates that the Forum's 11 promoters sent the Government the ten main conclusions of the meeting. The Government also reports that a High-level Commission has been set up with representatives of the Government and the Catholic Church and that in August 2005 an understanding was signed seeking amendment of the Mining Act with regard to compensation, environmental health and consultation of indigenous peoples. The Government also points out that Guatemala has already sought ILO technical assistance to resolve the problems of holding consultations with indigenous peoples within the framework of the Convention. According to the report, the Government acknowledges that “the violence occurred owing to the transport of the machinery carried out in compliance with authorizations properly issued by the competent authority”.

10. The Committee notes that the above communication refers to a lack of consultation in the manner prescribed by the Convention regarding the use of natural resources. The relevant provision is *Article 15, paragraph 2*, in conjunction with *Articles 6 and 7* of the Convention. *Article 6* refers to the procedure for consultation, *Article 7* to the process of development and *Article 15, paragraph 2*, governs consultations on natural resources in particular and sets the objective of consultation: “ascertaining whether and to what degree [the] interests [of these peoples] would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of (...) resources pertaining to their lands”.

11. The Committee observes that the Government does not deny the alleged lack of consultation and indicates that the company carried out an environmental impact study that was approved by the relevant government department. The Committee also notes that the villagers protested against the mining project and the violence that occurred. Further, the Committee notes the concerns expressed by the Office of the Human Rights Ombudsperson of Guatemala in its report of May 2005 on mining activities. The Office of the Ombudsperson refers explicitly to the project criticized by UNSITRAGUA and expresses concern of the risks of opencast mining and in particular the method used, namely leaching by cyanide. The report indicates that this type of process has had detrimental consequences on the environment and health in other countries, has been prohibited in other regions of the world and its potential impact could harm: (1) water sources; (2) air quality through the emission of particles; and (3) the use and fertility of the soil which is permeated by cyanide compounds. The Committee draws the Government's attention to the fact that these types of risks should be the subject of consultations, as set out in *Article 15, paragraph 2*, in conjunction with the studies required by *Article 7, paragraph 5*, of the Convention.

12. The Committee recalls that the Convention lays down certain requirements to ensure that the exploration and exploitation of natural resources comply with the Convention. It draws the Government's attention to the fact that these requirements were not fulfilled in the case of the permit referred to by UNSITRAGUA.

13. The impact study carried out by the company is no substitute for the consultations required by *Article 15, paragraph 2*. This provision stipulates that “governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands”.

As the Committee has pointed out in other similar cases, responsibility for consultation lies with the Government, not the company. Furthermore, in establishing or maintaining procedures, governments must take into account the procedural requirements laid down in *Article 6* of the Convention and the provisions of *Article 7* of the Convention, according to which “Governments shall ensure that, whenever appropriate, studies are carried out, in cooperation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.”

14. *The Committee accordingly invites the Government to carry out consultations with the peoples concerned, taking into account the procedure laid down in Article 6 of the Convention, to ascertain whether and to what degree their interests will be prejudiced, as required by Article 15, paragraph 2, of the Convention. The Committee also asks the Government to examine whether, with the continuation of exploration and exploitation by Montana-Glamis, it would be possible to carry out the studies provided for in Article 7 of the Convention in cooperation with the peoples concerned before the potentially harmful effects of these activities become irreversible. Please supply detailed information on this matter, taking into account the fact that the Office of the Human Rights Ombudsperson has expressed concern about the award by the Government without consultation of 395 exploration and exploitation permits, some 200 of which are reported to be in the process of being approved.*

15. In conclusion, the Committee notes that the two above communications refer to problems and disputes arising from the lack of machinery for consultation. It also notes that this has become a matter of special interest in Guatemala, and that the Government has taken significant steps towards finding a solution, as shown by the information supplied by the Government on the National Forum on Mining, the understanding signed with the Catholic Church and the Government’s request to the Office for assistance in establishing a framework for consultation with the indigenous peoples in the context of the Convention. *Stressing that consultation is the key to all other provisions of the Convention, and reaffirming that this is the instrument of dialogue provided for in the Convention as a foundation for an inclusive development process, the Committee urges the Government to step up its efforts to take all the necessary measures, in consultation with the indigenous peoples and with the technical assistance of the Office to give effect in law and practice to Articles 6, 15, paragraph 2, and 7 of the Convention. The Committee hopes the Government will be in a position to provide detailed information on the measures taken and the progress achieved in this regard in 2006.*

The Committee is sending a request directly to the Government on related matters and on other points.

[The Government is asked to reply in detail to the present comments in 2006.]

India

Indigenous and Tribal Populations Convention, 1957 (No. 107) (ratification: 1958)

1. The Committee notes the information provided by the Government in reply to its previous comments. It also notes the 10th Five-Year Plan (2002-07) and the latest report of the National Commission on Scheduled Castes and Scheduled Tribes, which contain a great deal of information on the situation of tribal people in the country and on the Government’s measures in this respect.

2. In this regard, the Committee notes the significant progress made in some respects in improving the situation of tribals, as reflected in the report and accompanying documents. These include allocation of significant sums for the benefit of tribals, improvements in monitoring of the disbursement of these sums, and improved outcomes, such as increases in the literacy rates and increased vocational training of tribals.

3. The Committee also notes the Government’s comments on the observations received from the Chemical Mazdoor Sabha, a workers’ organization, in 2003, concerning the treatment of tribals displaced as a consequence of the construction of the Sardar Sarovar Dam and Power Project. In its reply, it indicated that the Supreme Court had found that the measures taken were adequate and that construction of the dam should be continued, and that the observations in question simply raised the same questions again. The Committee takes note of the Supreme Court’s decision, and recalls that it has requested on numerous occasions information available to indicate that all the persons displaced had been compensated or resettled in conformity with the Convention.

4. It also notes, however, that the progress achieved lags behind that of other citizens of the country. For instance, though tribal literacy rates are rising, the literacy gap between tribals and others has continued to widen. The Committee also notes from the 10th Five-Year Plan that between 1951 and 1990, 21.3 million persons were displaced from their traditional lands in the States of Andhra Pradesh, Bihar, Gujarat, Maharashtra, Madhya Pradesh, Rajasthan and Orissa, including 8.54 million tribals. The Committee notes that only 2.12 million tribals had been resettled. According to the Plan, the consequences have been “loss of assets, unemployment, debt bondage and destitution”.

5. *The Committee therefore requests the Government to continue providing information in its reports on the progress achieved and the obstacles encountered in implementing the Convention, and its own policies, for the improvement of the situation of tribals in India including the 6.42 million tribals who have not yet been resettled.*

Mexico

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1990)

1. In 2004, the Committee noted the Government's report received in October 2004. Because the report had arrived late and was extensive, the Committee was unable to examine it in detail and it therefore confined its comments to matters directly related to the report of the tripartite committee appointed to examine the representations made by the Union of Academics of the National Institute of Anthropology and History (SAINAH), the Trade Union of Workers of the National Autonomous University of Mexico (STUNAM) and the Independent Union of Workers of La Jornada (SITRAJOR), adopted by the Governing Body in March 2004 (document GB.289/17/3). The Committee stated that it would refer to the other matters in subsequent sessions.

2. Further to the above report, the Committee raised the following issues: (a) consultation (paragraph 108 of the tripartite committee's report); (b) SITRAJOR's representation containing allegations that cover much of the Convention (paragraph 139 of the report); and (c) the content of the constitutional reform (paragraph 141 of the report). On the subject of consultation, the Committee noted the establishment of the National Commission for the Development of Indigenous Peoples (CDI). It will examine further the issues relating to the mechanisms and representativeness in its direct request. As to paragraph 139 of the report, in view of the vast range of subjects involved, the tripartite committee asked the Committee of Experts to monitor them and the Committee requested the authors of the representation to provide the information sought in paragraph 139(g) of the report of the tripartite committee. The Committee observes that this information has not been supplied. It will continue to examine these matters further in its direct request. As to the constitutional reform, the Committee referred in its previous comments to the following: (1) *Definition and self-identification. Linguistic requirements and physical occupation*; (2) *Land, territories and natural resources*; and (3) *Administration*. The Committee examines further the issues raised in (1) and (3) above in its direct request. As to the communication sent in 2001 pursuant to article 23 of the ILO Constitution by the Trade Union of Telephone Operators jointly with other workers' organizations (section 49), the Committee takes note of the Government's reply. Since some of the points raised by the above organizations are general in nature, the Committee will examine them in its direct request in the context of its general examination of the application of the Convention.

3. The Committee further notes that the 2004 report contains information in response to comments the Committee made in 2001. The Committee suspended its examination of these matters pending completion of the representation proceedings (which ended in March 2004) in view of the fact that the representations covered most of the Convention. The Committee notes the Government's efforts to provide the Committee with full information on a number of highly complex issues related to the Convention. It also notes the Government's efforts to apply the Convention and invites it to pursue the search for a solution to several very complex matters which are still at issue, such as those involving lands and natural resources with the participation of the indigenous peoples concerned.

Communication from the National Union of Education Workers

4. *Land*. The Committee notes the communication from Trade Union Delegation No. D-III-57, section XI, of the National Union of Education Workers (SNTE), *Radio Educación*, pursuant to article 23 of the ILO Constitution received on 28 June 2005 and forwarded to the Government on 29 July 2005. The SNTE alleges that the Government of Mexico failed to follow the recommendations in the report submitted to the Governing Body by the tripartite committee set up to consider a representation made by the SNTE (final report adopted by the Governing Body in June 1998 – document GB.272/7/2).

Background

5. The subject of the above representation was a claim filed by the Union of Huichol Indigenous Communities of Jalisco, through the SNTE, for the return to the Huichol community of San Andrés de Cohamiata of 22,000 hectares adjudicated by the federal Government to agrarian groups in the 1960s. The land in question included Tierra Blanca, El Saucito, in the State of Nayarit (which includes the villages of El Arrayán, Mojarras, Corpos, Tonalisco, Saucito, Barbechito and Campatehuala) and Bancos de San Hipólito, in the state of Durango, which, according to the complainant organizations, also belonged to San Andrés Cohamiata.

6. In paragraph 45 of the above report, the Governing Body asked the Government to “take measures in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities”, in accordance with *Article 14 of the Convention*; to inform the Committee of Experts on the decision to be handed down by the Third Collegial Court of the Twelfth Circuit concerning the appeal for protection of constitutional rights (“amparo”) lodged by the complainants and the Union of Huichol Indigenous Communities, against the decision handed down by the Agrarian Tribunal in the particular case of Tierra Blanca; on the measures which had been taken or could be taken to remedy the situation of the Huicholes, who represent a minority in the area in question and who have not been recognized in agrarian censuses, which might include the adoption of special measures to safeguard the existence of these peoples as such and their way of life, to the extent that they wish to safeguard it; and on the possible adoption of appropriate measures to remedy the situation which gave rise to this representation, taking account of the possibility of assigning additional land to the Huichol people

when they do not have the land necessary for providing the essentials of a normal existence, or for any possible increase in their numbers, as provided in *Article 19* of the Convention.

7. In 2001, the Committee took note of the decision rejecting the claim for constitutional rights (“amparo”) filed by the members of the Huichol community of Tierra Blanca, and reiterated its request to the Government to make all necessary efforts to remedy the situation that gave rise to the representation, taking into account the possibility of assigning additional land to the Huichol people, as provided in *Article 19* of the Convention.

8. *Communication from the SNTE.* In its communication of 28 June 2005, the SNTE alleges that seven years after the recommendations were issued, the Government has not taken the necessary steps to remedy the situation that gave rise to the representation. The SNTE refers to two communities: the indigenous community of Tierra Blanca and the indigenous community of Bancos de San Hipólito or Cohamiata.

Indigenous community of Tierra Blanca

9. The communication indicates that on 13 February 2001 the Agrarian Tribunal handed down a new decision in which it denied the existence of the community of Tierra Blanca on the grounds that it retains community status only in relation to its parent community, San Andrés Cohamiata, despite being officially separated from the latter; and, although the two continue to be united by culture, history and geography, and Tierra Blanca’s relationship with San Andrés Cohamiata, “is its ceremonial centre, but is unconnected to the land they have been claiming, which is a part of the land adjudicated to other communities and to which the latter hold title”.

Indigenous community of Bancos de San Hipólito or Cohamiata

10. The communication states that the presidential decision granting title for the land to San Andrés de Cohamiata, recognized only a part of the land, removing from San Andrés 43 per cent of its ancestral lands recognized in titles dating back to the colonial era. Furthermore, the lands thus separated included the community of Bancos, which was thus excluded from all protection, and title for its lands was given to San Lucas de Jalpa. On 14 February 2000, the President, Secretary and alternate Spokesperson of Bancos filed a claim for constitutional rights (“amparo”) to the Third District Court for Administrative Affairs of the State of Durango. In February 2001, the above Court ruled that land claims are to be brought before the Agrarian Tribunal. On 7 November 2002, the representatives of the community accordingly sought the quashing of the 1981 presidential decision in favour of San Lucas de Jalpa as invalid, and the land claims are still being pursued under Case No. 327/2002. In addition, a forestry exploitation concession has been granted, which the complainants allege to be unlawful because the land involved is currently the subject of litigation. The concession was granted by the Secretariat of Environment and Natural Resources (SEMARNAT) to San Lucas de Jalpa for the exploitation of wooded areas which, according to the complainants, are part of the traditional lands of Bancos de San Hipólito.

11. In conclusion, they indicate that, in August 2003, the federal Government announced the “*programa focos rojos*”, a special plan to deal with rural disputes which includes the Huichol region, but not the Bancos de San Hipólito community.

12. The Committee notes that the Government has not sent comments on the above communication. It notes, however, that in its report of 2004 it provided the following information.

13. In the part of its report dealing with Tierra Blanca, in Nayarit, the Government states that this is an Huichol indigenous community that came to the State of Jalisco and settled on a 2,000 hectare area of land claimed by the *mestizos* of San Juan Peyotan as part of their land. The Government indicates that conciliation proceedings had been ongoing for ten years, following the establishment of machinery by the *Instituto Nacional Indigenista* for dialogue in pursuit of a peaceful settlement whereby the agrarian group of San Juan Peyotan would allow the Huicholes to keep the area. According to the Government, a number of options have been examined including a proposal to transfer the Huicholes to another area, but for a number of reasons the problem has not been resolved and has now been referred to the Agrarian Tribunal. The Committee further notes that in its 2004 report, referring to agrarian disputes that require immediate settlement, the Government indicates that the Secretariat for Agrarian Reform signed the agreement establishing the operational rules of the programme to deal with disputes in rural areas in which the populations involved have the status of *ejidos*, communities, communes, small “neighbour owners” and any other party to a dispute concerning land tenure in a rural area. Under the programme, persons involved in some type of dispute about land tenure in a rural area benefit from economic support, in kind or in the form of compensation paid for agreed expropriation.

14. The Committee notes with concern that the situations which prompted the SNTE’s representation have still not been settled. It notes with interest, however, that programmes are being developed to deal with agrarian disputes. *It invites the Government to give priority to the situation of the communities about which the representation was made, particularly those of Bancos de San Hipólito and Tierra Blanca, to include them in such programmes and to seek appropriate solutions in consultation with the indigenous peoples concerned. It also invites the Government to provide information on the measures which have been taken or which could be taken to remedy the situation of the Huicholes, who are a minority in the area in question and have not been recognized in land censuses. These measures could include special measures to safeguard the existence of these people as such and their way of life, to the extent that they wish to safeguard it. The Government is also invited to take appropriate measures to remedy the situation which gave*

rise to the representation, taking account of the possibility of assigning additional lands to the Huichol people when they do not have the area necessary for providing the essentials of normal existence, or for any possible increase in their numbers, as provided in Article 19 of the Convention. The Committee further invites the Government to explore suitable solutions regarding the concession granted for wooded areas, to the extent that they have been traditionally occupied, in accordance with Articles 13 and 15 of the Convention.

Constitutional reforms. Follow-up to the report adopted by the Governing Body in March 2004 (GB.289/17/3)

15. The Committee reiterates paragraphs 10 and 11 of its observation of 2004, which read as follows:

10. *Lands, and territories and natural resources.* Section 2(A)(VI) of the reform provides that the Constitution recognizes and guarantees the right of indigenous peoples and communities to “have access (...) to the use and preferential exploitation of the natural resources in the areas inhabited and occupied by communities except for those which are strategic areas” under the terms of the Constitution. Strategic areas are defined in article 27 of the Constitution. In this respect, the Government states in its report that “the reform considers that, in supplementing the use and exploitation of the natural resources in their lands and territories, these are understood as the whole of the *habitat* used and occupied by indigenous communities, except those for which direct control is exercised by the nation and which are enshrined in article 27 of the Constitution”. The legislation in many countries provides that rights over subsurface resources remain the property of the State. In *Article 15, paragraph 2*, of the Convention, in which this legal principle is recognized, the obligation of States is set forth to consult indigenous peoples who may be affected before permitting activities for the exploration or exploitation of subsurface resources located in indigenous territories. This means that the Convention contains specific provisions on the territories traditionally occupied by indigenous peoples which are the property of the State, but does not exclude them from the scope of the Convention. Indeed, *Article 15, paragraph 2*, of the Convention was drawn up precisely for cases in which the State retains ownership of mineral or subsurface resources.

11. *The Committee requests the Government to indicate the manner in which effect is given to Article 15, paragraph 2, of the Convention in the strategic areas referred to in the provision of the reforms referred to above and in article 27 of the Constitution.*

The Committee is also addressing a request directly to the Government.

Paraguay

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1993)

1. The Committee notes that the detailed report requested for 2004, and once again for 2005, has not been provided. The Committee expresses its concern that the application of the Convention in Paraguay was examined by the Committee on the Application of Standards of the International Labour Conference in June 2003 and that subsequently no report has been received to follow up on the effect given to the recommendations made on that occasion. ***The Committee urges the Government to provide a report in 2006 containing the information requested in its observation and direct request of 2004, including its observations on the communication by the National Federation of Workers.***

2. The Committee notes that Act No. 2822 issuing the Charter of Indigenous Peoples and Communities, was approved by the National Congress on 3 November 2005. ***The Committee requests the Government to provide information on whether, prior to the adoption of the Act, the Government held consultations as indicated in Article 6 of the Convention, according to which governments shall consult the peoples concerned through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly. Please also provide information on the manner in which these consultations were carried out. Furthermore, the Committee requests the Government to indicate the manner in which the above Act gives legal expression to the Convention, and in particular to Articles 2 and 33 (coordinated and systematic policy), 6 (consultation), 7 (participation) and 15 (consultations and natural resources).***

[The Government is asked to supply full particulars to the Conference at its 95th Session and to report in detail in 2006.]

Peru

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1994)

1. *Articles 2 and 33 of the Convention. Coordinated and systematic action to give effect to the provisions of the Convention with the participation of indigenous peoples.* The Committee notes that the National Commission of Andean, Amazonian and Afro-Peruvian Peoples (CONAPA), attached to the Office of the President of the Council of Ministers, which has the function of approving, planning, promoting, coordinating, directing, supervising and evaluating policies, programmes and projects for the populations concerned, was established by Presidential Decree No. 111-2001-PCM in 2001. It notes with interest that in 2003, with international cooperation, CONAPA facilitated some 20 meetings and workshops on identity, consultation, participation, sustainable development and the strengthening of indigenous organizations. The Committee considers that the participation of indigenous peoples in the policies that affect them is

essential for the effective application of the provisions of the Convention. ***The Committee would be grateful if the Government would provide information on the way in which the various indigenous organizations are represented in CONAPA and on their participation and the activities carried out by the above Commission. Also noting that CONAPA has proposed reforms to the Political Constitution of Peru for the introduction of a new chapter on the rights of indigenous peoples and Afro-Peruvian populations, the Committee invites the Government to provide a copy of the proposed text and to keep it informed of developments in this regard.***

Community of Santo Domingo de Olmos

2. *Article 14.* Since 2000, the Committee has been examining a communication from the Central Confederation of Workers of Peru (CUT) stating that the Government expropriated 111,656 hectares of the ancestral lands belonging to the indigenous community of Santo Domingo de Olmos through Supreme Decree No. 017-99-AG and that these lands are reported to have been conceded to private investors to carry out a hydroelectric project, with no compensation whatsoever being paid to the indigenous community concerned. The Government indicated that the action did not constitute an expropriation and that the ownership rights of third parties had been safeguarded.

3. In its 2002 observation, the Committee examined in detail the legislation governing the legal status of agricultural lands, including Act No. 26505 of 17 July 1995 on private investment in economic activities carried out on the lands of the national territory and of rural and indigenous communities, and its regulations. It noted that section 4 of the impugned Decree establishes as uncultivated land (*eriazas*) 111,656 hectares to which the Olmos community asserts ancestral rights, and provides in section 5 for the said land to be registered for the Olmos Special Hydroenergy Irrigation Project. It pointed out that although, according to the Government, the expropriation procedure had not continued, lands to which an indigenous community is claiming ancestral rights had been incorporated in the domain of the State and conceded to private parties. In this regard, it noted four resolutions showing the existence of traditional occupation and the will of the Olmos community not to forego these rights. It also noted with concern that, according to the CUT, the 111,656 hectares are of strategic importance for the communities and that much of the remaining area is constituted by hills and is subject to water-related problems; it also recalled that, in 1998, it had already indicated concern that Act No. 26505 might lead to the dispersion of the lands of indigenous communities.

4. The Committee drew the Government's attention to the fact that what it refers to as incorporation into the domain of the State constitutes, as there had been traditional occupation, a denial of the rights of ownership and possession established in *Articles 13 to 15* of the Convention, regardless of the procedure used. The Committee asked the Government to take the necessary steps, in accordance with *Article 14, paragraph 2*, of the Convention, to identify, in consultation with those concerned, as required by *Article 6*, the lands which the above people traditionally occupy and it invited it to take the appropriate steps to ensure the effective protection of their rights.

5. In its last report in 2004, the Government reiterates that, in accordance with Act No. 26505 and its regulations, uncultivated land (*eriazas*) suitable for agricultural use and stock-raising is in the domain of the State and that the ownership rights of third parties are safeguarded. It adds that, if the ownership of the lands in question by the rural community of Santo Domingo de Olmos were confirmed, an expropriation procedure could then be initiated, in accordance with Act No. 27117, the General Expropriations Act, but as this process was not used, it is not appropriate to talk of expropriation. The Government indicates that article 89 of the Political Constitution of Peru provides that rural and indigenous communities shall enjoy legal existence and incorporation, the ownership of their lands imprescriptible and that they can have legal recourse through national law to assert ownership rights. The Government adds that in 2001 the Constitutional Court upheld a ruling handed down by another court that declared the constitutional protection ("amparo") proceedings initiated by the community inadmissible owing to the fact that the community had not been registered or presented a registration certificate. It adds that, according to the latest information communicated by the Government, although the community of Olmos has now formalized its legal personality, it lacks legitimate legal representation, which is a prerequisite when seeking the formalization of its land ownership by the competent body, the National Agrarian Directorate of the regional government of Lambayeque, and that the community has to determine its own formal legal representation.

6. *Article 14, paragraph 3. Adequate procedures to resolve land claims.* The Committee recalls that, although the Decree in question safeguards the ownership rights of third parties, the Convention not only protects ownership rights, but also traditional occupation. It also recalls that, under the terms of the Convention:

- governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession (*Article 14, paragraph 2*); and
- adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned (*Article 14, paragraph 3*).

The Committee emphasizes that *Article 14* of the Convention protects not only those lands to which the peoples concerned already have title of ownership, but also those lands that they traditionally occupy. Adequate procedures are required to determine the existence of traditional occupation. The Committee notes that the merits of the case were not examined, but the Court ruled that the "amparo" proceedings were inadmissible on grounds of form. ***The Committee therefore requests the Government to take the appropriate measures, in consultation with the community concerned, to identify and eliminate those obstacles, procedural or otherwise, encountered by the community of Olmos in asserting***

effectively its claim to the lands which it alleges that it has traditionally occupied, so that it may avail itself of the recourse envisaged in Article 14, paragraph 3, of the Convention and, where appropriate, obtain effective protection of its rights. The Committee hopes that in its next report the Government will be in a position to provide information on the progress achieved in this regard.

The Committee is addressing a request directly to the Government.

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 107** (*Angola, Ghana, India*); **Convention No. 169** (*Bolivia, Brazil, Denmark, Guatemala, Mexico, Peru*).

Specific Categories of Workers

France

Nursing Personnel Convention, 1977 (No. 149) (ratification: 1984)

The Committee has been commenting for the last ten years on the method for appointing members of the nursing care committees and has been requesting information on the participation of representative organizations in these consultative bodies. The Government in successive reports has not supplied any explanations on this point, nor has it informed of any follow-up discussions concerning the modification of the method of appointing members of the nursing care committees which were to be held with trade union organizations under the terms of the protocol agreement signed in March 2000 by the Government and representative organizations of nursing personnel.

The Committee recalls once again that *Article 5, paragraph 1, of the Convention* does not specify the role to be played by the representatives of nursing personnel in promoting participative and consultative practices within health care establishments, nor does it indicate any particular method of appointing representatives of the personnel. However, reference may be made to Paragraphs 19(2) and 20 of the Nursing Personnel Recommendation, 1977 (No. 157), according to which the representatives of nursing personnel should be understood within the meaning of Article 3 of the Workers' Representatives Convention, 1971 (No. 135), which sets out specific procedures for the appointment of representatives.

The Committee requests the Government once again to indicate whether the possible modification of the method of appointing members of nursing care committees by drawing lots is still under consideration and to report on any further developments in this regard.

The Committee is also addressing a direct request to the Government concerning certain other points.

Guinea

Nursing Personnel Convention, 1977 (No. 149) (ratification: 1982)

The Committee notes with regret that the information provided by the Government in its last report remains fragmentary and offers no clear answers to the specific points raised in previous comments. The Committee estimates that, in the interest of maintaining a meaningful dialogue on the application of the Convention in law and practice, the Government should make a genuine effort to collect and transmit all relevant information, including legislative texts or other official documents, dealing with health care policy and nursing services. For instance, despite repeated requests in the last ten years, the Committee has still not received a copy of Decree No. 93/043/PRG/SGG of 26 March 1993, establishing general regimes for hospitals; nor has it received copies of the statutory texts and collective agreements applicable to nursing staff, particularly as regards remuneration and hours of work. Moreover, the Government has been referring since 1992 to ongoing negotiations on two sets of general regulations, one for medical and paramedical staff and another for nurses, without any indication as to the time frame for the possible conclusion of those negotiations. In addition, the Committee notes with concern the Government's last statement to the effect that there is no specific policy concerning nursing services and that accordingly there are no particular texts or provisions addressing the special nature of nursing work.

Under the circumstances, the Committee asks the Government to prepare for its next session a detailed and fully documented report on the effect given to the main requirements of the Convention, particularly as regards: (i) the formulation of a national policy on nursing services designed to improve the quality standards of public health care but also to create a stimulating environment for the exercise of the nursing profession (Article 2(1)); (ii) measures relating to nursing education and training as may be taken in consultation with the National Nurses Association (ANIGUI) (Article 2(2)(a) and Article 3); (iii) the institutional framework and practical modalities of the process of consultation with employers' and workers' organizations in matters of nursing policy (Article 2(3) and Article 5(1)); (iv) sufficient protection for nursing personnel, in light of the constraints and hazards inherent in the profession, especially in terms of hours of work and rest periods, paid absence and social security benefits (Article 6); and (v) measures to improve the occupational safety and health conditions of health workers, including any specific initiative aimed at protecting nursing personnel from HIV infection (Article 7).

Finally, recalling that some statistical data on the evolution of the nursing workforce were transmitted for the last time in 1992, *the Committee requests the Government to provide, in accordance with Part V of the report form, up to date information on the practical application of the Convention, including for instance statistics on the nurse-to-population ratio, the number of students attending nursing schools and the number of nurses leaving or joining the profession, as well as any difficulties encountered in the application of the Convention (e.g. migration of qualified nurses, impact of the privatization of health care institutions on the employment conditions of nurses, etc.).*

Netherlands

Home Work Convention, 1996 (No. 177) (ratification: 2002)

The Committee notes with interest the Government's first report, even though it does not contain information on the application of all the provisions of the Convention. The Committee also notes the comments of the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation of Middle and Higher Level Employees (MHP), summarized below.

In general terms, the FNV considers that there is no national policy relating to home work and that, contrary to the expressed intentions of the Government, the social partners have not been invited to discuss the situation of homeworkers. The trade union organization also maintains that most of these workers are not covered by a contract of employment, despite the adoption of the Flexibility and Security Act, 1999, because they have not been informed and do not dare to claim. Furthermore, according to the FNV, employers and intermediaries prefer not to engage these workers under a contract of employment for cost reasons and the labour inspectorate does not consider home work to be a priority. Only those who work for only part of their working time at home tend to benefit from a contract of employment and, even in these cases, equality of protection only exists in the legislation. The FNV adds that most homeworkers are not covered by social security since, according to the legislation, those who are not engaged under a contract of employment have to earn at least 40 per cent of the statutory minimum wage to qualify for coverage. Most intermediaries endeavour to keep homeworkers under this threshold. Moreover, such work is generally paid on a piecework basis, so that they have to work practically full time to earn the minimum prescribed. Finally, the FNV indicates that, during the examination of the draft legislation for the ratification of the Convention, it specifically drew attention to the role of intermediaries and that, contrary to its affirmations, the Government has not examined the situation in cooperation with the social partners.

In its comments, the CNV emphasizes that the opinion of the Economic and Social Council on the coverage of social legislation and self-employed workers, the publication of which in the near future is announced by the Government in its report, has since been issued and does not affect the situation of homeworkers. The MHP wonders why the Government's report does not also refer to the recommendation of the Economic and Social Council on telecommuting, which transposes the European framework agreement on this subject.

The Committee requests the Government to reply in detail to these comments.

The Committee is also addressing a request directly to the Government on other matters.

Poland

Nursing Personnel Convention, 1977 (No. 149) (ratification: 1980)

The Committee notes the observations of the Polish Trade Union of Nurses and Midwives (OZZPiP) dated 20 May 2005 on the application of the Convention and the Government's reply received on 9 November 2005. Following up on its previous comments, the OZZPiP alleges that the crisis experienced by the nursing personnel in the public health care sector since 1999 is deepening leading many nurses and midwives to either leave the profession or seek employment abroad. Noting that the number of nurses and midwives employed in public hospitals has decreased by one-fifth in the last six years, the OZZPiP considers that the Government still fails to apply the Act of 22 December 2000 amending the Act regarding the system of determining by negotiation the growth of average remuneration payable by certain employers (also known as the "203 Act" which guaranteed wage increases for nursing personnel), and the Order of the Minister of Health of 1999 concerning the minimum conditions of employment of nurses and midwives. It also states that the national parliament has discontinued its work on draft legislation which proposed the establishment of a minimum salary level for all nurses and midwives employed in public health-care institutions.

In its reply, the Government contents itself to stating that because the majority of nurses and midwives are employed by independent non-public health-care establishments, it is not empowered to directly enforce compliance with any of the above laws or regulations. As regards public health-care establishments, the Government states that they are not subject to government administration but operate as independent entities. In any event, the Government considers that the head of each health-care institution, whether private or public, is responsible for the financial and human resources management of such institution, while settling individual labour law claims or monitoring compliance with applicable standards falls with the jurisdiction of courts of law.

With regard to accumulated claims under the so-called "203 Act", the Government refers to the recent adoption and entry into force of the Act on public aid and restructuring of public health-care establishments (Dz. U. No. 78, Text 684) which is meant to help health-care units solve the problem of the growing indebtedness in the health services sector. The Act provides for the possibility of settling individual employees' claims through loans from the state budget. In fact, under section 35(4) of the Act, loans should be primarily intended for the repayment of liabilities arising from the "203 Act" for the period 2001-04. In this connection, the Government indicates that the state budget for 2005 provides for a loan reserve of 2.2 billion PLN and that 551 health-care establishments are expected to apply to the State Treasury for loans amounting to 1.7 billion PLN.

With reference to the question of adequate pre- and post-diploma training for nurses and midwives raised by the OZZPiP, the Government states that the system of professional training for nurses and midwives takes into account the teaching standards set forth in the European Union's sector directives, while the National Committee of Accreditation of Medical Schools is responsible for monitoring the nursing schools' compliance with the binding education and training standards. The Government adds that the number and value of training positions subsidized by the Ministry of Health has been increasing systematically each year.

The Committee notes the Government's explanations. It recalls that the problems of deferred payment of wages and wage arrears in the health-care sector have been the subject of recent observations addressed to the Government under the Protection of Wages Convention, 1949 (No. 95), and have also been examined by the Committee on the Application of Standards at the 92nd Session of the International Labour Conference (June 2004). *The Committee asks the Government to continue supplying detailed information on the evolution of the situation, particularly with regard to ongoing reforms in the field of health care and their implications for the practice of the nursing profession.*

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 110** (Philippines); **Convention No. 149** (Azerbaijan, Congo, Ecuador, Egypt, France, France: French Guiana, France: French Polynesia, France: Guadeloupe, France: Martinique, France: New Caledonia, France: Réunion, France: St. Pierre and Miquelon, Ghana, Guyana, Kyrgyzstan, Latvia, Malawi, Slovenia, Sweden, Uruguay, Bolivarian Republic of Venezuela, Zambia); **Convention No. 172** (Lebanon, Netherlands: Netherlands Antilles); **Convention No. 177** (Albania, Netherlands).

II. Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference (article 19 of the Constitution)

Afghanistan

The Committee notes with interest that, in May 2005, a tripartite workshop on issues relating to international labour standards was held in Kabul and detailed information on the obligation to submit the instruments adopted by the Conference was provided by the Office to representatives of the Ministry of Labour and of the social partners. It further notes the statement of the Government representative to the Conference Committee in June 2005 indicating that, following the parliamentary elections scheduled in September 2005, it was the intention of the national authorities, in close consultation with the social partners, to submit to the National Assembly the instruments adopted by the Conference since 1985. The Committee welcomes this positive development and hopes that the Government will soon provide information with regard to the submission to the National Assembly of the instruments adopted by the Conference between 1985 and 2004.

Algeria

The Committee notes with interest the information provided by the Government indicating that the instruments adopted by the Conference since 1996 were, in May 2005, submitted to the People's National Assembly and to the Council of the Nation. It also notes the interest shown by the General Union of Algerian Workers in the ratification of a certain number of Conventions. It appreciates the progress which has been made in this matter and hopes that the Government will continue to provide regularly the information requested under the constitutional obligation to submit the instruments adopted by the Conference to the People's National Assembly.

Antigua and Barbuda

The Committee notes with regret that the Government has not replied to its previous observation. It asks the Government to supply the relevant information concerning the submission to the Parliament of Antigua and Barbuda of the instruments adopted by the Conference since 1996 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions).

Argentina

In a communication received in November 2005, the Government indicates that it complied with the administrative procedures in relation to the decisions of the Conference that have to be submitted to Parliament. The Committee recalls that, in its previous comments, it noted that the National Congress had approved ratification of Convention No. 184. The Committee repeats its request to the Government to provide the relevant information with regard to the submission to the National Congress of the instruments adopted at the 84th, 85th, 86th, 88th, 90th, 91st and 92nd Sessions of the Conference.

Armenia

The Committee notes the statement made by the Government representative to the Conference Committee in June 2005 indicating that, although Armenia had been a Member of the ILO since 1992, due to a socio-economic crisis and a painful transitional period of substantive institutional changes and structural and legal reforms, it had only been able to start cooperation with the ILO and to take steps towards the fulfilment of its reporting obligations as of 2004. With regard to the obligation to submit the instruments adopted by the Conference, difficulties of a technical nature existed, such as the timely and accurate translation of documents into the national language and the lack of reporting skills of the staff involved. The Committee notes that a programme of technical cooperation with the Office is under way, which includes issues related to reporting obligations, and that the approval of the ratification of several Conventions was decided by the National Assembly. It therefore hopes that the Government will be able to soon report on the submission to the National Assembly of the instruments adopted by the Conference since 1993 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th, 88th, 89th, 90th, 91st and 92nd Sessions).

Azerbaijan

1. The Committee takes note of the information received in November 2005 with regard to the submission to the National Assembly (*Mili Mejlis*) of Recommendation No. 195. It asks the Government to indicate the date of submission of the said Recommendation to the National Assembly.

2. The Committee refers to its previous comments and asks the Government to provide information with regard to the submission to the National Assembly of Recommendation No. 180 (79th Session), and the instruments adopted at the 83rd, 84th, 88th, 89th, 90th and 91st Sessions of the Conference.

Bahamas

1. The Committee asks the Government to supply information on the submission to Parliament of the instruments adopted at the 88th, 89th, 90th, 91st and 92nd Sessions.

2. The Committee also recalls the information provided by the Government in May 2002 indicating that the instruments adopted by the Conference at its 85th and 86th Sessions had been submitted to the competent authority for transmission to Parliament (House of Assembly), in accordance with article 19 of the Constitution of the Organization. It asks the Government to provide the remaining information concerning the date of submission, the proposals made by the Government, the decisions taken by Parliament and the tripartite consultation held in relation to the above instruments.

Bangladesh

1. In its 2004 observation, the Committee had noted that the Government intended to submit Convention No. 185 to the Tripartite Consultative Council. It had also recalled the need to forward the instruments adopted by the Conference to the Standing Parliamentary Committee to the Ministry of Labour and Employment.

2. The Committee notes with regret that the Government has not replied to its previous comments. It asks again the Government to provide information on the submission to Parliament of the remaining instruments adopted at the 77th Session (Convention No. 170 and Recommendation No. 177), the 79th Session (Convention No. 173 and Recommendation No. 180), the 84th Session (Convention No. 179 and Recommendations Nos. 185, 186 and 187), and the 85th Session (Recommendation No. 188), as well as all the instruments adopted at the 81st, 82nd, 83rd, 86th, 88th, 89th, 90th, 91st and 92nd Sessions.

Belize

1. The Committee notes with interest that the Office has registered, on 15 July 2005, the ratification of six maritime Conventions including the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), and its Protocol of 1996.

2. The Committee refers to its previous observations, and again asks the Government to take further measures in order to fulfil its constitutional obligation to submit the instruments adopted by the Conference to the National Assembly. It hopes that the Government will supply information on the submission to the National Assembly of the pending instruments adopted by the Conference at its 84th (Maritime) Session (October 1996), and the other 14 sessions held between 1990 and 2004 (77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions).

Bolivia

1. The Committee notes with interest that the international labour Conventions adopted by the Conference from 1990 to 2003 were submitted to the National Congress on 26 April 2005. The Committee welcomes this progress and would be grateful if the Government would inform it in due course of the decision taken by the National Congress with regard to the Conventions submitted. The Committee also requests the Government to indicate the representative

organizations of employers and workers to which the information forwarded to the Director-General concerning the submission of the above Conventions was communicated.

2. The Committee hopes that the Government will soon be in a position to provide all the information required by the questionnaire at the end of the *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, revised by the Governing Body in March 2005, on the submission to the National Congress of the Recommendations and Protocols adopted between 1990 and 2004 (Recommendations Nos. 181 to 195 and three Protocols).

Bosnia and Herzegovina

The Committee notes that in May 2005 the Minister of Civil Affairs of Bosnia and Herzegovina requested the assistance of the Office in relation to submission procedures. It recalls its previous observations and hopes that the authorities of Bosnia and Herzegovina, together with the Office, will study ways in which the instruments, adopted by the Conference since 1990, could be submitted to the competent authorities in the near future so as to ensure compliance with this essential constitutional obligation.

Brazil

1. The Committee notes the information provided by the Government in its report on the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), in relation to the consultations held in the Tripartite Committee on International Relations (CTRI) with a view to the submission to the National Congress of the remaining instruments.

2. The Committee notes with interest that, through its decision of 15 February 2005, the CTRI requested the Ministry of Foreign Affairs to take the necessary measures for the submission to the National Congress of the Tenants and Share-croppers Recommendation, 1968 (No. 132), the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189), the Promotion of Cooperatives Recommendation, 2002 (No. 193), the List of Occupational Diseases Recommendation, 2002 (No. 194), and the Human Resources Development Recommendation, 2004 (No. 195). The Committee hopes that the Government will be in a position to announce that it has in practice submitted the above Recommendations to the National Congress.

3. The Committee recalls that Conventions Nos. 128 to 130, 149 to 151, 156 and 157 and the other instruments adopted at the 52nd, 78th, 79th, 81st, 82nd (Protocol of 1995), 83rd, 84th, 85th, 86th, 88th, 90th, 91st and 92nd Sessions of the Conference are still awaiting submission to the National Congress.

Burundi

The Committee refers to its previous observations and asks the Government to provide the relevant information concerning the submission to the National Assembly of the instruments adopted by the Conference since 1993 (82nd (Recommendation No. 183), 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions).

Cambodia

The Committee notes the statement made by the Government representative at the Conference Committee indicating that the new Ministry of Labour, with the technical assistance of the ILO, would make every effort to submit to the competent authorities the instruments adopted from the 82nd to the 91st Sessions of the Conference. The Committee refers to its previous comments and recalls that the instruments adopted by the Conference at its 55th (Maritime) Session (October 1970), and at the sessions held from June 1973 to June 1994 (58th (Convention No. 137 and Recommendation No. 145); 59th to 63rd; 64th (Convention No. 151 and Recommendation No. 159); and 65th to 81st Sessions) are also pending to be submitted to the competent authorities. It reiterates its hope that the Government will soon be in a position to transmit the relevant information regarding the submission to the National Assembly of the instruments adopted from the 82nd to the 92nd Sessions of the Conference, held from 1995 to 2004.

Cameroon

The Committee refers to its previous observations and once again requests the Government to spare no effort in meeting the constitutional requirement of submission. It again asks the Government to provide all the information required concerning the submission to the National Assembly of the instruments adopted by the Conference during 22 sessions held from 1983 to 2004, that is, at its 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions.

Cape Verde

The Committee notes with regret that the Government has provided no information on the submission to the competent authorities of the instruments adopted by the Conference during 11 sessions held since 1995 (82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions). It reminds the Government that it may seek assistance from the Office in order to fulfil this essential constitutional obligation.

Central African Republic

The Committee notes that submission to the National Assembly of instruments adopted by the Conference at 17 sessions held since 1988 (75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions) has not been made. It hopes that the Government will take appropriate steps to overcome this substantial delay concerning submission to the National Assembly of the instruments adopted by the Conference.

Chad

The Committee notes with regret that the Government has not provided the information requested for a number of years. It once again requests the Government to provide the information requested in the questionnaire at the end of the Memorandum on the submission to the National Assembly of the instruments adopted at the nine sessions of the Conference held between 1993 and 2004 (80th, 81st, 82nd, 83rd, 88th, 89th, 90th, 91st and 92nd Sessions).

Chile

The Committee refers to its 2004 observation and requests again the Government to provide all the information required on the submission to the National Congress of the instruments adopted at the 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference.

Colombia

The Committee notes that, according to information provided by the Government in its report on the application of Convention No. 144, Conventions Nos. 183 and 184 have been shelved by the Congress of the Republic. The Committee asks the Government to provide all relevant information on the submission to the Congress of the Republic of the instruments adopted at the 75th (Convention No. 168), 79th (Convention No. 173), 81st (Recommendation No. 182), 82nd, 83rd, 84th, 85th, 86th, 88th (Recommendation No. 191), 89th (Recommendation No. 192), 90th, 91st and 92nd Sessions of the Conference.

Comoros

The Committee notes with concern the substantial delay in relation to compliance with the obligation to submit the instruments adopted by the Conference. The Committee recalls that information is missing on the submission to the competent authority of the instruments adopted by the Conference at the 13 sessions held between 1992 and 2004 (79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions).

Congo

The Committee notes with concern that the Government has not provided information on the measures taken to overcome the substantial delay in its submission to the National Assembly of the instruments adopted by the Conference. It requests the Government to adopt the necessary measures for the submission to the National Assembly of the instruments adopted at the 54th (Recommendations Nos. 135 and 136), 55th (Recommendations Nos. 137, 138, 139, 140, 141 and 142), 58th (Convention No. 137 and Recommendation No. 145), 60th (Conventions Nos. 141 and 143, Recommendations Nos. 149 and 151), 62nd, 63rd (Recommendation No. 156), 67th (Recommendations Nos. 163, 164 and 165), 68th (Convention No. 157 and Recommendations Nos. 167 and 168), 69th, 70th, 71st (Recommendations Nos. 170 and 171), 72nd, 74th, 75th (Recommendations Nos. 175 and 176) Sessions, and between 1990 and 2004 (77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference).

Côte d'Ivoire

The Committee refers to its previous observations and hopes that, when national circumstances so permit, the Government will provide relevant information on the submission to the National Assembly of the instruments adopted at the 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference.

Croatia

1. The Committee notes that the instruments adopted at the 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference had not been submitted to the Croatian Parliament because the translation had not yet been finished.
2. It hopes that the Government will be able to announce soon that the ten remaining instruments adopted by the Conference between 1998 and 2004 were submitted to the Croatian Parliament.

Democratic Republic of the Congo

Referring to its previous observations, the Committee once again requests the Government to provide all relevant information concerning the date of submission to the Transitional Parliament and the content of any decision taken by the latter in relation to the instruments adopted at the 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference.

Djibouti

The Committee notes with interest that the ratifications of Conventions Nos. 111, 138, 144 and 182 were registered in February and June 2005. It expresses its concern at the important delay in relation to the obligation to submit the instruments adopted by the Conference to the National Assembly. It recalls that the information missing on the obligation to submit still concerns the instruments adopted at the 23 sessions of the Conference held between 1980 and 2004 (66th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference).

Dominica

The Committee notes that the Government has not replied to its previous observations. It reiterates its hope that the Government will soon announce that the instruments adopted by the Conference during 12 sessions held since 1993 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions) have been submitted to the House of Assembly.

El Salvador

In its previous observations, the Committee recalled the failure to submit to the Congress of the Republic the instruments adopted at the 62nd, 65th, 66th, 68th, 70th, 82nd, 83rd, 84th, 85th, 86th, 88th and 89th Sessions of the Conference, as well as the remaining instruments from the 63rd (Convention No. 148 and Recommendations Nos. 156 and 157), 64th (Convention No. 151 and Recommendations Nos. 158 and 159), 67th (Convention No. 154 and Recommendation No. 163) and 69th (Recommendation No. 167) Sessions. The Committee requests the Government to provide information on the submission to the Congress of the Republic of all the remaining instruments, including Recommendations Nos. 193 and 194 (90th Session, 2002) and the instruments adopted at the 91st and 92nd Sessions (2003 and 2004).

Equatorial Guinea

The Committee notes with regret that the Government has not replied to its previous observations. It again asks the Government to provide information on the submission to the competent authorities of the instruments adopted by the Conference at its 80th, 81st, 82nd, 83rd, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions.

Fiji

The Committee notes the Government's report indicating that the instruments adopted by the Conference at its 91st and 92nd Sessions have been communicated to workers' and employers' organizations, but the Labour Advisory Board had not yet discussed the matter. It reiterates its hope that the Government will soon announce that the instruments adopted by the Conference at its 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions were submitted to the Parliament of Fiji.

Gabon

1. The Committee notes with interest the information supplied by the Government in August 2005, indicating that Conventions Nos. 122, 138, 142, 151, 155, 176, 177, 179, 181, 184 and 185 have been submitted to Parliament. It invites the Government to report on Parliament's decision regarding these Conventions.
2. The Committee hopes that the Government will also be able to send the relevant information concerning the submission to Parliament of the other Conventions, Recommendations and Protocols not yet submitted to Parliament that were adopted at the 74th, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th and 92nd Sessions of the Conference.

Gambia

The Committee recalls that Gambia has been a Member of the Organization since 29 May 1995. It also recalls that, under article 19 of the Constitution of the Organization, each Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies “for the enactment of legislation or other action”. The Governing Body of the International Labour Office has adopted a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars on this subject. The Committee hopes that the Government will soon provide all the information requested by the questionnaire at the end of the Memorandum about the submission to the National Assembly of instruments adopted by the Conference since 1995 at its 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions.

Georgia

The Committee notes the Government’s communication of August 2005 indicating that due to the changes that occurred in the country, the instruments adopted by the Conference were not submitted to Parliament. It hopes that the Government will soon overcome the difficulties encountered and will be able to announce that the instruments adopted by the Conference between 1993 and 2004 (80th, 81st, 82nd, 83rd, 84th, 88th, 89th, 90th, 91st and 92nd Sessions) have been submitted to Parliament.

Germany

1. The Committee notes with interest the information provided by the Ministry of Economy and Labour in September 2005 and welcomes the intention of the Government to ratify the Seafarers’ Annual Leave with Pay Convention, 1976 (No. 146), Repatriation of Seafarers Convention (Revised), 1987 (No. 166), Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172), Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180), and the Protocol of 1995 to the Merchant Shipping (Minimum Standards) Convention, 1976.

2. The Committee notes that the Human Resources Development Recommendation, 2004 (No. 195), was submitted to the *Bundestag* and the *Bundesrat* on 20 January 2005. It further notes the decision taken by the Government in November 2005 regarding other instruments and that the pending instruments adopted at the 75th Session (Convention No. 168 and Recommendation No. 176), the 79th Session (Convention No. 173 and Recommendation No. 180) and the 83rd Session (Convention 177 and Recommendation No. 184) and the 85th Session (Convention No. 181 and Recommendation No. 188) were submitted to the *Bundestag* and to the *Bundesrat* on 2 November 2005.

Ghana

1. The Committee asks the Government to indicate whether the instruments adopted by the Conference at its 88th, 89th, 90th, 91st and 92nd Sessions have been submitted to Parliament.

2. The Committee recalls its previous comments and asks again the Government to supply the indications required with regard to the submission to Parliament of the instruments adopted by the Conference at its 80th Session (Convention No. 174 and Recommendation No. 181), 81st Session (Convention No. 175 and Recommendation No. 182), 82nd Session (Convention No. 176 and Recommendation No. 183, and the Protocol of 1995) and 84th Session (Recommendations Nos. 185 and 186).

Grenada

The Committee notes with regret that the Government has not replied to its previous comments. It asks the Government to report on the submission to the Parliament of Grenada of the remaining instruments adopted by the Conference since 1994 at its 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions.

Guinea

The Committee notes the Government representative’s statement to the Conference Committee in June 2005 on the priority being given to the ratification of the Conventions. It again asks the Government to provide the information requested regarding the submission to the National Assembly of the instruments adopted at the 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference.

Guinea-Bissau

The Committee refers to its 2004 observation and expresses again the hope that the Government will be in a position to announce the submission to the National People’s Assembly of the pending instruments (79th to 83rd, 85th Sessions:

Recommendations Nos. 180 to 184, 189 and 191, Protocol of 1995), and of the instruments adopted at the 84th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference.

Haiti

The Committee notes the Government representative's statement to the Conference Committee in June 2005, indicating that the instruments had not been submitted to the competent authorities for administrative reasons. The Transitional Government will take the appropriate measures concerning the elaboration of reports on submission and their effective presentation to the competent authorities as soon as possible. The Committee also notes that the Office has offered its assistance to the Transitional Government, in order to fulfil its obligations concerning the submission of the instruments adopted by the Conference to the competent authorities. It recalls that the instruments in respect of which the Government has not provided information on the submission to the competent authorities are the following:

- (a) the remaining instruments from the 67th Session (Conventions Nos. 154 and 155 and Recommendations Nos. 163 and 164);
- (b) the instruments adopted at the 68th Session;
- (c) the remaining instruments adopted at the 75th Session (Convention No. 168 and Recommendations Nos. 175 and 176); and
- (d) all the instruments adopted from 1989 to 2004.

Kazakhstan

1. The Committee notes that the Government has not communicated information on the submission to the competent authorities of instruments adopted by the Conference at the 12 sessions held between 1993 and 2004.

2. The Committee notes that the Republic of Kazakhstan has been a Member of the Organization since 31 May 1993. It recalls that under article 19 of the Constitution of the International Labour Organization, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies "for the enactment of legislation or other action". The Governing Body of the International Labour Office adopted a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars on this subject. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and any proposals made by the Government on measures to be taken with regard to the instruments that have been submitted.

3. The Committee, in the same way as the Conference Committee, urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Kyrgyzstan

1. The Committee notes that the Government has not communicated information on the submission to the competent authorities of instruments adopted by the Conference at 12 sessions held by the Conference between 1992 and 2004.

2. The Committee notes that Kyrgyzstan has been a Member of the Organization since 31 March 1992. It recalls that under article 19 of the Constitution of the International Labour Organization, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies "for the enactment of legislation or other action". The Governing Body of the International Labour Office has adopted a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars on this subject. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and any proposals made by the Government on measures to be taken with regard to the instruments that have been submitted.

3. The Committee, in the same way as the Conference Committee, urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Lao People's Democratic Republic

1. The Committee notes that the ratification of Conventions Nos. 138 and 182 was registered on 13 June 2005. It hopes that the Government will soon indicate that the instruments adopted since 1995 (82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference) have been submitted to the competent authorities.

2. The Committee, in the same way as the Conference Committee, urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Latvia

The Committee notes with interest the information provided by the Government in December 2004 and April 2005 indicating that all the instruments adopted by the Conference from the 81st to the 91st Sessions were submitted to the Parliament of the Republic of Latvia on 4 June 2004. It further notes that the National Tripartite Cooperation Council recommended ratifying Conventions Nos. 29, 138, 182 and 183. It welcomes this progress and hopes that the Government will continue to supply information on the submission to Parliament of the instruments adopted by the Conference.

Liberia

1. The Committee asks the Government to indicate whether the instruments adopted by the Conference at its 88th, 89th, 90th, 91st and 92nd Sessions have been submitted to the National Legislature.

2. The Committee recalls that the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948; the Protocol of 1995 to the Labour Inspection Convention, 1947; and the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976, were not mentioned by the Government in its previous communication. It would be grateful if the Government would provide the corresponding information regarding the submission to the National Legislature of the above Protocols.

Libyan Arab Jamahiriya

The Committee notes the information supplied by the Government in August 2005 indicating that the examination of Conventions is undertaken on a regular basis as they are circulated to the relevant sectors, including the General Federation for Production and the Federation of Chambers of Agriculture, Industry and Trade. The Conventions will be submitted to the competent authorities for adoption after their examination is completed. The Committee refers to its previous observations and reiterates its hope that the Government will soon be in a position to provide the other information requested concerning the submission to the competent authorities, within the meaning of article 19, paragraphs 5 and 6, of the ILO Constitution, of all Conventions, Recommendations and Protocols adopted at the 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference.

Madagascar

The Committee notes the communication dated 31 May 2005 in which the Ministry of the Public Service, Labour and Social Legislation requests the general secretariat of the Government to forward to Parliament the 53 instruments adopted by the Conference. The Committee reiterates its hope that the Government will soon be in a position to provide detailed information on the submission to the National Assembly of the instruments which were adopted by the Conference between 1970 and 2004 but which have not yet been submitted.

Malawi

The Committee notes with regret that the Government has not provided information on the submission to the National Assembly of the instruments adopted by the Conference at its 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions.

Mali

The Committee notes the Government's intention to submit in the near future the instruments still not submitted. The Committee hopes that the Government will be able to send the relevant information concerning the submission to the National Assembly of the Protocol of 1996, adopted at the 84th (Maritime) Session (October 1996), and the instruments adopted at the 79th, 80th, 81st, 85th, 86th, 89th, 90th, 91st and 92nd Sessions of the Conference.

Mongolia

The Committee asks the Government to indicate if the instruments adopted by the Conference at its 82nd, 83rd, 84th, 85th, 86th, 90th, 91st and 92nd Sessions were submitted to the State Great Khural.

Mozambique

The Committee notes the detailed indications transmitted by the Government in September and December 2005, according to which priority has been given to the ratification of fundamental Conventions and the revision of the Labour

Law. Efforts are presently being made to submit the pending instruments to the competent authorities. It asks the Government to provide the requested information concerning the submission to the Assembly of the Republic of the instruments adopted at the 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference.

Nepal

The Committee is bound to observe that, before the restoration of democracy, it would not be possible to submit the instruments adopted by the Conference at its 82nd, 84th, 86th, 88th, 90th, 91st and 92nd Sessions to the House of Representatives. It refers to its observation on the application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and asks the Government to report on the prior tripartite consultations that should take place with social partners on the proposals to be made to the House of Representatives before submitting the instruments adopted by the Conference.

Niger

The Committee notes the indications concerning the transmission in April and September 2004 of reports relating to the submission of the instruments adopted at the 86th, 89th, 90th and 91st Sessions of the Conference from the Ministry of the Public Service and Labour to the Ministry of Foreign Affairs and Cooperation. The Committee refers to its previous observation and requests the Government to specify the date of submission to the National Assembly of the instruments adopted at the 83rd, 84th, 85th, 86th, 89th, 90th, 91st and 92nd Sessions of the Conference.

Pakistan

The Committee refers to its 2004 observation and trusts that the Government will report on the measures taken to ensure full compliance with the obligation to submit and will be able to indicate in the near future that the instruments adopted by the Conference since 1994 at its 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions have been submitted to Parliament (*Majlis-e-Shoora*).

Paraguay

1. The Committee notes with regret that the Government has not provided information on the submission to the National Congress of the instruments adopted at the 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference.

2. The Committee recalls its previous comments and asks the Government to send copies or provide information on the content of the document or documents whereby the instruments adopted at the 82nd, 83rd and 84th Sessions of the Conference were submitted to the National Congress, together with the texts of any proposals that may have been made. Please state whether the National Congress has reached a decision on the abovementioned instruments and indicate the representative employers' and workers' organizations to which the information sent to the Director-General has been forwarded.

Rwanda

1. The Committee notes the information provided by the Government in September 2005 indicating that the reports for the submission to the competent authorities of the Conventions and Recommendations adopted by the Conference from the 80th to the 91st Sessions are with the Council of Ministers, which has to examine them, adopt them and transmit them to the National Assembly. The Committee hopes that the Government will be in a position to announce that the Conventions, Recommendations and Protocols adopted at the 80th, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th and 91st Sessions of the Conference have in practice been submitted to the National Assembly.

2. The Committee notes with interest the information provided in August 2005 indicating that the submission of Recommendation No. 195 had been delayed due to the ratification procedure of Convention No. 142. The Committee hopes the Government will continue providing information on the progress made in this respect.

Saint Kitts and Nevis

The Committee recalls that the Conventions and Recommendations adopted by the Conference at its 89th and 91st Sessions were forwarded to the Minister of Labour for his information and for Cabinet attention. It refers to its previous comments and asks the Government to provide all relevant information about the date on which the instruments were submitted to the National Assembly and the proposals made by the Government on the measures which might be taken with regard to the instruments adopted by the Conference at its 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions. Please also refer to the direct request under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

Saint Lucia

The Committee notes with regret that the Government has not replied to its previous comments. It recalls that, in accordance with article 19, paragraphs 5 and 6, of the Constitution of the Organization, Saint Lucia, as a Member of the Organization, has the obligation to submit to Parliament all the remaining Conventions, Recommendations and Protocols adopted by the Conference from 1980 to 2004 (66th, 67th (Conventions Nos. 155 and 156 and Recommendations Nos. 164 and 165), 68th (Convention No. 157 and Protocol of 1982), 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions). The Committee again requests the Government to take the necessary measures to ensure full compliance with the constitutional obligation to submit.

Saint Vincent and the Grenadines

1. The Committee notes with regret that the Government has not provided the information it has been requesting for several years. It asks the Government to report on the submission to the competent authorities of the instruments adopted by the Conference at its 82nd, 83rd, 84th, 85th, 88th, 89th, 90th, 91st and 92nd Sessions.

2. Please also provide the other information on the competent authorities, the date of submission of Recommendation No. 189 and the representative organizations of employers and workers to which relevant information has been communicated.

Sao Tome and Principe

The Committee notes with interest that the ratification of Conventions Nos. 29, 105, 135, 138, 151, 154, 155, 182 and 184 was registered on 4 May 2005. It further recalls that the Government has not provided the required information on the submission to the competent authorities of 35 instruments adopted by the Conference between 1990 and 2004 (77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 90th, 91st and 92nd Sessions). The Committee urges the Government to make every effort to fulfil the constitutional obligation of submission and recalls that the Office is available to provide the necessary technical assistance to give effect to this essential obligation.

Senegal

The Committee notes the information received in May 2005 indicating that the Conventions and Recommendations adopted by the Conference at its 79th, 80th, 81st, 82nd, 83rd, 85th, 86th and 88th Sessions were examined by the Council of Ministers at its meeting on 26 June 2005. The instruments on maternity protection adopted at the 88th Session have been brought to the attention of the competent government services. Studies are being carried out by the Ministry of Labour on the instruments adopted at the 89th, 90th, 91st and 92nd Sessions. The Committee hopes that the Government will soon be in a position to indicate that the instruments (Conventions, Recommendations and Protocols) adopted by the Conference since 1992 have been submitted to Parliament.

Sierra Leone

In a communication received in June 2005, the Government again requested assistance from the Office on submission issues, so as to overcome material and technical difficulties that have been reported as the cause for delay in submission. The Government states that the delay in submission is mainly a result of lack of capacity to strengthen the infrastructure of the Ministry of Labour, Social Security and Industrial Relations. The Committee trusts that the competent units of the Office will provide the requested assistance and the Government will soon be in a position to report on the submission to Parliament of the instruments adopted by the Conference since October 1976 (Convention No. 146 and Recommendation No. 154, adopted at the 62nd Session and the instruments adopted between 1977 and 2004).

Solomon Islands

The Committee notes that, after an ILO mission in October 2005, the Government has been able to prepare a report to Cabinet on pending issues concerning the obligation to submit. The Committee urges the Government, in the same way as the Conference Committee, to make every effort to comply with the constitutional obligation to submit to the National Legislature the instruments adopted by the Conference between 1984 and 2004.

Somalia

The Committee trusts that, when the national circumstances permit, the Government will provide information on the submission to the competent authorities with regard to the instruments adopted by the Conference since October 1976.

Spain

1. *Submission to the Cortes Generales.* With reference to its previous comments, the Committee notes with interest the Government's statement communicated to the Office in October 2005: the Government of Spain confirms its will hereinafter to submit as rapidly as possible, for the information of the *Cortes Generales*, the Conventions and Recommendations adopted by the Conference in accordance with article 19, paragraphs 5 and 6, of the Constitution of the Organization. The Government refers to the Memorandum adopted by the Governing Body in 1980, and revised in March 2005, and also states that the information submitted to the *Cortes Generales*, in compliance with its duty of submission, does not imply that the Government of Spain is proposing the ratification of a Convention or Protocol or the acceptance of Recommendations, which involve different formalities.

2. The Committee welcomes the intention of the Government of Spain to comply fully with the constitutional obligation of submission. It notes that Spain has ratified 129 Conventions (of which 106 are in force) and that, up to March 1994, the Government had provided detailed information on the submission of the instruments adopted by the Conference to the *Cortes Generales*, once they had been taken note of by the Council of Ministers. The "submission for information" to the *Cortes Generales* does not imply that the Government is proposing the ratification of a Convention or Protocol or the application of a Recommendation. Governments have complete freedom as to the nature of the proposals to be made concerning the instruments submitted to the competent authorities.

3. *Prior tripartite consultations.* Furthermore, the proposals to be made to the competent authority or authorities in connection with the submission of instruments have to be the subject of prior tripartite consultations, in accordance with the procedures envisaged by Article 5, paragraph 1(b), of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), which has been ratified by Spain.

4. *Pending issues.* The Committee trusts that the Government of Spain will also indicate in due course the manner in which it has discharged the obligation of submission in relation to the instruments adopted by the Conference at its 63rd (Convention No. 149 and Recommendation No. 157) and 84th (Conventions Nos. 178 and 179, Recommendations Nos. 185 and 186, the Protocol of 1996) Sessions, and the other instruments adopted at its 80th, 81st, 83rd, 86th, 88th, 89th, 90th, 91st and 92nd Sessions.

Sudan

The Committee notes that Recommendation No. 195 was submitted to the Council of Ministers on 22 October 2005. It hopes that, when national circumstances so permit, the Government will announce that the instruments adopted by the Conference between 1994 and 2004 were submitted to the National Assembly.

Swaziland

The Committee notes with interest the information provided by the Government indicating that the instruments adopted at the 84th and 85th Sessions of the Conference, as well as Conventions Nos. 183 and 184, were submitted to the House of Assembly on 27 April 2005. It hopes that the Government will also soon indicate that the Protocol of 1995 to the Labour Inspection Convention, 1947, adopted at the 82nd Session, and the Conventions and Recommendations adopted at the 86th, 88th, 89th, 90th, 91st and 92nd Sessions of the Conference have also been submitted to Parliament.

Syrian Arab Republic

In a communication received in August 2005, the Government once again indicates that dialogue is continuing between the Ministry of Social Affairs and the Committee for Consultation and Dialogue with the Social Partners on the subject of the examination of international labour Conventions. The Committee refers to its previous observations and once again hopes that the Government will soon be able to indicate that the instruments adopted by the Conference at its 66th and 69th Sessions (Recommendations Nos. 167 and 168) and at 14 sessions held since 1984 (70th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 90th, 91st and 92nd Sessions) have been submitted to the People's Council (*Majlis al-Chaab*).

Tajikistan

The Committee notes with regret that the information on submission to Parliament required by article 19 of the ILO Constitution for the instruments adopted by the Conference at its 84th, 85th, 88th, 89th, 90th, 91st and 92nd Sessions has not been received.

United Republic of Tanzania

1. The Committee notes with interest that several instruments adopted between 1981 and 2004 were submitted to the National Assembly on 26 May 2005. It welcomes this progress and hopes that the Government will also report on the

decision taken by the National Assembly and on the tripartite consultation that took place with regard to the submitted instruments.

2. The Committee also invites the Government to report on the submission to the National Assembly of the following Recommendations and Protocols: the Older Workers Recommendation, 1980 (No. 162); the Protocol of 1982 to the Plantations Convention, 1958; the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948; the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976; the Promotion of Cooperatives Recommendation, 2002 (No. 193); the List of Occupational Diseases Recommendation, 2002 (No. 194); and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, adopted at the 66th, 68th, 77th, 84th and 90th Sessions of Conference.

Thailand

1. The Committee notes with interest the communication received from the Government in May 2005 indicating that the instruments adopted by the Conference from its 83rd to its 89th Sessions were submitted, on 30 December 2003, to Cabinet and to the House of Representatives. The House of Representatives gave its approval on 7 October 2004. The Committee welcomes this progress and asks the Government to also report on the submission to the National Assembly of the instruments adopted by the Conference at its 90th, 91st and 92nd Sessions.

2. *Consultation with social partners.* The Committee recalls that, under article 23, paragraph 2, of the Constitution, the information communicated to the Office on the submission to the National Assembly must be sent also to the representative organizations of employers and workers. This provision is designed to enable the social partners to formulate their own observations on the action that has been taken or is to be taken with regard to the instruments in question. The Committee requests the Government to indicate the representative organizations of employers and workers to which the information forwarded to the Office on the obligation to submit has been communicated.

The former Yugoslav Republic of Macedonia

The Committee notes with regret that the Government has not sent the information concerning the submission to the competent authorities of instruments adopted by the Conference since 1996 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions).

Turkmenistan

1. The Committee notes with regret that the Government has not provided information on the submission to the competent authorities of the instruments adopted by the Conference at 12 sessions held by the Conference between 1994 and 2004.

2. The Committee notes that Turkmenistan has been a Member of the Organization since 24 September 1993. It recalls that, under article 19 of the Constitution of the International Labour Organization, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies “for the enactment of legislation or other action”. The Governing Body of the International Labour Office adopted a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars on this subject. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and any proposals made by the Government on the measures to be taken with regard to the instruments that have been submitted.

3. The Committee, in the same way as the Conference Committee, urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Uganda

The Committee notes with regret that the Government has not supplied information in relation to its previous observations. It asks the Government to provide the required information on the submission to Parliament of the instruments adopted by the Conference at its 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions.

Uzbekistan

1. The Committee notes with regret that the Government has not communicated information on the submission to the competent authorities of the instruments adopted by the Conference during 12 sessions held between 1993 and 2004.

2. The Committee notes that Uzbekistan has been a Member of the Organization since 31 July 1992. It recalls that, under article 19 of the Constitution of the International Labour Organization, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence

the matter lies “for the enactment of legislation or other action”. The Governing Body of the International Labour Office has adopted a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars about this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted.

3. The Committee urges the Government, in the same way as the Conference Committee, to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Bolivarian Republic of Venezuela

The Committee asks the Government to provide the required information on the submission to the National Assembly of the remaining instruments adopted at the 74th (Conventions Nos. 163, 164, 165 and 166, and Recommendation No. 174), 75th (Convention No. 168 and Recommendation No. 176), 77th (Convention No. 171 and Recommendation No. 178, the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948), 78th (Convention No. 172), 79th, 81st, 82nd (Protocol of 1995 to the Labour Inspection Convention, 1947), 83rd, 84th, 85th, 86th, 89th, 90th, 91st and 92nd Sessions of the Conference.

Zambia

The Committee refers to its previous comments and hopes that the Government will soon be in a position to provide the required information on the submission to the National Assembly of the instruments adopted by the Conference at its 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st and 92nd Sessions.

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: *Albania, Angola, Bahrain, Barbados, Belgium, Botswana, Bulgaria, Burkina Faso, China, Cuba, Denmark, Ecuador, Eritrea, Ethiopia, Guyana, Islamic Republic of Iran, Ireland, Jamaica, Jordan, Kenya, Kiribati, Republic of Korea, Kuwait, Lesotho, Malta, Mauritania, Republic of Moldova, Morocco, Namibia, Netherlands, Oman, Panama, Papua New Guinea, Peru, Portugal, Qatar, Russian Federation, San Marino, Serbia and Montenegro, Seychelles, Singapore, South Africa, Sri Lanka, Suriname, Sweden, Democratic Republic of Timor-Leste, Togo, Ukraine, Uruguay, Vanuatu, Yemen.*



Appendices

**Appendix I. Table of reports received on ratified Conventions as of 9 December 2005
(articles 22 and 35 of the Constitution)**

Article 22 of the Constitution of the International Labour Organization provides that “each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request”. Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 22, and that each Member shall communicate copies of these reports to the representative organizations of employers and workers.

At its 204th Session (November 1977), the Governing Body approved the following arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under articles 22 and 35 of the Constitution:

- (a) the practice of tabular classification of reports, without summary of their contents, which has been followed for several years in respect of reports subsequent to first reports after ratification, should be applied to all reports, including first reports;
- (b) the Director-General should make available, for consultation at the Conference, the original texts of all reports received on ratified Conventions; in addition, photocopies of the reports should be supplied on request to members of delegations.

At its 267th Session (November 1996), the Governing Body approved new measures for rationalization and simplification.

Reports received under articles 22 and 35 of the Constitution appear in simplified form in a table annexed to the report of the Committee of Experts on the Application of Conventions and Recommendations; first reports are indicated in parentheses.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Standards.

Afghanistan	14 reports requested
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· No reports received: Conventions Nos. 13, 14, 41, 45, 95, 100, 105, 106, 111, 137, 139, 140, 141, 142	
Albania	12 reports requested
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· 3 reports received: Conventions Nos. 87, 98, 144	
· 9 reports not received: Conventions Nos. 16, 100, 111, (150), (174), (175), (176), (178), 181	
Algeria	20 reports requested
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· All reports received: Conventions Nos. 13, 32, 56, 62, 69, 73, 87, 88, 92, 96, 98, 100, 108, 111, 119, 120, 122, 127, 142, 144	
Angola	9 reports requested
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· All reports received: Conventions Nos. 19, 27, 45, 87, 88, 98, 100, 107, 111	
Antigua and Barbuda	24 reports requested
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· No reports received: Conventions Nos. 14, 17, 29, 81, 87, 98, (100), 101, 105, 108, 111, (122), (131), (135), 138, (142), (144), (150), (151), (154), (155), (158), (161), (182)	
Argentina	14 reports requested
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· All reports received: Conventions Nos. 2, 13, 45, 87, 88, 96, 98, 100, 111, 115, 129, 139, 144, 159	
Armenia	9 reports requested
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· No reports received: Conventions Nos. (17), (98), (100), (111), (122), (135), (151), (174), (176)	
Australia	8 reports requested
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· All reports received: Conventions Nos. 87, 88, 98, 100, 111, 122, 144, 159	
<i>Norfolk Island</i>	4 reports requested
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· All reports received: Conventions Nos. 87, 98, 100, 122	
Austria	10 reports requested
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· All reports received: Conventions Nos. 13, 45, 87, 88, 98, 100, 111, 122, 144, 176	
Azerbaijan	34 reports requested
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· 29 reports received: Conventions Nos. 13, 16, 23, 29, 45, 69, 73, (81), 87, 88, 92, 98, 100, 108, 111, 115, 120, 122, (129), 133, 134, 142, 144, 147, 148, 151, 154, 159, 160	
· 5 reports not received: Conventions Nos. 105, 119, 126, 135, 138	
Bahamas	10 reports requested
<hr/>	
· 4 reports received: Conventions Nos. 45, 87, 88, 98	
· 6 reports not received: Conventions Nos. 22, 100, 111, 144, (147), 182	
Bahrain	3 reports requested
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· All reports received: Conventions Nos. 105, 111, 159	
Bangladesh	7 reports requested
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· All reports received: Conventions Nos. 45, 87, 96, 98, 100, 111, 144	
Barbados	19 reports requested
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· 7 reports received: Conventions Nos. 29, 63, 81, 105, 118, 135, 182	
· 12 reports not received: Conventions Nos. 22, 74, 87, 98, 100, 108, 111, 115, 122, 138, 144, 147	
Belarus	14 reports requested
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· All reports received: Conventions Nos. 45, 87, 88, 98, 100, 111, 115, 119, 120, 122, 144, 150, 155, 167	

Belgium	20 reports requested
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· All reports received: Conventions Nos. 13, 45, 56, 62, 87, 88, 98, 100, 111, 115, 120, 122, (132), 139, (141), 144, 148, 162, (180), (182)	
Belize	22 reports requested
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· 9 reports received: Conventions Nos. 8, 16, 22, 29, 58, 81, 105, 108, 135	
· 13 reports not received: Conventions Nos. 87, 88, 98, 100, 111, 115, 138, 144, 150, 151, 154, 155, 182	
Benin	8 reports requested
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· All reports received: Conventions Nos. 13, 87, 98, 100, 111, 144, 160, 161	
Bolivia	16 reports requested
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· All reports received: Conventions Nos. 1, 30, 45, 87, 88, 96, 98, 100, 111, 120, 122, 136, 159, 162, 169, (182)	
Bosnia and Herzegovina	58 reports requested
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· 19 reports received: Conventions Nos. 8, 11, 14, 24, 25, 45, 56, 87, 88, 90, 98, 100, 103, 106, 111, 122, 132, 138, 140	
· 39 reports not received: Conventions Nos. 9, 12, 13, 16, 19, 22, 23, 27, 29, 32, 53, 69, 73, 74, 81, 91, 92, 97, 102, (105), 113, 114, 119, 121, 126, 129, 131, 135, 136, 139, 142, 143, 148, 155, 156, 159, 161, 162, (182)	
Botswana	12 reports requested
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· 4 reports received: Conventions Nos. 29, 105, 151, 173	
· 8 reports not received: Conventions Nos. 87, 98, 100, 111, 138, 144, 176, 182	
Brazil	20 reports requested
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· All reports received: Conventions Nos. 45, 88, 98, 100, 111, 115, 119, 120, 122, 127, 136, 139, 144, 148, 155, 159, 161, 162, 170, 174	
Bulgaria	15 reports requested
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· All reports received: Conventions Nos. 13, 34, 45, 62, 87, 98, 100, 111, 120, 127, 144, (146), (147), (166), (179)	
Burkina Faso	9 reports requested
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· No reports received: Conventions Nos. 13, 87, 98, 100, 111, 144, 159, 161, 170	
Burundi	15 reports requested
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· 1 report received: Convention No. 87	
· 14 reports not received: Conventions Nos. 29, 62, 81, 89, 94, 98, 100, 101, 105, 111, 135, 138, 144, (182)	
Cambodia	9 reports requested
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· No reports received: Conventions Nos. 4, 13, 29, 87, 98, 100, 111, 122, 138	
Cameroon	10 reports requested
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· All reports received: Conventions Nos. 13, 45, 78, 87, 98, 100, 106, 111, 122, 162	
Canada	6 reports requested
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· All reports received: Conventions Nos. 87, 88, 100, 111, 122, 162	
Cape Verde	11 reports requested
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· All reports received: Conventions Nos. 19, 29, 81, 87, 98, 100, 105, 111, 118, 155, 182	
Central African Republic	20 reports requested
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· 17 reports received: Conventions Nos. 2, 13, 29, 41, 62, 81, 87, 88, 94, 95, 98, 100, 105, 111, 119, 138, 182	
· 3 reports not received: Conventions Nos. 18, 117, 118	
Chad	16 reports requested
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· 11 reports received: Conventions Nos. 14, 26, 29, 41, 81, 87, 105, (132), 135, 151, (182)	
· 5 reports not received: Conventions Nos. 13, 98, 100, 111, 144	

Chile	20 reports requested
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· 6 reports received: Conventions Nos. 9, 29, 103, 115, 140, 151	
· 14 reports not received: Conventions Nos. 2, 13, 87, 98, 100, 111, 121, 122, 127, 136, 144, 159, 161, 162	
China	10 reports requested
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· All reports received: Conventions Nos. 16, 22, 23, 45, 100, 122, 144, 159, 167, 170	
Hong Kong Special Administrative Region	7 reports requested
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· All reports received: Conventions Nos. 2, 87, 98, 115, 122, 144, 148	
Macau Special Administrative Region	12 reports requested
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· All reports received: Conventions Nos. 87, 88, 98, 100, 111, 115, 120, 122, 144, 148, 155, 167	
Colombia	16 reports requested
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· All reports received: Conventions Nos. 2, 13, 87, 88, 98, 100, 106, 111, 136, 144, 159, 161, 162, 167, 170, 174	
Comoros	15 reports requested
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· No reports received: Conventions Nos. 5, 10, 11, 12, 13, 29, 52, 81, 87, 89, 98, 100, 105, 106, 122	
Congo	10 reports requested
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· No reports received: Conventions Nos. 13, 29, 87, 95, 98, 100, 111, 119, 144, 152	
Costa Rica	16 reports requested
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· All reports received: Conventions Nos. 45, 87, 88, 95, 96, 98, 100, 111, 120, 122, 127, 138, 144, 148, 150, 159	
Côte d'Ivoire	14 reports requested
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· 1 report received: Convention No. (182)	
· 13 reports not received: Conventions Nos. 13, 45, 81, 87, 96, 98, 100, 111, 129, 136, (138), 144, 159	
Croatia	20 reports requested
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· All reports received: Conventions Nos. 9, 13, 22, 23, 45, 87, 91, 98, 100, 111, 119, 122, 129, 136, 139, 148, 155, 159, 161, 162	
Cuba	15 reports requested
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· All reports received: Conventions Nos. 13, 45, 81, 87, 88, 96, 98, 100, 111, 120, 122, 136, 148, 155, 159	
Cyprus	25 reports requested
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· 23 reports received: Conventions Nos. 16, 23, 29, 45, 81, 87, 92, 98, 100, 105, 111, 119, 135, 138, 144, 147, 150, 151, 154, 155, 159, 160, 162	
· 2 reports not received: Conventions Nos. 88, 122	
Czech Republic	20 reports requested
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· All reports received: Conventions Nos. 13, 45, 87, 88, 98, 100, 111, 115, 120, 122, 136, 139, 144, 148, 155, 159, 161, 167, 176, 181	
Democratic Republic of the Congo	17 reports requested
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· No reports received: Conventions Nos. 14, 29, 62, 81, 87, 88, 89, 98, 100, 102, 111, 117, 119, 120, 121, 144, 150	
Denmark	35 reports requested
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· 29 reports received: Conventions Nos. 9, 29, 52, 53, 81, 88, 92, 100, 105, 108, 111, 115, 119, 120, 122, 134, 135, 138, 139, 144, 147, 148, 150, 151, 159, 160, 167, 169, 182	
· 6 reports not received: Conventions Nos. 87, 98, (133), 142, 155, (180)	
<i>Faeroe Islands</i>	3 reports requested
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· No reports received: Conventions Nos. 87, 98, 126	

<i>Greenland</i>	9 reports requested
· 8 reports received: Conventions Nos. 7, 14, 16, 29, 87, 105, 106, 122	
· 1 report not received: Convention No. 126	
Djibouti	42 reports requested
· 24 reports received: Conventions Nos. 19, 22, 23, 29, 53, 55, 56, 63, 69, 71, 73, 81, 87, 88, 91, 96, 100, 105, 106, 108, 115, 120, 122, 125	
· 18 reports not received: Conventions Nos. 9, 11, 12, 13, 14, 16, 17, 18, 44, 45, 52, 77, 78, 89, 98, 101, 124, 126	
Dominica	16 reports requested
· 8 reports received: Conventions Nos. 8, 14, 22, 29, 81, 105, 111, 138	
· 8 reports not received: Conventions Nos. 16, 87, 98, 100, 108, (144), (169), (182)	
Dominican Republic	12 reports requested
· All reports received: Conventions Nos. 29, 45, 87, 88, 98, 100, 111, 119, 122, 144, 159, 167	
Ecuador	22 reports requested
· All reports received: Conventions Nos. 45, 77, 78, 87, 88, 98, 100, 111, 115, 119, 120, 122, 127, 136, 139, 142, 144, 148, 153, 159, 162, 169	
Egypt	17 reports requested
· All reports received: Conventions Nos. 2, 45, 62, 71, 87, 88, 96, 98, 100, 111, 115, 118, (129), 139, 144, 148, 159	
El Salvador	7 reports requested
· All reports received: Conventions Nos. 88, 100, 111, 122, 144, 155, 159	
Equatorial Guinea	8 reports requested
· 3 reports received: Conventions Nos. 87, 98, (182)	
· 5 reports not received: Conventions Nos. (68), (92), 100, 111, 138	
Eritrea	4 reports requested
· All reports received: Conventions Nos. 87, 98, 100, 111	
Estonia	9 reports requested
· All reports received: Conventions Nos. 2, 13, 45, 87, 98, 100, (122), 144, 174	
Ethiopia	12 reports requested
· 10 reports received: Conventions Nos. 2, (29), 87, 100, 105, 111, 155, 159, 181, (182)	
· 2 reports not received: Conventions Nos. 88, 98	
Fiji	9 reports requested
· All reports received: Conventions Nos. 29, 45, 87, 98, 100, 105, 111, (138), 144	
Finland	22 reports requested
· All reports received: Conventions Nos. 13, 87, 88, 98, 100, 111, 115, 119, 120, 122, 136, 139, 144, 148, 155, 159, 161, 162, 167, 176, 181, (184)	
France	29 reports requested
· 26 reports received: Conventions Nos. 8, 13, 22, 23, 45, 53, 62, 63, 87, 92, 98, 100, 108, 111, 115, 120, 122, 127, 136, 139, 144, 145, 146, 147, 159, (180)	
· 3 reports not received: Conventions Nos. 88, 96, 148	
<i>French Guiana</i>	20 reports requested
· All reports received: Conventions Nos. 8, 13, 22, 23, 45, 53, 62, 87, 92, 98, 100, 108, 111, 115, 120, 136, 144, 145, 146, 147	
<i>French Polynesia</i>	13 reports requested
· All reports received: Conventions Nos. 13, 19, 45, 87, 88, 98, 100, 111, 115, 120, 122, 127, 144	

<i>French Southern and Antarctic Territories</i>	17 reports requested
· All reports received: Conventions Nos. 8, 9, 16, 22, 23, 53, 68, 73, 87, 92, 98, 108, 111, 133, 134, 146, 147	
<i>Guadeloupe</i>	24 reports requested
· 13 reports received: Conventions Nos. 8, 22, 23, 29, 53, 92, 105, 108, 129, 135, 145, 146, 147	
· 11 reports not received: Conventions Nos. 13, 45, 62, 87, 98, 100, 111, 115, 120, 136, 144	
<i>Martinique</i>	20 reports requested
· All reports received: Conventions Nos. 8, 13, 22, 23, 45, 53, 62, 87, 92, 98, 100, 108, 111, 115, 120, 136, 144, 145, 146, 147	
<i>New Caledonia</i>	12 reports requested
· All reports received: Conventions Nos. 13, 45, 87, 88, 98, 100, 111, 115, 120, 122, 127, 144	
<i>Réunion</i>	20 reports requested
· All reports received: Conventions Nos. 8, 13, 22, 23, 45, 53, 62, 87, 92, 98, 100, 108, 111, 115, 120, 136, 144, 145, 146, 147	
<i>St. Pierre and Miquelon</i>	24 reports requested
· All reports received: Conventions Nos. 9, 13, 16, 22, 23, 45, 53, 55, 56, 71, 73, 87, 88, 98, 100, 108, 111, 115, 120, 122, 144, 145, 146, 147	
Gabon	11 reports requested
· All reports received: Conventions Nos. 13, 45, 87, 96, 98, 100, 111, 144, 150, 158, 182	
Gambia	8 reports requested
· No reports received: Conventions Nos. (29), 87, 98, 100, (105), 111, (138), (182)	
Georgia	14 reports requested
· 13 reports received: Conventions Nos. 29, 52, 87, 88, 98, 100, 105, 111, 117, 122, 138, 142, (151)	
· 1 report not received: Convention No. 181	
Germany	18 reports requested
· All reports received: Conventions Nos. 45, 87, 88, 98, 100, 111, 115, 120, 122, 136, 139, 144, 148, 159, 161, 162, 167, 176	
Ghana	27 reports requested
· 13 reports received: Conventions Nos. 8, 22, 29, 69, 74, 81, 94, 98, 103, 108, 115, 117, 182	
· 14 reports not received: Conventions Nos. 16, 23, 45, 58, 87, 88, 92, 96, 100, 105, 111, 119, 120, 148	
Greece	13 reports requested
· All reports received: Conventions Nos. 13, 45, 62, 87, 88, 98, 100, 111, 115, 122, 136, 144, 159	
Grenada	14 reports requested
· No reports received: Conventions Nos. 8, 14, 16, 29, 81, 87, 98, 100, 105, 108, (111), (138), 144, (182)	
Guatemala	20 reports requested
· All reports received: Conventions Nos. 13, 45, 87, 88, 96, 98, 100, 103, 111, 119, 120, 122, 127, 144, 148, 159, 161, 162, 167, 169	
Guinea	30 reports requested
· 13 reports received: Conventions Nos. 3, 13, 16, 26, 81, 87, 94, 98, 100, 111, 144, 152, 159	
· 17 reports not received: Conventions Nos. 45, 62, 115, 118, 119, 120, 121, 122, 133, 134, 136, (138), 139, 140, 148, 150, (182)	
Guinea-Bissau	6 reports requested
· All reports received: Conventions Nos. 26, 45, 88, 98, 100, 111	
Guyana	21 reports requested
· No reports received: Conventions Nos. 2, 29, 45, 81, 87, 98, 100, 105, 108, 111, 115, 129, 135, 136, 138, 139, 144, 150, 151, 166, 182	

Haiti	19 reports requested
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· 11 reports received: Conventions Nos. 14, 24, 25, 29, 81, 87, 98, 100, 105, 106, 111	
· 8 reports not received: Conventions Nos. 1, 19, 30, 45, 77, 78, 90, 107	
Honduras	7 reports requested
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· All reports received: Conventions Nos. 45, 62, 87, 98, 100, 111, 122	
Hungary	21 reports requested
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· All reports received: Conventions Nos. 13, 45, 87, 88, 98, 100, 111, 115, 122, 127, 136, 139, 144, 148, 155, 159, 161, 166, 167, (181), (183)	
Iceland	11 reports requested
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· All reports received: Conventions Nos. 2, 87, 98, 100, 111, 122, 138, 139, 144, 155, 159	
India	11 reports requested
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· All reports received: Conventions Nos. 45, 88, 89, 100, 105, 107, 111, 115, 122, 136, 144	
Indonesia	8 reports requested
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· All reports received: Conventions Nos. 45, 87, 88, 98, 100, 111, 120, 144	
Islamic Republic of Iran	5 reports requested
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· 3 reports received: Conventions Nos. 95, 108, 111	
· 2 reports not received: Conventions Nos. 100, 122	
Iraq	50 reports requested
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· No reports received: Conventions Nos. 1, 8, 11, 13, 14, 16, 19, 22, 23, 29, 30, 77, 78, 81, 88, 89, 92, 98, 100, 105, 106, 107, 108, 111, 115, 118, 119, 120, 122, 131, 132, 135, 136, 137, 138, 139, 140, 142, 144, 145, 146, 147, 148, 149, 150, 152, 153, 167, (172), (182)	
Ireland	14 reports requested
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· All reports received: Conventions Nos. 62, 87, 88, 96, 98, 100, 111, 122, 139, 144, 155, 159, 176, (180)	
Israel	8 reports requested
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· All reports received: Conventions Nos. 87, 88, 96, 98, 100, 111, 122, 136	
Italy	20 reports requested
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· All reports received: Conventions Nos. 2, 13, 45, 87, 98, 100, 111, 115, 119, 120, 122, 127, 136, 139, 144, 148, 159, (167), 170, 181	
Jamaica	11 reports requested
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· 10 reports received: Conventions Nos. 8, 16, 81, 87, 98, 100, 122, (138), 144, (182)	
· 1 report not received: Convention No. 111	
Japan	13 reports requested
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· All reports received: Conventions Nos. 45, 87, 88, 98, 100, 115, 119, 120, 122, 139, 144, 159, 181	
Jordan	9 reports requested
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· All reports received: Conventions Nos. 98, 100, 111, 119, 120, 122, (144), (150), (159)	
Kazakhstan	15 reports requested
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· No reports received: Conventions Nos. 29, 81, 87, 88, 98, 105, 111, 122, 129, 135, 138, 144, 148, 155, (182)	
Kenya	10 reports requested
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· All reports received: Conventions Nos. 16, 29, 63, 81, 105, 129, 134, 138, 146, 182	

Kiribati	4 reports requested
· All reports received: Conventions Nos. (29), (87), (98), (105)	
Republic of Korea	8 reports requested
· 5 reports received: Conventions Nos. (53), 73, 138, 160, (170)	
· 3 reports not received: Conventions Nos. 81, 150, 182	
Kuwait	5 reports requested
· All reports received: Conventions Nos. 29, 81, 105, 138, 182	
Kyrgyzstan	45 reports requested
· 6 reports received: Conventions Nos. (81), 87, 95, 100, 122, 159	
· 39 reports not received: Conventions Nos. 11, 14, 16, 23, 27, 29, 32, 45, 47, 52, 69, 73, 77, 78, 79, 90, 92, 98, 103, (105), 106, 108, 111, 113, 115, 119, 120, 124, 126, (133), 134, 138, 142, 147, 148, 149, (150), (154), 160	
Lao People's Democratic Republic	2 reports requested
· No reports received: Conventions Nos. 13, 29	
Latvia	14 reports requested
· All reports received: Conventions Nos. 7, 8, 9, 16, 81, 87, 98, 105, 108, 129, 135, 147, 150, 160	
Lebanon	13 reports requested
· All reports received: Conventions Nos. 8, 9, 29, 58, 71, 73, 74, 81, 105, 133, (138), 147, 182	
Lesotho	14 reports requested
· All reports received: Conventions Nos. 29, 45, 81, 87, 98, 100, (105), 111, 135, 138, 144, (150), 167, 182	
Liberia	21 reports requested
· No reports received: Conventions Nos. 22, 23, 29, 53, 55, 58, (81), 87, 92, 98, 105, 108, 111, 112, 113, 114, (133), (144), 147, (150), (182)	
Libyan Arab Jamahiriya	19 reports requested
· 12 reports received: Conventions Nos. 29, 52, 87, 95, 102, 118, 121, 128, 130, 131, 138, 182	
· 7 reports not received: Conventions Nos. 14, 53, 81, 89, 96, 100, 105	
Lithuania	9 reports requested
· All reports received: Conventions Nos. 29, 73, 81, 105, 108, 138, 160, (182), (183)	
Luxembourg	24 reports requested
· 19 reports received: Conventions Nos. 8, 9, 16, 22, 23, 29, 53, 68, 69, 73, 74, 92, 105, 108, 138, 147, 150, 166, 182	
· 5 reports not received: Conventions Nos. 55, 56, 81, 135, (172)	
Madagascar	9 reports requested
· 5 reports received: Conventions Nos. 111, 129, 159, 173, (182)	
· 4 reports not received: Conventions Nos. 13, 29, 81, 138	
Malawi	8 reports requested
· All reports received: Conventions Nos. 29, 45, 81, 105, 129, 138, 150, 182	
Malaysia	5 reports requested
· All reports received: Conventions Nos. 29, 81, 98, 138, 182	
Sabah	2 reports requested
· All reports received: Conventions Nos. 16, 97	

Sarawak	1 report requested
· All reports received: Convention No. 16	
Mali	8 reports requested
· All reports received: Conventions Nos. 14, 19, 29, 81, 105, (138), 151, 182	
Malta	18 reports requested
· 4 reports received: Conventions Nos. 2, 13, 62, (147)	
· 14 reports not received: Conventions Nos. 8, 16, 22, 29, 53, 73, 74, 81, 105, 108, 129, 138, 180, 182	
Mauritania	9 reports requested
· All reports received: Conventions Nos. 22, 23, 29, 53, 58, 81, 105, 138, 182	
Mauritius	11 reports requested
· All reports received: Conventions Nos. 8, 16, 29, 74, 81, 105, 108, (137), 138, 160, 182	
Mexico	18 reports requested
· All reports received: Conventions Nos. 8, 9, 16, 22, 29, 53, 55, 56, 58, 105, 108, 134, 150, 160, 163, 164, 166, 182	
Republic of Moldova	12 reports requested
· 9 reports received: Conventions Nos. 29, 81, (99), 105, 129, 138, (151), 181, 182	
· 3 reports not received: Conventions Nos. 108, (119), (141)	
Mongolia	7 reports requested
· All reports received: Conventions Nos. 87, 111, 122, 135, 138, 144, 182	
Morocco	15 reports requested
· All reports received: Conventions Nos. 22, 29, 55, 81, 105, 108, 129, 138, 145, 146, 147, 178, 179, (180), 182	
Mozambique	9 reports requested
· All reports received: Conventions Nos. (29), 81, 88, 98, 105, 111, 122, (138), (182)	
Myanmar	8 reports requested
· All reports received: Conventions Nos. 2, 16, 17, 22, 26, 29, 63, 87	
Namibia	5 reports requested
· No reports received: Conventions Nos. 29, 105, 138, 150, 182	
Nepal	4 reports requested
· 3 reports received: Conventions Nos. 29, 138, 182	
· 1 report not received: Convention No. 144	
Netherlands	28 reports requested
· All reports received: Conventions Nos. 8, 9, 16, 22, 23, 29, 68, 69, 71, 73, 74, 81, 92, 101, 105, 128, 129, 133, 138, 145, 146, 147, 150, 155, 160, 174, 180, 182	
<i>Aruba</i>	18 reports requested
· No reports received: Conventions Nos. 8, 9, 22, 23, 29, 69, 74, 81, 87, 88, 105, 122, 135, 138, 144, 145, 146, 147	
<i>Netherlands Antilles</i>	13 reports requested
· 3 reports received: Conventions Nos. 87, 88, 122	
· 10 reports not received: Conventions Nos. 8, 9, 22, 23, 29, 58, 69, 74, 81, 105	
New Zealand	20 reports requested
· All reports received: Conventions Nos. 8, 9, 16, 22, 23, 29, 53, 58, 68, 69, 74, 81, 92, (98), 105, 133, 134, 145, 160, 182	

<i>Tokelau</i>	2 reports requested
· All reports received: Conventions Nos. 29, 105	
Nicaragua	12 reports requested
· All reports received: Conventions Nos. 8, 9, 16, 22, 23, 29, 63, 77, 105, 138, 146, 182	
Niger	12 reports requested
· All reports received: Conventions Nos. 29, 81, 87, 98, 100, 105, 111, 119, 138, 148, 154, 182	
Nigeria	10 reports requested
· 9 reports received: Conventions Nos. 16, 29, 81, 100, 105, 133, 134, 138, 182	
· 1 report not received: Convention No. 8	
Norway	28 reports requested
· All reports received: Conventions Nos. 8, 16, 22, 29, 53, 56, 68, 69, 71, 73, 81, 92, 105, 108, 129, 133, 134, 138, 145, 147, 150, 160, 163, 164, 178, 179, (180), 182	
Oman	2 reports requested
· All reports received: Conventions Nos. 29, 182	
Pakistan	20 reports requested
· 17 reports received: Conventions Nos. 1, 14, 18, 29, 45, 81, 87, 89, 98, (100), 105, 106, 107, 111, 144, 159, (182)	
· 3 reports not received: Conventions Nos. 16, 22, 96	
Panama	23 reports requested
· 21 reports received: Conventions Nos. 8, 9, 16, 22, 23, 29, 30, 53, 55, 56, 68, 69, 71, 73, 74, 81, 92, 105, 108, 122, 160	
· 2 reports not received: Conventions Nos. 138, 182	
Papua New Guinea	7 reports requested
· All reports received: Conventions Nos. 8, 22, 29, 85, 105, 138, 182	
Paraguay	24 reports requested
· No reports received: Conventions Nos. 1, 14, 29, 30, 52, 79, 81, 87, 89, 90, 98, 100, 101, 105, 106, 111, 115, 117, 119, 120, 122, 159, 169, (182)	
Peru	21 reports requested
· All reports received: Conventions Nos. 8, 9, 22, 23, 24, 25, 29, 53, 55, 56, 58, 68, 69, 71, 73, 81, 102, 105, 138, 139, 182	
Philippines	6 reports requested
· All reports received: Conventions Nos. 23, 53, 105, 138, 179, 182	
Poland	26 reports requested
· All reports received: Conventions Nos. 8, 9, 16, 22, 23, 29, 68, 69, 73, 74, 81, 91, 92, 95, (102), 105, 108, 129, 133, 134, 138, 145, 147, 160, 178, 182	
Portugal	20 reports requested
· All reports received: Conventions Nos. 8, 22, 23, 29, 68, 69, 73, 74, 81, 92, 105, 108, 129, 138, 145, 146, 147, 150, 160, 182	
Qatar	3 reports requested
· All reports received: Conventions Nos. 29, 81, 182	
Romania	19 reports requested
· All reports received: Conventions Nos. 8, 9, 16, 22, 29, 68, 81, 92, 105, 108, 129, 133, 134, 138, 147, 163, 166, 180, 182	

Russian Federation	21 reports requested
<ul style="list-style-type: none"> · 18 reports received: Conventions Nos. 16, 23, 29, 69, 73, 92, 105, 108, 111, 133, 134, 138, 147, 150, 159, 160, 179, (182) · 3 reports not received: Conventions Nos. 81, 87, 100 	
Rwanda	5 reports requested
<ul style="list-style-type: none"> · All reports received: Conventions Nos. 29, 81, 105, 138, 182 	
Saint Kitts and Nevis	6 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 29, (87), (98), (100), 105, 182 	
Saint Lucia	15 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 7, 8, 14, 16, 29, 87, 98, 100, 101, 105, 108, 111, (154), (158), (182) 	
Saint Vincent and the Grenadines	9 reports requested
<ul style="list-style-type: none"> · 5 reports received: Conventions Nos. 7, 16, 81, 101, (180) · 4 reports not received: Conventions Nos. 29, 105, 108, 182 	
San Marino	18 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 29, 88, 98, 100, 105, 111, 119, 138, 142, 144, 148, 150, 151, 154, 159, 160, 161, 182 	
Sao Tome and Principe	11 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 18, 19, 81, 87, 88, 98, 100, 106, 111, 144, 159 	
Saudi Arabia	4 reports requested
<ul style="list-style-type: none"> · All reports received: Conventions Nos. 29, 81, 105, 182 	
Senegal	10 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 19, 29, 81, 87, 100, 105, 111, 122, 138, 182 	
Serbia and Montenegro	43 reports requested
<ul style="list-style-type: none"> · 27 reports received: Conventions Nos. (11), (13), 14, 29, (45), 81, (88), (98), 100, (102), (105), 106, (111), 119, 122, 129, 135, (136), 138, (139), (148), (155), (156), (159), (161), (162), (182) · 16 reports not received: Conventions Nos. (8), 9, (16), (22), (23), (24), (25), (27), (53), (56), (69), (73), (74), 92, (113), (114) 	
Seychelles	15 reports requested
<ul style="list-style-type: none"> · 6 reports received: Conventions Nos. 87, 98, 100, 111, 148, 151 · 9 reports not received: Conventions Nos. 2, 8, 16, 29, 105, 108, 138, 150, 182 	
Sierra Leone	8 reports requested
<ul style="list-style-type: none"> · 6 reports received: Conventions Nos. 8, 16, 22, 29, 58, 81 · 2 reports not received: Conventions Nos. 95, 105 	
Singapore	7 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 7, 8, 16, 22, 29, 81, 182 	
Slovakia	10 reports requested
<ul style="list-style-type: none"> · All reports received: Conventions Nos. 29, 105, 138, 144, 155, 160, 163, 164, 167, 182 	
Slovenia	26 reports requested
<ul style="list-style-type: none"> · 25 reports received: Conventions Nos. 8, 9, 16, 22, 23, 29, 53, 56, 69, 73, 74, 81, 88, 92, 98, 100, 105, (108), 111, 119, 122, 129, 138, (149), 182 · 1 report not received: Convention No. 147 	
Solomon Islands	15 reports requested
<ul style="list-style-type: none"> · All reports received: Conventions Nos. 8, 11, 12, 14, 16, 19, 26, 29, 42, 45, 81, 84, 94, 95, 108 	

Somalia	9 reports requested
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· All reports received: Conventions Nos. 16, 22, 23, 29, 45, 84, 85, 105, 111	
South Africa	7 reports requested
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· All reports received: Conventions Nos. 29, 63, 105, 138, (144), (155), 182	
Spain	31 reports requested
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· All reports received: Conventions Nos. 8, 9, 16, 22, 23, 29, 53, 55, 68, 69, 73, 74, 81, 92, 105, 108, 129, 134, 138, 142, 145, 146, 147, 150, 160, 163, 164, 165, 166, (180), 182	
Sri Lanka	13 reports requested
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· 12 reports received: Conventions Nos. 8, 16, 58, 81, 100, (105), 106, 108, 111, 138, 160, 182	
· 1 report not received: Convention No. 29	
Sudan	5 reports requested
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· All reports received: Conventions Nos. 29, 81, 105, (138), (182)	
Suriname	5 reports requested
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· All reports received: Conventions Nos. 29, 81, 105, 122, 150	
Swaziland	11 reports requested
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· 7 reports received: Conventions Nos. 14, 45, 81, 87, 105, 111, (182)	
· 4 reports not received: Conventions Nos. 29, 96, 138, 160	
Sweden	39 reports requested
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· All reports received: Conventions Nos. 8, 9, 13, 16, 29, 73, 81, 92, 105, 108, 115, 119, 120, 128, 129, 133, 134, 138, 139, 145, 146, 147, 148, 150, 155, 159, 160, 161, 162, 163, 164, 167, 170, 174, (175), 176, 178, (180), 182	
Switzerland	11 reports requested
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· All reports received: Conventions Nos. 8, 16, 23, 29, 81, 105, 138, 150, 160, 163, 182	
Syrian Arab Republic	9 reports requested
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· All reports received: Conventions Nos. 29, 53, 63, 81, 105, 118, 129, 138, (182)	
Tajikistan	40 reports requested
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· All reports received: Conventions Nos. 14, 16, 23, 29, 32, 45, 47, 52, 69, 73, 77, 78, 79, 87, 90, 92, 95, 98, 100, 103, (105), 106, 108, 111, 113, 115, 119, 120, 122, 124, 126, 133, 134, 138, 142, 147, 148, 149, 159, 160	
United Republic of Tanzania	11 reports requested
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· 9 reports received: Conventions Nos. 29, 63, 87, 94, 105, 134, 137, 149, 182	
· 2 reports not received: Conventions Nos. 16, 138	
Tanganyika	5 reports requested
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· 2 reports received: Conventions Nos. 88, 101	
· 3 reports not received: Conventions Nos. 45, 81, 108	
Zanzibar	2 reports requested
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· All reports received: Conventions Nos. 58, 85	
Thailand	3 reports requested
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· No reports received: Conventions Nos. 29, 105, 182	
The former Yugoslav Republic of Macedonia	60 reports requested
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· No reports received: Conventions Nos. 8, 9, 11, 12, 13, 14, 16, 19, 22, 23, 24, 25, 27, 29, 32, 45, 53, 56, 69, 73, 74, 81, 87, 88, 89, 90, 91, 92, 97, 98, 100, 102, 103, (105), 106, 111, 113, 114, 119, 121, 122, 126, 129, 131, 132, 135, 136, 138, 139, 140, 142, 143, 148, 155, 156, 158, 159, 161, 162, (182)	

Togo	5 reports requested
· No reports received: Conventions Nos. 29, 85, 105, 138, 182	
Trinidad and Tobago	12 reports requested
· 6 reports received: Conventions Nos. 87, 98, 100, 111, 144, 159	
· 6 reports not received: Conventions Nos. 16, 29, 85, 105, 147, (182)	
Tunisia	13 reports requested
· All reports received: Conventions Nos. 8, 16, 22, 23, 29, 55, 73, 81, 105, 108, 138, 150, 182	
Turkey	8 reports requested
· All reports received: Conventions Nos. 29, 81, 100, 105, 111, 115, 138, 182	
Turkmenistan	6 reports requested
· No reports received: Conventions Nos. (29), (87), (98), (100), (105), (111)	
Uganda	13 reports requested
· No reports received: Conventions Nos. 17, 19, 26, 29, 45, 81, 94, 105, 123, (138), 143, 159, (182)	
Ukraine	19 reports requested
· 14 reports received: Conventions Nos. 16, 29, 73, 92, 100, 105, 119, 120, (135), 138, (140), (159), 160, 182	
· 5 reports not received: Conventions Nos. 23, 69, 108, 133, 147	
United Arab Emirates	5 reports requested
· All reports received: Conventions Nos. 29, 81, 105, 138, 182	
United Kingdom	23 reports requested
· All reports received: Conventions Nos. 2, 8, 16, 22, 23, 29, 56, 68, 69, 74, 81, 92, 105, 108, 122, 133, 138, 147, 150, 160, (178), 180, 182	
<i>Anguilla</i>	9 reports requested
· 1 report received: Convention No. 148	
· 8 reports not received: Conventions Nos. 8, 22, 23, 29, 58, 85, 105, 108	
<i>Bermuda</i>	10 reports requested
· 9 reports received: Conventions Nos. 16, 22, 23, 29, 58, 105, 108, 133, 147	
· 1 report not received: Convention No. 98	
<i>British Virgin Islands</i>	9 reports requested
· 8 reports received: Conventions Nos. 23, 29, 58, 85, 87, 98, 105, 108	
· 1 report not received: Convention No. 8	
<i>Falkland Islands (Malvinas)</i>	10 reports requested
· 3 reports received: Conventions Nos. 45, 87, 98	
· 7 reports not received: Conventions Nos. 8, 22, 23, 29, 58, 105, 108	
<i>Gibraltar</i>	13 reports requested
· All reports received: Conventions Nos. 8, 16, 22, 23, 29, 58, 81, 105, 108, 133, 147, 150, 160	
<i>Guernsey</i>	14 reports requested
· All reports received: Conventions Nos. 7, 8, 16, 22, 29, 56, 63, 69, 74, 81, 105, 108, 150, 182	
<i>Isle of Man</i>	24 reports requested
· All reports received: Conventions Nos. 2, 7, 8, 16, 22, 23, 29, 56, 68, 69, 74, 81, 87, 92, 98, 105, 108, 122, 133, 147, 150, 160, (178), (180)	

<i>Jersey</i>	12 reports requested
· All reports received: Conventions Nos. 7, 8, 16, 22, 29, 56, 69, 74, 81, 105, 108, 160	
<i>Montserrat</i>	11 reports requested
· No reports received: Conventions Nos. 8, 14, 16, 26, 29, 58, 82, 85, 95, 105, 108	
<i>St. Helena</i>	12 reports requested
· No reports received: Conventions Nos. 8, 16, 29, 58, 63, 85, 87, 98, 105, 108, 150, 151	
United States	9 reports requested
· 3 reports received: Conventions Nos. 58, 74, 150	
· 6 reports not received: Conventions Nos. 53, 55, 105, 147, 160, 182	
<i>American Samoa</i>	4 reports requested
· 1 report received: Convention No. 58	
· 3 reports not received: Conventions Nos. 53, 55, 147	
<i>Guam</i>	5 reports requested
· 2 reports received: Conventions Nos. 58, 74	
· 3 reports not received: Conventions Nos. 53, 55, 147	
<i>Northern Mariana Islands</i>	1 report requested
· No reports received: Convention No. 147	
<i>Puerto Rico</i>	5 reports requested
· 2 reports received: Conventions Nos. 58, 74	
· 3 reports not received: Conventions Nos. 53, 55, 147	
<i>United States Virgin Islands</i>	5 reports requested
· 2 reports received: Conventions Nos. 58, 74	
· 3 reports not received: Conventions Nos. 53, 55, 147	
Uruguay	19 reports requested
· All reports received: Conventions Nos. 1, 8, 9, 16, 22, 23, 29, 63, 73, 81, 105, 108, 129, 131, 133, 134, 138, 150, 182	
Uzbekistan	2 reports requested
· No reports received: Conventions Nos. 29, 105	
Bolivarian Republic of Venezuela	7 reports requested
· All reports received: Conventions Nos. 22, 29, 81, 87, 105, 138, 150	
Viet Nam	3 reports requested
· 1 report received: Convention No. (138)	
· 2 reports not received: Conventions Nos. 81, 182	
Yemen	16 reports requested
· 14 reports received: Conventions Nos. 16, 29, 81, 98, 100, 105, 111, 122, 132, 135, 138, 144, 159, 182	
· 2 reports not received: Conventions Nos. 58, 131	
Zambia	24 reports requested
· 5 reports received: Conventions Nos. 100, 111, 135, 148, (182)	
· 19 reports not received: Conventions Nos. 29, 87, 95, 98, 103, 105, 117, 122, 136, 138, 141, 144, 149, 150, 151, 154, 159, 173, 176	
Zimbabwe	13 reports requested
· All reports received: Conventions Nos. 29, 81, (87), 105, 129, 138, 150, (155), (161), (162), (174), (176), 182	

Grand Total

A total of 2,638 reports (article 22) were requested,
of which 1,820 reports (68.99 per cent) were received.

A total of 343 reports (article 35) were requested,
of which 247 reports (72.01 per cent) were received.

**Appendix II. Statistical table of reports received on ratified Conventions
as of 9 December 2005
(article 22 of the Constitution)**

Conference year	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee of Experts		Reports received in time for the session of the Conference	
1932	447	–		406	90.8%	423	94.6%
1933	522	–		435	83.3%	453	86.7%
1934	601	–		508	84.5%	544	90.5%
1935	630	–		584	92.7%	620	98.4%
1936	662	–		577	87.2%	604	91.2%
1937	702	–		580	82.6%	634	90.3%
1938	748	–		616	82.4%	635	84.9%
1939	766	–		588	76.8%	–	
1944	583	–		251	43.1%	314	53.9%
1945	725	–		351	48.4%	523	72.2%
1946	731	–		370	50.6%	578	79.1%
1947	763	–		581	76.1%	666	87.3%
1948	799	–		521	65.2%	648	81.1%
1949	806	134	16.6%	666	82.6%	695	86.2%
1950	831	253	30.4%	597	71.8%	666	80.1%
1951	907	288	31.7%	507	77.7%	761	83.9%
1952	981	268	27.3%	743	75.7%	826	84.2%
1953	1 026	212	20.6%	840	75.7%	917	89.3%
1954	1 175	268	22.8%	1 077	91.7%	1 119	95.2%
1955	1 234	283	22.9%	1 063	86.1%	1 170	94.8%
1956	1 333	332	24.9%	1 234	92.5%	1 283	96.2%
1957	1 418	210	14.7%	1 295	91.3%	1 349	95.1%
1958	1 558	340	21.8%	1 484	95.2%	1 509	96.8%
As a result of a decision by the Governing Body, detailed reports were requested as from 1959 until 1976 only on certain Conventions.							
1959	995	200	20.4%	864	86.8%	902	90.6%
1960	1 100	256	23.2%	838	76.1%	963	87.4%
1961	1 362	243	18.1%	1 090	80.0%	1 142	83.8%
1962	1 309	200	15.5%	1 059	80.9%	1 121	85.6%
1963	1 624	280	17.2%	1 314	80.9%	1 430	88.0%
1964	1 495	213	14.2%	1 268	84.8%	1 356	90.7%
1965	1 700	282	16.6%	1 444	84.9%	1 527	89.8%
1966	1 562	245	16.3%	1 330	85.1%	1 395	89.3%
1967	1 883	323	17.4%	1 551	84.5%	1 643	89.6%
1968	1 647	281	17.1%	1 409	85.5%	1 470	89.1%
1969	1 821	249	13.4%	1 501	82.4%	1 601	87.9%
1970	1 894	360	18.9%	1 463	77.0%	1 549	81.6%
1971	1 992	237	11.8%	1 504	75.5%	1 707	85.6%
1972	2 025	297	14.6%	1 572	77.6%	1 753	86.5%
1973	2 048	300	14.6%	1 521	74.3%	1 691	82.5%
1974	2 189	370	16.5%	1 854	84.6%	1 958	89.4%
1975	2 034	301	14.8%	1 663	81.7%	1 764	86.7%
1976	2 200	292	13.2%	1 831	83.0%	1 914	87.0%
As a result of a decision by the Governing Body (November 1976), detailed reports were requested as from 1977 until 1994, according to certain criteria, at yearly, two-yearly or four-yearly intervals.							
1977	1 529	215	14.0%	1 120	73.2%	1 328	87.0%
1978	1 701	251	14.7%	1 289	75.7%	1 391	81.7%
1979	1 593	234	14.7%	1 270	79.8%	1 376	86.4%
1980	1 581	168	10.6%	1 302	82.2%	1 437	90.8%
1981	1 543	127	8.1%	1 210	78.4%	1 340	86.7%
1982	1 695	332	19.4%	1 382	81.4%	1 493	88.0%
1983	1 737	236	13.5%	1 388	79.9%	1 558	89.6%

Conference year	Reports requested	Reports received at the date requested	Reports received in time for the session of the Committee of Experts	Reports received in time for the session of the Conference
1984	1 669	189 11.3%	1 286 77.0%	1 412 84.6%
1985	1 666	189 11.3%	1 312 78.7%	1 471 88.2%
1986	1 752	207 11.8%	1 388 79.2%	1 529 87.3%
1987	1 793	171 9.5%	1 408 78.4%	1 542 86.0%
1988	1 636	149 9.0%	1 230 75.9%	1 384 84.4%
1989	1 719	196 11.4%	1 256 73.0%	1 409 81.9%
1990	1 958	192 9.8%	1 409 71.9%	1 639 83.7%
1991	2 010	271 13.4%	1 411 69.9%	1 544 76.8%
1992	1 824	313 17.1%	1 194 65.4%	1 384 75.8%
1993	1 906	471 24.7%	1 233 64.6%	1 473 77.2%
1994	2 290	370 16.1%	1 573 68.7%	1 879 82.0%
As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995.				
1995	1 252	479 38.2%	824 65.8%	988 78.9%
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.				
1996	1 806	362 20.5%	1 145 63.3%	1 413 78.2%
1997	1 927	553 28.7%	1 211 62.8%	1 438 74.6%
1998	2 036	463 22.7%	1 264 62.1%	1 455 71.4%
1999	2 288	520 22.7%	1 406 61.4%	1 641 71.7%
2000	2 550	740 29.0%	1 798 70.5%	1 952 76.6%
2001	2 313	598 25.9%	1 513 65.4%	1 672 72.2%
2002	2 368	600 25.3%	1 529 64.5%	1 852 72.1%
2005	2 638	696 26.4%	1 820 69.0%	

Appendix III. List of observations made by employers' and workers' organizations

Albania <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • Confederation of Trade Unions of Albania (CTUA) 	26, 29, 81, 87, 95, 98, 100, 138, 144, 151
Algeria <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • International Confederation of Free Trade Unions (ICFTU) 	87, 98
Australia <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • Australian Council of Trade Unions (ACTU) • International Confederation of Free Trade Unions (ICFTU) 	81, 87, 98, 100, 111 87, 98
Bangladesh <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • International Confederation of Free Trade Unions (ICFTU) 	87, 98
Barbados <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • Barbados Employers' Confederation (BEC) • Congress of Trade Unions and Staff Associations of Barbados (CTUSAB) 	81 29, 63, 81, 118, 135, 182
Belarus <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • Belarusian Congress of Democratic Trade Unions (BKDP) • International Confederation of Free Trade Unions (ICFTU) 	144 87, 98
Benin <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • International Confederation of Free Trade Unions (ICFTU) 	87, 98
Bolivia <hr/>	on Convention No.
<ul style="list-style-type: none"> • International Confederation of Free Trade Unions (ICFTU) 	169
Bosnia and Herzegovina <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • Confederation of Independent Trade Unions of Bosnia and Herzegovina • Confederation of Trade Unions of Republika Srpska (SSRS) 	24, 87, 98, 106, 111, 158 14, 87, 98, 103, 106, 132, 158
Botswana <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • International Confederation of Free Trade Unions (ICFTU) 	87, 98
Brazil <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • Rio Grande Port Services Workers' Trade Union - SINDIPORG • Union of Port Workers of Rio Grande do Sul (UPERSUL) • Workers' Trade Union of Banking, Financial and Credit Institutions of Vitoria da Conquista 	95 95 120, 155
Bulgaria <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • Bulgarian Chamber of Commerce and Industry (BCCI) • Confederation of Independent Trade Unions of Bulgaria (CITUB) 	98 87, 98, 111
Burundi <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • Trade Union Confederation of Burundi (COSYBU) 	29, 87, 98, 135, 144, 182
Cambodia <hr/>	on Conventions Nos.
<ul style="list-style-type: none"> • International Confederation of Free Trade Unions (ICFTU) 	87, 98

Cameroon

- Confederation of Public Service Unions (CSP)
- General Confederation of Labour - Liberty Cameroon - CGTL
- General Union of Cameroon Workers
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

87
87, 98, 100, 111, 122, 162
45, 78, 81, 87, 98, 100, 106, 122, 135,
162
87, 98

Cape Verde

- Cape Verde Confederation of Free Trade Unions (CCSL)
- Commercial, Industrial and Agricultural Association of Barlavento (ACIAB)
- National Workers' Union of Cape Verde - Trade Union Confederation (UNTC-CS)

on Conventions Nos.

19, 29, 81, 87, 98, 100, 111, 118, 182
19, 81, 98, 100, 111, 182
19, 81, 87, 98, 100, 118

Chile

- Latin-American Confederation of Workers (CLAT)
- National Confederation of Municipal Employees of Chile (ASEMUCH)
- World Confederation of Labour (WCL)

on Conventions Nos.

121, 161
98, 151
121, 161

China

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.

122

Hong Kong Special Administrative Region

- Hong Kong Confederation of Trade Unions (HKCTU)

on Convention No.

144

Colombia

- Confederation of Pensioners of Colombia
- Confederation of Workers of Colombia (CTC)
- General Confederation of Labour (CGT)
- International Confederation of Free Trade Unions (ICFTU)
- National Trade Union Association of Health, Social Security and Supplementary Services Workers and Public Officials (ANTHOC)
- National Union of Workers of the Security Administration Enterprise (SINTRACONSEGURIDAD)
- Single Confederation of Workers of Colombia (CUT)
- Union of Workers of the Electricity Company of Colombia (SINTRAELECOL)
- Workers' Trade Union Confederation (USO)
- World Confederation of Labour (WCL)

on Conventions Nos.

87, 98
81, 87, 98
87, 98
87, 98
95
95
87, 98
87, 98
169
87, 98

Costa Rica

- Confederation of Workers Rerum Novarum (CTRN)
- Trade Union of Civil Servants of the Social Security and Labour Ministry

on Conventions Nos.

81, 129
81, 129

Croatia

- Association of the Workers Affected by Asbestosis - Vranjic
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

162
87, 98

Czech Republic

- Czech-Moravian Confederation of Trade Unions (CM KOS)
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.

13, 45, 87, 98, 100, 111, 115, 120,
122, 136, 139, 144, 148, 155, 159,
161, 167, 176, 181
87, 98

Democratic Republic of the Congo

- Confederation of Trade Unions of Congo (CSC)
- World Confederation of Labour (WCL)

on Conventions Nos.

29, 81, 100, 111, 182
87, 98, 135, 144, 182

Denmark

- United Federation of Danish Workers (3F)

on Convention No.

147

Djibouti

-
- General Union of Djibouti Workers (UGTD) on Conventions Nos. 81, 87, 96, 98
 - International Confederation of Free Trade Unions (ICFTU) 87, 98
 - Labour Union of Djibouti (UDT) 81, 87, 96, 98

Dominican Republic

-
- International Confederation of Free Trade Unions (ICFTU) on Conventions Nos. 87, 98, 111

Ecuador

-
- National Union of Telephone Operators, Observation and Inspection Staff "17 de Mayo" of the Ecuadorian Telecommunications Institute on Convention No. 95

Finland

-
- Central Organization of Finnish Trade Unions (SAK) on Conventions Nos. 13, 87, 88, 98, 100, 111, 119, 120, 122, 136, 139, 148, 155, 159, 161, 162, 167, 181, 155
 - Commission for Local Authority Employers (KT) 98, 122
 - Confederation of Finnish Industries (EK) 100, 111
 - Confederation of Unions for Academic Professionals in Finland (AKAVA) 100, 111
 - Finnish Confederation of Salaried Employees (STTK) 100, 111, 181
 - The State Employer's Office (VTML) 159
 - Wood and Allied Workers' Union 184

France

-
- General Confederation of Labour - Force Ouvrière (CGT-FO) on Conventions Nos. 98
 - Single National Union - Work, Employment, Training and Professional Integration 81, 129

Georgia

-
- International Confederation of Free Trade Unions (ICFTU) on Convention No. 87

Germany

-
- German Confederation of Trade Unions (DGB) on Convention No. 111

Guatemala

-
- International Confederation of Free Trade Unions (ICFTU) on Conventions Nos. 87, 98
 - National State Union Workers Federation (FENASTEG) 87, 98
 - Trade Union Confederation of Guatemala (UNSTRAGUA) 30, 81, 87, 98, 169
 - Trade Union of Workers of Operators of Plants, Wells and Guards of the Municipal Water Company 1, 29, 105
 - World Confederation of Labour (WCL) 81, 87, 98

Haiti

-
- International Confederation of Free Trade Unions (ICFTU) on Conventions Nos. 87, 98

Hungary

-
- International Confederation of Free Trade Unions (ICFTU) on Conventions Nos. 87, 98

India

-
- Centre of Indian Trade Unions (CITU) on Conventions Nos. 89, 100, 111
 - International Confederation of Free Trade Unions (ICFTU) 29

Indonesia

-
- International Confederation of Free Trade Unions (ICFTU) on Conventions Nos. 138, 182

Islamic Republic of Iran

-
- International Confederation of Free Trade Unions (ICFTU) on Convention No. 95

Ireland

- Irish Congress of Trade Union (ICTU)

on Convention No.
98

Italy

- Italian Confederation of Small and Medium Private Enterprises (CONFAPI)
- Italian Confederation of Workers' Union (CISL)
- Italian General Confederation of Labour (CGIL)
- Italian Union of Labour (UIL)

on Conventions Nos.
127
111, 115, 120, 122, 136, 139, 148
115, 120, 122, 136, 139, 148, 159, 181
115, 120, 136, 139, 148

Japan

- All Japan Shipbuilding and Engineering Union (ALSEU)
- Federation of Korean Trade Unions (FKTU) and Korean Confederation of Trade Unions (KCTU)
- Japanese Trade Union Confederation (JTUC-RENGO)
- Zentoitsu Workers Union

on Conventions Nos.
29
29
87, 88, 98, 100, 144
87, 98

Kenya

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
98

Republic of Korea

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
26, 111, 131

Kuwait

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
87

Lesotho

- Congress of Lesotho Trade Unions (CLTU)

on Conventions Nos.
87, 98

Libyan Arab Jamahiriya

- International Confederation of Free Trade Unions (ICFTU)

on Convention No.
87

Malawi

- International Confederation of Free Trade Unions (ICFTU)
- Malawi Trade Union Congress

on Conventions Nos.
87, 98
29, 81, 87, 89, 98, 100, 129, 138, 144,
149, 159

Mali

- National Union of Contractual Workers in the Customs Services (SYNACOD)

on Conventions Nos.
100, 111

Mauritania

- World Confederation of Labour (WCL)

on Conventions Nos.
29, 81, 105, 138, 182

Mexico

- Independent Trade Union of Workers of the National Consumer Protection Office
- Trade Union Delegation of Radio Education (DSRE)

on Conventions Nos.
102
169

Republic of Moldova

- Confederation of Trade Unions of the Republic of Moldova
- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
98
87, 98

Myanmar

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
29, 87

Namibia

- International Confederation of Free Trade Unions (ICFTU)

on Conventions Nos.
87, 98

Netherlands

- Confederation of Netherlands Industry and Employers (VNO-NCW) on Conventions Nos. 74, 81, 145, 180
- National Federation of Christian Trade Unions (CNV) 81, 129, 138, 155, 182
- Netherlands Trade Union Confederation (FNV) 22, 73, 128, 138, 155
- Trade Union Confederation of Middle and Higher Level Employees Unions (MHP) 29, 73, 128, 138, 155, 160, 180

New Zealand

- Business New Zealand on Conventions Nos. 22, 29, 81, 98, 122, 182
- New Zealand Council of Trade Unions (NZCTU) 9, 22, 23, 68, 74, 81, 92, 133, 134, 145, 160, 182

Nicaragua

- International Confederation of Free Trade Unions (ICFTU) on Conventions Nos. 87, 98

Niger

- International Confederation of Free Trade Unions (ICFTU) on Convention No. 29

Nigeria

- International Confederation of Free Trade Unions (ICFTU) on Conventions Nos. 87, 98

Norway

- Confederation of Trade Unions (LO) on Conventions Nos. 81, 129, 150, 163, 178

Oman

- International Confederation of Free Trade Unions (ICFTU) on Convention No. 182

Pakistan

- All Pakistan Federation of Trade Unions (APFTU) on Conventions Nos. 16, 18, 29, 81, 87, 96, 98, 100, 105, 107, 111, 144
- International Confederation of Free Trade Unions (ICFTU) 87, 98

Paraguay

- Dockers' Trade Union of Asunción on Conventions Nos. 98, 117
- International Confederation of Free Trade Unions (ICFTU) 87, 98
- Maritime Workers' League of Paraguay 98, 117

Peru

- Confederation of Workers of Peru on Conventions Nos. 102
- International Confederation of Free Trade Unions (ICFTU) 87, 98
- Single Trade Union of Drivers of the Public Service in Lima 67
- Trade Union of Fishing Boat Owners of Puerto Supe and Associates (SCPPPSA) 55, 56, 81, 102
- Union of Labour Inspectors of the Ministry of Labour and Employment Promotion (SIT - Perú) 81

Philippines

- International Confederation of Free Trade Unions (ICFTU) on Conventions Nos. 87, 98, 182

Poland

- All-Poland Trade Unions Alliance (OPZZ) on Conventions Nos. 95
- International Confederation of Free Trade Unions (ICFTU) 87, 98
- Polish Seafarers' Union 8, 16, 22, 68, 69, 73, 92, 147
- Polish Trade Union of Nurses and Midwives (OZZPiP) 149

Portugal

- Confederation of Portuguese Industry (CIP) on Conventions Nos.
81
- General Confederation of Portuguese Workers (CGTP-IN) 81, 129
- General Union of Workers (UGT) 81, 129, 138, 150, 182
- Portuguese Confederation of Tourism (CTP) 29, 81, 129, 182, 81

Romania

- International Confederation of Free Trade Unions (ICFTU) on Conventions Nos.
81
- World Confederation of Labour (WCL) 87, 98

Russian Federation

- International Confederation of Free Trade Unions (ICFTU) on Conventions Nos.
87, 98

Sao Tome and Principe

- World Confederation of Labour (WCL) on Conventions Nos.
81, 87, 98, 144

Saudi Arabia

- International Confederation of Free Trade Unions (ICFTU) on Convention No.
111

Senegal

- International Confederation of Free Trade Unions (ICFTU) on Conventions Nos.
87, 98

Serbia and Montenegro

- Serbian and Montenegrin Employers' Association on Conventions Nos.
87, 98

Slovakia

- Confederation of Trade Unions of the Slovak Republic (KOZ SR) on Conventions Nos.
87, 144

Spain

- Trade Union Confederation of Workers' Commissions (CC.OO.) on Conventions Nos.
81, 129, 150

Sri Lanka

- Confederation of Public Service Independent Trade Union (COPSITU) on Conventions Nos.
87
- International Confederation of Free Trade Unions (ICFTU) 87, 98
- Union of Post and Telecommunications Officers 87
- World Confederation of Labour (WCL) 81, 87, 98, 138, 182

Sudan

- International Confederation of Free Trade Unions (ICFTU) on Convention No.
29

Sweden

- Confederation of Swedish Enterprise (CSE) on Conventions Nos.
87, 98

Syrian Arab Republic

- International Confederation of Free Trade Unions (ICFTU) on Conventions Nos.
87, 98

Thailand

- National Congress of Thai Labour on Conventions Nos.
88, 100, 122, 127

Trinidad and Tobago

- Employers' Consultative Association of Trinidad and Tobago on Conventions Nos.
87, 98, 100, 111

Turkey

- | | |
|--|--|
| <ul style="list-style-type: none"> • Confederation of Progressive Trade Unions of Turkey (DISK) • Confederation of Public Servants Trade Unions (KESK) • Confederation of Turkish Trade Unions (TÜRK-IS) • TÜM BEL SEN • Turkish Confederation of Employers' Associations (TISK) • Turkish Confederation of Public Workers Associations (Türkiye Kamu-Sen) • YAPI-YOL SEN | on Conventions Nos.
87, 98, 111
87, 98
111
87, 98, 151
29, 111, 138
111
87, 98 |
|--|--|

Ukraine

- | | |
|--|---|
| <ul style="list-style-type: none"> • Confederation of Free Trade Unions of the Lugansk Region - KSPLO • Confederation of Free Trade Unions of Ukraine (KSPU) • International Confederation of Free Trade Unions (ICFTU) | on Conventions Nos.
95
29, 100, 105, 135, 138, 159
87, 98 |
|--|---|

United Arab Emirates

- | | |
|--|-----------------------------------|
| <ul style="list-style-type: none"> • International Confederation of Free Trade Unions (ICFTU) | on Conventions Nos.
182 |
|--|-----------------------------------|

United Kingdom

- | | |
|--|---|
| <ul style="list-style-type: none"> • Confederation of British Industry (CBI) • Trades Union Congress (TUC) | on Conventions Nos.
29
29, 138, 150, 180, 182, 147 |
|--|---|

Isle of Man

- | | |
|---|--|
| <ul style="list-style-type: none"> • Trades Union Congress (TUC) | on Conventions Nos.
92, 133, 147, 178, 180 |
|---|--|

United States

- | | |
|---|--|
| <ul style="list-style-type: none"> • American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) | on Conventions Nos.
144, 182 |
|---|--|

Uruguay

- | | |
|--|---|
| <ul style="list-style-type: none"> • Inter-Union Assembly of Workers - National Convention of Workers (PIT-CNT) | on Conventions Nos.
129, 138, 182 |
|--|---|

Bolivarian Republic of Venezuela

- | | |
|--|--------------------------------------|
| <ul style="list-style-type: none"> • International Confederation of Free Trade Unions (ICFTU) | on Conventions Nos.
87, 98 |
|--|--------------------------------------|

Zambia

- | | |
|--|--------------------------------------|
| <ul style="list-style-type: none"> • International Confederation of Free Trade Unions (ICFTU) | on Conventions Nos.
87, 98 |
|--|--------------------------------------|

Zimbabwe

- | | |
|--|--|
| <ul style="list-style-type: none"> • International Confederation of Free Trade Unions (ICFTU) | on Conventions Nos.
29, 81, 87, 98, 129, 155, 161, 162,
170, 176, 182 |
|--|--|

**Appendix IV. Information supplied by governments with regard to the
obligation to submit Conventions and Recommendations
to the competent authorities**

(31st to 92nd Sessions of the International Labour Conference, 1948-2004)

Note. The number of the Convention or Recommendation is given in parentheses, preceded by the letter "C" or "R" as the case may be, when only some of the texts adopted at any one session have been submitted. The Protocols are indicated by the letter "P" followed by the number of the corresponding Convention. When the ratification of a Convention was registered, that Convention and the corresponding Recommendation are considered as submitted.

Account has been taken of the date of admission or readmission of States Members to the ILO for determining the sessions of the Conference whose texts are taken into consideration.

The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972) and 73rd Session (June 1987).

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Afghanistan	31-56, 58-70	71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Albania	31-49, 79-81, 82(C176; R183), 83, 84(C178; R186), 85, 87-88, 90(P155)	78, 82(P081), 84(C179; C180; P147; R185; R187), 86, 89, 90(R193; R194), 91, 92
Algeria	47-56, 58-72, 74-92	-
Angola	61-72, 74-78, 79(C173), 80-81, 82(C176; R183), 83-85, 87-90	79(R180), 82(P081), 86, 91, 92
Antigua and Barbuda	68-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Argentina	31-56, 58-72, 74-83, 87, 89	84, 85, 86, 88, 90, 91, 92
Armenia	-	80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Australia	31-56, 58-72, 74-91	92
Austria	31-56, 58-72, 74-91	92
Azerbaijan	79(C173), 80-82, 85-87, 92	79(R180), 83, 84, 88, 89, 90, 91
Bahamas	61-72, 74-84, 87	85, 86, 88, 89, 90, 91, 92
Bahrain	63-72, 74-87	88, 89, 90, 91, 92
Bangladesh	58-72, 74-76, 77(C171; R178), 78, 80, 84(C178; C180; P147), 85(C181), 87	77(C170; P089; R177), 79, 81, 82, 83, 84(C179; R185; R186; R187), 85(R188), 86, 88, 89, 90, 91, 92

Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Barbados 51-56, 58-72, 74-91	92
Belarus 37-56, 58-72, 74-92	-
Belgium 31-56, 58-72, 74-90	91, 92
Belize 68-72, 74-76, 84(P147), 87	77, 78, 79, 80, 81, 82, 83, 84(C178; C179; C180; R185; R186; R187), 85, 86, 88, 89, 90, 91, 92
Benin 45-56, 58-72, 74-92	-
Bolivia 31-56, 58-72, 74-79, 80(C174), 81(C175), 82(C176), 83(C177), 84(C178; C179; C180), 85(C181), 87, 88(C183), 89(C184), 91	80(R181), 81(R182), 82(P081; R183), 83(R184), 84(P147; R185; R186; R187), 85(R188), 86, 88(R191), 89(R192), 90, 92
Bosnia and Herzegovina 87	80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Botswana 64-72, 74-77, 78(R179), 79-87	78(C172), 88, 89, 90, 91, 92
Brazil 31-50, 51(C127; R128; R129; R130; R131), 53(R133; R134), 54-56, 58-62, 63(C148; R156; R157), 64(R158; R159), 65-66, 67(C154; C155; R163; R164; R165), 68(C158; P110; R166), 69-72, 74-77, 80, 82(C176; R183), 84(C178; R185), 87, 89	51(C128), 52, 53(C129; C130), 63(C149), 64(C150; C151), 67(C156), 68(C157), 78, 79, 81, 82(P081), 83, 84(C179; C180; P147; R186; R187), 85, 86, 88, 90, 91, 92
Bulgaria 31-56, 58-72, 74-91	92
Burkina Faso 45-56, 58-72, 74-87	88, 89, 90, 91, 92
Burundi 47-56, 58-72, 74-81, 82(C176; P081), 87	82(R183), 83, 84, 85, 86, 88, 89, 90, 91, 92
Cambodia 53-54, 56, 58(C138; R146), 64(C150; R158)	55, 58(C137; R145), 59, 60, 61, 62, 63, 64(C151; R159), 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Cameroon 44-56, 58-68, 72, 74, 87	69, 70, 71, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Canada 31-56, 58-72, 74-90	91, 92
Cape Verde 65-72, 74-81, 87	82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Central African Republic 45-56, 58-72, 74, 87	75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Chad	45-56, 58-72, 74-79, 84-87	80, 81, 82, 83, 88, 89, 90, 91, 92
Chile	31-56, 58-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
China	31-56, 58-72, 74-91	92
Colombia	31-56, 58-72, 74, 75(C167; R175; R176), 76-78, 79(R180), 80, 81(C175), 87, 88(C183), 89(C184)	75(C168), 79(C173), 81(R182), 82, 83, 84, 85, 86, 88(R191), 89(R192), 90, 91, 92
Comoros	65-72, 74-78, 87	79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Congo	45-53, 54(C131; C132), 55(C133; C134), 56, 58(C138; R146), 59, 60(C142; R150), 61, 63(C148; C149; R157), 64-66, 67(C154; C155; C156), 68(C158), 71(C160; C161), 75(C167; C168), 76, 87	54(R135; R136), 55(R137; R138; R139; R140; R141; R142), 58(C137; R145), 60(C141; C143; R149; R151), 62, 63(R156), 67(R163; R164; R165), 68(C157; P110; R166), 69, 70, 71(R170; R171), 72, 74, 75(R175; R176), 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Costa Rica	31-56, 58-72, 74-92	-
Côte d'Ivoire	45-56, 58-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Croatia	80-85, 87	86, 88, 89, 90, 91, 92
Cuba	31-56, 58-72, 74-91	92
Cyprus	45-56, 58-72, 74-90, 92	91
Czech Republic	80-92	-
Democratic Republic of the Congo	45-56, 58-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Denmark	31-56, 58-72, 74-91	92
Djibouti	64-65, 67, 71-72, 83, 87	66, 68, 69, 70, 74, 75, 76, 77, 78, 79, 80, 81, 82, 84, 85, 86, 88, 89, 90, 91, 92
Dominica	68-72, 74-79, 87	80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Dominican Republic	31-56, 58-72, 74-92	-
Ecuador	31-56, 58-72, 74-88, 90(P155), 92	89, 90(R193; R194), 91

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Egypt	31-56, 58-72, 74-92	-
El Salvador	31-56, 58-61, 63(C149), 64(C150), 67(C155; C156; R164; R165), 69(C159; R168), 71-72, 74-81, 87, 90(P155)	62, 63(C148; R156; R157), 64(C151; R158; R159), 65, 66, 67(C154; R163), 68, 69(R167), 70, 82, 83, 84, 85, 86, 88, 89, 90(R193; R194), 91, 92
Equatorial Guinea	67-72, 74-79, 84, 87	80, 81, 82, 83, 85, 86, 88, 89, 90, 91, 92
Eritrea	80-91	92
Estonia	79-92	-
Ethiopia	31-56, 58-72, 74-87, 88(C183), 89	88(R191), 90, 91, 92
Fiji	59-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Finland	31-56, 58-72, 74-92	-
France	31-56, 58-72, 74-92	-
Gabon	45-56, 58-72, 75-81, 82(C176), 83(C177), 84(C179), 85(C181), 87, 89(C184), 91	74, 82(P081; R183), 83(R184), 84(C178; C180; P147; R185; R186; R187), 85(R188), 86, 88, 89(R192), 90, 92
Gambia	87	82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Georgia	85, 86-87	80, 81, 82, 83, 84, 88, 89, 90, 91, 92
Germany	34-56, 58-72, 74-76, 78-92	77
Ghana	40-56, 58-72, 74-79, 83, 84(C178; C179; C180; P147; R187), 85-87	80, 81, 82, 84(R185; R186), 88, 89, 90, 91, 92
Greece	31-56, 58-72, 74-92	-
Grenada	66-72, 74-80, 82(C176), 83(C177), 84(C178), 87	81, 82(P081; R183), 83(R184), 84(C179; C180; P147; R185; R186; R187), 85, 86, 88, 89, 90, 91, 92
Guatemala	31-56, 58-72, 74-92	-
Guinea	43-56, 58-72, 74-83, 87	84, 85, 86, 88, 89, 90, 91, 92

Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Guinea-Bissau 63-72, 74-78, 79(C173), 80(C174), 81(C175), 82(C176), 84(C179), 85(C181), 87	79(R180), 80(R181), 81(R182), 82(P081; R183), 83, 84(C178; C180; P147; R185; R186; R187), 85(R188), 86, 88, 89, 90, 91, 92
Guyana 50-56, 58-72, 74-91	92
Haiti 31-56, 58-66, 67(C156; R165), 69-72, 74, 75(C167)	67(C154; C155; R163; R164), 68, 75(C168; R175; R176), 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Honduras 39-56, 58-72, 74-92	-
Hungary 31-56, 58-72, 74-92	-
Iceland 31-56, 58-72, 74-92	-
India 31-56, 58-72, 74-91	92
Indonesia 33-56, 58-72, 74-92	-
Islamic Republic of Iran 31-56, 58-72, 74-83, 85, 87-89	84, 86, 90, 91, 92
Iraq 31-56, 58-72, 74-87, 89	88, 90, 91, 92
Ireland 31-56, 58-72, 74-87	88, 89, 90, 91, 92
Israel 32-56, 58-72, 74-92	-
Italy 31-56, 58-72, 74-92	-
Jamaica 47-56, 58-72, 74-91	92
Japan 35-56, 58-72, 74-92	-
Jordan 39-56, 58-72, 74-91	92
Kazakhstan 87	80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Kenya 48-56, 58-72, 74-81, 82(C176; R183), 83, 84(C178; C179; C180; R185; R186; R187), 85-87	82(P081), 84(P147), 88, 89, 90, 91, 92
Kiribati -	88, 89, 90, 91, 92

Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Republic of Korea 79-89, 92	90, 91
Kuwait 45-56, 58-72, 74-76, 78-79, 80(C174), 81-85, 87-88, 90	77, 80(R181), 86, 89, 91, 92
Kyrgyzstan 87, 89	79, 80, 81, 82, 83, 84, 85, 86, 88, 90, 91, 92
Lao People's Democratic Republic 48-56, 58-72, 74-81, 87	82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Latvia 79-91	92
Lebanon 31-56, 58-72, 74-92	-
Lesotho 51-53, 66-72, 74-81, 82(C176; R183), 83-87	82(P081), 88, 89, 90, 91, 92
Liberia 31-56, 58-72, 74-76, 77(C170; C171; R177; R178), 78-81, 82(C176; R183), 83, 84(C178; C179; C180; R185; R186; R187), 85-87	77(P089), 82(P081), 84(P147), 88, 89, 90, 91, 92
Libyan Arab Jamahiriya 35-56, 58-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Lithuania 79-92	-
Luxembourg 31-56, 58-72, 74-92	-
Madagascar 45-54, 56, 58-68, 69(C159; R168), 70, 79, 87	55, 69(R167), 71, 72, 74, 75, 76, 77, 78, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Malawi 49-56, 58-72, 74-81, 87	82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Malaysia 41-56, 58-72, 74-92	-
Mali 44-56, 58-72, 74-78, 82-83, 84(C178; C179; C180; R185; R186; R187), 87-88	79, 80, 81, 84(P147), 85, 86, 89, 90, 91, 92
Malta 49-56, 58-72, 74-90	91, 92
Mauritania 45-56, 58-72, 74-80, 81(C175), 82(C176; R183), 83, 84(C178; C179; C180; R185; R186; R187), 85-91	81(R182), 82(P081), 84(P147), 92
Mauritius 53-56, 58-72, 74-92	-
Mexico 31-56, 58-72, 74-89, 90(P155; R194), 91	90(R193), 92

Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Republic of Moldova 79-91	92
Mongolia 52-56, 58-72, 74-81, 87-89	82, 83, 84, 85, 86, 90, 91, 92
Morocco 39-56, 58-72, 74-91	92
Mozambique 61-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Myanmar 31-56, 58-72, 74-92	-
Namibia 78-87, 89(C184), 90(R194)	88, 89(R192), 90(P155; R193), 91, 92
Nepal 51-56, 58-72, 74-81, 83, 85, 87	82, 84, 86, 88, 89, 90, 91, 92
Netherlands 31-56, 58-72, 74-89, 91	90, 92
New Zealand 31-56, 58-72, 74-92	-
Nicaragua 40-56, 58-72, 74-92	-
Niger 45-56, 58-72, 74-82, 87-88	83, 84, 85, 86, 89, 90, 91, 92
Nigeria 45-56, 58-72, 74-92	-
Norway 31-56, 58-72, 74-92	-
Oman 81-91	92
Pakistan 31-56, 58-72, 74-80, 87	81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Panama 31-56, 58-72, 74-87, 88(R191), 89(R192), 90(R193; R194), 92	88(C183), 89(C184), 90(P155), 91
Papua New Guinea 61-72, 74-87	88, 89, 90, 91, 92
Paraguay 40-56, 58-72, 74-84, 87	85, 86, 88, 89, 90, 91, 92
Peru 31-56, 58-72, 74-83, 85-87	84, 88, 89, 90, 91, 92
Philippines 31-56, 58-72, 74-92	-

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Poland	31-56, 58-72, 74-92	-
Portugal	31-56, 58-72, 74-91	92
Qatar	58-72, 74-91	92
Romania	39-56, 58-72, 74-92	-
Russian Federation	37-56, 58-72, 74-88	89, 90, 91, 92
Rwanda	47-56, 58-72, 74-79, 81, 87	80, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Saint Kitts and Nevis	87	83, 84, 85, 86, 88, 89, 90, 91, 92
Saint Lucia	67(C154; R163), 68(C158; R166), 87	66, 67(C155; C156; R164; R165), 68(C157; P110), 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Saint Vincent and the Grenadines	86, 87	82, 83, 84, 85, 88, 89, 90, 91, 92
San Marino	69-72, 74-91	92
Sao Tome and Principe	68-72, 74-76, 87, 89	77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 90, 91, 92
Saudi Arabia	61-72, 74-92	-
Senegal	44-56, 58-72, 74-78, 87	79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Serbia and Montenegro	89	90, 91, 92
Seychelles	63-72, 74-88	89, 90, 91, 92
Sierra Leone	45-56, 58-61, 62(C145; C147; R153; R155)	62(C146; R154), 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Singapore	50-56, 58-72, 74-90	91, 92
Slovakia	80-83, 86-92	84, 85
Slovenia	79-92	-

Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Solomon Islands 74	70, 71, 72, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Somalia 45-56, 58-72, 74-75	76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
South Africa 31-50, 68, 74, 81-91	92
Spain 39-56, 58-62, 63(C148; R156), 64-72, 74-79, 82, 84(C180; R187), 85, 87	63(C149; R157), 80, 81, 83, 84(C178; C179; P147; R185; R186), 86, 88, 89, 90, 91, 92
Sri Lanka 31-56, 58-72, 74-89	90, 91, 92
Sudan 39-56, 58-72, 74-80, 87	81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Suriname 61-72, 74-89	90, 91, 92
Swaziland 60-72, 74-81, 82(C176; R183), 83-85, 87, 88(C183), 89(C184), 90(P155)	82(P081), 86, 88(R191), 89(R192), 90(R193; R194), 91, 92
Sweden 31-56, 58-72, 74-89	90, 91, 92
Switzerland 31-56, 58-72, 74-91	92
Syrian Arab Republic 31-56, 58-65, 67-69, 71-72, 74-76, 87-89	66, 70, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 90, 91, 92
Tajikistan 81-83, 86-87	84, 85, 88, 89, 90, 91, 92
United Republic of Tanzania 46-56, 58-65, 67, 68(C157; C158; R166), 69-72, 74-76, 77(C170; C171; R177; R178), 78-83, 84(C178; C179; C180; R185; R186; R187), 85-89, 91-92	66, 68(P110), 77(P089), 84(P147), 90
Thailand 31-56, 58-72, 74-89	90, 91, 92
The former Yugoslav Republic of Macedonia 80-82, 87	83, 84, 85, 86, 88, 90, 91, 92
Democratic Republic of Timor-Leste -	92
Togo 44-56, 58-72, 74-87, 89	88, 90, 91, 92
Trinidad and Tobago 47-56, 58-72, 74-92	-

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Tunisia	39-56, 58-72, 74-92	-
Turkey	31-56, 58-72, 74-92	-
Turkmenistan	-	81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Uganda	47-56, 58-72, 74-80, 87	81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92
Ukraine	37-56, 58-72, 74-90	91, 92
United Arab Emirates	58-72, 74-92	-
United Kingdom	31-56, 58-72, 74-92	-
United States	31-56, 58-60, 66-72, 74-91	92
Uruguay	31-56, 58-72, 74-85, 87, 89	86, 88, 90, 91, 92
Uzbekistan	-	80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92
Vanuatu	-	91, 92
Bolivarian Republic of Venezuela	31-56, 58-72, 74(R173), 75(C167; R175), 76, 77(C170; R177), 78(R179), 80, 82(C176; R183), 87-88	74(C163; C164; C165; C166; R174), 75(C168; R176), 77(C171; P089; R178), 78(C172), 79, 81, 82(P081), 83, 84, 85, 86, 89, 90, 91, 92
Viet Nam	33-56, 58-63, 80-92	-
Yemen	49-56, 58-72, 74-87, 88(C183), 89(C184)	88(R191), 89(R192), 90, 91, 92
Zambia	49-56, 58-72, 74-82, 87	83, 84, 85, 86, 88, 89, 90, 91, 92
Zimbabwe	66-72, 74-92	-

**Appendix V. Overall position of member States with regard to
the submission to the competent authorities of
the instruments adopted by the Conference
(as of 9 December 2005)**

Sessions of the ILC	Number of States in which, according to the information supplied by the Government:			ILO Member States at the time of the session
	All the instruments have been submitted	Some of the instruments have been submitted	None of the instruments have been submitted	
<i>All the instruments adopted between the 31st and the 50th Sessions have been submitted to the competent authorities by member States</i>				
51st (June 1967)	116	1		117
52nd (June 1968)	117		1	118
53rd (June 1969)	120	1		121
54th (June 1970)	119	1		120
55th (October 1970)	116	1	3	120
56th (June 1971)	120			120
58th (June 1973)	121	2		123
59th (June 1974)	124		1	125
60th (June 1975)	123	1	2	126
61st (June 1976)	129		2	131
62nd (October 1976)	127	1	3	131
63rd (June 1977)	128	4	2	134
64th (June 1978)	131	3	1	135
65th (June 1979)	133		4	137
66th (June 1980)	135		7	142
67th (June 1981)	135	5	3	143
68th (June 1982)	137	4	6	147
69th (June 1983)	139	3	6	148
70th (June 1984)	139		10	149
71st (June 1985)	140	1	8	149
72nd (June 1986)	141		8	149
74th (September 1987)	139	1	9	149
75th (June 1988)	135	4	10	149
76th (June 1989)	135		12	147
77th (June 1990)	126	4	17	147
78th (June 1991)	129	2	18	149
79th (June 1992)	131	4	21	156
80th (June 1993)	134	3	30	167
81st (June 1994)	130	4	37	171
82nd (June 1995)	117	14	42	173
83rd (June 1996)	115	3	56	174
84th (October 1996)	102	15	57	174
85th (June 1997)	111	4	59	174
86th (June 1998)	105		69	174
87th (June 1999)	165		9	174
88th (May 2000)	92	6	77	175
89th (June 2001)	93	7	75	175
90th (June 2002)	74	7	94	175
91st (June 2003)	72		104	176
92nd (June 2004)	49		128	177

Appendix VI. Summary of information supplied by governments with regard to the obligation to submit the instruments adopted by the International Labour Conference to the competent authorities ¹

Article 19 of the Constitution of the International Labour Organization prescribes, in paragraphs 5, 6 and 7, that Members shall bring the Conventions, Recommendations and Protocols adopted by the International Labour Conference before the competent authorities within a specified period. Under the same provisions, the governments of member States shall inform the Director-General of the International Labour Office of the measures taken to submit the instruments to the competent authorities, and also communicate particulars of the authority or authorities regarded as competent, and of the action taken by them.

In accordance with article 23 of the Constitution, a summary of the information communicated in pursuance of article 19 is submitted to the Conference.

At its 267th Session (November 1996), the Governing Body approved new measures of rationalization and simplification. In this connection, the summarized information appears in an appendix to the report of the Committee of Experts on the Application of Conventions and Recommendations.

The present summary contains information relating to the submission to the competent authorities of the instruments adopted by the Conference at its 91st (June 2003) and the 92nd (June 2004) Sessions. The period of 12 months provided for the submission to the competent authorities of Convention No. 185, adopted at the 91st Session, expired on 19 June 2004, and the period of 18 months on 19 December 2004.

The period of 12 months provided for the submission to the competent authorities of Recommendation No. 195 expired on 17 June 2005, and the period of 18 months will expire on 17 December 2005.

This summarized information consists of communications which were forwarded to the Director-General of the International Labour Office after the closure of the 94th Session of the Conference (Geneva, June 2005) and which could not therefore be laid before the Conference at that session.

Algeria. The instruments adopted from the 83rd and 92nd Sessions of the Conference were submitted to the People's National Assembly and the Council of the Nation on 4 May 2005.

Australia. Convention No. 185 was submitted to the Federal Parliament on 24 November 2004.

Austria. Convention No. 185 was submitted to the National Council on 1 June 2005.

Barbados. Convention No. 185 was submitted to Parliament on 20 April 2004.

Belarus. Convention No. 185 and Recommendation No. 195 were submitted on 6 February 2004 and 28 February 2005, respectively.

Benin. Convention No. 185 and Recommendation No. 195 were submitted to the National Assembly on 16 June 2004 and 24 August 2005, respectively.

Bolivia. Convention No. 185 was submitted to the National Congress on 26 April 2005.

Bulgaria. Convention No. 185 was submitted to the National Assembly on 22 March 2004.

China. Convention No. 185 was submitted to the State Council and the Permanent Commission of the National People's Congress.

Cyprus. Recommendation No. 195 was submitted to the House of Representatives.

Costa Rica. Convention No. 185 and Recommendation No. 195 were submitted to the Legislative Assembly on 1 September 2004 and 24 February 2005, respectively.

Cuba. Convention No. 185 was submitted to the competent authorities.

Czech Republic. Convention No. 185 and Recommendation No. 195 were submitted to Parliament on 9 July 2004 and 8 June 2005, respectively.

Denmark. Convention No. 185 was submitted to Parliament (*Folketinget*) in December 2003.

Dominican Republic. Convention No. 185 and Recommendation No. 195 were submitted to the National Congress on 3 November 2004 and 21 March 2005, respectively.

Ecuador. Recommendation No. 195 was submitted to the National Congress on 18 January 2005.

¹ This summary relates to the instruments adopted at the following sessions of the Conference:
91st Session (2003): Seafarers' Identity Documents Convention (Revised), 2003 (No. 185);
92nd Session (2004): Human Resources Development Recommendation, 2004 (No. 195).

Egypt. Convention No. 185 and Recommendation No. 195 were submitted to the People's Assembly on 10 December 2003 and 1 January 2005, respectively.

Eritrea. Convention No. 185 was submitted to the National Assembly on 14 September 2004.

Estonia. Convention No. 185 and Recommendation No. 195 were submitted to Parliament on 7 April 2005.

Finland. Convention No. 185 and Recommendation No. 195 were submitted to Parliament on 8 October 2004 and on 14 October 2005, respectively.

France. The ratification of Convention No. 185 was registered on 27 April 2004. Recommendation No. 195 was submitted to the National Assembly and the Senate on 27 May 2005.

Gabon. Convention No. 185 was submitted to Parliament.

Germany. Convention No. 185 and Recommendation No. 195 were submitted to the Bundestag and the Bundesrat on 26 January 2004 and 20 January 2005, respectively.

Greece. Convention No. 185 and Recommendation No. 195 were submitted to the Greek Chamber of Deputies on 24 August 2004 and on 7 November 2005, respectively.

Guatemala. Convention No. 185 and Recommendation No. 195 were submitted to the Congress of the Republic on 13 May 2004 and 21 January 2005, respectively.

Guyana. Convention No. 185 was submitted to the National Assembly on 20 October 2005.

Honduras. Convention No. 185 and Recommendation No. 195 were submitted to the Congress of the Republic on 19 January 2004 and 12 January 2005, respectively.

Hungary. The ratification of Convention No. 185 was registered on 30 March 2005. Recommendation No. 195 was submitted to Parliament on 16 September 2005.

India. Convention No. 185 was submitted to the House of the People and the Council of States on 23 and 26 August 2004.

Indonesia. Convention No. 185 and Recommendation No. 195 were submitted to the House of Representatives on 6 December 2004 and on 15 December 2005, respectively.

Iceland. The instruments adopted at the 89th, 90th, 91st and 92nd Sessions of the Conference were submitted to Parliament on 23 February 2005.

Israel. Convention No. 185 and Recommendation No. 195 were submitted to the Knesset on 29 April 2004 and 6 October 2005, respectively.

Italy. Convention No. 185 and Recommendation No. 195 were submitted to the Chair of the House of Representatives and of the Senate.

Jamaica. Convention No. 185 was submitted to Parliament on 12 April 2005.

Japan. Convention No. 185 and Recommendation No. 195 were submitted to the Diet on 4 June 2004 and 3 June 2005, respectively.

Jordan. The ratification of Convention No. 185 was registered on 9 August 2004.

Republic of Korea. Recommendation No. 195 was submitted to the National Assembly on 13 October 2005.

Latvia. The instruments adopted from the 81st to the 91st Sessions of the Conference were submitted to Parliament on 4 June 2004.

Lebanon. Convention No. 185 and Recommendation No. 195 were submitted to the National Assembly on 7 October 2004 and 17 October 2005, respectively.

Lithuania. Convention No. 185 and Recommendation No. 195 were submitted to the Seimas on 14 October 2004 and 18 November 2005, respectively.

Luxembourg. Convention No. 185 and Recommendation No. 195 were submitted to the Chamber of Deputies on 1 October 2004 and 14 April 2005, respectively.

Malaysia. Convention No. 185 and Recommendation No. 195 were submitted to Parliament on 20 October 2003 and on 7 December 2004, respectively.

Mauritania. Convention No. 185 was submitted to the competent authorities in May 2004.

Mauritius. Convention No. 185 and Recommendation No. 195 were submitted to the National Assembly on 6 April and 11 October 2005, respectively.

Mexico. Convention No. 185 was submitted to the Senate on 30 November 2004.

Republic of Moldova. Convention No. 185 was submitted to Parliament on 17 August 2004.

Morocco. Convention No. 185 was submitted to Parliament on 6 September 2004.

Myanmar. Convention No. 185 and Recommendation No. 195 were submitted to a competent authority on 24 February 2004 and on 22 August 2005, respectively.

Netherlands. Convention No. 185 was submitted to Parliament on 22 December 2004.

New Zealand. Convention No. 185 and Recommendation No. 195 were submitted to the House of Representatives on 13 October 2004 and 14 November 2005, respectively.

Nicaragua. Convention No. 185 and Recommendation No. 195 were submitted to the National Assembly on 25 November 2003 and 3 February 2005, respectively.

Nigeria. The ratification of Convention No. 185 was registered on 19 August 2004. Recommendation No. 195 was submitted to the National Assembly.

Norway. Convention No. 185 and Recommendation No. 195 were submitted to the Storting (Parliament) on 24 November 2004 and 18 March 2005, respectively.

Oman. Convention No. 185 was submitted to the Council of Ministers and the Consultative Council.

Panama. Recommendation No. 195 was submitted to the Legislative Assembly on 25 April 2005.

Philippines. Convention No. 185 and Recommendation No. 195 were submitted to the House of Representatives and the Senate on 16 February 2004 and 7 April 2005, respectively.

Poland. Convention No. 185 and Recommendation No. 195 were submitted to the Sejm on 1 June 2004 and 14 June 2005, respectively.

Portugal. Convention No. 185 was submitted to the Assembly of the Republic on 29 June 2005.

Qatar. Convention No. 185 was submitted to the Council of Ministers and the Consultative Council in April 2004.

Romania. Convention No. 185 and Recommendation No. 195 were submitted to the House of Representatives and the Senate in March 2004 and March 2005, respectively.

San Marino. Convention No. 185 was submitted to the Great and General Council on 4 May 2004.

Saudi Arabia. Convention No. 185 and Recommendation No. 195 were submitted to the Council of Ministers and the Consultative Council on 21 August 2004 and 18 May 2005, respectively.

Slovakia. Convention No. 185 and Recommendation No. 195 were submitted to the National Council on 15 December 2003 and 17 December 2004, respectively.

Slovenia. Convention No. 185 and Recommendation No. 195 were submitted to the National Assembly on 13 May and 9 September 2004, respectively.

South Africa. Convention No. 185 was submitted to Parliament in September 2004.

Swaziland. Convention No. 185 was submitted to the House of Assembly on 27 April 2005.

Switzerland. Convention No. 185 was submitted to Parliament on 8 September 2004.

United Republic of Tanzania. Convention No. 185 and Recommendation No. 195 were submitted to the National Assembly on 26 May 2005.

Trinidad and Tobago. Convention No. 185 and Recommendation No. 195 were submitted to the Senate on 6 June 2004 and 15 March 2005 and to the House of Representatives on 18 June 2004 and 1 April 2005, respectively.

Tunisia. Convention No. 185 and Recommendation No. 195 were submitted to the Chamber of Councillors on 16 December 2003 and 11 January 2005, respectively.

Turkey. Convention No. 185 and Recommendation No. 195 were submitted to the Grand National Assembly on 22 December 2003 and 26 December 2004, respectively.

United Arab Emirates. Convention No. 185 and Recommendation No. 195 were submitted to the competent authorities.

United Kingdom. Convention No. 185 and Recommendation No. 195 were submitted to Parliament in July 2004 and October 2005, respectively.

United States. Convention No. 185 was submitted to the Senate and the House of Representatives on 7 March 2005.

Viet Nam. Convention No. 185 and Recommendation No. 195 were submitted to the National Assembly on 10 March 2005.

Zimbabwe. Convention No. 185 and Recommendation No. 195 were submitted to Parliament on 12 February 2004 and 7 March 2005, respectively.

The Committee has deemed it necessary in certain cases to request additional information on the nature of the competent authorities to which instruments adopted by the Conference have been submitted, as well as other indications required by the questionnaire at the end of the Memorandum of 1980, as revised in March 2005.

Appendix VII. Comments made by the Committee, by country

The comments referred to below have been drawn up in the form of either "observations", which are reproduced in this report, or "direct requests", which are not published but are communicated directly to the governments concerned. This table also lists acknowledgements by the Committee of responses received to direct requests.

Afghanistan	<p>General Report, paragraphs Nos. 21, 31, 69, 75</p> <p>General observation</p> <p>Observation on submission</p>
Albania	<p>General Report, paragraphs Nos. 27, 75</p> <p>General observation</p> <p>General direct request</p> <p>Observations on Conventions Nos. 26, 87, 95, 144, 151, 182</p> <p>Direct requests on Conventions Nos. 29, 87, 98, 100, 105, 111, 154, 177, 178, 181, 182</p> <p>Direct request on submission</p>
Algeria	<p>Observations on Conventions Nos. 13, 87, 88, 92, 111, 122, 144</p> <p>Direct requests on Conventions Nos. 56, 91, 94, 96, 100, 108, 111</p> <p>Response received to a direct request on Convention No. 73</p> <p>Observation on submission</p>
Angola	<p>General Report, paragraph No. 75</p> <p>Observations on Conventions Nos. 26, 27, 98</p> <p>Direct requests on Conventions Nos. 1, 19, 29, 45, 87, 88, 91, 98, 100, 105, 107, 111</p> <p>Direct request on submission</p>
Antigua and Barbuda	<p>General Report, paragraphs Nos. 21, 27, 31, 75</p> <p>General observation</p> <p>Observations on Conventions Nos. 17, 87, 138</p> <p>Direct requests on Conventions Nos. 14, 29, 81, 101, 111, 138</p> <p>Observation on submission</p>
Argentina	<p>Observations on Conventions Nos. 9, 22, 53, 68, 87, 88, 98, 144</p> <p>Direct requests on Conventions Nos. 1, 45, 73, 87, 98, 129, 139</p> <p>Observation on submission</p>
Armenia	<p>General Report, paragraphs Nos. 21, 27, 69, 75</p> <p>General observation</p> <p>Observation on submission</p>
Australia	<p>Observations on Conventions Nos. 87, 98</p> <p>Direct requests on Conventions Nos. 87, 98, 112, 122</p> <p>Response received to a direct request on Convention No. 58</p>
Norfolk Island	<p>Direct requests on Conventions Nos. 42, 100, 112, 122</p>
Austria	<p>Observation on Convention No. 87</p> <p>Direct requests on Conventions Nos. 45, 100, 111, 122, 176</p>
Azerbaijan	<p>Observations on Conventions Nos. 87, 138</p> <p>Direct requests on Conventions Nos. 13, 16, 45, 73, 81, 88, 98, 100, 105, 111, 120, 126, 129, 135, 138, 144, 148, 149, 159</p> <p>Response received to direct requests on Conventions Nos. 151, 154</p> <p>Observation on submission</p>
Bahamas	<p>General Report, paragraphs Nos. 27, 31</p> <p>General observation</p> <p>General direct request</p> <p>Observation on Convention No. 88</p> <p>Direct requests on Conventions Nos. 22, 29, 45, 87, 98, 100, 111, 117, 144, 182</p> <p>Observation on submission</p>
Bahrain	<p>Direct requests on Conventions Nos. 14, 29, 105, 111, 159</p> <p>Direct request on submission</p>

Bangladesh	<p>Observations on Conventions Nos. 87, 98 <i>Direct requests on Conventions Nos. 16, 45, 87, 96, 144</i> Observation on submission</p>
Barbados	<p>General Report, paragraph No. 31 <i>General direct request</i> Observations on Conventions Nos. 81, 87, 108, 115, 118 <i>Direct requests on Conventions Nos. 63, 98, 100, 105, 111, 122, 138, 144, 147, 182</i> <i>Direct request on submission</i></p>
Belarus	<p>Observations on Conventions Nos. 87, 98, 144 <i>Direct requests on Conventions Nos. 29, 45, 81, 88, 105, 115, 120, 138, 155, 160, 167</i> <i>Response received to a direct request on Convention No. 108</i></p>
Belgium	<p>Observations on Conventions Nos. 62, 87, 147, 162 <i>Direct requests on Conventions Nos. 8, 29, 45, 55, 73, 115, 132, 147, 148, 162, 182</i> <i>Response received to direct requests on Conventions Nos. 9, 120, 139</i> <i>Direct request on submission</i></p>
Belize	<p>General Report, paragraph No. 31 <i>General direct request</i> Observations on Conventions Nos. 87, 98 <i>Direct requests on Conventions Nos. 14, 22, 88, 95, 98, 100, 111, 115, 138, 144, 150, 151, 154, 182</i> Observation on submission</p>
Benin	<p>Observations on Conventions Nos. 87, 105 <i>Direct requests on Conventions Nos. 13, 98, 161</i></p>
Bolivia	<p>Observations on Conventions Nos. 1, 30, 87, 95, 98, 169 <i>Direct requests on Conventions Nos. 45, 87, 95, 117, 159, 169</i> Observation on submission</p>
Bosnia and Herzegovina	<p>General Report, paragraphs Nos. 27, 31, 75 General observation <i>General direct request</i> Observations on Conventions Nos. 14, 81, 87, 98, 100, 106, 111, 132 <i>Direct requests on Conventions Nos. 8, 14, 45, 87, 89, 90, 98, 100, 103, 106, 111, 132, 138, 158</i> Observation on submission</p>
Botswana	<p>General Report, paragraph No. 31 <i>General direct request</i> Observations on Conventions Nos. 98, 105, 151 <i>Direct requests on Conventions Nos. 29, 87, 98, 100, 105, 138, 144, 173, 176, 182</i> <i>Direct request on submission</i></p>
Brazil	<p>Observations on Conventions Nos. 92, 95, 98, 117, 133, 144, 155 <i>Direct requests on Conventions Nos. 22, 45, 53, 92, 98, 108, 120, 125, 132, 133, 134, 139, 146, 147, 155, 160, 162, 163, 164, 166, 169, 171</i> <i>Response received to a direct request on Convention No. 16</i> Observation on submission</p>
Bulgaria	<p>Observation on Convention No. 87 <i>Direct requests on Conventions Nos. 17, 22, 23, 29, 45, 53, 55, 56, 68, 69, 73, 98, 105, 108, 144, 180</i> <i>Response received to direct requests on Conventions Nos. 16, 24, 71</i> <i>Direct request on submission</i></p>
Burkina Faso	<p>General Report, paragraph No. 31 <i>General direct request</i> Observations on Conventions Nos. 87, 111 <i>Direct requests on Conventions Nos. 29, 98, 100, 105, 111, 144, 150, 159, 161, 170</i> <i>Direct request on submission</i></p>

Burundi	<p>General Report, paragraphs Nos. 27, 31 General observation <i>General direct request</i></p> <p>Observations on Conventions Nos. 29, 62, 87, 94, 135 <i>Direct requests on Conventions Nos. 29, 81, 87, 89, 98, 100, 101, 105, 111, 138</i></p> <p>Observation on submission</p>
Cambodia	<p>General Report, paragraphs Nos. 31, 69 <i>General direct request</i></p> <p>Observations on Conventions Nos. 98, 122 <i>Direct requests on Conventions Nos. 4, 13, 87, 100, 105, 111, 138, 150</i></p> <p>Observation on submission</p>
Cameroon	<p>Observations on Conventions Nos. 9, 78, 87, 98, 135, 162 <i>Direct requests on Conventions Nos. 45, 106, 138, 182</i> <i>Response received to a direct request on Convention No. 16</i></p> <p>Observation on submission</p>
Canada	<p>Observation on Convention No. 87 <i>Direct requests on Conventions Nos. 87, 122, 162</i></p>
Cape Verde	<p>General Report, paragraph No. 75 Observations on Conventions Nos. 81, 98 <i>Direct requests on Conventions Nos. 19, 87</i></p> <p>Observation on submission</p>
Central African Republic	<p>Observations on Conventions Nos. 13, 18, 29, 41, 62, 81, 87, 94, 95, 105, 117, 118, 119 <i>Direct requests on Conventions Nos. 29, 88, 95, 98, 100, 105, 111, 118, 138, 182</i></p> <p>Observation on submission</p>
Chad	<p>Observations on Conventions Nos. 26, 81, 87, 111 <i>Direct requests on Conventions Nos. 14, 41, 100, 111, 132, 144, 151, 182</i></p> <p>Observation on submission</p>
Chile	<p>General Report, paragraph No. 31 <i>General direct request</i></p> <p>Observations on Conventions Nos. 9, 103, 111, 127, 161, 162 <i>Direct requests on Conventions Nos. 87, 98, 100, 111, 136, 140, 151, 162</i> <i>Response received to a direct request on Convention No. 16</i></p> <p>Observation on submission</p>
China	<p>Observation on Convention No. 23 <i>Direct requests on Conventions Nos. 16, 32, 45, 138, 150, 170, 182</i> <i>Direct request on submission</i></p> <p>Hong Kong Special Administrative Region Observations on Conventions Nos. 87, 98, 144, 182 <i>Direct requests on Conventions Nos. 101, 105, 108, 115, 182</i></p> <p>Macau Special Administrative Region <i>Direct requests on Conventions Nos. 1, 14, 19, 29, 73, 87, 98, 106, 108, 115, 144, 148, 150, 155, 167, 182</i> <i>Response received to a direct request on Convention No. 120</i></p>
Colombia	<p>Observations on Conventions Nos. 24, 87, 95, 98, 106, 169 <i>Direct requests on Conventions Nos. 9, 13, 16, 22, 23, 24, 25, 87, 88, 136, 144, 161, 162, 167, 170, 174</i></p> <p>Observation on submission</p>
Comoros	<p>General Report, paragraphs Nos. 21, 31, 75 General observation</p> <p>Observations on Conventions Nos. 13, 29, 81, 98, 122 <i>Direct requests on Conventions Nos. 52, 100, 105</i></p> <p>Observation on submission</p>
Congo	<p>General Report, paragraphs Nos. 31, 75 <i>General direct request</i></p> <p>Observations on Conventions Nos. 29, 87, 95, 182 <i>Direct requests on Conventions Nos. 98, 100, 105, 111, 138, 144, 149, 152, 182</i></p> <p>Observation on submission</p>

Costa Rica	<p>Observations on Conventions Nos. 87, 95, 98, 138 <i>Direct requests on Conventions Nos. 45, 87, 117, 144, 147, 150</i> <i>Response received to a direct request on Convention No. 16</i></p>
Côte d'Ivoire	<p>General Report, paragraph No. 31 <i>General direct request</i></p> <p>Observations on Conventions Nos. 29, 81 <i>Direct requests on Conventions Nos. 13, 29, 96, 100, 111, 129, 136, 144, 159</i></p> <p>Observation on submission</p>
Croatia	<p>Observations on Conventions Nos. 87, 98, 139, 162 <i>Direct requests on Conventions Nos. 9, 13, 22, 23, 45, 53, 56, 69, 73, 74, 91, 92, 106, 119, 122, 129, 136, 139, 147, 155, 159</i> <i>Response received to a direct request on Convention No. 16</i></p> <p>Observation on submission</p>
Cuba	<p>Observations on Conventions Nos. 22, 87, 98, 108, 155 <i>Direct requests on Conventions Nos. 45, 53, 63, 81, 92, 98, 100, 111, 122</i> <i>Response received to direct requests on Conventions Nos. 9, 16</i> <i>Direct request on submission</i></p>
Cyprus	<p>Observations on Conventions Nos. 87, 105, 151 <i>Direct requests on Conventions Nos. 23, 45, 92, 100, 122, 138, 147, 150, 159, 160</i> <i>Response received to a direct request on Convention No. 29</i></p>
Czech Republic	<p>Observations on Conventions Nos. 98, 111, 115, 139, 144, 155, 161, 176 <i>Direct requests on Conventions Nos. 13, 29, 45, 87, 105, 111, 120, 139, 155, 159, 160, 161, 176</i></p>
Democratic Republic of the Congo	<p>General Report, paragraphs Nos. 31, 75 <i>General direct request</i></p> <p>Observations on Conventions Nos. 29, 81, 87, 98, 119, 121, 144, 182 <i>Direct requests on Conventions Nos. 29, 62, 87, 88, 98, 100, 102, 105, 111, 117, 135, 138, 150, 182</i></p> <p>Observation on submission</p>
Denmark	<p>Observations on Conventions Nos. 87, 98, 169 <i>Direct requests on Conventions Nos. 29, 52, 115, 120, 122, 126, 138, 147, 148, 152, 155, 169, 182</i> <i>Response received to a direct request on Convention No. 160</i> <i>Direct request on submission</i></p>
Faeroe Islands	<i>General direct request</i>
Greenland	<i>Direct requests on Conventions Nos. 14, 106</i> <i>Direct requests on Conventions Nos. 14, 19, 106, 122</i>
Djibouti	<p>General Report, paragraph No. 75</p> <p>Observations on Conventions Nos. 19, 26, 56, 71, 87, 94, 98, 115, 120 <i>Direct requests on Conventions Nos. 10, 19, 33, 55, 73, 81, 100, 106, 125</i> <i>Response received to direct requests on Conventions Nos. 53, 69, 91</i></p> <p>Observation on submission</p>
Dominica	<p>General Report, paragraph No. 27</p> <p>General observation</p> <p>Observations on Conventions Nos. 29, 87, 111, 138 <i>Direct requests on Conventions Nos. 8, 14, 16, 29, 81, 100, 105, 111</i></p> <p>Observation on submission</p>
Dominican Republic	<p>General Report, paragraph No. 75</p> <p>Observations on Conventions Nos. 87, 98 <i>Direct requests on Conventions Nos. 45, 171</i></p>
Ecuador	<p>Observations on Conventions Nos. 77, 78, 87, 98, 101, 115, 118, 121, 128, 130, 152, 153, 162 <i>Direct requests on Conventions Nos. 45, 81, 101, 117, 149, 152</i> <i>Direct request on submission</i></p>

Egypt	Observations on Conventions Nos. 29, 87, 94, 98, 105, 111 <i>Direct requests on Conventions Nos. 29, 45, 81, 87, 88, 96, 98, 100, 105, 111, 115, 118, 129, 139, 149, 152, 159, 182</i>
El Salvador	Observations on Conventions Nos. 29, 155 <i>Direct requests on Conventions Nos. 29, 105, 144</i> Observation on submission
Equatorial Guinea	General Report, paragraphs Nos. 27, 31 General observation <i>General direct request</i> Observations on Conventions Nos. 87, 98 <i>Direct requests on Conventions Nos. 29, 87, 100, 105, 111, 138</i> Observation on submission
Eritrea	General Report, paragraph No. 31 Observation on Convention No. 111 <i>Direct requests on Conventions Nos. 87, 98, 100, 111</i> <i>Direct request on submission</i>
Estonia	Observation on Convention No. 9 <i>Direct requests on Conventions Nos. 2, 13, 22, 23, 29, 45, 87, 100, 105, 108, 174</i> <i>Response received to direct requests on Conventions Nos. 8, 16</i>
Ethiopia	Observations on Conventions Nos. 87, 98, 111, 155 <i>Direct requests on Conventions Nos. 100, 105, 111, 159, 182</i> <i>Direct request on submission</i>
Fiji	Observation on Convention No. 98 <i>Direct requests on Conventions Nos. 45, 87, 98, 100, 105, 111, 138, 144, 182</i> <i>Response received to a direct request on Convention No. 29</i> Observation on submission
Finland	<i>Direct requests on Conventions Nos. 13, 53, 87, 115, 120, 134, 136, 139, 145, 147, 162, 176, 179, 180, 181, 184</i> <i>Response received to direct requests on Conventions Nos. 16, 73, 98</i>
France	Observations on Conventions Nos. 22, 53, 98, 111, 115, 136, 149 <i>Direct requests on Conventions Nos. 16, 23, 45, 53, 73, 74, 87, 96, 98, 100, 105, 111, 115, 125, 127, 136, 142, 145, 148, 149, 180</i> <i>Response received to direct requests on Conventions Nos. 22, 68, 108, 146</i>
French Guiana	General Report, paragraph No. 31 Observations on Conventions Nos. 22, 53, 115 <i>Direct requests on Conventions Nos. 9, 16, 23, 45, 73, 74, 100, 111, 112, 113, 125, 145, 149</i> <i>Response received to direct requests on Conventions Nos. 22, 146</i>
French Polynesia	Observations on Conventions Nos. 19, 53, 115, 127 <i>Direct requests on Conventions Nos. 16, 19, 29, 45, 73, 82, 100, 111, 122, 125, 126, 144, 149</i> <i>Response received to a direct request on Convention No. 22</i>
French Southern and Antarctic Territories	Observations on Conventions Nos. 8, 16, 22, 73, 134, 147 <i>Direct requests on Conventions Nos. 23, 53, 87, 98, 111, 134, 146</i> <i>Response received to direct requests on Conventions Nos. 68, 108</i>
Guadeloupe	General Report, paragraph No. 31 Observations on Conventions Nos. 22, 53 <i>Direct requests on Conventions Nos. 9, 16, 23, 73, 74, 81, 100, 111, 112, 113, 125, 129, 136, 145, 149</i> <i>Response received to direct requests on Conventions Nos. 22, 146</i>
Martinique	Observations on Conventions Nos. 22, 53, 115 <i>Direct requests on Conventions Nos. 9, 16, 23, 45, 73, 74, 81, 100, 111, 112, 113, 125, 129, 136, 145, 149</i> <i>Response received to direct requests on Conventions Nos. 22, 146</i>
New Caledonia	Observation on Convention No. 127 <i>Direct requests on Conventions Nos. 9, 13, 16, 45, 73, 100, 106, 111, 115, 120, 125, 126, 144, 149</i> <i>Response received to a direct request on Convention No. 147</i>

Réunion	Observations on Conventions Nos. 22, 53, 115 <i>Direct requests on Conventions Nos. 9, 16, 23, 45, 52, 73, 74, 81, 100, 111, 112, 113, 125, 129, 145, 149</i> <i>Response received to direct requests on Conventions Nos. 22, 146</i>
St. Pierre and Miquelon	Observations on Conventions Nos. 22, 53 <i>Direct requests on Conventions Nos. 9, 16, 23, 45, 100, 111, 115, 122, 125, 149</i> <i>Response received to a direct request on Convention No. 145</i>
Gabon	Observations on Conventions Nos. 29, 144, 158, 182 <i>Direct requests on Conventions Nos. 45, 87, 96, 100, 105, 111, 150, 182</i> Observation on submission
Gambia	General Report, paragraphs Nos. 21, 27, 31 General observation <i>Direct requests on Conventions Nos. 87, 98, 100, 111</i> Observation on submission
Georgia	<i>General direct request</i> Observation on Convention No. 87 <i>Direct requests on Conventions Nos. 29, 52, 87, 88, 98, 100, 111, 138, 181, 182</i> Observation on submission
Germany	Observations on Conventions Nos. 29, 87, 98, 115, 162 <i>Direct requests on Conventions Nos. 3, 45, 102, 115, 125, 126, 128, 147, 160, 164, 176, 182</i> Observation on submission
Ghana	<i>General direct request</i> Observations on Conventions Nos. 87, 94, 98, 103, 105, 115, 119 <i>Direct requests on Conventions Nos. 1, 8, 14, 29, 30, 81, 87, 88, 98, 100, 103, 105, 106, 107, 108, 111, 120, 148, 149, 182</i> Observation on submission
Greece	Observations on Conventions Nos. 87, 105 <i>Direct requests on Conventions Nos. 45, 62, 69, 88, 105, 122, 126, 144, 147, 180</i> <i>Response received to a direct request on Convention No. 108</i>
Grenada	General Report, paragraphs Nos. 21, 31 General observation Observation on Convention No. 144 <i>Direct requests on Conventions Nos. 81, 87, 100, 105</i> Observation on submission
Guatemala	Observations on Conventions Nos. 1, 30, 87, 98, 103, 120, 131, 162, 169 <i>Direct requests on Conventions Nos. 16, 45, 58, 88, 96, 103, 108, 112, 169</i>
Guinea	General Report, paragraph No. 75 <i>General direct request</i> Observations on Conventions Nos. 81, 87, 94, 98, 111, 115, 118, 120, 121, 122, 134, 140, 144, 149 <i>Direct requests on Conventions Nos. 3, 16, 29, 62, 100, 105, 111, 113, 117, 118, 133, 136, 139, 148, 150, 152, 159</i> Observation on submission
Guinea-Bissau	<i>General direct request</i> <i>Direct requests on Conventions Nos. 26, 29, 45, 73, 81, 92, 98, 105</i> Observation on submission
Guyana	General Report, paragraphs Nos. 21, 31, 75 General observation Observations on Conventions Nos. 29, 87, 98, 129, 136, 139 <i>Direct requests on Conventions Nos. 2, 81, 100, 111, 115, 129, 138, 144, 149, 150, 166, 182</i> <i>Direct request on submission</i>
Haiti	General Report, paragraph No. 69 <i>General direct request</i> Observations on Conventions Nos. 24, 25, 81, 87, 98 <i>Direct requests on Conventions Nos. 14, 45, 77, 78, 100, 106, 111</i> Observation on submission

Honduras	Observations on Conventions Nos. 87, 98, 100, 108 <i>Direct requests on Conventions Nos. 45, 100, 111</i>
Hungary	Observations on Conventions Nos. 98, 166 <i>Direct requests on Conventions Nos. 19, 29, 45, 81, 87, 105, 129, 132, 136, 165, 182</i>
Iceland	Observation on Convention No. 98 <i>Direct requests on Conventions Nos. 2, 100, 111, 122, 138, 139, 159</i>
India	Observations on Conventions Nos. 1, 89, 100, 107, 111, 115 <i>Direct requests on Conventions Nos. 45, 100, 105, 107, 111, 136, 147</i>
Indonesia	Observations on Conventions Nos. 87, 98, 144 <i>Direct requests on Conventions Nos. 45, 87, 88, 98, 105, 120</i>
Islamic Republic of Iran	Observations on Conventions Nos. 95, 111, 122 <i>Direct requests on Conventions Nos. 100, 111, 182</i> <i>Response received to a direct request on Convention No. 108</i> <i>Direct request on submission</i>
Iraq	General Report, paragraphs Nos. 21, 27, 31 General observation Observations on Conventions Nos. 13, 98, 115 <i>Direct requests on Conventions Nos. 22, 23, 108, 120, 136, 147, 167</i>
Ireland	Observation on Convention No. 159 <i>Direct requests on Conventions Nos. 62, 122, 139, 144, 176</i> <i>Direct request on submission</i>
Israel	<i>Direct requests on Conventions Nos. 96, 100, 105, 111, 122, 138, 150</i> <i>Response received to a direct request on Convention No. 147</i>
Italy	Observations on Conventions Nos. 92, 127, 133, 147 <i>Direct requests on Conventions Nos. 9, 13, 16, 23, 29, 45, 53, 68, 69, 74, 115, 120, 134, 147, 148, 160, 183</i> <i>Response received to direct requests on Conventions Nos. 73, 87</i>
Jamaica	Observations on Conventions Nos. 8, 87, 98, 117 <i>Direct requests on Conventions Nos. 8, 16, 81, 100, 111, 122, 138, 144, 182</i> <i>Direct request on submission</i>
Japan	Observations on Conventions Nos. 87, 88, 98, 115 <i>Direct requests on Conventions Nos. 45, 120, 122, 144, 159, 181</i>
Jordan	<i>Direct requests on Conventions Nos. 29, 105, 117</i> <i>Response received to a direct request on Convention No. 98</i> <i>Direct request on submission</i>
Kazakhstan	General Report, paragraphs Nos. 31, 75 <i>General direct request</i> Observation on Convention No. 148 <i>Direct requests on Conventions Nos. 29, 81, 87, 88, 98, 105, 111, 122, 129, 135, 138, 144, 155</i> Observation on submission
Kenya	Observations on Conventions Nos. 29, 98, 105, 138 <i>Direct requests on Conventions Nos. 19, 29, 63, 105, 182</i> <i>Response received to a direct request on Convention No. 16</i> <i>Direct request on submission</i>
Kiribati	General Report, paragraph No. 75 <i>Direct requests on Conventions Nos. 87, 98</i> <i>Direct request on submission</i>
Republic of Korea	Observations on Conventions Nos. 26, 111, 131 <i>Direct requests on Conventions Nos. 73, 81, 88, 100, 111, 122, 138, 142, 150, 159, 182</i> <i>Direct request on submission</i>

Kuwait	Observations on Conventions Nos. 29, 87, 105, 111, 117 <i>Direct requests on Conventions Nos. 29, 111, 138, 144, 159, 182</i> <i>Direct request on submission</i>
Kyrgyzstan	General Report, paragraphs Nos. 27, 31, 75 General observation <i>General direct request</i> Observation on Convention No. 122 <i>Direct requests on Conventions Nos. 14, 29, 52, 77, 78, 79, 87, 95, 100, 124, 148, 149, 159, 160</i> <i>Response received to a direct request on Convention No. 98</i> Observation on submission
Lao People's Democratic Republic	General Report, paragraphs Nos. 21, 31 General observation <i>Direct requests on Conventions Nos. 13, 29</i> Observation on submission
Latvia	Observation on Convention No. 98 <i>Direct requests on Conventions Nos. 7, 8, 9, 16, 87, 98, 147, 148, 149, 173</i> <i>Response received to a direct request on Convention No. 135</i> Observation on submission
Lebanon	Observations on Conventions Nos. 115, 120, 133, 139 <i>Direct requests on Conventions Nos. 8, 9, 30, 45, 58, 71, 73, 88, 100, 105, 111, 115, 120, 139, 172, 176, 182</i>
Lesotho	Observations on Conventions Nos. 87, 98, 144, 167 <i>Direct requests on Conventions Nos. 29, 45, 87, 100, 105, 111, 150, 155, 167</i> <i>Direct request on submission</i>
Liberia	General Report, paragraphs Nos. 21, 27, 31, 75 General observation Observations on Conventions Nos. 22, 29, 55, 58, 87, 92, 98, 105, 111, 112, 113, 114, 133 <i>Direct requests on Conventions Nos. 29, 53, 147</i> Observation on submission
Libyan Arab Jamahiriya	Observations on Conventions Nos. 88, 95, 102, 103, 118, 121, 122, 128, 130, 131 <i>Direct requests on Conventions Nos. 1, 29, 52, 81, 87, 100, 102, 118, 121, 128, 130, 138, 182</i> Observation on submission
Lithuania	Observation on Convention No. 127 <i>Direct requests on Conventions Nos. 1, 19, 73, 81, 88, 105, 138, 160, 171, 182</i>
Luxembourg	Observations on Conventions Nos. 68, 81 <i>Direct requests on Conventions Nos. 1, 29, 30, 55, 56, 73, 81, 92, 155, 175</i>
Madagascar	Observations on Conventions Nos. 29, 81 <i>Direct requests on Conventions Nos. 14, 29, 88, 97, 111, 117, 122, 123, 138, 159, 173, 182</i> Observation on submission
Malawi	Observations on Conventions Nos. 87, 98, 100, 111, 144 <i>Direct requests on Conventions Nos. 29, 45, 89, 100, 105, 111, 149, 159</i> Observation on submission
Malaysia	Observation on Convention No. 81 <i>Direct requests on Conventions Nos. 98, 138, 182</i>
Sabah	Observation on Convention No. 97
Mali	Observations on Conventions Nos. 14, 182 <i>Direct requests on Conventions Nos. 14, 19, 29, 81, 95, 100, 105, 111, 138, 151, 182</i> Observation on submission

Malta	General Report, paragraph No. 31 <i>General direct request</i> Observation on Convention No. 148 <i>Direct requests on Conventions Nos. 1, 16, 22, 53, 73, 74, 81, 117, 129, 138, 147, 148, 180, 182</i> <i>Direct request on submission</i>
Mauritania	Observations on Conventions Nos. 53, 95, 102, 118 <i>Direct requests on Conventions Nos. 94, 105, 112, 122</i> <i>Direct request on submission</i>
Mauritius	Observations on Conventions Nos. 105, 108, 138, 182 <i>Direct requests on Conventions Nos. 29, 81, 100, 111, 138, 175, 182</i>
Mexico	Observations on Conventions Nos. 100, 111, 169, 182 <i>Direct requests on Conventions Nos. 16, 55, 100, 111, 155, 169, 182</i> <i>Response received to direct requests on Conventions Nos. 58, 120</i>
Republic of Moldova	Observations on Conventions Nos. 105, 111, 122 <i>Direct requests on Conventions Nos. 29, 87, 88, 98, 99, 100, 105, 108, 111, 132, 138, 151, 155, 181, 182, 184</i> <i>Direct request on submission</i>
Mongolia	<i>Direct requests on Conventions Nos. 87, 103, 135, 138, 144, 155, 182</i> Observation on submission
Morocco	Observations on Conventions Nos. 29, 105, 138, 182 <i>Direct requests on Conventions Nos. 2, 29, 81, 105, 122, 129, 138, 146, 147, 178, 181, 182</i> <i>Response received to a direct request on Convention No. 108</i> <i>Direct request on submission</i>
Mozambique	Observation on Convention No. 81 <i>Direct requests on Conventions Nos. 81, 88, 122, 138, 182</i> Observation on submission
Myanmar	Observations on Conventions Nos. 2, 17, 26, 29, 87 <i>Direct request on Convention No. 63</i> <i>Response received to a direct request on Convention No. 22</i>
Namibia	General Report, paragraph No. 31 <i>General direct request</i> <i>Direct requests on Conventions Nos. 29, 87, 98, 105, 138, 150, 182</i> <i>Direct request on submission</i>
Nepal	Observation on Convention No. 144 <i>Direct requests on Conventions Nos. 29, 100, 111, 138, 182</i> Observation on submission
Netherlands	Observations on Conventions Nos. 88, 98, 101, 111, 122, 128, 155, 159, 174, 177, 181 <i>Direct requests on Conventions Nos. 9, 69, 73, 74, 81, 100, 111, 135, 138, 145, 147, 150, 152, 177, 182</i> <i>Direct request on submission</i>
Aruba	General Report, paragraphs Nos. 21, 31 General observation
Netherlands Antilles	Observations on Conventions Nos. 87, 138, 144, 145 <i>Direct requests on Conventions Nos. 8, 25, 29, 81, 87, 88, 105, 113, 122, 135, 138, 146, 147</i> <i>General direct request</i> <i>Direct requests on Conventions Nos. 8, 81, 87, 122, 172</i>
New Zealand	Observations on Conventions Nos. 88, 98, 100, 111, 122 <i>Direct requests on Conventions Nos. 82, 100, 111, 182</i> <i>Response received to a direct request on Convention No. 16</i>
Tokelau	<i>Direct requests on Conventions Nos. 100, 111</i>
Nicaragua	Observations on Conventions Nos. 8, 9, 77, 111, 122 <i>Direct requests on Conventions Nos. 16, 22, 63, 88, 100, 105, 111, 117, 138, 146, 182</i>

Niger	Observations on Conventions Nos. 87, 95, 102, 131 <i>Direct requests on Conventions Nos. 98, 100, 102, 111, 117, 148</i> Observation on submission
Nigeria	Observations on Conventions Nos. 81, 98, 105, 133, 134 <i>Direct requests on Conventions Nos. 8, 29, 100, 111, 133, 138, 182</i>
Norway	Observations on Conventions Nos. 22, 115 <i>Direct requests on Conventions Nos. 69, 73, 115, 120, 122, 138, 139, 162, 164, 179, 182</i> <i>Response received to direct requests on Conventions Nos. 56, 145</i>
Oman	<i>Direct request on submission</i>
Pakistan	Observations on Conventions Nos. 29, 81, 87, 96, 98, 100, 105, 111, 144, 182 <i>Direct requests on Conventions Nos. 1, 14, 16, 18, 22, 45, 87, 89, 100, 105, 106, 159, 182</i> Observation on submission
Panama	Observations on Conventions Nos. 30, 55, 56, 100, 111 <i>Direct requests on Conventions Nos. 8, 16, 100, 111, 117, 122, 126, 138, 182</i> <i>Response received to a direct request on Convention No. 73</i> <i>Direct request on submission</i>
Papua New Guinea	Observation on Convention No. 105 <i>Direct requests on Conventions Nos. 8, 22, 29, 138, 158, 182</i> <i>Direct request on submission</i>
Paraguay	General Report, paragraphs Nos. 21, 27, 31 General observation Observations on Conventions Nos. 29, 79, 81, 87, 90, 98, 111, 115, 117, 120, 169 <i>Direct requests on Conventions Nos. 1, 30, 52, 81, 89, 100, 105, 119, 122, 159</i> Observation on submission
Peru	Observations on Conventions Nos. 1, 29, 44, 67, 100, 169 <i>Direct requests on Conventions Nos. 14, 29, 53, 58, 67, 68, 73, 98, 100, 111, 138, 169, 182</i> <i>Direct request on submission</i>
Philippines	Observations on Conventions Nos. 98, 105, 122, 182 <i>Direct requests on Conventions Nos. 23, 53, 88, 110, 138, 176, 179, 182</i>
Poland	Observations on Conventions Nos. 81, 95, 100, 111, 122, 149 <i>Direct requests on Conventions Nos. 8, 9, 12, 16, 17, 19, 22, 24, 25, 68, 69, 73, 74, 81, 92, 98, 100, 108, 111, 129, 133, 145, 147, 160, 176, 178, 182</i> <i>Response received to direct requests on Conventions Nos. 23, 103, 138</i>
Portugal	Observations on Conventions Nos. 8, 22, 92, 111, 162, 176 <i>Direct requests on Conventions Nos. 23, 29, 68, 69, 73, 74, 100, 108, 111, 115, 117, 138, 139, 145, 146, 147, 150, 155, 162, 181, 182</i> <i>Direct request on submission</i>
Qatar	Observation on Convention No. 111 <i>Direct requests on Conventions Nos. 29, 81, 111</i> <i>Direct request on submission</i>
Romania	Observations on Conventions Nos. 81, 98, 111, 122, 138 <i>Direct requests on Conventions Nos. 8, 16, 22, 68, 88, 92, 100, 105, 111, 129, 133, 147, 166, 182, 183</i>
Russian Federation	<i>General direct request</i> Observations on Conventions Nos. 29, 87, 95, 122, 138 <i>Direct requests on Conventions Nos. 16, 23, 29, 45, 52, 73, 81, 98, 100, 105, 108, 111, 120, 126, 138, 147, 159, 179</i> <i>Direct request on submission</i>
Rwanda	Observations on Conventions Nos. 100, 105, 111 <i>Direct requests on Conventions Nos. 29, 100, 105, 111, 138, 182</i> Observation on submission

Saint Kitts and Nevis	<p>General Report, paragraph No. 27 General observation <i>General direct request</i> <i>Direct requests on Conventions Nos. 29, 105, 144, 182</i> Observation on submission</p>
Saint Lucia	<p>General Report, paragraphs Nos. 21, 27, 31 General observation <i>Direct requests on Conventions Nos. 7, 8, 14, 87, 100, 111</i> Observation on submission</p>
Saint Vincent and the Grenadines	<p>Observation on Convention No. 16 <i>Direct requests on Conventions Nos. 29, 81, 95, 101, 105, 108, 180, 182</i> <i>Response received to a direct request on Convention No. 7</i> Observation on submission</p>
San Marino	<p>General Report, paragraph No. 31 <i>General direct request</i> <i>Direct requests on Conventions Nos. 29, 88, 100, 142, 148, 160, 182</i> <i>Response received to a direct request on Convention No. 105</i> <i>Direct request on submission</i></p>
Sao Tome and Principe	<p>General Report, paragraphs Nos. 21, 31, 75 General observation Observations on Conventions Nos. 18, 81, 87, 88, 144 <i>Direct requests on Conventions Nos. 19, 81, 100, 111, 159</i> Observation on submission</p>
Saudi Arabia	<p><i>Direct requests on Conventions Nos. 45, 174, 182</i></p>
Senegal	<p>General Report, paragraph No. 31 <i>General direct request</i> Observation on Convention No. 87 <i>Direct requests on Conventions Nos. 19, 29, 81, 100, 105, 111, 117, 122, 138, 182</i> Observation on submission</p>
Serbia and Montenegro	<p>General Report, paragraph No. 27 General observation Observations on Conventions Nos. 87, 98, 131 <i>Direct requests on Conventions Nos. 9, 11, 12, 13, 14, 19, 29, 32, 45, 81, 92, 102, 106, 119, 121, 129, 131, 135, 136, 138, 139, 140, 142, 148, 155, 158, 161, 162, 182</i> <i>Direct request on submission</i></p>
Seychelles	<p>General Report, paragraph No. 31 <i>General direct request</i> Observations on Conventions Nos. 8, 87 <i>Direct requests on Conventions Nos. 8, 98, 100, 105, 108, 111, 138, 148, 150, 151, 182</i> <i>Direct request on submission</i></p>
Sierra Leone	<p>General Report, paragraphs Nos. 69, 75 <i>General direct request</i> Observations on Conventions Nos. 29, 105, 119, 125 <i>Direct requests on Conventions Nos. 45, 81, 94, 95, 126</i> <i>Response received to a direct request on Convention No. 29</i> Observation on submission</p>
Singapore	<p>General Report, paragraph No. 31 <i>General direct request</i> Observation on Convention No. 29 <i>Direct requests on Conventions Nos. 8, 22, 29, 100, 182</i> <i>Direct request on submission</i></p>

Slovakia	<p>Observations on Conventions Nos. 100, 111, 122, 144 <i>Direct requests on Conventions Nos. 29, 87, 88, 98, 100, 105, 111, 120, 138, 156, 160, 161, 163, 164, 171, 182, 184</i> <i>Response received to a direct request on Convention No. 19</i></p>
Slovenia	<p>Observation on Convention No. 111 <i>Direct requests on Conventions Nos. 8, 19, 53, 73, 98, 111, 113, 114, 122, 138, 140, 147, 149, 155, 173, 182</i> <i>Response received to direct requests on Conventions Nos. 16, 69</i></p>
Solomon Islands	<p>General Report, paragraphs Nos. 69, 75 <i>Direct requests on Conventions Nos. 8, 14, 16, 26, 29, 45, 94, 95</i> Observation on submission</p>
Somalia	<p>General Report, paragraphs Nos. 69, 75 General observation Observation on submission</p>
South Africa	<p><i>Direct requests on Conventions Nos. 29, 105, 138, 155, 176, 182</i> <i>Direct request on submission</i></p>
Spain	<p>Observation on Convention No. 155 <i>Direct requests on Conventions Nos. 8, 29, 81, 88, 117, 120, 122, 138, 148, 164, 166, 176, 182</i> <i>Response received to direct requests on Conventions Nos. 16, 73, 142, 146</i> Observation on submission</p>
Sri Lanka	<p>Observations on Conventions Nos. 29, 98, 103 <i>Direct requests on Conventions Nos. 16, 29, 58, 87, 103, 106</i> <i>Direct request on submission</i></p>
Sudan	<p>Observations on Conventions Nos. 95, 122 Observation on submission</p>
Suriname	<p>Observation on Convention No. 88 <i>Direct requests on Conventions Nos. 81, 105, 122</i> <i>Direct request on submission</i></p>
Swaziland	<p>General Report, paragraph No. 31 Observations on Conventions Nos. 29, 81, 96, 144 <i>Direct requests on Conventions Nos. 14, 45, 89, 100, 111, 131, 138, 160, 182</i> Observation on submission</p>
Sweden	<p>Observation on Convention No. 115 <i>Direct requests on Conventions Nos. 9, 100, 111, 115, 122, 145, 149, 162, 170, 175, 176, 178</i> <i>Response received to direct requests on Conventions Nos. 73, 128, 147</i> <i>Direct request on submission</i></p>
Switzerland	<p>Observations on Conventions Nos. 98, 144, 162 <i>Direct requests on Conventions Nos. 29, 45, 88, 100, 111, 138, 142, 162, 182</i></p>
Syrian Arab Republic	<p>Observations on Conventions Nos. 29, 30, 81, 98, 105, 111, 118 <i>Direct requests on Conventions Nos. 1, 29, 30, 45, 63, 100, 111, 117, 138, 139</i> Observation on submission</p>
Tajikistan	<p>General Report, paragraph No. 75 General observation Observation on submission</p>
United Republic of Tanzania	<p><i>Direct requests on Conventions Nos. 16, 94, 100, 111, 137, 138, 182</i> Observation on submission</p>
Tanganyika	<p>General Report, paragraph No. 31 <i>General direct request</i> Observation on Convention No. 81 <i>Direct requests on Conventions Nos. 81, 88, 101, 108</i></p>
Zanzibar	<p><i>Direct request on Convention No. 58</i></p>

Thailand	<p>General Report, paragraph No. 31 <i>General direct request</i></p> <p>Observations on Conventions Nos. 29, 88, 105, 122, 182 <i>Direct requests on Conventions Nos. 14, 100, 105, 127, 182</i></p> <p>Observation on submission</p>
The former Yugoslav Republic of Macedonia	<p>General Report, paragraphs Nos. 21, 27, 31, 75 General observation</p> <p>Observations on Conventions Nos. 87, 98 Observation on submission</p>
Democratic Republic of Timor-Leste	<i>Direct request on submission</i>
Togo	<p>General Report, paragraphs Nos. 31, 75 <i>General direct request</i></p> <p><i>Direct requests on Conventions Nos. 29, 105, 138, 182</i></p> <p><i>Direct request on submission</i></p>
Trinidad and Tobago	<p>Observations on Conventions Nos. 87, 98, 100, 105, 111, 125 <i>Direct requests on Conventions Nos. 16, 29, 100, 111, 144, 147, 159</i></p>
Tunisia	<p><i>Direct requests on Conventions Nos. 29, 117, 122, 138, 182</i></p> <p><i>Response received to a direct request on Convention No. 73</i></p>
Turkey	<p>Observations on Conventions Nos. 87, 98, 100, 111, 138, 151, 182 <i>Direct requests on Conventions Nos. 100, 111, 115, 138, 182</i></p>
Turkmenistan	<p>General Report, paragraphs Nos. 21, 27, 69, 75 General observation Observation on submission</p>
Uganda	<p>General Report, paragraphs Nos. 27, 31, 75 General observation <i>General direct request</i></p> <p>Observations on Conventions Nos. 17, 29, 81, 105, 122, 143 <i>Direct requests on Conventions Nos. 26, 94, 123, 159</i></p> <p>Observation on submission</p>
Ukraine	<p>Observations on Conventions Nos. 95, 111, 122, 138, 182 <i>Direct requests on Conventions Nos. 16, 23, 29, 45, 69, 73, 98, 100, 108, 111, 115, 126, 133, 135, 138, 144, 147, 154, 182</i></p> <p><i>Response received to a direct request on Convention No. 2</i></p> <p><i>Direct request on submission</i></p>
United Arab Emirates	<p>Observations on Conventions Nos. 29, 138, 182 <i>Direct requests on Conventions Nos. 1, 29, 105, 138, 182</i></p>
United Kingdom	<p>Observations on Conventions Nos. 100, 115, 122, 147 <i>Direct requests on Conventions Nos. 8, 92, 100, 111, 115, 126, 133, 138, 180, 182</i></p> <p><i>Response received to a direct request on Convention No. 148</i></p>
Anguilla	<p>General Report, paragraph No. 31 <i>General direct request</i></p> <p>Observations on Conventions Nos. 8, 148 <i>Direct requests on Conventions Nos. 22, 23, 29, 82</i></p>
Bermuda	<p>Observation on Convention No. 82 <i>Direct request on Convention No. 98</i></p>
British Virgin Islands	<p><i>General direct request</i></p> <p><i>Direct requests on Conventions Nos. 8, 82</i></p>
Falkland Islands (Malvinas)	<p><i>General direct request</i></p> <p>Observation on Convention No. 8 <i>Direct requests on Conventions Nos. 45, 82</i></p>
Gibraltar	<p><i>Direct requests on Conventions Nos. 45, 82</i></p> <p><i>Response received to direct requests on Conventions Nos. 22, 58</i></p>
Guernsey	<i>Direct requests on Conventions Nos. 8, 24, 25, 56, 115</i>

Isle of Man	Observation on Convention No. 98 <i>Direct requests on Conventions Nos. 81, 147, 160, 178, 180</i> <i>Response received to direct requests on Conventions Nos. 23, 133</i>
Jersey	<i>Direct requests on Conventions Nos. 8, 115</i> <i>Response received to a direct request on Convention No. 22</i>
Montserrat	General Report, paragraph No. 31 <i>General direct request</i>
St. Helena	Observation on Convention No. 8 <i>Direct requests on Conventions Nos. 14, 26, 29, 95</i> General Report, paragraphs Nos. 21, 31 General observation <i>Direct requests on Conventions Nos. 29, 108</i>
United States	General Report, paragraph No. 31 <i>General direct request</i> Observations on Conventions Nos. 105, 182 <i>Direct requests on Conventions Nos. 55, 105, 147, 160, 176</i>
American Samoa	<i>General direct request</i> <i>Direct request on Convention No. 55</i>
Guam	<i>General direct request</i> <i>Direct request on Convention No. 55</i>
Northern Mariana Islands	<i>General direct request</i>
Puerto Rico	<i>General direct request</i> <i>Direct request on Convention No. 55</i>
United States Virgin Islands	<i>General direct request</i> <i>Direct request on Convention No. 55</i>
Uruguay	Observations on Conventions Nos. 94, 100, 103, 111, 115, 122, 128, 131, 139 <i>Direct requests on Conventions Nos. 1, 100, 103, 108, 111, 115, 128, 149, 153, 155</i> <i>Response received to direct requests on Conventions Nos. 16, 73</i> <i>Direct request on submission</i>
Uzbekistan	General Report, paragraphs Nos. 69, 75 <i>General direct request</i> <i>Direct requests on Conventions Nos. 29, 47, 52, 100, 103, 105, 111, 122</i> Observation on submission
Vanuatu	<i>Direct request on submission</i>
Bolivarian Republic of Venezuela	Observations on Conventions Nos. 87, 88, 102, 118, 121, 128, 130, 138, 144 <i>Direct requests on Conventions Nos. 45, 117, 122, 140, 149</i> <i>Response received to a direct request on Convention No. 87</i> Observation on submission
Viet Nam	General Report, paragraph No. 31 <i>General direct request</i> Observation on Convention No. 81 <i>Direct requests on Conventions Nos. 81, 138, 182</i>
Yemen	Observations on Conventions Nos. 98, 135 <i>Direct requests on Conventions Nos. 14, 16, 58, 122, 132, 138, 182</i> <i>Direct request on submission</i>
Zambia	General Report, paragraphs Nos. 31, 75 <i>General direct request</i> Observations on Conventions Nos. 29, 87, 95, 138, 182 <i>Direct requests on Conventions Nos. 29, 87, 98, 100, 111, 122, 131, 136, 138, 144, 148, 149, 150, 159, 173, 176, 182</i> Observation on submission
Zimbabwe	Observations on Conventions Nos. 87, 98, 155, 161, 162, 176 <i>Direct requests on Conventions Nos. 29, 87, 105, 138, 170, 182</i>