



International  
Labour  
Office  
Geneva

# Application of International Labour Standards 2014 (I)



REPORT III (Part 1A)

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

**International Labour Conference, 103rd Session, 2014**

# **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 **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 by 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) The **Reader's note** provides indications on the Committee of Experts and the Committee on the Application of Standards of the International Labour Conference (their mandate, functioning and the institutional context in which they operate) (**Part 1A, pages 1–4**).
- (b) **Part I: the General Report** describes the manner in which the Committee of Experts undertakes its work and the extent to which member States have fulfilled their constitutional obligations in relation to international labour standards, and it draws the attention to issues of general interest arising out of the Committee's work (**Part 1A, pages 5–41**).
- (c) **Part II: Observations concerning particular countries** cover the sending of reports, the application of ratified Conventions (see section I), and the obligation to submit instruments to the competent authorities (see section II) (**Part 1A, pages 43–586**).
- (d) **Part III: General Survey**, in which the Committee of Experts examines the state of the legislation and practice regarding a specific area covered by a given number of Conventions and Recommendations. This examination covers all member States regardless of whether or not they have ratified the given Conventions. The General Survey is published as a separate volume (Report III (Part 1B)) and this year it concerns the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135) (**Part 1B**).

Finally, the *Information document on ratifications and standards-related activities* is prepared by the Office and supplements the information contained in the report of the Committee of Experts. This document primarily provides an overview of recent developments relating to international labour standards, the implementation of special supervisory procedures and technical cooperation in relation to international labour standards. It contains, in tabular form, information on the ratification of Conventions and Protocols, and "country profiles" (**Part 2**).

The report of the Committee of Experts is also available at: [www.ilo.org/global/standards/lang-en/index.htm](http://www.ilo.org/global/standards/lang-en/index.htm).



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## List of Conventions by Subject

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

- |   |   |
|---|---|
| ★ | Convention revised in whole or in part by a subsequent Convention or Protocol.                          |
| ● | Convention no longer open to ratification as a result of the entry into force of a revising Convention. |
| ◆ | Convention not in force.  |
| ■ | Convention withdrawn.   |

### 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 | <b>Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)</b> |
| C098 | <b>Right to Organise and Collective Bargaining Convention, 1949 (No. 98)</b>                    |
| 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 | <b>Forced Labour Convention, 1930 (No. 29)</b>               |
| C105 | <b>Abolition of Forced Labour Convention, 1957 (No. 105)</b> |

### 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 | <b>Minimum Age Convention, 1973 (No. 138)</b>   |
|   | C182 | <b>Worst Forms of Child Labour Convention, 1999 (No. 182)</b>                               |

### 4 Equality of opportunity and treatment

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

### 5 Tripartite consultation

- |      |  |
|------|--|
| C144 | <i>Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)</i> |
|------|--|

<b>6</b>	<b>Labour administration and inspection</b>	
●	C063	Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)
★	C081	<i>Labour Inspection Convention, 1947 (No. 81)</i>
	C085	Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)
	C129	<i>Labour Inspection (Agriculture) Convention, 1969 (No. 129)</i>
	C150	Labour Administration Convention, 1978 (No. 150)
	C160	Labour Statistics Convention, 1985 (No. 160)
<b>7</b>	<b>Employment policy and promotion</b>	
	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	<i>Employment Policy Convention, 1964 (No. 122)</i>
	C159	Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
	C181	Private Employment Agencies Convention, 1997 (No. 181)
<b>8</b>	<b>Vocational guidance and training</b>	
	C140	Paid Educational Leave Convention, 1974 (No. 140)
	C142	Human Resources Development Convention, 1975 (No. 142)
<b>9</b>	<b>Employment security</b>	
	C158	Termination of Employment Convention, 1982 (No. 158)
<b>10</b>	<b>Wages</b>	
	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)
- C031 Hours of Work (Coal Mines) Convention, 1931 (No. 31)
- C041 Night Work (Women) Convention (Revised), 1934 (No. 41)
- C043 Sheet-Glass Works Convention, 1934 (No. 43)
- C046 Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46)
- C047 Forty-Hour Week Convention, 1935 (No. 47)
- C049 Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935 (No. 49)
- C051 Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51)
- C052 Holidays with Pay Convention, 1936 (No. 52)
- C061 Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61)
- 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)
- C187 Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

<b>13 Social security</b>		
★	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)
<b>14 Maternity protection</b>		
★	C003	Maternity Protection Convention, 1919 (No. 3)
●	C103	Maternity Protection Convention (Revised), 1952 (No. 103)
	C183	Maternity Protection Convention, 2000 (No. 183)
<b>15 Social policy</b>		
★	C082	Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82)
	C117	Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)
<b>16 Migrant workers</b>		
	C021	Inspection of Emigrants Convention, 1926 (No. 21)
■	C066	Migration for Employment Convention, 1939 (No. 66)
	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)
★◆●	C054	Holidays with Pay (Sea) Convention, 1936 (No. 54)
★	C055	Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
★●	C056	Sickness Insurance (Sea) Convention, 1936 (No. 56)
★◆●	C057	Hours of Work and Manning (Sea) Convention, 1936 (No. 57)
★	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)
★◆●	C070	Social Security (Seafarers) Convention, 1946 (No. 70)
	C071	Seafarers' Pensions Convention, 1946 (No. 71)
★◆●	C072	Paid Vacations (Seafarers) Convention, 1946 (No. 72)
★	C073	Medical Examination (Seafarers) Convention, 1946 (No. 73)
★	C074	Certification of Able Seamen Convention, 1946 (No. 74)
★◆●	C075	Accommodation of Crews Convention, 1946 (No. 75)
★◆●	C076	Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)
★●	C091	Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)
★	C092	Accommodation of Crews Convention (Revised), 1949 (No. 92)
★◆●	C093	Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93)
●	C108	Seafarers' Identity Documents Convention, 1958 (No. 108)
★◆●	C109	Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)
★	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)
	MLC	Maritime Labour Convention, 2006

<b>18</b>	<b>Fishers</b>	
★	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)
◆	C188	Work in Fishing Convention, 2007 (No. 188)
<b>19</b>	<b>Dockworkers</b>	
	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)
<b>20</b>	<b>Indigenous and tribal peoples</b>	
	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)
<b>21</b>	<b>Specific categories of workers</b>	
	C083	Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83)
★	C110	Plantations Convention, 1958 (No. 110)
	C149	Nursing Personnel Convention, 1977 (No. 149)
	C172	Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)
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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 (ILO) has included adopting international labour standards, promoting their ratification and application in its member States, and the supervision of their application as a fundamental means of achieving its objectives. In order to monitor the progress of member States in the application of international labour standards, the ILO has developed supervisory mechanisms which are unique at the international level.<sup>1</sup>

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 periodically on the 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 a regular procedure through annual reports (article 22 of the ILO Constitution),<sup>2</sup> as well as through special procedures based on representations or complaints to the Governing Body made by ILO constituents (articles 24 and 26 of the Constitution, respectively). Moreover, since 1950, a special procedure has existed whereby complaints relating to freedom of association are referred to the Committee on Freedom of Association of the Governing Body. The Committee on Freedom of Association may also examine complaints relating to member States that have not ratified the relevant freedom of association Conventions.

### Role of employers' and workers' organizations

As a natural consequence of its tripartite structure, the ILO was the first international organization to associate the social partners 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 and information submitted by governments in accordance with articles 19 and 22 must be communicated to the representative organizations.

In practice, representative employers' and workers' organizations may submit to their governments comments on the reports concerning the implementation of ratified Conventions. They may, for instance, draw attention to a discrepancy in law or practice regarding a Convention and thus lead the Committee of Experts to request further information from the government. Furthermore, any employers' or workers' organization may submit comments 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 comments are examined by the Committee of Experts.

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<sup>1</sup> For detailed information on all the supervisory procedures, see the *Handbook of procedures relating to international labour Conventions and Recommendations*, International Labour Standards Department, International Labour Office, Geneva, Rev., 2012.

<sup>2</sup> Reports are requested every three years for the fundamental Conventions and governance Conventions, and every five years for other Conventions. Reports are due for groups of Conventions according to subject matter.

## **Origins of the Conference Committee on the Application of Standards and the Committee of Experts on the Application of Conventions and Recommendations**

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 rapidly 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 of these reports at the same time as adopting standards and discussing other important matters. In response to this situation, the Conference in 1926 adopted a resolution<sup>3</sup> establishing on an annual basis a Conference Committee (subsequently named the Conference Committee on the Application of Standards) and requesting the Governing Body to appoint a technical committee (subsequently named the Committee of Experts on the Application of Conventions and Recommendations) which would be responsible for drawing up a report for the Conference. These two committees have become the two pillars of the ILO supervisory system.

### **Committee of Experts on the Application of Conventions and Recommendations**

#### **Composition**

The Committee of Experts is composed of 20 members,<sup>4</sup> who are outstanding legal experts at the national and international levels. The members of the Committee are appointed by the Governing Body upon the proposal of the Director-General. Appointments are made in a personal capacity from among impartial persons of competence and independent standing drawn from all regions of the world, in order to enable the Committee to have at its disposal first-hand experience of different legal, economic and social systems. The appointments are made for renewable periods of three years. In 2002, the Committee decided that there would be a limit of 15 years' service for all members, representing a maximum of four renewals after the first three-year appointment. At its 79th Session (November–December 2008), the Committee decided that its Chairperson would be elected for a period of three years, which would be renewable once for a further three years. At the start of each session, the Committee would also elect a Reporter.

#### **Mandate**

The Committee of Experts meets annually in November–December. In accordance with the mandate given by the Governing Body,<sup>5</sup> the Committee is called upon to examine the following:

- the annual reports under article 22 of the 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.<sup>6</sup>

The task of the Committee of Experts is to indicate the extent to which each member State's legislation and practice are in conformity with ratified Conventions and the extent to which member States have fulfilled their obligations under the ILO Constitution in relation to standards. In carrying out this task, the Committee adheres to its principles of independence, objectivity and impartiality.

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 Conference Committee on the Application of Standards in June every year. Direct requests usually relate to questions of a more technical nature. They are not published in the report of the Committee of Experts, but are communicated directly to the government concerned.<sup>7</sup> In addition, the Committee of Experts examines, in the context of the General Survey, the state of the legislation and practice concerning a specific area covered by a given number of Conventions and Recommendations chosen by the Governing Body. The General Survey is

<sup>3</sup> Appendix VII, *Record of Proceedings* of the Eighth Session of the International Labour Conference, 1926, Vol. 1.

<sup>4</sup> There are currently 18 experts appointed.

<sup>5</sup> Terms of reference of the Committee of Experts, Minutes of the 103rd Session of the Governing Body (1947), Appendix XII, para. 37.

<sup>6</sup> Article 35 covers the application of Conventions to non-metropolitan territories.

<sup>7</sup> Observations and direct requests are accessible through the NORMLEX database available at: <http://www.ilo.org>.

based on the reports submitted in accordance with articles 19 and 22 of the Constitution, and it covers all member States regardless of whether or not they have ratified the concerned Conventions. This year's General Survey covers minimum wage fixing. Pursuant to the decision taken by the Governing Body at its 307th Session (March 2010), the subjects of General Surveys have been aligned with the four strategic objectives of the ILO as set out in the ILO Declaration on Social Justice for a Fair Globalization, 2008 (the Social Justice Declaration).<sup>8</sup>

## Report of the Committee of Experts

As a result of its work, the Committee produces an annual report. The report consists of two volumes. The first volume (Report III (Part 1A))<sup>9</sup> is divided into two parts:

- **Part I: the General Report** describes, on the one hand, the progress of the work of the Committee of Experts and specific matters relating to it that have been addressed by the Committee and, on the other hand, the extent to which member States have fulfilled their constitutional obligations in relation to international labour standards.
- **Part II: Observations concerning particular countries** on the fulfilment of obligations in respect of the submission of reports, the application of ratified Conventions grouped by subject matter and the obligation to submit instruments to the competent authorities.

The second volume contains the **General Survey** (Report III (Part 1B)).<sup>10</sup>

Furthermore, an *Information document on ratifications and standards-related activities* (Report III (Part 2)) accompanies the report of the Committee of Experts.<sup>11</sup>

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

### Composition

The Conference Committee on the Application of Standards is one of the two standing committees of the Conference. It is tripartite and therefore comprises representatives of governments, employers and workers. At each session, the Committee elects its Officers, which include a Chairperson (Government member), two Vice-Chairpersons (Employer member and Worker member) and a Reporter (Government member).

### Mandate

The Conference Committee on the Application of Standards meets annually at the June session of the Conference. Pursuant to article 7 of the Standing Orders of the Conference, the Committee shall consider:

- measures taken to give effect to ratified Conventions (*article 22 of the Constitution*);
- reports communicated in accordance with article 19 of the Constitution (*General Surveys*);
- measures taken in accordance with article 35 of the Constitution (*non-metropolitan territories*).

The Committee is required to present a report to the Conference.

Following the independent technical examination carried out by the Committee of Experts, the proceedings of the Conference Committee on the Application of Standards provide an opportunity for the representatives of governments, employers and workers to examine together the manner in which States are fulfilling 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.

<sup>8</sup> By virtue of the follow-up to the Social Justice Declaration, a system of annual recurrent discussions in the framework of the Conference has been established to enable the Organization to gain a better understanding of the situation and varying needs of its members in relation to the four strategic objectives of the ILO, namely: employment; social protection; social dialogue and tripartism; and fundamental principles and rights at work. The Governing Body considered that the recurrent reports prepared by the Office for the purposes of the Conference discussion should benefit from the information on the law and practice of member States contained in General Surveys, as well as from the outcome of the discussions of General Surveys by the Conference Committee.

<sup>9</sup> This citation reflects the agenda of the International Labour Conference, which contains as a permanent item, item III relating to information and reports on the application of Conventions and Recommendations.

<sup>10</sup> *ibid.*

<sup>11</sup> This document provides an overview of recent developments relating to international labour standards, the implementation of special procedures and technical cooperation in relation to international labour standards. It also contains, in the form of tables, full information on the ratification of Conventions, together with "country profiles" containing key information on standards for each country.

The Conference Committee on the Application of Standards discusses the report and the General Survey of the Committee of Experts, and the documents submitted by governments. The work of the Conference Committee starts with a general discussion based essentially on the General Report of the Committee of Experts, and with a discussion on the General Survey. With regard to the alignment of the subject of General Surveys with the strategic objective discussed in the context of the recurrent report under the follow-up to the Social Justice Declaration, the outcome of the discussion of the Conference Committee concerning the General Survey is transmitted to the Conference Committee responsible for examining the recurrent report. Following its general discussion, the Conference Committee examines cases of serious failure to fulfil reporting and other standards-related obligations. Finally, the Conference Committee embarks upon its main task, which is to examine a number of individual cases concerning the application of ratified Conventions which have been the subject of observations by the Committee of Experts. The Conference Committee invites the Government representatives concerned to attend one of its sittings to discuss the observations in question. After listening to the Government representatives, the members of the Conference Committee may ask questions or make comments. At the end of the discussion, the Conference Committee adopts conclusions on the case in question.

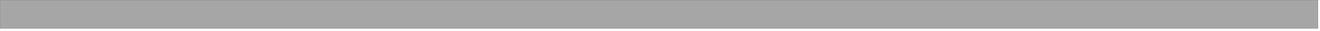
In its report<sup>12</sup> submitted to the plenary sitting of the Conference for adoption, the Conference Committee on the Application of Standards may invite the member State whose case has been discussed to accept a technical assistance mission by the International Labour Office to increase its capacity to fulfil its obligations, or may propose other types of missions. The Conference Committee may also request a government to submit additional information or address specific concerns in its next report to the Committee of Experts. The Conference Committee also draws the attention of the Conference to certain cases, such as cases of progress and cases of serious failure to comply with ratified Conventions.

### ***The Committee of Experts and the Conference Committee on the Application of Standards***

In numerous reports, the Committee of Experts has emphasized the importance of the spirit of mutual respect, cooperation and responsibility that has always existed in relations between the Committee of Experts and the Conference Committee. It has accordingly become the practice for the Chairperson of the Committee of Experts to attend the general discussion of the Conference Committee including the discussion on the General Survey as an observer, with the opportunity to address the Conference Committee at the opening of the general discussion and to make remarks at the end of the discussion on the General Survey. Similarly, the Employer and Worker Vice-Chairpersons of the Conference Committee are invited to meet the Committee of Experts during its sessions and discuss issues of common interest within the framework of a special session held for that purpose.

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<sup>12</sup> The report is published in the *Record of Proceedings* of the Conference. Since 2007, it has also been issued in a separate publication. See, for the last report, *Conference Committee on the Application of Standards: Extracts from the Record of Proceedings*, International Labour Conference, 102nd Session, Geneva, 2013.



***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 member States of the International Labour Organization on the action taken with regard to Conventions and Recommendations, held its 84th Session in Geneva from 27 November to 14 December 2013. The Committee has the honour to present its report to the Governing Body.

### **Composition of the Committee**

2. The composition of the Committee is as follows: Mr Mario ACKERMAN (Argentina), Mr Denys BARROW, SC (Belize), Mr Lelio BENTES CORRÊA (Brazil), Mr James J. BRUDNEY (United States), Mr Halton CHEADLE (South Africa), Ms Graciela Josefina DIXON CATON (Panama), Mr Rachid FILALI MEKNASSI (Morocco), Mr Abdul G. KOROMA (Sierra Leone), Mr Dierk LINDEMANN (Germany), Mr Pierre LYON-CAEN (France), Ms Elena MACHULSKAYA (Russian Federation), Ms Karon MONAGHAN, QC (United Kingdom), Mr Vitit MUNTARBHORN (Thailand), Ms Rosemary OWENS (Australia), Mr Paul-Gérard POUGOUÉ (Cameroon), Mr Raymond RANJEVA (Madagascar), Mr Ajit Prakash SHAH (India), Mr Yozo YOKOTA (Japan). Appendix I of the General Report contains brief biographies of all the Committee members.

3. The Committee notes that Ms Laura Cox, QC (United Kingdom), who had been a member of the Committee since 1998, has completed her 15-year mandate. The Committee expresses its deep appreciation for the outstanding manner in which Ms Cox has carried out her duties during her service on the Committee and, in particular, commends her warmly for the excellent way in which she has carried out her duty as Chairperson of the Subcommittee on Working Methods over a number of years. The Committee also notes that Mr Francisco Pérez de los Cobos Orihuel (Spain), who had been a member of the Committee since 2012, has submitted his resignation, following his nomination as Chairperson of the Constitutional Tribunal of Spain.

4. During its session, the Committee welcomed Ms Monaghan and Mr Shah, nominated by the Governing Body at its 317th Session (October 2013). The Committee noted that Mr Bentes Corrêa and Mr Lindemann were unable to participate in its work this year.

5. Mr Koroma started his mandate as Chairperson of the Committee and the Committee elected Mr Muntarbhorn as Reporter.

### **Working methods**

6. The Committee has in recent years undertaken a thorough examination of its working methods. In order to guide this reflection on working methods efficiently, a subcommittee on working methods was set up in 2001. The mandate of the subcommittee includes examining the working methods of the Committee and any related subjects, in order to make appropriate recommendations to the Committee. The subcommittee met on three occasions between 2002 and 2004.<sup>1</sup> During its sessions in 2005 and 2006, issues relating to its working methods were discussed by the Committee in plenary sitting.<sup>2</sup> From 2007 to 2011, the subcommittee met at each of the Committee's sessions.<sup>3</sup>

<sup>1</sup> See CEACR: General Report, 73rd Session (November–December 2002), paras 4–8; General Report, 74th Session (November–December 2003), paras 7–9; General Report, 75th Session (November–December 2004), paras 8–10.

<sup>2</sup> See CEACR: General Report, 76th Session (November–December 2005), paras 6–8; General Report, 77th Session (November–December 2006), para. 13.

<sup>3</sup> See CEACR: General Report, 78th Session (November–December 2007), paras 7–8; General Report, 79th Session (November–December 2008), paras 8–9; General Report, 80th Session (November–December 2009), paras 7–8; General Report, 81st Session (November–December 2010), paras 6–13; General Report, 82nd Session (November–December 2011), paras 6–12.

7. Last year, a new subcommittee on the streamlining of treatment of certain reports was established. This subcommittee met again this year, on two occasions, before the beginning of the work of the Committee and examined all the comments related to repetitions (which are comments repeating what had been said previously by the Committee of Experts), as well as the general observations and direct requests. Concerning repetitions, the subcommittee examined 143 observations (compared to 269 in 2012) and 329 direct requests (compared to 462 in 2012). This represents a significant 35.43 per cent decrease in the total number of repetitions. The subcommittee then presented, for adoption in the plenary, its report to the Committee of Experts and drew attention to the most important issues which had been raised during its examination. The approach taken by the subcommittee has enabled, once again, the Committee of Experts to save time for the examination of individual observations and direct requests regarding ratified Conventions.

## ***Relations with the Conference Committee on the Application of Standards***

8. A spirit of mutual respect, cooperation and responsibility has consistently prevailed over the years in the Committee's relations with the International Labour Conference and its Committee on the Application of Standards. The Committee of Experts has always taken the proceedings of the Conference Committee into full consideration, not only in respect of general matters concerning standard-setting activities and supervisory procedures, but importantly with regard to specific matters concerning the way in which States fulfil their standards-related obligations. The Committee has also paid close attention in recent years to the comments on its working methods that have been made by the members of the Committee on the Application of Standards and the Governing Body.

9. In this context, the Committee once more welcomed the participation of Mr Yokota as an observer, in his capacity as Chairperson of the 2012 session of the Committee of Experts, in the general discussion of the Committee on the Application of Standards at the 102nd Session of the International Labour Conference (June 2013). It noted the decision by the Conference Committee to request the Director-General to renew this invitation to the Chairperson of the Committee of Experts for the 103rd Session (May–June 2014) of the Conference. The Committee of Experts accepted this invitation.

10. The Chairperson of the Committee of Experts invited the Employer Vice-Chairperson (Ms Sonia Regenbogen) and the Worker Vice-Chairperson (Mr Marc Leemans) of the Committee on the Application of Standards at the 102nd Session of the International Labour Conference (June 2013) to participate in a special sitting of the Committee at its present session. They both accepted this invitation.

11. The Chairperson of the Committee of Experts welcomed the opportunity to exchange views on issues of common interest with the two Vice-Chairpersons of the Conference Committee. In the current institutional context arising from the session of the Conference Committee in June 2012, the dialogue between the two committees was even more important. This dialogue would be constructive and embedded in mutual respect, cooperation and responsibility, which helps to generate an atmosphere of trust between the two committees. He reassured the Employer and Worker Vice-Chairpersons that the Committee of Experts, in adhering to the fundamental principles of independence, impartiality and objectivity, was attentive to the issues that had been raised and had continued to give them due consideration.

12. The Employer Vice-Chairperson welcomed the opportunity to participate in this meeting. In the first place, she emphasized that the ILO supervisory mechanisms were increasing in relevance and importance for a number of reasons, including the consideration by national courts of the international obligations of member States, the globalization of business and the adoption by multinational corporations of codes of conduct. In that context, the Employers were completely committed to ensuring the relevance, sustainability and credibility of the ILO supervisory system. The technical work carried out by the Committee of Experts in preparing observations was an invaluable and crucial part of the supervisory system. The Employers also recognized and appreciated the invaluable contribution that the Office made in supporting the work of the Committee of Experts.

13. With reference to the ongoing process following up on the 2012 Conference Committee, she indicated that there had been a few encouraging developments, but that the constituents were far from having achieved a definitive and forward-looking outcome. The Employers considered that the following principles had been identified to guide the way forward: the need to restore the balance between the different supervisory bodies, as well their complementarity so as to eliminate overlap; the need to better articulate a progressive hierarchy and predictability in the use of the different supervisory bodies; the possibility to require prior recourse to national jurisdiction before a claim is presented to the ILO, as well as more objective admissibility criteria before a claim is accepted for discussion; and the need to reinforce the capacity of the constituents to jointly provide alternative guidance on Conventions, or to explore other possibilities for the review of labour standards, as foreseen by the ILO Constitution. The Employer Vice-Chairperson also indicated that it had been possible to re-establish some of the trust between Employers and Workers. However, substantial progress was yet to be achieved. The Employers felt that one of the keys to further progress also lay with the Committee of Experts and they were fully committed to cooperating closely with the Committee for that purpose, in a spirit of respect, mutual collaboration and responsibility.

14. Turning to the issue of the right to strike, the Employers had expressed the view on many occasions that a “right to strike” was not regulated in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). In a recent submission to the Committee of Experts, the International Organisation of Employers (IOE) had added further arguments on the “right to strike” and Convention No. 87 in response to a submission on the same subject by the International Trade Union Confederation (ITUC). She added that there had been an important change in the treatment by the Conference Committee in June 2013 of cases involving the “right to strike”, when most of the conclusions on those cases included the sentence: “The Committee did not address the right to strike in this case as the Employers do not agree that there is a right to strike in Convention No. 87.” The sentence made two things clear: firstly, that there was no consensus in the Conference Committee that Convention No. 87 contained and guaranteed a “right to strike”; and secondly, that the Conference Committee accepted that, because of the lack of consensus, it was not in a position to ask governments to change their law and practice with regard to strike issues. The statement in the conclusions of the Conference Committee was in contrast with the current position of the Committee of Experts. The Employers considered that a difference of opinion of that nature between the two main supervisory bodies of the ILO on such an important matter was detrimental to the Organization and was bound to result in a loss of credibility, authority and therefore relevance for the supervisory system in the long term. It was the hope of the Employers that there would be coherence between the two pillars of the supervisory system on this issue and that the Committee of Experts would therefore reconsider its views. The Employers had declared their readiness to hold an in-depth and thorough examination of the issue of “industrial action” through a general discussion at the Conference. They therefore respectfully called on the Committee of Experts to desist from making observations related to the “right to strike” pending the outcome of a general discussion on this subject.

15. With regard to the mandate of the Committee of Experts and the related question of its clarification, while appreciating the recognition by the Committee of Experts that its views were not legally binding in its 2013 report, the Employers regretted that, by providing additional explanations, this recognition had been rendered ambiguous. They called on the Committee of Experts to draft concise and sufficiently clear wording to be included in its reports by way of clarification of its mandate and the legal status of its views, starting with its 2014 report.

16. With regard to the supervisory role of the Committee of Experts, the Employer Vice-Chairperson recognized that the determination of whether there were divergences between national law and practice and the requirements of Conventions involved a certain degree of interpretation. However, the Employers considered that it was not the role or function of the Committee of Experts to act as a standard-setting body by adding further rules to Conventions by means of extensive interpretations or by filling in gaps or narrowing the flexibility of Conventions by providing restrictive interpretations. Standard setting was vested with the ILO constituents. Nor should the Committee of Experts act as a political body by using the supervision of particular Conventions to criticize general government policies, such as fiscal consolidation policies, or by making recommendations to ratify Conventions. These matters pertained to the Conference and the Governing Body. The Employers appreciated that the competent tripartite bodies on standards-related matters had a more proactive role to play and recalled their commitment to the standards review mechanism, which had been adopted by the Governing Body in principle, but not yet operationalized. It should also be recalled that, during the general discussion in the Conference Committee in 2013, the Employer members had made proposals to improve the effectiveness of the standards supervisory system, for example through addressing reporting failures, improving the focus of supervision by reducing the number of observations and measuring progress in compliance with ratified Conventions more meaningfully and reliably. The Employers were very sensitive to the very heavy workload of the Committee of Experts and would support any initiative to address this issue. They looked forward to a discussion of those proposals.

17. In conclusion, the Employers expressed deep appreciation of the work of the Committee of Experts in preparing its observations. It was their desire to reach meaningful conclusions on the basis of those observations. The Committee of Experts could be sure of the Employers’ continued commitment to the functioning and reliability of the supervisory system. Their criticisms should be seen as a contribution to preserving the supervisory system and making it resilient for the future.

18. The Worker Vice-Chairperson emphasized the informal nature of the meeting between the Committee of Experts and the Vice-Chairpersons of the Conference Committee, adding that it was not an occasion for tripartite discussions, which lay within the competence of the Governing Body. In particular, it was the tripartite constituents’ responsibility to address the issues arising from the report of the Conference Committee in June 2012. He reiterated the support of the Workers’ group for the role and mandate of the Committee of Experts, whose independence and expertise they respected. He also recalled the complementarity of the respective roles of the Committee of Experts and the Conference Committee.

19. He recalled the position of his group that the recognition of the right to strike was based on a joint reading of Articles 3 and 10 of Convention No. 87. He did not agree with the view of the Employers concerning the sentence adopted in the conclusions of the Conference Committee in cases of the right to strike. He added that in the majority of ILO member States the right to collective action was already regulated, including through international and regional instruments. He also recalled that the Committee on Freedom of Association had already set a framework that was incontestable and as yet unchallenged. He expressed the fear that other matters of controversy might emerge relating to other Conventions, the application of which could be seen as an obstacle to enterprise competitiveness.

20. The Worker Vice-Chairperson referred to the six proposals made by the Employers' group during the general discussion at the Conference Committee in June and considered that the purpose of the six proposals, behind the apparent neutrality of the language, was to weaken the Committee of Experts.

21. With reference to the request by the Employers for a "disclaimer" or "caveat", intended to explain clearly the non-binding nature of the opinions of the Committee of Experts, he considered that this idea was without pertinence and that it would contribute to undermining the work of the Committee of Experts, which would automatically be suspected of partiality or a lack of objectivity. In his view, the articulation of the supervisory mechanisms on the application of standards, and even the role of the ILO, would be compromised. A "disclaimer" or "caveat" would amount to a denial of responsibility and would be inadequate in light of the mandate of the Committee of Experts and the evolving nature of the mandate which the Governing Body had entrusted to the Committee over the years. It would be contrary to the ILO Constitution which, in light of articles 19, 22 and 35, gave a specific value to the work of the Committee of Experts. He emphasized that the Committee of Experts itself considered that its analyses and conclusions could only become binding if a competent body, for example a judicial body, considered them as such. He called on the Committee of Experts not to modify its position and referred to the recent decision by the Governing Body, which had requested the Director-General to organize consultations as a matter of priority with all the groups with a view to submitting concrete proposals to its session in March 2014 for the resolution of the principal issues that were outstanding concerning the supervisory system.

22. With reference to the possibility of having recourse to article 37(1) of the ILO Constitution, even if his group did not wish to take that path, he acknowledged that it remained possible, and was perhaps inevitable. In fact, article 37(1) would be the only option. In addition, the Workers' group hoped that the Governing Body would be able to discuss the options and possible procedures for the implementation of article 37(2) of the ILO Constitution.

23. The Worker Vice-Chairperson reiterated the support of the Workers' group for the Committee of Experts and trusted that it would continue its work, in accordance with its mandate, with full confidence, based on the reports received.

24. In response, the Committee reaffirmed its technical role and stressed that it had no interest in extending its mandate nor the wish to do so. It would continue to fulfil the mandate it had been given by the Conference and the Governing Body. Recalling that the issues raised in relation to its mandate were fully addressed the previous year, the Committee therefore referred to its 2013 General Report, in particular paragraph 33, in which four principal factors were identified, that are summarized here:

- The examination of a range of reports and information in order to monitor the application of Conventions and Recommendations logically and inevitably requires an assessment, which in turn involves a degree of interpretation of both the national legislation and the text of the Convention.
- The Committee's approach to examining the meaning of Conventions emphasizes due regard to achieving equality of treatment for States and uniformity in practical application. This emphasis is essential to maintaining principles of legality and promoting a level of certainty.
- The Committee of Experts' views on the meaning of Conventions are broadly accepted because the Committee is composed of independent persons who have distinguished backgrounds in law and direct experience of the different national legal systems. This independence is also attributable to the means by which members are selected.
- If governments were to view the Committee's positions as somehow discounted or of less certain value, some would feel freer to ignore its requests or invitations to comply. This would inevitably undermine orderly monitoring or the predictable application of the standards. In addition, the Conference Committee, the Committee on Freedom of Association, and the Governing Body also rely on the Committee of Experts' framework of opinions about the meaning of the provisions of the Conventions in the course of the application process.

25. Concerning the right to strike in relation to Convention No. 87, the Committee appreciated the additional thoughts shared and arguments put forward by the two Vice-Chairpersons, as well as the extensive presentations by the IOE and the ITUC concerning the issue. The Committee had presented its views at considerable length in the past on why the right to strike was a part of this Convention. The Committee appreciated submissions from both sides on the need to examine situations in individual countries that involved the relationship between the right to strike and national law. These were helpful to the Committee when fulfilling its responsibilities.

26. The Committee noted that it had spent considerable time discussing the issues raised and preparing to communicate its positions. While this was obviously important work for the Committee, it also came at the expense of time the Committee would be spending reviewing reports from governments and related comments from the social partners. The Committee further noted that five of its members had returned to Geneva last February (an unprecedented activity for the Committee) in part to respond to questions from the tripartite constituencies. It had also made a series of adjustments to its working methods over the years, and would continue to do so, including by reviewing the proposals made during the June 2013 general discussion of the Conference Committee. Some adjustments had already been made this year, reflecting constructive suggestions from the social partners regarding the length of the Committee's observations and the possibility of shifting some informational queries into direct requests.

27. The Committee considered that it was for the International Labour Conference and the Conference Committee to decide whether its understanding of the matters at stake should be sustained or adjusted going forward. These were ultimately political decisions for the tripartite constituents to address and resolve. The Committee was not a political body.

28. The Employer Vice-Chairperson, in response to the discussion, expressed great appreciation of the commitment of the Committee of Experts to its role and of the amount of work that was carried out over a short period. She emphasized that there was no desire on the part of the Employers to weaken the role of the Committee of Experts, and that they wished to express their appreciation of its work very clearly. She was heartened by the clear statements by the members of the Committee of Experts acknowledging its role as a technical, and not a judicial body, and called on it to work within that mandate. In response to the statement made by the Worker Vice-Chairperson, she added that the Employers were not seeking a “disclaimer”, but a “clarification” to be included in the report of the Committee of Experts which was intended to clarify the scope of its mandate. It should also be noted that the Employers had never taken the extreme view that the Committee of Experts could not engage in any interpretation, as its supervisory work logically involved a degree of interpretation.

29. The Worker Vice-Chairperson, in response to the discussion, recalled that the tripartite process was in the hands of the Governing Body. He was satisfied to note that nobody wanted to weaken the Committee of Experts, the mandate of which had been clearly defined by the tripartite constituents. In conclusion, he emphasized that there was no need for the Committee of Experts to clarify its own mandate.

30. This year, the Committee of Experts also held for the first time an informal information meeting with representatives of governments. The members of the Committee of Experts emphasized that the Committee’s mandate was defined by the International Labour Conference and the Governing Body. They recalled that the Committee of Experts was a technical body and adhered to the principles of independence, objectivity and impartiality. The members of the Committee of Experts provided information on a number of aspects related to their work. These included: a succinct history of the Committee and the evolution of its composition and mandate; its role in the context of the ILO supervisory system, with particular emphasis on its relationship with the Conference Committee on the Application of Standards; the sources of information used in carrying out its work; the preparatory work and examination of comments during its plenary sittings; the types of comments made in its reports concerning the application of ratified Conventions in accordance with article 22 of the ILO Constitution; and the general surveys on the law and practice of member States in accordance with article 19 of the ILO Constitution. The Committee of Experts replied to the questions raised by Government representatives concerning its mandate, methods of work and approach. All the Government representatives who took the floor expressed appreciation for the holding of the informal meeting with the Committee of Experts and for the explanations provided. They believed that dialogue between the Committee of Experts and the constituents of the ILO was of great importance and, in this regard, hoped that such an informal meeting with Government representatives could continue.

## **Mandate**

31. **The Committee of Experts on the Application of Conventions and Recommendations is an independent body established by the International Labour Conference and its members are appointed by the ILO Governing Body. It is composed of legal experts charged with examining the application of ILO Conventions and Recommendations by ILO member States. The Committee of Experts undertakes an impartial and technical analysis of how the Conventions are applied in law and practice by member States, while cognizant of different national realities and legal systems. In doing so, it must determine the legal scope, content and meaning of the provisions of the Conventions. Its opinions and recommendations are non-binding, being intended to guide the actions of national authorities. They derive their persuasive value from the legitimacy and rationality of the Committee’s work based on its impartiality, experience and expertise. The Committee’s technical role and moral authority is well recognized, particularly as it has been engaged in its supervisory task for over 85 years, by virtue of its composition, independence and its working methods built on continuing dialogue with governments taking into account information provided by employers’ and workers’ organizations. This has been reflected in the incorporation of the Committee’s opinions and recommendations in national legislation, international instruments and court decisions.**



## II. Compliance with obligations

### ***Follow-up to cases of serious failure by member States to fulfil reporting and other standards-related obligations mentioned in the report of the Committee on the Application of Standards***

32. The Committee recalls that, at the instigation of the Committee on the Application of Standards at the 93rd Session (June 2005) of the International Labour Conference, the two Committees, with the assistance of the Office, strengthened the follow-up given to cases of serious failure by member States to fulfil reporting and other standards-related obligations with a view to identifying more accurately the difficulties underlying these failures and helping the countries concerned to identify appropriate solutions to resolve them. As both Committees have recalled on numerous occasions, such failures hinder the functioning of the supervisory system, which is based primarily on the information provided by governments in their reports. Cases of failure to fulfil reporting obligations therefore have to be given the same level of attention as those relating to the application of ratified Conventions. The Committee also recalls that an assessment of the strengthened follow-up in cases of serious failure to comply with reporting obligations was submitted to the Governing Body at its 306th Session (November 2009).<sup>4</sup> The assessment emphasized that the systematic and strengthened technical assistance provided in the context of the follow-up on the basis of the comments of the Committee of Experts and the Conference Committee has had a significant impact on the submission of reports.

33. The Committee was informed that, pursuant to the discussions of the Conference Committee in June 2013, the Office had sent special letters to the 55 member States mentioned in the relevant paragraphs of the report of the Conference Committee concerning their failure to fulfil their obligations respecting the sending of reports.

34. The Committee welcomes the fact that eight countries which had experienced persistent difficulties and which as such had been mentioned in several reports of both Committees have this year fulfilled part of their constitutional obligations in terms of the submission of reports and information due on the application of ratified Conventions.<sup>5</sup> The Committee notes that, since the end of the session of the Conference, certain other member States, often with the assistance of the Office, have fulfilled part of their reporting and other standards-related obligations.<sup>6</sup>

35. The Committee reminds governments that they are required to comply with all the reporting and other standards-related obligations that they have accepted by becoming Members of the ILO. Compliance with these obligations is essential for dialogue between the supervisory bodies and member States on the effective implementation of ratified Conventions. Governments that request technical assistance may benefit from it, yet such assistance can only be useful and adapted to national circumstances if governments inform the Office of their specific difficulties and have the will to adopt durable solutions. The Committee hopes that the Office will maintain the sustained technical assistance that it has been providing to member States as this is clearly an essential means for overcoming reporting difficulties effectively. Finally, the Committee welcomes the fruitful collaboration that it maintains with the Conference Committee on this matter of mutual interest, which is essential to the proper discharge of their respective tasks.

<sup>4</sup> GB.306/LILS/4(Rev.), paras 36–42.

<sup>5</sup> Grenada, Ireland, Kiribati, Kyrgyzstan, Libya, Sao Tome and Principe, Seychelles, Sierra Leone.

<sup>6</sup> Democratic Republic of the Congo, Guinea-Bissau, Solomon Islands, Zambia.

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

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

### *Reporting arrangements*

37. The Committee recalls that at its 306th Session (November 2009), the Governing Body decided to increase from two to three years the reporting cycle for the fundamental and governance Conventions and to maintain the cycle at five years for the other Conventions. This decision was implemented starting with the reports for 2012.

38. In addition to the reports requested according to the reporting cycle, the Committee also had before it reports especially requested from certain governments for one of the following reasons:

- (a) a first detailed report was due after ratification;
- (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.

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

39. 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.

40. Appendix I to 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.

### *Reports requested and received*

41. This year a total of **2,319** reports (under articles 22 and 35 of the Constitution) were requested from governments on the application of Conventions ratified by member States, compared to 2,393 reports last year. At the end of the present session of the Committee, **1,719** reports had been received by the Office. This figure corresponds to **74.12** per cent of the reports requested. Last year, the Office received a total of 1,664 reports, representing 69.53 per cent.

42. In accordance with article 22 of the Constitution, **2,176** reports were requested from governments. Of these, **1,578** had been received by the Office by the end of the present session of the Committee. This figure corresponds to **72.52** per cent of the reports requested (compared to 67.83 per cent last year). The Committee wishes to express its gratitude to the **103** member States which have submitted all the reports due this year.

43. In accordance with article 35 of the Constitution, **143** reports were requested on Conventions declared applicable with or without modifications to non-metropolitan territories. Of these, **141** reports, or **98.60** per cent, had been received by the end of the Committee's session (compared to 89.78 per cent last year).

### *Compliance with reporting obligations*<sup>7</sup>

44. Most of the governments from which reports were due on the application of ratified Conventions have supplied most or all of the reports requested (see Appendix I of this report). However, no reports due have been received for the past two or more years from the following **nine** countries: **Burundi, Comoros, Equatorial Guinea, Gambia, Mali, San Marino, Somalia, Tajikistan** and **Vanuatu**. The Committee examines compliance by each of these countries with their reporting obligations in the observations contained at the beginning of Part II (section I) of this report.

45. 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 at the origin of the difficulties encountered by governments in fulfilling their constitutional obligations. In certain exceptional cases, the absence of reports is a result of more general difficulties related to the national situation, which often prevents the provision of any technical assistance by the Office. In such cases, it is

<sup>7</sup> In general, the Committee makes observations in the most serious and persistent cases of failure by member States to respect their reporting and other standards-related obligations based on the following criteria: the failure to send reports for two or more years, the failure to supply first reports for two or more years, and the absence of an indication in the reports received (or in the majority of them) of the representative employers' and workers' organizations to which copies of the reports and information are to be communicated. The Committee makes a direct request when a country has not sent the reports due, or the majority of reports due, in the current year.

important for governments to request assistance from the Office as soon as possible and for such assistance to be provided rapidly.

### **Late reports**

46. 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 and, where necessary, to conduct research into legislation and review other documents that are relevant to the examination of reports.

47. The Committee observes that by 1 September 2013 the proportion of reports received was **34.1** per cent, compared with 36.7 per cent at its previous session. The number of reports received on time this year has once again risen above 30 per cent. The Committee is particularly grateful to the **33** countries which provided all the reports due within the time limits with the information requested.<sup>8</sup> It notes that the request it made last year to member States to make a particular effort to ensure that their reports were submitted in time this year has had a certain effect. Nevertheless, the Committee is bound to emphasize once again that the number of reports received on time remains low. A significant number of reports are received after 1 September, during a very short period, thereby disturbing the sound operation of the regular supervisory procedure.

48. Furthermore, the Committee notes that a number of countries sent some or all of the reports due by 1 September 2012 during the period between the end of the Committee's last session (November–December 2012) and the beginning of the 102nd Session of the International Labour Conference (June 2013), or even during the Conference. The Committee emphasizes that this practice also inconveniences the regular operation of the supervisory system and makes it more burdensome. As requested by the Conference Committee, the Committee notes that the countries which follow this practice over the indicated period are the following: **Algeria, Angola, Barbados, Plurinational State of Bolivia, Bulgaria, Central African Republic, Chad, Denmark (Greenland), Djibouti, Ecuador, France, France (New Caledonia), Ghana, Iceland, Ireland, Italy, Kiribati, Lao People's Democratic Republic, Lebanon, Lesotho, Libya, Malawi, Malaysia, Malaysia (Sarawak), Malta, Mauritius, Nicaragua, Niger, Nigeria, Panama, Portugal, Rwanda, Sao Tome and Principe, Slovakia, Slovenia, Sudan, Thailand, Tunisia, Turkey, Uganda, Yemen.**

49. In view of the high number of reports this year which do not include information in reply to its comments, the Committee requests all member States to pursue and strengthen their efforts with a view to ensuring that next year a larger number of reports are submitted within the time limits and with all the required information. The Committee also requests the Office to intensify its technical assistance for this purpose. Finally, in line with the comments of the Conference Committee, the Committee hopes that the measures to streamline the sending and processing of information and reports, including the grouping of Conventions by strategic objective for reporting purposes and the lengthening of the reporting cycle for fundamental and governance Conventions, will facilitate the preparation and sending of reports by member States.

### **Supply of first reports**

50. The Committee notes that **40** of the **77** first reports due on the application of ratified Conventions were received by the time the Committee's session ended, compared to last year when 67 of the 101 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 number of years from the following **five** member States:

<b>Failure to submit first reports on the application of ratified Conventions</b>	
<b>State</b>	<b>Conventions Nos</b>
Afghanistan	– Since 2012: Conventions Nos 138, 144, 159, 182
Equatorial Guinea	– Since 1998: Conventions Nos 68, 92
Kazakhstan	– Since 2010: Convention No. 167
Sao Tome and Principe	– Since 2007: Convention No. 184
Vanuatu	– Since 2008: Conventions Nos 87, 98, 100, 111, 182 – Since 2010: Convention No. 185

<sup>8</sup> Albania, Antigua and Barbuda, Armenia, Austria, Bahrain, Bosnia and Herzegovina, Botswana, Central African Republic, Chad, Colombia, Cuba, Egypt, Estonia, Finland, Gabon, Guatemala, Honduras, India, Israel, Jordan, Mauritius, Montenegro, Myanmar, Netherlands, Pakistan, Romania, Russian Federation, Saint Vincent and Grenadines, United Republic of Tanzania – Tanganyika, Togo, United Kingdom, Uruguay, Bolivarian Republic of Venezuela.

51. The failure of these countries to send the first reports due is raised in observations at the beginning of Part II (section I) of the present report. In general, the Committee, like the Conference Committee, emphasizes the particular importance of first reports, which provide the basis on which the Committee makes its initial assessment of the application of the specific Conventions concerned and, in certain cases, of all the Conventions ratified by the country. The Committee urges the governments concerned to make a special effort to supply the first reports due. The Committee also requests the Office to provide appropriate technical assistance, particularly since first reports are detailed reports and as such need to be prepared in light of the report form approved by the Governing Body for each Convention.<sup>9</sup>

### ***Replies to the comments of the supervisory bodies***

52. 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.

53. This year, there were 476 cases in which no reply was received to comments (concerning 69 countries). There were 387 such cases (concerning 40 countries) last year.

<b>Cases of failure to supply information in reply to comments made by the Committee of Experts</b>	
<b>State</b>	<b>Conventions Nos</b>
Algeria	42, 44, 100, 111, 181
Angola	1, 14, 87, 88, 89, 98, 106, 107
Bahamas	103, 117
Bangladesh	149
Belgium	132
Brazil	94, 117
Bulgaria	1, 14, 30, 52, 87, 95, 98, 106, 144, 177, 181, 183
Burundi	11, 14, 17, 26, 27, 29, 42, 52, 62, 64, 81, 87, 89, 94, 98, 100, 101, 105, 111, 135, 138, 144
Cambodia	87, 98
Chad	29, 98, 100, 111
Central African Republic	98
Comoros	1, 12, 13, 17, 19, 29, 42, 52, 77, 81, 98, 99, 100, 101, 105, 111, 138, 182
Congo	14, 81, 87, 89, 98, 144, 149, 182
Croatia	14, 87, 98, 106, 132
Djibouti	9, 14, 16, 17, 18, 19, 23, 24, 26, 37, 38, 52, 55, 56, 63, 71, 73, 88, 89, 94, 95, 96, 98, 99, 101, 106, 115, 120, 125, 126

<sup>9</sup> Detailed reports have to be drawn up in accordance with the report form approved by the Governing Body for each Convention. Detailed reports are requested in the year following the entry into force of a Convention or when the Committee of Experts or the Conference Committee specifically requests such a report. Simplified reports are then requested on a regular basis. See the Governing Body's decisions in this respect (GB.282/LILS/5 (November 2001) and GB.283/LILS/6 (March 2002)).

<b>Cases of failure to supply information in reply to comments made by the Committee of Experts</b>	
Dominica	14, 19, 87, 94, 97, 111, 144, 169
Dominican Republic	98, 106, 111, 144, 171, 172
Ecuador	87, 95, 98, 101, 103, 106, 110, 115, 117, 119, 136, 139, 142, 144, 148, 149, 153, 159, 162, 169
El Salvador	87, 98, 107, 142, 144, 155
Equatorial Guinea	1, 29, 30, 87, 98, 103, 105, 111, 138, 182
Eritrea	87, 98
Fiji	87
France	96
Gambia	29, 100, 105, 111, 138, 182
Ghana	1, 14, 29, 30, 89, 94, 96, 103, 105, 106, 107, 115, 117, 119, 149, 182
Guinea	3, 62, 89, 90, 94, 100, 105, 111, 113, 115, 117, 118, 121, 122, 132, 133, 136, 139, 140, 142, 143, 144, 148, 152, 156, 159
Guyana	29, 87, 94, 95, 98, 100, 111, 115, 129, 137, 138, 139, 140, 142, 144, 149, 172, 175
Haiti	1, 12, 14, 17, 24, 25, 30, 42, 100, 106, 107, 111
Honduras	100
Islamic Republic of Iran	111, 122, 142
Ireland	144
Kazakhstan	100, 111
Kiribati	29, 105
Kyrgyzstan	111
Lao People's Democratic Republic	4, 100, 111, 182
Lebanon	1, 14, 30, 52, 89, 100, 106, 111, 122, 142, 172
Malaysia	100
Malaysia – Peninsular Malaysia	19
Malaysia – Sarawak	14, 19
Malawi	29, 89, 98, 99, 100, 105, 107, 111, 149, 159

<b>Cases of failure to supply information in reply to comments made by the Committee of Experts</b>	
Mali	14, 19, 26, 29, 52, 95, 100, 105, 111, 138, 144, 182, 183
Malta	1, 14, 98, 100, 106, 111, 117, 132, 149
Mauritania	3, 14, 29, 52, 81, 89, 100, 101, 102, 111, 112, 114, 122, 138, 182
Mongolia	100, 103, 111, 122, 123, 138, 144, 182
Nepal	169
Nicaragua	4, 111
Nigeria	8, 100, 111, 144
Panama	107, 110, 117, 138
Paraguay	79
Peru	81
Portugal	29, 117, 149, 175
Rwanda	14, 29, 81, 89, 105, 132, 138, 182
San Marino	100, 103, 111, 140, 143, 148, 150, 156, 159, 160, 182
Sao Tome and Principe	98, 144
Sierra Leone	17, 26, 45, 81, 88, 94, 95, 101, 119, 125, 126, 144
Slovakia	14, 52, 81, 98, 129, 140, 156, 159, 183
Spain	132
Suriname	182
Syrian Arab Republic	1, 14, 29, 30, 52, 81, 89, 94, 95, 98, 100, 101, 105, 106, 107, 117, 129, 131, 138, 155, 170, 182
Tajikistan	14, 29, 32, 47, 52, 77, 78, 79, 81, 87, 90, 95, 97, 98, 103, 105, 106, 113, 115, 119, 120, 122, 126, 138, 142, 143, 149, 182
United Republic of Tanzania	149
Thailand	14, 19, 105, 122, 182
Timor-Leste	29, 182
Tunisia	117
Turkey	14, 29, 81, 105, 138, 142, 153, 182

Cases of failure to supply information in reply to comments made by the Committee of Experts	
Turkmenistan	29, 105
Uganda	29, 45, 105
United Kingdom – Montserrat	82
Vanuatu	29, 105
Yemen	19, 94
Zambia	17

54. The Committee notes with *concern* that the number of comments to which replies have not been received remains significantly high. This has led the Conference Committee and the Committee, with the support of the Office, to pay more sustained attention to cases of failure to comply with the obligation to provide information in reply to the Committee's comments. Moreover, the Committee recalls that, for the past eight years, with a view to helping the countries to provide the required information, it has made the requests addressed to them in this respect more visible in its comments. The Committee underlines that the value attached by ILO constituents to the dialogue with the supervisory bodies on the application of ratified Conventions is considerably diminished by the failure of governments to fulfil their obligations in this respect. The Committee urges the countries concerned to provide all the information due and to have recourse to the assistance of the Office where necessary.

## B. Examination by the Committee of Experts of reports on ratified Conventions

55. 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**

56. In certain cases, the Committee has found that no comment is called for regarding the manner in which a ratified Convention has been implemented.<sup>10</sup> 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 of either "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.<sup>11</sup>

57. The Committee's observations appear in Part 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 Appendix VII to the report.

### **Follow-up of procedures for the examination of representations under article 24 of the Constitution and complaints under article 26 of the Constitution**

58. In accordance with the established practice, the Committee examines the measures taken by governments pursuant to the recommendations of tripartite committees (established to examine representations under article 24 of the Constitution) and commissions of inquiry (established to examine complaints under article 26 of the Constitution), after they have been approved (tripartite committees) or noted (commissions of inquiry) by the Governing Body. The corresponding information is examined by the Committee and forms an integral part of its dialogue with the governments concerned in the context of the examination of the reports submitted on the application of the respective Conventions, as

<sup>10</sup> 248 reports.

<sup>11</sup> ILO: *Handbook of procedures relating to international labour Conventions and Recommendations*, Geneva, Rev., 2012. Observations and direct requests are accessible through the NORMLEX database.

well as any comments submitted by employers' and workers' organizations. The Committee considers it useful to indicate more clearly the cases in which it follows up on the effect given to the recommendations made under these constitutional supervisory procedures, as indicated in the following tables.

List of cases in which the Committee has examined the <b>measures taken by governments to give effect to the recommendations of commissions of inquiry</b> (complaints under article 26)	
State	Conventions Nos
Belarus	87, 98
Zimbabwe	87

List of cases in which the Committee has examined the <b>measures taken by governments to give effect to the recommendations of tripartite committees</b> (representations under article 24)	
State	Conventions Nos
Argentina	169
Bolivia, Plurinational State of	169
Bosnia and Herzegovina	81
Brazil	169
Dominican Republic	19
Ecuador	169
Guatemala	169
Japan	159
Mexico	169

### ***Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)***

59. The Committee also examines the follow-up to the conclusions of the Committee on the Application of Standards. The corresponding information forms an integral part of the Committee's dialogue with the governments concerned in the context of the examination of the reports submitted on the application of the respective Conventions, as well as any comments submitted by employers' and workers' organizations. The Committee considers it useful to indicate more clearly the cases in which it has examined the follow-up to the conclusions adopted by the Committee on the Application of Standards during the last session of the International Labour Conference (102nd Session, June 2013), as is done in the following table.

List of cases in which the Committee has examined the <b>follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)</b>	
State	Conventions Nos
Bangladesh	87
Belarus	87
Cambodia	87
Canada	87
Chad	144

List of cases in which the Committee has examined the <b>follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)</b>	
State	Conventions Nos
Dominican Republic	111
Egypt	87
Fiji	87
Greece	98
Guatemala	87
Honduras	98
Iran, Islamic Republic of	111
Kenya	138
Korea, Republic of	111
Malaysia	29
Mauritania	81
Pakistan	81
Paraguay	29
Saudi Arabia	111
Senegal	182
Swaziland	87
Turkey	98
Uzbekistan	182
Zimbabwe	87

### **Special notes**

**60.** 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 and, in some instances, to supply full particulars to the Conference at its next session in June 2014.

**61.** In order to identify cases for which it inserts special notes, the Committee uses the basic criteria described below, while taking into account the following general considerations. First, the criteria are indicative. In exercising its discretion in the application of the criteria, the Committee may also have regard to the specific circumstances of the country and the length of the reporting cycle. Second, the 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 a “double footnote”. The difference between these two categories is one of degree. Third, 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) when there has been a recent discussion of the case in the Conference Committee. Finally, the Committee wishes to point out that it exercises restraint in its recourse to “double footnotes” in deference to the Conference Committee’s decisions as to the cases it wishes to discuss.

**62.** The criteria to which the Committee has regard are the following:

- 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.

63. In addition, the Committee wishes to emphasize that its decision not to double footnote a case which it has previously drawn to the attention of the Conference Committee in no way implies that it has considered progress to have been made therein.

64. At its 76th Session (November–December 2005), the Committee decided that the identification of cases in respect of which a government is requested to provide detailed information to the Conference would be a two-stage process: first, the expert initially responsible for a particular group of Conventions recommends to the Committee the insertion of special notes; second, in light of all the recommendations made, the Committee will, after discussion, take a final, collegial decision once it has reviewed the application of all the Conventions.

65. This year, under the present reporting cycle, the Committee has requested early reports after an interval of either one, two or three years, according to the circumstances, in the following cases:

List of the cases in which the Committee has requested <b>early reports</b> after an interval of either one, two or three years	
State	Conventions Nos
Albania	144
Algeria	97, 142
Angola	87, 107
Antigua and Barbuda	142, 144
Argentina	17, 87, 96, 144, 169
Armenia	17
Bahamas	144
Bangladesh	87, 107
Bolivia, Plurinational State of	106
Brazil	118, 144, 169
Burundi	144
Cameroon	87
Central African Republic	87, 169
Chad	144
Chile	144, 169
China – Hong Kong Special Administrative Region	144
China – Macau Special Administrative Region	87
Colombia	81, 169
Comoros	42
Costa Rica	169
Democratic Republic of the Congo	144
Djibouti	63, 144
Dominican Republic	19, 107
Ecuador	169
Egypt	144

List of the cases in which the Committee has requested <b>early reports</b> after an interval of either one, two or three years	
State	Conventions Nos
El Salvador	144
Fiji	87, 169
Germany	140
Guatemala	1, 87, 103, 162, 169
Honduras	169
India	107, 142
Indonesia	106
Iran, Islamic Republic of	111, 122
Japan	159
Jordan	144
Kyrgyzstan	142
Latvia	111
Madagascar	117, 122
Malawi	107
Malaysia	29
Malaysia – Sabah	97
Montenegro	140
Nicaragua	169
Pakistan	81
Panama	30, 117
Peru	169
Qatar	81
Saudi Arabia	111
Serbia	158
Sri Lanka	103
Swaziland	87
The former Yugoslav Republic of Macedonia	142
Tunisia	107, 117
United Kingdom – Gibraltar	82, 142
Uzbekistan	105, 182
Venezuela, Bolivarian Republic of	158, 169
Yemen	19

66. The Committee has also requested governments to supply full particulars to the Conference at its next session of 2014 in the following cases:

List of the cases in which the Committee has requested governments to <b>supply full particulars to the Conference</b> at its next session in May–June 2014	
State	Conventions Nos
Bangladesh	81
Belarus	87
Dominican Republic	111
Greece	102
Niger	138
Yemen	182

67. In addition, in certain cases, the Committee has requested governments to furnish detailed reports when simplified reports would otherwise be due:

List of the cases in which the Committee has requested to <b>supply detailed reports</b> when simplified reports would otherwise be due	
State	Conventions Nos
Brazil	155
Ecuador	152
France – New Caledonia	120
Kyrgyzstan	97
Uganda	12

### ***Practical application***

68. It is customary for the Committee to note the information contained in governments' reports allowing it to assess the application of 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 under the specific terms of some Conventions.

69. The Committee notes that **395** reports received this year contain information on the practical application of Conventions. Of these, **37** reports contain information on national jurisprudence. The Committee also notes that **358** of the reports contain information on statistics and labour inspection.

70. The Committee wishes to emphasize to governments the importance of submitting such information which is indispensable to complete the examination of national legislation and to help the Committee to identify the issues arising from real problems of application in practice. The Committee also wishes to encourage employers' and workers' organizations to submit clear and up-to-date information on the application of Conventions in practice.

### ***Cases of progress***

71. 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.

72. At its 80th and 82nd Sessions (2009 and 2011), the Committee made the following clarifications on the general approach developed over the years for the identification of cases of progress:

- (1) The expression by the Committee of interest or satisfaction does not mean that it considers that the country in question is in general conformity with the Convention, and in the same comment **the Committee may express its satisfaction or interest at a specific issue while also expressing regret concerning other important matters** which, in its view, have not been addressed in a satisfactory manner.

- (2) The Committee wishes to emphasize that **an indication of progress is limited to a specific issue related to the application of the Convention and the nature of the measure adopted by the government concerned.**
- (3) The Committee exercises its discretion in noting progress, taking into account the particular nature of the Convention and the specific circumstances of the country.
- (4) The expression of progress can refer to different kinds of measures relating to national legislation, policy or practice.
- (5) If the satisfaction or interest relates to the adoption of legislation or to draft legislation, the Committee may also consider appropriate follow-up measures for its practical application.
- (6) In identifying cases of progress, the Committee takes into account both the information provided by governments in their reports and the comments of employers' and workers' organizations.

73. Since first identifying cases of **satisfaction** in its report in 1964,<sup>12</sup> 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 new legislation, an amendment to the existing legislation or a significant change in the national policy or practice, thus achieving fuller compliance with their obligations under the respective Conventions.** In expressing its satisfaction, the Committee indicates to governments and the social partners that it considers the specific matter resolved. 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.

74. Details concerning these cases of progress are to be found in Part II of this report and cover **32** instances in which measures of this kind have been taken in **25** countries. The full list is as follows:

List of the cases in which the Committee has been able to <b>express its satisfaction</b> at certain measures taken by the governments of the following countries	
State	Conventions Nos
Argentina	3
Bolivia, Plurinational State of	87
Bosnia and Herzegovina	87
Central African Republic	52
Colombia	24
Czech Republic	132
Denmark	52
Ecuador	121, 130
Grenada	99
Japan	102
Lebanon	138, 182
Liberia	182
Libya	103
Malawi	138
Malaysia	95
Mauritius	14, 100
Nigeria	19, 155
Saint Vincent and the Grenadines	182

<sup>12</sup> See para. 16 of the report of the Committee of Experts submitted to the 48th Session (1964) of the International Labour Conference.

List of the cases in which the Committee has been able to <b>express its satisfaction</b> at certain measures taken by the governments of the following countries	
State	Conventions Nos
Samoa	138, 182
Tanzania, United Republic of	138, 182
The former Yugoslav Republic of Macedonia	138
Uganda	29, 182
Venezuela, Bolivarian Republic of	3
Yemen	138
Zimbabwe	87

75. 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 **2,946** since the Committee began listing them in its report.

76. Within cases of progress, the distinction between cases of satisfaction and cases of **interest** was formalized in 1979.<sup>13</sup> 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.** In comparison to cases of satisfaction, cases of interest relate to progress, which is less significant. The Committee's practice has developed to such an extent that cases in which it expresses interest may encompass a variety of measures. The paramount consideration is that the measures contribute to the overall achievement of the objectives of a particular Convention. This may include:

- draft legislation that is before parliament, or other proposed legislative changes 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 is a compelling reason to note a particular judicial decision as a case of satisfaction; or
- the Committee may also note as cases of interest the progress made by a State, province or territory in the framework of a federal system.

77. 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 **157** instances in which measures of this kind have been adopted in **95** countries. The full list is as follows:

List of the cases in which the Committee has been able to <b>note with interest</b> various measures taken by the governments of the following countries	
State	Conventions Nos
Albania	97, 102, 183
Argentina	87, 169, 184
Armenia	97
Australia	87, 98, 100, 111, 162
Austria	187
Azerbaijan	87

<sup>13</sup> See para. 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 <b>note with interest</b> various measures taken by the governments of the following countries	
State	Conventions Nos
Bahamas	98
Bangladesh	87, 98, 144
Barbados	95, 144
Belgium	155, 161
Belize	14, 97
Bolivia, Plurinational State of	169
Bosnia and Herzegovina	87
Botswana	87, 144
Brazil	42
Bulgaria	44
Canada	111
Cabo Verde	155
Central African Republic	52
Chile	187
China – Macau Special Administrative Region	19
Colombia	87, 98, 162
Costa Rica	117, 169
Croatia	162
Cyprus	97, 152
Democratic Republic of the Congo	100, 102, 111
Djibouti	182
Dominican Republic	167
Egypt	87, 98
Estonia	87
Finland	140
France – French Polynesia	44, 115
Georgia	52
Germany	111
Greece	98
Grenada	138, 182
Guinea-Bissau	29
Honduras	122, 169
India	42, 107, 111
Indonesia	100, 111
Ireland	100
Israel	122

List of the cases in which the Committee has been able to <b>note with interest</b> various measures taken by the governments of the following countries	
State	Conventions Nos
Italy	143
Kazakhstan	138
Kenya	111, 142
Kiribati	87
Korea, Republic of	122, 139, 142
Lebanon	138, 182
Lesotho	138
Liberia	182
Libya	29
Malawi	182
Mauritius	32, 111, 144
Mexico	111, 142, 144, 169
Montenegro	111, 142
Morocco	100, 111, 122, 162
Myanmar	17
Nepal	111
Nicaragua	122, 138
Niger	155, 161, 182, 187
Nigeria	19
Norway	100
Pakistan	29, 138, 182
Panama	122, 182
Paraguay	138
Peru	29, 176
Poland	142
Portugal	103
Romania	138
Russian Federation	95
Saint Lucia	182
Saint Vincent and the Grenadines	182
Samoa	29, 182
Sao Tome and Principe	29, 182
Senegal	138
Serbia	32
Seychelles	138, 182
Sierra Leone	111

List of the cases in which the Committee has been able to <b>note with interest</b> various measures taken by the governments of the following countries	
State	Conventions Nos
Slovakia	139
South Africa	29, 182
Spain	169
Sweden	182
Switzerland	182
Tanzania, United Republic of	105, 138, 142, 182
The former Yugoslav Republic of Macedonia	182
Togo	182
Trinidad and Tobago	138, 182
Turkey	98, 122, 152
Uganda	17, 98, 111, 144, 182
United Kingdom – Saint Helena	182
Uruguay	103
Uzbekistan	182
Viet Nam	138
Yemen	138
Zimbabwe	87

### ***Cases in which the need for technical assistance has been highlighted***

78. The combination of the work of the supervisory bodies and the practical guidance given to member States through technical cooperation and assistance has always been one of the key dimensions of the ILO supervisory system. Further, since 2005, at the initiative of the Conference Committee, heightened attention has been given to the complementarity between examination by the ILO supervisory bodies and the Office's technical assistance. As pointed out in paragraphs 31–34, this has led to enhanced follow-up of cases of serious failure by member States to fulfil reporting and other standards-related obligations. In addition, the Conference Committee has made more systematic references to technical assistance in its conclusions regarding individual cases concerning the application of ratified Conventions. The aim of this strengthened combination between the work of the supervisory bodies and the Office's technical assistance is to provide an effective framework to member States for full compliance with their standards-related obligations, including the implementation of the Conventions which they have ratified.

79. In this context, the Committee decided at its 79th Session (November–December 2008) to highlight the cases for which, in the Committee's view, technical assistance would be particularly useful in helping member States to address gaps in law and in practice in the implementation of ratified Conventions. These cases are highlighted in the following table and details can be found in Part II of the report of the Committee of Experts. The Committee also examined a certain number of cases in relation to which the Conference Committee emphasized the need for technical assistance at the last session of the Conference.

List of the cases for which <b>technical assistance</b> would be particularly useful in helping member States	
State	Conventions Nos
Angola	98, 111
Armenia	97

List of the cases for which <b>technical assistance</b> would be particularly useful in helping member States	
State	Conventions Nos
Azerbaijan	98
Bahamas	87
Bangladesh	87
Belarus	98
Belize	98
Bolivia, Plurinational State of	87, 98, 162
Botswana	98
Brazil	98
Burundi	144
Cameroon	162
Chad	144
Chile	98
Colombia	87
Costa Rica	87, 94, 100
Democratic Republic of the Congo	102
Ecuador	87, 98, 100, 152
Ethiopia	87, 98
France – Fench Polynesia	42
Gabon	111
Guatemala	87, 100, 162
India	100
Indonesia	100, 111
Iran, Islamic Republic of	111
Jamaica	100
Jordan	100, 111
Korea, Republic of	111
Kyrgyzstan	120
Lesotho	26, 100, 111
Libya	95, 131
Madagascar	100
Malawi	97
Malaysia	29
Malaysia – Sabah	97
Mauritania	29
Mauritius	26
Morocco	100, 111
Namibia	111

List of the cases for which <b>technical assistance</b> would be particularly useful in helping member States	
State	Conventions Nos
Nepal	100
Papua New Guinea	138
Sao Tome and Principe	88, 100
Saudi Arabia	111
Seychelles	155
Sierra Leone	100, 111
Suriname	17
Swaziland	138
Tajikistan	120
Togo	138
Turkey	98
Uganda	26, 111, 162
Ukraine	138
Zambia	148
Zimbabwe	87

### ***Strengthening technical assistance for an improved application of international labour standards***

**80.** At its 310th Session (March 2011), the Governing Body allocated funds from the Special Programme Account (SPA) for a limited duration to support the strengthening of technical assistance with a view to improving the application of international labour standards. This technical assistance, which was guided by the work of the Committee of Experts, and by that of the Conference Committee, targeted 43 countries (24 countries in Africa, seven countries in Asia, three countries in Europe and Central Asia, seven countries in Latin America and the Caribbean, and two countries in the Arab States) that had expressed their readiness and availability to collaborate with a view to overcoming the obstacles to the effective application of international labour standards. Detailed information on this technical assistance programme, the activities carried out and the results obtained is contained in Report III (Part 2).<sup>14</sup>

**81.** This action led these countries to implement a number of activities, including the analysis of their “report writing” practices, and to benefit from technical advice and training with a view to building their reporting capacity in both quantitative and qualitative terms. Other countries benefited from technical advice and training on the application of international labour standards, which allowed them to carry out actions with a view to reducing the implementation gaps in both law and practice with respect to the specific Conventions they had ratified. With the assistance of the government and the social partners of these countries, 125 activities were carried out, through which more than 1,400 tripartite partners and other key actors received training on, or were made more aware of, the standards ratified by their countries and the supervisory system of the ILO. The Committee takes note that during the two-year period (2012–13) covered by the technical assistance programme, 70.1 per cent of the reports on the application of ratified Conventions requested were received (67.8 per cent were received in 2012 and 72.5 per cent in 2013); 11 legislative gap analyses were carried out; eight publications and other technical and training materials were developed or updated; and a database registering good practices related to reporting and compliance with international labour standards has been created and is accessible to tripartite constituents.

**82.** In addition to these figures, it should be noted that concrete and tangible examples of the improvements brought about by this programme may be observed in the beneficiary countries. The programme has led to many improvements through the activities on constitutional reporting obligations and the activities on aligning legislation with ratified Conventions. In this respect, **Grenada, Seychelles, Solomon Islands** and **Sudan** have been able to completely catch up on the backlog they had accumulated. Regarding the **Central African Republic**, the first report on the Indigenous and Tribal Peoples Convention, 1989 (No. 169), was received in 2013. In **Morocco**, 500 labour inspectors

<sup>14</sup> See Report III (Part 2), International Labour Conference, 103rd Session, Geneva, 2014.

received training on international labour standards, and the inspection report requested under the Labour Inspection Convention, 1947 (No. 81), has been submitted for the first time in five years and contains detailed statistics. Furthermore, a ministerial circular regarding the obligation of inspectors to provide information and statistics on discrimination in the workplace has been published by the Ministry of Labour, and a tripartite committee on international labour standards has been set up. In order to improve the quality of its annual labour inspection report, **Burkina Faso** requested assistance in the area of labour statistics. The assistance provided in that area finally led to the amendment of the form used to collect statistical data. In five countries (**Benin, Burkina Faso, Cabo Verde, Cameroon and Togo**), 11 legislative gap analyses and compliance studies have been carried out. In the **Comoros, Lebanon and Saint Lucia**, new laws and legislative amendments have been passed which will in part give effect to ratified Conventions. In **Pakistan and Saint Kitts and Nevis**, new bills have been, or are in the process of being, passed. In **Peru**, the national committee for combating forced labour adopted the National Plan (2013–17) in January 2013, which has been approved by the Ministry of Labour and Employment Promotion. In **Cabo Verde**: (i) a plan of action has been adopted to gradually resolve the question of essential services in the event of a strike in the public service; and (ii) an occupational safety and health profile has been developed and validated by the tripartite constituents. In **Indonesia**, the Government established a tripartite National Task Force on Equal Employment Opportunities mandated to promote and conduct the equal employment opportunities programmes in coordination with respective ministries and workers' and employers' organizations. In **Lebanon**, in January 2013, a tripartite national workshop on forced and child labour was held, to assist with further development of the labour legislation on the basis of the Committee of Experts' comments. A national plan of action was adopted as an outcome of the workshop. In **Georgia and Ukraine**, the delay experienced in submitting the international labour standards adopted by the Conference to the competent authorities has been overcome.

**83.** The Committee notes that the decision taken to implement this programme has enabled the putting in place of a strategy for the rationalization of all technical assistance provided by the ILO concerning international labour standards. Synergies have been created to optimize the use of resources by focusing on the selected countries with tripartite support in order to achieve the expected results. This strategy has led to the mobilization of a considerably greater amount of resources to support the effect given to international labour standards.

**84.** **The Committee welcomes the results of this programme. It believes, as it has also been repeatedly emphasized by the Conference and the Governing Body concerning the ILO standards strategy, that technical assistance is an essential dimension to support the supervisory system of the ILO and that it is important to create and strengthen the synergies between the work of the supervisory bodies and the technical assistance of the Office to better achieve compliance with standards-related obligations. In this context, the Committee hopes that this pilot programme of technical assistance will be expanded and adequately resourced to benefit all members States needing such assistance.**

### ***Comments made by employers' and workers' organizations***

**85.** 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(2) of the Constitution, they have communicated copies of the reports supplied to the Office. The Committee recalls that, in accordance with the tripartite nature of the ILO, compliance with this constitutional obligation is intended to enable representative organizations of employers and workers to participate fully in supervision of the application of international labour standards. It should be recalled that if a government fails to comply with this obligation, these organizations are denied their opportunity to comment and an essential element of tripartism is lost. The Committee calls on all member States to discharge their obligation under article 23(2) of the Constitution. The Committee also requests governments to provide copies of reports to representative employers' and workers' organizations so that they have enough time to send any comments that they may wish to make.

**86.** Since its last session, the Committee has received **1,001** comments (compared to 1,004 last year), **298** of which (compared to 112 last year) were communicated by employers' organizations and **703** (compared to 892 last year) 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. This contribution is essential for the Committee's evaluation of the application of ratified Conventions in national law and in practice.

**87.** The majority of the comments received (**798**) relate to the application of ratified Conventions (see Appendix III).<sup>15</sup> Some **392** of these comments relate to the application of fundamental Conventions, **95** relate to governance Conventions and **311** concern the application of other Conventions. Moreover, **203** comments concern reports

<sup>15</sup> 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 NORMLEX database.

provided under article 19 of the Constitution on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135).<sup>16</sup>

88. The Committee notes that, of the comments received this year, 691 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 comments submitted by employers' and workers' organizations should be received by the Office 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. In 248 cases, the governments transmitted the comments made by employers' and workers' organizations with their reports, sometimes adding their own comments.

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

90. The Committee notes that in general the employers' and workers' organizations concerned endeavoured to gather and present elements of law and fact on the application in practice of ratified Conventions. The Committee recalls that it is essential for the organizations, when referring specifically to the Convention or Conventions deemed relevant, to provide detailed information that has real additional value with regard to the information provided by governments and the issues addressed in the Committee's comments. Such information should help to update or renew the analysis of the application of Conventions and emphasize real problems concerning their application in practice. Comments of a general nature relating to Conventions but not relevant to their application in any particular country are more appropriately addressed within the framework of the Committee's consideration of General Surveys or within other forums of the ILO. The Committee invites the organizations interested to request technical assistance from the Office to this end.

91. The Committee has considered the comments of the Vice-Chairpersons of the Employers' and Workers' groups, which are reflected in paragraphs 12–23 of the General Report. It has examined in depth the extensive comments made under article 23 of the ILO Constitution in 2013 by the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC), concerning the right to strike, as well as the Committee's interpretation of it in relation to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Committee took note of the additional statements made and arguments advanced by both sides on this issue, and observed that the views of the two groups continue to be diametrically opposed.

92. The Committee recalls that it has, as an independent body, on numerous occasions, set out in great detail its observations relating to this issue, as well as on the development of its scope and limits, taking into account the criteria applied by the Committee on Freedom of Association of the Governing Body. The Committee recognizes that these observations can be questioned by the tripartite constituents or recourse may be made to article 37 of the ILO Constitution.

93. Concerning the comment by the Vice-Chairperson of the Employers' group, set out in paragraph 14 of the General Report, on the sentence included in some of the conclusions adopted by the Committee on the Application of Standards which contain a statement of the position of the Employers, the Committee duly notes the comment and understands that this is the position taken by one of the tripartite constituents.

94. The Committee notes the increased transmission of country-specific information on the right to strike emanating from national employers' and workers' organizations as well as from the IOE and the ITUC. The Committee considers that these comments are a valuable source for its understanding of the national context and the practical application of the laws. The Committee encourages further use of this mechanism which is intended to allow the social partners to have an important input in enabling the Committee to undertake its technical review of the application of Conventions.

### ***Treatment of comments received from employers' and workers' organizations in a non-reporting year***

95. The Committee recalls that at its 77th Session (November–December 2006), it gave guidance to the Office as to the procedure to be followed in determining the treatment of comments received from employers' and workers' organizations concerning the application of a ratified Convention in a non-reporting year. At its 80th Session (November–December 2009), the Committee examined this procedure in light of the decision by the Governing Body to extend the cycle for the submission of reports from two to three years for the fundamental and governance Conventions. In this respect, the Committee is fully aware of the need to apply in a fair and judicious manner the decisions taken by the Governing Body to extend the reporting cycle and to ensure that employers' and workers' organizations comments may effectively draw its attention to areas of concern, even when no report on the Convention in question is due from the government that year.

<sup>16</sup> See Report III (Part 1B), International Labour Conference, 103rd Session, Geneva, 2014.

96. The Committee confirms that, where the comments received from employers' and workers' organizations simply repeat comments made in previous years, or refer to matters already raised by the Committee, they will be examined in accordance with the normal cycle in the year when the government's report is due, and a report will not be requested from the government outside that cycle. This procedure may also be followed in the case of comments which provide additional information on law and practice concerning matters already raised by the Committee, or on minor legislative changes, although consideration may be given, depending on the specific circumstances, to requesting an advanced report in such cases.

97. However, where the comment raises more serious allegations of important acts of non-compliance with a particular Convention – as opposed to mere repetitions – the government will be requested to reply to these allegations outside the normal reporting cycle and the Committee will consider the comments in the year in which they are received, where the allegations go beyond mere declarations. Comments referring to important legislative changes, or to proposals which have a fundamental impact on the application of a Convention will be considered in the same manner, as will comments which refer to minor, new legislative proposals or draft laws not yet examined by the Committee, where their early examination may assist the government at the drafting stage.

98. The Committee emphasizes that the procedure set out above aims at giving effect to decisions taken by the Governing Body which have both extended the reporting cycle and provided for safeguards in that context to ensure that effective supervision of the application of ratified Conventions is maintained. One of these safeguards consists in giving due recognition to the possibility afforded to employers' and workers' organizations to draw the attention of the Committee to matters of particular concern arising from the application of ratified Conventions, even in a year when no report is due; in such cases, comments received directly by the Office are communicated to the governments concerned in a timely fashion so as to ensure respect for due process. The Committee will continue to give full and careful consideration to all the elements made available to it in order to ensure the effective, up-to-date and regular monitoring of the application of ratified Conventions in the context of the new extended reporting cycle for the fundamental and governance Conventions.

99. Part II of this report contains most of the observations made by the Committee on cases in which the comments raised matters relating to the application of ratified Conventions. Where appropriate, other comments are examined in requests addressed directly to governments.

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

100. 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 Organization:

- (a) additional information on measures taken to submit to the competent authorities the instruments adopted by the Conference from 1967 (51st Session) to June 2012 (101st Session) (Conventions Nos 128–189, Recommendations Nos 132–202 and Protocols);
- (b) replies to the observations and direct requests made by the Committee at its 83rd Session (November–December 2012).

101. Appendix IV of Part II of the report contains a summary indicating the competent authority to which the instruments adopted by the Conference at its 101st Session were submitted and the date of submission. In addition, Appendix IV summarizes the information supplied by governments with respect to earlier adopted instruments submitted to the competent authority in 2012.

102. Other statistical information is to be found in Appendices V and VI of Part II of the report. Appendix V, compiled from information sent by governments, shows where each member State stands in terms of its constitutional obligation of submission. Appendix VI shows the overall submission status of instruments adopted since the 51st Session (June 1967) of the Conference. The statistical data in Appendices V and VI are regularly updated by the competent units of the Office and can be accessed via the Internet.

#### **101st Session**

103. At its 101st Session in June 2012, the Conference adopted the Social Protection Floors Recommendation, 2012 (No. 202). The 12-month period for submission to the competent authorities of Recommendation No. 202 ended on 14 June 2013, and the 18-month period on 14 December 2013. In all, 58 governments out of the 185 member States have already submitted Recommendation No. 202. At this session, the Committee examined new information on the steps taken regarding Recommendation No. 202 by the following 68 governments: **Afghanistan, Antigua and Barbuda, Armenia, Australia, Bahrain, Bangladesh, Bosnia and Herzegovina, Bulgaria, Cabo Verde, Colombia, Costa Rica, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, Eritrea, Estonia, Ethiopia, Finland, France, Gabon, Georgia, Germany, Ghana, Honduras, Hungary, Iceland, India, Indonesia, Israel, Italy, Japan, Kenya, Republic of Korea, Kyrgyzstan, Latvia, Lithuania, Montenegro, Morocco, Myanmar, Netherlands, New Zealand, Nicaragua, Norway,**

Panama, Peru, Philippines, Poland, Romania, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, United Republic of Tanzania, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom, United States, Uzbekistan, Bolivarian Republic of Venezuela and Zimbabwe.

### **Cases of progress**

104. The Committee notes with *interest* the information sent in the course of the period concerned by the governments of the following countries: **Botswana, Georgia, Peru and Ukraine**. It welcomes the efforts made by these governments to overcome the significant delay in submission and to take important steps toward fulfilling their obligation to submit to their parliamentary bodies the instruments adopted by the Conference over a number of years.

### **Special problems**

105. To facilitate the work of the Committee on the Application of Standards, this report only mentions those governments that have not submitted to the competent authorities the instruments adopted by the Conference for at least seven sessions. **This time frame begins on the 92nd (June 2004) Session and concludes on the 101st (2012) Session because the Conference did not adopt any Conventions or Recommendations during the 93rd (2005), 97th (2008) or 98th (2009) Sessions.** This time frame was deemed long enough to warrant inviting the governments concerned to a special sitting of the Conference Committee so that they could account for the delays in submission.

106. The Committee notes that at the closure of its 84th Session, on 14 December 2013, the following 42 countries were in this situation: **Albania, Angola, Bahrain, Bangladesh, Belize, Brazil, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Dominica, El Salvador, Equatorial Guinea, Fiji, Guinea, Haiti, Iraq, Jamaica, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Libya, Mali, Mauritania, Mozambique, Pakistan, Papua New Guinea, Rwanda, Saint Lucia, Sao Tome and Principe, Seychelles, Sierra Leone, Solomon Islands, Somalia, Sudan, Suriname, Syrian Arab Republic, Tajikistan, Uganda and Vanuatu.**

107. The Committee is aware of the exceptional circumstances that have affected some of these countries for years, as a result of which some of them have been deprived of the institutions needed to fulfil the obligation to submit instruments. At the 102nd Session of the Conference (June 2013), some Government delegations supplied information explaining why their countries had been unable to meet the constitutional obligation to submit Conventions, Recommendations and Protocols to national parliaments. As the Committee of Experts had done previously, the Conference Committee expressed great concern at the failure to respect this obligation. It pointed out that compliance with this constitutional obligation, which means submitting the instruments adopted by the Conference to national parliaments, is of the utmost importance in ensuring the effectiveness of the Organization's standards-related activities.

108. The abovementioned countries have been identified in observations published in this report, and the Conventions, Recommendations and Protocols that have not been submitted are indicated in the statistical appendices. The Committee considers it worthwhile to alert the governments concerned so as to enable them immediately and as a matter of urgency to take appropriate steps to bring themselves up to date. The Committee recalls that governments can benefit from the measures the Office is prepared to take, upon their request, to assist them in the steps required for the rapid submission to parliament of the pending instruments.

### **Comments of the Committee and replies from governments**

109. As in its previous reports, the Committee makes individual observations in section III of Part II of this report on the points that should be particularly brought to the attention of governments. Observations are made in cases where there has been no information for five or more sessions of the Conference. Furthermore, requests for additional information on other points have been addressed directly to a number of countries (see the list of direct requests at the end of section III).

110. As the Committee has already pointed out, it is important that governments send the information and documents required by the questionnaire included in the Memorandum adopted by the Governing Body in March 2005. The Committee must receive for examination a summary or a copy of the documents submitting the instruments to the parliamentary bodies and be informed of the proposals made as to the action to be taken on them. The Committee hopes to be able to note additional progress on the submission process in its next report. It again reminds governments that they may seek technical assistance from the ILO, particularly through the standards specialists in the field.

## **D. Instruments chosen for reports under article 19 of the Constitution**

111. The Committee recalls that at its 303rd Session (November 2008), the Governing Body decided to align the subjects of General Surveys with those of the annual recurrent discussions in the Conference under the follow-up to the Social Justice Declaration. This year, governments were requested to supply reports under article 19 of the Constitution as a basis for the General Survey on the following instruments: the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135).

112. A total of 385 reports were requested from member States, under article 19 of the Constitution and 217 reports were received. This represents 56.4 per cent of the reports requested.

113. 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 Constitution have been received from the following 15 countries: **Brunei Darussalam, Democratic Republic of the Congo, Equatorial Guinea, Guinea, Guinea-Bissau, Libya, Marshall Islands, Saint Kitts and Nevis, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Tajikistan, Tuvalu and Vanuatu.**

114. The Committee once again urges governments to provide the reports requested so that its General Surveys can be as comprehensive as possible. It hopes that the Office will supply all the necessary technical assistance to this end.

115. Part III of this report (issued separately as Part 1B) contains the General Survey concerning minimum wage fixing.<sup>17</sup> 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 five members of the Committee.

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<sup>17</sup> See Report III (Part 1B), International Labour Conference, 103rd Session, Geneva, 2014.

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

#### **A. Cooperation with the United Nations in the field of standards**

116. In the context of collaboration with other international organizations on questions concerning 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 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 (UN), Food and Agriculture Organization of the United Nations (FAO), Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Educational, Scientific and Cultural Organization (UNESCO) and World Health Organization (WHO), Inter-American Indian Institute of the Organization of American States;
- the Radiation Protection Convention, 1960 (No. 115): International Atomic Energy Agency;
- the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117): UNFAO, OHCHR and UNESCO;
- the Rural Workers' Organisations Convention, 1975 (No. 141): UN, OHCHR and UNFAO;
- the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), and the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147): International Maritime Organization;
- the Human Resources Development Convention, 1975 (No. 142): UNESCO;
- the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143): UN, OHCHR, UNESCO and WHO;
- the Nursing Personnel Convention, 1977 (No. 149): WHO;
- the Indigenous and Tribal Peoples Convention, 1989 (No. 169): UNFAO, OHCHR, UNESCO, WHO and Inter-American Indian Institute of the Organization of American States.

#### **B. United Nations treaties concerning human rights**

117. The Committee recalls that international labour standards and the provisions of related United Nations human rights treaties are complementary and mutually reinforcing. It emphasizes that continuing cooperation between the ILO and the United Nations with regard to the application and supervision of relevant instruments is necessary, particularly in the context of United Nations reforms aimed at greater coherence and cooperation within the United Nations system and the human rights-based approach to development.

118. The Committee welcomes the fact that the Office has continued to provide information on the application of international labour standards to the United Nations treaty and charter-based bodies on a regular basis, in accordance with the existing arrangements between the ILO and the United Nations. It also continued to follow the work of these bodies and to take their comments into consideration where appropriate. For example, in its comments on the application of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), the

Committee frequently refers to the concluding observations adopted by the Committee on the Rights of the Child. The Committee considers that coherent international monitoring is an important basis for action to enhance the enjoyment of, and compliance with, economic, social and cultural rights at the national level. The Committee itself had the opportunity to continue its collaboration with the United Nations Committee on Economic, Social and Cultural Rights in the context of the annual meeting between the two Committees which took place on 27 November 2013, at the invitation of the Friedrich Ebert Stiftung. This year, “Protect, respect and remedy” in the field of economic, social and cultural rights and labour rights was selected as a topic for discussion.

### **C. European Code of Social Security and its Protocol**

**119.** In accordance with the supervisory procedure established under Article 74(4) of the European Code of Social Security, and the arrangements made between the ILO and the Council of Europe, the Committee of Experts examined 21 reports on the application of the Code and, as appropriate, its Protocol. The Committee’s conclusions on these reports will be sent to the Council of Europe for examination by its Committee of Experts on Social Security. Once approved, the Committee’s comments should lead to the adoption of resolutions by the Committee of Ministers of the Council of Europe on the application of the Code and the Protocol by the countries concerned.

**120.** With its dual responsibility for the application of the Code and for international labour Conventions relating to social security, the Committee is seeking to develop a coherent analysis of the application of European and international instruments and to coordinate the obligations of the States parties to these instruments. The Committee also draws attention to the national situations in which recourse to technical assistance from the Council of Europe and the Office may prove to be an effective means of improving the application of the Code.

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**121.** 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, 13 December 2013

*(Signed)* Abdul G. Koroma  
Chairperson

Vitit Muntarbhorn  
Reporter

## Appendix to the General Report

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

**Mr Mario ACKERMAN** (Argentina)

Professor of Labour Law, Director of Masters and Specialist Postgraduate Labour Law Studies at the Faculty of Law of the University of Buenos Aires; Director of the *Revista de Derecho Laboral*; former adviser to the Parliament of the Republic of Argentina; former National Director of the Labour Inspectorate of the Ministry of Labour and Social Security of the Republic of Argentina.

**Mr Denys BARROW, SC** (Belize)

Retired Justice of Appeal of the Court of Appeal of Belize; former Justice of Appeal of 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.

**Mr Lelio BENTES CORRÊA** (Brazil)

Judge at the Labour Superior Court (*Tribunal Superior do Trabalho*) of Brazil, former Labour Public Prosecutor of Brazil, LL M of the University of Essex, United Kingdom; Professor (Labour Team and Human Rights Centre) at the *Instituto de Ensino Superior de Brasília*; Professor at the National School for Labour Judges and at the Superior School for Prosecutors.

**Mr James J. BRUDNEY** (United States)

Professor of Law, Fordham University School of Law, New York, NY; Co-Chair of the Public Review Board of the United Automobile Workers Union of America (UAW); former Visiting Fellow, Oxford University, United Kingdom; former Visiting Faculty, Harvard Law School; former Professor of Law, The Ohio State University Moritz College of Law; former Chief Counsel and Staff Director of the United States Senate Subcommittee on Labour; former attorney in private practice; and former law clerk to the United States Supreme Court.

**Mr Halton CHEADLE** (South Africa)

Professor of Public Law at the University of Cape Town; former Special Adviser to Minister of Justice; 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 Graciela DIXON CATON** (Panama)

Former President of the Supreme Court of Justice of Panama; former President of the Penal Court of Cassation and of the Chamber of General Business Matters of the Supreme Court of Panama; former President of the International Association of Women Judges; former President of the Latin American Federation of Judges; former National Consultant for the United Nations Children's Fund (UNICEF); presently Arbitrator at the Court of Arbitration of the Official Chamber of Commerce of Madrid; Arbitrator at the Center for Dispute Resolution (CESCON) of Panama as well as for the Conciliation and Arbitration Center of the Panamanian Chamber of Commerce; Adviser to the Rector of the University of Panama; and Attorney in private practice.

**Mr Abdul G. KOROMA** (Sierra Leone)

Judge at the International Court of Justice since 1994 (Rt.); former 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.

**Mr Dierk LINDEMANN** (Germany)

Doctor of law; former Managing Director of the German Shipowners' Association (1991–2006) and Legal Adviser to the Association (1972–2006). Author of the German Seaman's Act Commentary; former spokesperson for the Shipowners' group at the ILO maritime meetings from 1996 to 2006; former Chairperson of the Labour Affairs Committee of the International Shipping Federation, as well as the Social Affairs Committee of the European Shipowners' Association (1990–2006).

**Mr Pierre LYON-CAEN** (France)

Honorary Advocate-General, Court of Cassation (Social Division); member of the Advisory Council of the Biomedical Agency; National Advisory Committee on Human Rights; President, Journalists Arbitration Commission; former Deputy Director, Office of the Minister of Justice; former 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*.

**Ms Elena E. MACHULSKAYA** (Russian Federation)

Professor of Law, Department of Labour Law, Faculty of Law, Moscow State Lomonosov University; Professor of Law, Department of Civil Proceedings and Social Law, Russian State University of Oil and Gas; Secretary, Russian Association for Labour and Social Security Law; member of the European Committee of Social Rights; member of the President's Committee on the Rights of Invalids (non-paid basis).

**Mr Rachid FILALI MEKNASSI** (Morocco)

Doctor of Law; Professor at the University Mohammed V of Rabat (Morocco); consultant with national and international public bodies, including the World Bank, UNDP, FAO, UNICEF and USAID; National Coordinator of the ILO project "Sustainable Development through the Global Compact" (2005–08); former Research Project Manager at the Foreign Department of the Central Bank (1975–78); former Head of the Legal Department of the Office of the High Commissioner for Former Resistance Fighters (1973–75).

**Ms Karon MONAGHAN** (United Kingdom)

Queen's Counsel; Deputy High Court Judge; former Judge of the Employment Tribunal (2000–08); practising lawyer with Matrix Chambers, specializing in discrimination and equality law, human rights law, European Union law, public law and employment law; advisory positions include Special Adviser to the House of Commons Business, Innovation and Skills Committee for the inquiry on women in the workplace (2013–14).

**Mr Vitit MUNTARBHORN** (Thailand)

Professor of Law in Thailand; distinguished scholar at Chulalongkorn University, Bangkok; former United Nations Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea; former United Nations Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography; Commissioner of the International Commission of Jurists; member of the Advisory Council of Jurists, Asia Pacific Forum of National Human Rights Institutions; Chairperson of the UN Commission of Inquiry on the Ivory Coast (2011); member, Advisory Board, UN Human Security Fund; Commissioner, UN Commission of Inquiry on Syria (2012–present).

**Ms Rosemary OWENS** (Australia)

Professor of Law, Adelaide Law School, the University of Adelaide, and former Dean of Law (2007–11); fellow of the Australian Academy of Law; former Editor and currently member of the editorial board of the *Australian Journal of Labour Law*; member of the Australian Labour Law Association (and former member of its National Executive); International Reader for the Australian Research Council; Chairperson of the South Australian Governments' Ministerial Advisory Committee on Work/Life Balance (2010–13); former Chairperson and current member of the Board of Management of the Working Women's Centre (SA).

**Mr Paul-Gérard POUYOUÉ** (Cameroon)

Professor and Vice-Rector of the University of Yaoundé II; member of the International Society for Labour and Social Security Law, the International Foundation for the Teaching of Business Law, the Association Henri Capitant and the Society of Comparative Law; former member of the Scientific Council of the AUPELF-UREF (*Agence universitaire francophone*) from 1993 to 2001; guest or associate professor at several foreign universities; founder and Director of the *Revue: Juridis périodique*; President of the Association for the Promotion of Human Rights in Central Africa (APDHAC); member of the Council of the International Order of Academic Palms of the African and Malagasy Council of Higher Education (CAMES).

**Mr Raymond RANJEVA** (Madagascar)

Member of the International Court of Justice (1991–2009); Vice-President (2003–06), President (2005) of the Chamber formed by the International Court of Justice to deal with the case concerning the Frontier Dispute Benin/Niger; senior judge of the Court (2006); Bachelor's degree in Law (1965), University of Madagascar, Antananarivo; Doctorate of Law, University of Paris II; Agrégé of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972); Doctor honoris causa of the Universities of Limoges, Strasbourg and Bordeaux-Montesquieu. Professor at the University of Madagascar (1981–1991) and other institutions; a number of administrative posts held, including First Rector of the University of Antananarivo (1988–1990); member of the Malagasy delegations to several international conferences; Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties, Vienna (1976–77); first Vice-President for Africa of the International Conference of French-speaking Faculties of Law and Political Science (1987–1991); member of the Court of Arbitration of the International Chamber of Commerce; member of the Court of Arbitration for Sport; member of the Institute of International Law; member of numerous national and international professional and academic societies; Curatorium of the Hague Academy of International Law; member of Pontifical Council for Justice and Peace; President of the African Society of International Law since 2012.

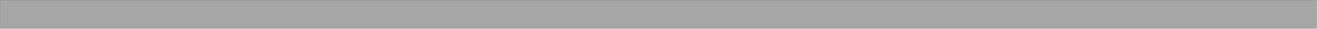
**Mr Ajit Prakash SHAH** (India)

Former Chief Justice of the High Court of Madras (Chennai) and of the High Court of New Delhi; former judge of the High Court of Bombay (Mumbai); specialist in labour and equality issues; landmark rulings include those on contract and child labour (Delhi Action Plan against child labour), maritime matters and the employment rights of persons living with HIV and AIDS.

**Mr Yozo YOKOTA** (Japan)

President, Centre for Human Rights Education and Training (Japan); Commissioner, International Commission of Jurists; former President, Japan Association for United Nations Studies; former Professor, Chuo University, University of Tokyo and International Christian University; former member, UN Subcommission on the Promotion and Protection of Human Rights.




## ***Part II. Observations concerning particular countries***<sup>\*</sup>

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<sup>\*</sup> In accordance with the decision taken at its 81st Session (November–December 2010), the Committee recalls that it follows a specific approach in identifying in its comments cases of progress. This approach is described in paragraphs 71–77, Part I (General Report) of the present report. In particular, the Committee recalls that the identification of a case of progress does not mean that it considers the country in question to be in general conformity with the Convention. Further, an indication of progress is limited to a specific issue related to the application of the Convention and the nature of the measure adopted by the government concerned.



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

### **General observation**

The Committee recalls that the purpose of the obligation to communicate copies of reports on ratified Conventions to representative employers' and workers' organizations, established in article 23, paragraph 2, of the Constitution, is to enable these organizations to make their own observations on the application of ratified Conventions. The Committee emphasizes that the information received from employers' and workers' organizations bears witness to their involvement in the reporting system and that such information has often led to better knowledge and understanding of the difficulties that countries have met. Further to its general observation of last year, the Committee welcomes the fact that nearly all countries have fulfilled this obligation this year. However, it notes that none of the reports supplied by the following countries indicates the employers' and workers' organizations to which a copy has been communicated: **Afghanistan** (2012 and 2013), **Côte d'Ivoire** (2013), **Georgia** (2013), **Lao People's Democratic Republic** (2013), **Liberia** (2013), **Oman** (2013), **Russian Federation** (2013), **Sudan** (2013), **Uganda** (2013), **United Arab Emirates** (2013) and **Zambia** (2012 and 2013). For the following countries, the Committee notes that a majority of the reports received do not indicate the representative employers' and workers' organizations to which copies of the reports were communicated: **Algeria** (2013), **Kazakhstan** (2013), **Libya** (2013) and **Sao Tome and Principe** (2013). The Committee requests the Governments concerned to fulfil their constitutional obligation without delay.

### **General observations**

#### **Afghanistan**

The Committee notes that four first reports are due on the application of Conventions Nos 138, 144, 159 and 182. It reminds the Government that it may seek technical assistance from the Office. The Committee hopes that the Government will soon submit all the reports, in accordance with its constitutional obligation.

#### **Burundi**

The Committee notes with concern that for the third year in succession, the reports due on the application of ratified Conventions have not been received and that 26 reports are now due (on fundamental, governance and technical Conventions), most of which should include information in response to comments made by the Committee. Furthermore, the Committee notes that a government official received training in 2011 at the ILO International Training Centre in Turin. The Committee hopes that the Government will soon submit all the reports due, in accordance with its constitutional obligation.

## Comoros

The Committee notes that for the second year in succession, the reports due on the application of ratified Conventions have not been received and that 24 reports are now due (on fundamental, governance and technical Conventions), most of which should include information in response to comments made by the Committee. The Committee further notes that the country has been receiving standards-related technical cooperation from the Office, in the course of which a government official participated in training in 2012 at the ILO International Training Centre in Turin. The Committee firmly hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

## Equatorial Guinea

The Committee notes that for the seventh year in succession, apart from a report sent in 2008, the reports due on the application of ratified Conventions have not been received, and that 14 reports are now due, most of which should include information in response to comments made by the Committee and two of which are first reports on the application of Conventions Nos 68 and 92 (due since 1998). The Committee points out that under the time-bound programme to secure better application of international labour standards, financed out of the Special Programme Account (SPA), technical assistance and training for ministry officials in international labour standards and the preparation of reports were organized in Malabo between 8 and 10 October 2012. The Committee is bound to reiterate its *deep concern* at this situation. It urges the Government to take the necessary measures without delay to submit the reports and information due on the application of ratified Conventions, in accordance with its constitutional obligation.

## Gambia

The Committee notes that for the second year in succession, the reports due on the application of ratified Conventions have not been received and that six reports are now due (on fundamental Conventions) and should include information in reply to comments made by the Committee. The Committee reminds the Government that it may seek technical assistance from the Office. It hopes that that Government will soon submit these reports, in accordance with its constitutional obligation.

## Kazakhstan

The Committee notes that two first reports are due, one on the application of Convention No. 162 and the other on the application of Convention No. 167 (due since 2010). It reminds the Government that it may seek technical assistance from the Office. The Committee hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

## Mali

The Committee notes that for the second year in succession, the reports due on the application of ratified Conventions have not been received and that 17 reports are now due (on fundamental, governance and technical Conventions) and should include information in response to comments made by the Committee. The Committee hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

## San Marino

The Committee notes that for the third year in succession, the reports due on the application of ratified Conventions have not been received and that 21 reports are now due (on fundamental and technical Conventions), some of which should include information in response to comments made by the Committee. The Committee reminds the Government that it may seek technical assistance from the Office. It hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

## Sao Tome and Principe

The Committee notes that the first report on the application of Convention No. 184 has not been received and that it has been due since 2007. The Committee points out that in September 2013, the country received technical assistance from the Office under the time-bound programme to secure better application of international labour standards, financed out of the Special Programme Account (SPA). It hopes that the Government will soon submit this report, in accordance with its constitutional obligation.

## Somalia

The Committee notes with *deep concern* that for the eighth year in succession, the reports due on the application of ratified Conventions have not been received and that 13 reports are now due (on fundamental and technical Conventions). The Committee hopes that, as soon as the situation in the country allows, the Office will be able to provide all the necessary assistance to enable the Government to submit the reports due on the application of ratified Conventions, in accordance with its constitutional obligation.

## Tajikistan

The Committee notes that for the second year in succession, the reports due on the application of ratified Conventions have not been received and that 30 reports are now due (on fundamental, governance and technical Conventions), most of which should include information in reply to comments made by the Committee. The Committee hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

## Vanuatu

The Committee notes that for the third year in succession, the reports due on the application of ratified Conventions have not been received and that eight reports are now due: five first reports, due since 2008, on Conventions Nos 87, 98, 100, 111 and 182, and a first report, due since 2010, on Convention No. 185. The Committee reminds the Government that it may seek technical assistance from the Office. It hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

## Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: *Brunei Darussalam, Bulgaria, Congo, Croatia, Czech Republic, Djibouti, Dominica, Dominican Republic, Ecuador, El Salvador, Eritrea, France: French Southern and Antarctic Territories, Ghana, Guinea, Guyana, Haiti, Luxembourg, Malawi, Malaysia: Peninsular Malaysia, Malaysia: Sarawak, Marshall Islands, Mauritania, Mongolia, Netherlands: Aruba, Nigeria, Rwanda, Sierra Leone, Slovakia, South Sudan, Syrian Arab Republic, Thailand, Timor-Leste, Turkmenistan.*



## 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 notes the comments submitted on 30 August 2013 by the International Trade Union Confederation (ITUC) concerning issues already being raised by the Committee.

*Article 2 of the Convention. Right to organize of foreign workers.* With reference to section 5(4) of the Act on Foreigners (No. 9959 of 2008), the Committee had previously requested the Government to take the required measures, where necessary through an amendment to the legislation, to ensure that all workers, including foreign workers without a residence permit, can exercise trade union rights and particularly the right to join organizations which defend their interests as workers. The Committee notes that the new Act on Foreigners (No. 108 of 2013), which repeals Act No. 9959 of 2008, no longer contains the abovementioned provision. However, the Committee notes that section 70 of the new Act provides that foreign workers with a permanent residence permit shall enjoy economic and social rights on the same terms as nationals. **Recalling the provisions of the Constitution of Albania relating to freedom of association (articles 16(1), 46(1) and 50), the Committee requests the Government to take all necessary measures to ensure that all foreign workers, whether with a permanent or temporary residence permit or without residence permit, can exercise trade union rights, and particularly the right to join organizations which defend their interests as workers.**

*Article 3. Right of organizations to organize their activities and formulate their programmes.* For a number of years, the Committee has been requesting the Government to take measures to: (i) ensure that all public servants who do not exercise authority in the name of the State are able to exercise the right to strike; and (ii) amend section 197/7(4) of the Labour Code concerning sympathy strikes. The Committee notes from the Government's report that: (i) it has been proposed that the new bill on the civil service provides for the right to strike of public servants; and (ii) the relevant provision in the bill on the review of the Labour Code has been, in consultation and agreement with the social partners, reworded to ensure that workers are able to stage sympathy strikes provided that the initial supported strike is itself lawful. **The Committee requests the Government to provide information in its next report with respect to the adoption of the new bill on the civil service as well as of the bill on the review of the Labour Code.**

#### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)**

The Committee notes the comments submitted on 30 August 2013 by the International Trade Union Confederation (ITUC) concerning issues already being raised by the Committee.

*Article 1 of the Convention. Effective protection of workers against acts of anti-union discrimination.* In its previous comments, the Committee, while noting the remedies provided for in cases of anti-union discrimination in sections 146(3), 202(1), 181(4) and 146(3) of the Labour Code (compensation; fine; prior union consent; reinstatement of public administration employees), had regretted that arbitration tribunals had not yet become operational and that it allegedly took three years to review such cases in court. The Committee had urged the Government to take all necessary measures to establish the arbitration tribunal and labour court provided for in the Labour Code without further delay and had requested information on the status of the legal initiative concerning arbitration. The Committee notes that, according to the Government, the Act on the organization and functioning of administrative courts and the trial of administrative disputes (No. 49 of 2012) provides for the settlement in a shorter period of disputes related to employment relationships where the employer is a public administration body; in this regard, the Committee observes that sections 3 and 25 of this act seek to accelerate the procedure. The Committee also notes the Government's indication that, in the framework of the drafting of the bill on local and foreign arbitration by the Ministry of Justice, the Ministry of Labour shall contribute in order to reflect the recommendations of the Committee. **Recalling that the existence of general legal provisions prohibiting acts of anti-union discrimination is insufficient unless they are accompanied by effective and rapid procedures to ensure their application in practice, the Committee expects that the bill concerning arbitration will be adopted in the very near future and requests the Government to supply copies of the Act once adopted. It urges the Government to take all necessary measures to ensure that the arbitration tribunal as well as the labour court provided for in the Labour Code will be set up in an expeditious manner.** Furthermore, the Committee notes the Government's statement that the bill on the review of the Labour Code now provides for the remedy of reinstatement with respect to employees of the private sector.

*Article 4. Promotion of collective bargaining.* Noting in its previous comments that under section 161 of the Labour Code, collective agreements may be concluded at enterprise or branch level, and that according to the Government no collective agreements at national level had yet been concluded, the Committee had asked the Government to pursue its efforts to make bargaining possible at the national level in conformity with the national law and practice, in particular by mobilizing tripartite forums such as the National Labour Council (NLC). The Committee notes that the Government states

that the Ministry of Labour has been continuously committed to the strengthening of social dialogue through discussions on this issue (separately or within the activities of the NLC), participation and referral in various activities or seminars, etc. *The Committee invites the Government to pursue its efforts to render voluntary collective bargaining possible at all levels, including at national level, when the parties so desire.*

## Algeria

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

The Committee notes the Government's reply to the observations of 2013 from the International Trade Union Confederation (ITUC) in which it rejects the alleged violations of civil liberties against trade union leaders and trade unionists, including arrests, criminal prosecutions and restrictions to the freedom to travel. Nevertheless, the Committee notes that the Government has not replied to the comments submitted in 2012 by the ITUC, Education International (EI), the National Autonomous Union of Public Administration Staff (SNAPAP) and the National Autonomous Union of Secondary and Technical Education Teachers (SNAPEST), which included allegations relating to acts of intimidation and threats, including death threats, towards trade union leaders and members. *The Committee therefore requests the Government to provide its comments thereon.*

The Committee also notes that the Government's report has not responded to the issues previously raised in the Committee's comments. In these circumstances, the Committee must therefore repeat its previous observation.

The Committee, like the Committee on Freedom of Association (Case No. 2701, November 2012 session), notes with *satisfaction* the registration of the National Union of Vocational Training Workers (SNTFP), which had been awaiting approval since 2002.

*Article 2 of the Convention. Right to establish trade union organizations.* The Committee previously noted that section 6 of Act No. 90-14 of 2 June 1990 restricts the right to establish a trade union organization to persons who are Algerian by birth or who have had Algerian nationality for at least ten years. Recalling that the right to organize must be guaranteed to workers and employers without distinction whatsoever, with the possible exception of those categories specified in *Article 9* of the Convention, and that foreign workers too must have the right to establish organizations, the Committee asked the Government to take the necessary steps to amend section 6 of Act No. 90-14 so as to grant all workers, without distinction as to nationality, the right to establish a trade union. The Committee notes that the Government reiterates in its report that the amendment requested by the Committee will be examined as part of the reform of the Labour Code. *The Committee hopes that the announced legislative reform will occur in the near future and urges the Government to provide information on developments in this respect, especially regarding any amendment of section 6 of Act No. 90-14 securing to all workers, without distinction as to nationality, the right to form a trade union.*

*Articles 2 and 5. Right of workers to establish and join organizations of their own choosing without previous authorization and to establish federations and confederations.* In its previous comments the Committee asked the Government to take specific measures to amend the legislative provisions that prevent workers' organizations, irrespective of the sector to which they belong, from forming federations and confederations of their own choosing (sections 2 and 4 of Act No. 90-14). The Committee notes that the Government reiterates that the Committee's request will be taken into account as part of the reform of the Labour Code. *The Committee again urges the Government to report any developments regarding the amendment of section 4 of Act No. 90-14 so as to remove all obstacles preventing workers, regardless of the sector to which they belong, from establishing federations and confederations of their own choosing.*

*Article 3. Right of organizations to carry on their activities in full freedom and formulate their programmes.* In its previous comments the Committee referred to section 43 of Act No. 90-02, under which strikes are forbidden not only in essential services the interruption of which may endanger the life, personal safety or health of the citizen, but also where the strike "is liable to give rise to a serious economic crisis". *Noting that the Government reiterates that the interpretation given to this section is similar to that of the Committee, which refers to "strikes which, by reason of their scope and duration, are liable to cause an acute national crisis", the Committee requests the Government to give examples of specific cases in which recourse to strike action has been prohibited on the grounds of its possible effects.*

Finally, the Committee previously commented on section 48 of Act No. 90-02, which empowers the minister or the competent authority, where the strike persists and mediation has failed, or where compelling economic or social needs require, to refer the dispute to the National Arbitration Commission after consulting the employers' and workers' representatives. The Committee notes the additional information provided by the Government in its report, especially with regard to the composition of the National Arbitration Commission (section 2 of Executive Decree No. 90-148 of 22 December 1990), which is a tripartite body containing equal numbers of representatives of the employers, the workers and the State and which is chaired by a magistrate. The Committee further notes the Government's indication that only one dispute has been referred to the National Arbitration Commission since its establishment in 1990.

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

## Angola

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

The Committee takes note of the comments made by the International Trade Union Confederation (ITUC) in 2013 on matters already dealt with by the Committee.

*Legislative reforms.* In its previous comments, the Committee had noted new bills to revise the Collective Bargaining Act No. 20-A/92, the Trade Union Act No. 21-C/92 and the Strike Act No. 23/91, which contained some of the amendments the Committee had suggested and underlined as necessary. ***The Committee hopes that the technical assistance requested will be provided in the near future and requests the Government to ensure that the trade union organizations of public servants who are not engaged in the administration of the State have, under the new Constitution, the right to negotiate with their public employers on wages as well as other terms and conditions of employment.***

The Committee had requested the amendment of sections 20 and 28 of Collective Bargaining Act No. 20-A/92 which provide that collective labour disputes in public utility enterprises may be settled through compulsory arbitration by the Ministry of Labour, Public Administration and Social Security after the parties have been heard. The Committee had noted that the list of public utility activities (section 1.3) was much broader than the concept of 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). ***The Committee requests the Government to take the necessary measures to amend – within the framework of the technical assistance requested by the Government – sections 20 and 28 of the Act in question so that compulsory arbitration may be imposed only in cases involving essential services in the strict sense of the term. The Committee notes that the Government reiterates its request for technical assistance and that five tripartite bodies are in place. The Committee hopes that the Government will take account of all the comments made in order to bring the current legislation fully in line with the Convention. The Committee requests the Government once again to enclose a copy of the Bill revising Collective Bargaining Act No. 20-A/92 with its next report, or the text that might have been adopted meanwhile.***

***The Committee also hopes that the process of revising the laws related to the application of the Convention will be carried out with the technical assistance of the Office.***

The Committee is raising other points in a request addressed directly to the Government.

## Argentina

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

The Committee notes the comments made in 2013 by the International Trade Union Confederation (ITUC) and the Confederation of Workers of Argentina (CTA), which refer principally to legislative matters already raised by the Committee. The Committee notes the Government's reply to certain comments made by the ITUC and the CTA in 2012 and 2013 relating to allegations of violations of trade union rights in certain specific cases (some of the alleged acts are being examined by the Committee on Freedom of Association). The Committee also notes the 2013 comments of the General Confederation of Labour (CGT), and particularly its indication that trade union pluralism is practised regularly, that trade union associations are registered based on a mere application for registration and that trade union status has been granted without difficulties. The Committee notes the Government's indication that between January and October 2013 trade union status was granted on 298 occasions and that 682 trade unions were registered.

#### ***Application by the CTA for trade union status***

The Committee recalls that since 2005 it has been noting in its comments that the response is pending to the application made by the CTA in August 2004 for "trade union status" (a status which confers certain exclusive rights, such as the conclusion of collective agreements, the protection of union officers, the receipt of trade union dues through deductions from wages by the employer, etc.). The Committee notes the CTA's indication that there has been no change in the processing of the application by the administration and that the Ministry of Labour has still not made a decision on its application for trade union status. ***In this regard, the Committee deeply regrets the time that has passed – almost ten years – without the administrative authorities reaching a decision and firmly urges the Government, as the Conference Committee on the Application of Standards and the Committee on Freedom of Association have done, to take a decision in the near future. The Committee requests the Government to provide information on this subject.***

#### ***Act on trade union associations and its implementing Decree***

The Committee recalls that for many years it has been referring in its comments to the following provisions of Act on trade union associations No. 23551 of 1988 and its implementing regulations issued by Decree No. 467/88, which are not in conformity with the Convention:

##### *Trade union status*

- section 28 of the Act on trade union associations, 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 implementing Decree No. 467/88, which qualifies the term "considerably larger" by laying down that the association claiming trade union status must have at least 10 per cent more dues-paying members than the organization which currently holds the status;

- section 29 of the Act, under which an enterprise trade union may be granted trade union status only when no other organization with trade union status exists in the geographical area, occupation or category; and section 30 of the Act, under which, in order to be eligible for trade union status, unions representing a trade, occupation or category have to show that they have different interests from the existing trade union or federation, and that the latter's status must not cover the workers concerned.

*Benefits deriving from trade union status*

- section 38 of the Act on trade union associations, under which the check-off of trade union dues is allowed only for associations with trade union status, and not for associations that are merely registered; and sections 48 and 52 of the Act, which give special protection (trade union immunity) only to representatives of organizations that have trade union status.

The Committee notes the CTA's indication that the Government is continuing to postpone the revision of the Act, that the CTA has not been convened to address the adaptation of the legislation to the Convention and that the jurisprudential trend initiated by the Supreme Court of Justice has continued, with sections 28, 29, 30 and 38, followed in 2013 by section 31(a) of the Act, being declared unconstitutional in various rulings. The CGT considers that the judicial rulings have resulted in the de facto situation being by and large in conformity with the Convention and that, in light of this situation, the social partners are faced with a significant challenge in light of the rulings of the Supreme Court of Justice on freedom of association. The Committee notes the Government's indications that: (i) the country has an industrial relations system which, without prejudice to the necessary amendments that have to be made, is of an inclusive nature and provides a fundamental tool for improving terms and conditions of employment (the Government provides statistics on the collective agreements registered between 1991 and 2012 and the workers covered by them, and refers to the improvement in wages based on compliance with this Convention and Convention No. 98); (ii) the legislation needs to be amended in compliance with the principles of social justice, although any individual initiative would be inadequate, as it is not only a question of the Government and the social partners, but depends on all the actors in the industrial relations system working together; (iii) it is continuing to seek tripartite social dialogue so that progress can be made in achieving the necessary consensus for greater compatibility with the comments of the ILO supervisory system; and (iv) the rulings of the Supreme Court of Justice relate to specific cases.

***While observing that rulings of the Supreme Court of Justice of the Nation and other national and provincial judicial bodies have been made in the sense of addressing in part the problems under examination, in accordance with the Convention, the Committee firmly urges the Government to take the necessary measures without delay, and following tripartite examination of the pending issues with all the social partners, to bring the Act on trade union associations and its implementing Decree into full conformity with the Convention. The Committee trusts that the Government will provide information in its next report on the specific results achieved in this regard.***

*[The Government is asked to reply in detail to the present comments in 2014.]*

## **Armenia**

### ***Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2003)***

The Committee notes the comments made by the International Trade Union Confederation (ITUC) in a communication dated 30 August 2013, which refer to matters already examined by the Committee.

The Committee had previously noted that under the legislation in force (sections 23, 25, 45, 55 and 56 of the Labour Code and section 16(2) of the Act on Trade Unions), both trade unions and "workers' representatives" enjoyed the right to negotiate collective agreements at the enterprise level and requested the Government to clarify whether in cases where there is no trade union representing 50 per cent of the company's workers, the existing minority unions are entitled to bargain collectively on behalf of their own members. The Committee notes that in its report, the Government indicates that both the trade union and the representatives elected by the staff meeting can represent the rights and interests of workers. It further notes the Government's indication that in the absence of a trade union, or if the existing trade union does not unite more than half of the company's workers, the staff meeting elects representatives. If those representatives are not elected, the functions of defending the representation and interests of workers may be transferred by the staff meeting to the appropriate branch or regional trade union. In that case, the staff meeting elects a representative who takes part in collective bargaining within the delegation of the branch or regional trade union. The Committee once again recalls that where there exist in the same undertaking both trade union representatives and elected representatives, the existence of elected representatives should not be used to undermine the position of the trade unions concerned. The Committee also recalls that direct negotiation between the undertaking and its employees, bypassing representative organizations, where these exist, is detrimental to the principle that negotiation between employers and organizations of workers should be encouraged and promoted. ***The Committee therefore requests the Government to take the necessary measures to amend the above legislation in line with the principles above, so as to ensure that in cases where there is no trade union representing 50 per cent of the company's workers, the existing minority unions are entitled to bargain collectively on behalf of their own members.***

The Committee had previously noted that according to section 59(4) and section 61(2) of the Labour Code, if an enterprise is restructured or privatized, the collective agreement is considered to be unilaterally terminated, irrespective of its validity period. Recalling that neither the restructuring nor the privatization of an enterprise should in itself automatically result in the extinction of all the obligations resulting from the collective agreement, and that the parties should in any case be in a position to advocate the application of relevant clauses such as those concerning severance pay, the Committee had requested the Government to amend these provisions accordingly. The Committee notes the Government's indication that those abovementioned provisions will be discussed within the framework of the expected future changes that will be made to the Labour Code. ***The Committee reiterates its request and asks the Government to provide information on the progress made in this respect.***

## Australia

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

The Committee notes the comments of the Australian Council of Trade Unions (ACTU) and the International Trade Union Confederation (ITUC) contained in communications dated 30 August, and 22 and 26 November 2013.

*Article 3 of the Convention. Right of organizations to freely organize their activities and to formulate their programmes.* For a number of years, the Committee has been requesting the Government, in consultation with the social partners, to review: (i) sections 423, 424 and 426 of the Fair Work (FW) Act relating to suspension or termination of protected industrial action in specific circumstances; (ii) provisions of the Competition and Consumer Act prohibiting secondary boycotts; and (iii) sections 30J and 30K of the Crimes Act prohibiting industrial action threatening trade or commerce with other countries or among states, and 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.

The Committee notes the Government's indication that the FW Act has been reviewed, in consultation with the relevant stakeholders, by an independent panel. The panel concluded that the Act was broadly meeting its objectives and did not require wholesale change, and recommended 53 mainly technical amendments to improve the operation of the legislation. According to the Government, it has so far responded to 23 of these recommendations.

The Committee notes that, while the ACTU recognizes that the practical impact of section 423 has to date been minimal as a result of the interpretation by the Fair Work Commission (FWC) of the term "significant economic harm", it maintains that the existence of this provision is inconsistent with the Convention. With regard to section 424, the ACTU expresses its concern over the possibility for protected industrial action to be terminated on the basis that the action was or is causing "significant damage to the Australian economy or an important part of it". Referring to the FWC's decisions, the ACTU considers that it has now been demonstrated that section 424 can be used by large employers to have protected industrial action terminated rather than having to make concessions within the context of collective bargaining. As for section 426, the ACTU indicates that the FWC has adopted a high threshold as to what constitutes a "significant harm" to a third party.

***While noting the detailed information on the application of the abovementioned provisions in practice, the Committee requests the Government to provide information on the follow-up to the technical amendments to the FW Act relevant to freedom of association suggested by the independent panel. It further requests the Government to continue its work on reviewing, in consultation with the social partners, the FW Act, the Competition and Consumer Act, and the Crimes Act, including ongoing interpretations of those Acts by the FWC and the courts.***

With regard to access to the workplace, the Committee notes with *interest* the Government's indication that the FW Amendment Act, 2013, which will enter into force on 1 January 2014, introduced a number of amendments to the right of entry, which will affect the practical application of the FW Act, and that prior to this amendment, the review panel found that in almost all cases, entry to workplaces by permit holders involved no disruption to business operations. The Committee also notes that the ACTU welcomes this amendment.

The Committee recalls that it has previously requested the Government to amend the Building and Construction Industry Improvement Act 2005. The Committee notes with *interest* that the Fair Work (Building Industry) Act entered into force in 2012 and that the Fair Work Building Industry Inspectorate commenced its operation (in lieu of the abolished Australian Building and Construction Commission) in June 2012. In this respect, the Committee notes that the ACTU states that these changes represent an improvement in the compliance with the Convention and that social partners, including ACTU representatives, are members of the new Inspectorate's advisory board. The Committee notes that the ACTU nevertheless expresses its concerns in respect of the retention, in the new Act, of coercive powers for use in the investigation of industrial issues, albeit with some procedural safeguards and for a limited period of three years. ***The Committee requests the Government to provide its observations on the above concerns of the ACTU and information on the practical application of the new legislation.***

The Committee further notes that, in their communications dated 22 and 26 November 2013, the ACTU and ITUC allege that the Building and Construction Industry (Improving Productivity) Bill 2013 introduced into Parliament will infringe, if adopted, upon freedom of association rights of workers in the industry. *The Committee requests the Government to provide its observations thereon.*

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

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

The Committee notes the comments of the Australian Council of Trade Unions (ACTU) and the International Trade Union Confederation (ITUC) contained in communications dated 30 August 2013.

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination in respect of employment.* In its previous comments, the Committee referred to the need to ensure that workers were adequately protected against anti-union discrimination, especially against dismissals for industrial action taken in the context of negotiations of multiple business agreements and “pattern bargaining” (that is, negotiations seeking common wages or conditions of employment for two or more proposed collective agreements with different employers or even different subsidiaries of the same parent company). Pursuant to sections 347 and 772 of the Fair Work (FW) Act, 2009, and to information provided by the Government, the Committee understood that protection against anti-union discrimination, including against dismissals, covered pattern bargaining to the extent that the parties were genuinely trying to reach an agreement. The Committee requested the Government to provide information on any relevant decisions emanating from Fair Work Australia (FWA) and the steps taken to ensure protection in relation to action aimed at achieving multiple business agreements. The Committee notes the Government’s indication that the provisions of the FW Act relating to pattern bargaining have been before the review panel, which, having considered various submissions from stakeholders, concluded that the current provisions were appropriate and did not recommend any change. The Government also indicates that there have been no decisions given by courts or other tribunals that have restricted the ability of unions and employees to take industrial action on the grounds that they were engaged in pattern bargaining.

*Article 4. Promotion of collective bargaining.* The Committee had previously noted that individual statutory agreements were not part of the new system established under the FW Act but that, in line with the Government’s prior policy commitments, existing Australian Workplace Agreements (AWAs) would continue to apply until they are terminated. The Committee requested the Government to provide information on the application and impact in practice of section 172 of the FW Act regulating the making of enterprise agreements between employers and relevant employee organizations, as well as on the current situation with regard to AWAs and Individual Transitional Employment Agreements (ITEAs), including statistical data on the number of AWAs and ITEAs terminated since the entry into force of the FW Act, the number of remaining AWAs and ITEAs applicable and their expected termination dates.

The Committee notes the Government’s indication that under section 172 of the FW Act, when seeking to make an enterprise agreement other than a greenfields agreement, bargaining representatives must comply with the good faith bargaining requirements of the Act. Employers seeking to deal directly with employees in relations to a proposed enterprise agreement are required to recognise and bargain with relevant employee organizations including by providing them with all relevant information about the proposed enterprise agreement. The Committee notes the statistical data provided by the Government demonstrating that single-enterprise agreements and multi-enterprise agreements that are not greenfields agreements represent the majority of agreements made under the FW Act. With regard to the number of the remaining AWAs and ITEAs, the Government indicates that while there is no current available data on the subject, such agreements have now passed their nominal expiry dates and are able to be terminated on application by either the employer or the employee to the Fair Work Commission (FWC), which replaced the FWA.

As regards the termination of protected industrial action under sections 423, 424 or 431 of the FW Act, the Committee had previously noted that bargaining representatives had a negotiating period of 21 days (extendable to 42 days by FWA) in which to resolve the matters at issue and that, if the parties were unable to reach an agreement, the FWA must make a binding industrial action related workplace determination which has the effect of an enterprise agreement. It had also noted that under section 240 of the Act, a bargaining representative could request the FWA to deal with a dispute about a proposed enterprise agreement if the bargaining representatives were unable to resolve the dispute and that the application may be made by one bargaining representative, whether or not the other bargaining representatives for the agreement had agreed to the making of the application if the proposed agreement was a single-enterprise agreement or a multi-enterprise agreement in relation to which a low-paid authorization was in operation. The Committee recalled that arbitration imposed by the authorities at the request of one party was generally contrary to the principle of voluntary negotiation of collective agreements and requested the Government to clarify the role of FWA in case of continuing disagreement between the parties and whether the parties remained able to resume negotiations at any point.

The Committee notes that the Government explains that the termination of protected industrial action under sections 423, 424 or 431 of the FW Act commences a formal workplace determination process overseen by the FWC. The parties have a final opportunity to resolve all outstanding matters within 21 days (which can be extended to 42 days by agreement). If this occurs, the parties apply to the FWC for approval of an enterprise agreement in the agreed terms. If there is no agreement, FWC must proceed to make a workplace determination which must include any terms that were

agreed between the parties after the 21 (or 42) day negotiating period expired. The determination must deal with any matters still at issue at that time. The FWC made seven workplace determinations under the FW Act. The Government refers to two such decisions: in the first, the FWC stated its intention to exercise caution in accepting disputed claims that would alter longstanding and agreed arrangements, finding these were properly a matter for future bargaining; in the second, the FWA gave effect to the agreement reached by the parties after the end of the post-industrial action negotiating period (but before a workplace determination was made).

*Building industry.* The Committee recalls that it had previously requested the Government to: (i) revise section 64 of the Building and Construction Industry Improvement (BCII) Act to ensure that the determination of the bargaining level was left to the discretion of the parties and was not imposed by law or decision of the administrative authority; and (ii) promote collective bargaining, especially by ensuring that there were no financial penalties or incentives linked to undue restrictions on collective bargaining. In this respect, it had noted the Government's indication that it had introduced the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill, 2009 in order to amend the BCII Act so as to, in particular, repeal section 64 of the BCII Act with the effect that the level of bargaining would be determined in accordance with the FW Act. The Committee had therefore requested the Government to provide information on the developments in this respect as well as on the progress made in the development of the guide to good faith collective bargaining in the building and construction industry.

The Committee notes with *interest* the Government's indication that the abovementioned Bill, which repealed section 64 of the BCII Act in its entirety, was passed by Parliament on 20 March 2012, and that the Fair Work (Building Industry) Act 2012 and the Fair Work Building Industry Inspectorate, operating as Fair Work Building and Construction (FWBC), commenced operation on 1 June 2012. Finally, the Government indicates that the FWBC is expected to release further guidance material later in 2013. ***The Committee requests the Government to provide information on all progress made in this respect.*** The Committee notes with *interest* the information submitted by the ACTU regarding a National Code made pursuant to the FW (Building Industry) Act 2012, and in particular, that the terms of the Code are subject to parliamentary scrutiny; that it is expressed to be a comprehensive statement of the workplace practices required of building industry participants; and that State Government Guidelines cannot include additional requirements relating to those matters.

The Committee notes the observations provided by the Government in its report on the allegations previously submitted by the ACTU and ITUC concerning the intention of the Government of South Australia to unilaterally cut entitlements of public sector workers, which had been agreed upon through collective agreements. It notes with *interest* that according to the Government, in South Australia, the matters have been resolved through negotiations between the South Australian Government and the Public Service Association (Community and Public Sector Union, SA Branch).

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

## Azerbaijan

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

The Committee had previously requested the Government to amend section 281 of the Labour Code and section 233 of the Criminal Code so as to ensure that air and railway transport sector workers could exercise the right to strike. The Committee notes that in its report the Government explains that section 281 of the Labour Code prohibits the right to strike only in the air and railway control services and that strikes are otherwise allowed in these sectors. The Government further explains that section 233 of the Criminal Code does not restrict the right of workers to strike but criminalizes violations of the public order during strikes. The Committee welcomes the clarifications provided by the Government.

The Committee notes with *interest* the 2006 amendment of the Act on Trade Unions repealing section 6(1), which previously prohibited trade unions from engaging in political activities.

### ***Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1992)***

*Comments of the International Trade Union Confederation (ITUC).* The Committee had previously requested the Government to provide its observations on the comments submitted by the ITUC alleging that despite an adequate protection of trade union rights in law, trade union activities in multinational companies were often reprimanded in practice, that employers often delayed negotiations, unions rarely participated in determining wage levels and were often bypassed in the conclusion of bilateral agreements between the Government and multinational enterprises. The Committee notes that in its report, the Government indicates that as a result of the activity of the Confederation of Trade Unions of Azerbaijan (CTUA), trade unions have been established in more than half of the multinational companies operating in the oil and gas industry. The Government indicates that while under the legislation, the conclusion of collective agreements and accords shall be based on the principles of equality, independence and voluntariness, the CTUA initiatives to establish trade unions are often not sufficient. To address these issues, the Government organizes, on a periodic basis, seminars and conferences with the participation of multinational companies.

*Article 4 of the Convention. Bipartite negotiations.* The Committee recalls that in its previous comments, it had noted that the legislation made a distinction between a “collective agreement”, concluded at the enterprise level following bipartite negotiations between workers and employers, and a “collective accord”, concluded at industry, territorial or national levels following bipartite (between trade unions and the authorities) or tripartite (between trade unions, employers’ organizations and the authorities of the appropriate level) negotiations. While understanding that the aim of this arrangement is to ensure that the obligations undertaken by all parties under collective accords signed following tripartite negotiations are respected, the Committee recalls that *Article 4* of the Convention is aimed at promoting free and voluntary bargaining between workers’ organizations and an employer or employers’ organization. It considers that the principle of tripartism, which is particularly appropriate for the regulation of questions of a larger scope (drafting of legislation, formulating labour policies), should not replace the principle of autonomy of workers’ organizations and employers (or their organizations) in collective bargaining on conditions of employment. ***The Committee therefore invites the Government, in consultation with the social partners, to take additional appropriate measures, including of a legislative nature, in order to encourage and promote collective bargaining between trade unions and employers and their organizations, without interference by the public authority. The Committee reminds the Government that ILO technical assistance remains at its disposal.***

## Bahamas

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

The Committee notes the Government’s indication in its report that there have been no changes as regards the application of the Convention and that the information requested is not available. Under these conditions, the Committee is bound to reiterate its previous comments.

*Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations.* ***The Committee hopes that the Industrial Relations Act (IRA) will be amended in the near future so as to formally and expressly recognize the right to organize of prison staff.***

*Right of workers and employers to establish organizations without previous authorization.* In its previous comments, the Committee noted that, under section 8(1)(e) of the IRA, beyond consideration of the specific requirements for registration, the Registrar shall refuse to register a trade union if he considers that the union should not be registered. Moreover, according to section 1 of the Schedule of the IRA, in applying the rules for the registration of trade unions, the Registrar shall exercise his discretion. ***The Committee requests the Government to take the necessary measures to amend section 8(1)(e) so as to ensure that broad discretionary power is no longer conferred upon the Registrar in relation to the registration of trade unions or employers’ organizations.***

*Article 3. Right of workers’ and employers’ organizations to draw up their constitutions and rules and to elect their representatives in full freedom.* In its previous comments, the Committee noted that section 20(2) of the IRA, under the terms of which a secret ballot for election or removal of trade union officers and for the amendment of the constitution of trade unions shall be held under the supervision of the Registrar or a designated officer, is contrary to the Convention. ***The Committee hopes that specific measures will be taken for the amendment of section 20(2) of the IRA with a view to ensuring that trade unions can conduct ballots without interference from the authorities.***

*Article 5. Right to affiliate to an international federation or confederation.* ***The Committee requests the Government to take measures to repeal section 39 on the control of foreign connections of trade unions and federations, under the terms of which it shall not be lawful for a trade union to be a member of any body constituted or organized outside the Bahamas without a licence from the minister, who has discretionary power to grant or refuse it and/or to accompany it with certain conditions.***

***The Committee trusts that the Government will provide information in its next report on any measure adopted or proposed in relation to the matters raised above. The Committee reminds the Government that, if it so wishes, it may have recourse to the technical assistance of the Office.***

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

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

The Committee notes the comments made by the International Trade Union Confederation (ITUC) in a communication dated 16 September 2013, which refer to matters previously examined by the Committee.

*Article 2 of the Convention. Protection against acts of interference.* The Committee had previously requested the Government to adopt legislative provisions to protect workers’ and employers’ organizations against acts of interference by each other or each other’s agents, accompanied by effective and sufficiently dissuasive sanctions. In this respect, it notes that in its report, the Government indicates that several provisions of the Industrial Relations Act, Chapter 321 of the Statute Law of the Bahamas (IRA) are designed to prevent or minimise the risk of acts of interference and that this protection will be further strengthened through the adoption of the Trade Unions and Industrial Relations Bill, 2000. The

Committee recalls that legislative provisions for the protection of organizations against acts of interference need to be specific and cover all acts of interference referred to in *Article 2* of the Convention, and that they need to be accompanied by efficient procedures and sanctions to ensure their implementation in practice. ***The Committee therefore requests the Government to take the necessary measures for the adoption of such legislative provisions without further delay, either through the amendment of the IRA or the adoption of the abovementioned Bill.***

*Article 4. Representativeness.* The Committee previously noted the comments made by the ITUC criticizing the requirement for a trade union to represent 50 per cent of the workers plus one in a unit in order to be recognized for bargaining purposes and the fact that an employer may, after 12 months of unsuccessful negotiations, apply for a union's recognition to be revoked. The Committee notes with *interest* that section 43 of the IRA has been amended so as to repeal the right of an employer to make such an application. Concerning the requirement to represent 50 per cent of workers of the bargaining unit (section 41 of the IRA), the Committee had considered that this threshold was excessive and that if no union represented the abovementioned percentage, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members. ***The Committee therefore requests the Government to take the necessary measures to amend the IRA so as to bring it into conformity with the Convention. It requests the Government to provide information on all measures taken or envisaged in this regard.***

*Right of prison guards to bargain collectively.* With regard to prison guards' right to organize and to bargain collectively, the Committee notes the Government's indication that qualified officers enjoy an unrestricted right to join the organization formed to protect and promote their interests, namely the Prison Officers Association (BPOA), and that they are able to collectively express their concerns to the Government on their working conditions. ***The Committee requests the Government to indicate whether the BPOA enjoys the collective bargaining rights under the Convention, and, if that is the case, to provide a copy of a collective agreement to which this organization is a signatory or to indicate whether discussions or negotiations are under way.***

## Bangladesh

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

#### ***Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)***

The Committee notes the information provided in the Government's report that, considering the changing global scenario in the labour sector, it had initiated amendments to the Bangladesh Labour Act, 2006 (hereinafter, the BLA), to make it more in line with ILO Conventions. These amendments were passed by Parliament on 15 July 2013 and notified in the Bangladesh *Gazette* on 22 July. The Government states that the amendment process underwent thorough consultations. Seventy-six articles were amended and seven new articles introduced placing special emphasis on workers' welfare, rights and safety, industrial safety and expansion of the industry; transparency in trade union registration and wage payment system; and promoting trade unionism and collective bargaining. In addition, a committee headed by the Secretary, Ministry of Labour and Employment has been formed to formulate supplementary rules for the amended Act, and a working group has begun to prepare a draft.

The Committee notes the detailed comments made by the International Trade Union Confederation (ITUC) on the application of the Convention in communications dated 21 August and 13 September 2013. It further notes the comments made by the International Organisation of Employers (IOE) and the Bangladesh Employers' Federation (BEF) in a communication dated 30 August 2013. ***The Committee requests the Government to provide its observations on the comments of the ITUC, the IOE and the BEF with its next report.***

In its previous observation, the Committee, noting the comments submitted by the ITUC in 2012 alleging the murder of a trade unionist, a union leader and two striking workers, and also violence and harassment of trade unionists in the pharmaceutical sector and Export Processing Zones (EPZs), had requested the Government to take the necessary measures without delay to carry out investigations into these serious allegations with a view to determining responsibilities and punishing those responsible, and to provide information in this respect. The Committee takes due note of the information provided by the Government that the law enforcement agencies must carry out their duties as per the law of the land and that there was no illegal threat or police harassment or arrest or detention of trade unionists and trade union leaders. If there were any victims, they were accused of misdeeds and criminal activities, including agitation, violence and crisis in the ready-made garment sector. The Committee further notes, with respect to the incident in the pharmaceutical sector that the case filed by the company against 33 workers was dismissed on 10 October 2012. ***The Committee requests the Government to provide detailed information in its next report on the outcome of the investigations carried out in respect of any pending allegations of violence and harassment and, recalling that a genuinely free and independent trade union movement cannot develop in a climate of violence and uncertainty, to provide full particulars of the status of the investigations in respect of the murdered trade unionist.***

With respect to its request concerning the status of the court case relating to the Bangladesh Garments and Industrial Sramik Federation (BGIWF), the Committee notes the Government's indication to the 2013 Conference Committee on the Application of Standards that the BGIWF was functioning without any obstacle pending the decision of the Labour Court in the case it filed in 2008 for the cancellation of its registration. The Committee further notes the indication in the Government's latest report that the next hearing date for this case has been set on 5 January 2014 and no permission has yet been given by the court to cancel the federation's registration. ***The Committee requests the Government to provide detailed information on developments in this regard in its next report.***

*Articles 2 and 3 of the Convention. The right to organize, elect officers and carry out activities freely.* The Committee previously noted the allegations made by the ITUC of the refusal by the Government to register unions in several sectors, including the telecom and garment sectors. The Committee notes from the latest communication of the ITUC that, while there has been a recent surge in the registration of trade unions, and that the 45 new unions in the ready-made garment (RMG) sector can be seen as positive, the ITUC was concerned that this progress would not be seen in other sectors. The Committee further notes the statistics provided in the Government's report according to which, as of November 2013, 7,222 trade unions have been registered in the country, 32 national federations, 162 industrial federations and 34 garment industry federations, covering a total of 204 trade unions. The Government adds that 68 trade unions were registered in the RMG sector between January and November 2013. ***In light of the concerns raised by the ITUC, the Committee requests the Government to continue to provide detailed information and statistics on the registration of trade unions, disaggregated by sector.***

*Legislative reform.* In previous comments, the Committee, observing that a labour law reform process was under way, had requested the Government to amend a number of provisions in the BLA so as to bring it into full conformity with the Convention. The Committee takes due note of the amendments made in July 2013 and the Government's indication that the amendment of any law is a continuous process. The Government adds that necessary steps may be taken to amend the BLA in future on a tripartite basis considering the socio-economic condition of the country and that ILO assistance may be required in this regard.

The Committee notes with ***interest*** the amendment to section 180 which places a limitation on the restriction for the election of trade union officers to those who are employed in establishments in the state-owned industrial sector, enabling 10 per cent of union officers to be elected from persons outside of the establishment. ***The Committee requests the Government to further amend the legislation so that the same possibility of electing officers from outside of the establishment applies more generally to the private sector as well.***

Furthermore, while welcoming a slight amendment made to section 1(4) to extend the scope of the BLA to the educational, training and research institutions functioning for profit, the Committee notes with ***regret*** that this is not the case for not-for-profit educational, training and research institutions, hospitals, clinics and diagnostic centres, as well as farms employing under five workers. ***The Committee requests the Government to indicate the manner in which the freedom of association rights set out in the Convention are guaranteed to these excluded workers.***

The Committee takes note of the comments of the BEF in respect of section 2(49) of the BLA and its view that it is essential for administrative systems that managers and administrative officers fall within the category of employers, not workers, for organizing purposes let there be a collapse in the chain of command affecting productivity. The Committee recalls in this regard that it has always considered that managerial or supervisory employees may be denied the right to belong to trade unions of workers provided that they have the right to establish their own associations to defend their interests and that these categories of staff are not defined so broadly as to weaken the organizations of other workers in the enterprise by depriving them of a substantial proportion of their present or potential membership.

The Committee ***deeply regrets*** that the Government did not take this opportunity to address most of its previous requests for amendments: scope of the law (sections 2(49) and (65) and 175); restrictions on organizing in civil aviation and for seafarers (sections 184(1), (2) and (4) and 185(3)); restrictions on organizing in groups of establishments (section 183(1)); restrictions on trade union membership (sections 2(65), 175, 185(2), 193 and 300); interference in trade union activity (sections 196(2)(a) and (b), 190(e) and (g), 192, 229(c), 291 and 299); interference in trade union elections (sections 196(2)(d) and 317(d)); interference in the right to draw up their constitutions freely (section 179(1)); excessive restrictions on the right to strike (sections 211(1), (3), (4) and (8) and 227(c)), accompanied by severe penalties (sections 196(2)(e), 291 and 294–296); excessive preferential rights for collective bargaining agents (sections 202(24)(c) and (e) and 204); cancellation of trade union registration (section 202(22)) and excessive penalties (section 301).

The Committee further ***deeply regrets*** that workers are still obliged to meet 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, and that unions whose membership falls below this number will be deregistered (sections 179(2) and 190(f)), while no more than three trade unions shall be registered in any establishment or group of establishments (section 179(5)). Despite the various statements over the years that this requirement has been accepted by all concerned, the Committee wishes to emphasise that such a high threshold for merely being able to form and have a union registered necessarily interferes with the right of workers to form organizations of their own choosing provided under *Article 2* of the Convention.

*Article 5. The right to form federations.* The Committee also *regrets* that the Government did not take this opportunity to modify the draft amendment (section 200(1)), which the Committee commented on last year, requiring that federations gather five or more trade unions, registered in more than one administrative division and formed in establishments engaged, or carrying on, in a similar or identical industry. ***The Committee requests the Government once again to review this provision so as to ensure that the requirement of the minimum number of trade unions to form a federation (raised from two to five) is not excessively high and thus does not infringe the right of workers' organizations to form federations and to amend this section so that workers may form federations of a broader occupational or inter-occupational coverage and that there is no requirement for the trade union members to belong to more than one administrative division.***

***Encouraged by the Government's indication that further amendment of the BLA with ILO technical assistance could be considered, the Committee firmly requests the Government once again to take the necessary measures to review and amend the abovementioned provisions so as to bring them into conformity with the Convention. Observing also the Government's indication that a process is under way for the drafting of supplementary implementing rules for the amended BLA, the Committee recalls that it has requested the Government to repeal or amend rule 10 of the Industrial Relations Rules (IRR) 1977, so that the authority granted to the Registrar did not interfere with trade union internal affairs and requests the Government to provide information on the progress made in this regard and to furnish a copy of the new Rules.***

*Right to organize in EPZs.* The Committee notes the detailed information provided by the Bangladesh Export Processing Zones Authority (BEPZA) in the Government's report on the manner in which the EPZ Workers' Welfare Associations and Industrial Relations Act 2010 (EWWAIRA) is applied. The BEPZA refers to 283 referendums (74.28 per cent of eligible industries) for Workers' Welfare Associations (WWA) carried out on the basis of principles of transparency and accountability. It is further indicated in the Government's report that the BEPZA will be in a position to consider the comments made by the Committee and the need for any changes to the law in light of the experience gathered through its enforcement.

Referring to its previous observation, the Committee recalls that it has commented in detail on the areas of the EWWAIRA which needed to be addressed to bring the Act into conformity with the Convention. This included the need to amend sections 6, 7, 8, 9, 12, 16, 24, which excessively regulated the formation of WWAs or their higher-level organization in a manner contrary to the Convention, and sections 10, 20, 21, 24, 27, 28, 34, 38, 46, 80 and 81 (to lapse on 31 December 2013), which permitted the Government's interference in the internal activities of the WWAs. The Committee notes from the discussion of the 2013 Conference Committee on the Application of Standards that the Government had expressed its intention to work with the ILO to consider the manner in which EPZ workers could be brought into the scope of the national labour law to ensure freedom of association, the right to bargaining and other issues concerning labour standards.

The Committee notes the Government's indication that a high-level committee has been formed to examine and prepare a separate and complete labour law as an international standard for EPZ workers. This committee has formed a sub-committee headed by the Director-General of the Prime Minister's Office and two meetings have already been held to prepare a draft EPZ labour law. ***The Committee hopes that the necessary measures will be taken in the very near future to guarantee the rights under the Convention to workers in export processing zones and requests the Government to provide detailed information in its next report on the progress made in this regard.***

Finally, the Government refers to a number of ILO technical cooperation projects in the country with the aim of improving the trade union registration system, providing capacity building for employers and trade unions, promoting workers' rights and labour relations in the export-oriented sector and raising the awareness of workers at factory level of fundamental principles and rights at work.

***Recalling the critical importance which it gives to freedom of association as a fundamental human and enabling right, the Committee trusts that significant progress will be made in the very near future to bring the legislation and practice into conformity with the Convention on all of the abovementioned points.***

*[The Government is asked to reply in detail to the present comments in 2014.]*

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

The Committee notes the information provided by the Government in its report and particularly the amendments made to the Bangladesh Labour Act, 2006, (hereinafter, the BLA) on 22 July 2013.

***The Committee notes the comments made by the International Organisation of Employers (IOE) and the Bangladesh Employers' Federation (BEF) concerning the application of the Convention and requests the Government to provide its observations thereon with its next report.***

*Articles 1 and 3 of the Convention. Protection of workers in export processing zones (EPZs) against anti-union discrimination.* In its previous comments, the Committee had noted the comments submitted by the International Trade Union Confederation (ITUC) on 4 and 31 August 2011, concerning mass dismissal of workers in the garment sector in 2010 following the exercise of their trade union rights, as well as the Government's observations thereon. The Committee

further notes from the communication of the ITUC under Convention No. 87 that, while the registration of 45 new unions in the ready-made garment sector can be seen as positive, it has a number of concerns relating to reports of anti-union acts. The ITUC also raises concern about the potentially broad interpretation that might be given to “disorderly behaviour” which has been added to the instances where an employer may fire a worker without notice and without compensation (section 23(4)(g)).

The Committee further notes the Government’s indication that the Bangladesh Export Processing Zone Authority (BEPZA) protects the rights of workers in EPZs and denies the existence of discrimination. According to the Government, there is no real evidence of discrimination and the BEPZA officers are constantly on the lookout for such behaviour. If any such was brought to the notice of the authority, actions are taken for reinstatement of members of the Workers’ Welfare Associations (WWA). The Government refers to section 62(2) of the EPZ Workers’ Welfare Association and Industrial Relations Act (hereinafter, the EWWAIRA), 2010, which provides that officers of the WWA shall not be dismissed without prior approval of the BEPZA Executive Chairmen, and indicates that a circular has been sent to all enterprises within the zones for the application of this section.

As regards the allegations of anti-union discrimination due to the employer’s knowledge of union officers seeking registration, the Committee notes with *interest* that section 178(3) of the BLA has been amended so as to repeal the provision requiring the Director of Labour to send the list of officers of trade unions requesting registration to the employer.

As regards the functioning of the EPZ labour tribunal and the EPZ labour appellate tribunal under the EWWAIRA, the Committee notes the Government’s indication that the EPZ Labour Tribunal and the EPZ Labour Appellate Tribunal have been established through Statutory Regulatory Orders (SRO) Nos 264-Law/2011 and 265-Law/2011 of 16 August 2011, and that there is no complaint of anti-union discrimination presented by EPZ workers before these courts.

The Committee further takes due note of information provided by the Government in relation to the constitution of the EPZ Workers’ Welfare Fund, effective from February 2013, which will cover the expenses of counsellors, conciliators and arbitrators, as well as the establishment of the tribunals. According to the Government, while the BEPZA had already appointed conciliators and arbitrators, they did not continue as there were very few cases requiring their attention. Now, appointment of the conciliators as per the newly established fund is under process. In its report under Convention No. 87, the Government provides further information from the BEPZA that 90 counsellors under the BEPZA authority are working with a prescribed form to look after labour-related issues.

*The Committee requests the Government to provide its observations on the points raised by the ITUC concerning an increase in anti-union discrimination and trusts that the national mechanisms will be bolstered, including with an online database, so that workers may confidently report any such acts and seek an appropriate remedy. It requests the Government to provide information in its next report on the steps taken in this regard and on the role played by the counsellors mentioned above. It further requests the Government to send a copy of the BEPZA circular on section 62(2) of the EWWAIRA (which was not attached to its report) and available statistics concerning any complaints of anti-union discrimination, the BEPZA response and the sanctions taken and/or remedies awarded.*

*As regards the judicial proceedings concerning the dismissed workers who were charged with illegal activities (345/2011, Chief Judicial Magistrate Court, Dinajpur), the Committee notes the Government’s indication that this case is still pending and requests the Government to provide information on the outcome once the judgment has been rendered.*

*Article 2. Lack of legislative protection against acts of interference.* In its previous comments, the Committee had requested the Government to take steps when reviewing the BLA to include a comprehensive prohibition against acts of interference which would cover acts of financial control of trade unions or trade union leaders, as well as acts of interference in internal trade union affairs. According to the comment of the IOE and the BEF, workers and employees of Bangladesh can freely exercise the right of association without hindrance, but outsiders interfere with their activities and mislead them for the purpose of political gain. *Observing that the recent amendments to the BLA do not appear to address its previous request, the Committee once again requests the Government, in consultation with the social partners, to review the BLA with a view to including adequate protection for workers’ organizations against such acts of interference by the employer or employers’ organizations and to indicate the progress made in this regard in its next report.*

*Article 4. Promotion of collective bargaining.* *The Committee notes with interest the amendments made to the BLA with the inclusion of section 202a, which enables unions and employers to contact experts for assistance in collective bargaining, and requests the Government to indicate how this is applied in practice and whether there have been any disputes under section 202a(2).*

In its previous comments, the Committee had noted that according to the National Level Trade Union Federation of Workers (NCCWE), collective bargaining was limited as there was no legal provision for collective bargaining at the industry, sector or national levels. While observing the information provided by the Government in its last report that the settlement of disputes through bipartite negotiations was done at the industry level and that similarly, different issues were settled through bipartite negotiation or through conciliation at the sector level, such as tea sector, shrimp sector, etc., the Committee had once again requested the Government to amend sections 202 and 203 of the BLA in order to clearly

provide that collective bargaining was possible at the industry, sector and national levels. The Committee further notes that the Government's latest report indicates that three elections for collective bargaining agents have taken place as of November 2013. The Committee also notes the comments from the IOE and the BEF indicating that the BLA has been framed so as to encourage the employees to promote full development and utilization of collective agreements to regulate terms and conditions of employment. ***Observing that the amendments adopted in July 2013 do not address this issue, the Committee once again requests the Government to consider, with the social partners, the necessary measures to ensure that collective bargaining can effectively take place at all levels and to continue to provide statistics in its next report on the number of collective agreements concluded at the industry, sector and national levels respectively.***

Finally, the Committee notes the concerns raised in the ITUC comment relating to the amendments on participation committees (section 205 of the BLA), especially the concern that section 205(6)(a), which provides that "For an establishment where there is no trade union, until a trade union is formed, the workers' representatives to the Participation Committee shall run activities related to workers' interests in the establishment concerned", could undermine trade unions and usurp their role. ***The Committee requests the Government to provide its observations on this point and to indicate any measures taken to ensure that participation committees are not used to undermine the role of trade unions.***

***Promotion of collective bargaining in the EPZs.*** The Committee recalls that in its previous comments it had observed that, despite the creation of WWAs in various enterprises in the EPZs, no information had been provided concerning the conclusion of collective agreements in the EPZs. The Committee further recalled, with reference to BEPZA Instructions 1 and 2, that excluding wages, working hours, rest periods, leave and conditions of work from the field of collective bargaining was not in harmony with *Article 4* of the Convention. The Committee takes due note of the comments made by the IOE and the BEF indicating that the Government may think over the need to leave room for collective bargaining in the EPZs and take action in conformity with *Article 4* of the Convention. The Committee further notes the information provided by the Government that out of a total of 421 enterprises operating in the zones, referendums were held for WWAs in 283 giving rise to collective agreements in 192 enterprises. ***The Committee requests the Government to transmit in its next report a few representative examples of these agreements, indicating the number of workers covered.***

***Encouraged by the discussion in the Committee on the Application of Standards in June 2013 concerning the application by Bangladesh of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in which the Government expressed its willingness to review the EWWAIRA and consider the manner in which EPZ workers could be brought under the coverage of the BLA, the Committee requests the Government to indicate the progress made in this regard.***

***Articles 4 and 6. Tripartite wages commissions in the public sector.*** In its previous comments, the Committee had requested the Government to take the necessary legislative or other measures to end the practice of determining wage rates and other conditions of employment in the public sector through simple consultation by means of government appointed tripartite wages commissions (section 3 of Act No. X of 1974) and had observed that the Government had not referred to any collective agreement in the public sector. The Committee notes the information provided by the Government in respect of the commissions and boards charged with reviewing minimum wages, all of which are constituted in accordance with tripartite principles. ***Taking due note of the Government's indication that there is no bar on the development of free and voluntary collective bargaining, the Committee requests the Government to provide statistics on the number and nature of collective agreements concluded in the public sector, including the approximate number of workers covered under each agreement.***

## Barbados

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

The Committee notes the comments made by the International Trade Union Confederation (ITUC) in a communication dated 30 August 2013 referring to the issues raised by the Committee below.

The Committee notes with ***regret*** that the Government's report contains no information on the measures taken to address the Committee's previous request. ***It therefore hopes that the Government will make every effort to take the necessary action in the near future to address the following points.***

The Committee recalls that for numerous years it has been requesting the Government to amend 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 could endanger real or personal property, is liable to a fine or up to three months' imprisonment, so as to eliminate the possibility of employers invoking it in cases of strikes. In this respect, the Committee once again recalls that no penal sanction should be imposed against a worker for having carried out a peaceful strike and thus for merely exercising an essential right, and therefore that measures of imprisonment or fines should not be imposed in such cases. Such sanctions could be envisaged only where, during a strike, violence against persons or property, or other serious infringements of penal law have been committed, and can be imposed pursuant to legislation punishing such acts. ***The Committee trusts***

*that the Government will take the necessary measures to amend section 4 of the Better Security Act, 1920, taking into account the abovementioned principles.*

*The Committee once again requests the Government to provide in its next report information on the developments in the process of reviewing legislation regarding trade union recognition.*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1967)**

The Committee notes the comments made by the International Trade Union Confederation (ITUC) in a communication dated 30 August 2013.

*Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination.* The Committee had previously requested the Government to take all the necessary measures to ensure that in addition to covering cases of anti-union dismissals, a new legislation on employment rights would provide for adequate protection against all other acts of anti-union discrimination envisaged by *Article 1* of the Convention, as well as for adequate and dissuasive sanctions aimed at ensuring respect for the right to organize. The Committee notes that the Government indicates in its report that the Employment Rights Act has been passed in Parliament and is now awaiting proclamation. The Committee notes, however, that the Act covers only cases of anti-union dismissals (section 27) and further limits this protection to employees continuously employed for a period of over one year. The Committee recalls that adequate protection against acts of anti-union discrimination should not be confined to penalizing dismissal on anti-union grounds, but should cover all acts of anti-union discrimination (demotions, transfers and other prejudicial acts) at all stages of the employment relationship, regardless of the employment period, including at the recruitment stage. *The Committee reiterates its previous comments and requests the Government to amend the new Act in line with the above. It requests the Government to provide information on all measures taken or envisaged in this regard.*

The Committee further notes that while sections 33–37 of the Act provide for the possibility of reinstatement, re-engagement and compensation, the maximum amount of compensation awarded to workers who have been employed for less than two years is five-weeks wages, which, depending on the number of years of continuous employment, is increased by between two-and-a-half and three-and-a-half weeks wages for each year of that period (Fifth Schedule). The Committee considers that the prescribed amounts do not represent sufficiently dissuasive sanctions for anti-union dismissal. *It therefore requests the Government to take the necessary measures to amend the Fifth Schedule of the Act so as to bring the compensation amount to an adequate level, which would constitute a sufficiently dissuasive sanction for anti-union dismissals.*

## **Belarus**

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

***Follow-up to the conclusions of the Committee on the Application of Standards  
(International Labour Conference, 102nd Session, June 2013)***

***Follow-up to the recommendations of the Commission of Inquiry  
(complaint made under article 26 of the Constitution of the ILO)***

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2013 concerning the application of the Convention. It also notes the 369th Report of the Committee on Freedom of Association on the measures taken by the Government of the Republic of Belarus to implement the recommendations of the Commission of Inquiry.

The Committee further notes the comments submitted by the International Trade Union Confederation (ITUC) in a communication dated 30 August 2013 alleging numerous violations of the Convention, including denial of the right to hold pickets and demonstrations, deregistration of a primary trade union affiliated to the Radio and Electronic Workers' Union (REWU), and pressure and threats exercised by the authorities on leaders of the Free Metal Workers' Union (FMWU). *The Committee requests the Government to provide detailed observations on the ITUC's allegations.* The Committee further notes the comments submitted by the International Organisation of Employers (IOE) in a communication dated 30 August 2013.

*Article 2 of the Convention. Right to establish workers' organizations.* The Committee recalls that in its previous observations it had urged the Government to take the necessary measures to amend Presidential Decree No. 2, its rules and regulations, so as to remove the obstacles to trade union registration (legal address and 10 per cent minimum membership requirements). The Committee notes that, in its statement at the Conference Committee in June 2013, the Government referred to its proposal to amend the Decree by revoking the 10 per cent membership requirement for the establishment of a union at the enterprise level. The Committee *regrets* that no further information has been provided by the Government on the progress made in this respect. The Committee further *deeply regrets* that there have been no tangible measures taken by the Government, nor have there been any concrete proposals, to amend the legal address requirement, which appears to continue to hinder registration of trade unions and their primary organizations in practice.

In this connection, and with reference to its previous observation and the 369th Report of the Committee on Freedom of Association, the Committee expresses its **concern** at the situation of trade union rights at “Granit” enterprise. The Committee recalls the allegation that the management of the enterprise refused to provide a primary organization of the Belarus Independent Trade Union (BITU) with the legal address required, pursuant to Decree No. 2, for registration of trade unions. The Committee notes that, in its report, the Government indicates that the majority of members of the Council for the Improvement of Legislation in the Social and Labour Sphere (the Council), having discussed the matter at the Council’s meeting in March 2013, raised doubts about the establishment of the BITU primary trade union and considered that the actions of the enterprise management were justifiable as the BITU had failed to submit the minutes of the founding meeting. The Government submits that, while the legislation does not contain any numerical requirement for the establishment of primary trade union organizations, other requirements must be fulfilled, including the requirement to hold a constituent meeting. According to the Government, the analysis of the situation raised sufficient doubts as to whether the meeting had really taken place and therefore whether the organization had been established. The Committee further notes the Government’s indication that, according to the legislation, the employers are not obliged to provide a union with premises and that this question is to be regulated through collective bargaining. On the other hand, the union is not obliged to have its legal address on the premises of the enterprise and is free to rent a space elsewhere. According to the Government, while the Belarusian Congress of Democratic Trade Unions (CDTU) alleged that it faced refusal when attempting to rent a suitable space, it provided no specific information to sustain its allegations. Finally, the Government indicates that to date the BITU has not approached the registration authorities concerning the registration or recording of its primary trade union organization.

The Committee notes what appears to be contradictory information about the establishment of the BITU primary organization, as referred to by the Government in its communications to this Committee and the Committee on Freedom of Association. The Committee recalls that the 2004 Commission of Inquiry had examined at length the difficulties with obtaining legal address faced in practice by trade unions outside of the structure of the Federation of Trade Unions of Belarus (FPB) (see paragraphs 590–598 of the Report). It **deeply regrets** that almost ten years later, these difficulties still appear to exist. The Committee understands that in the absence of legal address, due to the legal address requirement set forth by Decree No. 2 and the restrictions as to what can constitute a valid legal address imposed by, among other pieces of legislation, the Housing and Civil Codes, the BITU could not apply for the registration of its primary trade union. While noting the Government’s indication that in 2012, there have been no cases of refusal to register trade union organizations, the Committee notes with **deep regret** that, despite the numerous requests by the ILO supervisory bodies, there have been no tangible measures taken by the Government to amend the Decree. ***In view of the above, the Committee urges the Government, in consultations with the social partners, to amend Decree No. 2 and to address the issue of registration of trade unions in practice, including by re-examining the situation of the BITU primary trade union with a view to allowing its registration. The Committee requests the Government to indicate in its next report all progress made in this respect.***

Concerning the Committee’s previous request to provide detailed observations on the CDTU’s earlier allegation that the Polotsk municipality refused to register the free trade union primary organization of “Self-employed workers at Polotsk outdoor collective farm market”, the Committee **regrets** that the Government’s reply is limited to indicating that the union has failed to provide a complete file of documents required for the registration. ***It therefore expects that the Government’s next report will contain detailed observations thereon.***

***Articles 3, 5 and 6. Right of workers’ organizations, including federations and confederations, to organize their activities.*** The Committee recalls that it had previously expressed its concern at the allegations of repeated refusals to authorize the CDTU, BITU and REWU to hold demonstrations and meetings and requested the Government to conduct independent investigations into these allegations, as well as to bring to the attention of the relevant authorities the right of workers to participate in peaceful demonstrations to defend their occupational interests. The Committee notes the Government’s indication that those allegations are too general, which makes it difficult for the Government to comment. The Committee notes with **concern** the ITUC’s allegation of refusal by the Minsk City Executive Committee to grant permission to hold a picket planned by the BITU for 20 July 2013. ***Recalling that peaceful protests are protected by the Convention and that public meetings and demonstrations should not be arbitrarily refused, the Committee urges the Government, in working together with the abovementioned organizations, to investigate all of the alleged cases of refusals to authorize the holding of demonstrations and meetings and to bring to the attention of the relevant authorities the right of workers to participate in peaceful demonstrations and meetings to defend their occupational interests.***

The Committee recalls that it had previously noted with concern the CDTU’s allegation that after the chairperson of the Soligorsk BITU regional organization met with several women workers (on their way to their workplaces), she was detained by the police on 4 August 2010 and subsequently found guilty of committing administrative offence and fined. According to the CDTU, the court had decided that by having met members of the union near the entrance gate of the company, the trade union leader had violated the Act on Mass Activities. The Committee had requested the Government to provide its observations on the facts alleged by the CDTU. The Committee **deeply regrets** that the Government provides no information in this respect. ***It therefore once again reiterates its request.***

In this connection, the Committee recalls that for a number of years it had been requesting the Government to amend the Act on Mass Activities, which imposes restrictions on mass activities and provides that an organization (including a trade union) can be liquidated for a single breach of its provisions (section 15), while organizers may be charged with a violation of the Administrative Code and thus subject to administrative detention. The Committee *deeply regrets* that once again no information has been provided by the Government on concrete measures taken in this respect. *It therefore reiterates its previous request.*

With regard to its previous request to amend Presidential Decree No. 24 concerning the use of foreign gratuitous aid, the Committee notes the Government's indication that there have been no refusals to register such aid and that the organizations that have requested the registration have obtained it. While noting this information, the Committee recalls that the Commission of Inquiry observed in its report that the Decree prohibited "the use of foreign gratuitous aid for, among others, carrying out public meetings, rallies, street processions, demonstrations, pickets, strikes and the running of seminars and other forms of mass campaigning among the population. Violation of this provision can result in the imposition of heavy fines, as well as the possible termination of an organization's activities. While the Government stated that Decree No. 24 was only aimed at rendering the previous situation transparent and created a simple and rapid procedure for the registration of foreign aid, the Commission heard from one of the employers' organizations that, to the contrary, the process was costly and time-consuming. The Commission recalls from the principles elaborated by the ILO supervisory bodies that the right recognized in *Articles 5 and 6* of the Convention implies the right to benefit from the relations that may be established with an international workers' or employers' organization. Legislation which prohibits the acceptance by a national trade union or employers' organization of financial assistance from an international workers' or employers' organization, unless approved by the Government, and provides for the banning of any organization where there is evidence that it has received such assistance, is not in conformity with this right. Although there were no specific allegations as to the practical application of this Decree, the Commission reiterates the conclusions made by these supervisory bodies that the previous authorization required for foreign gratuitous aid and the restricted use for such aid set forth in Decree No. 24 is incompatible with the right of workers' and employers' organizations to organize their own activities and to benefit from assistance that might be provided by international workers' and employers' organizations" (see paragraphs 623 and 624 of the report of the Commission of Inquiry). *The Committee therefore once again urges the Government, in consultation with the social partners, to amend Decree No. 24 so as to ensure that workers' and employers' organizations may effectively organize their administration and activities and benefit from assistance from international organizations of workers and employers in conformity with Articles 5 and 6 of the Convention. It requests the Government to provide information on all measures taken in this respect.*

The Committee *regrets* that no information has been provided by the Government on the concrete measures taken to amend sections 388, 390, 392 and 399 of the Labour Code affecting the right of workers' organizations to organize their activities in full freedom. The Committee notes that in its report the Government requests to clarify to what degree the position of the Committee in this respect reflects a balanced position of the social partners pursuant to the principles of tripartism. The Committee recalls that it has been requesting the Government to amend the above provisions since the adoption of the Labour Code in 1999. *It therefore encourages the Government to revise these provisions, in consultation with the social partners, and to provide information on all measures taken or envisaged to that end.*

The Committee notes with *deep regret* that no progress has been made by the Government towards implementing the recommendations of the Commission of Inquiry and improving the application of this Convention in law and in practice during the reporting year. Indeed, the Government has not provided any information on steps taken to amend the legislative provisions in question, as previously requested by this Committee, the Conference Committee, the Commission of Inquiry and the Committee on Freedom of Association. *The Committee therefore urges the Government to intensify its efforts in ensuring that freedom of association and respect for civil liberties are fully and effectively guaranteed in law and in practice and expresses the firm hope that the Government will intensify its cooperation with all the social partners in this regard.*

The Committee welcomes the acceptance by the Government of a direct contacts mission with a view to obtaining a full picture of the trade union rights in the country and assisting the Government in the rapid and effective implementation of all outstanding recommendations of the Commission of Inquiry. *The Committee hopes that the mission will take place in the very near future.*

*[The Government is asked to supply full particulars to the Conference at its 103rd Session and to reply in detail to the present comments in 2014.]*

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

#### **Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)**

The Committee notes the information provided by the Government and the discussion that took place in the Conference Committee on the Application of Standards on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in June 2013. The Committee also notes the 369th Report of the

Committee on Freedom of Association on the measures taken by the Government of the Republic of Belarus to implement the recommendations of the Commission of Inquiry.

The Committee further notes the comments submitted by the International Trade Union Confederation (ITUC) in a communication dated 30 August 2013 detailing violations of the Convention.

*Articles 1, 2 and 3 of the Convention. Protection against acts of anti-union discrimination and interference.* The Committee recalls that it had previously noted with concern numerous detailed allegations of anti-union discrimination, including discriminatory use of fixed-term contracts, and interference, threats and pressure put on workers to leave their unions and urged the Government to take the necessary measures to ensure that these allegations were brought to the attention of the Council for the Improvement of Legislation in the Social and Labour Sphere (“the Council”) without further delay and to provide information on the outcome of the discussion and on any remedial measures taken. The Committee had further noted with regret the case of Mr Aleksey Gabriel, leader of a primary-level organization of the Belarusian Free Trade Union (BFTU) who was dismissed following the non-renewal of his employment contract, and requested the Government to provide information on his current employment status.

With regard to the case of Mr Gabriel, the Committee notes the Government’s indication that he has reached the retirement age and is currently not employed. With respect to the allegations of anti-union discrimination and interference, the Government indicates that the submission of allegations to the Committee is not enough for these allegations to be examined by the courts, the Prosecutor’s Office or the Council; the complainant organizations must initiate these procedures. The Committee understands that the Government appears to indicate that no complaints relating to the abovementioned cases have been officially addressed to these bodies. Observing with *regret* the long-standing nature of these allegations, the Committee recalls that where cases of alleged anti-union discrimination and interference are involved, the competent authorities dealing with labour issues should begin an inquiry immediately and take suitable measures to remedy any effects of anti-union discrimination and interference brought to their attention. The Committee notes with *deep regret* that despite its numerous requests, the Government appears to have not referred these matters to the Council. Indeed, the Committee observes that the Government’s report does not refer to any discussions on the issue of anti-union dismissals, threats, interference and pressure which had taken place at the tripartite Council within the reporting year. The Committee notes with *concern* new allegations of anti-union discrimination and interference which have taken place in public sector enterprises (“Granit” and Bobruisk Plant of Tractor Parts and Units) submitted by the ITUC. ***The Committee urges the Government to examine, in the framework of the tripartite Council, the issue of effective protection against acts of anti-union discrimination in law and in practice, in general, as well as all of the outstanding allegations of anti-union discrimination and interference, in particular. It requests the Government to provide information on the outcome of these discussions, which it expects will take place without further delay.***

***Furthermore, the Committee once again urges the Government to take measures to ensure that enterprise managers do not interfere in the internal affairs of trade unions and instructions are given to the Prosecutor-General, Minister of Justice and court administrators that all complaints of interference and anti-union discrimination are thoroughly investigated. Should such complaints prove true, the necessary measures should be taken to put an end to such acts and punish those responsible.***

*Article 4. Right to collective bargaining.* The Committee recalls that it had previously requested the Government to provide its observations on the allegation by the Belarusian Congress of Democratic Trade Unions (CDTU) of refusal by employers to bargain collectively with its affiliates at several enterprises. The Committee recalls that it had previously noted that this issue had been discussed by the tripartite Council, but following a disagreement, the Council had decided to refer this question to its tripartite working group. The Committee notes the Government’s indication that while the working group discussed the situation, no agreement had been reached as, on the one hand, the Federation of Trade Unions of Belarus (FPB) refused to bargain collectively alongside and co-sign collective agreements with primary trade unions of the CDTU and on the other, employers refused to bargain with a view to signing a second collective agreement with minority unions. ***The Committee trusts that this issue will be further discussed during the direct contacts mission requested by the Committee on the Applications of Standards in June 2013 with a view to assisting the Government and the social partners in the rapid and effective implementation of all outstanding recommendations of the Commission of Inquiry. The Committee hopes that this mission will take place in the very near future.***

***The Committee strongly encourages the Government to intensify its efforts to ensure full implementation of the recommendations of the Commission of Inquiry without delay, in close cooperation with all the social partners and with the assistance of the ILO. The Committee further expresses the firm hope that the Government and the social partners will continue the cooperation within the framework of the tripartite Council and that the latter will have a real impact on ensuring that the rights to organize and collective bargaining are effectively guaranteed in law and in practice.***

## Belize

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

The Committee notes the Government's reply to the 2011 comments of the International Trade Union Confederation (ITUC), and particularly the information on the establishment of the Southern Workers' Union (SWU), which represents workers in the shrimp, banana and citrus sectors and which, together with the Belize Workers' Union (BWU), has developed a strategic plan to organize workers in export processing zones (EPZs). The Committee also notes the comments made by the ITUC in 2013.

*Article 3 of the Convention. Compulsory arbitration.* In its previous observation, the Committee noted the Government's indication that, in the context of the process of reviewing labour legislation, the Labour Advisory Board (LAB) recommended that the Schedule to the Settlement of Disputes in Essential Services Act 1939 (SDESA) be amended so as to exclude from the list of services considered essential in the strict sense of the term, in respect of which the authorities may submit collective disputes to compulsory arbitration, and prohibit or bring an end to a strike: (i) the civil aviation and airport security services (AIPOAS); (ii) monetary and financial services (banks, treasury, Central Bank of Belize); (iii) the PAO Authority (pilots and security services); (iv) postal services; (v) the Social Security Scheme administered by the Social Security Board; and (vi) services through which petroleum products are sold, transported, loaded or unloaded.

*The Committee notes the Government's indication in its report that the LAB has concluded its review and that the Ministry of Labour will submit to the Attorney-General's Office the corresponding legal instructions, including the dissenting views expressed during the tripartite discussions. The Committee welcomes the tripartite initiatives in the process of discussing the amendment of the legislation and requests the Government to provide information in its next report on any developments in this respect.*

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

The Committee notes the comments of the International Trade Union Confederation (ITUC) in 2013 on matters that are already under examination.

*Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination.* In its previous comments, the Committee noted that, according to the ITUC, there are cases of anti-union discrimination in the banana plantation sector and in export processing zones (EPZs), where employers do not recognize any unions. It also noted the Government's indication that the comments would be submitted to a Tripartite Body established in 2008 under the provisions of the Trade Unions and Employers' Organizations (Registration, Recognition and Status) Act. The Committee notes the Government's indication in its report that the tripartite body has been meeting continuously and that the ITUC's allegations were submitted to it for review. The Committee also notes the Government's indication that employers in the banana sector and in EPZs are not above the law and that those who feel that their rights have been violated can have recourse to the judicial system. Finally, the Committee notes the establishment of the Southern Workers Union (SWU), which represents workers in the shrimp, banana and citrus sectors and which, together with the Belize Workers' Union (BWU), has developed a strategic plan to organize workers in EPZs. *The Committee requests the Government to provide statistics on the number of acts of anti-union discrimination that are denounced to the authorities in these sectors and on the outcomes of these denunciations.*

*Article 4. Promotion of collective bargaining.* In its previous comments, the Committee requested the Government to take measures to amend section 27(2) of the Trade Unions and Employers' Organizations (Registration, Recognition and Status) Act, Chapter 304, which provides that a trade union may be certified as the bargaining agent if it is supported by at least 51 per cent of employees, as this requirement of an absolute majority may give rise to problems given that, if this percentage is not attained, the majority union would be denied the possibility of bargaining. The Committee notes the Government's indication that: (i) the Tripartite Body and the Labour Advisory Board have been engaged in discussions on a possible amendment to the Act; (ii) based on these consultations, it has been recommended to reduce to 20 per cent the trade union membership threshold required to trigger a poll, while retaining the requirement of a 51 per cent approval of those employees voting and to require a turnout at the poll of at least 40 per cent of the bargaining unit; and (iii) the Government and the National Trade Union Congress of Belize (NTUCB) are in agreement with the proposal, although the Belize Chamber of Commerce would prefer to maintain the status quo. *The Committee welcomes the initiatives taken by the Government to bring the legislation into conformity with the Convention and requests it to continue promoting dialogue and to provide information in its next report on any developments in this respect. The Committee reminds the Government that it may have recourse to technical assistance from the Office, if it so wishes.*

## Benin

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

The Committee notes the comments of the International Trade Union Confederation (ITUC), dated 30 August 2013, denouncing the ongoing process of adopting an Act that would restrict trade union rights, as well as the arrest of trade unionists for having organized meetings at the workplace. The Committee notes the Government's reply which denies the alleged arrests and indicates that certain issues raised by the ITUC for several years will be taken into account in the framework of a legislative revision, in particular of the Labour Code, and that the social partners already actively participate in this process regarding several subject matters with the technical assistance of the ILO. *The Committee requests the Government to provide its observations on the allegations previously submitted by the General Confederation of the Workers of Benin (CGTB) concerning the infringements of trade union rights which would dissuade the establishment and free operation of trade union organizations in enterprises in the export processing zone.*

*Article 2 of the Convention. Right to establish trade unions without previous authorization.* The Committee has been requesting the Government for many years to take the necessary steps to amend section 83 of the Labour Code which requires the filing of trade union by-laws in particular with the Ministry of the Interior in order to obtain legal personality, subject to a fine. The Committee notes that the Government acknowledges the need to bring the national legislation in line with the Convention and states that the revision of the Labour Code, which has just been endorsed by the National Labour Council with the active participation of the social partners, should enable it to address the Committee's comments in this respect. *The Committee trusts that the Government's next report will outline the revision of the Labour Code which will take into account the amendments requested.*

Furthermore, the Committee requested the Government to specify the legal provisions or regulations that specifically grant seafarers the rights under the Convention. *The Committee, taking due note of the Government's assurances on this matter, trusts that the Government's next report will also contain information on the concrete measures taken to adopt legal provisions specifically granting seafarers all the guarantees of the Convention with respect to freedom of association.*

## Plurinational State of Bolivia

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

The Committee notes the comments of the International Trade Union Confederation (ITUC) of 30 August 2013, and particularly its allegations concerning police aggression during trade union demonstrations. *The Committee requests the Government to provide its observations on this subject.*

*Legislative issues.* The Committee recalls that for many years it has been commenting on the following matters:

- the exclusion of agricultural workers from the scope of the General Labour Act of 1942 (section 1 of the General Labour Act, and its Regulatory Decree No. 224 of 23 August 1943), which implies their exclusion from the guarantees afforded by the Convention;
- the denial of the right to organize of public servants (section 104 of the General Labour Act);
- the excessive requirement of 50 per cent of the workers in an enterprise to establish a trade union, in the case of an industrial union (section 103 of the General Labour Act);
- the broad powers of supervision conferred upon the labour inspectorate over trade union activities (section 101 of the General Labour Act, which provides that labour inspectors shall attend the deliberations of trade unions and monitor their activities);
- the requirement that trade union officers must be of Bolivian nationality (section 138 of the Regulatory Decree) and permanent employees in the enterprise (sections 6(c) and 7 of Legislative Decree No. 2565 of June 1951);
- the possibility of dissolving trade union organizations by the administrative authority (section 129 of the Regulatory Decree);
- the requirement of a three-quarters majority of the workers in order to call a strike (section 114 of the General Labour Act and section 159 of the Regulatory Decree); the illegality of general strikes, subject to penal sanctions (sections 1 and 2 of Legislative Decree No. 2565 and section 234 of the Penal Code); the illegality of strikes in the banking sector (section 1(c) of Supreme Decree No. 1958 of 1950); and the possibility of imposing compulsory arbitration by decision of the executive authorities 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 General Labour Act).

The Committee notes with *satisfaction* the information provided by the Government concerning the repeal of section 234 of the Penal Code following the adoption of Act No. 316 of 2012. ***The Committee requests the Government to confirm whether, following the reform of the Penal Code, Legislative Decree No. 2565, referred to above, has been repealed.***

The Committee also notes the Government's indication that: (i) a new General Labour Act is being prepared which, among other matters, provides for the inclusion of rural and agricultural workers so that they can benefit from all social rights, and envisages a requirement of 20 workers to establish a union at the enterprise or industrial level; and (ii) with regard to the right to organize of public officials, a Bill on public servants has been prepared which is to be examined and approved by the legislative authorities.

***The Committee expresses the firm hope that the new General Labour Act and the Act on public servants will be adopted in the very near future and that they will be in full conformity with the provisions of the Convention. The Committee requests the Government to report any developments in this respect and recalls that, if it so wishes, it may have recourse to technical assistance from the Office.***

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

The Committee notes the comments of the International Trade Union Confederation (ITUC) of 30 August 2013, referring to matters that are already under examination by the Committee.

The Committee recalls that for many years its comments have been referring to the following matters relating to *Articles 1, 2 and 4 of the Convention*:

- the need to adjust the amount of fines (of which the amount ranges between 1,000 and 5,000 Bolivian bolivianos (BOB)) envisaged in Act No. 38 of 7 February 1944 to make them sufficiently dissuasive against acts of anti-union discrimination or interference; and
- the need to guarantee the right to organize of public servants and agricultural workers, and hence their right to collective bargaining (the Constitution already does so, but the General Labour Act has not been amended accordingly).

The Committee notes the Government's indication in its report that the preliminary draft of the General Labour Act is undergoing consultation with the Bolivian Central of Workers. ***The Committee expresses the firm hope that the new General Labour Act will be adopted in the very near future, that it will be the subject of consultations with all the most representative workers' and employers' organizations and that, as a result: (i) the amount of the fines for acts of anti-union discrimination or interference will be adjusted so that they are sufficiently dissuasive; and (ii) the guarantees afforded by the Convention will be explicitly granted to public servants who are not engaged in the administration of the State and to all agricultural workers, whether they are wage earners or own-account workers. The Committee requests the Government to provide information in its next report on any developments in this respect and reminds it that, if it so wishes, it may have recourse to the technical assistance of the Office.***

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

## **Bosnia and Herzegovina**

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

The Committee notes the comments submitted by the International Trade Union Confederation (ITUC) on 30 August 2013 mainly concerning issues raised by the Committee. It further notes the Government's reply to comments previously made by the ITUC.

*Article 2 of the Convention. Right to establish employers' and workers' organizations without previous authorization.* The Committee recalls that it had previously noted that a draft act was before Parliament, proposing amendments in line with the Committee's comments concerning section 32 of the Act on the Associations and Foundations of Bosnia and Herzegovina. The Act's section 32 authorizes the Minister of Justice to accept or refuse the request for registration of a trade union (paragraph 1), and provides that the request for registration shall be considered as rejected if the Minister does not adopt a decision within 30 days (paragraph 2). The Committee notes with *interest* that the Act on Amendments to the Act on Associations and Foundations of Bosnia and Herzegovina was adopted on 14 September 2011 and abrogates section 32(2).

*Confederation of Independent Trade Unions of Bosnia and Herzegovina (SSSBiH).* The Committee takes note of the comments of the SSSBiH dated 7 December 2012 and notes with *satisfaction* that the SSSBiH was registered on 8 May 2012.

## Botswana

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

The Committee notes the comments made by the Trainers and Allied Workers Union in a communication dated 26 August 2013 alleging favouritism of certain trade unions by the Government, and the comments made by the International Trade Union Confederation in a communication dated 30 August 2013 referring to the matters raised by the Committee as well as to the allegations concerning acts of intimidation against public workers participating in demonstrations. *The Committee requests the Government to provide its observations thereon.* The Committee further notes the Government's reply to the comments previously made by Education International.

*Article 2 of the Convention. Right to organize of prison staff.* The Committee had previously requested the Government to amend section 2(1)(iv) of the Trade Unions and Employers Organisations (Amendment) Act, 2003 (TUEO Act), section 2(11)(iv) of the Trade Disputes Act, and section 35 of the Prison Act, which exclude employees of the prison service from their scope of application and prohibit prison officers from becoming members of a trade union or any body affiliated to a trade union. The Committee notes that the Government reiterates that employees in the prison services are deemed to be performing a security function, and that this matter is of national interest and thus further consultations need to be undertaken with the relevant government departments, social partners and other stakeholders. *Recalling that the functions performed by prison staff should not justify their exclusion from the enjoyment of the right to organize on the basis of Article 9 of the Convention, the Committee once again requests the Government to take the necessary measures to amend the abovementioned sections of the TUEO Act, the Trade Disputes Act and the Prison Act. It further requests the Government to provide information on the developments in this regard.*

*Article 3. Right of workers' organizations to organize their activities and formulate their programmes.* The Committee had previously requested the Government to amend section 48B(1) of the TUEO Act, which grants certain facilities only to unions representing at least one third of the employees in an enterprise. The Government indicates in its report that it had noted the Committee's comments and that they will be brought to the attention of the Labour Advisory Board. *The Committee requests the Government to provide information in its next report on any progress made in this regard, including on any discussions within the Labour Advisory Board.*

The Committee had requested the Government to amend the Trade Disputes (Amendment of Schedule) Order 2011, contained in Statutory Instrument No. 57, declaring veterinary services, teaching services and diamond sorting, cutting and selling services, and all support services in connection therewith to be essential. The Committee recalls that it had considered that these services were not essential in the strict sense of the term. The Committee notes with *interest* the decision of the High Court of Botswana which found that Statutory No. 57 of 2011 was unconstitutional and therefore "invalid and is of no force and effect".

The Committee had previously requested the Government to take the necessary measures to amend section 43 of the TUEO Act which provides for inspection of accounts, books and documents of a trade union by the Registrar at "any reasonable time". The Committee notes the Government's indication that it had noted this comment. *The Committee expresses the hope that the Government will take the necessary measures to amend section 43 of the TUEO Act without further delay and requests the Government to provide information on the developments in this regard.*

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

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

The Committee notes the comments made by the Trainers and Allied Workers Union in a communication dated 26 August 2013 and the comments made by the International Trade Union Confederation (ITUC) in a communication dated 30 August 2013, which refer to the legislative matters examined by the Committee and allege violations of the right to collective bargaining in practice. *The Committee requests the Government to provide its observations thereon.*

*Scope of the Convention.* The Committee had previously requested the Government to amend section 2 of the Trade Disputes Act, section 2 of the Trade Union and Employers' Organisations (Amendment) Act (TUEO Act) and section 35 of the Prison Act that deprive prison staff from the right to unionize under the threat of being dismissed. The Committee notes that the Government reiterates in its report that this matter is of national interest and thus wider consultations have to be undertaken with the relevant government departments, social partners and other stakeholders as they hold strongly that employees in the prison services are deemed to be performing a security function. *Recalling once again that the functions exercised by prison staff do not justify their exclusion from the rights and guarantees set out in the Convention, the Committee reiterates its previous request. It asks the Government to provide information on any development in this regard.*

*Article 1 of the Convention. Protection against acts of anti-union discrimination.* The Committee had requested the Government to take the necessary measures to ensure that all union committee members, including those of unregistered trade unions, enjoy an adequate and specific protection against anti-union discrimination. The Committee notes the Government's request for clarification as to what constitutes an unregistered trade union and recalls in this

respect that “registration” is a formality that can be used by national authorities to give to a trade union a legal existence which can confer significant advantages such as special immunities, tax exemptions or the right to be recognized as a bargaining agent. The Committee underlines that the fundamental rights accorded by the Convention to members or officers of trade unions, such as protection against acts of anti-union discrimination, covers all workers wishing to establish or join a trade union; therefore, such protection should not be dependent on the registered or unregistered status of a trade union, even if the authorities consider registration to be a simple formality. ***In these circumstances, the Committee reiterates its previous request.***

*Articles 2 and 4. Protection against acts of interference; promotion of collective bargaining.* In its previous comments, the Committee had requested the Government to provide information on the progress made in respect to: (i) the adoption of specific legislative provisions ensuring adequate protection against acts of interference by employers coupled with effective and sufficiently dissuasive sanctions; (ii) the repeal of section 35(1)(b) of the Trade Disputes Act, which permits an employer or employers’ organization to apply to the commissioner to withdraw the recognition granted to a trade union on the grounds that the trade union refuses to negotiate in good faith with the employer; and (iii) the amendment of section 20(3) of the Trade Disputes Act so as to ensure that compulsory arbitration of disputes of interest is permissible only in essential services in the strict sense of the term or in respect of public servants engaged in the administration of the State. The Committee notes that the Government reiterates that these issues will be considered in the framework of an ongoing review of the Trade Disputes Act. The Government recognizes the need to have an independent dispute resolution mechanism and indicates that this project is part of the National Development Plan (2009–16). ***The Committee hopes that the Government’s next report will contain information on the progress made in relation to the abovementioned requested amendments and encourages the Government to avail itself of the technical assistance of the Office if it so wishes.***

The Committee had previously noted that, in terms of section 48 of the TUEO Act as read with section 32 of the Trade Disputes Act, the minimum threshold for a union to be recognized by the employer is set at one third of the relevant workforce. It had therefore requested the Government to ensure that where no union represented one third of the employees in a bargaining unit, collective bargaining rights were granted to all unions in the unit, at least on behalf of their own members. ***Noting that no information has been provided by the Government on the measures taken or envisaged in this respect, the Committee reiterates its request.***

The Committee notes the Public Service Regulations, 2011 (Statutory Instrument No. 50), providing for general conditions of service in the public service (hours of work, shift work, weekly rest periods, paid public holidays, overtime and annual paid leave). ***The Committee requests the Government to clarify whether the provisions of this Instrument constitute fixed conditions of service or rather minimal legislative protection clauses on the basis of which the parties are able to negotiate special modalities and additional benefits.***

## Brazil

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

The Committee notes the comments made in 2013 by the International Trade Union Confederation (ITUC) and the Single Confederation of Workers (CUT), which refer to matters already raised by the Committee and contain allegations of anti-union practices in the media, banking and chemicals sectors. ***The Committee requests the Government to provide its observations on all of these comments and once again requests it to indicate the outcome of the judicial inquiries conducted in relation to the killings of the trade union leaders reported by the ITUC (and the alleged killings of 11 trade unionists between 1993 and 2009 denounced in 2009 by the Força Sindical, the Nova Central dos Trabalhadores do Brasil, the União Geral dos Trabalhadores, the Central Única dos Trabalhadores, the Central dos Trabalhadores e Trabalhadoras do Brasil and the Central General dos Trabalhadores do Brasil).*** The Committee also notes the comments of the Union of Hotel, Bar and Allied Workers of São Paulo and Region (SINTHORESP) of 2013 alleging that trade unions were hindered from defending the interests of workers with disabilities and participating on their behalf in the process of negotiation in an enterprise in the food sector. ***The Committee requests the Government to provide its observations thereon.***

*Article 4 of the Convention. Compulsory arbitration.* ***The Committee once again requests the Government to indicate whether it is still possible in practice to refer a collective dispute (dissídio coletivo) to compulsory judicial arbitration at the request of only one of the parties, and to provide information in its next report on developments relating to the draft trade union reform referred to previously.***

*Right to collective bargaining in the public sector.* The Committee recalls that for many years it has been referring to the need, in accordance with *Article 4* of the Convention, for public employees who are not engaged in the administration of the State to have the right to collective bargaining. The Committee observes that the Government reiterates information concerning the creation in September 2010 of the Labour Relations Council (CRT) which is a tripartite body based on equal representation that advises the Ministry of Labour on issues of importance in the world of work (for example, concerning the updating of legislation, the promotion of collective bargaining, the settlement of disputes, etc.). ***While recalling that in its previous observation it noted that, in relation to this issue, a working group***

was established with the social partners in the Ministry of Labour to formulate legislative proposals to be sent to the Office of the President of the Republic, and that a bill and a draft constitutional amendment would then be submitted, the Committee requests the Government to indicate in its next report whether the bill in question has been set aside and, if so, to provide information on any measures adopted with a view to granting public employees who are not engaged in the administration of the State the right to collective bargaining with a view to concluding collective agreements.

*Subjection of collective agreements to financial and economic policy orientations.* The Committee recalls that for years it has been referring 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 that are in conflict with the standards governing the Government's economic and financial policy or the wage policy that is in force shall be declared null and void. **The Committee regrets the lack of information provided by the Government on this subject and once again requests it to take measures to repeal any legislative or constitutional provisions which restrict the right to collective bargaining, such restrictions only being admissible as exceptional measures within the context of a serious economic crisis, namely in cases of serious and insurmountable difficulty, for the preservation of jobs and the continuity of enterprises and institutions. The Committee requests the Government to provide information in its next report on any measure adopted in this respect.**

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

## Bulgaria

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

*The Committee notes the comments made by the International Trade Union Confederation (ITUC) in 2013 and requests the Government to provide its observations thereon.*

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

*Article 3 of the Convention. Right of workers' organizations to organize their administration and activities and to formulate their programmes.* The Committee recalls that for a number of years it has been raising the need to amend the following provisions: (1) section 11(2) of the Collective Labour Disputes Settlement Act, which provides that the decision to call a strike shall be taken by a simple majority of the workers in the enterprise or the unit concerned; (2) section 51 of the Railway Transport Act of 2000, which provides that, where industrial action is taken under the Act the workers and employers must provide the population with satisfactory transport services corresponding to no less than 50 per cent of the volume of transportation that was provided before the strike; and (3) section 47 of the Civil Servant Act, which restricts the right to strike of public civil servants, other than those engaged in the administration of the State.

The Committee had noted that the Government had provided information about certain legislative proposals relating to the amendments requested.

*The Committee hopes once again that due account will be taken of its comments in the process of legislative amendments. The Committee requests the Government to provide information on any development in this respect in its next report. It reminds the Government that it may avail itself of the technical assistance of the Office if it so wishes.*

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

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

The Committee notes the comments submitted by the International Trade Union Confederation (ITUC) in 2013. **The Committee requests the Government to provide its observations thereon.**

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

*Article 1 of the Convention. Protection of workers against acts of anti-union discrimination.* The Committee in its latest observation has requested the Government to supply information regarding the average length of anti-union discrimination proceedings in practice and the compensations paid or sanctions imposed in case of anti-union dismissals, and to indicate the status of the process of establishing specialized labour courts.

*The Committee invites the Government to compile data on the average duration in practice of court proceedings related to discrimination on the grounds of trade union activities, including appeals procedures and also on the average compensation paid and sanctions imposed, and to communicate this information in its next report.*

*Article 2. Protection against acts of interference.* The Committee had previously noted that national legislation does not provide full protection against acts of interference by employers or employers' organizations and has requested the Government to indicate the legislative measures taken or envisaged to ensure adequate protection, including by means of dissuasive sanctions, against such acts of interference.

The Committee recalls that, under *Article 2* of the Convention, all acts which are designed to promote the establishments of workers' organizations under the domination of employers' organizations, or to support workers' organizations by financial means with the object of placing such organizations under the control of employers or employers' organizations, shall be deemed to constitute acts of interference. The Committee further reminds that national legislation should explicitly prohibit all such acts of interference and make express provision for rapid appeal procedures, coupled with dissuasive sanctions against acts of interference, in order to ensure the application in practice of *Article 2*. **Therefore, the Committee again requests the Government**

*to take the necessary measures in order to modify the national legislation accordingly and ensure the application of Article 2 as indicated, and to meanwhile provide information about the steps taken towards an adequate protection against such acts of interference.*

*Articles 4 and 6. Collective bargaining in the public sector.* The Committee has previously taken note of the comments made by the ITUC and the KNSB/CITUB regarding collective bargaining rights of public servants and requested the Government to amend the Civil Service Act so that the right to collective bargaining of all public service workers, other than those engaged in the administration of the State, is duly recognized in the national legislation.

The Committee observes that the Government had stated that an interdepartmental work group was set up with the mission to develop proposals and amendments to the law on railway transport and the Civil Service Act in order to meet the standards of the International Labour Organization. *The Committee expresses the firm hope that the Civil Servant Act will soon be brought into accordance with the requirements of the Convention. The Committee requests the Government to inform on the evolution of the process and to include the text of the amended Articles in one of the ILO's official working languages in its next report. The Committee hopes that the Government will make every effort to take the necessary action in the near future.*

## Burkina Faso

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

*Articles 4 and 6 of the Convention. Collective bargaining in the public sector.* With reference to its previous comments, the Committee had noted the Government's indication that, pursuant to Act No. 013/98/AN of 28 April 1998 establishing the legal regime applicable to posts and employees in the public service, as amended by Act No. 019-2005/AN of 18 May 2005, public servants are entitled to freely engage in bargaining and to conclude agreements in their sectors of activity, although in practice no collective agreement has been negotiated or concluded in the public sector. The Committee notes that, while the Act in question, in its sections 44 and 45, provides that public service employees can establish associations or occupational trade unions and grants the right to strike to public service employees who exercise it within the framework defined by the relevant legislative texts in force, it does not explicitly recognize the right to collective bargaining for public servants not engaged in the administration of the State. *The Committee requests the Government once again to take the necessary steps to ensure that the legislation explicitly guarantees the right to collective bargaining for public servants not engaged in the administration of the State and establishes adequate machinery to promote the exercise of this right. The Committee requests the Government to provide information in its next report on any further developments in this regard and on any collective agreement concluded in the public sector. The Committee invites the Government to avail itself of ILO technical assistance.*

## Burundi

### **Right of Association (Agriculture) Convention, 1921 (No. 11)** (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:

The Committee recalls that for many years now its comments have referred to the need to amend Legislative Decree No. 1/90 of 25 August 1967 on rural associations which provides that, in the event of public subsidy, the Minister of Agriculture may establish rural associations (section 1), membership of which is compulsory (section 3) and that he determines their statutes (section 4). It also provides that the obligations of agricultural workers who are members of these associations include the provision of services for the common enterprise, the payment of a single or regular contribution, the provision of agricultural or livestock products and the observance of rules respecting cultural discipline and other matters (section 7), under penalty of the seizure of the member's property (section 10).

The Committee had noted the Government's indication that the Decree in question has not yet been repealed, but that its repeal will take place in the near future. *The Committee strongly hopes that the Government will finally take effective measures to amend or repeal Legislative Decree No. 1/90 of 25 August 1967, and requests the Government to provide information in this respect in its next report.*

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

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

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 requests the Government to send its observations on the comments submitted by the Trade Union Confederation of Burundi (COSYBU) and by the International Trade Union Confederation (ITUC), particularly the allegations regarding death threats to trade union officials and an assault on the Chairman of the Trade Union of Medical Doctors of Burundi (SYMEBU) and other acts of intimidation of trade unionists.*

*Article 2 of the Convention. Right of public employees without distinction whatsoever to establish and join organizations of their own choosing. The Committee once again notes with regret the lack of the statutory provisions on the right to organize of magistrates and observes that this situation is the reason behind difficulties of registration of the Trade Union of Magistrates of Burundi (SYMABU). The Committee trusts that the Government will take the necessary measures without delay in order to adopt such statutory provisions so as to ensure and clearly define 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, as this section provides that minors under the age of 18 may not join a trade union without the explicit permission of their parents or guardians. The Committee requests the Government to recognize the right to join trade unions of minors under 18 years of age who are engaged in an occupational activity without the permission of their parents or guardians being necessary.*

*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 by the public authorities. Election of trade union officers. The Committee recalls that its previous comments related to section 275 of the Labour Code which sets the following conditions for holding the position of trade union officer or administrator:*

- *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. The Committee recalls 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.*
- *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 once again requests the Government to take the necessary measures to amend section 275(3) and (4) of the Labour Code, taking fully into account the principles recalled above.*

*Right of organizations freely to organize their activities and to formulate their programmes. In its previous comments, the Committee raised the matter of the succession 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. Recalling that the right to strike is one of the essential means available to trade unions to further and defend the interests of their members, the Committee urges the Government to adopt and provide a copy of the text to be issued under the Labour Code on the modalities for the exercise of the right to strike, taking into account the principles recalled above.*

The Committee also 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. 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. *The Committee requests the Government to indicate in its next report the measures taken to amend section 213 of the Labour Code in the light of the comments made above.*

In its previous observation, the Committee noted that the Government had adopted a legislative decree prohibiting the exercise of the right to strike and to demonstrate throughout the national territory during the period of the elections. According to the Government, this legislative decree has not been used in practice. *The Committee requests the Government to indicate whether this legislative decree was repealed following the elections.*

*The Committee 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 notes that the Government has set up a tripartite committee responsible for rapidly proposing new provisions of the Labour Code which would take into account the claims of the social partners, the reports of the labour inspection and the comments of the Committee. *The Committee requests the Government to indicate any progress made in revising the Labour Code and recalls that technical assistance of the Office is at its disposal.*

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

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

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 urges the Government to send its observations in response to the comments submitted by the International Trade Union Confederation (ITUC) and the Trade Union Confederation of Burundi (COSYBU) concerning the application of the Convention.*

*Articles 1, 2 and 3 of the Convention. Non-dissuasive nature of the sanctions established by the Labour Code for violations of Article 1 (protection of workers against acts of anti-union discrimination) and Article 2 (protection of employers' and workers' organizations against any acts of interference by each other) of the Convention. In its past comments, the Committee had noted that, according to the Government, the provisions in question would be amended with the collaboration of the social partners. The Committee regrets that no amendments have been made to the legislation and, recalling the need to establish sufficiently dissuasive sanctions, hopes that the Government will be able to make the necessary amendments to the legislation in the near future. The Committee requests the Government to keep the Office informed of any progress achieved in this respect.*

*Article 4. Right of collective bargaining in practice. The Committee noted previously that there was only one collective agreement in Burundi. The Committee noted that, according to the Government, it is for the social partners to take the initiative to propose collective agreements and that in practice they limit themselves to concluding enterprise agreements of which there are many in para-public enterprises. The Committee recalls that, although nothing in the Convention places a duty on the Government to enforce collective bargaining by compulsory means with the social partners, this does not mean that governments*

should abstain from any measure whatsoever aiming to establish a collective bargaining mechanism. *The Committee notes the launch of a capacity-building programme for the social partners and once again asks the Government to provide information on the precise measures adopted to promote collective bargaining, together with information of a practical nature on the situation with regard to collective bargaining and, in particular, to indicate the number of collective agreements concluded up to now and the sectors covered. The Committee hopes that the Government will be able to indicate substantial progress in its next report.*

*Article 6. Right of collective bargaining for public servants not engaged in the administration of the State.* The Committee previously requested the Government to specify whether provisions that imply restrictions on the scope of collective bargaining for the public service as a whole are still in force in Burundi, particularly as regards the determination of wages, such as: (1) section 45 of Legislative Decree No. 1/23 of 26 July 1988, which provides that, following approval by the relevant ministry, the governing councils of public establishments set the level of remuneration for permanent and temporary posts and determine the conditions for appointment and dismissal; and (2) section 24 of Legislative Decree No. 1/24, which provides that governing councils of public establishments draw up staff regulations for personalized administrations subject to the approval of the competent minister. The Committee noted that the Government indicated that these provisions were still in force, but that, in practice, state employees participate in determining their terms and conditions of employment. According to the Government, they are aware of the right of collective bargaining, and this is the reason for the existence of agreements in the education and health sectors. In the case of public establishments and personalized administrations, the employees participate in the determination of remuneration as they are represented on the governing councils, and wage claims are submitted to the employer by enterprise councils or trade unions, with the competent minister only intervening to safeguard the general interest; in certain ministries, trade union organizations have obtained bonuses to supplement wages. *The Committee once again asks the Government to take measures to align the legislation with practice and, in particular, to amend section 45 of Legislative Decree No. 1/23 and section 24 of Legislative Decree No. 1/24 so as to ensure that organizations of public servants and employees who are not engaged in the administration of the State can negotiate their wages and other terms and conditions of employment.*

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

## Cambodia

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

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2013 concerning the application of the Convention.

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

The Committee recalls that it had previously urged the Government to send its observations on the comments made in 2010, 2011 and 2012 by the International Trade Union Confederation (ITUC), the Cambodian Labour Confederation (CLC), Education International (EI), the Cambodian Independent Teachers' Association (CITA) and the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC), which referred to serious acts of violence and harassment against trade union leaders and members. The Committee notes with *concern* the new comments submitted by the ITUC in a communication dated 21 August 2013 alleging serious violations of the Convention. *The Committee urges the Government to provide its observations on all outstanding comments submitted by the ITUC, CLC, EI, CITA and the FTUWKC.*

The Committee notes the comments of the International Organisation of Employers (IOE) and the Cambodian Federation of Employers and Business Association (CAMFEB) in a communication dated 30 August 2013. The Committee notes that both organizations consider that "freedom of association and the right to organize are extremely well practiced in Cambodia", refer to the challenges resulting from the growing multiplicity of unions, dispute the allegations concerning the use of fixed duration contracts and are of the opinion that the issue of the Trade Union Act should not be addressed by the Committee.

The Committee notes the latest conclusions and recommendations of the Committee on Freedom of Association in Case No. 2318 concerning the murders of trade union leaders Chea Vichea, Ros Sovannareth and Hy Vuthy and the continuing repression of unionists, which had to be examined in the absence of a response from the Government and was considered as an extremely serious and urgent case (370th Report, paragraphs 144–168). *In the absence of the Government's reply, the Committee, like the Committee on Freedom of Association and the Conference Committee, once again strongly urges the Government to ensure that thorough and independent investigations into the murders of Chea Vichea, Ros Sovannareth and Hy Vuthy are carried out expeditiously to ensure that all available information will finally be brought before the courts in order to determine the actual murderers of these trade union leaders and instigators, punish the guilty parties and bring to an end the prevailing situation of impunity as regards violence against trade union leaders. The Committee further requests the Government to conduct an independent and impartial investigation into the prosecution of Born Samnang and Sok Sam Oeun, including allegations of torture and other ill-treatment by police, intimidation of witnesses and political interference with the judicial process. The Committee*

**requests the Government to provide information on the outcome of the investigations and on the measures of redress for their wrongful imprisonment.**

*Trade union rights and civil liberties.* In its previous observations, the Committee urged the Government to take all the necessary measures, in the very near future, to ensure that trade union rights of workers are fully respected and that trade unionists are able to engage in their activities in a climate free of intimidation and risk to their personal security and their lives as well as the lives of their families. The Committee notes with *regret* the absence of the Government's reply, particularly in view of the comments made by a number of workers' organizations alleging serious acts of violence and harassment against trade union leaders and members, and in the wake of the Conference Committee's discussion on Cambodia relating to the persistent climate of violence and intimidation towards union members. The Committee is bound to recall, once again, that freedom of association can only be exercised in a climate that is free from violence, pressure or threats of any kind against leaders and members of workers' organizations, and that detention of trade unionists for reasons connected with their activities in defence of the interests of workers, constitutes a serious interference with civil liberties in general and with trade union rights in particular. It further recalls that workers have the right to participate in peaceful demonstrations to defend their occupational interests. ***In light of the above, the Committee once again urges the Government to take all the necessary measures, in the very near future, to ensure that trade union rights of workers are fully respected and that trade unionists are able to engage in their activities in a climate free of intimidation or risk to their personal security and their lives, as well as the lives of their families, in accordance with the abovementioned principles. The Committee requests the Government to provide information in this regard.***

*Independence of the judiciary.* In its previous observations, the Committee noted the conclusions of the ILO direct contacts mission of April 2008, referring to serious problems of capacity and lack of independence of the judiciary. The Committee requested the Government to take concrete and tangible steps, as a matter of urgency, to ensure the independence and effectiveness of the judicial system, including capacity-building measures and the institution of safeguards against corruption. In this regard, the Committee notes that, in June 2013, the Conference Committee urged the Government to: (i) adopt without delay the proposed law on the status of judges and prosecutors and the law on the organization and functioning of the courts, and ensure their full implementation; (ii) provide information on the progress made in this regard, as well as in respect of the creation of labour courts; and (iii) transmit the draft texts to the Committee of Experts. The Committee notes with *regret* that none of these texts have been transmitted. ***It once again requests the Government to indicate whether these laws have been adopted, and, if so, to provide a copy thereof. If this is not the case, the Committee urges the Government to take all necessary measures to ensure their adoption without delay.***

***The Committee also requests the Government to provide in its next report information on any progress made concerning the creation of labour courts.***

*The draft Trade Union Act.* The Committee notes that the June 2013 Conference Committee once again called on the Government to intensify its efforts, in full consultation with the social partners and with the assistance of the ILO, to ensure the rapid adoption of the Trade Union Act by the end of 2013 so as to fully guarantee the rights under the Convention. ***The Committee once again requests the Government to provide information on the steps taken towards the adoption of the Act, and expresses the firm hope that the social partners will be fully consulted throughout the process, and that the final draft legislation will take into account all its comments and in particular that civil servants, teachers, air and maritime transport workers, judges and domestic workers will be fully guaranteed the rights enshrined in the Convention.***

The Committee is raising other points in a request addressed directly to the Government.

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

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

The Committee notes the comments submitted by the International Trade Union Confederation (ITUC) dated 4 and 31 August 2011, which refer, in particular, to serious and numerous acts of anti-union discrimination and interference. The Committee further notes the comments made by the Cambodian Labour Confederation (CLC) on 31 August 2011, indicating, in particular, that independent trade unions face many risks such as discrimination, and mostly dismissals, and that employers create "yellow unions" to interfere with the independent unions activities. Lastly, the Committee notes the comments made by Education International (EI) on 31 August 2011, indicating that teachers and civil servants were denied both the right to freedom of association and the right to collective bargaining. ***The Committee urges the Government to send its observations on all the issues raised by the ITUC, the CLC and EI, as well as the issues raised in the new EI communication dated 31 August 2012.***

*Articles 1 and 3 of the Convention. Protection against anti-union discrimination.* In its previous observation, the Committee had underlined the need to take steps without delay to adopt an appropriate legislative framework in full consultation with the social partners to ensure adequate protection against all acts of anti-union discrimination, dismissals and other prejudicial acts, including by means of sufficiently dissuasive sanctions. The Government indicates in its report that the Labour Law ensures the rights of unions and that when the Law on Trade Union will be enforced these rights will be further promoted. The Committee also notes that, in their comments, both the ITUC and the CLC report severe cases of anti-union discrimination and anti-union dismissals. ***Against this backdrop, the Committee urges the Government to ensure, in full consultation with the social partners, that adequate protection against all acts of anti-union discrimination, dismissals and other prejudicial acts, including by means of sufficiently dissuasive sanctions, will be provided for in the Trade Union Law which will be adopted. It requests the Government to provide information on developments in this regard.***

*Article 4. Recognition of trade unions for purposes of collective bargaining.* In its previous observation, the Committee requested the Government to amend section 1 of Prakas No. 13 of 2004, which provides that the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation may refuse to grant most representative status to a trade union when an objection is put forward from a member of the Labour Advisory Committee, or from enterprises, institutions or a concerned third party. The Committee considered in this respect that permitting the objections of third parties as grounds for refusing a union most representative status ran counter to the principle of promoting collective bargaining expressed in *Article 4* of the Convention. The Government indicated in its report that when the Trade Union Law is promulgated, its provisions will apply in this respect. The Committee also noted that the ITUC, the CLC and the EI, in their 2011 comments, express concerns about a number of provisions of the draft Trade Union Law, in particular in relation to the modalities for designation of the most representative union. The Committee 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 (see General Survey on freedom of association and collective bargaining, 1994, paragraph 97). ***The Committee requests the Government to ensure, in the framework of the adoption of the Trade Union Law, that this principle will be upheld, and that the new legislation suppresses the possibility for third parties to put forward objections to the granting of the most representative status to a trade union. The Committee requests the Government to provide information in this regard.***

*Articles 4 and 6. Right to collective bargaining of public servants.* The Committee had previously noted 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. On numerous occasions, both the Committee on Freedom of Association (see Case No. 2222, 334th and 356th Reports) and the Committee requested the Government to take the necessary measures to amend the laws pertaining to all public sector workers, so as to ensure the right to collective bargaining for all public servants, with the sole exception of those engaged in the administration of the State. More particularly, the Committee urged the Government to immediately take the necessary measures to amend the Common Statute of Civil Servants so as to guarantee fully the right to collective bargaining. The Committee stated that no progress have been made in this respect. Concerning the application of the Convention in practice, the Committee noted with *concern* the comments made by the ITUC, the CLC and EI, recalling that civil servants' associations are not recognized as trade unions and do not enjoy collective bargaining rights. It further notes that the ITUC, the CLC and EI, express concerns about the scope of application of the draft Trade Union Law. ***The Committee requests the Government to indicate whether the right to collective bargaining of public servants is an issue addressed within the framework of the drafting of the Trade Union Law. If that is the case, it requests the Government to ensure that the final draft legislation on trade unions guarantees the right to collective bargaining for all public servants, including teachers, with the sole exception of those engaged in the administration of the State. If that is not the case, the Committee urges the Government to take the necessary measures to amend the laws pertaining to all public sector workers, and more particularly the Common Statute of Civil Servants, so as to bring them in conformity with the Convention. The Committee requests the Government to provide information regarding any developments in this respect.***

*Consultations on the draft Trade Union Law.* The Committee noted that the CLC indicated in its comments that in the course of the drafting process of the Trade Union Law the Government only took into consideration comments from the employers' organizations. EI further indicates that the Cambodian Independent Teachers' Association had not been consulted. The Committee has also been informed that a draft of the Trade Union Law has been sent to the Office and that the Government has benefited from the Office's assistance on the draft law. ***The Committee requests the Government to ensure that full consultation with the social partners on the draft Trade Union Law take place. In general, the Committee urges the Government to take the necessary measures to ensure meaningful consultation with the social partners with respect to any labour law reform and to ensure their full and equal participation in all relevant social dialogue forums. Furthermore, the Committee expresses the firm hope that the final draft legislation on trade unions will take into account all its comments. The Committee requests the Government to provide information on these matters and in particular on the adoption of the Trade Union Law.***

*Application of the Convention in practice.* The Committee noted that the Government indicated that 55 collective agreements have been registered and that these agreements are attached to its report. However, the Committee noted that the documents received as attachments to the Government's report are not collective bargaining agreements. ***Noting the comments made by the ITUC according to which collective bargaining is rare and difficult, the Committee expresses its concern about this information and reiterates its request to the Government to communicate in its next report statistics on the collective agreements (workers and sectors covered in the different regions, and number of genuine collective agreements).***

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

## Cameroon

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

The Committee notes the comments sent in 2013 by the International Trade Union Confederation (ITUC) and the General Union of Workers of Cameroon (UGTC) concerning violations of trade union rights which have been examined by the Committee on Freedom of Association, as well as the Government's observations thereon.

For many years the Committee has been asking the Government to provide information on the measures taken to amend or repeal certain legislative provisions which are not in conformity with *Articles 2 and 5 of the Convention*. The Committee recalls that its previous comments concerned the need to:

- amend Act No. 68/LF/19 of 18 November 1968 (under the terms of which the existence in law of a trade union or occupational association of public servants is subject to prior approval by the Minister of Territorial Administration);
- amend sections 6(2) and 166 of the Labour Code (which lays down penalties for persons establishing a trade union which has not yet been registered and acting as if the said union had been registered);
- repeal section 19 of Decree No. 69/DF/7 of 6 January 1969, under the terms of which trade unions of public servants may not affiliate to an international organization without obtaining prior authorization.

The Committee notes that the Government refers once again to the legislative reform process which is under way, indicating that the Committee's recommendations would be taken into account. *The Committee urges the Government to take the necessary measures to ensure that the legislative reform process which started many years ago (regarding revision of the Labour Code, adoption of the Act concerning trade unions, repeal of regulatory texts which are not in conformity with the Convention) will be completed in the near future and will finally bring the national legislation into line with the provisions of the Convention with respect to the points reiterated above. The Committee requests the Government to provide detailed information on any progress achieved in this regard.*

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Canada

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

The Committee notes the comments received in 2013 from the International Trade Union Confederation (ITUC), the International Organisation of Employers (IOE) and the Canadian Employers' Council (CEC) on all the legislative issues already under review.

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee notes the discussion on the application of the Convention by Canada at the Committee on the Application of Standards at the International Labour Conference (June 2013). It particularly takes note of the conclusions adopted, in which the Government was asked to pursue its efforts to bring to the attention of some provincial authorities the need to amend certain legislative texts to find solutions in conformity with the Convention in full consultation with the social partners, and to provide this Committee with detailed information on the measures adopted in this connection.

*Article 2 of the Convention. Right to organize of certain categories of workers.* The Committee recalls that for many years it has been expressing its concern at the denial of the right to organize to broad categories of workers in the following provinces.

**Province of Alberta.** (i) *Agricultural workers.* The Committee notes that the Government of the Province of Alberta is still measuring the impact of the 2011 ruling of the Supreme Court of Canada in the case *Ontario (Attorney-General) v. Fraser* on the jurisprudence of courts dealing with similar cases before deciding on any possible measures to take. (ii) *Architects, dentists, land surveyors, lawyers, doctors, engineers, domestic workers, nursing personnel, higher educational staff.* The Committee notes with *regret* that the provincial Government is not planning any measures to recognize the right of these categories of workers to establish and join organizations of their own choosing.

**Province of Prince Edward Island.** *Architects, dentists, land surveyors, lawyers, doctors, engineers.* The Committee notes that the provincial Government does not envisage reviewing its legislation.

**Province of New Brunswick.** *Domestic workers.* The Committee notes that the provincial Government is continuing consultations with stakeholders regarding potential amendments to the Industrial Relations Act to remove the exclusion of domestic workers.

**Province of Nova Scotia.** *Architects, dentists, land surveyors, lawyers, doctors, engineers.* The Committee notes the lack of any information on measures taken or envisaged.

**Province of Ontario.** (i) *Agricultural workers.* The Committee notes that the provincial Government does not envisage amending the Agricultural Employees Protection Act, that it does not have any statistics on the number of workers represented by the trade unions in the agricultural sector in Ontario, and that no complaint from trade unions calling for their rights under the Convention have been registered. The Committee wishes to recall that the issue was the subject of a complaint lodged with the Committee on Freedom of Association (Case No. 2704). (ii) *Architects, dentists, land surveyors, lawyers, doctors, engineers, domestic workers, principals and vice-principals in educational establishments and community workers.* The Committee notes that the Government does not envisage amending its legislation.

**Province of Saskatchewan.** *Architects, dentists, land surveyors, lawyers, doctors, engineers, domestic workers.* The Committee notes the provincial Government's observations of a general nature concerning the consolidation of the Saskatchewan Employment Act in May 2013 and its impact on the determination of the term "employee".

The Committee notes the general comments from the IOE and CEC to the effect that, given the diversity of the forms of employment in Canada, it is necessary and appropriate to accept the exclusion of certain categories of workers from the coverage of overall labour relations legislation in favour of specific schemes that take more account of the nature of the jobs concerned.

*The Committee, taking account of all the information provided, trusts that the Government will ensure that all the provincial governments concerned take all necessary measures to guarantee that all the categories of workers mentioned above enjoy the right to establish and join organizations of their own choosing, as well as other rights recognized in the Convention.*

*Article 3. Right of employers' and workers' organizations to organize their activities and to formulate their programmes.* The Committee has referred in the past to matters linked to the right to strike in certain provinces, which have also been examined by the Committee on Freedom of Association. Taking into account the information submitted by the Government, the Committee will examine these matters in more detail in its direct request.

The Committee is raising other points in a request addressed directly to the Government.

## Central African Republic

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

The Committee notes the comments submitted on 30 August 2013 by the International Trade Union Confederation (ITUC) mostly concerning issues already being raised by the Committee. In its previous comments, the Committee had noted the comments made by the ITUC concerning continuous breaches in social dialogue and the dismissal of the General Secretary of the Association of Teachers during the general strike of January 2008. *The Committee urges the Government to send its observations thereon.*

The Committee notes with *regret* that the Government's report contains no specific information in reply to the points raised in its previous comments. The Committee recalls that it has requested the Government to take measures to amend the following provisions that are not in conformity with the Convention:

- section 17 of the Labour Code – limitation of the right of foreigners to join organizations through conditions of minimum legal residence (two years) and reciprocity;
- section 26 of the Labour Code – union affiliation of minors under 16 may be opposed by parents or guardians despite minimum age for admission to employment of 14 years;
- section 25 of the Labour Code – non-eligibility for trade union office of persons convicted to a prison sentence, persons with a criminal record or persons deprived under a court decision of their right of eligibility, even where the nature of the relevant offence is not prejudicial to the integrity required for trade union office;
- section 24 of the Labour Code – limitation of the right of foreigners to be elected to trade union office through condition of reciprocity;
- section 49(3) of the Labour Code – no central organization may be established without first establishing “occupational federations” and “regional unions” (section 49(1) and (2)).

*The Committee requests the Government to take the necessary measures to amend the above legislative provisions in the near future, in full consultation with the social partners, so as to bring the Labour Code and Order No. 81/028 into conformity with Articles 2, 3, 5 and 6 of the Convention.*

The Committee is raising other points in a request addressed directly to the Government.

*[The Government is asked to reply in detail to the present comments in 2014.]*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1964)**

The Committee notes with *regret* that the Government's report contains no information in reply to the points raised in its previous comments. It is therefore bound to once again draw the Government's attention to the following issues relating to *Articles 2, 4 and 6 of the Convention*:

- Section 30(2) of the Labour Code (insufficient protection against all the acts of interference envisaged in *Article 2* and absence of penalties): *The Committee requests the Government to provide information on any progress achieved in respect of the previously announced adoption of regulations to extend the protection afforded against acts of interference and to impose penalties.*
- Sections 197 and 198 of the Labour Code (possibility for professional groups of workers to engage in collective bargaining on an equal footing with trade unions): *Recalling that Article 4 promotes collective bargaining between employers and trade union organizations, the Committee requests the Government to provide information on the measures envisaged to ensure that professional groupings may negotiate collective agreements only where no trade union exists.*
- Section 40 of the Labour Code (collective agreements must be discussed by employers' and workers' organizations representatives belonging to the occupation concerned): *The Committee requests the Government to indicate the provision granting federations and confederations the right to engage in collective bargaining.*

- Section 211 of the Labour Code (right to collective bargaining in the public service limited to “public services, enterprises and establishments not governed by specific conditions of service”): ***Recalling that the Convention applies to all public servants not engaged in the administration of the State (Articles 4 and 6), the Committee requests the Government to provide clarification on the scope of application of section 211.***

Furthermore, the Committee had previously requested the Government to provide its observations in reply to the earlier comments submitted by the International Trade Union Confederation (ITUC), according to which, in the public sector, wages are fixed by the Government after consulting the trade unions, but without any negotiation. The Committee noted that, according to the Government, measures relating to the implementing texts of the Labour Code, particularly on the question of wages, were being adopted. ***Recalling that public sector wages of employees covered by the Convention should be a matter for negotiation, the Committee requests the Government to provide its observations in this regard and to supply copies of the implementing texts of the Labour Code concerning wages, once adopted.***

Lastly, the Committee notes the ITUC comments dated 16 September 2013 concerning compulsory arbitration and other matters already being raised by the Committee. In this regard, the Committee observes that sections 367–370 of the Labour Code appear to establish a procedure in which all collective disputes are subject to conciliation and, failing resolution, to arbitration. The Committee recalls that recourse to compulsory arbitration in all cases where the parties do not reach agreement through collective bargaining is only in conformity with the Convention in case 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. ***The Committee requests the Government to provide its observations on the matter raised by the ITUC and to consider amending the relevant provisions to ensure respect for the principle of free and voluntary negotiation contained in Article 4 of the Convention.***

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

The Committee is raising other points in a request addressed directly to the Government.

## Chad

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

The Committee notes the comments of the International Trade Union Confederation (ITUC) of 30 August 2013, which refer to matters of a legislative nature already raised by the Committee, as well as to the detention and prosecution of trade union leaders and members. ***The Committee requests the Government to provide its observations thereon, as well as on the ITUC’s 2012 allegations on the violent repression of demonstrations in the oil sector by the forces of order.***

***Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations.*** For many years, the Committee has been requesting the Government to take the necessary measures to amend section 294(3) of the Labour Code, which provides that parents or guardians may oppose the right to organize of young persons under 16 years of age. The Committee notes the Government’s indication in its report that this matter is currently being revised in the context of a new Labour Code. ***The Committee trusts that the necessary measures will be taken to amend this provision with a view to guaranteeing the right to organize of minors who have reached the legal minimum age (14 years) for access to the labour market, either as workers or as apprentices, without the intervention from the parents or guardians.***

***Article 3. Right of workers’ and employers’ organizations to organize their administration and activities in full freedom.*** The Committee previously requested the Government to take measures to amend section 307 of the Labour Code, which provides that the accounts and supporting documents relating to the financial operations of trade unions shall be submitted without delay to the labour inspector, when so requested. The Committee recalls that the inspection by the public authorities of trade union finances should not go beyond the obligation of organizations to submit periodic reports. ***The Committee requests the Government to take the necessary measures to amend section 307 of the Labour Code so as to bring it into conformity with the Convention.***

The Committee also recalls that it commented previously on the need to take measures to amend certain provisions of Act No. 008/PR/007 of 9 May 2007 regulating the exercise of the right to strike in public services. ***The Committee regrets that the Government has not provided its comments in this respect and once again requests it to take the necessary measures to amend the following provisions of the Act: (i) section 11(3), which imposes the obligation to declare the “possible” duration of a strike (the Committee recalls that trade unions should be able to call strikes of unlimited duration if they so wish); and (ii) sections 20 and 21, under which the minister concerned has the discretion to determine the minimum services and the number of officials and employees who will ensure that they are maintained.***

***The Committee expresses the firm hope that the Government, in full consultation with the most representative organizations of workers and employers, will take the necessary measures to bring the legislation into conformity with the Convention. The Committee requests the Government to provide information in its next report on any progress achieved in this regard.***

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1961)**

The Committee notes with *regret* that the Government's report does not reply to the requests for information that it has been making for several years.

The Committee notes the comments of the International Trade Union Confederation (ITUC) of 2013 alleging that the Government unilaterally terminated a national agreement on minimum wages in the public sector, thus affecting those employees covered by the Convention. *The Committee requests the Government to provide its observations on this subject, and on the previous comments of the ITUC concerning the failure to include the Union of Trade Unions of Chad (UST) in social dialogue and obstacles to collective bargaining in the oil sector.*

*The Committee hopes that the Government will make every effort to adopt the necessary measures in the near future.*

## **Chile**

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

The Committee notes the comments from the International Trade Union Confederation (ITUC) dated 30 August 2013 concerning the application of the Convention, particularly the allegations concerning the murder of a trade union official in the electrical engineering sector, the assault of a trade union official in the dock sector by the police, the threats to unionized workers in the courier services sector and the dispersal of demonstrators. *The Committee notes these allegations with concern and requests the Government to send its observations on these matters.*

For several years, the Committee has been asking the Government to amend or repeal various legislative provisions, or to take measures to ensure that all workers are afforded the guarantees laid down in *Articles 2 and 3 of the Convention*.

Specifically, the Committee has asked the Government to take steps to: (i) ensure that officials of the judiciary are afforded the guarantees set forth in the Convention; (ii) amend article 23 of the Political Constitution, which provides that the holding of trade union office is incompatible with active membership of a political party and that the law shall establish penalties for trade union officials who engage in political party activities; (iii) amend various sections of the Labour Code concerned with the right to strike; and (iv) amend section 48 of Act No. 19296, which grants broad powers to the Directorate of Labour for the supervision of the accounts and financial and property transactions of associations. The Committee notes that the Government reiterates as in its previous report, its willingness, to incorporate into the relevant national legislation all the necessary provisions to ensure prompt alignment with the Convention. *The Committee hopes that the Government will take all the necessary measures in the very near future to bring the legislation into conformity with the Convention.*

The Committee reminds the Government that, in the context of the reform of the legislation, it may avail itself of technical assistance from the Office if it so wishes.

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

The Committee notes the comments made by the International Trade Union Confederation (ITUC) dated 30 August 2013 and by the Trade Unions Federation of Supervisors and Professionals of CODELCO Chile (FESUC) on the application of the Convention, as well as the Government's reply thereto.

For a number of years the Committee has been asking the Government to take steps to amend or repeal the following provisions of the Labour Code which are not in conformity with the Convention: (i) section 1, which provides that the Code does not apply to officials of the National Congress or the judiciary, or to workers in state enterprises or institutions, or those in which the State contributes or in which it participates or is represented, provided that such officials or workers are subject by law to special regulations; (ii) section 82, which provides that the remuneration of apprentices may on no account be determined by means of collective agreements or accords or arbitration awards issued in the context of collective bargaining, and section 305(1), which provides that workers governed by an apprenticeship contract and those engaged solely for a specific task or activity or for a specific period, may not engage in collective bargaining; (iii) section 304, which does not allow collective bargaining in state enterprises dependent on the Ministry of National Defence or which are connected to the Government through this Ministry and in enterprises in which collective bargaining is prohibited by special laws, or in public or private enterprises or institutions in which the State has financed 50 per cent or more of the budget of either of the last two calendar years, either directly or through duties or taxes; (iv) section 334(b), which provides that two or more unions of different enterprises, an inter-enterprise union or a federation or confederation may submit draft collective labour accords on behalf of their members and of the workers who agree to the accords, but in order to do so it shall be necessary that, in the enterprise concerned, an absolute majority of the worker members who are entitled to engage in collective bargaining confer, by secret ballot, representation on the trade union concerned in an assembly in the presence of a public notary; (v) section 334bis, which provides that, for employers, bargaining with the inter-enterprise union shall be voluntary or optional and that where an employer refuses, the workers of the enterprise who

are not members of the inter-enterprise union may submit draft collective accords in accordance with the general rules set forth in Book IV (on collective bargaining) of the Labour Code; (vi) sections 314bis and 315, which provide that groups of workers, even where there are unions, may submit draft collective agreements; and (vii) section 320, which places an obligation on employers to notify all workers in the enterprise of the submission of a draft collective accord so that they can propose draft texts or agree to the draft submitted.

The Committee notes that the Government repeats the statement made in its previous report indicating its willingness to incorporate in the national legislation all the provisions needed to ensure rapid conformity with the Convention. ***The Committee expresses the hope that the Government will take the necessary measures in the very near future to bring the legislation into full conformity with the Convention. The Committee reminds the Government that, in the context of the legislative reform, it may avail itself of ILO technical assistance if it wishes.***

## China

### Hong Kong Special Administrative Region

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

The Committee notes the comments made by the International Trade Union Confederation (ITUC) and by the Hong Kong Confederation of Trade Unions (HKCTU) in communications dated 30 August 2013, which refer to the matters examined by the Committee and allege numerous violations of the Convention in practice. ***The Committee requests the Government to provide its observations thereon.***

*Article 1 of the Convention. Protection against acts of anti-union discrimination.* In its previous comments, the Committee had noted the Government's reference to 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 and expressed the hope that this bill would soon be adopted. The Committee notes that the Government indicates in its report that it has revised the proposal concerning those amendments so as to provide that an employer who fails to comply with the order of the Labour Tribunal will be required to pay a further sum to the employee; non-payment of this amount would become a criminal offence. The Government also indicates that it has consulted the Labour Advisory Board and the Panel on Manpower of the Legislative Council on the revised proposal and that it is currently drafting the amendment legislation. ***The Committee reiterates its hope that this bill, which has been under examination since 1999, will be adopted without further delay so as to give legislative expression to the principle of adequate protection against acts of anti-union discrimination and requests the Government to indicate any progress made in this respect.***

*Article 4. Promotion of collective bargaining.* The Committee recalls that its previous comments referred to the need to strengthen the collective bargaining framework, in particular in the light of the low levels of coverage of collective agreements, which were not binding on the employer, and the absence of an institutional framework for trade union recognition and collective bargaining. The Committee notes that the Government reiterates the following: (i) employers and employees are free to negotiate and enter into collective agreements on the terms and conditions of employment; (ii) collective agreements are concluded in various economic sectors; (iii) the Labour Department produces and distributes free promotional materials on effective communication and consultation, and organizes seminars on effective labour-management communication and good management practices; (iv) the Government promotes voluntary and direct negotiation between employers and employees or their organizations at different levels; (v) the Government will continue to use tripartite committees to promote bipartite voluntary negotiation at the industrial level; and (vi) it will continue taking the above measures to help foster an environment and atmosphere conducive to voluntary negotiation between employers' and workers' organizations at the industrial and enterprise levels. The Committee notes, however, that according to the HKCTU, the Government rejects the adoption of collective bargaining legislation, which would also set up an institutional framework for trade union recognition, arguing that such legislation would harm the competitiveness of the Hong Kong economy. The HKCTU further alleges that employers largely ignore the unions' call for collective bargaining and refers to several such examples. With regard to the tripartite dialogue referred to by the Government, the HKCTU contends that the tripartite committees are consultative only in nature and have no legally binding responsibility to establish or promote collective bargaining at the enterprise or industrial levels. The Committee recalls that *Article 4* of the Convention is aimed at promoting free and voluntary bargaining between workers' organizations and an employer or employers' organizations. It considers that the principle of tripartism, which is particularly appropriate for the regulation of questions of a larger scope (drafting of legislation, formulating labour policies), should not replace the principle of autonomy of workers' organizations and employers (or their organizations) in collective bargaining on conditions of employment. ***The Committee therefore requests the Government, in consultation with the social partners, to take additional appropriate measures, including of a legislative nature, in order to encourage and promote collective bargaining between trade unions and employers and their organizations.***

*Article 6. Collective bargaining in the public service.* The Committee had previously requested the Government to indicate the different categories and functions of the civil servants so as to identify which of them are engaged in the administration of the State and which are not. The Committee notes that the Government reiterates that all civil servants are engaged in the administration of the Government as they are responsible for, among other things, formulating policies and strategies, as well as performing law enforcement and regulatory functions, and that every civil servant, irrespective of his or her grade or rank, is part and parcel of the civil service and contributes in various ways to the administration of the State. The Government confirms that all civil servants, together with those employed in various independent bodies, which provide impartial advice to the Government on matters concerning pay and conditions of service in the civil service, are excluded from the application of the Convention. The Government indicates, however, that it had established an effective system for consultation with staff on matters affecting their terms and conditions of employment. The Committee recalls that pursuant to the Convention, civil servants not engaged in the administration of the State should enjoy not only the right to be consulted on their conditions of employment but also the right to bargain collectively. ***The Committee requests the Government, in consultation with the social partners, to take the necessary measures to guarantee this right through an adequate institutional framework. It requests the Government to provide information on all measures taken or envisaged in this respect.***

## **Macau Special Administrative Region**

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

The Committee notes the comments made by the International Trade Union Confederation (ITUC) in a communication dated 31 August 2013 alleging, in particular, interference by the Government in trade union activities and difficulties with the application of the Convention in practice to migrant workers. ***The Committee requests the Government to provide its observations thereon.***

*Article 2 of the Convention. Right to organize of part-time workers and seafarers.* The Committee had previously requested the Government to provide information on the measures taken for the establishment of a legal labour relationship regime for employees working part-time, who did not fall within the scope of the Labour Relations Act (section 3.3(3)). The Committee notes that by virtue of section 3.3(2), seafarers are also excluded from the scope of application of the Act. The Committee notes that the Government indicates in its report on the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), that, pending the entry into force of the special regime for part-time workers and seafarers, the provisions of the Labour Relations Act shall apply to these categories of workers. It further notes the Government's indication that it is undertaking legislative studies in relation to establishing special labour relationship regimes for part-time workers and seafarers. ***The Committee trusts that any new framework will allow these categories of workers to exercise the rights enshrined in the Convention. It requests the Government to provide information on developments in this regard.***

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

***[The Government is asked to reply in detail to the present comments in 2014.]***

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

The Committee notes the comments made by the International Trade Union Confederation (ITUC) in a communication dated 1 September 2013. ***The Committee requests the Government to provide its observations thereon.***

*Scope of application of the Convention.* The Committee had previously requested the Government to provide information on the measures taken for the establishment of a legal system of labour relationship for employees working part-time and seafarers who do not fall within the scope of the Labour Relations Act (section 3.3(2) and (3)). The Committee notes that the Government indicates in its report that pending the entry into force of the special regime for part-time workers and seafarers, the provisions of the Labour Relations Act shall apply to these categories of employees. It further notes the Government's indication that it is undertaking legislative studies in relation to establishing special labour relationship regimes for part-time workers and seafarers. ***The Committee trusts that any new framework will allow these categories of workers to exercise their right to organize and to bargain collectively. It requests the Government to provide information on any development in this regard.***

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* The Committee had previously noted that sections 6 and 10 of the Labour Relations Act prohibit any acts of discrimination against workers due to their union membership or the exercise of their rights, and that section 85(1)(2) provides for sanctions in case of violation of these provisions (from 20,000 to 50,000 Macau patacas (MOP) equivalent to US\$2,500–6,200). Considering that these fines might not be sufficiently dissuasive, particularly for large enterprises, the Committee had previously requested the Government to indicate the measures taken or envisaged to strengthen the existing sanctions in order to be more efficient in cases of anti-union discrimination. The Committee notes with ***regret*** that no information has been provided by the Government in this respect. ***It therefore reiterates its request.***

*Article 2. Adequate protection against acts of interference.* The Committee had previously noted that sections 10 and 85 of the Labour Relations Act did not explicitly prohibit all acts of interference as described in *Article 2* of the Convention, nor guaranteed adequate protection to workers' organizations against acts of interference by employers or their organizations by means of dissuasive sanctions and rapid and effective procedures. The Committee therefore requested the Government to take the necessary measures to amend the legislation so as to include express provision for rapid appeal procedures, coupled with effective and dissuasive sanctions against acts of interference in order to ensure the application in practice of this Article. The Committee *regrets* that no information has been provided by the Government in this respect. ***It therefore reiterates its request.***

*Articles 1, 2 and 6. Protection of public servants against acts of anti-union discrimination and interference.* The Committee had previously noted that according to sections 89(1)(n) and 132 of the General Provisions on the Personnel of the Public Administration in Macao, public servants have the right to take part in trade union activities, but that this law does not contain any provision against anti-union discrimination and interference. Thus, the Committee had requested the Government to indicate which provisions afford to public servants adequate protection against acts of anti-union discrimination and interference and that in the event that there is no such protection, to take the necessary measures to amend the legislation accordingly. The Committee notes that while indicating that public servants do enjoy the right of association by virtue of the above legislative provisions, the Government provides no information as to the protection afforded to public servants against acts of anti-union discrimination and interference. ***The Committee therefore reiterates its previous request.***

*Article 4. Absence of provisions on collective bargaining in the private and public sectors.* The Committee had requested the Government to take the necessary measures to ensure the full application of *Article 4* of the Convention and to indicate any development concerning the adoption of the Act on the Fundamental Rights of the Unions or any provision regulating the right to collective bargaining in the private sector. The Committee notes the Government's indication that the draft law was once again defeated and that significant disagreement still exists on the issue of collective bargaining. The Government indicates that once the general social consensus will be reached regarding the legislation on trade union rights and collective bargaining, it will immediately begin the relevant legislative procedure, making efforts to consult all relevant parties when preparing any policy and measures concerning labour, and that it will continue to ensure the effective implementation of labour standards through active intervention and coordination between parties.

The Committee notes that the Government provides no information on the measures taken to recognize collective bargaining in the public sector.

The Committee further notes that the Government commits itself to work under the existing legislation to protect the rights of employees and to promote the implementation of the Convention.

***The Committee once again requests the Government to take the necessary measures in the very near future to ensure the full application of Article 4 both in the public and private sectors and to provide information on any legislative development in this regard.***

## Colombia

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

The Committee notes the comments dated 30 August and 13 September 2013 from the International Trade Union Confederation (ITUC), and the comments dated 29 August 2013 from the Single Confederation of Workers of Colombia (CUT) and the Confederation of Workers of Colombia (CTC). The Committee notes that these comments refer in general to issues which have already been examined by the Committee, particularly acts of violence against trade union officials and members, and that some of the allegations refer to the misuse of legal forms of outsourcing which result in the obstruction of the exercise of workers' trade union rights. The Committee notes the Government's reply to these comments and, in particular, its statement that the issues relating to the difficulties faced by subcontracted workers with regard to exercising their trade union rights have been discussed within the Standing Committee for Dialogue on Wage and Labour Policies.

The Committee also notes the comments from the National Association of Employers of Colombia (ANDI) and the International Organisation of Employers (IOE) dated 27 August 2013.

*Trade union rights and civil liberties.* For a number of years the Committee, like the Committee on Freedom of Association, has been dealing with allegations of violence against trade unionists and with the situation of impunity. The Committee notes with *concern* that the ITUC, CUT and CTC allege that although the number of murders of trade unionists has decreased (according to the figures quoted, 20 trade unionists were killed in 2012 and four in 2013; the comparative table attached by the trade unions shows that these figures are the lowest since 1986), the general situation of violence has become more complex since there has been an increase in the number of death threats, cases of harassment and forced displacement and the situation of impunity continues (the trade union federations do point out that the Office of the Prosecutor-General adopted measures to strengthen its capacity for investigation, but since these are recent measures they do not yet make a substantial difference to the impunity figures).

The Committee also notes that the IOE and the ANDI state that the judicial programme for dealing with acts of violence continues to be reinforced (in 2012 a total of US\$111 million were assigned, while in 2011 a total of US\$79 million were assigned; more than 600 trade unionists receive protection; and there are 25 special prosecutors, three specialist courts, and 100 investigators in the national police) and that in order to combat impunity, the Office of the Prosecutor-General adopted a new criminal investigation policy with regard to human rights violations.

The Committee notes the Government's statement that: (i) as a result of the efforts made by the State, the number of murders of Colombian civilians and of trade unionists fell, as did the number of assaults, and there was an increase in the number of convictions for perpetrators of violence against trade unionists (as of June 2013, 579 rulings had been handed down and 599 persons had been convicted); (ii) the National Protection Unit is implementing protection measures for 632 trade unionists, and the total budget assigned to the protection of trade unionists in 2012 was 91,512,898,462 Colombian pesos (COP); and (iii) in the context of the Memorandum of Understanding signed between the Office of the Prosecutor-General and the International Labour Standards Department of the ILO, capacity-building workshops have been held for the judiciary in the cities of Cali and Arauca and, in the context of the project to promote compliance with international labour standards in Colombia, a training programme was launched for investigators, prosecutors and judges with regard to prevention, investigation and court proceedings concerning human rights violations in which the victims were trade union leaders and unionized workers.

***The Committee duly notes the results of the action being taken against impunity and expresses the hope that the new investigation policy adopted by the Office of the Prosecutor-General referred to by the social partners will enable even more progress in shedding light on the acts of violence affecting the trade union movement, determining responsibility and imposing penalties on the perpetrators. The Committee notes with interest the initiatives taken for the protection of trade union leaders and members and hopes that these measures will enable to effectively tackle the threats and harassment referred to by the trade unions.***

*Legislative issues. Articles 3 and 6 of the Convention. Right of workers' organizations to organize their activities and to formulate their programmes.* For a number of years, the Committee has been referring to the need to take steps to amend the legislation in relation to: (i) the prohibition of strikes for federations and confederations (section 417(i) of the Labour Code) and within a wider range of services that are not necessarily essential in the strict sense of the term (section 430(b), (d), (f), (g) and (h); and section 450(1)(a) of the Labour Code; Taxation Act No. 633-00; and Decrees Nos 414 and 437 of 1952, No. 1543 of 1955, No. 1593 of 1959, No. 1167 of 1963 and Nos 57 and 534 of 1967); and (ii) the possibility to dismiss workers 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 provisions of the Convention.

In this regard, the Committee notes the Government's statement that the Standing Committee for Dialogue on Wage and Labour Policies (a tripartite body established under the terms of the Political Constitution) approved in May 2012 the setting up of the Tripartite Subcommittee on International Labour Affairs, whose agenda includes a review of areas where progress is needed in the legislation with a view to continuing improvements in both law and practice with regard to ratified Conventions. ***The Committee requests the Government to provide information in its next report on any progress made in relation to these issues and reminds the Government that it may avail itself of technical assistance from the Office, if it so wishes.***

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

The Committee notes the comments from the International Organisation of Employers (IOE) and the National Association of Employers of Colombia (ANDI) confirming the adequate functioning of the Standing Committee for Dialogue on Wage and Labour Policies or the Special Committee for the Handling of Conflicts Referred to the ILO (CETCOIT).

The Committee also notes the comments submitted by the International Trade Union Confederation (ITUC), the World Federation of Trade Unions (WFTU), the Single Confederation of Workers of Colombia (CUT), the Confederation of Workers of Colombia (CTC), and other national workers' organizations in 2012 and 2013, referring to issues previously examined by the Committee and to the use of legal formulas (such as "trade union accords"), which obstruct the exercise of the right to collective bargaining, as well as to various acts of anti-union discrimination in the public and private sectors. The Committee notes the Government's reply to these comments, particularly its statement that the purpose of trade union accords is that trade unions may participate in the management of enterprises and also represent self-employed workers (the trade union becomes the employer of its affiliated workers), and also the fact that in some specific cases unwarranted use of this concept has been detected and the corresponding measures have been taken (a tripartite working group was set up which agreed on specific measures to resolve the issue in the health sector). ***The Committee hopes that the reported cases of discrimination will be discussed within the CETCOIT.***

*Article 4 of the Convention. Collective bargaining in the public sector. Public servants not engaged in the administration of a State.* The Committee previously noted Decree No. 535 of 24 February 2009 concerning collective bargaining in the public sector, and that tripartite discussions were under way with a view to amending it. The Committee notes the Government's statement that the abovementioned Decree was repealed by Decree No. 1092 of 2012 concerning

collective bargaining in the public sector. The Committee welcomes and notes with *interest* that pursuant to the Decree, the Government and the CUT, CGT and CTC and other organizations of workers employed by the State, with the support of Public Services International, reached an agreement in negotiations on a unified set of demands relating to government service which benefits more than 1,050,000 public employees throughout the country and that bargaining has been initiated in 27 departmental governments, 62 town halls and municipal councils, one superintendency, 19 universities and other national, departmental and municipal bodies. The Committee also notes that it was agreed to consider amending Decree No. 1092 (which had been contested by a number of national workers' organizations). ***The Committee requests the Government to provide information in this respect.***

*Collective accords with non-unionized workers.* The Committee notes the Government's statement that from 2012 to the present time, 626 collective labour agreements and 345 collective accords were concluded. ***While noting the Government's repeated statement that Act No. 1453 of 2011 establishes the penalty of up to two years' imprisonment and/or fines for anyone concluding collective accords that grant better conditions to non-unionized workers, the Committee recalls that collective accords with non-unionized workers should only be possible in the absence of trade unions.***

*Coverage of collective bargaining in the private sector.* ***The Committee requests the Government to send observations on the statement by the CUT that less than 4 per cent of workers are covered by a collective agreement.***

## Comoros

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

*Article 2 of the Convention. Anti-union discrimination.* The Committee noted the comments of the Workers' Confederation of Comoros (CTC) concerning numerous dismissals of trade union members and leaders in the para-public and port sectors in a communication. ***The Committee requests the Government to provide its observations in this respect.***

*Article 4. Right of collective bargaining.* For several years, the Committee has been requesting the Government to take measures to promote collective bargaining in the public and private sectors. The Committee had previously noted the Government's expression of regret that there had not been substantial progress in this respect and its reiterated desire to receive technical assistance to help the partners concerned gain a better understanding of the socio-economic importance of collective bargaining. The Committee had noted in this respect the comments made by the Employers' Organization of Comoros (OPACO), according to which collective agreements in the pharmaceutical and bakeries sectors, which had been under negotiation for several years, had still not been concluded and that negotiations in the press sector were currently under way. The Committee had noted with regret that, according to OPACO, the Government had not taken any measures to promote collective bargaining in either the public or the private sectors.

***The Committee once again regrets the absence of progress in the collective bargaining that is being undertaken and expressed the firm hope that the negotiations will be completed in the near future.*** The Committee noted that, according to the CTC, there has still not been progress in collective bargaining and that it is not structured and has no framework at any level. ***The Committee once again expresses the firm hope that ILO technical assistance will be provided in the very near future and it requests the Government to take all the necessary measures to promote collective bargaining in both the private and the public sectors. The Committee requests the Government to provide information in this respect.***

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

## Congo

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

***The Committee notes the comments submitted by the International Trade Union Confederation (ITUC) in 2013 concerning serious violations of the Convention and requests the Government to provide its observations thereon.***

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

*Article 3 of the Convention. Right of workers' organizations to conduct their activities in freedom and formulate their programmes.* 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 noted the Government's indication that the adoption of the revised Code was envisaged for the second quarter of 2012. The Committee also noted the Government's undertaking to take account, in the context of this revision, of the principles which it recalled in its previous comments. ***The Committee requests the Government to provide information in its next report on the progress of the work to revise the Labour Code and reminds the Government of the possibility of seeking technical assistance from the International Labour Office as part of this work.***

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

## Costa Rica

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

In comments that are still pending, the Committee referred to the following issues and legislative provisions:

*Articles 2 and 4 of the Convention. Registration of trade unions and obtention of legal personality.* In its previous comments, the Committee had recalled the need for Bill No. 13475, in amending section 344 of the Labour Code, to establish a specific and short period during 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 Government reiterates in its latest report that in practice registration procedures are carried out without any delay and that, if applications fall short of the legal documentary requirements, applicants are asked to remedy the defects and are entitled to appeal. The legal time limits are 15 days for the Department of Trade Union Organizations and, if it issues a favourable opinion 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 being issued. The Committee notes that, according to the Government, the issue raised by the Committee, in addition to being superseded in practice, is no longer valid in relation to the law, as the General Act of the public administration provides that, where the statutory time limits are not respected, those concerned may appeal to the respective higher authority. **The Committee again invites the Government to set out these deadlines explicitly in Bill No. 13475.**

*Article 3. Right of organizations to elect their representatives in full freedom. Prohibition upon foreigners from holding office or exercising authority in trade unions (article 60(2) of the Constitution and section 345(e) of the Labour Code).* The Committee observed previously that Bill No. 13475 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 woman and having completed five years of permanent residence in the country. Nevertheless, the Bill provides that the bodies of trade unions have to comply with the provisions of article 60 of the Constitution, which provides that “foreign nationals shall be barred from positions of management or authority in trade unions”. The Committee noted that a draft reform of the Constitution had been submitted to the Legislative Assembly to overcome the problem. **The Committee requests the Government to provide information on further developments regarding this proposed constitutional reform.**

*Obligation for the trade union assembly to appoint the executive board each year (section 346(a) of the Labour Code).* The Committee noted previously that Bill No. 13475 no longer includes a requirement for the executive board to be appointed each year. The Committee notes the Government’s repeated indication that in practice the Ministry of Labour ensures the full autonomy of organizations to determine the duration of the mandates of their executive boards. **The Committee again requests the Government to take measures to amend section 346(a) of the Labour Code so as to adapt it to the practice followed by the authorities, and to provide information in this respect.**

*Right of organizations to organize their activities and to formulate their programmes in full freedom. Restrictions on the right to strike.* The Committee noted previously that a judge of the Supreme Court of Justice had informed an ILO mission that of the 600 or so strikes that had occurred over the last 20–30 years, ten at most have been declared lawful; furthermore, according to the trade union federations, the procedure to set a strike in motion could last for years. In addition, the legislation establishes the following restrictions: (i) the requirement of “60 per cent of persons who work in the enterprise, workplace or establishment concerned” – section 373(c) of the Labour Code; and (ii) prohibition of strikes by “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 noted previously that the Bill to reform labour procedures – for which the ILO afforded technical assistance – had been submitted to the Legislative Assembly, had been endorsed by the trade union organizations and employers’ associations, except for a few provisions, and took account of most of the recommendations made by the ILO supervisory bodies. The Committee nonetheless observed that although the Bill contained improvements over the legislation in force, it would be advisable to introduce further changes in order to achieve full conformity with the Convention.

The Committee notes the Government’s statement that the Bill to reform labour procedures, which covers strike-related matters, was adopted by the Legislative Assembly, but the Executive vetoed it in 2012 in the light of the provisions of the Constitution concerning the continuity of the public service, in order to ensure the continuity of essential services and services of critical importance by the provision of minimum services. The Government reports that following consultations with various sectors including workers’ organizations, a proposal for an alternative model was produced, which was submitted to the Legislative Assembly and referred to the latter’s committees. The Committee also notes the information from the Government concerning the decision by the Constitutional Chamber of the Supreme Court of Justice finding section 376(a), (b) and (e) of the Labour Code on the prohibition of strikes in the public services to be unconstitutional and ruling that the majorities required to declare a strike shall not be such as to prevent the strike.

The Committee again observes with *regret* that the Bills submitted to the Legislative Assembly to align the legislation more closely with the Convention on a number of important subjects have not been passed. It observes that in February 2014 there are to be political elections and understands that the Bills referred to by the Government will have to be reactivated in Parliament to avoid being shelved. ***The Committee requests the Government to continue to promote the Bill to reform labour procedures along with the other Bills referred to above, and to provide information in this regard.***

***The Committee reminds the Government that it may seek ILO technical assistance in this process to help to achieve full conformity of the legislation with the Convention.***

***Bearing in mind the various ILO missions that have visited the country over the years and in view of the seriousness of the problems, and while expressing disappointment at the lack of results as regards the problems still pending, the Committee nonetheless expresses the hope that it will be able to note significant progress in the near future as regards both the legislation and practice. The Committee requests the Government to provide information in this regard in its next report.***

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

*Comments from employers' and workers' organizations.* The Committee notes the comments on the application of the Convention made by the International Trade Union Confederation (ITUC) on 30 August 2013 and by the Confederation of Workers Rerum Novarum (CTRN) on 21 March 2013 which confirm the relevance of the Committee's comments. The Committee also notes the comments of the Union of Professional, Technical and Allied Workers of the Banco Popular (UNPROBANPO), of 27 May and 30 October 2013, and of the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP). The Committee notes that the information provided by the Government in its reports covers many of the problems raised in these comments.

### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 99th Session, June 2010)**

*ILO missions and pending issues.* The Committee recalls that a high-level mission visited the country in 2006, as well as a technical assistance mission in May 2011. These missions focused on four problematic issues that are still pending and which are examined below.

I. *Slowness and ineffectiveness of proceedings regarding sanctions and compensation in the event of anti-union acts (anti-union discrimination and interference).* The Committee noted previously that, according to the ITUC and the CTRN, delays in judicial proceedings may exceed six years and that cases relating to unfair labour practices and violations of labour and social rights may take up to eight years before they are concluded. The Committee noted that, according to the high-level mission which visited the country in 2006, the proceedings in cases of anti-union discrimination are so slow that it takes at least four years to obtain a final ruling.

The Committee noted previously an important Bill to reform labour procedures which had been the subject of broad consensus (Legislative File No. 15990 intended to speed up labour procedures, including those relating to acts of anti-union discrimination or interference, and in practice to establish a special expeditious procedure for matters relating to trade union immunity).

The Committee observes that for some years, including this year, the Government has been reporting various measures by the judicial authorities to combat the slowness of proceedings. In particular, the Government previously reported and described in detail various important efforts and specific measures adopted by the judicial authorities most recently (the generalization of the principle of oral hearings, computerization, the establishment of new courts, etc.), to comply with the constitutional principle of prompt and full justice, including Directive No. 08 of 9 May 2011, which includes a procedure for "cases for the re-establishment of trade union immunity" intended for unfair labour practices that infringe freedom of association.

The Committee previously noted the confirmation by the UCCAEP of the efforts referred to by the Government and the judicial authorities to accelerate labour procedures. It also noted the Government's indication that in practice the number of complaints relating to anti-union practices was low (11 cases) and that the unionization rate was 9.6 per cent. The Committee notes the Government's indication that the average duration of ordinary labour proceedings (including those involving reinstatement following anti-union dismissal) is approximately two-and-a-half years until the final ruling, which is a clear improvement. The Committee welcomes this progress.

However, the Committee notes that Bill No. 15990 to reform labour procedures referred to above (intended to accelerate proceedings), which was approved by the Legislative Assembly in September 2012, was vetoed by the executive authorities in October 2012 on the grounds that two of the matters covered (relating to Convention No. 87) were unconstitutional; in this regard, the Committee notes that possible alternative wording has been agreed subsequently.

***Noting the efforts made to resolve the problem of the slowness of procedures in cases of anti-union discrimination, the Committee hopes that the discrepancies that persist and which have prevented the adoption of Bill No. 15990 to reform labour procedures will be resolved in the near future. The Committee expresses the firm hope that the Government that will enter office in February 2014 will take measures to reactivate the Bill in the Legislative Assembly. The Committee also requests the Government to report any progress in this respect. Moreover, the***

**Committee requests the Government to take measures to reactivate the legislative examination of Bill No. 13475, also relating to improvements in the protection against anti-union discrimination, and to provide information on this subject.**

II. *Submission of collective bargaining to criteria of proportionality and rationality (in accordance with the case law of the Constitutional Chamber of the Supreme Court of Justice, which has found unconstitutional over the years a considerable number of clauses in collective agreements in the public sector at the instigation of the public authorities (the Citizens' Ombudsperson, the Office of the General Prosecutor of the Republic) or one or other political party).* The Committee also noted previously the emphasis placed by trade unions on the gravity of the problem of collective bargaining in the public sector, and observed that the CTRN and the other confederations in the country considered that the long delay in the adoption of the Bills to amend the legislation and in the ratification of the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154) (matters which were a result of tripartite agreement), shows a lack of interest in moving forward. The report of the 2011 ILO mission indicated the following:

With regard to the judicial removal of clauses of collective agreements through legal actions for unconstitutionality, in which the irrationality or lack of proportionality of certain clauses is invoked, the Government provided statistics (for the period 2008–11) on the rulings on the legal actions challenging the constitutionality of certain clauses in collective agreements. Of 17 rulings, only two found that the challenges had merit, with a total of three clauses being removed.

However, the Committee *regrets* to note the Government's indication that during the period 2011–12 the Office of the General Auditor of the Republic has lodged new appeals challenging the constitutionality of clauses in collective agreements. The Government indicates that the Ministry of Labour and Social Security has emphasized the importance of following the criteria of the Committee of Experts in the judicial proceedings.

***Emphasizing the importance of avoiding abusive recourse to appeals challenging the constitutionality of such clauses, the Committee hopes that the pending appeals before the Constitutional Chamber will be decided upon in the near future in line with the principles of the Convention, and requests the Government to provide information on any developments in the situation, including on any further appeals that are lodged against clauses in collective agreements. The Committee requests the Government to use all the means at its disposal to reactivate the Bills with tripartite support with a view to reinforcing the right to collective bargaining in the public sector, including the Bills respecting the ratification of Conventions Nos 151 and 154, so as to strengthen the exercise of the right to collective bargaining in the context of the situation described above.***

III. *Operation of the Commission on Collective Bargaining Policies in the Public Sector.* The Committee noted previously the allegations by the national trade union confederations that the Commission on Collective Bargaining Policies was having a very negative effect on collective bargaining in the public sector. The report of the 2011 ILO mission indicated as follows:

The Deputy Minister of Finance indicated that the role of the Commission on Collective Bargaining Policies in the Public Sector does not relate to matters of substance, but to criteria of a fiscal nature so that public expenditure is not increased in an irrational manner. The trade unions engage in negotiations and consultations each year with the central Government for the negotiation of wages. Sometimes, they are increased above the inflation rate. Normally the increase corresponds to the past inflation rate, but now the claim is to calculate the increase based on future inflation forecasts.

The Commission on Collective Bargaining Policies in the Public Sector does not challenge clauses of collective agreements that do not have a budgetary impact, and authorizes clauses with a budgetary impact, although in practice wage rises and clauses which breach the legislation have not been permitted (for example, if the recommendations in relation to dismissals by a joint commission envisaged in a collective agreement are binding for the management of the institution concerned). Wage negotiations are held throughout the public sector with the participation of trade union representatives and are undertaken within the framework of the projected level of future state budgets or of the decentralized institution concerned.

The Committee notes the Government's indication that the comments of the Committee of Experts have been forwarded to the Commission on Collective Bargaining Policies in the Public Sector.

The Committee recalls that, with reference to the complaints made by the trade union confederations concerning the unsatisfactory operation of the Commission on Collective Bargaining Policies in the Public Sector (its excessive slowness, its de facto role as an employer, supervision of the content of clauses with budgetary implications), the 2011 ILO mission indicated that the Government had accepted the mission's proposal that the Higher Labour Council (a tripartite body) should hold meetings with the Commission on Collective Bargaining Policies in the Public Sector with a view to evaluating the system and adopting reforms. ***The Committee requests the Government to provide information on this subject and once again trusts that the requested evaluation meetings will be held and will address the problems relating to the operation in practice of the Commission on Collective Bargaining Policies in the Public Sector.***

IV. *Direct agreements with non-unionized workers.* In its previous comments, the Committee noted that in 2007 there were 74 direct agreements in force, whereas only 13 collective agreements remained.

The Committee referred to the conclusions of the ILO mission of May 2011 on this matter, which read as follows:

With regard to the problem of direct agreements with non-unionized workers, the Committee of Experts had noted in its observation the enormous imbalance between their numbers and those of collective agreements in the private sector (there cannot be direct agreements in the public sector). The mission highly appreciated the transparency and openness of the UCCAEP (employers) and the Minister of Labour in discussing this matter with trade unions in the context of the Higher Labour Council (a tripartite body), including the report drawn up in 2007 by an ILO expert.

The mission emphasized that the proportion of direct agreements concluded by standing committees of non-unionized workers had grown worse in relation to the number of collective agreements.

The Minister of Labour accepted the proposal made by the mission to carry out activities, in collaboration with the ILO Subregional Office, to promote collective bargaining with trade unions in both the public and private sectors, including training activities. The mission recalled that the Convention establishes the principle of the promotion of collective agreements with trade union organizations and that collective agreements are recognized by the Constitution of Costa Rica.

The Committee notes the indication by the UCCAEP that direct agreements are nothing other than negotiations with enterprise committees which are envisaged in many other legislations and which occur when workers decide to organize in the form of standing committees. Trade unions may still conclude collective agreements when they consider it appropriate, and that one type of agreement is not prejudicial to the other. There are no international standards prohibiting non-unionized workers from engaging in bargaining and dialogue with their employers.

The Committee noted the Government's indication that the National Directorate of Inspection issued Circular No. 018-12 of 2 May 2012 to all inspection officials indicating that, in the case of the existence of a trade union and a standing workers' committee, the inspector shall ensure that there are no violations of freedom of association and, in the event of any dispute or difference requiring negotiation or conciliation, such dispute or difference is to be referred to the Directorate of Labour Affairs to ensure conformity with the applicable procedures.

The Committee previously noted with interest the ruling by the Constitutional Chamber of the Supreme Court of Justice (No. 12457-2011), which clearly gives priority to collective agreements (which are recognized in the Constitution) in relation to direct agreements with non-unionized workers.

The Committee notes the Government's indication that there are currently 76 collective agreements in the public sector (covering 134,138 workers), 18 in the private sector (covering 7,318 workers) and 160 direct agreements in the private sector (covering 29,245 workers). The number of trade unions is 139 in the public sector with 81,165 members and 142 in the private sector with 119,602 members, and the total unionization rate was 10 per cent in 2012. The Committee observes with *concern* that, according to these statistics, the number of collective agreements in the private sector continues to be very low, in comparison with a very high number of direct agreements with non-unionized workers. *The Committee observes once again that this is an anomalous situation and requests the Government to take measures to give effect to the criteria set out in ruling No. 12457-2011 and to intensify the promotion of collective bargaining with trade unions within the meaning of the Convention. The Committee hopes to be able to note tangible progress in its next report.*

*Finally, the Committee requests the Government to send its observations on the comments submitted by the trade union UNPROBANPO on the ruling of the Constitutional Chamber in the appeal challenging constitutionality (Case No. 2012-17413) relating to the ceiling on severance pay.*

In general terms, the Committee observes that the problems raised persist, even though the measures that are being taken, and particularly the ongoing reform of labour procedures, give grounds for hoping that there may be certain significant results in the near future.

## Côte d'Ivoire

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

*Trade union rights and civil liberties.* In its previous comments, the Committee took note of comments by the International Trade Union Confederation (ITUC) concerning the abduction, torture and detention by the police, from April to July 2011, of Mr Basile Mahan Gahé, General Secretary of the DIGNITÉ Confederation and his transfer in July 2011 to Boundiali prison in harsh conditions. In those comments the ITUC indicated that it feared for his physical integrity. The Committee notes that, according to the Government, Mr Mahan Gahé was released from prison in December 2012, and since then he has been able to exercise his rights in full, including his trade union activities at the head of the DIGNITÉ Confederation.

The Committee has been informed of Mr Mahan Gahé's death in September 2013, nine months after his release. The Committee expresses its *deep regret* at the long term of imprisonment (21 months) endured by Mr Mahan Gahé in reportedly difficult conditions, and observes that the Government's report gives no indication of the charges for which he was imprisoned. The Committee strongly recalls that the arrest of trade union leaders without any charges being brought constitutes a serious restriction of the exercise of freedom of association and a violation of the Convention, and that all appropriate measures should be taken to prevent the danger that such arrests involve for trade union activities. It further recalls that freedom of association can be exercised only where respect for fundamental human rights is fully guaranteed, particularly the right to life and the right to personal safety. *The Committee strongly urges the Government to ensure respect for these principles in the future.*

## Croatia

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

The Committee notes that the Government's communication, dated 29 November 2013, does not respond to the following comments previously made by the Committee:

*Article 1 of the Convention. Protection of workers against acts of anti-union discrimination.* In its previous comments, the Committee, referring to allegations of excessive court delays in dealing with cases of anti-union discrimination, had noted that a comprehensive process of reform had been initiated to enhance the efficiency of the judicial process and reduce the backlog of cases and that a pilot project on mediation in courts showed positive results. The Committee had noted that, according to the ITUC, in spite of some improvements, law enforcement through the judicial system remained slow and labour inspection capacities remained weak. **The Committee requests the Government once again to provide information in its next report on the progress made with respect to the measures aimed at improving the efficiency of the legal protection, as well as a copy of the instruments adopted as a result of the reform process.**

*Articles 4 and 6. Promotion of collective bargaining.* In its previous observation, the Committee had requested the Government to reply to the 2010 comments made by the Trade Union of State and Local Government Employees (TUSLGE) alleging that the Local and Regional Self-Government Wage Act of 19 February 2010 restricts the right to organize and to bargain collectively of employees of local and regional self-government units, in particular the right of employees of financially weaker local and regional self-government units (i.e. where aids exceed 10 per cent of the unit income) to bargain collectively over the wage formation basis. The Committee notes that, according to the Government's observations in relation to these comments, the Act on civil servants and civil service employees in local and regional self-government specifies that salaries of civil servants in local and regional self-government units are adjusted to salaries of civil servants at state level (the Committee understands that the salaries at the state level are determined after consultations and negotiations with the most representative workers' organizations in the public sector). **The Committee requests the Government to provide information on the application in practice of the adjustment of salaries of civil servants in local and regional self-government units to the salaries of civil servants at state level.**

Furthermore, the Committee had noted the allegations that the Act on the realization of the Government's budget of 1993 allowed the Government to modify the substance of a collective agreement in the public sector for financial reasons. It had requested the Government to provide a copy of the legislative provisions allowing the Government to modify the substance of collective agreements in the public service and information on their application in practice. **Recalling that, in general, a legal provision which allows one party to modify unilaterally the content of signed collective agreements is contrary to the principles of collective bargaining, the Committee once again requests the Government to provide, with its next report, a copy of the said legislative provisions, as well as information on their application in practice.**

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

Finally, the Committee notes the comments submitted in 2013 by the International Trade Union Confederation (ITUC) on matters being examined by the Committee and in 2012 by the Association of Croatian Trade Unions (MATICA) denouncing the cancellation of the Basic Collective Agreement in the public sector and the content of the new Representativeness Act, as well as the Government's observations thereon. The Committee notes that the Act on the Criteria for Participation in Tripartite Bodies and Representativeness for Collective Bargaining was adopted on 13 July 2012 and observes that no national employers' organization and only one national trade union organization has submitted comments in this regard. **With a view to examining the conformity of the new Act with the Convention, the Committee wishes to receive any views or comments the most representative employers' and workers' organizations may wish to make in respect of this matter, so as to enable it to assess the established representativeness criteria, assessment which would need to take into account to a certain extent the specificities of the industrial relations system and to determine whether the established criteria are shared by the most representative social partners.**

## Cuba

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

*Comments by trade union organizations.* The Committee notes the comments of the International Trade Union Confederation (ITUC) which refer to matters already examined by the Committee, as well as the Government's observations thereon.

*Trade union rights and civil liberties.* The Committee recalls that in its previous comments it requested the Government to provide copies of the court rulings related to the convictions of workers belonging to the Independent National Confederation of Workers of Cuba (CONIC), the persecution and threats of imprisonment against delegates of the Light Industry Workers' Union (SITIL) and the confiscation of equipment and humanitarian aid sent from abroad to the Single Council of Cuban Workers (CUTC). The Committee notes that the Government repeats in its report that none of the alleged trade unionists referred to were tried or convicted for the exercise or defence of trade union rights, that they were all found guilty of offences directly related to undermining the sovereignty of the State and other crimes clearly established by law, and that the Government is not therefore under the obligation to provide copies of those rulings. Recalling that these matters have been examined by the Committee on Freedom of Association (Case No. 2258), and referring once again to the conclusions reached in that context, the Committee **deeply regrets** that the Government has not provided copies of the requested court rulings, which are necessary to be able to examine from a position of full

knowledge the application of the Convention in practice in relation to these serious allegations of violations of trade union rights.

*Legislative matters.* The Committee notes the Government's indication that the preliminary draft text of the new Labour Code referred to in previous reports will be discussed in the coming months by the workers, who will be able to propose the changes that they consider pertinent, and that, in this context, the issues raised by the Committee are under examination. ***The Committee expresses the hope that the process of the revision of the Labour Code will be completed in the near future and that account will be taken of the comments below, which the Committee has been making for a number of years.***

*Articles 2, 5 and 6 of the Convention. Trade union monopoly.* While welcoming the Government's indication of the repeal of section 61 of Legislative Decree No. 67 of 1983, which conferred upon the Confederation of Workers of Cuba (CTC) the monopoly to represent the workers of the country on Government bodies, the Committee recalls that for many years it has been commenting on the need to remove the reference to the CTC from sections 15 and 16 of the Labour Code of 1985. The Committee notes that the Government reaffirms that the existence of a single trade union confederation was not imposed by the Government and is a result of no provision except the sovereign will expressed by Cuban workers, and that the draft new Labour Code does not expressly refer to the CTC. While noting this information, the Committee recalls once again that trade union pluralism must remain possible in all cases and that if national legislation refers by name solely to a specific trade union confederation, that legislation might result in the institutionalization of a de facto monopoly; even in a situation where at some point all workers have preferred to unify the trade union movement, they should still remain free to establish, if they so wish, trade unions outside the established structure and to join the organization of their own choosing. ***Under these circumstances, the Committee once again requests the Government to take measures to amend the sections of the Labour Code referred to above and to provide information in its next report on any measures adopted in this respect.***

*Article 3. Right of organizations to organize their activities and formulate their programmes.* The Committee recalls that it has been referring for years to the absence of explicit recognition of the right to strike in the legislation and the prohibition of its exercise in practice, and on the consequent need, in order to safeguard the legal security of workers, to explicitly recognize the right to strike in law. The Committee notes the Government's reiteration that there is no provision in law which prohibits the right to strike, nor does criminal law establish any penalties for the exercise of such rights, and that any decisions on this matter are the prerogative of trade union organizations. ***The Committee trusts that within the context of the reform process of the Labour Code announced by the Government, explicit recognition will be given to the right to strike.***

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

*Comments from workers' organizations.* The Committee notes the comments of the International Trade Union Confederation (ITUC), as well as the Government's observations thereon.

*Article 4 of the Convention. Promotion of collective bargaining.* The Committee recalls that for several years it has been referring to the need to amend or repeal the following provisions of Legislative Decree No. 229 to bring them into conformity with the Convention:

- section 14, which should be harmonized with section 8 of the new implementing regulations of the Legislative Decree, so as to avoid any confusion and to ensure that any disagreements during the process of drafting a collective agreement can be settled with the intervention of the authorities and the Central Organization of Workers of Cuba (CTC), only if both parties to the dispute so request. The Committee notes the Government's indication in its report that, when seeking solutions to disagreements arising during the process of drafting collective agreements, the voluntary nature and total autonomy of the parties always prevails, for which reason no confusion has arisen in national practice, and that it is guaranteed that such disputes are settled through the intervention of the abovementioned bodies only if both parties to the dispute so request;
- section 17 concerning the settlement of any disagreements which may arise during the process of drafting a collective agreement or, while it is in force, concerning the interpretation of or failure to comply with its clauses. The Committee recalls that it requested the Government to take the necessary measures to amend this section in order to ensure that where disputes arise between the parties in the process of collective bargaining, the interference or intervention of the authorities and the CTC is not imposed as an obligation and that, except in the public service and in essential services in the strict sense of the term, recourse to binding arbitration is possible only with the agreement of all the parties to the negotiations. The Committee notes that the Government indicates that since 2002 the National Labour Inspection Office has never discharged the function of arbitration;
- section 11, which imposes a methodology on all trade unions for the discussion of draft collective agreements determined for that purpose by the CTC, which supplements the very detailed provisions on the manner in which agreements are to be concluded. The Committee recalls that it requested the Government to take the necessary measures to amend this section by deleting the explicit reference to the CTC and guaranteeing the autonomy of the bargaining parties; and

- section 5, which provides that the National Labour Inspection Office shall approve the conclusion of collective labour agreements in the units provided for in the budget and in the production and service activities of bodies, sectors, branches or activities that share the same characteristics, when so agreed and requested by the head of the body and the secretary-general of the corresponding national federation. The Committee recalls its view that this situation is contrary to the principle of free and voluntary negotiation and that it requested the Government to take the necessary measures to repeal this section with a view to ensuring that full effect is given to the principle of free and voluntary negotiation. The Committee notes the Government's indication that this provision is not general in scope, and that it only applies to small units of services that are in close proximity and with the same or similar characteristics in terms of conditions of work. The Government adds that this procedure is not compulsory, but that this possibility is allowed when it is analysed in common agreement and the parties so request on an exceptional basis.

*The Committee finally notes that the Government provides information on the process of the formulation of a new Labour Code indicating that the issues raised by the Committee are under examination. The Committee hopes that the Labour Code will be adopted in the near future with a view to bringing the legislation into full conformity with the Convention.*

## Democratic Republic of the Congo

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

The Committee notes the comments dated 30 August 2013 from the International Trade Union Confederation (ITUC) concerning the application of the Convention, particularly those reporting acts of interference during the 2013 trade union elections in the education sector. *The Committee requests the Government to send its observations on this matter.*

*Articles 2 and 5 of the Convention. Right to organize in the public service.* In its previous comments, the Committee asked the Government to take the necessary steps to ensure that the reform of the public administration and the revision of the conditions of service of career members of the public service enable the guarantees enshrined in the Convention to be afforded to all state employees. The Committee notes the Government's indication that the reform is still in progress but that the 2013 version of the draft revised conditions of service of career members of the public service has just been approved by the general secretaries of the public administration and will shortly be submitted to Parliament for adoption. *The Committee firmly trusts that the Government will provide information in its next report on the adoption of new conditions of service of career members of the public service which secure the rights laid down in the Convention to all state employees.*

Furthermore, the Committee previously asked the Government to specify the instrument that safeguards the trade union rights of magistrates. The Committee notes that the Government reiterates that the freedom of association of magistrates is recognized under the provisional Order of 1996 and that magistrates' trade unions exist. *The Committee hopes that, as part of the reform of the public administration, provisions will be adopted that explicitly secure to magistrates the rights laid down in the Convention.*

*Article 3. Right of foreign workers to hold trade union office.* The Committee previously asked the Government to amend section 241 of the Labour Code, which requires a 20-year residence period as a condition of eligibility for a person to be entrusted with the administration and management of a trade union organization. The Committee notes the indication that the matter was discussed at the 30th meeting of the National Labour Council and that on this occasion the tripartite constituents did not approve the Committee's recommendations. *Recalling that national legislation should allow foreign workers to take up trade union office, at least after a reasonable period of residence in the host country (see 2012 General Survey on the fundamental Conventions, paragraph 103), the Committee requests the Government to amend section 214 of the Labour Code taking account of the principle recalled above.*

The Committee is raising other points in a request addressed directly to the Government.

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

In its previous comments, the Committee requested the Government to send its observations in response to comments made between 2007 and 2011 by the International Trade Union Confederation (ITUC) and the Confederation of Trade Unions of Congo (CSC), reporting acts of anti-union discrimination and interference, the dismissal of many trade unionists and the refusal of employers to give effect to court orders for their reinstatement and rehabilitation. The Committee notes that the abovementioned allegations are under examination by the Committee on Freedom of Association, and that an ILO assistance mission visited the country in July 2013 in this connection.

*Article 2 of the Convention. Protection against acts of interference.* The Committee pointed out previously that although section 235 of the Labour Code prohibits all acts of interference by organizations of employers and workers in each others' affairs, section 236 provides that acts of interference must be defined more precisely in an order. The Committee requested the Government to indicate any new developments regarding the adoption of such an order. **Noting the information that the order defining acts of interference has not as yet been adopted, the Committee urges the Government to take the necessary measures to this end promptly and hopes that in its next report, the Government will indicate that concrete progress has been made in this regard, in particular that the acts specified in Article 2 of the Convention will be included in the definition.**

*Article 6. Collective bargaining in the public sector.* In its previous comments, the Committee took note of various agreements concluded by the administration and the unions representing public employees not engaged in the administration of the State. It concluded that, in practice, wage bargaining and agreements exist in the public sector. However, having noted that section 1 of the Labour Code expressly excludes from the Code permanent officials of the state public services governed by the general conditions of service and permanent employees and officials of state public services governed by specific conditions of service, the Committee requested the Government to take steps to ensure that the national legislation clearly guarantees the right to collective bargaining of all public servants not engaged in the administration of the State, as provided in *Articles 4 and 6* of the Convention. The Committee notes that the Government merely repeats that there are mechanisms for collective bargaining between public sector unions and the administration, such as the joint committee. **The Committee is bound to repeat its request to the Government to establish expressly in the national legislation, for example as part of the public administration reform under way, the right to collective bargaining of all public servants not engaged in the administration of the State. Meanwhile, it requests the Government to provide information on all negotiations held in the joint committee.**

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

## Denmark

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

The Committee notes the comments submitted by the Danish Employers' Confederation (DA) and the Danish Confederation of Trade Unions (LO) on 24 September 2013, as well as the Government's observations thereon. The Committee also notes the Government's observations in reply to the comments submitted in 2011 by LO.

*Articles 2 and 3 of the Convention. Right of workers, without distinction whatsoever, to join organizations; and right of workers' organizations to organize their activities.* In its previous observations, the Committee had requested the Government to take measures 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, and, in particular, that these unions may freely represent seafarers who are not Danish residents in respect of their individual grievances.

The Committee notes that the new Danish International Ships Register (DIS) Main Agreement (supplied by the Government), which has been concluded on 28 February 2013 between the Danish shipowners' associations and the Danish seafarers' organizations, states, in its section 7(1), that seafarers not resident in Denmark working on board DIS ships who are employed under a collective agreement according to section 10(3) of the DIS Act, may choose to be a member of a Danish trade union. The Committee also notes the Government's indication that, since 2004, foreign seafarers have been able to maintain memberships in a foreign trade union and a Danish trade union at the same time.

As regards LO's indication that the role of signatory Danish trade unions with respect to affiliated seafarers not resident in Denmark working on DIS ships is limited to aid in the matters specified in section 7(1) and (2) of the new DIS Main Agreement because Danish unions may not represent them in a collective bargaining situation, the Committee refers to its comments under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

The Committee is raising other points in a request addressed directly to the Government.

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

The Committee notes the comments submitted by the Danish Employers' Confederation (DA) on 24 September 2013 and by the Danish Confederation of Trade Unions (LO) on 23 November 2011 and 24 September 2013, as well as the Government's observations thereon.

*Article 4 of the Convention. Right to free and voluntary collective bargaining.* In several of its previous comments, the Committee had noted that section 10 of the Danish International Ships Register (DIS) Act 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 notes that the new DIS Main Agreement (supplied by the Government), which has been concluded on 28 February 2013 between the Danish shipowners' associations (with the exception of one organization) and the Danish seafarers' organizations (with the exception of two organizations), provides: (i) in its section 7(1), that seafarers not resident in Denmark working on board DIS ships who are employed under a collective agreement according to section 10(3) of the DIS Act, may choose to be a member of a Danish trade union; (ii) in its section 7(1) and (2), that the signatory Danish trade unions may attend to the interests of seafarers not resident in Denmark working on board DIS ships who are employed under a collective agreement according to section 10(3) of the DIS Act, in questions arising out of Danish legislation and, as agreed with the foreign trade unions, assist them in litigation concerning industrial disputes; and (iii) in its section 6(2), that the signatory Danish unions may be represented in the negotiations of a collective agreement according to section 10(3) of the DIS Act between the shipping company or shipowners' association and the foreign trade union(s) with the purpose of securing that the result of the negotiation is in accordance with an internationally acceptable level, which means international standards for wages and working conditions (as agreed on between other internationally affiliated social partners). The Committee also notes the collective agreements, which have been concluded between Danish shipowners' associations and Indian and Philippine trade unions.

In this regard, the Committee observes the LO's indication that the role of signatory Danish trade unions with respect to seafarers not resident in Denmark working on board DIS ships who are employed under a collective agreement according to section 10(3) of the DIS Act, remains limited to aid in the matters specified in section 7(1) and (2) of the DIS Main Agreement, since Danish trade unions may not represent them in a collective bargaining situation. The LO stresses that the membership of such seafarers in a Danish trade union does not entail their coverage by a collective agreement concluded by that Danish trade union, since they are in principle cut off from inclusion in any collective agreement made by Danish unions, so as to enable Danish shipping companies to enter into collective agreements with foreign unions representing seafarers resident in their countries on an internationally competitive level which is below the level sought by Danish unions.

In this context, the Committee notes the Government's indication that: (i) it has not received information that the collective agreements concerning wages and general working conditions on board Danish ships, regardless as to whether they were concluded by Danish or foreign unions, were not at an internationally acceptable level; (ii) Danish ships are still faced with fierce international competition; and (iii) ships are subject to regulations ensuring seafarers high standards of social conditions, including conditions of employment. The Committee also notes that the DA supports the position of the Government highlighting that the DIS is vital for Danish shipping.

While welcoming the signing of the new DIS Main Agreement, the Committee observes that two trade union organizations (United Federation of Danish Workers (3F) and Danish Maritime Catering Union (DSRF)) out of five have decided not to be bound by the new agreement and that the legislative aspect of the matter has not been resolved, since section 10 of the DIS Act still has the effect of limiting the scope of collective agreements concluded by Danish trade unions to seafarers on DIS ships who are Danish or equated residents and of restricting the activities of Danish trade unions by prohibiting them from representing, in the collective bargaining process, those of their members who are not considered as residents in Denmark. The Committee recalls that, in the framework of Case No. 1470, the Committee on Freedom of Association considered that section 10(2) and (3) of the DIS Act constitutes interference in the seafarers' right to voluntary collective bargaining and amounts to government interference in the free functioning of organisations in the defence of their members' interests, which is not in conformity with the spirit of the Convention, and accordingly drew this case to the attention of the present Committee. *Taking due note of the information and figures presented by the Government to illustrate the important developments in the Danish shipping industry, and observing that in 2012 out of a total of 9,316 seafarers on duty on DIS ships, more than half (4,759) are foreigners from third party countries not considered or equated to Danish residents, the Committee requests the Government to make every effort to ensure full respect of the principles of free and voluntary collective bargaining so that Danish trade unions may freely represent in the collective bargaining process all their members – Danish or equated residents and non-residents – working on ships sailing under the Danish flag, and that collective agreements concluded by Danish trade unions may cover all their members working on ships sailing under the Danish flag regardless of residence. In this regard, noting the divergent views of the LO and the Government as to whether the DIS legislation has been sufficiently the subject of debate, the Committee invites the Government to engage in a tripartite national dialogue with the relevant workers' and employers' organizations on this issue so as to find a mutually satisfactory way forward, and to indicate in its next report its outcome and any contemplated measures.*

## Djibouti

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

The Committee notes the Government's reply to the comments made by the International Trade Union Confederation (ITUC) concerning the obstacles which continue to prevent the Labour Union of Djibouti (UDT) from carrying out its activities normally. It recalls that these facts are the subject of a complaint made by the UDT that is being examined by the Committee on Freedom of Association (Case No. 2753). The Committee notes with *concern* the

allegations made in 2013 by the ITUC concerning arrests and dismissals of trade unionists in the port sector as well as other serious violations of the Convention. ***The Committee requests the Government to send its observations in this regard.***

*Legislative issues.* The Committee recalls that it has been commenting for many years on the need to take measures to amend the following legislative provisions:

- section 5 of the Act on associations which requires organizations to obtain authorization prior to their establishment as trade unions; and
- section 23 of Decree No. 83-099/PR/FP of 10 September 1983 which confers upon the President of the Republic broad powers to requisition public servants.

***Noting the Government's indication that it will take the necessary measures to submit the requested amendments to the National Council of Labour, Employment and Social Security (CONTESS), the Committee trusts that the Government will indicate in its next report concrete progress in this regard.***

The Committee is raising other points in a request addressed directly to the Government.

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

*Articles 1 and 2 of the Convention. Protection in practice against acts of anti-union discrimination and interference.* The Committee notes the comments of 30 August 2013 by the International Trade Union Confederation (ITUC) reporting persistent acts of anti-union discrimination against leaders of the Labour Union of Djibouti (UDT) and anti-union dismissals of members of a dockworkers' union. In its previous comments, the Committee took note of comments received from the ITUC, the UDT and the General Union of Djibouti Workers (UGTD) reporting dismissals and acts of anti-union discrimination and interference in the postal sector and other sectors. The Committee observes that the Government merely reiterates the legislative provisions prohibiting and penalizing anti-union practices and refers to acts of discrimination that have already been examined by the Committee on Freedom of Association. ***The Committee therefore urges the Government to send its observations in reply to the serious allegations regarding the situation in the ports and postal sectors, and in particular on the situation of the UDT and its leaders, indicating inter alia any enquiries conducted by the authorities and their results.***

More generally, the Committee notes with ***concern*** that according to comments received from the trade union organizations, some unions in the country are still facing serious impediments to the exercise of their trade union rights. The Committee again emphasizes that, under the Convention, the Government has a duty to ensure that workers enjoy adequate protection against acts of anti-union discrimination (*Article 1* of the Convention) and to ensure that workers' and employers' organizations enjoy adequate protection against any acts of interference (*Article 2*). ***The Committee urges the Government to take all suitable measures to ensure such protection.***

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

## **Dominican Republic**

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

For a number of years, the Committee has been asking the Government to take the necessary measures to amend the following legislative provisions which are not in conformity with *Articles 2, 3 and 5 of the Convention*:

- section 84(I) of the Regulations adopted under the Civil Service and Administrative Careers Act (Decree No. 523-09), which maintains the requirement to affiliate at least 40 per cent of the total number of employees enjoying the right to organize in the institution concerned, in order to be able to establish an organization of civil servants;
- section 407(3) of the Labour Code, which requires a majority of 51 per cent of workers' votes in the enterprise in order to call a strike; and
- section 383 of the Labour Code, which requires federations to obtain the votes of two-thirds of their members to be able to establish confederations.

The Committee notes the Government's statement that it has shown interest in the subject of reform of the Labour Code, the issue currently being on the agenda of the subcommittee of the Labour Advisory Council. ***The Committee requests the Government to supply information in its next report on any progress made in this regard and trusts that, in the context of the reform, account will be taken of its comments, including those regarding the Civil Service and Administrative Careers Act.***

The Committee is raising other points in a request addressed directly to the Government.

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

*The Committee notes the comments of the International Trade Union Confederation (ITUC) of 2013 and requests the Government to send its reply thereon.*

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

*Lengthy proceedings in the event of violation of trade union rights.* The Committee requested the Government to send observations on the ITUC's assertion that court proceedings are excessively long (18 months or more) and that collective agreements have been negotiated in only four enterprises in the export processing zones. The Committee notes that, according to the Government, under the Labour Code, special labour courts have been set up that deal with cases simply and rapidly. The Committee also notes that according to the Government quoting a survey conducted in 2010 by the judiciary and based on a sample of 723 cases that were settled between October 2009 and March 2010, 31 per cent of the cases were concluded in less than three months, 45 per cent took from three to six months, 17 per cent from six to nine months, 5 per cent from nine to 12 months and 2 per cent took more than a year; however, according to data supplied by the Legal Statistics Division, the average length of cases judged on the merits is 429 calendar days. ***The Committee asks once again the Government to ensure that further measures are taken to secure rapid and effective protection against violations of trade union rights and to report on the impact of such measures on the length of proceedings to hear complaints of such violations.***

*Article 2 of the Convention. Insufficiently dissuasive sanctions against acts of anti-union discrimination.* The Committee asked the Government to indicate the specific penalties that may be imposed by law on persons found guilty of anti-union acts. The Committee notes that according to the Government; (1) under section 392 of Labour Code, the ordinary dismissal (without stated cause) of workers protected by trade union immunity shall be null and void; (2) where an enterprise terminates its employment relationship with a worker protected by trade union immunity in breach of the ban on termination without stated cause, the Labour Code establishes the following: (a) the termination shall be declared null and void; (b) the reinstatement of the worker shall be ordered; (c) the wages due from the date of termination to the date of reinstatement shall be paid; (d) a fine ranging from seven to 12 minimum monthly wages shall be imposed; (e) social security shall be paid; and (f) any incidental damages claimed by the worker shall be paid by order of the judge who imposed the penalties.

The Committee also notes that section 333 of the Labour Code prohibits employers from engaging in unfair or unethical labour practices, namely: (1) requiring workers or persons seeking work to refrain from joining or applying to join a union; (2) carry out reprisals against workers for engaging in trade union activities; (3) dismissing or suspending a worker for belonging to a trade union; (4) refusing, without due cause, to establish negotiations for the conclusion of collective agreements on conditions of work; (5) intervening, in any manner, in the establishment or administration of a union of workers or supporting it by financial or other means; (6) refusing to have dealings with the legitimate representatives of the workers; and (7) using force, violence, intimidation or threat, or any other form of coercion against workers or unions of workers, with a view to preventing or obstructing exercise of their rights as established by law. The Committee notes that section 720 classifies unfair practices that violate freedom of association as very serious offences punishable by fines ranging from seven to 12 minimum monthly wages (section 721(3)). ***The Committee requests the Government to provide information on the application of these penalties in practice, including statistical information, and on the dissuasive effects of the penalties (amount of the fines imposed and number of enterprises concerned).***

*Article 4. Requisite majorities for collective bargaining.* The Committee pointed out that for many years it has referred in its comments to 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 a branch of activity (sections 109 and 110 of the Labour Code). The Committee observes in this connection that the Government repeats that tripartite discussions have been held in the Labour Advisory Council with a view to amending the legislation. The Committee further observes that the Government refers to an appendix containing a draft amendment to the Labour Code (the appendix was not received). The Committee considers that if no union covers more than 50 per cent of the workers, collective bargaining rights should be granted to all the unions in this unit, at least on behalf of their own members (see General Survey on freedom of association and collective bargaining, 1994, paragraph 241). ***The Committee requests the Government to send the draft amendment to the Labour Code and hopes that sections 109 and 110 will be amended in the very near future in order to bring them into conformity with the provisions requiring the promotion of collective bargaining.***

*Right to collective bargaining in practice.* In its previous comments the Committee asked the Government to take specific measures to promote collective bargaining and send statistical information on any collective agreements concluded in the public and private sectors, including in export processing zones, indicating the number of workers they cover. The Committee noted from the Government's statement that according to data supplied by the General Directorate of Labour, 15 collective agreements were concluded in 2011, covering 10,056 workers, including two agreements signed in export processing zones, covering 3,438 workers. The Committee also noted that between 2010 and 2012, 11 workshops were held on freedom of association and collective bargaining and a course was organized on collective bargaining. ***The Committee requests the Government to continue to take measures to stimulate collective bargaining and develop it further, and to report on their effects in particular by continuing to provide statistics of the number of collective agreements signed and the number of workers covered.***

*Articles 2, 4 and 6.* As regards public servants not engaged in the administration of the State, in its previous comments, the Committee took note of the adoption of the Public Service Act, No. 41-08, and its implementing regulations (Decree No. 523-09). The Committee expressed the hope that the protection established in the new legislation on the public service would be extended to acts of anti-union discrimination at the time of hiring and in the course of employment, prohibiting discrimination based on union membership or participation in lawful union activities (the protection as it stands covers a union's founders and a number of its leaders, but not public officials or employees). The Committee again asked the Government to secure for associations specific protection from acts of interference by the employer such as interference in or control – financial or otherwise – of the associations' activities. Lastly, the Committee asked the Government to establish sufficiently dissuasive penalties against such acts of discrimination and interference.

The Committee notes in this connection that the Government again refers to the provisions of the Act and its implementing regulations but provides no specific information in reply to the Committee's requests. ***In these circumstances, the Committee again asks the Government to take the necessary steps to secure for public servants not engaged in the administration of the State and their associations specific protection against acts of anti-union discrimination at the time of hiring and in the course***

*of employment and against acts of interference by the employer such as interference in or control – financial or otherwise – of the associations’ activities, and to establish sufficiently dissuasive penalties against such acts of anti-union discrimination and interference. The Committee requests the Government to provide information on these matters.*

*Articles 4 and 6. Right to collective bargaining of public servants.* With regard to the right to collective bargaining of public servants who are not engaged in the administration of the State, who, under the terms of *Article 6* of the Convention should enjoy the right to collective bargaining through their organizations, the Committee asked the Government to indicate whether under article 62 of the Constitution or under the legislation, associations of public servants now enjoy the right to collective bargaining. The Committee notes that, according to the Government, the Public Service Act, No. 41-08, and its implementing regulations (Decree No. 523-09) establish the right of public employees to form associations. ***The Committee invites the Government, in consultation with the most representative employers’ and workers’ organizations, to take measures to secure recognition in law of the right to collective bargaining of public servants who are not engaged in the administration of the State.***

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

## Ecuador

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

The Committee notes with *regret* that the Government’s report has not been received. The Committee hopes that a report will be sent for examination at its next session and that it will contain full particulars on all the matters raised.

*Comments from workers’ organizations.* The Committee notes the Government’s replies to the comments of the Ecuadorian Medical Federation of 2012 and those of the International Trade Union Confederation (ITUC) of 2011. In particular, the Committee notes the Government’s indication that it promotes and supports the establishment of trade union and branch organizations, as demonstrated by the registration of numerous organizations in recent years.

The Committee notes the 2013 comments of the ITUC, the Trade Union Confederation of Ecuador and the attached comments by Public Services International Ecuador, the National Confederation of Educational Workers, the General Confederation of Workers of Ecuador, the Federation of Workers of the Enterprise “Petroeros del Ecuador”, the Trade Union Confederation of the Public Sector in Ecuador, the Confederation of Health Professionals, the National Federation of Public Servants and various local trade union organizations referring to matters already raised by the Committee, and alleging in addition that: (i) the Basic Act on Higher Education (LOES) of 12 October 2010 and the Basic Act on Intercultural Education (LOEI) of 31 March 2011 do not recognize the right of public employees in the education sector to establish trade unions and violate their right to organize their activities and formulate their programmes in full freedom; (ii) Decree No. 16 of 20 June 2013 and Ministerial Decision No. 0130 of 21 August 2013 endanger the independence of trade unions; (iii) the absence of consultation of the social partners on the draft reform of the Labour Code, which contains provisions which are not in conformity with the Convention; (iv) the conviction of Ms Mery Zamora, former President of the National Confederation of Education Workers to eight years of imprisonment for sabotage and terrorism and of Carlos Figueroa, leader of the Ecuadorian Medical Federation, to six months of imprisonment for slander, as well as various cases of the criminal persecution of trade union leaders in reprisal for their trade union activities; and (v) the obstacles raised by the Ministry of Industrial Relations to the registration of trade unions. ***The Committee requests the Government to provide its observations on all of these allegations.***

Finally, the Committee *regrets* that the Government has not provided its observations on the comments made by the ITUC in 2009 concerning the repression by the police and the army of a demonstration called by the trade union confederations in 2006 resulting in serious injuries and detentions, and the alleged threats and acts of intimidation against leaders of the Workers’ Confederation of Ecuador and the United Confederation of Workers of Ecuador.

*Legislative matters.* The Committee recalls that for several years it has been commenting on various provisions of the national legislation which are not in conformity with *Articles 2 and 3 of the Convention*. The Committee also notes the adoption of the LOEI, which raises certain discrepancies with the Convention. ***Specifically, the Committee requests the Government to take the necessary measures to amend:***

- ***sections 450, 459 and 466 of the Labour Code to revise the requirement of 30 workers for the establishment of associations, enterprise committees or assemblies to organize enterprise committees;***
- ***section 466(4) of the Labour Code to revise the requirement to be of Ecuadorian nationality to be able to become a trade union officer;***
- ***article 326(8) of the Constitution of the Republic so as to allow the right to re-election of officials of workers’ and employers’ organizations; and***
- ***article 326(12) and (15) of the Constitution, section 24(h) of the Organic Act on the Civil Service (LOSEP), sections 24 and 31(3) of the Organic Act on Public Enterprises (LOEP), section 132(p) and the first general provision of the LOEI, sections 505 and 522 of the Labour Code and Decree No. 105 of 7 June 1967, relating to the right of trade unions and associations of public servants to organize their activities and formulate their programmes.***

*The Committee hopes that the Government will take into account all of the comments that the Committee has been making for several years and that it will adopt, in consultation with the most representative organizations of workers and employers, the necessary measures to reform the legislative provisions referred to above, including those contained in the Labour Code, which is currently undergoing a process of revision. The Committee requests the Government to provide information in its next report on any progress in this respect and reminds it that the technical assistance of the Office is at its disposal.*

The Committee is raising other points in a request addressed directly to the Government.

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

The Committee notes the Government's reply to the comments of the Ecuadorian Medical Federation of 2012 and the comments made by the International Trade Union Confederation (ITUC) in 2011.

#### **Application of the Convention in the private sector**

*Article 1 of the Convention. Protection against acts of anti-union discrimination.* The Committee previously requested the Government to take the necessary measures to ensure that the legislation includes a specific provision guaranteeing protection against acts of anti-union discrimination at the time of recruitment. ***In view of the lack of information provided by the Government on this issue, the Committee cannot but reiterate its previous request.***

The Committee also ***regrets*** that the Government has not provided its observations on the comments made by the ITUC in 2009 which referred to serious allegations of anti-union practices in various enterprises and institutions. ***The Committee requests the Government to conduct an inquiry into these allegations and, if these practices are confirmed, to take the necessary measures to ensure that they are punishable by sufficiently dissuasive penalties.***

*Article 4. Promotion of collective bargaining.* The Committee noted previously the need to amend section 229(2) of the Labour Code respecting the submission of the draft collective agreement, so that minority trade union organizations with a membership amounting to no more than 50 per cent of the workers subject to the Labour Code may, on their own or jointly (when there is no majority union representing all the workers) negotiate on behalf of their own members. ***The Committee requests the Government to take measures for this purpose.***

The Committee also notes that various national trade union federations allege that the social partners have not been consulted concerning the draft reform of the Labour Code, which is reported to contain provisions that are contrary to the Convention. ***The Committee requests the Government to provide its observations on this matter and to ensure that any draft reform is the subject of in-depth consultations with the representative organizations of workers and employers.***

#### **Application of the Convention in the public sector**

The Committee notes the 2013 comments of the ITUC and of the Trade Union Confederation of Ecuador and the joint comments by Public Services International Ecuador, the National Confederation of Educational Workers, the General Confederation of Workers of Ecuador, the Federation of Oil Workers of Ecuador, the Trade Union Confederation of the Public Sector in Ecuador, the Confederation of Health Professionals, the National Federation of Public Servants and various local trade union organizations referring to matters already raised by the Committee and also indicating that: (i) the new legislation applicable in the public sector does not provide for penalties for acts of anti-union discrimination or interference; (ii) the legislation classifies as public servants the great majority of workers in the public sector, thereby denying them the right to collective bargaining; (iii) Executive Decree No. 225 of 2010 institutionalizes the capacity of the Ministry of Industrial Relations to unilaterally revise collective agreements applicable to workers in the public sector; and (iv) the Basic Act on Higher Education (LOES) of 2010 and the Basic Act on Intercultural Education (LOEI) of 2011 do not recognize the right of public employees in the education sector to engage in collective bargaining. ***The Committee expresses its concern at the content of these allegations and requests the Government to provide its observations on this matter.***

*Articles 1 and 2. Protection against acts of anti-union discrimination and interference.* The Committee notes that the Committee on Freedom of Association drew to its attention the legislative aspects of Case No. 2926 relating to allegations of numerous anti-union dismissals in the public sector through the procedure of the "compulsory purchase of redundancy" introduced by Executive Decree No. 813 [see Committee on Freedom of Association, 370th Report, paragraph 385]. In this respect, the Committee observes that the legislation respecting the public sector adopted in recent years (Organic Act on the Civil Service (LOSEP), LOEI, LOES) in general prohibits discrimination in employment, but does not contain specific provisions respecting anti-union discrimination. ***Under these conditions, the Committee requests the Government to indicate: (i) the provisions applicable to the public sector which guarantee that any acts of anti-union discrimination envisaged in Article 1 of the Convention are effectively prohibited; (ii) the procedures and mechanisms applicable in cases of anti-union discrimination; and (iii) the provisions establishing penalties applicable to acts of anti-union discrimination in the public sector. Furthermore, under the terms of Article 2 of the Convention, the Committee requests the Government to indicate the provisions which protect organizations of public servants and public sector workers against acts of interference by the employer, and to specify the penalties applicable in such cases.***

*Article 4. Promotion of collective bargaining.* In its previous comments, the Committee noted Constituent Resolutions Nos 002 and 004, and Executive Decree No. 1406, which set a ceiling on remuneration in the public sector and exclude from collective bargaining a series of matters, even where public sector enterprises have sufficient income, and accordingly impose permanent limitations on collective bargaining that are incompatible with the Convention. The Committee notes that the LOSEP and the Organic Act on Public Enterprises (LOEP) contain provisions which maintain these limitations and even extend them in relation to remuneration. ***The Committee therefore requests the Government to take the necessary measures to restore the right to collective bargaining on all matters which affect the working and living conditions of workers in the public sector that are covered by the Convention, and to provide information in this respect.***

Furthermore, with reference to constituent Resolution No. 008, Ministerial Order No. 00080 and Order No. 00155A, the Committee recalled in its previous comments that the determination of any abusive character of clauses in collective agreements in the public sector should not be carried out by the administrative authorities, but by the judicial authorities. The Committee notes that section 18 and the first transitional provision of Executive Decree No. 225 of 2010 continue to empower the Ministry of Industrial Relations to determine any abusive character of clauses in collective agreements in the public sector. ***Under these conditions, the Committee once again requests the Government to take the necessary measures to ensure that the determination of any abusive clauses in collective agreements in the public sector lies within the competence of the judicial authorities.***

*Article 6. Scope of application of the Convention.* In its previous comments, the Committee noted that, under the terms of the LOEP and the LOSEP, the list of public servants excluded from the right to collective bargaining goes beyond the exclusions allowed by *Article 6* of the Convention. The Committee also notes that the LOES and LOEI exclude all public servants in the education sector, including teachers, from the right to collective bargaining. ***Under these conditions, and recalling that under Article 6 of the Convention, only public servants engaged in the administration of the State may be excluded from its scope of application, the Committee once again requests the Government to take the necessary measures to ensure that all categories of public servants who are not engaged in the administration of the State enjoy the right to collective bargaining.***

***The Committee hopes that the Government will take into account all of the comments that it has been making for years and that, in consultation with the most representative organizations of workers and employers, it will take the necessary measures to amend the provisions of the laws and regulations referred to above, including those contained in the Labour Code that is currently being revised. The Committee requests the Government to provide information in its next report on any developments in this respect and reminds it that the technical assistance of the Office is at its disposal.***

## Egypt

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

The Committee notes the comments submitted on 30 August 2013 by the International Trade Union Confederation (ITUC), which refer to legislative issues already being raised by the Committee as well as numerous allegations of acts of violence, detentions and dismissals of striking workers. ***The Committee requests the Government to provide its observations thereon.*** It also notes that the Government reiterates its commitment to referring any infringements or allegations with respect to the use of violence against strikers to a tripartite committee for examination, verification of their veracity and adoption of measures in this regard. ***The Committee trusts that the Government will soon submit all relevant ITUC allegations to the tripartite committee and, if necessary, to the labour inspectorate for investigation purposes, and will provide information on the outcome.***

### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

Furthermore, the Committee takes due note of the debate which took place within the Conference Committee in June 2013 and the ensuing conclusions.

The Committee notes that the Constitution of the Arab Republic of Egypt, which had been adopted on 26 December 2012, was suspended, and that the Constitutional Declaration adopted on 6 July 2013 guarantees freedom of association, freedom of assembly and freedom of expression in its articles 8 and 10.

The Committee notes that the Government states in its reports that: (i) since the establishment of independent trade unions was recently authorized, workers are free to join or withdraw from general trade unions or independent trade unions without any coercion or intervention; (ii) in Egypt, there are currently five general workers' federations, nine professional workers' federations, 16 regional workers' federations, 56 general workers' trade unions and 1,228 subsidiary trade union committees working under the umbrella of such federations; (iii) all such federations carry out their union activities in total freedom, as illustrated for instance by the issuance of the "Declaration on Freedom of Association" in March 2011 and their participation in the 2011, 2012 and 2013 International Labour Conferences and the conferences organized by the Arab Labour Organization (ALO) from 2011 to 2013; and (iv) independent trade unions also participated

in the 2013 session of the Labour and Social Affairs Committee at the African Union as well as several workshops and symposia held by the ILO and the ALO.

With respect to the draft freedom of association law, the Committee notes from the Government's reports that: (i) following a series of dialogue and communication sessions with various bodies and partners, the outcomes were formulated during two societal meetings organized on 4 and 9 April 2013, attended by the Ministry of Manpower and Migration, Ministry of Justice, the Shoura Council, other Government bodies, employers' organizations, the Federation of Independent Trade Unions, the Egyptian Trade Union Federation, civil society organizations and ILO experts from Geneva and Cairo; (ii) the majority of participants decided on the repeal of the Trade Union Act; the promulgation of a new law based on the draft law which had been previously introduced and discussed in the Manpower Committee in the dissolved People's Assembly which took into account the Committee's comments; and the continuation of the societal dialogue sessions through a committee set up with ILO participation to discuss each section of the draft law; (iii) to date, ten sessions have been held and the preparation of the draft law was finalized; (iv) on 29 May 2013, the Council of Ministers accepted to refer the draft law on the organization of trade unions to the Shoura Council; and (v) the trade union session ending on 27 May 2013 was extended for one year or until promulgation of the law whichever is earlier so as to provide for greater opportunity for the preparation of the new law.

The Committee notes the Government's statement in its latest report that the process referred to above was brought to a halt as a result of the Revolution of 30 June 2013 and the subsequent developments. It also takes note of the Government's indication that the new Minister of Manpower and Migration has been overseeing a comprehensive review process with several social dialogue sessions to ensure conformity with ratified ILO Conventions, which has led to a new formulation of the draft. In this regard, the Committee notes with *interest* that the final draft law on trade union organizations and protection of the right to organize, as repeatedly requested by the Committee in its previous comments, abandons the former single trade union system and recognizes trade union pluralism, thus giving clear legislative protection to the numerous newly formed independent trade unions. The Committee notes that the new draft law is being discussed by the Council of Ministers and is expected to be finalized soon, and that the final text will be submitted to the President of Egypt for promulgation, as he is currently vested with the legislative authority. ***Recalling that for several years it has been commenting on the discrepancies between the existing national legislation and the Convention (elaborated upon in detail in its direct request), the Committee firmly expects that the draft law will be adopted in the very near future and will ensure full respect for freedom of association rights. The Committee encourages the Government to continue to avail itself of the technical assistance of the Office in respect of all the matters raised in this regard. It requests the Government to transmit a copy of the law once promulgated.***

Recalling its previous comments concerning the Law Decree No. 34 adopted on 12 April 2011 by the President of the Supreme Council of Armed Forces which provides for sanctions, including imprisonment, against any person who "during the prevalence of the state of emergency, makes a stand or undertakes an activity that results in the hindering, prevention or obstruction of a State's institution or a public authority or a public or private enterprise from performing its work" or who "incites, invites or promotes [such activity]", the Committee understands that the state of emergency enacted in August 2013 has been lifted on 14 November 2013, and that since this Decree states clearly that it applies only during the prevalence of the state of emergency, it is currently not applicable. ***The Committee requests the Government to refrain in the future from unduly impeding the lawful exercise of trade union rights in practice.***

The Committee is raising other points in a request addressed directly to the Government.

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

The Committee notes the comments submitted on 30 August 2013 by the International Trade Union Confederation (ITUC), which refer to legislative issues already being raised by the Committee, as well as allegations concerning numerous cases of retaliatory measures, including dismissals, taken against workers and trade union officials for exercising legitimate trade union activities. ***The Committee requests the Government to provide its observations on these allegations.*** It also notes that the Government reiterates its commitment to referring any alleged infringements likely to lead to a breakdown of collective negotiation mechanisms at the national level, in industrial sectors or at the workplace, to a tripartite committee for examination, verification of their veracity and adoption of measures in this regard. ***The Committee trusts that the Government will soon submit all relevant ITUC allegations, including allegations of acts of anti-union discrimination, to the tripartite committee and, if necessary, to the labour inspection for investigation purposes, and provide information on the outcome.***

The Committee also notes that the Constitution of the Arab Republic of Egypt, which had been adopted on 26 December 2012, was suspended, and that the Constitutional Declaration adopted on 6 July 2013 guarantees freedom of association, freedom of assembly and freedom of expression in its articles 8 and 10.

Furthermore, the Committee notes with *interest* that the final draft law on trade union organizations and protection of the right to organize, recently transmitted by the Government, abandons the former single trade union system and recognizes trade union pluralism. ***The Committee firmly expects that the draft law will be adopted in the very near future and will ensure full respect for freedom of association rights. It requests the Government to transmit a copy of the law once adopted.***

*Article 4 of the Convention. Promotion of collective bargaining.* In its previous observation, the Committee had recalled that it has been commenting for a number of years on various provisions of the Labour Code, as follows:

- As regards 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 had asked the Government to provide information on its scope, the impact of its broad wording on the application of the principle of voluntary negotiation, as well as its use in practice. The Committee notes that, according to the Government, this provision does not violate the Convention, since: (i) the national law represents the minimum threshold for workers' rights; (ii) this caveat is necessary for the stability and protection of society; and (iii) no objections or infringements have been reported. The Committee takes due note of this information.
- As regards sections 148 and 153 of the Labour Code, the Committee had asked the Government to take the necessary steps to repeal these sections, as they enable higher level organizations to interfere in the negotiation process conducted by lower level organizations. In this regard, the Committee notes that the Government states that the Labour Code No. 12 of 2003 is at present being amended so as to bring it into conformity with all ratified ILO Conventions.
- As regards sections 179 and 187, in conjunction with sections 156 and 163 of the Labour Code, the Committee had asked the Government to take the necessary steps to amend the Labour Code so that the parties could have recourse to arbitration only by mutual agreement. The Committee notes the Government's indication that, whereas, under section 191, recourse to private arbitration is not mandatory but rather done on the basis of an agreement, section 179 authorizes either party to resort to the arbitration procedure (arbitration panel) if the recommendations of the mediator are not accepted. The Committee recalls that recourse to compulsory arbitration in cases where the parties do not reach agreement through collective bargaining is permissible only in the context of essential services in the strict sense of the term (that is services the interruption of which would endanger the life, personal safety or health of the whole or part of the population) or for public servants engaged in the administration of the State.

*The Committee, noting that the legislative committee of the Ministry has finalized the first draft of a new labour law for its submission to the social partners for discussion, firmly expects that, in the framework of the ongoing revision process, the Government will introduce amendments to the Labour Code taking full account of the above comments. It requests the Government to provide information in its next report on the progress made in this regard and to supply any consequential amendments proposed or adopted.*

Finally, the Committee notes the statement of the ITUC that public servants of state agencies including the local government units and the public authorities do not have the right to collective bargaining. The Committee observes that this category of workers is excluded from the Labour Code. *Recalling that all public service workers other than those engaged in the administration of the State should enjoy collective bargaining rights, the Committee requests the Government to provide its observations on the ITUC comments in this regard.*

## El Salvador

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2006)**

The Committee notes the comments of the International Trade Union Confederation (ITUC) of 2013 on matters already dealt with by the Committee. Moreover, the Committee notes the comments of the National Association of Private Enterprises (ANEP) of 2012 regarding Cases Nos 2930 and 2980 examined by the Committee on Freedom of Association and related to the Government's interferences in the composition and appointment of workers and employers representatives in tripartite social dialogue bodies. *The Committee shares the conclusions of the Committee on Freedom of Association and asks the Government to refrain from any interference in the future.*

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

*Article 2 of the Convention. Protection against acts of interference.* In its previous comments the Committee noted that section 205 of the Labour Code and section 247 of the Penal Code provide for protection against certain acts of interference and asked the Government to take the necessary steps, in the context of the process to revise labour law, to provide explicitly in the legislation for a prohibition on all acts of interference referred to in *Article 2* of the Convention, in particular 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 the employers or employers' organizations. *The Committee requests the Government to take the necessary measures, in the context of the process to revise labour standards as mentioned in its previous report, to complete the existing provisions providing protection against acts of interference, together with penalties that constitute sufficiently dissuasive sanctions.*

*Article 4. Collective bargaining.* In its previous comments the Committee noted that under sections 270 of the Labour Code (concerning the conclusion of the first collective agreement in an enterprise or establishment) and 106 and 123 of the Civil Service Act, a trade union must have as members no less than 50 per cent of the workers of the enterprise, establishment or institution, in order to be able to initiate the collective agreement or to engage in collective bargaining. It asked the Government to take the necessary measures to amend the abovementioned sections to ensure that when there is no union that covers more than 50 per cent of the workers, all the unions are granted the right to engage in collective bargaining, at least on behalf of their own

members. The Committee notes the Government's indication that section 270 of the Labour Code and also sections 106 and 123 of the Civil Service Act are not being reformed and that it will send notification of any changes in this respect. The Committee also notes that the Government adds that section 271(2) of the Labour Code provides that if two or more trade unions have members in the same enterprise or establishment but neither of them has at least 51 per cent of the total number of workers, either of the enterprise or of the establishment, these unions may unite with a view to achieving the aforementioned percentage, in which case the employer shall be obliged to negotiate and conclude a collective agreement with the united unions, if the latter make a joint request to this effect. **While noting the possibility for two trade unions in the same enterprise to unite with a view to achieving the minimum percentage of representation to engage in collective bargaining, the Committee hopes that the Government will take the necessary measures to amend sections 270 and 271 of the Labour Code and sections 106 and 123 of the Civil Service Act in such a way that when no union covers more than 50 per cent of the workers, all unions are given the right to engage in collective bargaining, at least on behalf of their own members.**

**Revision of collective agreements.** In its previous comments the Committee noted that section 276(3) of the Labour Code provides that "if the economic conditions in the country or enterprise should change significantly, either party may request the revision of the collective labour agreement, provided that the agreement has been force for at least one year" and asked the Government to take the necessary measures to amend section 276(3) of the Labour Code in order to ensure that the renegotiation of existing collective agreements shall be possible only at the request of the parties concerned. The Committee notes the Government's indication that to date there are no plans to reform section 276 of the Labour Code and that it will send any information in due course on any changes in this respect. The Committee recalls that to impose by law the renegotiation of existing agreements is in principle contrary to the principles of free and voluntary collective bargaining laid down in the Convention. **The Committee therefore requests the Government once again to take the necessary measures to amend section 276(3) of the Labour Code, in order to ensure that the renegotiation of existing collective agreements shall be possible only at the request of the parties concerned.**

**Registration of collective agreements.** In its previous comments, referring to section 279 of the Labour Code – which provides that a decision by the Director-General of Labour to deny registration of a collective agreement is not open to judicial review – the Committee noted the Government's explanation that the prohibition on challenging the Director-General's decision in section 279 refers only to administrative channels, meaning that administrative remedies have been exhausted and judicial channels of appeal are open, in accordance with section 7(a) of the Act concerning the settlement of administrative disputes. The Committee considered that, in order to avoid any confusion, it would be advisable to amend section 279 to make it plain that the Director-General's decision may be challenged before the judicial authority. **The Committee once again requests the Government to consider the possibility of amending section 279 of the Labour Code in order to expressly provide in the legislation that the Director-General's decision may be challenged before the judicial authority. The Committee requests the Government to provide information on any further developments in this respect.**

**Approval of collective agreements concluded with a public institution.** In its previous comments the Committee noted that, under sections 287 of the Labour Code and 119 of the Civil Service Act, in order to be valid, collective agreements require the approval of the relevant ministry and the prior opinion of the Ministry of Finance. The Committee previously requested the Government to take the necessary steps to amend section 287 of the Labour Code and section 119 of the Civil Service Act in order to remove the requirement of prior ministerial approval for collective agreements to be able to come into force. The Committee notes that according to the Government that the planned reform of section 287 of the Labour Code as proposed does not contemplate the removal of that request but seeks to modify the time in which the Ministry of Finance is able to reply and, should it fail to do so, the resulting administrative silence shall be construed as positive with a view to expediting the procedure for the registration of collective agreements of autonomous official institutions. As regards the amendment of section 119 of the Civil Service Act, the Committee notes that the Government will provide information in due course on any further developments in this respect. The Committee recalls that the requirement of ministerial approval to enable a collective agreement to enter into force is not fully consistent with the principles of voluntary bargaining laid down in the Convention: however, there is nothing to prevent the budgetary authority, prior to the conclusion of the collective agreement, from informing the employer of the situation and of the budget that is available. **The Committee again requests the Government to take the necessary measures to amend section 287 of the Labour Code and section 119 of the Civil Service Act so as to abolish the requirement for prior ministerial approval in order for collective agreements to take effect. The Committee requests the Government to provide information in its next report on any measures taken in this regard.**

**Article 6. Exclusion of certain public employees from the guarantees of the Convention.** In its previous comments the Committee noted that, under section 4(1) of the Civil Service Act, as amended by Legislative Decree No. 78 of August 2006, numerous public sector workers are excluded from the administrative career and hence from the guarantees of the Convention (collectors, treasurers, cashiers, administrators, warehouse security staff, warehouse personnel and auditors in any public institution department) and requested the Government to take the necessary steps to ensure that public servants not engaged in the administration of the State enjoy the guarantees provided for in the Convention. The Committee notes the Government's indication that section 4(1) of the Civil Service Act is not being reformed and that it will provide information on any changes in this respect. The Committee recalls that the only possible exceptions to the guarantees laid down in the Convention refer to the armed forces, the police and public servants engaged in the administration of the State (Articles 5 and 6). **The Committee requests the Government once again to take the necessary steps to amend section 4(1) of the Civil Service Act in order that public servants not working in the administration of the State enjoy the guarantees provided by the Convention. The Committee requests the Government to provide information in its next report on any measures taken.**

**Right to collective bargaining of teachers.** In its previous comments the Committee noted that section 2 of the Civil Service Act provides that, because of the nature of their duties, members of the teaching profession are governed by a special act – which, in this specific case, does not contain any provisions on collective bargaining – without prejudice to the social rights laid down in the Civil Service Act, which shall apply to them. The Committee also noted the Government's confirmation that, in addition to the right to association, teachers also enjoy the right to collective bargaining and requested the Government to indicate the date of the most recent collective agreements concluded with teachers in the public sector. The Committee notes the Government's statement that to date no collective labour agreement has been concluded with teachers in the public sector. **The Committee, recalling that all teachers, including those in the public sector, are covered by the scope of the Convention's provisions, requests the Government to promote the right to collective bargaining of teachers in the public sector and to provide information on any further developments in this respect.**

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

## Equatorial Guinea

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

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 again recalls that it has been asking the Government for a number of years to: (i) amend section 5 of Act No. 12/1992, which provides that employees' organizations may be occupational or sectoral – so that workers may, if they so desire, establish enterprise trade unions; (ii) amend section 10 of Act No. 12/1992, which provides that for an occupational association to obtain legal personality it must, inter alia, have a minimum of 50 employees – so as to reduce the number of workers required to a reasonable level; (iii) confirm that, as a result of a revision of the Fundamental Act in 1995 (Act No. 1 of 1995), the right to strike is recognized in public utilities and is exercised under the conditions laid down by law; (iv) provide information on the services deemed to be essential, and on how the minimum services to be ensured are determined, as provided for in section 37 of Act No. 12/1992; and (v) state whether public servants who do not exercise authority in the name of the State enjoy the right to strike (section 58 of the Fundamental Act).

*The Committee again urges the Government to take the necessary steps to amend the legislation in order to bring it into full conformity with the provisions of the Convention and to send information in its next report on any measures taken or contemplated in this respect. The Committee expresses the strong hope that the Government will take all possible steps without delay to resume a constructive dialogue with the ILO.*

Furthermore, the Committee had noted the comments of the International Trade Union Confederation (ITUC) on the application of the Convention and the persistent refusal to register various trade unions, namely the Trade Union of Workers of Equatorial Guinea (UST), the Independent Services Union (SIS), the Teachers' Trade Union Association (ASD) and the Agricultural Workers' Organization (OTC). The Committee recalls once again that the discretionary power of the competent authority to grant or reject a registration request is tantamount to the requirement for previous authorization, which is not compatible with *Article 2 of the Convention* (see the 1994 General Survey on freedom of association and collective bargaining, paragraph 74). *Under these conditions, the Committee once again urges the Government to register without delay those trade unions which have fulfilled the legal requirements and to provide information in this respect in its next report.*

The Committee observes that, in its communication of 2013, the ITUC reiterates its previous comments.

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

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

The Committee notes the comments made by the International Trade Union Confederation in 2013, reiterating its previous comments.

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 4 of the Convention. Collective bargaining.* The Committee noted the previous comments by the International Trade Union Confederation (ITUC), on the repeated refusal to recognize a number of trade unions, namely the Workers' Union of Equatorial Guinea (UST), the Independent Service Union (SIS), the Teachers' Trade Union Association (ASD) and the Rural Workers' Organization (OTC), and the lack of a legal framework for the development of collective bargaining. The Committee again stresses that the existence of trade unions established freely by workers is a prerequisite for the application of the Convention. *The Committee urges the Government once again to adopt the necessary measures without delay to create appropriate conditions for the establishment of trade unions that are able to engage in collective bargaining with a view to regulating conditions of employment.*

*Article 6. Right of public servants not engaged in the administration of the State to engage in collective bargaining.* The Committee notes that, according to ITUC's comments, the right of workers in the public administration to establish trade unions has still not been recognized in law, despite the fact that section 6 of the Act on trade unions and collective labour relations, No. 12/1992, provides that the right to organize of employees in the public administration shall be regulated by a special law. The Committee notes that the ITUC also indicates that the legal framework for collective bargaining is deficient and ambiguous. *The Committee urges the Government to indicate whether a special law has been adopted and whether it establishes the right to organize and to collective bargaining of workers in the public administration, and asks it to send detailed information on the application of the Convention to public servants not engaged in the administration of the State. The Committee reminds the Government that it may seek technical assistance on this matter from the Office, and expresses the firm hope that it will take without delay all measures within its reach to resume constructive dialogue with the ILO.*

*Part V of the report form. Application in practice.* *The Committee asks the Government to send statistics of the number of employers' and workers' organizations, the number of collective agreements concluded with these organizations and the number of workers and the sectors covered.*

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

## Eritrea

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)**

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

*Articles 1 and 2 of the Convention. Protection against anti-union discrimination and interference.* The Committee requested the Government to amend the Labour Proclamation to provide for the reinstatement of trade union leaders in cases of unjustified dismissal (section 28(3) of the Proclamation), and also for protection against other prejudicial acts and acts of anti-union discrimination against workers affiliated to a trade union. In its last report, the Government once again indicates that the Ministry of Labour and Human Welfare consulted several studies to amend section 23 of the Labour Proclamation with a view to broadening protection, both from all acts of anti-union discrimination and from any dismissal relating to trade union activity or membership. **The Committee once again expresses the hope that the Government will take the necessary measures without delay to amend the Labour Proclamation in this regard.**

*Sanctions applicable in cases of anti-union discrimination or acts of interference.* In its previous comments, the Committee recalled that the fine of 1,200 Eritrean nakfa (ERN), established in section 156 of the Labour Proclamation as a penalty for anti-union discrimination or acts of interference, is not severe and dissuasive enough as a means of protection and requested it to take necessary measures to provide heavier and more dissuasive sanctions. The Committee notes that the Government reiterated that sections 703 and 721 of the Transitional Penal Code would apply in the event of repeated violations of the right to organize established in the national legislation, though to date no sentences have been handed down for such violations. The Government also indicates that it is working with the social partners to amend section 156. **The Committee requests the Government to provide information on any progress made in amending section 156 of the Labour Proclamation so as to provide heavier and sufficiently dissuasive sanctions against persons guilty of anti-union discrimination or acts of interference.**

*Articles 1, 2, 4 and 6. Domestic workers.* In its previous comments, the Committee expressed the firm hope that the next regulation on domestic work will explicitly extend the trade union rights enshrined in the Convention to domestic workers. The Committee noted the Government's indication that domestic workers are not excluded from the definition contained in section 3 of the Labour Proclamation and therefore do have the right to organize and to collective bargaining. Furthermore, the Government indicated that it will take all necessary measures to adopt a regulation that is consistent with the Convention. **The Committee once again expresses the firm hope that, in the interest of legal certainty, the new regulation on domestic work will explicitly grant the rights enshrined in the Convention to domestic workers and that the Government will be in a position to indicate the adoption of the above regulation in its next report.**

*Article 6. Right to collective bargaining in the public sector.* In its previous comments, the Committee requested the Government to take the necessary measures to improve its legislation on public servants in respect of the rights enshrined in the Convention including the right to collective bargaining of public servants who are not engaged in the administration of the State. The Committee noted the Government's indication that public servants are split into two categories, those who work in the Central Personnel Administration (CPA) and those who work in public or semi-public enterprises. The latter are covered by the Labour Proclamation and therefore, like other workers, have the right to organize and to collective bargaining established in the Labour Proclamation. Regarding CPA workers, the Government indicates that the draft Public Service Code provides for the right to organize. However, the Government indicated that up to now no collective bargaining has been undertaken between the Government and these workers on the question of wages or other privileges. **The Committee hopes that the new Public Service Code will explicitly recognize for public servants in the CPA, the rights enshrined in the Convention, particularly the right to collective bargaining of public servants not engaged in the administration of the State and that the Government will be in a position to indicate the adoption of the above Code in its next report.**

*Application of the Convention in practice.* The Committee notes the observations from the International Trade Union Confederation (ITUC) reporting that in practice there is no collective bargaining in Eritrea. **The Committee requests the Government to provide its comments in response to the ITUC's allegations. More generally, the Committee requests the Government to indicate in its next report any measures taken to promote the development of collective bargaining in the private and public sectors and to indicate collective agreements signed, the sectors concerned and the number of workers covered.**

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

## Estonia

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1994)**

*Article 3 of the Convention. Right of organizations to organize their activities.* The Committee recalls that for a number of years it has been raising the issue of the prohibition of the right to strike in the public service. In this respect, it notes with *interest* the adoption of the Civil Service Act in June 2012, which appears through sections 7 and 15 to restrict this ban to public servants exercising authority in the name of the State.

The Committee had previously requested the Government to indicate the progress achieved in respect of the adoption of the list of services where the right to strike will be restricted (through a minimum service) as referred to in section 23(3) and (4) of the Collective Labour Dispute Resolution Act. The Committee notes the Government's indication that the Ministry of Social Affairs has prepared the first version (working document) of the draft Collective Bargaining and Collective Labour Dispute Resolution Act. The Government hopes that the Act will be adopted in 2014 and that it will resolve the issues raised by the Committee. **The Committee welcomes the information provided by the Government and hopes that the new Act will be adopted in the near future. It requests the Government to provide a copy thereof once it is adopted.**

## Ethiopia

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

The Committee notes the comments submitted by the International Trade Union Confederation (ITUC), in a communication dated 30 August 2013, which refer to issues pending before this Committee and the Committee on Freedom of Association (CFA) in Case No. 2516, as well as the Government's observations thereon. The Committee also notes the report of the ILO Mission that made a working visit to the country at the invitation of the Minister of Labour and Social Affairs from 13 to 16 May 2013. The Committee welcomes the outcome of the Mission in the form of the *Joint Statement on the Working Visit of the ILO Mission to Ethiopia*, which was signed on 16 May 2013 by the Minister of Labour and Social Affairs, on behalf of the Government of Ethiopia, and by the Director of the International Labour Standards Department, on behalf of the International Labour Organization.

*Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish organizations. Teachers.* In its previous comments, the Committee had urged the Government to ensure that the National Teachers' Association (NTA) is registered without delay so that teachers may fully exercise their right to form organizations for furthering and defending teachers' occupational interests. The Committee notes that, according to the Joint Statement, the Government is ready and committed to register the NTA under the Charities and Societies Proclamation (No. 621/2009), and, following discussions with the Charities and Societies Agency (CSA), agreement was reached to register the NTA in accordance with the Proclamation. In addition, the Committee notes that, in its report, the Government: (i) urges the Committee to take into consideration that it has never denied the registration of the NTA and that it is the organization that has failed to fulfil the registration requirements under the Charities and Societies Proclamation; and (ii) indicates that, since the signing of the Joint Statement, the NTA has never appeared for registration nor has sought to submit its application to the CSA. As regards the registration requirements, the Committee refers to its previous observation of 2010, in which it had identified a number of provisions of the Charities and Societies Proclamation that raised issues of compatibility with the Convention. Furthermore, the Committee considers that since more than four years had elapsed without the CSA issuing any decision (whether affirmative or negative) concerning the registration of the NTA, it has thus deprived this organization of the possibility to appeal. The Committee recalls that such a long registration procedure constitutes a serious obstacle to the establishment of organizations and amounts to a denial of the right of workers to establish organizations without previous authorization. Moreover, the Committee notes from the information provided by the NTA to the mission that the long idle time as a non-registered association and years of harassment have led to a situation where the conditions that the NTA had met or could have easily met at the time of application might be difficult or impossible to fulfil at present. ***The Committee, encouraged by the commitment undertaken by the Government in the Joint Statement, firmly expects that, in light of the special circumstances described above, the necessary measures will be taken to ensure that the appropriate authorities promptly and unconditionally register the NTA, so as to eventually resolve this longstanding issue in line with the provisions of the Convention.***

*Civil servants and employees of the state administration.* In its previous comments, the Committee noted that neither the Labour Proclamation nor the Federal Civil Servants Proclamation was guaranteeing civil servants and employees of the state administration the exercise of freedom of association rights. The Committee notes that, according to the Joint Statement: (i) the Government has reiterated its commitment and determination to follow-up on the Committee's comments concerning the Labour Proclamation and the Civil Servants Proclamation, and indicates that the civil service reform is a broad exercise and that a recent comprehensive assessment review undertaken is proposing a civil service reform roadmap; (ii) there is a common understanding of all parties concerned that the Constitution embeds the right of all workers to be able to establish and join organizations of their own choosing; (iii) the Government takes note of the view of the ILO supervisory bodies that the current legislative framework does not fully give effect to this right as regards civil servants, since the Charities and Societies Proclamation only enables individual civil service associations to be registered as professional associations; and (iv) in this regard, the Government reaffirmed its commitment to the mission to continue to make every effort to address these issues as a matter of priority. The Committee feels encouraged by the Government's commitment and the indication in its report that it is in the process of undertaking an in-depth study in this regard. ***Having understood from the Mission report that the comprehensive civil service reform has recently undergone major adjustments, the Committee highlights that freedom of association is an enabling right which renders possible the exercise of all other rights at work and firmly expects that, while pursuing the civil service reform, the right to organize will first be granted to all civil servants, including teachers in public schools and employees of the state administration.***

*Articles 2 and 3. Right of workers, without distinction whatsoever, to establish organizations; and right of workers' organizations to organize their activities and formulate their programmes.* In its previous comments, the Committee had requested the Government to amend the following sections of the 2003 Labour Proclamation: section 3 (need to guarantee the right to organize of several categories of workers excluded from the scope of application of the Proclamation); sections 136(2), 143(2), 158(3) and 160(1) (restrictions to the right of organizations freely to organize their activities and formulate their programmes); and section 120(1)(c) (need to ensure that the cancellation of the registration of an organization is not based on provisions of the Labour Proclamation identified as restricting the right to organize).

The Committee notes that, according to the Joint Statement: (i) in view of the fact that the Committee has been requesting the Government for several years to amend certain provisions of the Labour Proclamation, the Government has reiterated its commitment and determination to follow up on these comments; (ii) the Government has reviewed all relevant provisions and the Tripartite Labour Advisory Board has completed its review of these amendments, which will soon be submitted to the Council of Ministers; and (iii) the Government commits to do all it can to expedite the process for the submission of the amendments to Parliament. In addition, the Committee notes that the Government indicates in its report that: (i) while acknowledging the comments on section 136(2) in principle, the country is not economically strong enough to minimize the list of essential services in which strike action is prohibited, and in a few years it would hopefully be in a position at least to exclude air transport and urban bus services from the list; and (ii) the intention behind sections 143(2) and 160(1), and section 158(3) is not properly understood by the Committee. ***In this regard, the Committee refers to paragraphs 132, 147 and 153 of its 2012 General Survey on the fundamental Conventions and firmly trusts that the necessary measures will be taken by the Government without delay, and in full consultation with the social partners, to amend the abovementioned provisions of the Labour Proclamation, so as to bring it into full conformity with the provisions of the Convention in the near future. It requests the Government to provide detailed information in its next report on any progress made in this respect.***

***Lastly, noting that, according to the Joint Statement, the Government, as well as employers' and workers' organizations, consider that ILO technical assistance would be important to assist them in moving forward on all the issues raised by the ILO supervisory bodies, the Committee hopes that such technical assistance will take place in the very near future and invites the Government to establish with the Office a timetable in this regard.***

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

The Committee notes the comments submitted by Education International and the National Teachers' Association on 31 August 2012, as well as by the International Trade Union Confederation (ITUC) in a communication dated 30 August 2013, which refer to issues pending before this Committee and the Committee on Freedom of Association (CFA) in Case No. 2516, as well as the Government's observations thereon. It also notes the Government's reply to the previous comments of the ITUC.

The Committee notes the report of the ILO mission that made a working visit to the country at the invitation of the Minister of Labour and Social Affairs from 13 to 16 May 2013. The Committee welcomes the outcome of the mission in the form of the *Joint Statement on the Working Visit of the ILO Mission to Ethiopia*, which was signed on 16 May 2013 by the Minister of Labour and Social Affairs, on behalf of the Government of Ethiopia, and by the Director of the International Labour Standards Department, on behalf of the International Labour Organization.

***Labour Proclamation (2003).*** In its previous comments, the Committee had requested the Government to amend the Labour Proclamation as follows: section 3 (need to ensure that several categories of workers excluded from the scope of application of the Proclamation enjoy the rights afforded by the Convention); need for 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; and section 130(6) (need to ensure that it is up to the parties to decide on the moment when the collective agreement becomes inapplicable after the date of expiry). The Committee notes that, according to the Joint Statement: (i) in view of the fact that the Committee has been requesting the Government for several years to amend certain provisions of the Labour Proclamation, the Government has reiterated its commitment and determination to follow-up on these comments; (ii) the Government has reviewed all relevant provisions and the Tripartite Labour Advisory Board has completed its review of these amendments which will soon be submitted to the Council of Ministers; and (iii) the Government commits to do all it can to expedite the process for the submission of the amendments to Parliament. In addition, the Committee notes that the Government indicates in its report that most of the concerns raised by the Committee are duly considered to ensure as much as possible conformity of the labour legislation with the Convention. ***The Committee firmly trusts that the necessary measures will be taken without delay, and in full consultation with the social partners, to amend the abovementioned provisions of the Labour Proclamation, so as to bring it into full conformity with the Convention in the near future. It requests the Government to provide detailed information in its next report on any progress made in this respect.***

***Civil servants.*** In its previous comments, the Committee urged the Government to provide, with its next report, full information on the measures taken to ensure that civil servants, including teachers in the public sector, have the right to negotiate their conditions of employment through collective bargaining. The Committee notes that, according to the Joint Statement: (i) in view of the fact that the Committee has been requesting the Government for several years to amend certain provisions of the Labour Proclamation and the 2007 Civil Servants Proclamation, the Government has reiterated its commitment and determination to follow-up on these comments; (ii) the Government indicates that the civil service reform is a broad exercise and that a recent comprehensive assessment review undertaken is proposing a Civil Service Reform Roadmap; (iii) there is a common understanding of all parties concerned that the Constitution embeds the right of all workers to be able to establish and join organizations of their own choosing; (iv) the Government takes note of the view of the ILO supervisory bodies that the current legislative framework does not fully give effect to this right as regards

civil servants, since the Charities and Societies Proclamation only enables individual civil service associations to be registered as professional associations; and (v) in this regard, the Government reaffirmed its commitment to the mission to continue to make every effort to address these issues as a matter of priority. The Committee feels encouraged by the Government's commitment and the indication in its report that this issue is being given due consideration. **Having understood from the mission report that the comprehensive civil service reform has recently undergone major adjustments, the Committee highlights that freedom of association and collective bargaining are enabling rights which render possible the exercise of all other rights at work, and firmly expects that, while pursuing the civil service reform, the right to bargain collectively through the relevant organizations will first be granted to all civil servants, including teachers in public schools and employees of the state administration.**

*Draft regulation concerning employment relations established by religious or charity organizations.* The Committee recalls that in its previous comments it had requested the Government to amend section 4 of the draft regulation to ensure that no restrictions on the scope of collective bargaining should be imposed on workers employed by religious or charity institutions. In this respect, the Committee had noted the Government's indication that the draft regulation would be replaced by a new draft regulation. The Committee notes the Government's indication in its report that it is finalizing the new draft regulation and hopes that it will soon be issued. **The Committee firmly trusts that the new regulation will be adopted in the near future and requests the Government to transmit a copy thereof.**

*Lastly, noting that, according to the Joint Statement, the Government, employers' and workers' organizations consider that ILO technical assistance would be important to assist them in moving forward on all the issues raised by the ILO supervisory bodies, the Committee hopes that such technical assistance will be carried out in the very near future and invites the Government to establish with the Office a timetable in this regard.*

## Fiji

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2002)**

The Committee notes the comments submitted on 21 August 2013 by the International Trade Union Confederation (ITUC) concerning issues already being raised by the Committee.

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee takes due note of the debate which took place within the Conference Committee in June 2013 and the ensuing conclusions which were placed in a special paragraph of its report.

The Committee notes the recommendations made by the Committee on Freedom of Association (CFA) in the framework of Case No. 2723, as well as the related decisions adopted by the ILO Governing Body. The Committee also observes that a complaint under article 26 of the ILO Constitution alleging the non-observance of the Convention by Fiji, submitted by a number of Workers' delegates at the Conference, was declared receivable and remains pending before the Governing Body. **Noting with deep regret that the ILO direct contacts mission requested by the Governing Body and the ILO supervisory machinery has still not been able to carry out its mandate in the country, the Committee firmly expects that the mission will be able to take place prior to the March 2014 session of the Governing Body, with a view to assisting the Government and the social partners in finding appropriate solutions to all the outstanding matters raised by the ILO supervisory bodies.**

*Trade union rights and civil liberties.* **Concerning the allegations of physical attacks on several trade unionists, the Committee, while noting the information provided by the Government that neither the Police Department nor the Office of the Director of Public Prosecutions has received to date any complaint for the alleged physical assaults, requests the Government to conduct, regardless as to whether the victims have lodged a complaint, an independent investigation without delay into the alleged acts of assault, harassment and intimidation against Mr Felix Anthony, National Secretary of the Fiji Trades Union Congress (FTUC) and General Secretary of the Fiji Sugar and General Workers Union (FSGWU); Mr Mohammed Khalil, President of the FSGWU – Ba Branch; Mr Attar Singh, General Secretary of the Fiji Islands Council of Trade Unions; Mr Taniela Tabu, General Secretary of the Viti National Union of Taukei Workers; and Mr Anand Singh, lawyer; and to transmit detailed information with regard to the outcome of such inquiry and any measures taken as a result.**

With respect to the alleged arbitrary arrest and detention of trade unionists (Mr Anthony, Mr Daniel Urai and Mr Nitendra Goundar), while having previously noted that they had been released from custody, the Committee notes with **concern** the information provided by the ITUC that the two cases with criminal charges of unlawful assembly brought against Mr Urai (President of the FTUC) and Mr Goundar on the grounds of failure to observe the terms of the Public Emergency Regulations (PER) are still pending in court. **Considering that public authorities should not use legitimate trade union activities as a pretext for arbitrary arrest or detention or criminal charges, the Committee urges the Government to take the necessary measures to ensure that all charges brought against them in the framework of their trade union activities are immediately dropped.**

Furthermore, in regard to the restrictions of freedom of assembly and of expression, the Committee notes the Government's indication that, following the lifting of the PER and the suspension of the requirement for prior approval by the authorities to hold meetings (section 8 of the 2012 Public Order (Amendment) Decree (POAD)), trade unions under the Public Order Act are holding meetings in public places without the need to obtain a permit, with the exception of public roads, parks, gardens or sports arenas which still require authorization for logistical purposes. The Committee also notes the ITUC's concern that section 8 of the POAD, subsection 5 of which could potentially make it difficult for trade unions to hold public meetings, is likely to re-enter into force given the completion of the constitutional revision process. **Recalling the interdependence between trade union rights and civil liberties, including freedom of assembly, the Committee once again urges the Government to bring section 8 of the POAD into line with its stated commitments by fully repealing or amending this provision so as to ensure that the right to assembly is freely exercised. With regard to Mr Rajeshwar Singh, FTUC Assistant National Secretary, who had been suspended for having addressed trade unions abroad, the Committee again requests the Government to reinstate him in his position representing workers' interests on the Air Terminal Services Board.**

*Legislative issues.* The Committee recalls that the following provisions of the Essential National Industries Decree No. 35 of 2011 (ENID) are not in line with the Convention: section 6 (cancellation of all existing trade union registrations in "essential national industries"); section 7 (union officials must be employees of the company); sections 10–12 (unions must apply to the Prime Minister to qualify to be elected as bargaining unit representative; determination by the Prime Minister of composition and scope of bargaining unit for election purposes; conduct and supervision of elections by Registrar); section 14 (50 per cent plus one requirement for a union to be registered); section 24(4) (withdrawal of check-off facilities for workers in "essential national industries"); section 26 (lack of judicial recourse for rights disputes; compulsory arbitration by the Government of disputes beyond a certain financial threshold); and section 27 (serious restrictions of the right to strike).

The Committee notes with *concern* the Government's statement that the role of the tripartite Employment Relations Advisory Board (ERAB), which had agreed earlier to delete most of the provisions of the ENID identified by itself as offending, is only to advise the Minister of Labour, whereas the final decision on the ENID will subsequently be made at the political level by Cabinet. The Committee further notes with *concern* that, in the view of the ITUC, the Government is considering to expand the reach of the ENID to municipal councils and firefighters, and that there is a threat to extend it to the sugar sector if the workers make demands. **Noting that, according to the Constitution of Fiji passed on 6 September 2013, most legislation (including the ENID) will remain in force but may be amended by Parliament, the Committee urges the Government to take the necessary measures to amend the provisions of the ENID in the very near future, in full consultation with the social partners and in line with the measures agreed by the tripartite ERAB subcommittee, so as to bring it into conformity with the Convention. The Committee also requests the Government once again to make the necessary arrangements to ensure that the check-off facility is fully reactivated in the public sector and in the "essential national industries".**

With respect to the Employment Relations Promulgation of 2007 (ERP), the Committee recalls once again the necessity to amend the following provisions of the ERP in order to bring them into conformity with the Convention: section 3(2) (denial of right to organize to prison guards); section 125(1)(a) (excessively wide discretionary power of the Registrar in deciding whether or not a union meets the conditions for registration under the ERP); section 119(2) (imposition of one union per person policy to workers exercising more than one occupational activity); section 127 (obligation of union officials to be employees of the relevant industry, trade or occupation for a period of not less than six months and prohibition of non-citizens to be trade union officers); section 184 (interference in union by-laws); section 128 (excessive power of the Registrar to inspect union accounts at any time); section 175(3)(b) (excessively high strike ballot requirement); section 180 (responsibility for declaring a strike illegal does not lie with an independent body); sections 169, 170, 181(c) and 191(1)(c) (compulsory arbitration); and sections 250 and 256(a) (penalty of imprisonment in case of staging an unlawful strike).

The Committee notes the Government's indication that three ERAB subcommittee meetings were held in the first half of 2013, that the Labour Minister will take the final proposals to Cabinet after legal vetting by the Solicitor General against the Constitution before the end of 2013, and that the amendment process has been a priority and includes compliance matters raised by the ILO. **The Committee firmly expects that due account is being taken of its comments throughout the amendment process, with a view to bringing the ERP into full conformity with the Convention in the very near future. The Committee requests the Government to provide information on this issue in its next report, including on the recommendations made by the ERAB subcommittee and any responses to those recommendations from Cabinet or other government officials.**

As to the decrees relating to the public sector eliminating the access of public service workers to judicial or administrative review, the Committee notes from the information and documentation supplied by the Government that public servants can appeal administrative decisions affecting them individually through the internal grievance procedures available for the public service. While noting that, according to article 164 of the Constitution, the State Services Decree 2009 and the Administration of Justice Decree 2009 are repealed, the Committee notes with *regret* that sections 23 to 23D of the latter decree, which precisely eliminate the remedy of judicial review for public servants, shall continue in force (article 174). The Committee further notes from the High Court judgments supplied by the Government at the request of

the Committee that: (i) as regards jurisdiction, it was held on 23 March 2012 that section 23B of the Administration of Justice Decree did not preclude public servants from bringing to court a government decision to terminate their employment (*State v. Permanent Secretary for Works, Transport and Public Utilities ex parte Rusiate Tubunaruarua & Ors* HBJ 01 of 2012); but (ii) the case was dismissed on 22 April 2013 because alternative remedies (for example, internal grievance procedure) had not been used, and because the employment was governed by the Terms and Conditions of Employment for Government Wage Earners with remedies pertaining to private law, which meant that, although the appointing authority was a public body, the case was not susceptible to judicial review under public law (HBJ 02 of 2012). ***The Committee requests the Government to take all necessary measures to ensure that public servants have genuine and effective recourse to judicial review of any decisions or actions of government entities affecting their conditions of employment, especially as regards the exercise of their rights under the Convention, and to provide relevant statistics and information on the mechanisms available to address collective grievances. Moreover, the Committee once again requests the Government to indicate the results of the review by the ERAB subcommittee of all government decrees relating to the public service in terms of their conformity with the ILO fundamental Conventions.***

Lastly, the Committee notes with ***deep concern*** the new ITUC allegations, in particular that: (i) the rights relating to freedom of association enshrined in the new Constitution (articles 19 and 20) are subject to broad exceptions which could be invoked to undermine the underlying principles and justify the existing harmful decrees; (ii) under the Political Parties Decree, persons holding an office in any workers' or employers' organization are banned from membership or office in any political party and any political activity, including merely expressing support; and (iii) FSGWU members have been threatened and intimidated by the military and the management of the government-owned Fiji Sugar Corporation (FSC) before, during and after the holding of the strike ballot in July 2013. ***The Committee requests the Government to provide its observations on these serious allegations.***

*[The Government is asked to reply in detail to the present comments in 2014.]*

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

The Committee notes the comments submitted on 21 August 2013 by the International Trade Union Confederation concerning issues already being raised by the Committee. The Committee also notes the conclusions and recommendations made by the Committee on Freedom of Association in the framework of Case No. 2723, as well as the related decisions adopted by the Governing Body. ***Noting with deep regret that the ILO direct contacts mission requested by the Governing Body and the ILO supervisory machinery has still not been able to carry out its mandate in the country, the Committee firmly expects that the mission will be able to take place prior to the March 2014 session of the Governing Body, with a view to assisting the Government and the social partners in finding appropriate solutions to all the outstanding matters raised by the ILO supervisory bodies.***

***Article 1 of the Convention. Protection against acts of anti-union discrimination.*** With reference to the dispute in the Vatukoula Mining Company (concerning the refusal to recognize a union and the dismissal of striking workers 15 years ago), the Government indicates that the Vatukoula Social Assistance Trust Fund (VSATF) has been established, certain amounts of money granted and various types of assistance provided with regard to the redundant miners for the purpose of their relocation, small and micro-enterprise development and education for dependants. Referring to the Government's previous indication that the VSATF would benefit around 800 recipients, the Committee observes that the supplied list of beneficiaries only includes 67 persons. ***The Committee requests the Government to supply the final list of recipients and to continue to engage with the Fiji Mine Workers Union representatives with a view to the expeditious and effective implementation of a mutually satisfactory settlement for assistance to help the remaining workers re-establish themselves, in particular, by ensuring that they are adequately compensated via the VSATF in the very near future. It trusts that, after 23 years, this long-standing dispute which has caused great hardship to the dismissed workers will finally and equitably be resolved.***

***Article 4. Promotion of collective bargaining.*** The Committee recalls that several provisions of the Essential National Industries Decree 2011 (ENID) are not in line with the Convention:

- Section 2 (threshold of 75 workers to form bargaining units): The Committee notes the Government's indication that this provision ensures that workers performing similar types of work come together to enter into collective agreements; that workers still join unions in essential national industries; and that the freedom not to join should be respected. The Committee reiterates that a threshold of 75 workers to form bargaining units is excessive and denies the right to bargain collectively to a considerable number of workers in a given enterprise, especially in small enterprises. ***The Committee urges the Government once again to take the necessary measures without delay to amend the threshold.***
- Part 3 in conjunction with section 2 (role of both union delegates and elected workers' representatives as bargaining agents): ***In the absence of new elements of information, the Committee once again urges the Government to take the necessary measures without delay to apply the legislation so as to ensure that the existence of elected representatives is not used to undermine the position of the trade unions concerned.***

- Section 8 (annulment of collective agreements in force; new collective agreement may be imposed by company if negotiation exceeds 60 days): The Committee notes the Government’s indication that there is a right of appeal to the minister for a review of the contents of the imposed agreement. ***Considering that the abrogation of collective agreements, as well as any unilateral imposition of conditions of employment failing agreement, is contrary to the obligation to encourage and promote collective bargaining, the Committee again urges the Government to repeal this provision.***
- Section 23 (renegotiation of collective agreements in case of financial distress; intervention of the Prime Minister failing agreement): The Committee notes that, if the parties do not reach agreement during the renegotiation of the collective agreement, the employer may submit a proposal to the Prime Minister. The Committee notes the Government’s statement that the purpose is to ensure the long-term sustainability of industries vital to the economy, and that the provision applies only to employers with operating losses suffered for two consecutive years, or suffered or expected twice in a three-year-period. The Committee considers that certain limited restraints on collective bargaining could only be imposed within the context of a serious economic crisis as an exceptional measure, namely in cases of serious and insurmountable difficulty, for the preservation of jobs and the continuity of enterprises and institutions. In any event, the arbitration body should be independent and enjoy the confidence of the parties concerned. ***The Committee requests the Government to amend this provision so as to ensure the respect of these principles.***

The Committee notes the Government’s statement that the role of the tripartite Employment Relations Advisory Board (ERAB), which had agreed earlier to delete most of the abovementioned ENID provisions identified by itself as offending, is to advise the Minister of Labour, whereas the final decision on the ENID will subsequently be made at the political level by Cabinet. ***Noting that, according to the Constitution of Fiji passed on 6 September 2013, most legislation (including the ENID) will remain in force but may be amended by Parliament, the Committee urges the Government to take the necessary measures to amend the above provisions in the very near future, in full consultation with the social partners and in line with the measures agreed by the ERAB subcommittee, so as to bring it into conformity with the Convention.***

*Counter-Inflation (Remuneration) Act.* The Committee welcomes that, pursuant to section 160(1) of the Commerce Commission Decree 2010, the Counter-Inflation Act, including its section 10 (restriction or regulation of remuneration by order of the Prices and Incomes Boards; illegality of any agreement to the contrary), was repealed. ***The Committee notes, however, that according to section 162(1) of the Commerce Commission Decree, any orders made under the Counter-Inflation Act continue in force until replaced by subsidiary legislation made under the Decree. The Committee requests the Government to provide information as to whether any orders made under the Counter-Inflation Act allowing for restrictions to collective bargaining as regards remuneration remain in force, and whether any subsidiary legislation made under the Commerce Commission Decree is envisaged to be adopted.***

## Ghana

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

The Committee recalls that in its previous comments it requested the Government to reply to several comments by the International Trade Union Confederation (ITUC). ***The Committee requests the Government to conduct the necessary inquiries into the allegations of anti-union discrimination contained in these comments and, in all cases where they prove to be well founded, to ensure the application of sufficiently dissuasive sanctions. The Committee also once again requests the Government to reply to the comments of the ITUC concerning the 2008 decision of the Accra High Court that employers can dismiss workers without giving any reasons denouncing that some employers use this ruling to remove trade unionists from their enterprises.***

*Prison staff.* In its previous comments, the Committee requested the Government to take the necessary legislative measures to ensure that members of the prison service staff enjoy the right to organize and bargain collectively. The Committee notes from the Government’s report that appropriate action will be taken to bring the legislation in this area into line with the provisions of the Convention. ***Recalling once again that the Convention’s guarantees apply to prison service staff, the Committee hopes to be able to note tangible progress on this subject in the Government’s next report.***

*Collective bargaining certification.* The Committee previously noted that, under section 99(4) of the 2003 Labour Act, the Chief Labour Officer appeared to have full discretion to decide which trade union to grant recognition to, in situations where more than one trade union existed at the workplace, and that the criteria upon which this decision should be based were not specified. The Committee notes the Government’s indication that section 10.1 of the 2007 Labour Regulations provides that, in this situation, “the Chief Labour Officer shall invite the unions concerned to a meeting to determine the date, venue and the mode of the verification exercise to determine the union with the majority of votes to be issued with a Bargaining Certificate”. The Committee notes however that, according to the Labour Regulations available on the ILO NATLEX database, section 10.1 of the Regulations provides that “the Chief Labour Officer shall invite the unions to a meeting to undertake verification to determine which union represents the majority of the workers to be issued

with a bargaining certificate”. *The Committee requests the Government to take measures to ensure that the legislation clearly provides for an election with a view to determining the most representative union for the purposes of collective bargaining in the event of plurality of trade unions. The Committee requests the Government to provide information on any developments in this regard.*

## Greece

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

The Committee takes note of the Government’s report, as well as its replies to the previous comments made by the Hellenic Federation of Enterprises (SEV) and the World Federation of Trade Unions (WFTU), respectively. The Committee further notes the comments made by the International Trade Union Confederation (ITUC) in a communication dated 30 August 2013 and by the International Organisation of Employers (IOE) and the SEV in a communication dated 1 September 2013. *The Committee requests the Government to provide its observations on these latest comments with its next report.*

### **Follow-up to the conclusions of the Committee on the Application of Standards** (International Labour Conference, 102nd Session, June 2013)

In its previous comments, after having taken note of the latest laws setting out urgent provisions for reduction of public debt and recovery of the national economy and the impact that these had had on the existing industrial relations framework in the country, the Committee encouraged the Government and the social partners to rapidly re-engage in intensive social dialogue with a view to developing a comprehensive vision for labour relations in the country. The Committee further urged the creation of a space for the social partners that would enable them to be fully involved in the determination of any further alterations within the framework of the agreements with the European Commission, the International Monetary Fund and the European Central Bank that touched upon aspects which go to the heart of labour relations, social dialogue and social peace, and trusted that their views would be fully taken into account. The Committee notes in this regard the conclusions of the Conference Committee in June 2013 and the discussion that took place therein.

The Committee further notes with *interest* the Government’s indication that, since the ILC in June, there has been: a High-level Seminar “Tackling the jobs crisis in Greece: Which ways forward” and a “Workshop on Promoting Sound Industrial Relations and Social Dialogue in Times of Crisis” organized jointly with the ILO and the European Commission with the active participation of the Greek social partners and the Government; that the Minister of Labour stated that it is looking to the support and cooperation of the ILO for the upgrading and more effective functioning of social dialogue in critical fields; that a letter of intent has been signed whereby the Government invites the ILO to deliver support for the design, implementation and monitoring of the reforms in the field of social dialogue and labour inspection; and that a cooperation agreement, including social dialogue as one of the thematic areas, between the ILO and the Government with the assistance of the EU Task Force is currently under negotiation. *The Committee trusts that these developments will provide an important framework for consideration and debate by all the parties concerned in relation to the most effective system for industrial relations in the current context and requests the Government to indicate in its next report the progress made with respect to the above initiatives.*

*Article 4 of the Convention. Promotion of collective bargaining.* The Committee notes with *interest* the signing of the National General Labour Collective Agreement for the years 2012–13 by the Confederation of Greek Workers (GSEE), the General Confederation of Professionals, Craftsmen and Merchants (GSEVEE), the National Confederation of Greek Commerce (ESEE) and the Association of Greek Tourism Enterprises (SETE), which was submitted to the Ministry of Labour under Registration Deed No. 4/14-5-2013.

The Committee further notes that by virtue of Act No. 4093/2012, national collective labour agreements determine only the minimum non-wage terms of employment applying to the workers throughout the country. As for wage terms, the Act establishes a new system for determining the statutory minimum salary and daily wage for workers in the private sector, which shall enter into force after the fiscal adjustment programmes (i.e. not before 1 January 2017). The Committee further notes the Government’s indication that: the adoption of new mechanisms safeguards the role of the social partners both in developing proposals on the adoption of the minimum wage as well as in their ability to determine better terms and conditions of employment for the workers; the conduct of collective bargaining between the social partners and the conclusion of collective agreements at higher wage levels, as well as individual sector or enterprise level agreements, is allowed, promoted and enhanced; and the new system promotes the search for consensus and convergence, within a framework of responsibility and national consciousness, while taking into account the facts of the labour market, production and economy.

The Committee notes from the comments made by the IOE and the SEV that they recognize the introduction of a system whereby minimum wages will be regulated by administrative act. For all other non-wage issues, the SEV in particular indicates that it is strongly in favour of social dialogue in order to deal with the real problems employers and workers are facing under the current circumstances in the working places and refers to the launching of intensive social

dialogue on the formulation of a new model of a General National Labour Agreement coming into force on 1 January 2014.

*Enterprise level collective agreements and association of persons.* The Committee recalls its previous comments concerning Act No. 3845/2010 which provided that: “Professional and enterprise collective agreements’ clauses can (from now on) deviate from the relevant clauses of sectoral and general national agreements, as well as sectoral collective agreements’ clauses can deviate from the relevant clauses of national general collective agreements. All relevant details for the application of this provision can be defined by Ministerial Decision.” As regards the matter of the association of persons, the Committee had noted that Act No. 4024/2011 provides that, where there is no trade union in the company, an association of persons is competent to conclude a firm-level collective agreement. According to the Annual Report of the Labour Inspectorate, 22 firm-level agreements had then been concluded by associations of persons and 26 by trade unions from the period 27 October to 31 December 2011.

The Committee now observes from the latest statistics provided by the Government that national occupational collective agreements have gone down from 43 in 2008 to seven in 2012 whereas firm-level collective agreements have increased from 215 in 2008 to 975 in 2012 (706 signed by associations of persons and 269 signed by trade unions). Moreover, 701 of those agreements signed by associations of persons and 76 signed with trade unions have provided for wage cuts. Similarly, 313 enterprise level collective agreements have been signed in 2013 of which 178 have been signed by associations of persons (156 providing for wage cuts) and 135 signed by trade unions (42 providing for wage cuts).

The Committee previously expressed concern that, given the prevalence of small enterprises in the Greek labour market, the facilitation of association of persons combined with the abolition of the favourability principle set out first in Act No. 3845/2010 and given concrete application in Act No. 4024/2011, would have a severely detrimental impact upon the foundation of collective bargaining in the country. The Committee had therefore requested the Government to ensure that trade union sections could be formed in small enterprises in order to guarantee the possibility of collective bargaining through trade union organizations. ***The Committee, emphasizing that the Convention provides for the promotion of collective bargaining with workers’ organizations at all levels, including at the enterprise level, and taking due note of the above statistics which demonstrate a prevalence of collective agreements concluded by “associations of persons”, requests the Government to indicate the steps taken to ensure the full respect for the principle of collective bargaining with trade unions, as well as the steps taken to discuss with the social partners on the manner to ensure the possibility of trade union sections being formed in small enterprises.***

*The Workers’ Social Fund (OEE).* The Committee notes the detailed information provided by the Government with respect to the closing of the OEE. In particular, the Government refers to Act No. 4144/2013 “Combating delinquency in Social Security and the labour market and other provisions under the Competence of the Ministry of Labour, Social Security and Welfare”, whereby the Manpower Employment Organization (OAED) became the full successor of the OEE and the Workers’ Housing Organization (OEK). The Government specifically refers to the “Special Account for the implementation of Social Policies” (ELEKP), the revenues of which are to cover, inter alia, the expenses for any existing legal relationship of the OEE and the OEK, regular resourcing of the Organization for Mediation and Arbitration (OMED) and the National Institute of Labour and Human Resources (EIEAD), overall coverage for infrastructure, research institutes and training centres of the representative tertiary workers’ organizations signatories to the national general labour collective agreement and expenses for the intellectual, cultural and social development of the labour force, the implementation of projects on the housing protection and support for the collective organization and action of the labour force with a view to improving their living standards. A tripartite committee of the ELEKP gives opinion to the administrative board of the OAED on the way the accounts should be allocated.

As regards the concerns raised in relation to the social tourism programmes and the funding of trade unions previously met by the OEE, the Government refers to Joint Ministerial Decision No. 25192/229 of 25 July 2013 entitled “Preparation of a subsidization programme for the holidays of workers, unemployed persons and of their families by means of social tourism vouchers” and Joint Ministerial Decision No. 24459/220 of 19 July 2013 entitled “Coverage for trade unions and the labour institute of the GSEE”, which subsidizes operating costs, payroll expenses, expenses for conferences and seminars and the development of international relations of the GSEE and the secondary trade unions.

***Articles 1 and 3. Protection against anti-union dismissal. The Committee once again requests the Government to provide its observations on the comments made by the GSEE relating to the vulnerability of workers to anti-union dismissal within the framework of the introduction of flexible forms of work, and to include comparative statistics relating to complaints of anti-union discrimination and any remedial action taken, with its next report.***

## Guatemala

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

#### **Complaint under article 26 of the ILO Constitution concerning non-observance with the Convention (essentially referring to serious acts of anti-union violence and legal provisions that are incompatible with the requirements of the Convention)**

The Committee notes that, following the lodging of the complaint, a Memorandum of Understanding (MoU) was concluded on 26 March 2013 between the Government of Guatemala and the Chairperson of the Workers' group of the ILO Governing Body. The Committee notes that, under the terms of the MoU, the Government undertakes, among other steps, to take the necessary measures to: (i) determine responsibilities and penalize the perpetrators and instigators of the murders of trade unionists; (ii) provide effective protection to trade union leaders and members against violence and threats; (iii) promote raised awareness and the reconciliation of the social actors within the context of freedom of association and collective bargaining; and (iv) amend the legislation to give effect to the comments of the Committee concerning the Convention.

The Committee also notes that, following the conclusion of the MoU, a Special Representative of the Director-General of the ILO assumed office in the country in July 2013. In addition, with a view to evaluating progress in the application of the MoU, an ILO high-level tripartite mission (hereinafter, the mission) visited Guatemala from 23 to 27 September 2013 and submitted its conclusions to the Governing Body at its 319th Session (October 2013). The Committee notes that, following the mission, a "roadmap" was adopted with tripartite support in which specific timelines were established to facilitate the implementation of the MoU. Taking this information into account, the Governing Body has postponed the decision to establish a Commission of Inquiry until its 320th Session (March 2014).

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee notes the discussion on the application of the Convention held by the Conference Committee on the Application of Standards in June 2013. The Committee notes that in its conclusions the Conference Committee emphasized the urgency of the full implementation of the MoU and made specific recommendations identified at appropriate places in this observation.

*Comments from workers' and employers' organizations.* The Committee notes the comments of the International Trade Union Confederation (ITUC), the General Confederation of Workers of Guatemala (CGTG), both dated 30 August 2013, and the Indigenous and Rural Workers Trade Union Movement of Guatemala (MSICG), dated 3 September 2013, which refer in particular to extremely serious acts of violence affecting the trade union movement.

The Committee also notes the comments of the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), dated 28 August 2013, expressing concern at the climate of violence affecting the country, but assessing positively the measures taken by the Office of the Public Prosecutor, the Government and the judicial authorities in this respect. The CACIF adds that ways are being found to resolve the lack of conformity between national law and practice, on the one hand, and the content of the Convention, on the other.

*Trade union rights and civil liberties.* The Committee *regrets* that for several years it has, like the Committee on Freedom of Association, been examining allegations of serious acts of violence against trade union leaders and members and the related situation of impunity. The Committee notes that, in the context of Cases Nos 2445, 2540, 2609 and 2768, the Committee on Freedom of Association has noted with increasing concern that the allegations are extremely serious and include many murders (58 to date since 2004) and acts of violence against trade union leaders and members, in a climate of total impunity.

The Committee notes with *deep concern* the comments of the ITUC, the Autonomous Popular Trade Union Movement of Guatemala, the Coordination of Global Trade Unions and the MSICG alleging further murders of trade union leaders and members since the beginning of 2013 (the number of which is reported to be between two and nine) and the persistence of the situation of impunity. The Committee also notes that during the discussion in the Conference Committee on the Application of Standards information was provided concerning the murder of seven trade union leaders and members since the beginning of the year. The Committee notes that the Conference Committee, in its conclusions, expressed regret at these new allegations and urged the Government to continue taking the steps necessary to provide protection for trade union leaders and members under threat and to bring an end to impunity.

The Committee notes the following information provided by the Government in its report and gathered during the mission's visit:

- of the total of the 58 murders of trade union leaders and members denounced to the CFA, 28 have been referred to the criminal courts (verdicts have been issued in five cases, with one conviction to a sentence; in 13 cases arrest warrants have or will shortly be issued; in six cases, an indictment has been issued or the trial is awaited; and in four cases the penal responsibility expired due to the death of the accused); in another 21 cases the investigation is closed, while for the last nine cases investigations are continuing;

- the Office of the Public Prosecutor considers that of the 58 murders denounced to the CFA, 16 victims were trade union leaders and 14 were trade union members, while there was no evidence in the remaining cases that the victims were members of any trade union organization. In addition, the Office of the Public Prosecutor considers that two of the murders were clearly related to the trade union activities of the victims, but that in the majority of the cases the murders were related to common criminality;
- on 24 September 2013, a collaboration agreement was concluded between the Office of the Public Prosecutor and the International Commission against Impunity in Guatemala (CICIG) with a view to strengthening the capacities of the Office of the Public Prosecutor for the analysis and investigation of cases of violence against trade union leaders and members. The CICIG informed the mission that 22 of the 58 murders referred to above were forwarded to it for an analysis of the investigations carried out up to now and, where appropriate, for recommendations to be made to the Office of the Public Prosecutor on any additional investigations that might be necessary;
- the Office of the Public Prosecutor signed an agreement on 30 August 2013 with the Autonomous Popular Trade Union Movement of Guatemala and the Coordination of Global Trade Unions in Guatemala formalizing the trade union working group of the Office of the Public Prosecutor, which is dedicated to investigations relating to acts of violence against trade union leaders and members;
- training activities for investigators and prosecutors of the Office of the Public Prosecutor on international labour standards are continuing; and
- the Standing Technical Trade Union Committee on Comprehensive Protection, which is composed of the authorities of the Ministry of the Interior and the trade union organizations referred to above and is dedicated to preventing crimes against trade union leaders and members and addressing specific acts of violence affecting the trade union movement, is operating regularly with monthly meetings. The Ministry of the Interior has provided in recent months various protection measures for members of the trade union movement in jeopardy.

The Committee also notes that the Autonomous Popular Trade Union Movement of Guatemala and the Coordination of Global Trade Unions in Guatemala made the following comments to the mission: (i) despite the measures adopted by the authorities, there has only been one conviction and the investigations have been closed in a large number of cases; (ii) the trade unions do not share the opinion expressed by the Office of the Public Prosecutor that the murders of trade unionists were crimes of passion or of common criminality; (iii) the protection measures to guarantee the safety of trade union leaders and members are inadequate or non-existent; (iv) the murders of trade union leaders and members committed in 2011, 2012 and 2013 should be included in current investigations; and (v) the measures adopted by the authorities lack the support of a state policy aimed at the respect of freedom of association.

The Committee finally notes the following conclusions of the mission relating to acts of violence against the trade union movement:

- “The mission observed that the measures taken ... could be conducive to expediting and completing the investigations. However, the mission regretted that these measures had not, in the great majority of cases, yet led to the determination of responsibilities, the prosecution or sanctioning of the perpetrators.” ... “The mission hoped that the re-examination of these cases by the CICIG would provide the reassurance needed to clarify the motives of these murders and to combat impunity. The mission encouraged the intensification of the efforts in this respect and expressed the firm hope that additional resources would be provided to the Office of the Public Prosecutor, particularly to the special unit dealing with crimes against trade unionists.” ... “The mission noted with concern the information it received of the recent murder of trade unionists who had requested protection but had not received it.” ... “The mission considered that the protection measures urgently needed to be strengthened and adequately resourced and that these actions should be included in a national policy to combat anti-union discrimination and the promotion of freedom of association. The policy should be developed in close consultation with the social partners.”

***The Committee notes with deep concern the new allegations of murders of trade union leaders and members and other acts of violence against the trade union movement which are reported to have occurred in 2013. While noting certain initiatives taken by the Government and the Office of the Public Prosecutor to accelerate investigations into murders of trade union leaders and members, the Committee urges the Government, in accordance with the conclusions of the mission, to take as a matter of urgency, and in the framework of the “roadmap” referred to above, all the necessary action to: (i) finalize the investigations that are currently being conducted; (ii) investigate all acts of violence against trade union leaders and members, including those denounced in 2013, with a view to identifying responsibilities and punishing those who are guilty, taking fully into consideration in the investigations the trade union activities of the victims; (iii) provide rapid and effective protection to trade union leaders and members who are at risk; and (iv) pursue a national policy of promoting respect for freedom of association. The Committee requests the Government to provide information in its next report on all the measures adopted and the results achieved in this respect.***

*Legislative issues.* The Committee recalls that for many years it has been requesting the Government to take measures to amend the following legislative provisions:

- section 215(c) of the Labour Code establishing the requirement for 50 per cent plus one of those working in the occupation, in order to be able to establish industry trade unions;
- sections 220 and 223 of the Labour Code, which establish the requirement to be of Guatemalan origin and to work in the relevant enterprise or economic activity, to be able to be elected as a trade union leader;
- section 241 of the Labour Code, under the terms of which strikes are not called by the majority of those casting votes, but by a majority of the workers; section 4(d), (e) and (g) of Decree No. 71-86, as amended by Legislative Decree No. 35-96 of 27 March 1996, which provides for the possibility of imposing compulsory arbitration in services which are not essential, and other obstacles to the right to strike; and sections 390(2) and 430 of the Penal Code and Decree No. 71-86, which establish labour, civil and penal sanctions in the event of a strike by public officials and workers in certain enterprises.

In addition, the Committee has been requesting the Government for many years to take measures to ensure that various categories of public sector workers (engaged under item 029 and others of the budget) finally enjoy the guarantees afforded by the Convention. (In its previous comments, the Committee noted rulings in this respect. However, problems continue to arise in practice as the criteria set out in case law have not been transposed into legal texts.)

The Committee notes that the high-level tripartite mission indicated the following:

The mission regretted that to date no progress had been made in this regard. The mission recalled that ... it was the responsibility of the Executive Branch, in consultation with the social partners, to bring to the attention of the legislature the Bills requiring decision, and the responsibility of the legislator to adopt the necessary legislative reforms; ... the mission called for urgent action to bring the national legislation into conformity with Convention No. 87.

The Committee notes that in the “roadmap” the Government undertakes to submit to the Tripartite Commission on International Labour Affairs the necessary draft legislative reforms within 60 days and that the Congress of the Republic will adopt the corresponding legislation within 120 days. ***Taking this information into account, the Committee firmly hopes that all the necessary measures will be taken to bring the legislation into conformity with the Convention and that the Government will provide information on this matter in its next report. The Committee recalls that the Government may have recourse to the technical assistance of the Office if it so wishes, which may include training and awareness-raising activities on international labour standards for the legislature.***

*Registration of trade unions.* The Committee notes that the Government informed the mission of the accelerated operation of the system for the registration of trade unions, with the average period required having fallen from seven months to one month. However, the Committee also notes the information provided by various trade unions to the mission and various new cases submitted to the CFA concerning obstacles to the registration of trade unions. ***In this regard, while noting the progress reported by the Government, the Committee requests it to review, within the framework of the Tripartite Commission, the specific cases mentioned by trade unions with a view to ensuring that the problems are resolved rapidly.***

*The maquila sector.* The Committee recalls that for some years it has been noting the comments of trade unions concerning serious problems of application of the Convention in relation to trade union rights in the *maquila* sector. The Committee notes the Government’s indication concerning the significant increase in labour inspections in the this sector. ***While noting this information, the Committee requests the Government to continue taking all measures in its power to ensure full respect for trade union rights in the maquila sector. The Committee invites the Government, in the context of the awareness-raising campaign that it has undertaken to conduct, to give special attention to this sector. The Committee also once again requests the Government to continue providing information on the exercise in practice of trade union rights in the maquila sector (the number of active trade unions, number of members, the number of collective agreements and their coverage, complaints of violations of trade union rights and the decisions taken by the authorities, and the number of inspections).***

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Guyana

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (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 referred to the recognition of only those unions claiming 40 per cent support of the workers, as set out in the Trade Union Recognition Act. The Committee takes note of the Government’s statement that, at the request of the Trades Union Congress, the Trade Union Recognition Act provided for the recognition of unions that were recognized prior to the Act without having to prove that they had majority support (section 32). All unions benefited from this provision which the Government says is no longer applicable as all certificates applicable under this section have been issued. Given that the representativeness of unions might change, the Committee recalls once again that, if no union covers more than 40 per cent of the workers in the bargaining unit, collective bargaining rights should be granted to all the unions in the unit, at

least on behalf of their members (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 241). *The Committee hopes that significant progress respecting this issue will be made in the near future and requests the Government to provide information on the results of the consultative process.*

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

## Honduras

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

*Comments by workers' organizations.* The Committee notes the Government's reply to the comments of the International Trade Union Confederation (ITUC) dated 30 August 2013, which refer to pending legislative issues and allegations concerning:

- (i) anti-union action in various enterprises in the country. In this respect, the Government indicates that in one of the cases denounced, the regional labour office did not find any threat or harassment of the members of the union, while in another case the labour inspectorate reported the illegal dismissal of members of the union, and the administrative procedure for the imposition of the corresponding fines is being applied;
- (ii) violation of collective agreements. In this regard, the Government indicates that the Regional Labour Office of San Pedro Sula notified the enterprise of the violations identified and that the procedure for the application of the penalty is ongoing;
- (iii) obstacles to collective bargaining. With regard to the case referred to by the ITUC, the Government indicates that the negotiation is at the mediation stage with a facilitator from the Secretariat of Labour and Social Security.

### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee notes the discussion on the application of the Convention by the Committee on the Application of Standards at the Conference in June 2013, in which emphasis was placed on the importance of the draft legislative reforms presented by the Government being subject to consultation with the social partners and being submitted in the near future to the legislative authorities, and during which the Government was requested to accept a direct contacts mission to ensure the full application of the Convention in law and practice. The Committee notes that the Government accepted the organization of the mission, which is planned from 21 to 25 April 2014.

*Legislative matters. Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and interference.* The Committee recalls that for many years its comments have referred to:

- The lack of adequate protection against acts of anti-union discrimination, since the penalties provided for in section 469 of the Labour Code are obviously insufficient and merely symbolic. The Committee notes the proposed amendment to section 469 presented by the Government, under the terms of which acts which violate the right to freedom of association would be punished by a fine of between five and 20 minimum wages, increased by 50 per cent in the event of repeated offences. *The Committee expresses the firm hope that the direct contacts mission will be able to note tangible progress in the adoption of this amendment.* Furthermore, the Committee recalls that in its previous comments it requested the Government to indicate specific cases in which section 321 of Decree No. 191-96 of 31 October 1996 (establishing penal sanctions for discrimination) has been applied in cases of anti-union discrimination. The Committee notes the Government's indication in its report that since 2010 the Office of the Public Prosecutor has not received any complaints concerning the offence of discrimination against trade unions, but that over the same period the National Human Rights Commissioner (CNDH) examined 11 complaints of anti-union discrimination. *The Committee requests the Government to continue providing information in its next report on the number of complaints of anti-union discrimination received by the Office of the Public Prosecutor, the CNDH and the labour inspectorate, and the outcome of the respective procedures.*
- The absence of full and adequate protection against any acts of interference, and sufficiently effective and dissuasive penalties against such acts. The Committee notes the proposed amendment to section 511 of the Labour Code, presented by the Government under the terms of which a list is established of persons who, in view of their links to the employer, cannot have access to trade union functions, with the election of such persons being declared void and a penalty for interference by employers being established in such cases of between five and 20 minimum wages. The Committee recalls that, under the terms of *Article 2* of the Convention, remedies and penalties against acts of interference by employers with workers' organizations have to include acts 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 objective of placing such organizations under the control of employers or employers' organizations. *In this respect, the Committee observes that the proposed amendment to section 511 only addresses a part of the acts of interference envisaged in Article 2 of the Convention and once again requests the Government, in consultation with the social partners, to take the necessary measures to amend the legislation with a view to covering all the acts of interference envisaged in the Convention.*

*Article 6. Right of collective bargaining of public servants not engaged in the administration of the State.* In its previous comments, with a view to ensuring that public employees who are not engaged in the administration of the State benefit from the guarantees afforded by the Convention, the Committee requested the Government to take the necessary measures to amend sections 534 and 536 of the Labour Code, which provide that unions of public employees may not submit lists of claims or conclude collective agreements. The Committee notes the proposed amendments to these sections presented by the Government under which unions of public employees would be able to submit lists of claims, and unions of public officials would have the same functions as other workers' unions and their lists of claims would be dealt with in the same way as those of other workers, even when they cannot call or carry out a strike. ***The Committee expresses the firm hope that consultations on this proposed amendment will be held with the social partners and that the direct contacts mission will be able to note tangible progress in the reform of the legislation to the effect that public servants who are not engaged in the administration of the State, whether they are public employees or public officials, are able to benefit from the right to collective bargaining.***

*Adoption of the Basic Act on Employment and Economic Development Zones (ZEDE).* The Committee notes the Basic Act on ZEDs (Decree No. 120-2013 of 12 June 2013), under the terms of which ZEDs are authorized to adopt their own policies and standards (section 1) and will have autonomous and independent tribunals with exclusive competence in ZEDs (section 3). It also notes section 35 of the Act, under which ZEDs are required to guarantee the labour rights of workers within the parameters established by international treaties on labour matters concluded by Honduras, as well as the provisions adopted by international organizations, such as the International Labour Organization (ILO). The Committee further notes that ZEDs are authorized to adopt their own standards to guarantee labour protection and freedom of association (section 33), and that they are required to use mediation, conciliation and arbitration for the peaceful settlement of labour disputes (section 35). ***With a view to ensuring that the provisions of the Convention are applied effectively throughout the country, the Committee requests the Government to provide information in its next report on the standards adopted by ZEDs respecting the right to organize and collective bargaining.***

## Kiribati

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)**

The Committee recalls that it has been commenting upon the need to modify a number of provisions of the Trade Unions and Employer Organisations Act (TEA) and the Industrial Relations Code (IRC) concerning the minimum membership requirement, the right of public employees to establish and join organizations of their own choosing, the right of organizations to elect their representatives freely and organize their activities and the dispute resolution procedure, so as to bring them into conformity with the Convention. The Committee notes that the Government has requested the International Labour Office to conduct a technical review of the Draft Employment and Industrial Relations Code 2013 (draft 2013 Code), and that the Office's comments have been transmitted to the Government. ***Welcoming that certain matters have been addressed in the draft 2013 Code and noting the Government's indication in its report that the labour law reforms are currently being considered by the Decent Work Agenda Steering Committee, the Committee expects that all its comments, as elaborated upon in detail in its direct request, will be fully taken into account in the process and requests the Government to provide information in its next report on any developments as regards the adoption of this draft legislation.***

The Committee is raising other points in a request addressed directly to the Government.

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)**

The Committee notes that the Government has requested the International Labour Office to conduct a technical review of the Draft Employment and Industrial Relations Code 2013 (draft 2013 Code), and that the Office's comments have been transmitted to the Government. ***Noting the Government's indication in its report that the labour law reforms are currently being considered by the Decent Work Agenda Steering Committee (DWASC), the Committee expects that all comments will be fully taken into account in the process and requests the Government to provide information in its next report on any developments as regards the adoption of this draft legislation.***

*Scope of application of the Convention.* In its previous comments, the Committee noted that section 3 of the Industrial Relations Code excludes prison officers from the application of the provision concerning collective labour disputes and reminded the Government that prison officers should enjoy the rights and guarantees enshrined in the Convention. The Committee welcomes the Government's indication that, taking into account the concerns expressed during the recent tripartite consultations concerning the Committee's previous comments, prison services will, under the current labour law reforms, be defined as "essential services", but prison officers will have access to the dispute resolution mechanism (including collective bargaining). Indeed, the Committee welcomes that the draft 2013 Code does not explicitly exclude prison officers from the provisions concerning collective labour disputes.

*Articles 1 and 3 of the Convention. Effective protection against discrimination.* In its previous comments, the Committee requested the Government to take measures so that the legislation establishes sufficiently dissuasive sanctions against acts of discrimination. The Committee notes the Government's indication that the DWASC agreed to address this concern as part of the current labour law reform process. However, the Committee notes that, while the draft 2013 Code prohibits termination or discrimination in employment for anti-union reasons, no specific sanctions are imposed in case of infringement of this provision. ***The Committee requests the Government to indicate in its next report the measures taken to review the provisions of the draft 2013 Code, so that sufficiently dissuasive sanctions are imposed where a worker is dismissed or otherwise prejudiced due to union membership or participation in legitimate union activities.***

*Articles 2 and 3. Effective protection against anti-union interference.* In its previous comments, the Committee noted that, in the national legislation, no specific legal provisions dealt with the issue of anti-union interference. The DWASC, while expressing concern that the financial support usually provided by the Government (employer) to the nurses and teachers unions during their respective national days may be considered as an act of interference under the Convention, agreed to address the matter in the next possible amendment. The Committee welcomes that section 22(1) of the draft 2013 Code prohibits interference by a union or employers' organization in the establishment or functioning of a union or employers' organization. It notes, however, that neither are efficient procedures established nor specific sanctions imposed in case of infringement of this provision. ***The Committee requests the Government to indicate in its next report the measures taken to review the provisions of the draft 2013 Code, so that the prohibition of anti-union interference is extended to employers and that sufficiently dissuasive sanctions and rapid procedures are established for such acts.***

*Article 4. Right to collective bargaining.* The Committee had previously noted that there is no legislative recognition of the right to engage in collective bargaining and no provisions which guarantee this right to federations and confederations. The Committee notes that: (i) section 41 of the IRC as amended in 2008 has recognized the right to collective bargaining of every trade union or group of trade unions, including public servants under the National Conditions of Service; (ii) the Government states that it will need time to effectively implement this right since collective bargaining has just recently been introduced in Kiribati; and (iii) further procedural requirements to support the effective exercise of the right to collective bargaining will be included as part of the labour law reform process. The Committee observes that, while, under section 70 of the draft 2013 Code, federations and confederations are entitled to bargain collectively, sections 4 (definition of collective agreement) and 74 (initiation of collective bargaining) only refer to employers or employers' organizations and unions. ***The Committee trusts that the provisions of the draft 2013 Code will be reviewed so as to guarantee consistently throughout the Code the possibility of federations and confederations to engage in collective bargaining at levels higher than enterprise level.***

## Malta

### ***Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1965)***

The Committee notes with *regret* that the Government's report does not reply to its previous comments. It must therefore repeat its previous observation which read as follows:

*Article 1 of the Convention.* The Committee recalls that it had previously requested the Government to indicate the procedures applicable for the examination of allegations of anti-union dismissals by public officers, portworkers and public transport workers given that those categories are excluded from the jurisdiction of the industrial tribunal pursuant to section 75(1) of the Employment and Industrial Relations Act 2002 (EIRA). The Committee had noted from the Government's report that public officers have the right to appeal to the Public Service Commission, an independent body (the members are appointed by the President of Malta acting on the advice of the Prime Minister given after a consultation with the Leader of the Opposition and they cannot be removed except for inability or misbehaviour causes) established under section 109 of the Constitution of Malta. The Committee also notes from the Government's report that the Public Service Commission's primary role is to ensure that disciplinary action taken against public officers is fair, prompt and effective. ***The Committee requests the Government to indicate, with regard to cases of anti-union dismissal, whether the Public Service Commission is empowered to grant such compensatory relief – including reinstatement and back pay awards – as to constitute sufficiently dissuasive sanctions against acts of anti-union discrimination. The Committee also once again requests the Government to indicate the procedures applicable for the examination of allegations of anti-union dismissals of portworkers and public transport workers.***

*Articles 2 and 3. Protection against acts of interference.* The Committee recalls that it had previously requested the Government to indicate the measures taken or contemplated so as to introduce in the legislation an explicit prohibition of acts of interference, as well as sufficiently dissuasive sanctions against such acts given that the EIRA does not expressly protect employers' and workers' organizations from acts of interference by one another, in each other's affairs. ***The Committee once again requests the Government to indicate in its next report, the measures taken or contemplated so as to introduce in the legislation an explicit prohibition of acts of interference, as well as sufficiently dissuasive sanctions against such acts.***

*Article 4. Collective bargaining.* The Committee recalls that it had previously requested the Government to indicate the measures taken or contemplated with a view to amending section 6 of the National Holidays and Other Public Holidays Act, so as to ensure that this provision: (i) does not render automatically null and void any provisions in existing collective agreements which grant workers the right to recover public holidays falling on a Saturday or Sunday; and (ii) does not preclude voluntary negotiations in the future over the issue of granting workers the right to recover national or public holidays which fall on a Saturday or Sunday on the basis of a collective agreement (see 342nd Report of the Committee on Freedom of Association, Case No. 2447, paragraph 752). ***The Committee once again requests the Government to indicate the measures taken or contemplated with a view to amending section 6 of the National Holidays and Other Public Holidays Act.***

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

## Sao Tome and Principe

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

*Article 3 of the Convention.* *Rights of organizations to organize their activities and to formulate their programmes.* The Committee recalls that for several years, it has been requesting the Government to take measures to amend various provisions of Act No. 4/92 and Act No. 4-2002, which relate to various obstacles concerning the exercise of the right to strike, with a view to bringing them into conformity with the Convention (see the Committee's last observation, published in 2013). The Committee notes that in its report the Government confines itself to providing the text of Act No. 4/92. ***Under these circumstances, the Committee requests the Government to take measures to revise, in consultation with the social partners and, if it so wishes, with the technical assistance of the Office, the legislative provisions referred to in several previous observations, and to provide information in its next report on any measures adopted in this respect.***

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

*Articles 1 and 2 of the Convention.* In its previous comment the Committee asked the Government to indicate what sanctions may be imposed against acts of discrimination that undermine freedom of association and acts of interference by employers and their organizations in workers' organizations and vice versa. The Committee noted the Government's indication that there is no legislation that lays down penalties for acts of anti-union discrimination. ***The Committee therefore requests the Government once again to take the necessary steps to adopt appropriate legislation which imposes sufficiently effective and dissuasive sanctions against acts of anti-union discrimination and acts of interference committed by employers against trade union organizations, in conformity with the provisions of the Convention. The Committee requests the Government to indicate whether specific legal protection exists for trade union members should they be subjected to acts of anti-union discrimination on the basis of their participation in legitimate trade union activities.***

*Article 4.* The Committee notes the Government's statement concerning the adoption of a new Constitution, a copy of which will be sent to the Office. The Committee observes that the right to collective bargaining is recognized in Act No. 5/92 of 28 May 1992 concerning trade unions but is not itself governed by legislation. The Committee also noted the Government's statement that collective bargaining does not apply to the public service. The Committee noted the Government's indication in various reports on the bill concerning the legal framework of collective bargaining that this bill has still not been adopted. In these circumstances, the Committee reiterates the importance of the bill being adopted as soon as possible and of the right to collective negotiation of their conditions of work and employment being secured to all workers in the public and private sectors, including public servants. ***The Committee requests the Government to indicate the progress of the legislative procedures relating to the adoption of the bill and to take all possible steps to ensure its adoption in the very near future, in consultation with the most representative organizations of employers and workers.***

*Application in practice.* Finally, the Committee noted the Government's statement that no collective agreements currently exist in the country owing to geographical factors. ***The Committee requests the Government to avail itself of technical assistance from the ILO to resolve this major issue.***

The Committee noted that, according to the Government, the Labour Directorate of the Ministry of Labour might act as an intermediary between the parties to collective bargaining, including in order to ensure the effectiveness of the agreement. ***The Committee requests the Government to provide further information on the role of the Labour Directorate in the collective bargaining process.***

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

## Sierra Leone

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1961)**

The Committee notes the allegations of the International Trade Union Confederation (ITUC) in 2013 concerning restrictions to collective bargaining in the mining sector. ***It requests the Government to provide its observations thereon.***

The Committee notes with **regret** that the Government's report does not reply specifically to its previous comments. It must therefore repeat its previous observation which read as follows:

*Articles 1 and 2 of the Convention.* *Need to adopt specific provisions accompanied by sufficiently effective and dissuasive sanctions for the protection of workers and workers' organizations against acts of anti-union discrimination and acts of interference.* The Committee had previously noted that the revision of the labour laws, prepared with ILO technical assistance, had already been submitted to tripartite meetings, that the comments of the tripartite body had been received and that the document had just been forwarded to the Law Officers' Department. The Committee had asked the Government to keep it informed of any further progress made in the preparation of the final draft document and to provide a copy of the revised legislation as soon as it had been adopted. ***Noting that, according to the information previously sent by the Government, the revision of the labour laws was submitted to the Law Officers' Department in 1995, the Committee requests the Government once again to make every effort to take the necessary action for the adoption of the new legislation in the very near future and to indicate the progress made in this regard.***

*Article 4.* ***The Committee requests the Government to provide detailed information on the collective agreements in force in the education sector and in other sectors.***

*The Committee therefore requests the Government to furnish a detailed report on the application of the Convention, accompanied by copies of any legal texts concerning freedom of association adopted since 1992 (year of a draft Industrial Relations Act).*

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

## Sudan

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)**

The Committee takes note of the Government's reply to the comments made by the International Trade Union Confederation (ITUC) on the situation of workers in the petroleum sector and notes in particular the information that collective agreements having been concluded, these workers enjoy the best conditions of employment.

*Article 4 of the Convention. Compulsory arbitration.* In its previous comments, pointing out that recourse to compulsory arbitration to bring an end to a collective labour dispute and a strike is only acceptable under certain circumstances, namely: (i) when the two parties to the dispute so agree; or (ii) where the right to strike may be restricted or even prohibited, namely: (a) in the case of public servants exercising authority in the name of the State or (b) in disputes in essential services in the strict sense of the term; and (iii) in situations of acute national or local crisis, but only for a limited period of time and to the extent necessary to meet the requirements of the situation, the Committee asked the Government to take the necessary steps to amend section 112 of the Labour Code of 1997, which provides for recourse to compulsory arbitration. The Committee noted the Government's statement that a new Labour Code was in preparation. It notes that, in its report, the Government indicates that the draft new Labour Code is still under examination and will be sent to the ILO as soon as it has been approved, and requests information on the meaning of "essential services". The Committee reminds the Government that essential services are services the interruption of which would endanger the life, personal safety or health of the whole or part of the population, and that the concept is not absolute in nature in so far as a non-essential service may become essential if the strike exceeds a certain duration, or according to the special characteristics of a country (see General Survey on the fundamental Conventions, 2012, paragraph 131). *The Committee hopes that the new Labour Code will take into account the abovementioned principles, and requests the Government to provide in its next report information on all progress made in this regard.*

*Collective bargaining in practice.* In its previous comments, the Committee requested the Government to continue to provide information on the application in practice of the right to collective bargaining, including the number of collective agreements in existence and the number of sectors and workers covered, and on the manner in which the authorities promote the exercise of this right. The Committee notes, that according to the Government, a tripartite committee oversees compliance with collective agreements and examines the financial difficulties employers meet in respecting them, and also reviews minimum wages in insolvent enterprises or companies where payment is suspended while satisfactory solutions are found. *The Committee requests the Government to provide in its next report statistical information on the number of collective agreements in existence, and the sectors and workers covered.*

*Trade union rights in export processing zones (EPZs).* The Committee reminds the Government that it requested it to take the necessary steps to ensure that all workers employed in EPZs and in Port Sudan are able to enjoy the rights enshrined in the Convention. The Committee notes that, according to the Government, workers employed in loading and unloading in the EPZs and in Port Sudan enjoy all trade union rights. *The Committee requests the Government to ensure that all workers employed in the EPZs and Port Sudan, and not only those employed in loading and unloading, enjoy the rights laid down in the Convention.*

Lastly, the Committee observes that the Trade Unions Act of 2010 contains a number of provisions that are not consistent with the principles of freedom of association (for example the imposition of trade union monopoly at federation level; the ban on joining more than one trade union organization; the need for approval from the national federation in order for federations or unions to join a local, regional or international federation; interference in the finances of organizations). *The Committee invites the Government, in full consultation with the organizations of workers and employers, and with technical assistance from the Office should it so wish, to take steps to bring the Trade Unions Act of 2010 into line with the principles of freedom of association.*

## Swaziland

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

*Comments from employers' and workers' organizations.* The Committee notes the 2013 comments made by the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC) concerning issues already under examination as well as allegations of continued restrictions of trade union activities in practice. The Committee takes note in particular of the ITUC's denunciation of the refusal of the Government to register the Amalgamated Trade Union of Swaziland (ATUSWA) in September 2013, the shutdown by the police of a Global Inquiry

Panel held in September 2013 and the brief detention of some of its participants. *Noting the seriousness of these latest allegations, the Committee urges the Government to provide its observations thereon.*

### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee notes the discussion which took place in the Conference Committee in June 2013. The Committee observes that the Conference Committee took note of the Government's statement that all pending legislative issues would be attended to within the framework of the relevant tripartite institutions as a matter of urgency. Furthermore, the Conference Committee observed, in its conclusions, the grave issue concerning the revocation of the registration of the voluntarily unified Trade Union Congress of Swaziland (TUCOSWA) in April 2012, strongly urged the Government to immediately take the necessary steps to ensure that the social partners' views were duly taken into account in the finalization of the Industrial Relations Amendment Bill, and expected that this action would enable all the social partners in the country to be recognized and registered under the law, in full conformity with the Convention. The Conference Committee also expected that the tripartite structures in the country would effectively function with the full participation of all social partners, including TUCOSWA, and that the Government would guarantee that these organizations could exercise their rights under the Convention and the Industrial Relations Act (IRA). Finally, the Conference Committee called on the Government to accept a high-level ILO fact-finding mission to assess the progress made on pending matters, including the steps taken to amend the IRA to enable federation registration and the actual registration of the TUCOSWA.

The present Committee also takes note of the latest conclusions and recommendations of the Committee on Freedom of Association concerning the revocation of the registration of the TUCOSWA (Case No. 2949) and, in particular, that the Committee on Freedom of Association urged the Government to ensure that the amendments to the IRA were adopted without delay so that federations of workers and employers could be registered and function in the country, and requested that, in the meantime, the TUCOSWA be able to effectively exercise all its trade union rights without interference or reprisal against its leaders, including the right to engage in protest action and peaceful demonstrations in defence of its members' occupational interests.

The Committee takes due note of the information provided by the Government on progress achieved to follow up on the comments made by the Committee for many years. It notes in particular the Government's indication that the tripartite structures in the country are functioning with the full participation of the federations of employers and workers (the Federation of Swazi Employers and Chamber of Commerce, the Federation of the Swazi Business Community and TUCOSWA). The Committee notes with *regret* the Government's indication that the IRA amendment bill, approved by Cabinet and published as Bill No. 14 of 2013, could not be tabled to Parliament due to other pressing parliamentary issues (the Government had committed to table the Bill by the end of June 2013). *The Committee further observes with deep regret that the TUCOSWA is still not registered and urges the Government to ensure that the necessary steps are taken for the registration without delay of the TUCOSWA and the other workers' and employers' federations affected.*

*Furthermore, while taking note of the information on the meetings held within the National Steering Committee on Social Dialogue and the Labour Advisory Board, the Committee firmly trusts that the Government will report in the near future on concrete progress made on the Committee's long-standing requests concerning amendments and modifications to the following legal texts:*

- *The Public Service Bill: The Committee notes that the bill is pending before the Labour Advisory Board.*
- *The Industrial Relations Act (IRA): The Committee notes from the Government's report that the Labour Advisory Board agreed in July 2013 to set up a subcommittee to review the whole Act and come up with proposed amendments taking into account the Committee's previous recommendations concerning the civil and criminal liabilities of trade union leaders and the determination of a minimum service in sanitary services.*
- *The 1973 Proclamation and its implementing regulations: In relation to the status of this Proclamation, the Committee notes that its previous recommendations have been discussed in June 2013 within the Steering Committee on Social Dialogue and are still part of its agenda.*
- *The 1963 Public Order Act: The Committee has been requesting the Government for a number of years to take the necessary measures to amend the Act so as to ensure that it could not be used to repress lawful and peaceful strike action. The Committee notes the indication that the Attorney-General will review the Act and submit a progress report to the Steering Committee on Social Dialogue.*
- *The Correctional Services (Prison) Bill: In relation to the recognition of the right to organize of prison staff, the Committee previously noted that the draft Correctional Services (Prison) Bill was circulated to the Labour Advisory Board in September 2012. The Committee notes that no information has been provided on the present status of the Bill.*
- *The Code of good practice for protest and industrial action: The Committee notes that the technical assistance of the Office has been requested in June 2013 to finalize the Code.*

*Finally, noting with regret that the high-level ILO fact-finding mission requested by the Conference Committee was postponed until next year, the Committee firmly hopes that it will take place in the near future and that it will be able to assess tangible progress on the pending issues.*

The Committee is raising other points in a request addressed directly to the Government.

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Syrian Arab Republic

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)** (ratification: 1957)

The Committee notes the general human rights situation in the country as referred to in its comments under the Abolition of Forced Labour Convention, 1957 (No. 105). It also 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 made by the International Trade Union Confederation (ITUC) in 2013 concerning issues that have been raised in the past, including the fact that collective bargaining hardly exists, as well as allegations that, while the right to collective bargaining is recognized in Labour Law No. 17 of 2010, the Ministry of Social Affairs and Labour has vast powers to object to and refuse the registration of concluded collective agreements. ***The Committee requests the Government to provide its observations on the 2012 ITUC comments.***

The Committee noted, in previous comments, the adoption of Labour Law No. 17 of 2010, which contains a chapter on collective bargaining (sections 178–202). In this respect, it draws the attention of the Government to the following issues.

***Scope of the Convention.*** Sections 1 and 5(1), (2) and (4)–(7) exclude certain workers from the scope of the law (independent workers, civil servants, agricultural workers, domestic servants and similar categories, workers in charity associations and organizations, casual workers and part-time workers whose hours of work do not exceed two hours per day). ***Recalling that these workers are covered by the Convention, the Committee requests the Government to indicate whether the rights enshrined in the Convention are provided to these workers by other legislation, and, if this is not the case, to take measures to recognize to these workers, in the legislation, the rights enshrined in the Convention.***

***Articles 1 and 2 of the Convention. Protection against anti-union discrimination and interference.*** The Committee notes that section 67(a) states that, according to section 67, employers may not dismiss a unionized worker performing, organizing or taking part in trade union activities; in case reinstatement is not possible, section 67(c) provides that compensation equals two months' wages for each year in service. In this respect, the Committee underlines the need to reinforce the sanction against anti-union dismissal by providing sufficiently dissuasive sanctions. ***The Committee hopes that the Government will take the necessary measures to amend this provision.*** The Committee further notes that the Labour Law does not prohibit acts of interference on the part of employers or organizations of workers in each other's affairs, in accordance with the Convention. ***The Committee requests the Government to take measures in order to adopt clear and precise provisions prohibiting acts of interference accompanied by sufficiently dissuasive sanctions.***

***Article 4. Collective bargaining.*** Section 187(c) states that, during the 30-day period between filing the agreement and having it approved by the Ministry of Social Affairs and Labour, the Ministry may object to and refuse to register the agreement, and inform contracting parties, by registered letter, of such objection/refusal and the reasons thereof. The Committee underlines that this provision grants excessive power to the Ministry to object or refuse to register a collective agreement. The Committee recalls that such an objection/refusal to register a collective agreement may only be made on the basis of a procedural flaw or because it does not conform to the minimum standards laid down by the labour legislation. ***The Committee requests the Government to take measures to amend this provision in order to fully guarantee the principle of free and voluntary collective bargaining established in the Convention.***

The Committee notes that section 214 states that, in case mediation does not result in an agreement, either party may file a request to initiate dispute settlement through arbitration. The Committee recalls that, in general, arbitration to end a collective labour dispute is acceptable if it is at the request of both parties involved in a dispute, or with regard to disputes in essential services in the strict sense of the term, or in respect of civil servants exercising authority in the name of the State. ***The Committee requests the Government to take the necessary measures to ensure that arbitration initiated by only one party to the dispute can only take place in the cases mentioned above.***

***Arbitration bodies.*** According to section 215, arbitration tribunals are composed of a chairperson and a member, appointed by the Ministry of Justice, a member appointed by the Ministry of Social Affairs and Labour, one member appointed by the General Federation of Trade Unions and one member appointed by the Federation of Chambers of Industry, Commerce and Tourism, or the Contractors Association at the governorate level. The Committee underlines that the composition of the arbitration tribunal could raise questions concerning its independence and impartiality and could call into question the confidence of the concerned parties in such a system. ***The Committee requests the Government to take measures to amend this provision so as to ensure that the composition of the arbitration tribunals is balanced and can engender the confidence of the parties in the arbitration mechanism.***

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

## Turkey

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

#### **Follow-up to the conclusions of the Committee on the Application of Standards** (International Labour Conference, 102nd Session, June 2013)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2013 concerning the application of the Convention.

It further notes the comments submitted by the Municipality and Private Administration Employees Trade Union (BEM-BIR-SEN) in a communication dated 23 November 2012; comments of the Turkish Confederation of Employer Associations (TİSK), Trade Union Confederation (HAK-İŞ) and Confederation of Progressive Trade Unions of Turkey (DİSK) in communications dated 10 December 2012, 29 March and 3 April 2013, respectively, and the Government's reply thereon; comments made by the International Organisation of Employers (IOE) jointly with the TİSK in a communication dated 30 August 2013; and comments of the International Trade Union Confederation (ITUC) in a communication dated 30 August 2013.

The Committee recalls that it had previously requested the Government to provide its observations on the allegations of violations of collective bargaining rights and numerous cases of anti-union dismissals submitted by the ITUC in a communication dated 31 July 2012. The Committee notes that the ITUC's latest communication also contains similar allegations. ***In the absence of the Government's reply thereon, the Committee requests the Government to provide its observations on the outstanding comments of the ITUC.***

The Committee notes the enactment, on 11 July 2012, of the Act on Trade Unions and Collective Bargaining Agreements (Act No. 6356) which repealed Act No. 2821 on trade unions and Act No. 2822 on collective agreements, strikes and lockouts.

*Scope of the Convention.* The Committee notes that pursuant to the definition of what constitutes a trade union (sections 2(1)(ğ) and 3 of Act No. 6356), it appears that all trade unions should be sector-based organizations. The Act provides for 20 sectors. ***The Committee requests the Government to clarify whether domestic workers, who do not appear to fall into any of the listed sectors, are covered by the new legislation.***

The Committee notes that sections 17(5) and 19 of Act No. 6356, regulating trade union membership, introduce a requirement for the publication of the application and withdrawal forms relating to trade union membership on the e-State gate, which would appear to impact the right to organize of workers for whom this means is not accessible, as well as create difficulties for workers in the informal economy. ***The Committee requests the Government to provide information on the measures taken or envisaged to ensure that the e-State gate does not create an obstacle for the exercise of the rights guaranteed by this Convention.***

With regard to the right of civilian personnel in military institutions and prison guards, who were excluded from the right to organize and, therefore, from the right to be represented in negotiations, the Committee notes with *interest* the Government's indication that by a decision of the Constitutional Court (No. 28705), the obstacles for the civil servants and public servants working in the Ministry of National Defence and Turkish Armed Forces to being a member of trade unions have been removed. ***The Committee requests the Government to clarify whether the rights under the Convention have been afforded to prison guards by virtue of this decision.***

*Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination.* The Committee notes that the June 2013 Conference Committee requested the Government to establish a system for collecting data on anti-union discrimination in the private sector and to provide information on the functioning of national complaints mechanisms and all statistical data related to anti-union discrimination in the private and public sectors.

The Committee notes that the Government refers to the programmed and not programmed (carried out upon complaints by workers, trade unions, etc.) labour inspection procedures. While the total number of inspections is recorded, the Government indicates that there are no detailed statistics on the subject of the complaints. ***In light of the ITUC's allegations noted above, the Committee, like the Conference Committee, requests the Government to establish a system for collecting data on anti-union discrimination (in both private and public sectors) and to provide information on the concrete steps taken in this respect. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.***

With regard to the complaints procedures, the Government refers to section 25 of Act No. 6356 which describes the protection against acts of anti-union discrimination guaranteed to workers. In this respect, the Committee notes the concerns expressed with regard to section 25(5) of Act No. 6356 referring to the procedures provided for in the Labour Act (No. 4857), in so far as the Labour Act, by virtue of its section 18, appears to protect against anti-union dismissals only workers who are employed, for an indefinite period, by an establishment employing thirty or more workers and who meet a minimum seniority of six months. The Committee notes that the Government indicates in its report that the new legislation does not link the compensation for anti-union discrimination with the number of workers employed by the enterprise. The Government also indicates that this issue is under examination by the Constitutional Court whose decision will be binding. ***The Committee requests the Government to provide information on this decision once it has been handed down. The Committee trusts that all workers will be covered by the new provision.***

With reference to the abovementioned e-State gate, the Committee considers that the information on trade union affiliation which is accessible to all, including employers, could pose a serious risk of exposure of trade union members, or workers wishing to become trade union members, to reprisals and anti-union discrimination, contrary to the Convention. ***The Committee requests the Government to consider the possibility of leaving the matter of publication of forms up to the union members concerned or to take the necessary measures to ensure that the information on the e-State gate does not become public. The Committee requests the Government to report in detail on the manner in which this system operates and ensure that the names of trade union members are not publicly accessible.***

*Article 4. Collective bargaining.* The Committee notes that section 34 of Act No. 6356 provides that a collective work agreement may cover one or more than one workplaces in the same branch of activity, which appears to limit the right of workers' and employers' organizations to freely determine how and at what level to carry out collective bargaining. The Committee recalls in this respect, that according to the principle of free and voluntary collective bargaining embodied in *Article 4* of the Convention, the determination of the bargaining level is essentially a matter to be left to the discretion of the parties and, consequently, the level of negotiation should not be imposed by law. Indeed, there may be circumstances where the parties wish to bargain across sectors through regional or national agreements. ***The Committee therefore requests the Government to take the necessary measures in order to review the impact of this provision and to consider, in consultation with the social partners, amending section 34 of the Act so as to ensure that it does not restrict the choices available to the parties. It requests the Government to provide information in this respect.***

The Committee further notes that section 35(2) of the Act provides that the term of the collective agreement cannot be extended or shortened by the parties after the signature of the agreements and that the collective agreement cannot be terminated before the term of the agreement. While a collective agreement should not be subject to unilateral termination or extension, parties should be able to decide, upon mutual agreement, to extend the duration of a collective agreement or even to terminate it and negotiate a new one. ***The Committee requests the Government to take the necessary measures in order to revise this provision in consultation with the social partners and to provide information in this respect.***

The Committee notes section 41(1) which sets out the following requirement for becoming a collective bargaining agent: the union should represent at least one per cent (progressively, 3 per cent) of the workers engaged in a given branch of activities and more than 50 per cent of workers employed in the workplace and 40 per cent of workers of the enterprise to be covered by the collective agreement. The Committee reiterates its long-standing comment that such double threshold could create obstacles to collective bargaining at the enterprise level, where a representative union should be able to negotiate a collective agreement regardless of its overall sectoral level representativity. Moreover, observing the statistics provided by the Government on the rate of unionization in the country (8.8 per cent), the Committee understands that the threshold set by the legislation does not promote collective bargaining and may result in the decrease in the number of workers covered by collective agreements in the country. The Committee notes the concerns expressed by the trade unions in their communications mentioned above, which indicate that the strict imposition of the sectoral level thresholds will have the effect of eliminating a number of unions from the collective bargaining process which until now were able to bargain collectively on behalf of their members. The Committee notes the Government's indication that the set thresholds represent a result of negotiations with the social partners. The Government points out, however, that it will be possible to level down these thresholds by re-evaluating the social dialogue mechanisms if there is a request from the social partners. ***The Committee expresses the firm hope that the thresholds provided for in section 41(1) of the Act will be revised and lowered in consultation with the social partners. It requests the Government to provide information on the measures taken or envisaged in this respect.***

Furthermore, the Committee notes that section 42(3) provides that if it is determined that there exists no workers' trade union which meets the conditions for authorization to bargain collectively, such information is notified to the party which made the application for the determination of competence. It is not clear which union, if any, would be able to bargain collectively if the conditions for competence are not met, as section 45(1) stipulates that an agreement concluded without an authorization document is null and void. In this respect, the Committee recalls that if no union meets the required threshold, collective bargaining rights should be granted to all unions, at least on behalf of their own members. ***In the light of the above, the Committee requests the Government to take the necessary measures in order to amend the above sections, in consultation with the social partners, and to provide information in this respect.***

The Committee notes that sections 46(2), 47(2), 49(1), 51(1), 60(1) and (4), 61(3) and 63(3) provide for the following situations in which the certificate of competence to bargain may be withdrawn by the authorities: the failure to call on the other party to start negotiations within 15 days of receiving the certificate of competence; the failure to attend the first collective bargaining meeting or failure to begin collective bargaining within 30 days from the date of the call; failure to notify a dispute to the relevant authority within six working days; failure to apply to the High Arbitration Board; failure to take a strike decision and/or to begin a strike in accordance with the legislative requirements; and failure to reach an agreement at the end of the term of strike postponement. Furthermore, pursuant to section 60, a strike decision may be taken within 60 days from the date of the notification of the dispute and may be implemented within this term; if no strike decision is taken, the competence certificate becomes void. With regard to the abovementioned sections in general, the Committee considers that such interference by the authorities (withdrawal of authorization to bargain) is likely to hinder rather than promote collective bargaining and thus are contrary to the Convention. Moreover, the Committee considers that instead of deciding to go on strike, the parties should be able to continue negotiating following notification of the dispute. ***The Committee requests the Government to take the necessary measures, in consultation with the social partners, to amend these provisions so as to bring them into conformity with the Convention, and to provide information in this respect.***

The Committee notes that according to section 50(1) of the Act, a mediator is selected from an official list with the participation of at least one of the parties or by the authority in charge. The Committee recalls that in order to give full effect to the principle of free and voluntary negotiations, the bodies appointed for the settlement of disputes between the parties should be independent and have the confidence of both parties concerned. ***It therefore requests the Government to take the necessary measures to amend this provision in consultation with the social partners so as to ensure respect for this principle. The Committee requests the Government to provide information in this regard.***

***Collective bargaining in the public service.*** The Committee recalls that, with respect to Act No. 4688 as amended, it had requested the Government to ensure that: (i) the direct employer participates, alongside the financial authorities, in genuine negotiations with trade unions representing public servants not engaged in the administration of the State; and (ii) a significant role is left to collective bargaining between the parties. It had further recalled that an additional issue to be overcome in order to allow for free and voluntary collective bargaining in the public sector was the recognition of the right to organize to a large number of categories of public employees not engaged in the administration of the State. ***The Committee requests the Government to provide information on the measures taken or envisaged to that end.***

***The Committee once again requests the Government to provide copies of the Act adopted in February 2011 providing for a collective agreement premium for members of public servant trade unions and of the instrument providing for the abrogation of a criticized provision concerning contract personnel in the public sector.***

## Uganda

### ***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2005)***

The Committee notes the comments submitted on 30 August 2013 by the International Trade Union Confederation (ITUC), in particular concerning the recently passed Public Order Management Bill containing restrictions to freedom of assembly. ***The Committee requests the Government to provide its observations on these comments, as well as on the ITUC allegations of 2012 (government interference in union election, police intervention preventing union from meeting workers and storming by police of a protest action) and 2010 (shooting of workers participating in a protest action by the police resulting in two deaths and one worker injured).***

In its previous comments, the Committee requested the Government to take measures to amend or repeal the following provisions of the 2006 Labour Unions Act (LUA) and the 2006 Labour Disputes (Arbitration and Settlement) Act (LDASA):

- Section 18 of the LUA (process of registration of a labour union shall be completed within 90 days from the date of application). The Committee notes that the Government indicates in its report that the 90-day period takes into consideration the time needed for the prospective union to constitute its executive, open a bank account, elaborate its constitution and verify the legitimacy of its proposed name. ***The Committee requests the Government to indicate the average duration of the registration procedure.***
- Section 23(1) of the LUA (interdiction or suspension of union officers by the Registrar). The Committee notes that, according to the Government, the Registrar takes action when satisfied that the officer has been convicted in court on the listed grounds. The Committee observes, however, that the Registrar is also authorized to take action when satisfied that the officer is being investigated with a view to prosecution, and that the reasons for interdiction or suspension of union officers include the wilful and persistent failure to comply with the Registrar's directions. The Committee recalls that only the conviction on account of offences the nature of which is such as to prejudice the aptitude and integrity required to exercise trade union office may constitute grounds for disqualification from holding such office. ***The Committee requests the Government to take steps to amend section 23(1) so as to ensure that the Registrar may only remove or suspend trade union officers after conclusion of the judicial proceedings and only for reasons in line with the principle cited above.***
- Section 31(1) of the LUA (eligibility condition of being employed in the relevant occupation). ***Noting that the Government merely indicates that the provision corresponds to the unions' choice, the Committee again requests the Government to take steps to amend section 31(1) so as to introduce flexibility either by admitting as candidates for union office persons who have previously been employed in that occupation, or by exempting from that requirement a reasonable proportion of the officers of an organization.***
- Section 33 of the LUA (excessive regulation by the Registrar of an organization's annual general meeting; contravention subject to sanction under section 23(1)). The Committee notes that, according to the Government, the aim of this provision is to encourage unions to get together annually to review their programmes, identify challenges and check on leadership and finances. The Committee considers that this decision should be left to the unions. ***It requests the Government to take steps to repeal section 33 so as to guarantee the right of organizations to organize their administration.***
- Section 5(1) and (3) of the LDASA (referral of non-resolved disputes to compulsory arbitration by or at the request of any party) and section 29(2) of the LDASA (responsibility for declaring a strike illegal lies with the Government). ***The Committee requests the Government to take steps to amend these provisions.***

Finally, concerning Schedule 2 of the LDASA (list of essential services), the Committee notes the Government's reference to the harmonization of the list of essential services in the LDASA with that in the 2008 Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act, to be undertaken by the Labour Advisory Board. *The Committee requests the Government to provide information in its next report on any developments in this respect. Furthermore, with regard to section 29(3) of the LDASA, the Committee requests the Government to provide a copy of the Regulations elaborated under section 29, which, according to the Government's report, provide for a machinery for handling disputes in essential services as an alternative to the use of sanctions.*

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

The Committee notes the comments submitted on 30 August 2013 by the International Trade Union Confederation (ITUC) concerning in particular the poorly functioning Public Service Negotiating and Consultative Council and the not yet operational Industrial Court, which leads to a backlog of pending cases. *The Committee requests the Government to provide its observations on these comments, as well as on the 2012 allegations of the National Organisation of Trade Unions of Uganda (NOTU) alleging anti-union discrimination practices as well as the need for a document of recognition delivered by the employers as a condition to be able to engage in collective bargaining.*

*Article 4 of the Convention. Promotion of collective bargaining.* The Committee had previously noted that collective bargaining in the public service sector was not allowed under national legislation and had requested the Government to take measures to recognize the right to collective bargaining to all public employees and public servants not engaged in the administration of the State. The Committee notes with *interest* the 2008 Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act as well as the Government's indication that: (i) the Act has been enacted to enable public servants to negotiate on their terms and conditions of work; (ii) following the signing by the Government of recognition agreements with all ten registered public service unions, the Public Service Negotiating and Consultative Council, which bargains with the Government on behalf of public employees, has become operational; and (iii) guidelines are being formulated to assist ministries and local government to form structures for collective bargaining at their level. The Committee notes, however, that according to the ITUC the collective bargaining process is not well streamlined in certain areas (e.g. the Uganda National Teachers' Union (UNATU) is not effectively negotiating with the Government on the terms and conditions of service of teachers), and that the issues agreed upon at the Council are not considered binding by the Government (e.g. the 20 per cent salary increment for teachers negotiated with the Council was not included in the 2013–14 budget). *The Committee requests the Government to continue to make efforts to ensure the effective application in practice of the collective bargaining rights accorded by law in the public service. It also requests the Government to supply copies of any guidelines issued in this respect.*

Furthermore, the Committee recalls its previous comments on the following provisions of the 2006 Labour Unions Act (LUA) and the Labour Disputes (Arbitration and Settlement) Act (LDASA):

- section 7 of LUA (lawful purposes for which trade union federations may be established, do not include collective bargaining): In the absence of any information provided by the Government, the Committee recalls that the right to collective bargaining should also be granted to federations and confederations of trade unions. *It once again requests the Government to confirm whether trade union federations have the right to engage in collective bargaining, under the LUA or other legislation;* and
- sections 5(1) and (3) and 27 of the LDASA (referral by any party or by the Labour Officer at the request of any party, of non-resolved disputes to the Industrial Court; referral by the Minister of disputes to the Industrial Court in case of non-compliance with the recommendations of the board of inquiry's report): The Committee notes from the Government's report under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), that it is only after consideration that there is no likelihood of reaching any agreement that the matter, at the request of any party, may be referred to the Industrial Court. The Committee reiterates that recourse to compulsory arbitration in cases where the parties do not reach agreement through collective bargaining is permissible only for public employees engaged in the administration of the State and for workers in essential services in the strict sense of the term (i.e. 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 take steps to amend the above legislation so as to ensure respect of the principle of voluntary negotiation of collective agreements enshrined in Article 4 of the Convention.*

## **Bolivarian Republic of Venezuela**

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1982)**

The Committee notes the comments on the application of the Convention made by the International Organisation of Employers (IOE) and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) in a communication dated 28 August 2013. The Committee notes that the Government has accepted a

high-level tripartite mission, which will visit the country from 27 to 31 January 2014, and which has the mandate to examine the matters raised in the case presented by the IOE and FEDECAMARAS to the Committee on Freedom of Association (Case No. 2254), which mostly coincide with the matters raised by the Committee of Experts in its 2012 observation and in the communication of 28 August 2013 of these employers' organizations.

The Committee will examine at its next session the matters raised in the 2012 observation and those set out in the 2013 communication of the IOE and FEDECAMARAS, in light of the report of the upcoming high-level tripartite mission. *The Committee hopes that the technical assistance provided by the mission will make it possible to find a satisfactory solution to all the problems raised which affect employers.*

The Committee recalls that the pending problems raised in its 2012 observation are both in relation to the rights of employers' organizations and their leaders (acts of violence and harassment against employers' leaders, serious deficiencies of social dialogue, including the absence of consultation on labour and social legislation, the promotion of parallel organizations, etc.), and in relation to the rights of workers' organizations (acts of violence and harassment against trade union leaders, lack of consultation, interference by the authorities in trade union elections and legal restrictions on trade union rights, etc.).

Finally, the Committee notes the comments of the National Coordination, National Union of Workers (UNETE), dated 31 August 2013 on the application of the Convention. *The Committee requests the Government to provide its observations in this respect.*

## Zimbabwe

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2003)**

#### **Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)**

The Committee recalls that the Commission of Inquiry appointed under article 26 of the ILO Constitution to examine the observance by the Government of the Convention and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), recommended that: the relevant legislative texts be brought into line with the Convention and Convention No. 98; all anti-union practices – arrests, detentions, violence, torture, intimidation and harassment, interference and anti-union discrimination – cease with immediate effect; national institutions continue the process the Commission had started whereby people can be heard, in particular referring to the Human Rights Commission and the Organ for National Healing and Reconciliation (ONHR); training on freedom of association and collective bargaining, civil liberties and human rights be given to key personnel in the country; the rule of law and the role of the courts be reinforced; social dialogue be strengthened in recognition of its importance in the maintenance of democracy; and ILO technical assistance to the country be continued.

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee notes the information provided by the Government and the discussion that took place in the Conference Committee on the Application of Standards in June 2013.

The Committee further notes the comments made by the Zimbabwe Congress of Trade Unions (ZCTU) and International Trade Union Confederation (ITUC) on the application of the Convention in communications dated 29 and 30 August 2013, respectively.

The Committee welcomes the fact that the ILO technical assistance to support the Government and the social partners in implementing the above recommendations continued throughout 2013.

*Trade union rights and civil liberties.* The Committee recalls that it had previously urged the Government to provide information on the steps taken to ensure that the Zimbabwe Human Rights Commission and the ONHR would adequately contribute to the defence of trade union rights and human rights. The Committee notes with *interest* the statement made by the Government at the Conference Committee to the effect that the Zimbabwe Human Rights Commission Act was passed into law in October 2012, paving the way for the Commission to start its work. The Committee further notes that a workshop to familiarize the commissioners with international labour standards took place in November 2013. The Committee notes that in its report, the Government expresses the hope that the information shared on this occasion will provide orientation for the Commission to actively take part in the defence of trade union rights, and that the recommendations arising from this activity will assist in crafting a framework for the role of the Commission in the world of work. *The Committee requests the Government to provide in its next report detailed information on the outcome of this activity and on the follow-up given to the abovementioned recommendations.*

The Committee recalls that it had requested the Government to indicate all measures taken to ensure the safety of Ms Hambira, General Secretary of the General Agriculture and Plantation Workers' Union of Zimbabwe (GAPWUZ), allegedly forced into exile following threats received for reporting violations of farm workers' rights, should she decide to return to the country. The Committee notes that the Conference Committee requested the Government to discuss the

proposals of the workers' organizations on possible concrete steps to be taken in this regard. The Committee notes that in its report, the Government indicates that on 23 October 2013, it held a meeting with the ZCTU leadership to discuss this case, in which it informed the ZCTU that Ms Hambira had no case to answer and was therefore free to return and gave the union an opportunity to provide details regarding this case. The Government indicates that the dialogue with the ZCTU and the relevant authorities continues with a view to resolving this issue. ***The Committee hopes that the matter will be resolved without further delay and requests the Government to provide information on all developments in this regard.***

The Committee further recalls that it had noted the allegations submitted by the ZCTU and ITUC relating to the instances of banning of trade union activities (workshops, commemoration events, processions and May Day celebrations) and requested the Government to provide its observations thereon. It further requested the Government to take the necessary steps to ensure that training on human rights and trade union rights for the police and security forces continued. The Committee notes the Government's indication that, while there were isolated incidents cited by the ZCTU in organizing May Day celebrations in 2012, the issues were resolved amicably through interface with the law enforcement bodies in the affected areas without resorting to the courts. A case in point is the May Day celebrations in Kwekwe in which the ZCTU was subsequently allowed to march after the matter was drawn to the attention of the Ministry of Labour. In the Government's view, although the incidents cannot be condoned, the successful dialogue represents a considerable turning point in the relationship between the law enforcement bodies and trade unionists. The Government reports that successful dialogue took place in August 2013 between the ZCTU and the police over a proposal by the union to conduct a march in Harare soon after elections. The Committee notes with ***concern*** the allegations submitted by the ITUC referring to incidents of obstruction of trade union activities and, in particular, the interruption of trade union activities by the police, which took place in 2013. In this respect, the Committee notes that the Government understands that there is a need for more information-sharing on international labour standards among all players in industrial relations and for continued interface to deal with issues of perception and mistrust. The Committee notes a proposed matrix of activities for the implementation of the Commission of Inquiry's recommendations (November 2013–February 2014), which includes workshops for the law enforcement agents in four provinces of the country. ***The Committee hopes that these activities will be carried out as planned and requests the Government to provide information in this regard. It requests the Government to provide its observations on the ITUC allegations.***

The Committee had previously requested the Government to intensify its efforts in ensuring that the Public Order and Security Act (POSA) was not used to infringe upon legitimate trade union rights, including the right of workers' organizations to express their views on the Government's economic and social policy. In this respect, it had requested the Government to carry out, together with the social partners, a full review of the application of the POSA in practice and considered that concrete steps should be taken to enable the elaboration and promulgation of clear lines of conduct for the police and security forces with regard to human rights and trade union rights.

The Committee notes the following information provided by the Government. A draft handbook on freedom of association and civil liberties and the role of the law enforcement agencies, as well as a draft code of conduct for the state actors in the world of work, have been finalized in collaboration with the ILO. The draft handbook will be validated during the abovementioned activities. It is expected that the handbook and the code will provide guidance in the training of the law enforcement bodies with a view to improving their appreciation of international labour standards and issues of freedom of association. ***The Committee welcomes the draft instruments and requests the Government to provide information on further developments in respect of the validation of the handbook and the adoption of the code of conduct.***

With regard to the POSA, the Committee notes the Government's indication that while in its view, the Act has no provision that conflicts with the right to freedom of association, as had been confirmed by a High Court ruling, the Ministry of Justice is embarking on an exercise to review all pieces of legislation with a view to aligning them with the relevant provisions of the Constitution which came into effect in May 2013. The Government further points out that information-sharing sessions involving the law enforcement agencies focusing on the nexus between international labour standards and the national laws and practice have helped the law enforcement agencies to appreciate how freedom of association is exercised in the world of work and that POSA should not be invoked when dealing with trade union activities. ***The Committee requests the Government to provide information on further developments in the review of the Act.***

The Committee recalls the Commission of Inquiry's recommendation that steps be taken by the authorities to bring to an end all outstanding cases of trade unionists arrested under the POSA. In this respect, the Committee had requested the Government to engage with the ZCTU on this matter, to indicate how many cases involving trade unionists arrested under the POSA were still pending and to provide information on all steps taken by the authorities to bring them to an end. The Committee notes the Government's indication that it held a meeting with the ZCTU leadership on 23 October 2013 with a view to clarifying these issues. On that occasion, the Government informed the ZCTU that the Attorney General's Office had indicated that it was up to the ZCTU to either file papers for the cases to be heard by the Supreme Court or apply with the Court for their withdrawal, as the union has done in the past. According to the Government, the ZCTU insists that the Attorney General's Office should be the first to act. The Government stresses, however, that it is currently engaged with the ZCTU to explore possible ways of overcoming the technical hurdles presented by the situation with a view to concluding the matter. In this respect, the Committee notes with ***satisfaction*** a Supreme Court decision dated

14 October 2013, granting a permanent stay of prosecution in one pending case on the basis that the trial had not been held within a reasonable time. *The Committee encourages the Government to continue engaging with the ZCTU on this matter with a view to bringing to an end all of the remaining cases.*

*Labour law reform and harmonization.* The Committee had previously requested the Government to provide information on all developments and progress made in revising and harmonizing the Labour Act, Public Service Act and all other relevant laws and regulations. The Committee notes the Government's prior indication that it anticipated Parliament would enact the new labour law by the third quarter of 2013, and its subsequent indication that the inclusive Government ended before the principles for harmonization and labour law reform could be adopted by Cabinet. Accordingly, the previously set target for the adoption of a new labour law could not be met. The Government points out, however, that the new Constitution enshrines international labour standards and the principles for harmonization and thereby establishes a basis for the legislative review. The Government draws the Committee's attention to Chapter 4 of the Constitution entitled "Declaration of Rights" and, in particular, to section 58, which provides for freedom of assembly and association, and section 65, which deals with labour rights, including the right to safe and fair labour standards; the right to form and join trade unions and employers' organizations; the right to form and join federations of such organizations, the right to collective job action; the right to collective bargaining, etc. The Government indicates that the amendment of the labour legislation and the promulgation of the Tripartite Negotiating Forum (TNF) Act have been declared to be priority Acts for the current eighth session of the Parliament of Zimbabwe. It is against this background that a workshop with the social partners took place in November 2013 with a view to ensuring that the principles of the labour law and harmonization are aligned to the provisions of the new Constitution. The Government points out that the draft principles for harmonization and labour laws review which had been discussed under the last government took on board all the legislative comments of the Committee relating to all ratified ILO Conventions. The Committee notes with *interest* the above developments. *It requests the Government to provide information in its next report on the progress achieved in bringing the labour and public service legislation into conformity with the new Constitution and the Convention.*

The Committee welcomes the Government's commitment, as stated in its report, to working with both the social partners and the Office in fully implementing the recommendations of the Commission of Inquiry. The Committee further welcomes the acceptance by the Government of a high-level technical assistance mission requested by the Conference Committee in June 2013, which will take place in February 2014, as suggested by the Office.

*The Committee expresses the hope that the law and practice will be brought fully into line with the Convention in the very near future and requests the Government to continue to provide detailed information on all other measures taken to implement the recommendations of the Commission of Inquiry.*

## Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 87** (Angola, Antigua and Barbuda, Armenia, Australia, Bahamas, Belarus, Belgium, Bosnia and Herzegovina, Botswana, Burkina Faso, Burundi, Cabo Verde, Cambodia, Canada, Central African Republic, Chad, Chile, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Guyana, Kiribati, Portugal, Sierra Leone, Swaziland, Tajikistan, Turkey, United Kingdom, Zimbabwe); **Convention No. 98** (Angola, Argentina, Australia, Barbados, Belgium, Plurinational State of Bolivia, Bosnia and Herzegovina, Brazil, Burkina Faso, Cabo Verde, Cambodia, Cameroon, Central African Republic, Congo, Côte d'Ivoire, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Estonia, France, Kyrgyzstan, Malawi, Slovakia, Tajikistan); **Convention No. 135** (Burundi, Democratic Republic of the Congo); **Convention No. 151** (Brazil, Slovenia); **Convention No. 154** (Mauritius, Uganda).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 11** (Kyrgyzstan).



## Forced labour

### Algeria

#### **Forced Labour Convention, 1930 (No. 29) (ratification: 1962)**

*Article 2(1) of the Convention. Civil service.* For several years the Committee has been drawing the Government's attention to the incompatibility with the Convention of sections 32, 33, 34 and 38 of Act No. 84-10 of 11 February 1984 concerning civil service, as amended and supplemented by Act No. 86-11 of 19 August 1986 and by Act No. 06-15 of 14 November 2006, under which it is possible to require persons who have completed a course of higher education or training to perform a period of civil service ranging from one to four years before being able to exercise an occupation or obtain employment. The Government indicated that civil service is a statutory period of work performed for a public administration, body or enterprise in local communities by persons to whom such an obligation applies. It represents a contribution of such persons to the economic, social and cultural development of the country.

The Committee also previously noted that, under sections 32 and 38 of the Act, any refusal to perform civil service and the resignation of the person concerned without a valid reason results in their being banned from exercising an activity on their own account, and that any infringement incurs the penalties laid down in section 243 of the Penal Code (imprisonment ranging from three months to two years and/or a fine of between 500 and 5,000 dinars). Similarly, under sections 33 and 34 of the Act, all private employers are required to ensure prior to engaging any workers, that applicants are not subject to civil service or that they can produce documentation proving that they have completed it. Furthermore, any private employer who knowingly employs a citizen who has evaded civil service is liable to imprisonment and a fine.

Moreover, the Committee noted that the list of branches concerned had first been limited to medicine, pharmacy and dental surgery and now only concerned doctors specializing in public health as a response to the need to bring essential specialists' care to the populations of isolated regions. The Committee also noted that under section 2 of Ordinance No. 06-06 of 15 July 2006, civil service may be performed in private-sector health establishments in accordance with arrangements set forth by the regulation.

The Committee notes the Government's indication that the service imposed under Act No. 84-10 concerning civil service, as amended, cannot be equated to forced labour, but is a national and moral duty of specialized doctors vis-à-vis the populations living in the regions of the far south, the south and in the High Plateaus. The Government adds that the sanctions provided for in sections 32, 33, 34 and 38 are more dissuasive than repressive and that, since the Acts were promulgated, not a single specialist has been prosecuted pursuant to those provisions. The Government further adds that specialized doctors and higher education teachers assigned to certain regions benefit from an attractive system of compensation ranging from 100 to 150 per cent of their principal remuneration, along with other advantages such as a housing allowance, a first installation allowance, the reimbursement of domestic consumption of gas and electricity, a 50 per cent reduction of their global income tax and special seniority and holiday arrangements. Given these advantages, a lot of specialists volunteer to work in those regions. Finally, the Government states that the whole issue of civil service for specialized doctors is still under discussion and is the subject of consultations among stakeholders.

Taking note of these indications, the Committee recalls that, although the persons required to perform civil service benefit from working conditions that are comparable to those of regular workers in the public sector (remuneration, seniority, promotion, retirement, etc.), they engage in this service under the threat of being denied access to any independent professional activity and to any form of employment in the private sector in the event of their refusal, which means that civil service falls within the concept of compulsory labour within the meaning of *Article 2(1)* of the Convention. Moreover, in so far as it consists of a contribution to the country's economic development, such compulsory service also violates Article 1(b) of the Abolition of Forced Labour Convention, 1957 (No. 105), also ratified by Algeria.

***The Committee once again expresses the strong hope that the necessary measures will be taken to repeal or amend the provisions of Act No. 84-10 of 11 February 1984 concerning civil service in the light of this Convention and Convention No. 105, and that the Government will soon be in a position to report on the measures adopted in this respect. Referring to Ordinance No. 06-06 of 15 July 2006 amending and complementing Act No. 84-10 of 11 February 1984 concerning civil service, the Committee reiterates the hope that the necessary measures will be taken to repeal or amend the provisions imposing civil service on specialized doctors. Pending such legislative amendments, the Committee requests the Government to provide information on the number of people and establishments concerned by this civil service, the length of service and the conditions of work of the people concerned.***

*Article 2(2)(a). National service.* For a number of years the Committee has been referring to Ordinance No. 74-103 of 15 November 1974 issuing the National Service Code and the Order of 1 July 1987, under which conscripts are required to take part in the running of various sectors of the economy and administration. The Committee observed that they are further required to perform civilian service for a period ranging from one to four years, as referred to above. The Committee recalled that, under the terms of *Article 2(2)(a)* of the Convention, compulsory military service is excluded from the scope of the Convention only where conscripts are assigned to work of a purely military character.

The Committee noted the Government's indication in its previous report that, since 2001, there had no longer been recourse to the civilian modality of national service. The Government explained that this de facto suspension would be reflected in law as soon as the reform of the National Service Code was placed on the agenda. ***Noting an absence of new information regarding the reform of the National Service Code of 1974, the Committee accordingly requests the Government to indicate, in its next report, any developments in this regard that would bring national law into line with practice, as well as with the provisions of the Convention, and to provide copies of the relevant texts.***

The Committee is raising other points in a request addressed directly to the Government.

## Burundi

### ***Forced Labour Convention, 1930 (No. 29) (ratification: 1963)***

The Committee takes note of the communication of the Trade Union Confederation of Burundi (COSYBU) received on 2 September 2013, and forwarded to the Government on 19 September 2013, concerning compulsory community development work. The Committee also 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(1) and 2(1) of the Convention.* 1. ***Compulsory community development work.*** In its previous comments, the Committee noted the Government's indication that Legislative Decree No. 1/16 of 29 May 1979, which established the obligation to carry out community development work under penalty of sanctions, had been replaced by Act No. 1/016 of 20 April 2005 organizing municipal administration. According to this Act, which aims at promoting the economic and social development of municipalities not only on an individual but also on a collective and unified basis – municipalities may cooperate through a system of inter-municipality, and it is up to the municipal council to establish the community development programme, monitor its implementation and carry out the evaluation thereof. The Act also provides for a regulatory text determining the organization, mechanisms and rules of procedure of inter-municipality. The Committee noted that although the principle of community work was upheld in the Act, it did not explicitly provide for the voluntary nature of this work or establish the rules for participation in this work. In this respect, the Committee noted that, according to the observations submitted in 2008 by the COSYBU, community work is decided upon without popular consultation and the Government bans the movement of persons throughout the duration of this work. It also noted, according to information available on the internet site of the Government and the National Assembly, that community work seemed to be organized on a weekly basis and included work of reforestation, cleaning and the construction of economic and social infrastructure such as schools, colleges and health centres. Taking into account this information, the Committee requested the Government to take the necessary steps to adopt the text applying the Act of 2005 and ensure that it explicitly referred to the voluntary nature of participation in this work.

The Committee takes note of the new observations received by the COSYBU in 2012 and forwarded to the Government on 18 September 2012. It notes that the COSYBU confirms that community work is decided upon unilaterally without the population being consulted. The COSYBU refers to the mobilization of the police to prevent the movement of persons during this work. The Committee notes with ***regret*** that the Government has failed once again to reply to the observations made by the COSYBU and that, for the second consecutive year, it has not provided a report on the application of the Convention. While noting that the Government previously indicated that the legislation does not provide for penalties to be imposed on persons who fail to carry out community work, the Committee observes that community work is carried out by the population without there being a text regulating the nature of this work or rules determining how this work might be required of the population or the way in which it is organized. ***In these circumstances, the Committee once again expresses the hope that the Government will take the necessary steps to adopt the text applying Act No. 1/016 of 20 April 2005 organizing municipal administration, particularly with respect to the participation in and organization of community work, to ensure that the voluntary nature of participation in this work is explicitly set out in the legislation. Meanwhile, the Committee asks the Government to provide information on the type and duration of the community work carried out and the number of persons concerned.***

2. ***Compulsory agricultural work.*** For many years, the Committee has been requesting the Government to take the necessary measures to bring a number of texts providing for the compulsory participation in certain types of agricultural work into line with the Convention. It has stressed the need to set out in the legislation the voluntary nature of agricultural work resulting from obligations relating to the conservation and utilization of the land and the obligation to recreate and maintain minimum areas of fruit crops (Ordinances Nos 710/275 and 710/276 of 25 October 1979), as well as the need to formally repeal certain texts on compulsory cultivation, portorage and public works (Decree of 14 July 1952, Ordinance No. 1286 of 10 July 1953 and the Decree of 10 May 1957). ***Noting that the Government previously indicated that these texts, which dated from the colonial period, had been repealed and that the voluntary nature of agricultural work had now been set out in the legislation, the Committee requests the Government once again to send a copy of the texts that repeal the abovementioned legislation and set out the voluntary nature of agricultural work.***

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 near future.***

## Chad

### ***Forced Labour Convention, 1930 (No. 29) (ratification: 1960)***

The Committee notes with ***regret*** that the Government's report contains no reply to previous comments. It hopes that the next report will include full information on the matters raised in its previous direct request, which read as follows:

*Article 2(2)(a) of the Convention.* ***Work in the general interest imposed in the context of compulsory military service.*** The Committee previously noted Ordinance No. 001/PCE/CEDNACVG/91 organizing the armed forces, according to which military service is compulsory for every citizen of Chad. Under section 14 of the Ordinance, conscripts who are fit for service are classified into two categories: the first, the size of which is determined each year by decree, is incorporated and compelled to perform active service; the second remains at the disposal of the military authorities for two years and may be called up to

perform work in the general interest by order of the Government. The Committee noted that similar provisions were contained in Ordinance No. 2 of 1961 on the organization and recruitment of the armed forces of the Republic, on which it commented for many years. Indeed, such provisions are not compatible with *Article 2(2)(a)* of the Convention under which, to be excluded from the scope of the Convention, any work or service exacted in virtue of compulsory military service laws must be of a purely military character. ***The Committee hopes that the Government will take the necessary measures to bring the provisions of section 14 of the Ordinance of 1991 reorganizing the armed forces and, as appropriate, any decrees issued thereunder, into conformity with the Convention.***

*Article 2(2)(c).* For many years, the Committee has been drawing the Government's attention to the need to amend or repeal section 2 of Act No. 14 of 13 November 1959 authorizing the Government to take administrative measures for the relocation, internment or expulsion of persons whose activities constitute a danger for public order and security, under which persons convicted of penal offences involving prohibition of residence may be used for work in the public interest for a period, the duration of which is to be determined by order of the Prime Minister. This provision would allow the administrative authorities to impose work on persons subject to a prohibition of residence once they have completed their sentence. ***The Committee hopes that the Government will take the necessary measures without further delay to amend or repeal section 2 of Act No. 14 of 13 November 1959 referred to above.***

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

## Democratic Republic of the Congo

### ***Forced Labour Convention, 1930 (No. 29) (ratification: 1960)***

*Articles 1(1), 2(1) and 25 of the Convention. Forced labour and sexual slavery in the context of armed conflict.*

Since 2010, the Committee has been expressing its deep concern at the serious violations of human rights committed by state security forces and various armed groups in the context of the armed conflict that is afflicting the Democratic Republic of the Congo. The Committee has noted the information contained in reports of several United Nations agencies on the situation in the Democratic Republic of the Congo, the observations made by the Confederation of Trade Unions of Congo (CSC) in September 2011 and 2013 and the International Trade Union Confederation (ITUC) in September 2012, as well as the discussion in the Committee on the Application of Standards of the International Labour Conference in June 2011. This information confirms cases of the abduction of women and children with a view to their use as sexual slaves and the imposition of forced labour, particularly in the form of domestic work. Moreover, in mines, workers are hostages to conflicts for the exploitation of natural resources and are the victims of exploitation and abuse that amounts, for many of them, to forced labour. The Committee noted in 2012 the confirmation by the ITUC of the persistence of cases of sexual slavery, especially in mines in the regions of North Kivu, Orientale Province, Katanga and East Kasai, perpetrated by illegal armed groups and elements of the armed forces of the Democratic Republic of the Congo (FARDC). The ITUC referred to the systematic use of violence by armed groups to terrorize civilians and force them to transport arms, ammunition, booty from looting and other provisions, or to build housing or work in the fields. The Committee urged the Government to take the necessary measures, as a matter of the utmost urgency, to bring an immediate end to these practices which constitute a serious violation of the Convention and to re-establish a climate of legal security in which recourse to forced labour does not go unpunished.

The Committee notes the information provided by the Government in its latest report, which mainly concerns the action taken to protect children working in mines and child victims of violence, including sexual violence in the context of the armed conflict. The Government has also provided a document analysing the cases brought to the courts under the new provisions of the Penal Code regarding "offences of sexual violence". The Committee observes that these cases concern instances of sexual violence against children. This information will be examined in the context of the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), under which a report is due in 2014.

The Committee notes the report of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo, covering the period between November 2011 and May 2013 (A/HRC/24/33 of 12 July 2013). According to this report, throughout the period under review, "many resource-rich areas, mostly in Orientale Province, the Kivus and Northern Katanga, bore witness to human rights violations, including forced labour linked to the illegal exploitation of such resources, allegedly committed by both armed groups and state agents". The report refers to attacks by armed groups intended to spread terror and a large number of cases of the abduction of civilians and of forced labour committed by armed groups and by combatants of the Allied Democratic Forces. Many of those abducted are forced to engage in work, such as timber cutting, gold mining and agricultural production for the benefit of the armed groups. The Committee notes that the High Commissioner reports some progress, such as the creation of the National Human Rights Commission and the conviction of certain state agents guilty of human rights violations, such as sexual violence. At the same time, the High Commissioner emphasizes the deterioration in the situation, particularly in the east of the country, with "an important increase in the number of human rights violations and serious violations of international humanitarian law that could amount to war crimes, committed by national security and defence forces, as well as by foreign and national armed groups".

***Although aware of the complexity of the situation and the efforts made by the Government to re-establish peace and security, the Committee recalls that failure to respect the rule of law, the climate of impunity and the difficulty of victims in gaining access to justice contribute to the continued perpetration of these serious violations of the Convention. It urges the Government to take measures as a matter of urgency to bring an end to the violence perpetrated against civilians with a view to engaging them into forced labour, including sexual slavery. It urges the***

**Government to continue to combat impunity resolutely and to ensure that the perpetrators of these serious violations of the Convention are brought to justice and punished, and that the victims are compensated for the damage suffered.**

*Article 25. Criminal penalties.* The Committee recalls that, with the exception of section 174c and 174e respecting forced prostitution and sexual slavery, the Penal Code does not establish criminal penalties conducive to penalizing the imposition of forced labour. Moreover, the penalties established by the Labour Code in this respect are not of the dissuasive nature required by *Article 25* of the Convention (section 323 of the Labour Code establishes a principal penalty of imprisonment of a maximum of six months and a fine, or one of these two penalties). In its latest report, the Government indicates that the Bill for the eradication of forced labour, containing effective criminal penalties, is still being examined by Parliament and that a copy will be provided once it has been adopted. **The Committee requests the Government to ensure that the text prohibiting forced labour will be adopted and enacted in the very near future so that effective and dissuasive criminal penalties can be applied in practice to persons imposing forced labour, in accordance with Article 25 of the Convention.**

*Repeal of legislation allowing the exaction of work for national development purposes, as a means of collecting unpaid taxes and by persons in preventive detention.* For several years, the Committee has been requesting the Government to repeal or amend the following legislative texts and regulations, which are contrary to the Convention:

- Act No. 76-011 of 21 May 1976 respecting national development and its implementing order, Departmental Order No. 00748/BCE/AGRI/76 of 11 June 1976 on 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, require, subject to criminal penalties, every able-bodied adult person who is not already considered to be making his/her contribution by reason of his/her employment to carry out agricultural and other development work, as decided by the Government;
- Legislative Ordinance No. 71/087 of 14 September 1971 on the minimum personal contribution, of which sections 18–21 provide for imprisonment involving compulsory labour, upon decision of the chief of the local community or the area commissioner, of taxpayers who have defaulted on their minimum personal contributions; and
- Ordinance No. 15/APAJ of 20 January 1938 respecting the prison system in indigenous districts, which allows work to be exacted from persons in preventive detention (this Ordinance is not on the list of legal texts repealed by Ordinance No. 344 of 15 September 1965 respecting prison labour).

The Government previously indicated that these texts were obsolete and were therefore, de facto, repealed. It added that the promulgation of the Act for the eradication of forced labour would provide a response to the concerns expressed by the Committee of Experts on the need to ensure legal certainty. **The Committee trusts that, when adopting the Act for the eradication of forced labour, the legal texts to which it has been referring for many years, and which the Government indicates are obsolete, will finally be repealed formally.**

The Committee is raising other points in a request addressed directly to the Government.

## Ghana

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)**

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 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.

The Government has previously 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 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 near future.***

## Guyana

### **Forced Labour Convention, 1930 (No. 29) (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:

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons.* In its earlier comments, the Committee referred to observations received from the International Trade Union Confederation (ITUC), which contained allegations that there was evidence of trafficking for forced prostitution and for child prostitution in cities and remote gold mining areas.

The Committee has noted the adoption of the Combating of Trafficking in Persons Act, 2005, as well as the Government's indication in the report that 300 volunteers have been trained to identify cases of trafficking. ***The Committee would appreciate it if the Government would provide information on the following matters:***

- ***the activities of the task force to develop and implement a national plan for the prevention of trafficking in persons, to which reference is made in section 30 of the above Act, supplying copies of any relevant reports, studies and inquiries, as well as a copy of the National Plan;***
- ***statistical data on trafficking which is collected and published by the Ministry of Home Affairs in virtue of section 31 of the Act;***
- ***any legal proceedings which have been instituted as a consequence of the application of section 3(1) of the 2005 Act on penalties, supplying copies of the relevant court decisions and indicating the penalties imposed, as well as the information on measures taken to ensure that this provision is strictly enforced against perpetrators, as required by Article 25 of the Convention.***

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

## Kuwait

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)**

*Article 1(a) of the Convention. Penalties involving compulsory labour as a punishment for expressing political views.* In its earlier comments, the Committee noted that Legislative Decree No. 65 of 1979, which imposed certain restrictions on the organization of public meetings and assemblies, enforceable with penalties of imprisonment (involving compulsory prison labour), was declared unconstitutional by the Constitutional Court in 2006.

The Committee notes that a draft law on public meetings and assemblies was prepared in 2008. It notes that section 10, read in conjunction with section 15 of this draft, provide for penal sanctions involving compulsory prison labour for any act harming or criticizing the official religion of the State; its foundations and principles; acts which damage the reputation of the State; and acts calling for breach of public order. It further notes that under section 63 of the Penal Code all prisoners are compelled to undertake compulsory prison labour. The Committee notes the Government's indication that the draft law referred to above is currently before the competent authority and should be sent once it is finalized.

The Committee observes that the scope of these provisions is not limited to acts of violence (or incitement to violence), armed resistance or uprising, but seems to allow punishment involving the obligation to work to be imposed for the peaceful expression of opinions contrary to the Government's policy and the established political system. In this regard, the Committee recalls that *Article 1(a)* of the Convention prohibits the use of forced or compulsory labour "as a means of political coercion or as a punishment for holding political views or views ideologically opposed to the established political, social and economic system". While 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, sanctions of imprisonment (involving compulsory labour) are not in conformity with the Convention if they enforce a prohibition of the expression of views or of opposition to the established political, social or economic system.

***The Committee therefore requests the Government to take the necessary measures to ensure that the abovementioned provisions of the draft law on public meetings and assemblies of 2008 will be modified so as to ensure that no prison sentence entailing compulsory labour can be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. The Committee also requests the Government to provide a copy of the law on public meetings and assemblies once adopted.***

The Committee is raising other points in a request addressed directly to the Government.

## Lebanon

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1977)**

The Committee notes the communication from the International Trade Union Confederation (ITUC) dated 21 August 2013, as well as the Government's report.

*Articles 1(1) and 2(1) of the Convention Vulnerability of migrant domestic workers and the exaction of forced labour.* The Committee previously took note of the Bill regulating the working conditions of domestic workers. It requested the Government to take the necessary measures to ensure that the abovementioned Bill was adopted in the very near future.

The Committee notes the statement in the ITUC's communication that there are an estimated 200,000 migrant domestic workers employed in Lebanon, the majority of whom are women from African and Asian countries. The ITUC also points out that domestic workers are excluded from the protection of the Labour Law, have a legal status tied to a particular employer under the *kafala* (sponsorship) system, and legal redress is inaccessible to them. Furthermore, the ITUC provides certain examples in which migrant domestic workers are subjected to various situations of exploitation, including delayed payment of wages, verbal, and sexual abuse. They also experience poor living conditions, such as lack of a separate bedroom and inadequate food. However, the ITUC indicates that in 2009 the Ministry of Labour, in cooperation with the Office of the High Commissioner for Human Rights and the ILO released a Standard Unified Contract (SUC) for migrant domestic workers. A revised SUC has been drafted with the technical support of the ILO.

The Committee notes the Government's indication that the guiding manual for domestic workers has been finalized and it is awaiting translation through the ILO Office in Beirut. With reference to Order No.1/1 of 3 January 2011 regulating the work of the recruitment agencies of female foreign workers, the Government states that there is ongoing collaboration between the Ministry of Labour, the Syndicate of Owners of Recruitment Agencies and the ILO in order to follow up on the implementation of a code of conduct for the Syndicate in addition to ongoing discussion with respect to a new legislative framework which regulates the work of such agencies. Moreover, the Government indicates that a SUC regulating the work of migrant domestic workers has been developed in collaboration with the ILO.

Furthermore, the Committee notes that Lebanon is participating in a ILO technical assistance programme, the Special Programme Account (SPA) project. This technical assistance resulted in the development of action plans to concretely address the comments of the Committee. In this regard, the Committee notes that the adoption of the previous draft law regulating the work of migrant domestic workers of 2009 has been suspended, due to several ministerial changes over the past four years, and that a new SUC has however been drafted with the technical support of the ILO and seems to have the approval of the Government and the social partners. The SUC is planned to be adopted within a year. The Committee notes that the SUC fills a few legislative gaps in the regulations related to the work of domestic workers. It also provides a minimum safeguard against forced labour pending the adoption of a special law regulating migrant domestic workers. Regarding the Bill regulating the working conditions of migrant domestic workers, it has been referred to the General Secretariat of the Presidency of the Council of Ministers for submission to the Council of Ministers, and subsequently, to Parliament for discussion.

The Committee recalls the importance of taking effective action to ensure that the system of the employment of migrant workers does not place the workers concerned in a situation of increased vulnerability, particularly where they are subjected to abusive employer practices, such as retention of passports, non-payment of wages, deprivation of liberty and physical and sexual abuse. Such practices might cause their employment to be transformed into situations that could amount to forced labour.

The Committee observes that the Government appears to be taking a certain number of legislative and practical measures to prevent the exploitation of migrant domestic workers. ***The Committee therefore urges the Government to continue to take measures to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour. In this regard, the Committee expresses the firm hope that the Bill regulating the working conditions of migrant domestic workers, as well as the SUC regulating their work will be adopted in the near future and that they will provide adequate protection for this category of workers. The Committee requests the Government to provide information in its next report on the progress made in this respect.***

*Article 25. Penal sanctions for the exaction of forced or compulsory labour.* The Committee previously noted the Government's indication that section 569 of the Penal Code, which establishes penal sanctions against any individual who deprives another of their personal freedom, applies to the exaction of forced or compulsory labour. It requested the Government to provide information on any legal proceedings which had been instituted to enforce section 569 as applied to forced or compulsory labour and on the penalties imposed, including copies of any relevant court decisions. The Committee also noted that section 8(3)(a) of Decree No. 3855 of 1 September 1972 provides that it shall be forbidden to impose forced or compulsory labour on any person, and sought information on any criminal penalties which may be imposed under this provision.

In this regard, the Committee notes the allegations in the ITUC's communication that it was found that a lack of accessible complaint mechanisms, lengthy judicial procedures, and restrictive visa policies dissuade many workers from filing or pursuing complaints against their employers. Even when workers file complaints, the police and judicial

authorities regularly fail to treat certain abuses against domestic workers as crimes. Moreover, no single example was found among the cases in which an employer faced charges for locking workers inside homes, confiscating their passports or denying them food. In all cases reviewed, sentences were found to be very lenient compared to the offence. In 2009, a criminal court sentenced an employer to imprisonment for repeatedly beating a Filipina domestic worker. However the sentence was only 15 days.

The Committee notes the Government's indication that although there is no specific provision in the national legislation punishing the exaction of forced labour, the judges may refer to section 569 of the Penal Code for such cases. However, no information is available on any legal proceedings instituted for the violation of both section 569 of the Penal Code and section 8(3)(a) of Decree No. 3855 of 1 September 1972 stipulating the prohibition on recourse to forced labour. ***The Committee urges the Government to ensure that sufficiently effective and dissuasive penalties are applied to persons who subject these workers to conditions of forced labour. It asks the Government to supply with its next reports copies of relevant court decisions, illustrating the penalties imposed in accordance with section 569 of the Penal Code, so as to enable the Committee to assess whether the penalties applied are really adequate and sufficiently dissuasive.***

The Committee is raising other points in a request addressed directly to the Government.

## Malaysia

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1957)**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee notes the communication from the International Trade Union Confederation (ITUC) dated 31 August 2013, as well as the Government's report. It also takes note of the detailed discussions that took place at the Conference Committee on the Application of Standards in June 2013 concerning the application by Malaysia of the Convention.

*Articles 1(1), 2(1) and 25 of the Convention.* 1. *Trafficking in persons.* The Committee previously noted the ITUC's statement that Malaysia is a destination, and to a lesser extent, a source and transit country for trafficking of men, women and children, particularly for forced prostitution and forced labour. The ITUC also alleged that prosecution for forced labour trafficking was rare. The Committee also noted the launching of the National Action Plan on Trafficking in Persons (2010–15), as well as information from the Government on the number of prosecutions and convictions related to trafficking, but not the specific penalties applied to perpetrators.

The Committee notes the Government's statement that it is taking measures to strengthen the capacity of the labour inspectorate to identify victims and deal with the complaints received, including capacity building courses in collaboration with the ILO and workshops with the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants. The Government indicates that between 2012 and August 2013 there were a total of 120 cases brought under the Anti-Trafficking in Persons Act, resulting in 23 convictions. There were 30 cases discharged and 67 cases pending trial. The Committee once again notes an absence of information on the specific penalties applied to those convicted.

The Committee notes that the Conference Committee on the Application of Standards, in June 2013, took note of the concern expressed by several speakers regarding the magnitude of trafficking in persons in the country, as well as the absence of information provided on the specific penalties imposed on persons convicted under the Anti-Trafficking in Persons Act. ***The Committee, like the Conference Committee on the Application of Standards, urges the Government to reinforce its efforts to combat trafficking in persons and to strengthen the capacity of the relevant public authorities in this respect. It also requests the Government to continue to provide information on measures taken in this regard, including the implementation of the National Action Plan on Trafficking in Persons (2010–15), and on the results achieved. Lastly, it requests the Government to continue to supply information on the application in practice of the Anti-Trafficking in Persons Act, including the specific penalties applied to those convicted under the Act, starting with the 23 convictions reported by the Government between 2012 and August 2013.***

2. *Vulnerable situation of migrant workers with regard to the exaction of forced labour.* The Committee previously noted the ITUC's allegation that some workers who willingly enter Malaysia in search of economic opportunities subsequently encounter forced labour at the hands of employers or informal labour recruiters. These migrant workers are employed on plantations and construction sites, in textiles factories, and as domestic workers, and experience restrictions on movement, deceit and fraud in wages, passport confiscation and debt bondage. Domestic workers face difficult situations, including the non-payment of three to six months wages. There had been no criminal prosecutions of employers or labour recruiters who subject workers to conditions of forced labour. The Committee also noted the information from the International Organization for Migration, that as of 2009, there were approximately 2.1 million migrant workers in Malaysia, and that migrant workers in the country may be subject to unpaid wages, passport retention, heavy workloads and confinement or isolation. It further noted that a Memorandum of Understanding had been signed between the Governments of Indonesia and Malaysia.

The Committee notes the Conference Committee on the Application of Standards urged the Government to take immediate and effective measures to ensure that perpetrators were prosecuted and that sufficiently effective and dissuasive sanctions were imposed, as well as to ensure that victims were not treated as offenders and were in a position to turn to the competent judicial authorities in order to obtain redress in cases of abuse and exploitation. The Conference Committee also encouraged the Government to continue to negotiate and implement bilateral agreements with countries of origin, so that migrant workers were protected from abusive practices and conditions that amounted to the exaction of forced labour once they were in the country, and to work with the countries of origin to take measures for their protection prior to departure.

The Committee notes that the ITUC, in its most recent comments, states that there has been no action taken by the Government since the Conference Committee's discussion and that the Government has not followed any of the recommendations made by that Committee. The ITUC asserts that the situation and treatment of migrants workers in the country has further deteriorated, causing more migrant workers to suffer from forced labour. The Government has not taken any measures to monitor the deception of migrant workers due to false documents or the switching of employment contracts upon arrival, although this is a well-known issue. Despite protections in law, most migrant workers work long hours and are subject to underpayment or late payment of wages. An estimated 90 per cent of employers retain the passports of migrant workers, and these workers are afraid to report abuse or even request information concerning labour rights. Migrant workers who leave their employer due to abuse become de facto undocumented workers, subject to deportation. The Government has further criminalised migrant workers, identifying 500,000 undocumented migrant workers for deportation without adequately assessing whether they are victims of forced labour. While the Ministry of Human Resources announced its intention in 2008 to introduce a regulation on the working conditions of domestic workers, this regulation has not yet been introduced. The ITUC urges the Government to abolish the labour outsourcing system, and to include domestic workers within the scope of the Employment Act (Minimum Standards).

The Committee notes the Government's indication that measures taken to protect migrant workers include the implementation of a programme that will result in the development of an updated list of foreign workers in the country, which will contribute to the protection of these workers against unscrupulous employers. This programme will create a platform for Malaysia to collaborate with sending countries to ensure the orderly entry of migrant workers, so that they can be protected from exploitation. The Government is also implementing an awareness-raising programme for foreign domestic workers and their employers, and has held seminars regarding the rules and regulations which are enforceable in Malaysia for 5,651 participants. Additionally, it has set up a Special Enforcement Team, consisting of 43 officers, to enhance enforcement activities to combat forced labour issues. The Department of Labour carried out 41,452 workplace inspections in 2012 and 15,370 inspections in the first nine months of 2013, to check for forced or compulsory labour practices, and no forced or compulsory labour practices were recorded. The Government further indicates that it has signed a Memorandum of Understanding with the Government of Bangladesh regarding the recruitment of workers.

While noting certain awareness-raising and data collection measures taken by the Government, the Committee observes that the implemented law enforcement measures appear to have yielded few tangible results. In particular, it notes with *concern* that the considerable number of inspections carried out appear not to have had a concrete impact with regard to combating forced labour practices in the country and ensuring that perpetrators of this practice are penalized. In this regard, the Committee recalls the importance of taking effective action to ensure that the system of the employment of migrant workers does not place the workers concerned in a situation of increased vulnerability, particularly where they are subjected to abusive employer practices, such as retention of passports, non-payment of wages, deprivation of liberty and physical and sexual abuse, as such practices might cause their employment to be transformed into situations that could amount to forced labour. ***Therefore, the Committee once again urges the Government to take the necessary measures to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour. In this regard, it urges the Government to take specific measures to respond to cases of abuse of migrant workers and to ensure that victims of such abuse are able to exercise their rights in order to halt violations and obtain redress. It also requests the Government to take concrete action to identify victims of forced labour among migrant workers and to ensure that these victims are not treated as offenders. Moreover, noting an absence of information in the Government's report on any prosecutions undertaken, the Committee urges the Government to take immediate and effective measures to ensure that perpetrators are prosecuted and that sufficiently effective and dissuasive sanctions are imposed. It requests the Government to provide, in its next report, information on the number of prosecutions and convictions concerning the exploitative employment conditions of migrant workers, and the specific penalties applied. Lastly, the Committee requests the Government to continue to provide information on the implementation of bilateral agreements with countries of origin, as well as any other cooperation measures undertaken in this regard.***

The Committee notes that the Conference Committee, in June 2013, requested the Government to accept a technical assistance mission to ensure the full and effective application of the Convention. It also notes that the ITUC, in its most recent comments, urges the Government to accept an ILO mission to the country. In this regard, it notes the Government's statement in its report that it is still considering the offer, as forced labour in Malaysia is an issue which cuts across many government agencies. ***Taking note of the Government's statement, the Committee strongly encourages the Government to avail itself of ILO technical assistance, and to accept and receive a technical assistance mission in the near future.***

The Committee is raising other points in a request addressed directly to the Government.

***[The Government is asked to reply in detail to the present comments in 2014.]***

## Mauritania

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1961)**

The Committee notes with *regret* that, despite a specific request in this regard, the Government has not provided a report. It takes notes of the observations of the Free Confederation of Mauritanian Workers (CLTM) and the General Confederation of Workers of Mauritania (CGTM), received on 29 and 30 August 2013, respectively. The Committee observes that, in its observations, the CLTM reiterates that the actions of the Government to combat slavery remain insufficient and do not create an enabling environment for its eradication, but instead maintain an environment conducive to the development of slavery. The CLTM indicates that the measures accompanying the 2007 Act criminalizing slavery have remained a dead letter; that the National Plan to Combat the Vestiges of Slavery (PESE) was diverted from its original objective and did not reach the villages of former slaves; that the National Agency to Combat the Vestiges of Slavery and to Promote Integration and Poverty Reduction “Tadamoun”, created at the start of 2013, does not have the necessary means to act; and that it is still extremely difficult for victims to bring their case before administrative and judicial bodies. The CGTM, in its communication, refers to the subordination and dependence of former slaves who, due to the discrimination and social exclusion they face, find themselves in very difficult economic situations, which lead them to accept any type of work.

***In view of the above and the content of the observation made by the Committee in 2012, the Committee urges the Government to take all the necessary measures to effectively combat slavery and its vestiges. It trusts that the Government will not fail to provide detailed information in its next report which replies to the Committee's previous observation, which concerned the following points:***

*Articles 1(1), 2(1) and 25 of the Convention. Slavery and slavery-like practices.* In its previous comments, the Committee noted that the Government had taken a number of positive measures which demonstrated the Government's commitment to combat slavery and the vestiges thereof. However, it observed that, despite these measures, victims were unable to assert their rights and it asked the Government to take appropriate measures in this respect. The Committee also underlined the importance of a comprehensive strategy to combat slavery which would make it possible to address this issue in a broad manner. The Committee notes that the question of the application of the Convention by Mauritania was examined by the Committee on the Application of Standards of the International Labour Conference in June 2010. It also notes the report published in August 2010 by the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences (A/HRC/15/20/Add.2).

(a) *Effective application of the legislation.* The Committee recalls that Act No. 2007/48 of 9 August 2007 criminalizing slavery and punishing slavery-like practices (hereinafter: Act of 2007) defines, criminalizes and penalizes practices similar to slavery and makes a distinction between the crime of slavery and offences relating to slavery. These provisions state, inter alia, that “any person who appropriates the goods, products and earnings resulting from the labour of any person claimed to be a slave or who forcibly takes that person's monies shall be liable to imprisonment ranging from six months to two years and a fine ranging from 50,000 to 200,000 ouguiyas” (section 6). Furthermore, the *Walis*, *Hakems*, local chiefs and officers of the criminal investigation police who do not take action with regard to slavery-like practices that are brought to their knowledge shall be liable to imprisonment and a fine (section 12). Lastly, human rights associations are empowered to denounce violations of the Act and to assist victims, with the latter entitled to judicial proceedings that are free of charge (section 15). The Committee noted that the Act had received considerable publicity with a view to promoting an understanding of the criminal nature of slavery. It stressed the need to continue the awareness-raising process in view of the fact that victims seemed unable to assert their rights with regard to the competent authorities.

The Committee observes that the ITUC emphasizes in its 2012 observations that it is extremely difficult for victims of slavery to overcome cultural and legal obstacles in order to be able to lodge complaints and take legal action against their masters. The ITUC refers to the reluctance at various levels of the administration to enforce the law. Even though several victims have attempted to take legal action against their masters, only one conviction was handed down in November 2011. The ITUC also reports reluctance to use the Act of 2007 as the basis for investigation, delays in the processing of cases at the investigation stage and at the time of instituting proceedings, and numerous dismissals of cases by public prosecutors, and provides several examples in this respect.

The Committee notes the Government's reference in its 2011 report to five cases examined in 2010 by the National Commission on Human Rights (CNDH). Of these five cases, only one led to a court conviction, and this was following the intervention of the Public Prosecutor's Office, which took action to overturn, in the interests of the law, the decision by the Court of Appeal to release a woman accused of having kept two children as slaves. Further to the ruling being overturned, the woman concerned was sentenced to six months' imprisonment. The Government emphasizes that this outcome was possible thanks to the unbending determination of the public authorities, the prompt instructions issued by the Prefect, cooperation between NGOs and the police, and intervention by the Public Prosecutor's Office. The Committee observes that the Government makes a general reference in its 2012 report to the responsiveness of the authorities in pursuing investigations into allegations of slavery and bringing the cases before the courts, but it fails to provide any specific information on new cases of enforcement of the law or on court decisions that have been handed down.

The Committee notes that the United Nations Special Rapporteur on contemporary forms of slavery states that she had heard of cases of slavery being reported to the relevant authorities. However, either the cases were reclassified under the heading of “inheritance or land dispute” or were not pursued owing to insufficient documentary evidence, or the person who put forward the claim was put under pressure from his or her extended family, master or sometimes local authorities to retract his or her claim. This results in cases never being reported as “slavery” cases and therefore, judicially, slavery cases do not exist.

The Committee notes with *concern* that this information shows that victims continue to face problems in being heard and asserting their rights with regard to both the relevant authorities responsible for law enforcement and the judicial authorities. It recalls that the Conference Committee already expressed its concern in this regard. The Committee emphasizes that victims of slavery are in a situation of considerable economic and psychological vulnerability which calls for proactive measures by the State. However, the public authorities which should protect them appear to be reluctant to enforce the Act of 2007. The

Committee recalls that, under the terms of *Article 25* of the Convention, States which ratify the Convention are obliged to ensure that the penalties imposed by law for the exaction of forced labour are really adequate and are strictly enforced. ***The Committee urges the Government to take the appropriate steps to ensure that victims are actually able to turn to the police and judicial authorities to assert their rights and that these authorities conduct investigations promptly, effectively and impartially throughout the country, as required by the Act of 2007. The Committee requests the Government to provide information in its next report on the number of cases of slavery reported to the authorities, the number of cases for which an investigation has been conducted and the number of cases which have resulted in court proceedings. The Committee considers it essential with a view to eliminating slavery that the prison sentences provided for by the Act of 2007 are actually imposed on the perpetrators of these practices.***

(b) *Comprehensive strategy to combat slavery.* In its previous comments, the Committee noted the adoption of the National Plan to Combat the Vestiges of Slavery (PESE), covering the fields of education, health and income-generating activities. It emphasized that, by addressing poverty, the National Plan represented one component of the action required to combat slavery, although such action should also encompass other measures. The Committee thus drew the Government's attention to the importance of a comprehensive strategy to combat slavery.

The Committee notes that the Government, in its last two reports, has not supplied any details of the measures taken in the context of the PESE or any information on the adoption of a strategy or comprehensive plan to combat slavery. However, it notes that during the discussion of this case by the Conference Committee, the Government indicated that more than 1,000 actions had been undertaken in the context of the PESE, benefiting a total of 93,000 persons in 282 localities. The Conference Committee underlined that while the measures adopted to combat poverty were an important element in the strategy to overcome slavery, the programmes implemented needed to have the objective of ensuring the economic independence of those who were victims of slavery, and it asked the Government to take measures to improve the economic situation of the most vulnerable categories of the population so that they could escape from the vicious circle of dependence. The Conference Committee also emphasized that the issue of slavery needed to be addressed by Mauritanian society as a whole, and the Government needed to play a key role in raising the awareness of the population and the authorities in relation to the issue and to adopt, in the very near future, a national plan to combat slavery.

The Committee notes that the CGTM, in its 2011 observations, complains about the Government's lack of determination to establish a coherent policy for combating slavery and underlines the urgent need to establish specific programmes, in cooperation with all the social partners. The CGTM indicates that the State must launch a genuine national dialogue on this issue in order to contribute to a real raising of public awareness and put an end to these practices once and for all. The CLTM, for its part, is of the view that, despite the measures taken, there is no real political will to end slavery. It asserts that, with the complicity of the State, slavery remains a current practice throughout the country and appears in different forms which keep slaves and former slaves subjugated to their masters or former masters through denial of the right to property, expropriation, and keeping slaves in a state of need and dependence. The CLTM considers that the State fails to ensure that these categories of citizens have access to basic infrastructure (schools, health care, roads, etc.) and adopts a discriminatory policy regarding access to certain benefits. Finally, the ITUC emphasizes that it is essential for the Government to formulate a national strategy or a plan to combat the persistent and widespread practice of slavery, and also its vestiges and consequences. The ITUC considers that an inter-institutional body must be established for this purpose and that one of its initial functions would be to conduct research into the number of persons who are victims of slavery.

The Committee notes all of the above information. It expresses its ***concern*** regarding the lack of information since 2010 on the specific measures taken in the context of the PESE, a copy of which has still not been sent by the Government, and also at the lack of progress regarding the formulation and implementation of a comprehensive strategy to combat slavery. The persistence of slavery in Mauritania is rooted in many causes, including economic and cultural factors. In view of the complexity of this phenomenon and its various manifestations, the Committee again emphasizes that the required responses must form part of a comprehensive strategy to combat slavery covering all spheres of action, including awareness-raising, prevention, specific programmes enabling victims to leave the situation of economic and psychological dependence, reinforcement of the capacity of the authorities responsible for prosecution and for the administration of justice, cooperation with NGOs, and the protection and reintegration of victims. In this regard, the Committee recalls, as the Conference Committee also observed, that it is essential for the Government to have reliable qualitative and quantitative information on the characteristics of slavery. ***The Committee therefore urges the Government to take the necessary steps to adopt and implement a comprehensive strategy to combat slavery, which encompasses the various aspects described above. The Committee firmly hopes that this strategy will be accompanied by research to enable an overview of the realities of slavery to ensure better planning of government action in this sphere and to ensure that planned measures target all the population groups and regions concerned.***

(c) *Protection and reintegration of victims.* The Committee recalls that it is essential that victims, once they have been identified, are the recipients of measures to support and reintegrate them. It observes that the Government, in its 2011 report, indicates that five persons, whose cases had been referred to the National Commission on Human Rights, received direct financial aid or funding for income-generating activities in the context of the PESE. The ITUC points out that the PESE has not been allocated sufficient financial or human resources to combat slavery effectively, that it is not in a position to identify victims or provide them with comprehensive and systematic follow-up, and that the financial assistance given to victims is insufficient to meet their long-term needs. The ITUC adds that the PESE has not been operational for almost a year, since the resignation of its Director-Generals in 2011.

The Committee notes this information, which demonstrates the need to strengthen the material and financial support for victims so that they can lodge complaints and avoid reverting to a situation of dependence in which their labour would once again be exploited. ***The Committee requests the Government to provide information on the specific steps taken to ensure effective protection for victims of slavery, either as part of the strengthening of the PESE or in the context of the adoption of a comprehensive strategy to combat slavery. In this regard, the Committee hopes that the measures taken will take account of the need to provide victims with legal, economic and psychological support. The Committee also requests the Government to indicate the mechanisms whereby victims receive compensation for the personal and material damage suffered.***

***In conclusion, the Committee hopes that the Government will be in a position to provide detailed information in its next report on the steps taken to continue to combat slavery, which, according to the various sources cited in this comment, remains a widespread practice, with the United Nations Special Rapporteur concluding that "de facto slavery in Mauritania continues to be a slow, invisible process which results in the 'social death' of many thousands of women and men". The Committee therefore trusts that the Government will tackle the resistance which still exists in the various spheres of Mauritanian society.***

*The Committee hopes that the Government will make every effort to take the necessary action in the near future. In this regard, the Committee strongly encourages the Government to accept a direct contacts mission to help it to overcome the difficulties that it faces.*

## Niger

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1961)**

*Articles 1(1) and 2(1) of the Convention. Slavery and slave-like practices.* The Committee recalls that the issue of slavery in Niger, which exists in a number of communities where the status of slaves continues to be transmitted by birth to persons from certain ethnic groups, has been the subject of its comments for many years. The Committee previously noted the adoption of significant measures such as Act No. 2003-025 of 13 June 2003 incorporating into the Penal Code sections 270-1 to 270-5, which define the elements constituting the crime of slavery and slavery offences and lay down the applicable penalties, as well as the establishment in August 2006 of the National Committee to combat the vestiges of forced labour and discrimination. The Committee was obliged subsequently to express concern at the lack of information from the Government on the adoption of measures specifically targeting slavery and its vestiges, while, at the same time, there were consistent reports of the persistence of slave-like practices: the 2008 ruling by the Court of Justice of the Economic Community of West African States (ECOWAS) against Niger in a case of slavery; the survey produced in 2011 by the National Statistics Office and the International Labour Office on the forms of forced labour in Niger involving adults and children, which found that more than 59,000 adults were victims of forced labour, that is 1.1 per cent of the total adult population – for the most part, these victims performed domestic work (48.2 per cent) or worked in agriculture or stock breeding (23.6 per cent); and the 2011 recommendations of the United Nations Human Rights Council regarding measures to be taken to combat slavery (A/HRC/17/15).

The Committee *deplores* that, according to the information contained in the Government's latest report, the National Committee to combat the vestiges of forced labour and discrimination no longer meets due to a lack of resources, and that it has been impossible to implement the action plan adopted by that Committee in 2007. Although the Government does not provide any further information on the issue of slavery, the Committee found, on the website of the Ministry of Justice, that a workshop was held in January 2013 to launch an "awareness-raising campaign on the texts and Conventions to combat slavery in Niger", which was attended by the Minister of Justice. On this occasion, the Minister stated that the campaign against slavery was one of the authorities' major challenges, as the practice of slavery was one of the worst forms of denial of human dignity. Reference was also made to the National Committee to combat trafficking in persons as a tool to combat slavery.

The Committee recalls that it has drawn the Government's attention to the need of combining legislation criminalizing slavery with a comprehensive strategy to combat slavery that includes measures to raise awareness in society and among competent authorities, as well as measures to combat poverty and measures to assist and reintegrate the victims. In this respect, the Committee stresses that attempts to combat slavery and its vestiges call for specific measures that are different from those required to combat trafficking in persons. ***Consequently, the Committee expresses the firm hope that the Government will take all the necessary measures to adopt a policy or specific strategy to combat slavery, which will define clear objectives and be allocated with sufficient resources for its implementation. Recalling that raising awareness among the population as a whole and training law enforcement and prosecutorial and judicial authorities are a vital component of this policy, the Committee requests the Government to provide information on activities undertaken in this respect, as well as on programmes specifically geared to providing former slaves or descendants of slaves with adequate means of subsistence to prevent them from returning to a situation of vulnerability in which they would once again be exploited for their labour.***

*Article 25. Application of effective penal sanctions.* The Committee underlines that it is essential that victims of slavery should have access, in practice, to the police and judicial authorities in order to assert their rights and that the perpetrators of the crime or offence of slavery should be brought to justice. It recalls in this respect that according to *Article 25* of the Convention, the Government must ensure that the penalties prescribed in the Penal Code are really adequate and strictly enforced. ***The Committee requests the Government to provide information on the awareness-raising campaign on the legal texts to combat slavery. The Government is also asked to indicate the measures taken to ensure that this campaign targets areas in which slave-like practices have been noted, as well as the authorities responsible for enforcing the law. The Committee hopes that the Government will be in a position to provide, in its next report, information on the complaints lodged, the legal proceedings initiated and the judicial decisions handed down under sections 270-1 to 270-5 of the Penal Code.***

The Committee is raising other points in a request addressed directly to the Government.

## Oman

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1998)**

*Articles 1(1) and 2(1) of the Convention. Vulnerability of migrant workers to conditions of forced labour.* In its previous comments, the Committee noted that, under section 2 of the Labour Code (Sultani Decree No. 35/2003) domestic

workers are excluded from its scope, and that Ministerial Order No. 1 of 2011, relating to the recruitment of non-Omani workers by private employment agencies, as well as the model contract for recruiting migrant domestic workers had been adopted. Regarding the right of domestic workers to terminate employment, the Committee also noted that according to section 3 of the model contract, either party can terminate the two-year contract after notifying the other party in writing 30 days before the date of the termination of the contract. In case of any abuse or a violation of the provisions of the contract by the employer, the domestic worker may terminate the contract without observing the notification period (sections 7 and 8). However, the domestic worker cannot work for another person before completing the procedure of changing to another employer provided for by the regulations in force (section 6(e)). The Committee requested the Government to provide information on the procedures regarding the termination of employment and the changing of employers.

The Committee notes the Government's indication that the procedures for termination of employment in the case of a contract between an employer and a domestic worker are similar to the ones between any employer and employee working in an undertaking. If the procedures specified in the contract are not observed, the aggrieved party may lodge a complaint to the Labour Dispute Department, which in turn seeks to resolve the dispute amicably. The dispute may also be referred to the competent court, if no agreement has been reached in this respect. Regarding the transfer of a worker's services to another employer, both parties to the contract are entitled to lodge a complaint to the Labour Dispute Department in case of any damage, and the dispute may also be referred to the competent court.

The Committee also notes that in its concluding observations of 21 October 2011, the Committee on the Elimination of Discrimination against Women expressed concern about the sponsorship system which makes women migrant workers vulnerable to mistreatment and abuse by their employers, as well as the lack of awareness among women migrant workers of their rights and the lack of access to justice and legal redress (CEDAW/C/OMN/CO/1, paragraph 42).

In this regard, the Committee recalls the importance of taking effective action to ensure that the system of employment of migrant domestic workers (sponsorship system) does not place the workers concerned in a situation of increased vulnerability, particularly when they are subjected to abusive employer practices, such as retention of passports, non-payment of wages, deprivation of liberty, and physical and sexual abuses. Such practices might cause their employment to be transformed into situations that could amount to forced labour. *The Committee therefore urges the Government to take the necessary measures to ensure that migrant domestic workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour. In this regard, the Committee requests the Government to indicate the measures taken to facilitate the transfer of a migrant domestic worker's services to a new employer, so that these workers can freely terminate their employment and so they do not fall into situations that could amount to forced labour. It also requests the Government to indicate the length of the procedure for changing an employer in such cases and to supply copies of relevant records from the Labour Dispute Department or the competent courts in this regard.*

The Committee is raising other points in a request addressed directly to the Government.

## Pakistan

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1957)**

The Committee notes that the country is participating in an ILO technical assistance programme, the Special Programme Account (SPA) project. It notes with *interest* that this technical assistance resulted in the development of time-bound action plans, by each of the provincial governments, to concretely address the comments of the Committee, including through the adoption of provincial legislation on bonded labour.

*Articles 1(1), 2(1) and 25 of the Convention. Debt bondage. 1. Legislative framework and policies.* The Committee previously noted that as a result of the 18th Constitutional Amendment, labour matters had been transferred to the provinces, and that each of the provinces was developing legislation on bonded labour. It requested information on legislative developments in this regard, as well as on the implementation of the 2001 National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers.

The Committee notes the Government's statement that the provinces can take ownership of the National Policy and Plan of Action, or can adopt new plans, and that the Provinces of Sindh and Punjab have both adopted a Provincial Plan of Action to Combat Bonded Labour. The Government also indicates that the Province of Punjab has already adopted a provincial Bonded Labour System Abolition Act. The Committee further notes the information in the mission report of the tripartite inter-provincial workshop carried out in May 2013, within the framework of the SPA project, that the adoption of provincial bonded labour abolition legislation, by the end of 2013, was included in the time-bound action plans of the other three provinces. Moreover, the Government indicates that the "Elimination of bonded labour in brick kilns" project is being implemented in Punjab, which includes the distribution of 5,172 national identity cards, interest-free loans to 6,104 borrowers, and the provision of health and hygiene services. In addition, an ILO project entitled "Strengthening Law Enforcement Responses and Action against Internal Trafficking and Bonded Labour" began in 2010 in the Provinces of Sindh and Punjab, aimed at engaging brick kiln owners to institute practices towards the eradication of bonded labour, as well as efforts to link brick kiln workers with social safety nets. *Taking due note of this information, the Committee urges the Government to take the necessary measures to ensure that each of the provinces adopts legislation aimed at*

*eliminating bonded labour and implements the legislation effectively. It requests the Government to continue to take measures to combat and eliminate bonded labour, as well as measures aimed at supporting freed bonded labourers. It requests the Government to continue to supply detailed information on the specific measures implemented in this regard, as well as information on the concrete results of these initiatives, including the number of bonded labourers and former bonded labourers, benefiting from these measures.*

2. *District vigilance committees.* The Committee previously noted the allegations from several national and international workers' federations that the Bonded Labour System (Abolition) Act (BLSA) had not been properly applied and those who used bonded labour had been able to do so with impunity. These comments indicated that the district vigilance committees (DVCs), set up under the BLSA, had not performed their functions of identifying and releasing bonded labourers.

The Committee notes the Government's statement that the DVCs are in place. The Supreme Court of Pakistan recently directed that the DVCs in the Province of Punjab be reactivated, and these are now functional and effective. The Committee also notes the information contained in the mission report of the tripartite inter-provincial workshop indicating that the action plans developed by the Provinces of Balochistan, Khyber Pakhtunkhwa and Punjab include reconstituting the DVCs by mid-2014. In this regard, the Committee takes due note of the copies, submitted with the Government's report, of the minutes of meetings of vigilance committees in July 2013 of the following districts in the Punjab Province: Narowal, Lodhran, Mianwali, Bahawalnagar, Kasur, Vehari, Gujrat, Gujranwala, Sheikhpura, Chakwal, Bahawalpur, Rawalpindi, Sialkot, Attock, Jhelum, Jhang, Sahiwal, Rahim Yar Khan, Pakpattan, Okara, Bhakkar, Multan, Sargodha, Toba Tek Singh, Hafizabad, Khanewal and Chiniot. Moreover, the Committee notes that these time-bound action plans include several provincial initiatives to strengthen monitoring, including undertaking raids related to bonded labour, the establishment of a bonded labour cell within the labour department, and the establishment of an anti-bonded labour force. The Committee further notes the Government's indication that 370 cases have been registered by the local police related to bonded labour. *Taking due note of the information provided concerning the functioning of the district vigilance committees in the province of Punjab, the Committee requests the Government to take the necessary measures to ensure the functioning of these committees in the other three provinces, and to provide information thereon, including copies of monitoring/evaluation reports. Noting that a number of bonded labour cases have been registered, the Committee once again requests the Government to supply information on the legal action taken against employers of bonded labourers, including the number of prosecutions, convictions, and specific penalties applied, as well as copies of relevant court decisions.*

3. *Data-gathering measures to ascertain the current nature and scope of bonded labour.* The Committee previously expressed the firm hope that the Government would carry out a statistical survey on bonded labour in the country. In this regard, the Committee notes the Government's indication that provincial surveys of bonded labour are included in the Provincial Plan of Action to Combat Bonded Labour of both Sindh and Punjab, and that these provinces are working in consultation with employers' and workers' organizations to undertake this survey, using a valid methodology. The Committee also notes the information from the mission report that the Province of Balochistan plans to conduct baseline studies on the phenomenon of bonded labour in the province in autumn 2013. *The Committee strongly urges the Government to pursue its efforts to undertake a survey of bonded labour in each province of the country, in cooperation with employers' and workers' organizations and other relevant partners. It requests the Government to provide, in its next report, information on the progress achieved in this regard, as well as copies of the surveys, once completed.*

The Committee is raising other points in a request addressed directly to the Government.

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1960)**

*Article 1(a) of the Convention. Penalties involving compulsory labour as a punishment for expressing political views.* For many years, the Committee has been referring to certain provisions in the Security of Pakistan Act, 1952 (sections 10–13), and the Political Parties Act, 1962 (sections 2 and 7), which give the authorities wide discretionary powers to order the dissolution of associations, subject to penalties of imprisonment which may involve compulsory labour. The Committee previously noted that the Government's Law and Justice Commission, in response to a Supreme Court ruling, had drafted legislative proposals for certain amendments to be made to the Security of Pakistan Act, 1952, and that proposals to amend other laws, including the Political Parties Act, 1962, were under consideration. The Committee notes that the Government's latest report contains no information on the new developments in this regard. *While noting the Government's statement in the report that the above laws were framed with the objective to restrict illicit activities which may lead to national security concerns, the Committee expresses the firm hope that the necessary measures will at last be taken to bring the abovementioned provisions of the Security of Pakistan Act, 1952, and the Political Parties Act, 1962, into conformity with the Convention. Pending the adoption of such measures, the Committee again requests the Government to provide information on the application of the above provisions in practice, supplying sample copies of the relevant court decisions and indicating the penalties imposed.*

In its earlier comments, the Committee has referred to sections 5 and 28 of the Press, Newspapers, News Agencies and Books Registration Ordinance, 2002, under which a person who edits, prints or publishes a newspaper in contravention of the Ordinance (for instance, without having made a declaration or without having a declaration

authenticated by the District Coordination Officer) is liable to penalties of imprisonment (which may involve compulsory labour) for a term of up to six months. The Committee also noted that similar penalties may be imposed for keeping a printing press without making a declaration (section 26) or for disseminating unauthorized news-sheets and newspapers (section 30).

The Committee notes that in the Statement of Objects and Reasons of a Bill to amend the Press, Newspapers, News Agencies and Books Registration Ordinance, 2002, which was to be introduced in the National Assembly in 2008, supplied by the Government with its report, the Government expressed its intention “to dismantle restrictions and curbs placed on the media” and stated that “the draconian laws that threatened coercive action against the press will be removed via this bill to begin the process of providing for a free press in Pakistan”. ***The Committee trusts that the necessary measures will soon be taken with a view to bringing the above provisions of the Press, Newspapers, News Agencies and Books Registration Ordinance, 2002, into conformity with Article 1(a) of the Convention, so that no penalty of imprisonment involving compulsory labour can be imposed as a punishment for expressing political views. It requests the Government to indicate, in its next report, whether the 2008 Bill referred to above, or any other bill to amend the 2002 Ordinance, has been passed by the National Assembly and to provide a copy of the revised legislation, as soon as it is adopted. Pending the revision, the Committee requests the Government to provide information on the application of the above sections 26, 28 and 30 of the Ordinance in practice, indicating the penalties imposed and supplying sample copies of the relevant court decisions.***

*Article 1(e). Penalties involving compulsory labour as a means of religious discrimination.* For a number of years, the Committee has been referring 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 punishable with penalties of imprisonment (which may involve compulsory labour) for a term of up to three years. The Committee previously noted the Government’s indication 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.

While noting these indications, the Committee recalls, referring also to the explanations provided in paragraphs 303 and 316 of its 2012 General Survey on the fundamental Conventions concerning rights at work, 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. However, 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 expresses the firm hope that 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 the adoption of such measures, the Committee requests the Government once again to provide, in its next report, information on the application of these provisions in practice, including sample copies of the court decisions and indicating the penalties imposed.***

## Papua New Guinea

### ***Forced Labour Convention, 1930 (No. 29) (ratification: 1976)***

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons.* 1. *Strengthening the legal framework and law enforcement.* The Committee previously noted a communication from the International Trade Union Confederation (ITUC) stating that there had been no investigations, prosecutions or convictions for trafficking in persons. This communication also stated that men are forced into labour in logging camps and mines and that much of the trafficking of women for the purpose of sexual exploitation took place close to camps for these industries. This report further indicated that there were reports of police and border control officers receiving bribes to ignore trafficking in persons.

The Committee notes with **concern** the Government’s statement that there have been no investigations, prosecutions or convictions for trafficking in persons. Nonetheless, the Government acknowledges that human trafficking is a serious problem in the country, but that it lacks the proper legislation specifically criminalizing human trafficking. It states that while the legislation in some manner prohibits forced labour and trafficking in persons, the provisions do not offer the maximum protection and penalties are not stringent as required by *Article 25* of the Convention. However, it is addressing this issue through the adoption of the People Smuggling and Trafficking in Persons Bill. This Bill would amend the Criminal Code to include a provision prohibiting human trafficking and has been endorsed by the National Executive Council.

The Committee notes the Government’s statement that a project is being conducted by the International Organization for Migration and the Department of Justice and the Attorney-General to provide a preliminary overview on the indicators of trafficking and the training needs of law enforcement officials. In this regard, it notes that a survey implemented under this project, entitled “Trafficking in persons and people smuggling in Papua New Guinea” indicated a high rate of domestic and international trafficking of both adults and children for the purpose of forced labour, sexual exploitation and domestic servitude. The survey also highlighted the vulnerability to trafficking of men and women who work in and around the logging industry, and other industries that operate at remote sites. The Committee further notes

that the Committee on the Elimination of Discrimination against Women, in its concluding observations of 30 July 2010, expressed concern about the lack of specific laws addressing trafficking-related problems and about cross-country trafficking, which involves commercial sex as well as exploitative labour (CEDAW/C/PNG/CO/3, paragraph 31). ***The Committee urges the Government to strengthen its efforts to combat trafficking in persons. In particular, it requests the Government to take the necessary measures to ensure the adoption of the People Smuggling and Trafficking in Persons Bill as well as to ensure that perpetrators of human trafficking are prosecuted and punished with adequate penal sanctions, as required by Article 25 of the Convention. It requests the Government to provide information on measures taken in this regard, including information on the number of investigations, prosecutions, convictions and specific penalties applied with regard to trafficking in persons.***

2. *Protection and assistance for victims of trafficking in persons.* The Committee notes the Government's statement that in the absence of a proper legal framework, victims of trafficking are at risk for prosecution and further trauma. Currently, persons found without proper immigration papers are arrested and detained for deportation, without an assessment of their status as a victim of trafficking. Similarly, persons found engaging in prostitution are arrested and it is not assessed whether they are possibly victims of trafficking. ***The Committee requests the Government to strengthen its efforts with regard to the identification of victims of trafficking in persons, and to take the necessary measures to ensure that appropriate protection and assistance is provided to such victims. It requests the Government to provide information on the measures taken in this regard in its next report.***

The Committee is raising other points in a request addressed directly to the Government.

## Paraguay

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1967)**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

*Articles 1(1) and 2(1) of the Convention. Debt bondage of indigenous communities in the Chaco.* The Committee previously noted that the Government had taken a number of measures in response to the situation of many indigenous workers in agricultural ranches in the Paraguayan Chaco who are victims of debt bondage. It noted in particular the awareness-raising and training activities undertaken by the Commission on Fundamental Rights at Work and the Prevention of Forced Labour, as well as the creation of a subcommission in the Chaco region, with the mandate to receive complaints concerning violations of labour rights and to prepare a regional action plan on fundamental rights and the prevention of forced labour; the establishment of an office of the Department of Labour in the locality of Teniente Irala Fernandez (central Chaco); the relief activities undertaken in the context of the National Programme for Indigenous Peoples (PRONAPI). The Committee emphasized the need to strengthen the action by the various institutions engaged in combating debt bondage in the Chaco region with a view to developing systematic action that is commensurate with the seriousness of the problem.

The Committee notes that, during the discussion of the application of the Convention by the Conference Committee on the Application of Standards in June 2013, the Government reaffirmed its commitment to bringing an end to debt bondage in the indigenous communities of the Paraguayan Chaco and also in other regions of the country likely to be affected. It observes that during the discussion reference, was made to the difficulties related to the specific geographical characteristics of the Paraguayan Chaco, which can hinder public initiatives, the extreme poverty of certain communities and their debt, claims for the restitution of lands and the weak presence of state services. The Committee notes the following measures taken by the Government to overcome these difficulties:

- the creation within the labour inspectorate of a technical unit for the prevention and eradication of forced labour, which is composed of six labour inspectors whose functions include investigating complaints of forced labour on the spot, identifying victims, protecting them and providing them with guidance and ensuring better coordination with the other competent institutions (Resolution No. 1042 of 13 August 2013);
- the establishment of the Directorate for Indigenous Labour within the Ministry, which would be responsible for the coordination of the system of employment offices, inspection services and vocational training (Resolution No. 642 of 29 July 2013);
- the activities undertaken in collaboration with the International Labour Office with a view to the development of the national strategy to prevent forced labour, with the participation of workers' and employers' organizations and in consultation with indigenous peoples. For this purpose, a series of workshops have been organized and others are planned in several regions (including central Chaco, the department of Itapúa and the locality of Juan Caballero) so that the indigenous communities can propose the most appropriate and coherent roadmap to address the matter;
- training for magistrates and labour inspectors. In the case of labour inspectors, the workshops are intended to improve knowledge of the legislation, intervention procedures, preventive action and measures to combat forced labour;

- vocational training and further education courses for young workers in the Chaco communities;
- awareness-raising activities on workers' rights undertaken by the Regional Labour Directorate of Chaco.

***The Committee notes these measures and strongly encourages the Government to pursue its efforts in this regard. In this respect, it hopes that the Office will be able to continue providing the Government with technical assistance.*** The Committee recalls that, in light of the concerns expressed during the discussion of this case regarding to the persistence of the economic exploitation faced by indigenous workers in certain sectors, particularly in agriculture, the Conference Committee expressed the firm hope that the Government would take immediate and effective measures within the framework of coordinated and systematic action to eradicate any form of forced labour imposed on indigenous communities in the Chaco and other regions of the country likely to be concerned. ***The Committee therefore trusts that the Government will not fail to take the necessary measures to:***

- ***adopt the national strategy to prevent forced labour and the tripartite regional plan of action for the Chaco region and ensure that they set out precise priorities and objectives in relation to prevention and protection measures for victims and that they identify the institutions responsible for their implementation;***
- ***ensure that the measures adopted within the framework of this strategy provide responses to the situation of vulnerability affecting indigenous workers so as to protect them against the debt processes which result in debt bondage. The Committee also refers the Government to the comments that it is making under the Indigenous and Tribal Peoples Convention, 1989 (No. 169);***
- ***provide the new technical unit for the prevention and eradication of forced labour, established within the labour inspectorate, and the office of the Department of Labour in the locality of Teniente Irala Fernandez, with appropriate resources and material means to investigate the complaints received, conduct unscheduled inspections, including in remote areas, identify victims and impose appropriate administrative sanctions;***
- ***protect the victims identified and provide them with appropriate assistance so that they can be reintegrated and obtain compensation for the damages suffered.***

***The Committee expresses the firm hope that the Government will provide information on the measures taken for this purpose and that the information provided will allow the Committee to observe that tangible progress has been achieved.***

***Article 25. Imposition of effective penalties. (a) Penal sanctions.*** In the same way as the Conference Committee, the Committee of Experts once again expresses ***concern*** at the lack of information on cases brought to justice concerning forced labour practices. The Committee recalls that, under the terms of *Article 25* of the Convention, criminal penalties shall be imposed and strictly enforced on persons found guilty of having exacted forced labour. In this respect, it is essential for the national legislation to contain sufficiently precise provisions to enable the competent authorities to prosecute and punish persons who impose forced labour. The Committee notes the Government's indication that the issue of the adaptation of the national legislation is currently being examined with ILO assistance. ***The Committee requests the Government to provide information on the measures adopted, on the one hand, to raise the awareness of the police and the Office of the Public Prosecutor to the problem of debt bondage and to reinforce their cooperation with the labour inspection services in this regard and, on the other, to ensure that victims are able to have recourse to the competent authorities. In view of the absence of prosecutions undertaken, the Committee hopes that the Government will not fail to continue its examination of the legislation that is currently in force and take appropriate measures to ensure that the national legislation contains sufficiently precise provisions adapted to national circumstances so that the competent authorities are able to prosecute and punish those responsible for these practices.***

***(b) Administrative sanctions. Recalling the need to reinforce supervision by the labour inspection services, the Committee once again requests the Government to indicate the number of infringements detected by the inspection services relating to sections 47, 176 and 231 of the Labour Code respecting the protection of wages, including with regard to compliance with the minimum wage and the operation of work stores. Please provide information on the fines imposed on employers and on the compensation granted to workers. The Committee also refers to the comments made on the application of the Protection of Wages Convention, 1949 (No. 95).***

***Article 2(2)(c). Obligation to work imposed on non-convicted detainees.*** For many years, the Committee has been emphasizing the need to amend the Act on the prison system (Act No. 210 of 1970), under the terms of which prison labour shall be compulsory for persons subjected to security measures in a prison establishment (section 39 in conjunction with section 10 of the Act). The Committee recalled in this respect that, under the terms of *Article 2(2)(c)* of the Convention, only prisoners who have been convicted in a court of law may be subjected to the obligation to work.

The Committee notes that the Government representative indicated during the Conference Committee's discussion that a draft Basic Act respecting the prison system had received preliminary approval in the Chamber of Deputies and was being examined by the Senate. ***As this matter has been the subject of the Committee's comments for many years, and as the Committee has observed that a large majority of detainees have not been convicted in a court of law, it urges the Government to take all the necessary measures for the adoption of the draft Basic Act respecting the prison system in the very near future so as to ensure that persons who are awaiting judgment and those who are subject to security measures in a prison establishment are not under the obligation to perform prison work.***

The Committee is raising other points in a request addressed directly to the Government.

## Peru

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1960)**

The Committee notes the observations sent by the Single Confederation of Workers of Peru (CUT) on 25 June 2013, and the Government's report.

*Articles 1(1) and 2(1) of the Convention. Efforts to combat forced labour.* The Committee observes that, for a number of years, the Government has been taking steps to combat the various forms of forced labour that exist in Peru (debt bondage inflicted on indigenous peoples in the logging sector, trafficking in persons and the exploitation of women in domestic service). The creation of the National Committee to Combat Forced Labour (CNLTF) and the adoption of the first National Plan to Combat Forced Labour in 2007 have constituted the central components of this policy. In this respect, the Committee points out that the Government has benefited from the International Labour Office's integrated technical assistance, including the funding allocated under the Special Programme Account (SPA) to strengthen the application of international labour standards.

(a) *National Plan to Combat Forced Labour (PNLCTF).* The Committee notes with **interest** the adoption, under Supreme Decree No. 04-2013-TR of 9 June 2013, of the second National Plan to Combat Forced Labour (PNLCTF-II), which covers the 2013–17 period. This Plan was drawn up as part of a participatory process including representatives from the regions particularly affected by forced labour, such as Ulcayali, Madre de Dios, Cusco, Loreto and Puno, which should facilitate its implementation. With a view to achieving the overall objective of eradicating forced labour by 2017, the Plan advocates the following prerequisites: a baseline study, available between now and 2014, that will constitute a comprehensive review of forced labour in the country; pilot interventions conducted in 2013–14 in the regions and sectors of activity where cases of forced labour have been observed (logging, artisanal mines, domestic work); and the strengthening of the CNLTF's capacities. This Plan also establishes three strategic objectives: (i) training and awareness raising about the characteristics, extent and causes of forced labour, and about the groups and regions affected; (ii) the establishment and implementation of an integrated system that will identify, protect and reintegrate victims by structuring and coordinating the roles, procedures and tools of the various entities concerned; and (iii) the identification and reduction of the vulnerability factors inherent in forced labour. Activities have been planned and objectives defined for each of the strategic objectives. Furthermore, the Committee notes that an intersectoral protocol on forced labour is being drawn up, which should serve as a methodological tool to help public and private institutions implement the PNLCTF-II.

*The Committee notes that the PNLCTF-II provides for a mechanism to monitor and assess its performance, and requests the Government to provide information on the annual evaluation reports that will be prepared in this context, and to specify whether the obstacles preventing the implementation of these objectives, which have been identified, were taken into account when reviewing the annual operational plans. While noting that the funding of the activities planned in the PNLCTF-II is contingent upon the various public, national, regional and local competent entities responsible for obtaining budget lines to carry out the Plan's activities, the Committee trusts that the Government will not fail to generate the necessary political leadership to ensure that the resources required for the effective implementation of this second National Plan are made available. In this respect, it strongly encourages the Government to strengthen the capacities of the CNLTF, both at national and regional levels, and recalls that it is essential to strengthen the State's presence in regions with a marked prevalence of forced labour.*

(b) *Legislative measures.* In its previous comments, the Committee underscored the need to supplement the national legislation by adopting a penal provision that expressly criminalizes forced labour and defines its various components in order to cover all forced labour practices that exist in the country. In its report, the Government states that the CNLTF subcommittee has drafted a proposed amendment to section 168 of the Penal Code concerning infringements freedom at work. This will then be submitted to the CNLTF for approval in the near future and subsequently brought before the National Human Rights Council so that the Council might introduce a bill to the Congress of the Republic.

In its observations, the CUT stresses that the present drafting of section 168 of the Penal Code is incomplete and that its amendment should be seen as a priority objective to be attained in the very near future. As far as the CUT is concerned, the proposal for amending section 168 of the Penal Code made by the Minister of Labour at the CNLTF meeting in April 2013 is positive and takes account of the recommendations made by the Committee of Experts.

The Committee notes that, as already envisaged in the 2012–13 operational plan of the first PNLCTF, the issue of bringing national legislation in line with international standards on freedom at work and forced labour also features in the PNLCTF-II as an objective for 2013–14. **The Committee requests the Government to take the necessary steps to ensure that the national penal legislation is supplemented as soon as possible to ensure that all forms of forced labour are punished effectively, either by amending section 168 of the Penal Code or by adding a provision in the Penal Code that criminalizes forced labour and defines its components.**

(c) *Diagnosis.* The Committee notes that one of the objectives of the PNLCTF-II for 2014 is to have a baseline study that establishes a comprehensive review of forced labour in the country, with a view to systematizing available information and adopting institutional monitoring and updating mechanisms. The Government also refers to a study on the forced labour of children in charcoal production in the Pucallpa sawmills. According to the CUT, the PNLCTF-II acknowledges the lack of systematic data and the shortcomings in the institutional mechanisms preventing it from having

a clear idea of the real situation of forced labour, and considers it necessary to have reliable information available so that it might identify the groups of persons affected, prepare a specific action plan to eradicate these practices and obtain the necessary financing for this purpose. *The Committee hopes that the Government will take all the necessary steps to ensure that a qualitative and quantitative survey to supplement the information already available on various forced labour practices is finalized in 2014, as provided for by the PNLCTF-II. This data is vital for evaluating and achieving all the objectives of the PNLCTF-II, as well as for guaranteeing that the resources actually reach the populations and regions concerned.*

(d) *Labour inspection.* In its previous comments, the Committee expressed its concern that, since it was set up in 2008, the special labour inspection unit to combat forced labour (GEIT) had not reported any case of forced labour. In this context, it noted that the 2012–13 operational plan intended to “reactivate and reinforce the GEIT”, pointing out that the “GEIT’s current problems” needed to be assessed and that measures should be promoted to build its capacity for mobility in the field and to provide it with adequate resources. The Committee notes that, according to the Government, a special labour inspection unit to combat forced and child labour was set up under a resolution dated 8 March 2013, which will consist of 15 labour inspectors. It adds that, in 2012, the General Labour Inspection Directorate ordered two inspections of two enterprises and 145 workers, but that no cases of forced labour were identified during these visits.

The Committee observes that, if the new specialized inspection group is to be made up of 15 inspectors (compared to five for the GEIT in 2008), it will be in charge of two thematics: forced labour and child labour. Moreover, the Committee points out that the PNLCTF-II no longer refers to strengthening the labour inspection services. The Committee recalls the essential role played by labour inspection in combating forced labour. Indeed, the labour inspection services constitute the public entity that is best placed to identify workers who are victims of forced labour and to free them, and also to gather evidence that will serve to initiate judicial proceedings against the perpetrators of these practices. *Consequently, the Committee urges the Government to take appropriate measures to guarantee the effective functioning of the new special labour inspection unit to combat forced and child labour. The Government is asked to provide information on its composition, resources and material means at its disposal to accomplish its missions throughout the country, and to specify the number of inspections carried out, the cases of forced labour identified and the legal action taken on the offences reported.*

*Article 25. Application of effective penalties.* The Committee has previously underlined that, in order to reduce forced labour, it is essential that the perpetrators of such practices be punished by sufficiently dissuasive penalties, in accordance with *Article 25* of the Convention. It notes that the information provided by the Government on the complaints lodged with the public prosecutor only concern the offence of trafficking in persons (section 153 of the Penal Code). As the Committee has already pointed out, the absence of any penal provisions that specifically suppress and punish forced labour is a significant obstacle to the initiation of criminal proceedings against persons who impose forced labour in any other form than trafficking in persons. *In these circumstances, the Committee insists once again on the need to supplement the penal legislation in order to criminalize forced labour specifically and define the offences it covers so that the police and prosecuting authorities have a basis in law for conducting proper investigations and bringing judicial actions against the perpetrators of the various forms of forced labour existing in Peru.*

*Finally, noting that the PNLCTF-II refers to the ILO as an organization that might provide standing technical assistance to the National Committee to Combat Forced Labour, the Committee hopes that the Office will continue to support the Government in this process of eradicating all forms of forced labour.*

The Committee is raising other points in a request addressed directly to the Government.

## Philippines

### **Forced Labour Convention, 1930 (No. 29) (ratification: 2005)**

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Law enforcement measures.* The Committee previously noted the information from a March 2012 report of the International Trade Union Confederation (ITUC) that men, women and children are trafficked inside and outside the Philippines for the purpose of prostitution, involuntary domestic service and forced labour in industries, manufacturing, fisheries, agriculture and construction. This report indicated that a lack of understanding of trafficking and the anti-trafficking legislation among many judges, prosecutors, social service workers, and law enforcement officials remains an impediment to successful prosecutions.

The Committee notes the Government’s indication that the Department of Labour and Employment developed a manual of procedures in handling complaints of trafficking in persons, and that it has carried out several trainings for officials on the issue of trafficking. The Government also indicates that the creation of regional offices of the Department of Labour and Employment resulted in the rescue of 375 victims of trafficking for labour exploitation in 2012, and that the Inter-Agency Council Against Trafficking (IACAT) carried out, with international cooperation, rescue and assistance missions for 21 such victims in three countries in the region. According to the information available on the IACAT website, there were 99 persons convicted for trafficking-related offences between 1 July 2010 and 1 July 2013. The Committee also notes the statement in the report of the Special Rapporteur on trafficking in persons, especially women and children, of 19 April 2013 that the Philippines faces significant challenges as a source country for trafficking, with its citizens being trafficked to different countries of the world. This report also states that the prosecution rate for this offence

remains very low, perpetuating the impunity of traffickers and obstructing victims' access to justice (A/HRC/23/48/Add.3, paragraphs 3 and 80). ***The Committee requests the Government to strengthen its efforts to combat trafficking in persons, and to ensure that thorough investigations and robust prosecutions are carried out against perpetrators of this offence. It requests the Government to continue to provide information on measures taken by the IACAT, and on the results achieved, particularly with regard to the number of investigations, prosecutions, convictions and the penalties applied.***

2. *Complicity of law enforcement officials in trafficking activities.* The Committee previously noted the indication in the ITUC report that the police are often complicit with traffickers. While some officers had been suspended, there had been no convictions of officers for complicity in trafficking activities.

The Committee notes the Government's statement that it is aware that corruption plays an important role in undermining anti-trafficking efforts, and thus the Department of Justice focuses on prosecuting government officials and elected persons involved in facilitating and promoting trafficking. In this regard, the Government indicates that government officials who were found to be involved in acts of trafficking were subject to investigation, and that 27 administrative cases have been filed against 67 government employees for their alleged involvement in human trafficking. However, the Committee also notes the statement in the report of the Special Rapporteur on trafficking in persons, especially women and children, that despite widespread acknowledgement of the problem by Government officials, deep-rooted corruption at all levels of law enforcement continues to be a major obstacle in identification of trafficked persons, and that in numerous cases, law enforcement officials were directly implicated in trafficking cases (A/HRC/23/48/Add.3, paragraph 43). ***The Committee once again expresses concern at allegations of complicity of government officials with human traffickers and strongly urges the Government to strengthen its efforts to combat this phenomenon. It requests the Government to take the necessary measures to ensure that government officials complicit with human traffickers are prosecuted and that sufficiently effective and dissuasive criminal penalties are imposed in practice. It requests the Government to continue to provide information on measures taken in this regard, in its next report.***

*Articles 1(1) and 2(1). Vulnerable situation of migrant workers with regard to the exaction of forced labour.* The Committee previously noted the information from the ITUC that a great proportion of the 2 million Filipinos working abroad are female domestic workers in Asia and the Middle East, who frequently experience abuses including unpaid wages, food deprivation, forced confinement in the workplace, and physical and sexual abuse. Traffickers often present themselves as recruiters and use fraudulent recruitment practices, hiring fees, use of violence, withholding of travel documents and salaries, psychological intimidation and other practices, to force their victims into work. It also noted that the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), in its concluding observations of 22 May 2009, expressed concern that, despite the Government's efforts to protect the rights of Filipino migrant workers abroad, abuse and exploitation continue, especially of women migrants. The CMW also expressed concern at claims that private recruitment agencies continue to overcharge fees for their services and act as intermediaries for foreign recruiters, which may increase the vulnerability of migrants. The CMW further expressed concern about the significant number of Filipino workers abroad who are victims of trafficking (CMW/C/PHL/CO/1, paragraphs 31, 41 and 47).

The Committee notes the Government's indication that the Philippine Overseas Employment Administration continues to provide assistance to departing workers, to regulate the operations of private employment agencies and to maintain a list of suspended or banned employment agencies. The Government maintains 31 posts in 26 countries of the Overseas Workers Administration, including 25 welfare officers, to meet the needs of migrant Filipino workers. The Government further indicates that it has undertaken awareness and public information campaigns, using a wide range of mediums, including seminars on illegal recruitment, campaigns targeted for source areas, symposiums as well as radio and television advertisements. The Committee also notes the information in the report of the Special Rapporteur on trafficking in persons, especially women and children, of 19 April 2013, that the high demand for female domestic workers from the Philippines and the large number of Filipinos seeking overseas employment in this sector has led to trafficking for domestic servitude being one of the most prevalent forms of cross-border trafficking. The vast majority of women and children are clandestinely "recruited" by illegal agents to work as domestic workers, mostly in the Middle East, where victims are locked in their employers' homes, exploited and physically and/or sexually abused (A/HRC/23/48/Add.3, paragraph 9). ***The Committee therefore urges the Government to strengthen its efforts to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour, including additional measures to address the exploitative practices of private recruitment agencies. The Committee requests the Government to continue to provide information on measures taken in this regard, including information on international cooperation efforts undertaken to support migrant workers in destination countries, and measures specifically tailored to the difficult circumstances faced by such workers to prevent and respond to cases of abuse.***

The Committee is raising other points in a request addressed directly to the Government.

## **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1960)**

*Article 1(a) of the Convention. Punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.* The Committee previously noted that, pursuant to section 142 of the Revised Penal Code, penalties of imprisonment (involving compulsory labour, pursuant to section 1727 of the Revised Administrative Code) may be imposed for inciting to sedition by means of speeches, proclamations, writings or emblems; uttering seditious words or speeches; writing, publishing or circulating scurrilous libels against the Government and, pursuant to section 154, for publishing any false news which may endanger the public order or cause damage to the interest or credit of the State, by means of printing, lithography or any other means of publication. However, it noted the Government's statement that a committee was in the process of studying amendments to the Revised Penal Code.

The Committee notes the Government's statement that a designated committee, led by the Department of Justice, is in the process of undertaking the systematic review of the penal legislation, including by drafting an updated Penal Code, which will be submitted to the President and then Congress, once completed. In this connection, the Committee once again observes that sections 142 and 154 of the Revised Penal Code are worded in terms broad enough to lend themselves to be applied as a means of punishment for the peaceful expression of views, enforceable with sanctions involving compulsory labour. It reminds the Government in this regard that *Article 1(a)* of the Convention prohibits the use of forced or compulsory labour as a punishment for holding or expressing political views. ***The Committee accordingly urges the Government to take the necessary measures, within the framework of the systematic review of the penal legislation, to ensure that sections 142 and 154 of the Revised Penal Code are amended or repealed so as to ensure that no prison sentence entailing compulsory labour can be imposed on persons who, without using or advocating violence, express certain dissident political views or opposition to the established political, social or economic system. Pending the adoption of such amendments, the Committee once again requests the Government to provide information on the application of these provisions in practice, including copies of relevant court decisions.***

*Article 1(d). Punishment for having participated in strikes.* The Committee previously noted that pursuant to section 263(g) of the Labor Code, the Secretary of Labor and Employment has discretionary authority to enjoin or force an end to strikes in labour disputes that occur in industries which, in his or her opinion, are "indispensable to the national interest", by "assuming jurisdiction" over the dispute and certifying it for compulsory arbitration. Section 263(g) of the Code also provides that the President may determine the industries "indispensable to the national interest" and assume jurisdiction over a labour dispute. 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. The Revised Penal Code also provides for sanctions of imprisonment for participation in illegal strikes (section 146). The Committee noted in this regard that the Government was undertaking a review of the Labor Code, through tripartite consultation, which would include amendments to sections 263, 264 and 272.

The Committee notes the Government's statement that a legislative proposal will soon be introduced to Congress to the effect that a penalty of imprisonment could only be imposed under section 264 of the Labor Code with a final judgement that an illegal strike or lockout has been committed. In this regard, the Committee recalls that *Article 1(d)* of the Convention prohibits the use of any form of forced or compulsory labour as a punishment for having participated peacefully in a strike. With reference to paragraph 315 of its 2012 General Survey on the fundamental Conventions concerning rights at work, the Committee once again reminds the Government that regardless of the legality of the strike action, any sanctions imposed should not be disproportionate to the seriousness of the violations committed, and the authorities should not have recourse to measures of imprisonment for the mere fact of organizing or participating in a strike. ***Therefore, referring also to its comments addressed to the Government under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee requests the Government to take the necessary measures to amend the Labor Code and the Revised Penal Code so as to ensure that penalties of imprisonment (involving compulsory labour) cannot be imposed for peacefully participating in a strike. It requests the Government to provide information on measures taken in this regard in its next report.***

The Committee is raising other points in a request addressed directly to the Government.

## **Russian Federation**

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1956)**

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Strengthening the legal framework.* The Committee previously noted that section 127.1 of the Penal Code prohibits trafficking in persons. It also noted the Government's indication in its 2008 report that a draft text of the Law on combating trafficking in persons had been finalized and submitted to the State Duma of the Russian Federation.

The Committee notes the Government's statement that work is ongoing to improve the national legislation in this regard. Although there is no special instrument at present to govern matters relating to combating human trafficking and defending the rights of victims, administrative and criminal legislation defines as crimes both the individual elements and

the specific acts involved in human trafficking. While noting the Government's indication regarding the existing legislative framework, the Committee observes that due to the complexity of the problem, the adoption of comprehensive legislation to address trafficking in persons would positively contribute to efforts to combat the phenomenon. In this regard, the Committee refers to its comments made under the Worst Forms of Child Labour Convention, 1999 (No. 182), where it noted that the draft Law on combating trafficking in persons aimed to establish appropriate measures to ensure the legal protection and social reintegration for victims, and that the Conference Committee on the Application of Standards, at the 98th Session (June 2009) of the International Labour Conference, had called on the Government to take the necessary measures to ensure its adoption. ***The Committee therefore expresses the firm hope that the Government will pursue its efforts to strengthen the legal framework to combat trafficking in persons, including through the adoption of the draft Law on combating trafficking in persons. It requests the Government to provide information on the status of this draft law, in its next report.***

2. *Law enforcement.* In its previous comments, the Committee noted the communication from the International Trade Union Confederation (ITUC), according to which thousands of persons were trafficked from the Russian Federation to other countries, and internal trafficking within the Russian Federation also took place. Women were generally forced to work as prostitutes while men were trafficked into agricultural or construction work. It also noted that the Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at the high prevalence of trafficking in the Russian Federation, and that the country is a source, transit and destination country for trafficking in persons (CEDAW/C/USR/CO/7, 10 August 2010, paragraph 26). The Committee further noted the Government's statement that more than 25,000 cases of trafficking were identified between 2004 and 2008, in addition to over 15,000 perpetrators, and that the Government had taken operational and preventive measures to combat this phenomenon.

The Committee takes due note of the information provided concerning the Government's efforts to combat trafficking as well as its statement that it is committed to addressing the economic and socio-political foundations of this phenomenon. The Government indicates that trafficking is largely carried out by organized groups and criminal gangs, at both the national and international levels. As a result of the porous borders within the Commonwealth of Independent States (CIS), most cases of human trafficking within this area take place through legal border crossings, and only a small number of these cases can be stopped and prevented at the border by border controls. Therefore, cooperation among the entire CIS is needed, and a Programme of Cooperation of members of the CIS on human trafficking for 2011–13 was adopted to facilitate this cooperation. Work on a programme for the period 2014–18 is under way. The Government engages in international cooperation with foreign law enforcements agencies and Interpol to combat trafficking in persons, as well as coordinating and exchanging of information through liaison officers at embassies. The Government also indicates that it has produced and distributed a booklet on the dangers of trafficking, but that it is necessary for authorities to conduct more vigorous information campaigns to raise public awareness about the phenomenon of trafficking, especially among at-risk groups.

With regard to the number of offences registered under section 127.1 of the Penal Code, the Government indicates that 103 offences were recorded in 2010, 50 offences in 2011, 70 offences in 2012 and five offences for the first four months of 2013. The Committee notes with *concern* that the 228 offences recorded over this three-year period is substantially lower than the 25,000 cases that had been recorded between 2004–08, as indicated in the Government's 2012 report. ***The Committee therefore urges the Government to strengthen its efforts to identify, prevent, suppress and combat trafficking in persons, and to continue to provide information on the measures taken. In this regard, the Committee requests the Government to pursue its international cooperation efforts to this end, and to take measures to further strengthen the capacity of law enforcement officials to combat trafficking in persons. It also requests the Government to continue to provide information on the application in practice of section 127.1 of the Penal Code, particularly the number of investigations, prosecutions and convictions. Noting an absence of information on this point, it also requests the Government to provide information on the specific penalties applied to persons convicted under this provision.***

3. *Protection and reintegration of victims.* The Committee previously noted that the CEDAW, in its concluding observations of 10 August 2010, urged the Government to take measures to ensure that victims of trafficking are adequately protected and assisted, as well as to undertake efforts for their recovery and social integration (CEDAW/C/USR/CO/7, paragraph 27).

The Committee notes the Government's indication that a network of social services has been established in the country for the protection of victims, and that victims of trafficking who cooperate with law enforcement agencies enjoy legally established guarantees. The Programme of Cooperation of members of the CIS on human trafficking for 2011–13 also contains international cooperation measures to assist victims of human trafficking and for coordination with non-governmental organizations in this regard. In 2012, 92 persons were recognized as victims and, in the first four months of 2013, five such persons were identified. ***The Committee requests the Government to pursue and strengthen its efforts to identify victims of trafficking and to provide them with appropriate protection and assistance. It requests the Government to continue to provide information concerning measures taken in this regard, including the number of persons benefiting from available services.***

The Committee is raising other points in a request addressed directly to the Government.

## **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1998)**

*Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for expressing political or ideological views.* The Committee previously noted the adoption of a law on 24 July 2007, to amend certain legal acts with a view to increasing liability for “extremist activities”, which include acts based on racial, national or religious hatred or enmity. It noted, in particular, that under sections 280, 282.1 and 282.2 of the Penal Code, the following acts are punishable with sanctions of the privation of liberty (which involves compulsory labour): public appeal to perform extremist activities (as defined in section 1 of the Law on combating extremist activity); establishment of an extremist group or organization; and participation in such a group or organization prohibited by a court decision. In this regard, the Committee noted that the Human Rights Committee (HRC) noted that there had been numerous reports that laws on extremism are being used to target organizations and individuals critical of the Government. The HRC also expressed regret that the definition of “extremist activity” in the Law on combating extremist activity remains vague, allowing for arbitrariness in its application and that the 2006 amendment to this law has made certain forms of defamation of public officials an act of extremism (24 November 2009, CCPR/C/RUS/CO/6, paragraph 25). Moreover, the Committee on Economic, Social and Cultural Rights had urged the Government to review sections 280, 282.1 and 282.2 of the Penal Code, under which a number of acts are punishable with sanctions of imprisonment together with compulsory labour (1 June 2011, E/C.12/RUS/CO/5, paragraph 13). However, the Committee noted that the Plenum of the Supreme Court adopted Decision No. 11 (28 June 2011) on judicial practice in criminal cases involving offences of an extremist nature in order to provide guidance to ensure uniformity in the judicial procedure related to cases brought under these sections. This Decision states that courts should, in examining such offences, consider both the protection of the public interest and the protections contained in the Constitution relating to freedom of conscience, of thought, of expression, and the right to seek, receive, transmit, produce and disseminate information by any lawful means, as well as the right to assemble peacefully without arms. Moreover, the Decision states that the criticism of political organizations, ideological and religious associations, political, ideological or religious beliefs; or national or religious practices in and of itself should not be regarded as an act aimed at inciting hatred and enmity. It requested information on the impact of this Decision on cases related to extremism.

The Committee notes with *regret* an absence of information in the Government’s report on the impact, if any, of Decision No. 11 of the Plenum of the Supreme Court of 2011. However, it notes the Government’s statement that if the concept of “extremist activity” was defined in an enunciative manner, it would be impossible to apply the concept effectively to the limitless number of actual legal situations that could occur. It indicates that in the work of the department that combats extremism, priority is given to the prevention of crimes of an extremist character, and to detecting and stopping the most dangerous violent manifestations of extremism, not to applying legislation on extremism to people who express certain political views or views opposed to the existing political, social and economic system. Some 656 offences of an extremist character were recorded in 2010, 622 such offences in 2011 and 741 offences in 2012. The Government states that the spread of this type of activity in the country is evident from the rise in the annual number of offences recorded. The majority of those found guilty of an offence under sections 280, 282.1 and 282.2 of the Penal Code were not given custodial sentences. Of the 32 convictions handed down under section 280 (public appeals for a forcible change of the constitutional system) two persons were sentenced to imprisonment (involving compulsory labour), and two were ordered to undergo corrective labour. Of the 37 persons convicted under section 282.2 (organizing an activity of an extremist community), nine were sentenced to imprisonment. The Government provides examples of groups considered as extremist groups, and states that this includes 20 dangerous anarchist and nationalist radical groups, as well as leaders and activists of radical organizations. A list of banned organizations includes 19 terrorist organizations and 31 extremist ones. While noting the examples provided in the Government’s report, the Committee notes the absence of comprehensive information on these banned organizations, or relevant court cases concerning these organizations which would allow the Committee to assess the scope and extent of the application of these provisions in practice.

With regard to the Government’s indications concerning the definition of the term extremist activities, the Committee wishes to emphasize that if legislative restrictions are formulated in such broad and general terms that they may lead to penalties involving compulsory labour as a punishment for the peaceful expression of views or of opposition to the established political, social or economic system, such penalties are not in conformity with the Convention. While 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, the Committee must emphasize that the protection conferred by the Convention is not limited to activities expressing or manifesting opinions diverging from established principles. Even if certain activities aim to bring about fundamental changes in state institutions, such activities are protected by the Convention, as long as they do not resort to or call for violent means to these ends. The Committee would also like to point out that even if legislation responds to a legitimate need, 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 association. ***The Committee accordingly requests the Government to take measures to ensure that no sentence entailing compulsory labour can be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. In this regard, the Committee requests the Government to continue to provide, in its next report, information on the application of the laws concerning “extremism” in practice, including information on any prosecutions, convictions and sentences pursuant to sections 280, 282.1 and 282.2 of the Penal Code and the Law on combating extremist activity. It requests the***

**Government to provide copies of relevant court cases in this regard, as well as a copy of the list of banned organizations, for which persons' participation may be penalized with sentences of imprisonment involving compulsory labour.**

## Saudi Arabia

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1978)**

*Articles 1(1) and 2(1) of the Convention. Vulnerable situation of migrant workers with regard to the exaction of forced labour.* In its previous comments, the Committee noted the vulnerable situation of migrant workers, particularly domestic workers who are excluded from the provisions of the Labour Code and work under the visa sponsorship system. In this regard, the Committee noted the information in the report of the UN Special Rapporteur on violence against women that “upon arrival, all migrants have their passport and residency permit taken away from them ... and some find themselves in slave-like conditions”. Moreover, “female domestic workers who are among the most vulnerable to abuse ... are sometimes locked up in the house with no possibility to make or receive phone calls, or are prohibited from leaving the house at their will” (A/HRC/11/6/Add.3, 14 April 2009, paragraphs 57 and 59). It further noted a 2012 report of the International Trade Union Confederation (ITUC) that migrant workers are forced to work long hours, often all day long with little or no time for rest and that the sponsorship system, also known as the *kafala* system, ties migrant workers to particular employers, limiting their options and freedom. A migrant worker is not allowed to change employers or leave the country without the written consent of the employer. Workers cannot leave their job and, in case a worker escapes the employer, then she/he cannot search for a new job or leave the country. The ITUC asserted that this system, in conjunction with the practice of confiscating travel documents and withdrawing wages, puts workers under conditions akin to slavery. However, the Committee also noted the Government’s statement that it was aware of the magnitude and seriousness of the situation of migrant domestic workers and that it was committed to expediting the process of adopting regulations on the work of this category of workers. The Committee expressed the firm hope that any new regulations adopted would include provisions specifically tailored to the difficult circumstances faced by migrant domestic workers and in particular to the problems caused by the visa sponsorship system.

The Committee notes the Government’s statement that the Regulation on domestic workers and similar categories of workers was approved by virtue of Order No. 310 of 7 September 2013, taken by the Council of Ministers. The Government states that this Regulation aims to regulate the relationship between an employer and a domestic worker, by clarifying the rights and obligation of both parties. Sections 2 and 7 of the Regulation prohibit an employer from giving work other than the work agreed upon in the contract, or work that is hazardous to health, demeaning or for a third party. Section 7 also obliges an employer to pay the worker the wage agreed upon at the end of each month (to be confirmed by the written signature of the worker) and to provide appropriate housing, nine hours of daily rest, sick leave and paid leave after two years of service. Section 8 provides for a weekly day of rest with the agreement of both parties. Section 17 states that employers who violate the Regulation may be subject to a fine, or a ban from recruiting workers for a number of years. Regarding the obligations of the worker, section 6 of the Regulation states that domestic workers must respect the teachings of Islam, the rules and regulations in place in the Kingdom and the specificity and culture of Saudi society, and that they may not refuse work or leave their service without a legitimate reason. Section 18 provides that workers who violate the provisions of the Regulation may be subject to a fine, a prohibition from working in the country, and the cost of returning to his or her own country. In addition, section 13 of the Regulation provides that if a worker leaves the household without notice, the employer can notify the police, who will then notify the department in charge of passports, as well as the labour office. Lastly, the Regulation provides for the establishment of a committee under the Minister of Labour, to examine financial disagreements between the employer and worker that are not of a criminal nature.

While noting that the new Regulation constitutes a first step towards regulating the work of migrant domestic workers, the Committee observes that the Regulation does not address several of the factors identified by the Committee that increase the vulnerability of these workers to situations of forced labour. Particularly, the Regulation does not address the possibility of changing employers or leaving the country without the written consent of the employer, or the issue of the retention of passports. Moreover, it does not appear to provide for recourse for migrant domestic workers to a competent authority for non-financial complaints. In this regard, the Committee reiterates the importance of taking effective action to ensure that the system of employment of migrant workers (the sponsorship system), including migrant domestic workers, does not place the workers concerned in a situation of increased vulnerability, particularly when they are subjected to abusive employer practices, such as retention of passports, deprivation of liberty, and physical and sexual abuse. Such practices might cause their employment to be transformed into situations that could amount to forced labour. ***The Committee once again urges the Government to take the necessary measures to ensure that migrant domestic workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour, including by addressing the difficult circumstances which may be faced by such workers due to the visa sponsorship system. Particularly, it urges the Government to take specific measures to respond to cases of abuse of migrant workers and to ensure that victims of such abuse are able to exercise their rights in order to halt violations and obtain redress. It requests the Government to provide information on the measures taken in this regard, including measures to implement the Regulation on domestic workers and similar categories of workers, as well as measures to allow domestic workers to transfer their services to a new employer or to terminate their employment. Moreover, noting an***

*absence of penal sanctions in the Regulation, and 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 requests the Government to provide information on the penalties which may be applied to employers who engage migrant workers in situations amounting to forced labour.*

The Committee is raising other points in a request addressed directly to the Government.

## Senegal

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)**

*Article 1(c) of the Convention. Imposition of sentences of imprisonment involving an obligation to work for breaches of labour discipline.* The Committee previously emphasized the need to amend sections 624, 643 and 645 of the Merchant Shipping Code (Act No. 2002-22 of 16 August 2002). Under the terms of these provisions, unapproved absence from the vessel, verbal insults, gestures or threats towards a superior and a formal refusal to obey a service order are punishable by imprisonment, which involves compulsory prison labour in accordance with section 692 of the Code of Penal Procedure and section 32 of Decree No. 2001-362 of 4 May 2001 respecting the execution and organization of penal sanctions. In view of the fact that the scope of these provisions is not confined to cases in which the breach of discipline would endanger the ship or the life or health of persons on board, the Committee has considered these provisions to be contrary to the Convention, which prohibits recourse to forced labour, including in the form of compulsory prison labour, as a means of labour discipline. In this respect, the Government indicated that the merchant navy had itself considered excessive the penalties provided for and the violations penalized and that, for this reason, in practice penal sanctions were always disregarded in cases of breaches of discipline.

The Committee observes that the Government reiterates the indication that the question of amending sections 624, 643 and 645 is still under examination and that it undertakes to adopt the necessary measures to bring the legislation into conformity with practice and the Convention. The Committee notes with *concern* that it has been commenting on this matter for over 40 years and that the Government did not take the opportunity of the adoption of the new Merchant Shipping Code in 2002 to address this. *The Committee accordingly expresses the firm hope that the necessary measures will finally be taken to amend the provisions of the Merchant Shipping Code referred to above so as to ensure that breaches of labour discipline which do not endanger the ship or the persons on board cannot be punished with prison sentences, under which prison labour may be imposed.*

*Article 1(d). Imposition of sentences of imprisonment involving an obligation to work as punishment for participation in strikes.* In its previous comments, the Committee referred to section L.276 of the Labour Code (under Title 13 on labour disputes), which allows the administrative authority to requisition workers from private enterprises and public services and establishments who are engaged in jobs that are essential for the security of persons and property, the maintenance of public order, the continuity of public services and the satisfaction of the essential needs of the nation. Any worker who does not comply with the requisition order is liable to a fine and a sentence of imprisonment ranging from three months to one year, or only one of these two penalties (section L.279(m)). The Committee noted that the Decree implementing section L.276 which was to establish the list of jobs concerned was in the process of being adopted and that, in the meantime, Decree No. 72-017 of 11 March 1972 establishing the list of posts, jobs and functions of which the occupants may be requisitioned continued to be applicable. With reference to the comments made on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee emphasized that pursuant to these provisions, the power to requisition workers may be exercised in respect of workers whose post, job or functions do not constitute essential services in the strict sense of the term, and that workers who do not comply with a requisition order are liable to imprisonment involving the obligation to work.

The Committee observes that the Decree implementing section L.276 has still not been adopted. However, it notes the Government's indication that the spirit of L.276 is indeed to establish clear rules relating to requisitioning, which only concerns workers whose jobs or functions are in essential services and are indispensable for the security of persons and property, the maintenance of public order, the continuity of public services and the satisfaction of the essential needs of the nation, and that the objective is not to hinder the normal exercise of the right to strike. The Committee also notes the Government's reaffirmation of its will to take the necessary measures to bring the national legislation into conformity with Convention, and that this reform will be carried out in the context of dialogue with the social partners. In this respect, the Committee wishes to recall that, in all cases and regardless of the legality of the strike action in question, any sanctions imposed should not be disproportionate to the seriousness of the violations committed, and that the authorities should not have recourse to measures of imprisonment against persons peacefully organizing or participating in a strike. *The Committee requests the Government to take the necessary measures to ensure that the Decree implementing section L.276 of the Labour Code is adopted as soon as possible and limits the list of posts, jobs or functions of which the occupants may be subject to a requisition order to posts, jobs or functions that are strictly necessary to ensure the operation of essential services in the strict sense of the term.*

The Committee also previously emphasized the need to amend the last paragraph of section L.276 of the Labour Code, under the terms of which the exercise of the right to strike may not be accompanied by the occupation of the workplace or its immediate surroundings, under penalty of the sanctions set out in sections L.275 and L.279, with the

latter envisaging a sentence of imprisonment ranging from three months to one year and a fine, or one of these penalties. *The Committee once again expresses the firm hope that the necessary measures will be taken to amend the last paragraph of section L.276 and section L.279 of the Labour Code so as to ensure that striking workers who peacefully occupy the workplace or its immediate surroundings are not liable to prison sentences during which prison labour may be imposed upon them.*

## Sierra Leone

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1961)**

*Articles 1(1) and 2(1) of the Convention. Compulsory agricultural work.* For 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, the Government indicated that this legislation would be amended. The Government also indicated that section 8(h) of the Act was not applied in practice and, as it was not in conformity with article 9 of the Constitution, it was unenforceable.

The Committee notes the Government’s statement that, at the time of ratification, chiefs with administrative authority requested forced or communal labour from their communities, but that measures have been taken to address these occurrences, including through the establishment of the Human Rights Commission of Sierra Leone. Nonetheless, the Government states that, despite the prohibition on forced or compulsory labour, minor violations do occur. In this regard, the Government indicates that a report was filed with the Human Rights Commission relating to the undertaking of communal work by a village. *Noting that the Government had previously indicated its intention to amend this Act, the Committee urges the Government to take the necessary measures to repeal section 8(h) of the Chiefdom Councils Act, to bring it into conformity with the Convention. It requests the Government to continue to provide information on the application of this Act in practice with regard to the exaction of compulsory labour, including information on the reports filed in this respect with the Human Rights Commission.*

## Sri Lanka

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1950)**

The Committee notes the communication from the National Trade Union Federation (NTUF) dated 24 August 2013, as well as the Government’s report.

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons.* The Committee previously noted that the Committee on the Elimination of Discrimination against Women, in its concluding observations, expressed concern about the low number of convictions and punishment of those convicted of trafficking and the lack of protective measures and safe homes for victims of trafficking (CEDAW/C/LKA/CO/7, 4 February 2011, paragraph 26).

The Committee notes the NTUF’s statement that, while the Sri Lanka Bureau of Foreign Employment is pursuing action to eradicate trafficking in persons, the penalties imposed on traffickers are not severe enough to serve as a deterrent.

The Committee notes the Government’s statement that legal, medical and psychological assistance for trafficking victims is provided by the Government, in collaboration with NGOs. The Ministry of Child Development and Women’s Affairs, under the direction of the task force functioning under the Ministry of Justice, has established a government-run shelter for victims of trafficking. The Committee also notes the Government’s statement that, since 2009, the Criminal Investigations Department has commenced 61 investigations related to suspected cases of trafficking, and that these investigations are ongoing. The Children and Women’s Bureau of the Sri Lanka Police also carried out 38 investigations between March 2012 and April 2013. Moreover, the Attorney-General’s Department has received 191 files since 2009 of suspected cases of human trafficking, following which 65 indictments have been filed in court. Noting an absence of information on the number of convictions and penalties applied with regard to trafficking offences, the Committee recalls that *Article 25 of the Convention provides that the exaction of forced or compulsory labour shall be punishable by penalties that are really adequate and strictly enforced. It therefore requests the Government to take the necessary measures to ensure that perpetrators of trafficking in persons are subject to robust prosecutions and thorough investigations, and that the penalties imposed on perpetrators are sufficiently effective and dissuasive. The Committee requests the Government to provide information on measures taken in this regard, as well as on the application in practice of the relevant provisions of the Penal Code, particularly the number of convictions and the specific penalties applied. Lastly, it requests the Government to continue to provide information on the measures taken to ensure that victims of trafficking are provided with appropriate protection and services, as well as on the number of persons benefiting from these services.*

The Committee is raising other points in a request addressed directly to the Government.

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2003)**

*Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system.* The Committee previously noted that section 120 of the Penal Code provides that whoever by words, signs or visible representations

excites or attempts to excite feelings of disaffection to the President or the Government, or hatred towards or contempt of the administration of justice, or excites or attempts to excite people, or attempts to raise discontent or to promote feelings of ill will and hostility between different classes of people, shall be punished with imprisonment for up to two years. It also noted that, by virtue of section 65 of the Prison Ordinance, imprisonment involved the obligation to perform compulsory labour. It requested information on the application of this provision of the Penal Code.

The Committee notes with *concern* the Government's statement that it has not yet received information on the application of section 120 of the Penal Code. However, the Government indicates that it is implemented by government officers and government institutions and, in case a fraudulent case is brought, such officers or institutions can be penalized and ordered to compensate the affected party. Any case brought against a person under section 120 must be filed by making a charge sheet according to section 136(1)(a)(b) of the Penal Code. Additionally, the affected party has the right to file a case with the Supreme Court, pursuant to the Constitution. The Government indicates that it is therefore not possible to use section 120 of the Penal Code to penalize the expression of political opinions. ***The Committee once again requests the Government to provide information on the application of section 120 of the Penal Code in practice, including information on any arrests, prosecutions, convictions and penalties imposed, as well as copies of court decisions illustrating the scope of its application, in order to enable the Committee to assess the provision's conformity with the Convention.***

The Committee is raising other points in a request addressed directly to the Government.

## Sudan

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1957)**

*Articles 1(1) and 2(1) of the Convention. Abolition of forced labour practices.* The Committee previously noted that in regions of the country where there was armed conflict, the abduction and forced labour of thousands of women and children had taken place. The Committee noted the allegations from the International Trade Union Confederation (ITUC) of August 2010 that there continued to be serious problems with regard to abductions for the purpose of forced labour, as well as compensation for victims of forced labour. However, the Committee noted that steps had been taken towards the implementation of the Comprehensive Peace Agreement of 2005. It also noted the Government's indications regarding the referendum and subsequent secession of southern Sudan to create South Sudan, the signing of an agreement in the east of the country and the signing of the Doha Document for Peace in Darfur. Nonetheless, the Committee observed in 2012 that hostilities and accompanying human rights violations, including abductions, continued in parts of the Sudan, particularly in Darfur and South Kordofan.

The Committee notes the Government's statement that forced labour has been eradicated in the conflict regions. In its report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), the Government indicates that it has put an end to cases of abduction and forced labour which were a direct by-product of the civil war and ancient long-standing tribal practices, particularly in south-west Sudan. The Committee also notes the Government's statement that the Advisory Council for Human Rights was entrusted in 2010 to follow up on the issue of the abduction of women and children. In this regard, the Government indicates that psychological and social support, education and training opportunities on skills have been provided to victims. The Committee notes the statement in the Report of the Independent Expert on the situation of human rights in the Sudan, of 18 September 2013, that while the general human rights situation in the Sudan has remained unstable, especially in conflict-affected areas like Darfur, South Kordofan and Blue Nile, the Government continues to make progress in legislative and institutional developments aimed at improving the situation of human rights in the country (A/HRC/24/31, paragraph 16). The Independent Expert indicates that in the three protocol areas of Abyei, South Kordofan and Blue Nile, outbreaks of fighting have led to widespread human rights violations and large-scale displacements (paragraph 13). Moreover, Darfur continues to be characterized by widespread human rights violations and large-scale civilian displacements due to the persistence of fighting between the Sudanese Armed Forces (SAF) and armed opposition groups in the region (paragraph 11). In this regard, the Committee notes the information from the Report of the Secretary-General on the African Union–United Nations Hybrid Operation in Darfur (UNAMID), of 14 October 2013, that between 1 April and 30 June 2013 there were 21 abductions in which the local civilian population was targeted, and ten such abductions between 1 July and 30 September 2013 (S/2013/607, paragraph 26). ***The Committee urges the Government to strengthen its efforts to guarantee a climate of stability and legal security in which abductions and recourse to forced labour cannot be legitimized or go unpunished. In this regard, it reiterates the need for the Government to take urgent measures, in accordance with the recommendations of the relevant international bodies and agencies, to put an end to all human rights violations and impunity, which would help to ensure the full observance of the Convention. Moreover, the Committee urges the Government to ensure the cessation and resolution of all cases of abductions in the country and to ensure the victims' right to be reunified with their families. The Committee requests the Government to provide, in its next report, detailed information on measures taken in this regard.***

*Article 25. Penalties for the exaction of forced or compulsory labour.* The Committee previously noted the Criminal Code provisions punishing the offence of abduction with penalties of imprisonment. However, the Committee also noted the Government's statement that, within the context of the comprehensive peace process, an argument could be made for not pursuing prosecutions against those responsible for abductions and forced labour in the spirit of national reconciliation. Nonetheless, the Committee noted that United Nations Security Council Resolution No. 1881 (2009) emphasized the need to bring to justice the perpetrators of human rights violations and that the Independent Expert on the situation of human rights in the Sudan recommended that the Government "ensure that all allegations of violations of human rights and international humanitarian law are duly investigated and that the perpetrators are brought to justice promptly, in particular those with command responsibilities" (A/HRC/15/CRP.1, September 2010). In this regard, the Committee noted the appointment of the Prosecutor for the Special Court for Darfur, with jurisdiction over gross violations of human rights and serious violations of international humanitarian laws since 2003 (S/2012/231, paragraph 83).

The Committee notes the Government's statement that special courts were established in some conflict regions to eradicate any activity involving forced labour, and refers in this regard to the appointment of the Special Prosecutor for Darfur Crimes. Regarding the penalties imposed on persons who exacted forced labour, the Government indicates that it will send this information as soon as it is available. The Committee notes the information in the Report of the Independent Expert on the situation of human rights in the Sudan, of 18 September 2013, that in January 2012 the Government appointed a new Special Prosecutor, the fifth appointed since 2003. The Independent Expert raised concerns about the slow pace of prosecution of the Darfur conflict-related crimes (A/HRC/24/31, paragraph 43). The Committee also notes the information from the Report of the Secretary-General on UNAMID, of 14 October 2013, that while the Special Prosecutor for Darfur had informed UNAMID that he had brought to trial nine cases of serious crimes resulting in 42 convictions, and was investigating another 57 cases, more specific information or access to hearings was not provided to UNAMID (S/2013/607, paragraph 7). ***The Committee urges the Government to pursue its efforts to ensure that legal proceedings are instituted against perpetrators of abductions and that penal sanctions are imposed on persons convicted of having exacted forced labour, as required by the Convention. In this regard, the Committee requests the Government to indicate the number of prosecutions undertaken by the Special Prosecutor for Darfur which relate to abductions for the exaction of forced labour, as well as the number of convictions and the specific penalties applied. It also requests the Government to provide information on measures being taken to prosecute forced labour violations in other parts of the country. Lastly, the Committee requests the Government to take the necessary measures to ensure that information is made available on the application in practice of the penal provisions punishing the offence of abduction, as well as the provisions punishing kidnapping and the exaction of forced labour (sections 161, 162 and 163 of the Criminal Code), including the number of investigations, prosecutions, convictions and penalties imposed.***

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1970)**

*Article 1(a) of the Convention. Punishment for expressing political views or views ideologically opposed to the established political, social or economic system.* The Committee previously noted that penalties of imprisonment (involving an obligation to perform prison labour) could be imposed under sections 50, 66 and 69 of the Criminal Act (committing an act with the intention of destabilizing the constitutional system, publication of false news with the intention of harming the prestige of the State and committing an act intended to disturb public peace and tranquillity). The Committee also observed that the Special Rapporteur on the situation of human rights in Sudan noted that one of the amendments to the 1991 Criminal Procedures Act, adopted on 20 May 2009, gives powers to state governors or commissioners to issue orders prohibiting or restricting the organization of public meetings (A/HRC/11/14, June 2009). It further noted the information from the United Nations Mission in Sudan (UNMIS) that the realization of the right to freedom of expression, association and assembly had been consistently frustrated through the application of the 2009 Press and Publication Act and the 1991 Criminal Procedure Act. In addition, according to information in a report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan, civilians had been arrested and charged for the disturbance of public peace under section 69 of the Criminal Act while attempting to deliver a petition to the UNMIS Special Representative of the Secretary-General.

The Committee notes an absence of information on this point in the Government's report. However, it notes the statement in the Report of the Independent Expert on the situation of human rights in the Sudan of 18 September 2013 that parts of the national legal framework, including the Criminal Act, infringe fundamental human rights and freedoms, and that restrictions on civil and political rights and the curtailment of freedom of expression and the press persist (A/HRC/24/31 paragraph 13). The Independent Expert indicates that a committee has been set up to study the reform of some laws, including the Criminal Procedure Act and the Criminal Act, and that that committee has submitted its recommendations to the Government for consideration (A/HRC/24/31, paragraph 18).

The Committee once again recalls that *Article 1(a)* of the Convention prohibits all recourse to forced or compulsory labour, including compulsory prison labour, as a means of political coercion or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. It also points out that the protection conferred by the Convention is not limited to activities expressing or manifesting opinions diverging from established principles; even if certain activities aim to bring about fundamental changes in state institutions, such activities are protected by the Convention, as long as they do not resort to or call for violent means to these ends.

*Therefore, the Committee once again urges the Government to take the necessary measures to ensure that sections 50, 66 and 69 of the Criminal Act are repealed or amended so that no prison sentence (involving compulsory labour) can be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. It requests the Government to provide information on the progress made in this regard, including within the framework of the reform of national legislation. Pending the adoption of such amendments, the Committee requests the Government to provide information on the application of sections 50, 66 and 69 of the Criminal Act in practice. Lastly, the Committee once again requests the Government to provide copies of the amendments to the Criminal Procedures Act of 20 May 2009, as well as a copy of the 2009 Press and Publication Act.*

The Committee is raising other points in a request addressed directly to the Government.

## Swaziland

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1978)**

*Articles 1(1) and 2(1) of the Convention. Legislation concerning compulsory public works or services.* The Committee previously noted that the Swazi Administration Order No. 6 of 1998 provided for the duty of Swazis to obey orders requiring participation in compulsory works, such as compulsory cultivation, anti-soil erosion works and the making, maintenance and protection of roads, enforceable with severe penalties for non-compliance. The Government indicated that this Order had been declared null and void by the High Court of Swaziland (Case No. 2823/2000). The Committee noted, however, the 2011 communication of the Swaziland Federation of Trade Unions (SFTU) alleging that the High Court's nullification of the Order did not assist in halting forced labour practices, as these practices are rooted in the well-established and institutionalized customary law through cultural activities which are largely unregulated. These allegations indicated that the customary practice of *Kuhlehla* (rendering services to the local chief or king) is still practiced and enforced with punitive measures for refusal to attend.

The Committee notes that the Government reiterates that Swazi Administration Order No. 6 of 1998 is null and void. The Government states that it is not aware of other Swazi legislation that entrench forced labour and, therefore, any person who feels forced to participate in compulsory work can bring the matter to the courts to make a determination on such cases. *The Committee requests the Government to indicate whether any cases have been brought before the court in this regard, including any cases relating to the customary practice of Kuhlehla. It also requests the Government to provide information on the measures taken to formally repeal the Swazi Administration Order No. 6 of 1998.*

## Syrian Arab Republic

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1960)**

The Committee notes the general human rights situation in the country as referred to in its comments under the Abolition of Forced Labour Convention, 1957 (No. 105). It also notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

*Articles 1(1) and 2(1) of the Convention. Freedom of persons in the service of the State to leave their employment.* For many years, the Committee has been referring to section 364 of the Penal Code (as amended by Legislative Decree No. 46 of 23 July 1974), 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 derives from a mission, a scholarship or a study leave.

The Committee previously noted the Government's repeated indication that, in practice, a worker's right to submit a request for resignation at any time is fully respected, and the competent authority is bound to accept the resignation, provided the continuity of the service is ensured. The Government also stated in its earlier reports that the Committee's comments had been taken into account in the course of elaboration of the amendment to the Penal Code, in order to ensure conformity with the Convention.

The Government indicates in its latest report that a competent specialized committee is examining the amendments to the above provisions of the Penal Code. *Taking into account the existing practice, the Committee trusts that the Government will take the necessary measures to adopt, without delay, the amendments to the Penal Code and that legislation will thereby be brought into conformity with the Convention. It asks the Government to supply a copy of the amendments, as soon as they are adopted.*

*Legislation on vagrancy.* For 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 referred in this connection to the explanations in paragraph 88 of its 2007 General Survey on the eradication of forced labour, where it pointed out that provisions concerning vagrancy and similar offences, if defined in an unduly extensive manner, are liable to become a means of compulsion to work.

The Committee previously noted the Government's indication in its earlier report that the proposed amendments to the Penal Code would accommodate the Committee's request. *Since the Government's latest report contains no information on this point, the Committee trusts that the necessary measures will soon be taken, in the context of the revision of the Penal Code, with a view to clearly excluding from the legislation any possibility of compulsion to work.*

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

## **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)**

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

*Article 1(a), (c) and (d) of the Convention. Penal sanctions involving compulsory labour as a punishment for expressing political views, for breaches of labour discipline and for participation in strikes.* 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 participation in strikes. The Committee previously noted the Government's indication that it was endeavouring to resolve the problems identified in the Committee's comments by way of adoption of the new Penal Code. The Committee previously noted, in this regard, the statement of the President of the UN Security Council of 3 August 2011 (6598th Meeting), in which the Security Council expressed its grave concern at the deteriorating situation in the Syrian Arab Republic, condemned the widespread violations of human rights and the use of force against peaceful protesters, and stressed that the only solution to the crisis was through a political process that addressed the legitimate concerns of the population and allowed the exercise of the freedoms of expression and assembly.

The Committee notes that the United Nations General Assembly, in its Resolution No. 67/183 adopted on 12 February 2013, expressed grave concern at the escalation of violence in the Syrian Arab Republic, in particular the continued widespread and systematic gross violations of human rights. The General Assembly strongly condemned the continued widespread and systematic gross violations of human rights and fundamental freedoms by the Syrian authorities and the government-controlled *shabbiha* militias, such as the persecution of protestors, human rights defenders and journalists, as well as arbitrary detention (A/RES/67/183, paragraph 1). The Committee notes that on 14 September 2013 the Human Rights Council demanded that the Syrian authorities put an immediate end to all attacks on journalists and that they ensure adequate protection, fully respect freedom of expression and allow independent and international media to operate (A/HRC/21/32, paragraph 46).

In light of the above, the Committee once again expresses its *deep concern* regarding the current human rights situation in the country and recalls that restrictions on fundamental rights and liberties may have a bearing on the application of the Convention, if such measures are enforced by sanctions involving compulsory labour. The Committee recalls once again 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, and that sanctions involving compulsory labour are incompatible with the Convention if they enforce a prohibition of the peaceful expression of views that are critical of government policy and the established political system, whether the prohibition is imposed by law or by an administrative decision (see General Survey on the fundamental Conventions concerning rights at work, 2012, paragraphs 302–304 and 313–315).

*Noting with regret that the Government's report has not been received, the Committee urges the Government to take all the necessary measures to ensure that persons who express views or an opposition to the established political, social or economic system, benefit from the protection accorded by the Convention and that in any case, penal sanctions involving compulsory labour could not be imposed on them. In this connection, the Committee expresses the firm hope that, during the process of adoption of the Penal Code, the Committee's comments will be taken into account in order to ensure compliance with the Convention.*

## **United Republic of Tanzania**

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1962)**

*Articles 1(1) and 2(1) of the Convention. Imposition of compulsory labour for purposes of economic development.* For many years, the Committee has been expressing its concern at the institutionalized and systematic compulsion to work established in law at all levels, in the national Constitution, acts of Parliament and district by-laws, in contradiction with the Convention. The Committee has referred in this connection to the following legislative provisions:

- article 25(1) of the Constitution, which provides that every person has the duty to participate in lawful and productive work and to strive to attain the individual and group production targets required or set by law; article 25(3)(d) of the Constitution, which provides that no work shall be considered as forced labour if such work forms part of: (i) compulsory national service in accordance with the law; or (ii) the national endeavour at the mobilization of human resources for the enhancement of society and the national economy and to ensure development and national productivity;
- the Local Government (District Authorities) Act, 1982, the Penal Code, the Resettlement of Offenders Act, 1969, the Ward Development Committees Act, 1969, and the Local Government Finances Act, 1982, under which compulsory labour may be imposed, inter alia, by the administrative authority for purposes of economic development; and
- several by-laws adopted between 1988 and 1992 under section 148 of the Local Government (District Authorities) Act, 1982, entitled “self-help and community development”, “nation building” and “enforcement of human resources deployment”, which provide for an obligation to work.

In this regard, the Committee noted the Government's statement that it hoped to take measures to bring the provisions of the relevant legislation into conformity with the Convention.

The Committee notes the Government's statement that, in practice, there is no government authority permitted to impose forced labour, or an obligation to work, under the umbrella of self-help and community development or nation building. It indicates that the Committee's comments concerning the Local Government (District Authorities) Act, the Resettlement of Offenders Act, the Ward Development Committees Act and the Local Government Finances Act have been brought to the attention of relevant ministries. Similarly, the Committee's comments concerning articles 25(1) and (3) of the Constitution have been communicated to the Ministry of Justice and Constitutional Affairs, to ensure that such comments are addressed during the ongoing constitutional review process. Moreover, the social partners have been urged to engage in the ongoing consultative meetings on the Constitution to ensure that the issues of forced labour are well articulated in the new Constitution, and to give effect to the provisions of the Convention.

The Committee notes that a draft Constitution was presented by the Constitutional Review Commission on 3 June 2013. It observes with *concern* that article 48 of this draft appears to contain wording similar to article 25 of the current Constitution, and does not address the issues raised by the Committee in this regard. ***Recalling that the Committee has been raising this issue for more than two decades, the Committee urges the Government to ensure that the draft Constitution currently under consideration is revised, to achieve conformity with the Convention. Particularly, it requests the Government to take the necessary measures to ensure that article 48(1) of the draft Constitution is revised to remove the duty on persons to participate in lawful and productive work and to strive to attain the individual and group production targets required or set by law. It also requests the Government to take measures to limit the scope of exceptions to the definition of forced labour in article 48(3) to the limited exceptions provided for in Article 2(a)–(e) of the Convention, particularly by removing article 48(3)(d) of the draft Constitution. The Committee also requests the Government to pursue its efforts to repeal or amend the legislative provisions which permit compulsory labour to be imposed by an administrative authority or which provide for an obligation to work for the purposes of “self-help and community development”, “nation building” and “enforcement of human resources deployment”, to bring the legislation into conformity with the Convention and the indicated practice. It requests the Government to provide information on progress made in this regard with its next report.***

The Committee is raising other points in a request addressed directly to the Government.

## Thailand

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1969)**

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons.* 1. *Law enforcement.* In its previous comments, the Committee noted the comments made by the International Confederation of Free Trade Unions (ICFTU) (now the International Trade Union Confederation (ITUC)) expressing concern about the persistence of trafficking in persons from and into Thailand. The Committee subsequently noted the adoption of the Anti-Trafficking in Persons Act B.E. 2551 (2008), as well as the detailed information provided by the Government which demonstrated the significant efforts it had made in the fight against trafficking. It also noted the observations submitted by the National Congress of Thai Labour (NCTL) stating that statistics had shown that the number of arrests and prosecutions related to trafficking was still low compared to the number of offenders.

The Committee notes the Government's response that this is due to the fact that in each case of arrest and prosecution there is usually more than one suspect, as human trafficking cases are usually committed by organized crime or groups of perpetrators. The Committee also notes the Government's statement that the implementation of the Anti-Trafficking in Persons Act involves the participation of government agencies, specialist groups and NGOs. The difficulties encountered by the competent authorities in implementing the Act include demands from victims to be immediately repatriated and a lack of experienced interpreters to overcome language barriers in the prosecution process. In order to strengthen law enforcement mechanisms, the Royal Thai Police has established strategies to prevent and combat human trafficking and has taken measures to ensure a more effective investigation system. These measures include collaboration between law enforcement officials and the Office of the Attorney-General and the targeting of particular locations for investigation, such as medium and small sized factories, karaoke pubs and brothels. The Committee notes that between 2010 and 2012 there were 162 arrests for human trafficking for the purpose of prostitution, 25 arrests for trafficking for the purpose of forced labour or service and two arrests for human trafficking for the purpose of slavery. While taking due note of the detailed information relating to arrests, the Committee notes an absence of information on how many of those arrested were convicted and penalized. However, it notes the copies of nine court decisions submitted with the Government's report, relating to the application of the Anti-Trafficking in Persons Act. These cases involved the prosecution of 18 defendants, resulting in 17 convictions and one acquittal, and the application of penalties of imprisonment for 15 defendants (ranging from two to ten years) as well as the application of fines in two cases. ***The Committee strongly encourages the Government to pursue its efforts to prevent, suppress and combat trafficking in persons, and to continue to provide information on the measures taken in this regard, including measures to provide appropriate training to law enforcement officials, border officials and the judiciary. The Committee also requests the Government to continue to provide information on the application of the Anti-Trafficking***

*in Persons Act in practice, including the number of arrests, as well as the number of prosecutions, convictions, and the specific penalties applied. It further requests the Government to continue to provide copies of court cases related to the application of the Act.*

2. *Protection and reintegration of victims of trafficking in persons.* The Committee previously noted that the Anti-Trafficking in Persons Act contained provisions relating to victim protection. The Government indicated that its labour inspection and labour protection practices included coordination with relevant government agencies, NGOs, international organizations and Thai embassies overseas to ensure trafficking victims' protection, recovery and reintegration. Repatriation programmes had been arranged with Cambodia, the Lao People's Democratic Republic, Myanmar and the Yunnan Province of China in order to develop effective and safe repatriation procedures.

The Committee notes the statement in the Government's report that it has provided translation services at hotline centres in provinces with a large number of migrant workers. Additional training was also provided to education field officers, including with the agencies responsible for rehabilitation, support and repatriation so as to ensure integrated cooperation among the concerned agencies. The Government states that difficulties encountered in the application of the Convention included the limited budget to provide support to migrants during the investigation and prosecution process. The Government also states that arrested illegal migrant workers investigated by the Centre on Suppression, Arrest and Prosecution against Illegal Migrant Workers will be screened to assess whether they are victims of trafficking, and that any detected victims of trafficking will not be prosecuted. However, since the establishment of the Centre, no victims of trafficking for the purpose of labour exploitation have been detected. ***The Committee requests the Government to take measures to strengthen mechanisms for the identification of victims of human trafficking, and to continue to provide information on any difficulties encountered in this regard. It also requests the Government to intensify its efforts to provide protection and assistance, including legal assistance, to victims of trafficking, and to provide information on the number of persons benefiting from these services.***

*Articles 1(1), 2(1) and 25. Vulnerability of migrant workers to conditions of forced labour.* In its previous comments, the Committee noted the addendum to the report of the United Nations Special Rapporteur on the human rights of migrants of 7 May 2011 (A/HRC/17/33/Add.1), which expressed concern regarding violations of the human rights of migrants in Thailand, in particular the negative impact of the National Verification (NV) registration process for migrant workers. According to the report, an estimated 1 million unregistered migrant workers were ineligible for the NV process and had been deemed as migrants with irregular status. These unregistered migrant workers could be asked to pay bribes ranging from 200 to 8,000 baht (THB) or more to the police in exchange for their freedom, either when stopped by the police or when in police custody. The Special Rapporteur expressed particular concern about the pattern of arbitrary arrest, violence and exploitation of migrants. This was exacerbated by the Prime Minister's Order of 2 June 2010, which established a special centre to suppress, arrest and prosecute alien workers who are working underground, and an increasing number of cases of systematic abuse of official powers had been reported, "including the 'sale' of irregular migrants to various brokers who then transfer the migrants back to their worksites for fees or who 'resell' or traffic the individuals to various employers in the fishing and domestic industries". The Committee also noted the 2011 report of the International Organization for Migration (IOM) on trafficking of fishermen in Thailand (14 January 2011), indicating that labour recruitment processes for migrant workers in the fishing sector remained largely informal, often leading to abuse. Many fishermen were "sold" to fishing boat owners by brokers, having to work for long periods without receiving any wages in order to repay their debts and could not leave or escape since fishing boats tended to be offshore for long periods of time. According to the report, migrant fishermen, who are usually undocumented and unregistered, are often held on boats indefinitely, working and being forcibly transferred between fishing boats, under threats of being reported to immigration authorities. The Committee also noted the comments of the NCTL expressing concern about the lack of participation of employers' and workers' organizations in the implementation of the Convention in the country.

The Committee notes the Government's statement that employers' and workers' organizations have participated in activities concerning the application of the Convention, including through the working group on the resolution of child labour and forced labour in shrimp and agriculture. It also notes the Government's indication that measures have been taken to protect the labour rights of migrant workers, especially those working in the fishery industry including the preparation to revise Ministerial Regulation No. 10 B.E. 2541 issued under the Labour Protection Act. The Government indicates that it has undertaken continuous efforts to systematically solve the problem of migrant workers from Myanmar, Lao People's Democratic Republic and Cambodia working illegally in Thailand, as well as taking measures to prevent these migrant workers from becoming victims of labour trafficking, including through developing MOUs with these countries. The Government indicates that it is carrying out labour inspections focusing on particular areas, such as small and medium-sized enterprises, as well as enterprises which fail to submit a report on employment and working conditions to the competent authority and enterprises which regularly employ migrant workers, especially in the fishing and related industries. These inspections were conducted with the cooperation of many agencies, such as the Royal Thai Navy, the Marine Police, the Marine Department as well as NGOs. The Government indicates that 5,400 labour inspections focusing on the protection of migrant workers, covering 408,000 workers, resulted in the identification of 117 cases of violations of the Labour Protection Act. The Government indicates that the Prime Minister issued Order No. 68/2555 of 13 March 2012 on the Centre on Suppression, Arrest and Prosecution against Illegal Migrant Workers in order to manage the Government's response to migrant workers and labour trafficking. The Centre involves the participation from the

Ministries of the Interior, Justice and Defence, as well as the Royal Thai Police, in investigating the employment of illegal migrant workers. The Committee also notes the Government's indication that it has taken measures to legalize the status of existing migrant workers, by allowing these workers to register with concerned authorities, obtain an identification number, and temporarily stay and work in Thailand while awaiting repatriation. Moreover, the Government indicates that in 2012, it implemented programmes on human trafficking for labour exploitation, including dissemination of information in languages understood by migrant workers, carrying out labour inspections in the fishing industry, conducting meetings with employers and workers and cooperation with the ILO within the framework of the Tripartite Action to Protect Migrant Workers from Labour Exploitation.

The Committee notes that the United Nations Committee on the Elimination of Racial Discrimination, in its concluding observations of 15 November 2012, expressed concern at reports of abuse and exploitation of migrant workers, in particular those with irregular status (CERD/C/THA/CO/1, paragraph 22). The Committee recalls the importance of taking effective action to ensure that the system of the employment of migrant workers does not place the workers concerned in a situation of increased vulnerability, particularly where they are subjected to abusive employer practices, such as non-payment of wages, deprivation of liberty and physical and sexual abuse. Such practices might cause their employment to be transformed into situations that could amount to forced labour. Particularly, the itinerant nature of work in fishing and the long periods of time spent away from shore hamper the identification of migrant fishermen working under forced labour conditions. ***The Committee therefore once again urges the Government to take the necessary measures to ensure that migrant workers, particularly those in the fishing industry, are fully protected from abusive practices and conditions that amount to the exaction of forced labour. It also requests the Government to further strengthen its law enforcement mechanisms, including measures to enforce anti-trafficking laws against those who target migrant fishermen, as well as to ensure that sufficiently effective penalties are applied to persons who subject these workers to conditions of forced labour. Moreover, the Committee requests the Government to continue to provide information in its next report on measures adopted specifically tailored to the difficult circumstances faced by migrant workers, including measures to prevent and respond to cases of abuse of migrant workers.***

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1969)**

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

*Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views. Criminal Code and the Computer Crimes Act.* The Committee notes that section 112 of the Criminal Code states that whoever defames, insults or threatens the King, the Queen, the Heir-apparent or the Regent, shall be punished with imprisonment of three to 15 years. The Committee also notes that sections 14 and 15 of the Computer Crimes Act of 2007 prohibit the use of a computer to commit an offence under the provisions of the Criminal Code concerning national security (including section 112 of the Criminal Code), with a possible sanction of five years' imprisonment. Moreover, the Committee notes that, according to the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, of 4 June 2012, there has been a recent increase in *lèse majesté* cases pursued by the police and the courts. In this regard, the Special Rapporteur urged the Government to hold broad-based public consultations to amend its criminal laws on *lèse majesté*, particularly section 112 of the Criminal Code and the Computer Crimes Act (A/HRC/20/17, paragraph 20). The Committee further notes the information in a compilation prepared by the Office of the High Commissioner for Human Rights for the Human Rights Council's Universal Periodic Review that the UN Country Team in Thailand indicated that a number of individuals have received lengthy prison sentences for breaching the *lèse majesté* laws.

In this regard, the Committee recalls that *Article 1(a)* of the Convention prohibits the use of forced or compulsory labour, including compulsory prison labour as a punishment for holding or expressing political views or of opposition to the established political, social or economic system. ***The Committee therefore urges the Government to take the necessary measures to repeal or amend section 112 of the Criminal Code and sections 14 and 15 of the Computer Crimes Act, so that persons who peacefully express certain political views cannot be sentenced to a term of imprisonment which involves compulsory labour. The Committee requests the Government to provide information on measures taken in this regard, in its next report.***

*Article 1(c). Sanctions involving compulsory labour as a means of labour discipline.* The Committee previously noted that pursuant to sections 131–133 of the Labour Relations Act BE 2518 (1975), penalties of imprisonment (involving compulsory labour) may be imposed on any employee who violates or fails to comply with an agreement on terms of employment or a decision on a labour dispute under sections 18, 22–24, 29 and 35(4) of the Act. It observed that such provisions were contrary to the provisions of the Convention, as it provided for sanctions involving compulsory labour as a means of labour discipline. However, the Committee noted the Government's statement that the Ministry of Labour was trying to take measures to bring the Labour Relations Act into closer conformity with the Convention.

The Committee notes the Government's statement that there has been significant progress concerning the revision of the Labour Relations Act. The Government indicates that the Committee on the Revision of Labour Relations Laws has considered a draft revised version of the Act, which proposes repealing sections 131–133, in order to achieve compliance with the Convention. The Government further indicates that this draft version has been submitted to the Council of State for further consideration. ***The Committee requests the Government to take the necessary measures to ensure that the draft revision of the Labour Relations Act, repealing sections 131–133, is adopted in the near future, to ensure that sanctions of imprisonment (involving compulsory labour) cannot be imposed as a means of labour discipline. It requests the Government to continue to provide information on progress made in this regard, in its next report.***

*Article 1(d). Sanctions involving compulsory labour as a punishment for having participated in strikes.* The Committee previously noted that pursuant to provisions of the Labour Relations Act penalties of imprisonment (involving compulsory labour) may be imposed for participation in strikes, if: (i) the minister orders the strikers to return to work, being of the opinion that the strike may affect the national economy or cause hardship to the public or endanger national security or be contrary to public order (pursuant to section 140 read in conjunction with section 35(2)); and (ii) 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 Labour Relations Committee under section 24 (pursuant to section 139 read in conjunction with section 34(5)). The Committee also noted that the State Enterprise Labour Relations Act BE 2543 (2000) (SELRA) prohibits strikes in state enterprises (section 33), and that violation of this prohibition is 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). However, the Committee noted the Government's indication that the Committee on the Revision of Labour Relations Laws was going to examine the feasibility of revising the SELRA to bring it into conformity with the Convention.

The Committee notes the Government's statement that the Committee on the Revision of Labour Relations Law has considered a revision of both the Labour Relations Act and the SELRA, with a view to bringing them into conformity with the Convention. The Government states that there has been progress with regard to repealing sections 139 and 140 of the Labour Relations Act, as well as repealing sections 33 and 77 of the SELRA. The Committee further notes the Government's statement that the draft revision of both Acts has been submitted to the Council of State for further consideration. ***The Committee requests the Government to pursue its efforts to ensure that draft revisions of both the Labour Relations Act (repealing sections 139 and 140) and the SELRA (repealing sections 33 and 77) are adopted in the near future to ensure that no sanctions involving compulsory labour can be imposed for peaceful participation in a strike. It requests the Government to continue to provide information on progress made in this regard, and a copy of the amended Acts, once adopted.***

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 near future.***

## Trinidad and Tobago

### ***Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)***

*Article 1(c) of the Convention. Sanctions involving compulsory labour for various breaches of labour discipline.*

For many years, the Committee has been referring to sections 157 and 158 of the Shipping Act, 1987, under which penalties of imprisonment (involving compulsory labour pursuant to sections 255 and 269(3) of the Prison Rules) may be imposed for breaches of labour discipline in circumstances where the life, personal safety or health of persons are not endangered. However, the Committee noted the Government's indication that preparations had begun for the amendment of the Shipping Act, and that the Maritime Service Division would give due consideration to the provisions of the Convention in this regard.

The Committee notes the Government's statement that a draft bill to amend the Shipping Act was considered by maritime stakeholders in September 2013, and that this bill is under consideration by the Legislative Review Committee prior to its introduction into Parliament. The Committee notes with **concern** that the proposed provisions do not remove the penalties of imprisonment (involving compulsory labour) for breaches of labour discipline, but instead increase the penalties for such breaches. Particularly, the amendments seek to increase the penalty of imprisonment (involving compulsory labour) for the following breaches of labour discipline: wilfully disobeying any lawful command (section 157(b)); continually disobeying any lawful command or wilfully neglecting duty (section 157(c)); combining with any of the crew to disobey a lawful command or to neglect duty (section 157(e)); desertion (section 158(a)); and neglecting to join a ship and absence without leave (section 158(b)).

Referring to paragraph 312 of the 2012 General Survey on the fundamental Conventions concerning rights at work, the Committee recalls that provisions which permit the imposition of sentences of imprisonment involving compulsory labour for breaches of labour discipline are contrary to the Convention and only sanctions relating to acts endangering the ship or the life or health of persons are compatible with the Convention. ***The Committee therefore urges the Government to take the necessary measures to ensure that, within the framework of the amendments to the Shipping Act, sections 157(b), (c) and (e), and 158(a) and (b) are amended so that no penalty of imprisonment may be imposed for breaches of labour discipline.***

*Article 1(d). Sanctions for participating in strikes.* The Committee previously noted that pursuant to section 8(1) of the Trade Disputes and Protection of Property Act, a person employed in certain public services (but not limited in this respect to services whose interruption might endanger the life, personal safety or health of the whole or part of the population) who wilfully and maliciously breaks a contract of service, is liable to a fine or to imprisonment of three months. It also noted that pursuant to section 69 of the Industrial Relations Act, penalties of imprisonment (involving compulsory labour) could be imposed on certain categories of workers for participation in an industrial action.

The Committee notes the Government's statement that an advisory committee was appointed in February 2012 to review the Industrial Relations Act, and to propose specific amendments to this legislation. The Government also states that there is no government policy at this time concerning the amendment of the Trade Disputes and Protection of Property Act. In this regard, the Committee recalls that *Article 1(d)* of the Convention prohibits the use of any form of forced or compulsory labour, including compulsory prison labour, as a punishment for having participated in a strike. ***With reference to its comments made in 2012 under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee requests the Government to take the necessary measures, within the framework of the review of the Industrial Relations Act, to ensure that no penalties of imprisonment may be imposed on persons for the peaceful participation in a strike. It also requests the Government to provide information on any measures taken or envisaged to amend the Trade Disputes and Protection of Property Act in this regard.***

## Turkey

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1998)**

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

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Law enforcement measures.* The Committee previously requested information concerning the application in practice of sections 80 (prohibiting trafficking in persons for the purpose of both forced labour and prostitution), 117(2) (prohibiting the employment of homeless, helpless or dependent persons without payment or for substandard wages or forcibly subjecting them to inhumane working and living conditions), and 227(3) (prohibiting sending a person in or out of the country for the purpose of prostitution) of the Penal Code.

The Committee notes the information in a report from the International Trade Union Confederation (ITUC) entitled "Internationally Recognized Core Labour Standards in Turkey: Report for the WTO General Council Review of the Trade Policies of Turkey" of 21 and 23 February 2012 that trafficking in persons occurs in the country, with most of the trafficking cases relating to prostitution of women from Eastern Europe and forced labour of persons from Central Asia. This ITUC report indicates that the authorities have prosecuted several hundred individuals for trafficking in recent years. However, this report states that while authorities have prosecuted police officers for collaborating with traffickers before, uncorroborated reports indicate that complicity in trafficking remains a problem.

The Committee notes the detailed information in the Government's report concerning the application in practice of the Penal Code. Concerning section 227(3) of the Penal Code, the Government indicates that 37 persons were convicted of this offence, and 21 persons acquitted in 2009, while 65 persons were convicted and 32 persons were acquitted in 2010. Concerning the application of section 117(2), nine persons were convicted of this offence, and five persons acquitted in 2009, while three persons were convicted and ten persons were acquitted in 2010. With regard to the application of section 80 of the Penal Code, the Government indicates that there were 256 cases brought in 2009, involving 1,314 defendants, and 282 such cases brought in 2010, involving 1,827 defendants. The Committee also notes the information in the Government's report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), that 12 law enforcement officers suspected to be involved in cases of trafficking were identified in 2009, and eight in 2010. The Government further indicates that, through a project entitled "Supporting Turkey's struggle against Human Trafficking and Trafficking Victims Access to Justice", carried out in coordination with the International Organization for Migration (IOM) in 2009, 135 officials attended courses on combating trafficking in persons. The Government further indicates that a seminar was held in 2011 on combating trafficking in persons, in cooperation with the UN High Commissioner of Refugees and the IOM, with the participation of more than 130 inspectors of the Board of Inspection. *The Committee requests the Government to pursue its efforts to prevent, suppress and combat trafficking in persons, and to continue to provide information on the measures taken. It also requests the Government to continue to provide information on the application in practice of sections 80, 117(2) and 227(3) of the Penal Code, particularly the number of investigations, prosecutions, convictions and the specific penalties applied. Lastly, it requests the Government to take the necessary measures to ensure that governmental officials complicit with human traffickers are prosecuted and that sufficiently effective and dissuasive criminal penalties are imposed in practice.*

*2. Protection and assistance for victims of trafficking in persons.* The Committee notes the statement in the abovementioned ITUC report that law enforcement officials make insufficient use of trafficking victim identification procedures and that many such victims are detained and deported. This report states that the Government does not operate any victim shelters and does not provide adequate resources to NGO centres that offer assistance and services.

The Committee also notes the statement by the Turkish Confederation of Employer Associations (TİSK), in its observations of 2011, that a Memorandum of the General Directorate for Social Assistance and Solidarity (in the Office of the Prime Minister) of 20 May 2009 makes provisions enabling victims of human trafficking to benefit from free health services. The TİSK indicates that in 2010, 37 victims of trafficking received assistance. The TİSK also indicates that the General Directorate for Social Assistance and Solidarity signed an agreement to provide funding to civil society organizations for shelters for victims of trafficking in persons in both Ankara and Istanbul. The TİSK further indicates that coordination between various institutions for the identification of victims of trafficking occurs within the framework of the National Referral Mechanism, and that a telephone hotline for victims of trafficking has been established. In addition, the Committee notes the Government's indication that, within a project entitled "Consolidating Capacity of Local Administration and Law Enforcement to Identify Victims of Human Trafficking" organized in collaboration with the IOM, 28 persons were trained. Through this project, a "human trafficking victim identification form" was prepared by the General Directorate of Security and 6,000 copies were distributed to provincial police commands, particularly in areas where trafficking occurs.

Lastly, the Committee notes the information from the UN country team in Turkey, in a report compiled by the Office of the High Commissioner of Human Rights for the Universal Periodic Review of 19 February 2010, that access to justice for victims of trafficking in persons remained limited and that redress and compensation mechanisms are not yet supported by the provision of sustainable public funding (A/HRC/WG.6/8/TUR/2, paragraph 42). *The Committee requests the Government to continue to take measures to strengthen mechanisms for the identification of victims of trafficking in persons. It also requests the Government to intensify its efforts to provide protection and assistance (including medical, psychological and legal assistance), to victims of trafficking, and to provide information on the number of persons benefiting from these services. The Committee further requests the Government to provide information on the measures taken to ensure that victims are able to assert their rights.*

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 near future.*

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)**

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

*Article 1(a) of the Convention. Political coercion and punishment for holding or expressing views opposed to the established system. 1. The Penal Code.* The Committee previously noted that penalties of imprisonment (involving compulsory prison labour, under section 198 of the Regulations pertaining to the administration of penitentiaries and to the execution of sentences, adopted by the decision of the Council of Ministers of 5 July 1967, No. 6/8517, as amended) may be

imposed under section 301 of the Penal Code. Section 301(1) and (2) of the Penal Code (as amended by Law No. 5759 of 30 April 2008) penalizes denigrating the Turkish Nation, the State of the Republic of Turkey, the Grand National Assembly of Turkey, the Government of the Republic of Turkey as well as the judicial bodies, the military and the security structures of the State, with imprisonment of a term of between six months and two years. The Committee noted that section 301(3), as amended, stated that the expression of ideas in the form of criticism shall not be punished. The Committee requested information on the application of section 301 of the Penal Code in practice.

The Committee notes that section 301(4) of the Penal Code, as amended, specifies that prosecution under this section shall be subject to the approval of the Minister of Justice. In this regard, the Committee notes the information in the Government's report that between May 2008 and March 2011, a total of 1,570 files were received by the Ministry of Justice from the Office of the Chief Public Prosecutor pursuant to section 301 of the Penal Code. Approval was given to investigate only 5.8 per cent of the files submitted; 1,382 files were not approved for investigation, and permission was granted to investigate 88 files. Of these files, 30 pertained to actions committed through the press, while 58 related to offences of "flagrant contempt". Of these 88 files investigated, 49 files (involving 62 suspects) have been concluded, and a total of 34 persons were convicted pursuant to section 301, and 28 persons were sentenced to imprisonment. The Government states that the number of investigations permitted by the Minister of Justice pursuant to section 301 has declined significantly, and that this provision is not being used systematically for restricting freedom of expression, including freedom of the press.

The Committee notes the statement of the Turkish Confederation of Employer Associations (TISK), in its observations of 2011, that the amendment of section 301, to require the permission of the Minister of Justice for investigations, resulted in a fall in the number of cases under this section. In the first seven months of 2010, only 3.57 per cent of the files submitted were allowed an investigation. The Committee also notes the statement of the UN country team, in a report prepared by the High Commissioner of Human Rights for the Universal Periodic Review of 19 February 2010, that section 301 of the Criminal Code is no longer used systematically to restrict freedom of expression, and that the amendment to this section led to a significant decline in prosecutions in comparison with previous years (A/HRC/WG.6/8/TUR/2, paragraph 46). ***Taking due note of the information provided by the Government, the Committee requests the Government to continue to provide information on the application of section 301 of the Penal Code in practice, including the number and nature of offences, particularly relating to the cases where sentences of imprisonment have been imposed.***

2. *Act on the Fight against Terrorism.* The Committee previously noted that section 8 of the Act on the Fight against Terrorism (No. 3713 of 1991) prohibited propaganda against the indivisibility of the State. However, it also noted that this legislation had been amended in 2006, and requested information on these amendments.

The Committee notes the Government's indication that Act No. 3713 was amended in 2006 by Act No. 5532. It notes that, pursuant to these amendments, section 8 of Act No. 3713 was replaced, and this section now relates to the financing of terrorism. However, the Committee also notes that section 6(2) of Act No. 3713, as amended, provides that printing or publishing declarations or leaflets emanating from terrorist organizations is punishable by a term of imprisonment from one to three years (previously a monetary fine). If such an offence is committed via print media, section 6(4) provides for imprisonment of the owners (ranging from 1,000 to 10,000 days) and editors (up to 5,000 days) of press or other media, even if they have not personally participated in the commission of this offence. Moreover, section 7(2) of Act No. 3713 provides for a term of imprisonment from one to five years for propaganda in favour of a terrorist organization. This penalty is increased by half if committed through the press, and the owner and editor of the periodical are liable for imprisonment of between 1,000 days to 10,000 days.

In this connection, the Committee recalls that limitations may be imposed by law on individual rights and freedoms in order to ensure respect of the rights and freedoms of others and to meet the requirements of public order and the general welfare in a democratic society, and 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. However, the Committee wishes to emphasize that if such restrictions are formulated in such wide and general terms that they may lead to penalties involving compulsory labour as punishment for the peaceful expression of views or of opposition to the established political, social or economic system, such penalties are not in conformity with the Convention. ***The Committee therefore requests the Government to take the necessary measures to ensure that no prison sentence entailing compulsory labour can be imposed under Act No. 3713 on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. In this regard, it requests the Government to provide information in its next report on the application in practice of sections 6(2), 6(4) and 7(2) of Act No. 3713, as amended, including information concerning prosecutions, convictions and the specific penalties applied.***

3. *Political Parties Act.* The Committee previously noted that penalties of imprisonment (involving compulsory labour) can be imposed under sections 80–82, read in conjunction with section 117, of the Political Parties Act (No. 2820 of 1983), which prohibits political parties from seeking to alter the principle of the unity of the State, asserting the existence of minorities based on a national or religious culture or on racial or linguistic differences, seeking to form minorities by protecting and promoting languages and cultures other than the Turkish language and culture, using any language other than Turkish in the drafting and publication of parties' statutes and programmes, or advocating regionalism. The Committee subsequently noted the Government's indication that changes were to be made in the Political Parties Act, in accordance with the Emergency Action Plan published on 3 January 2003, with a view to ensuring that the whole population would be able to participate in political parties and to make possible the establishment of equity and justice in political representation.

The Committee notes the Government's statement that section 83 of the Political Parties Act prohibits political parties from promoting regionalism or racism in the country. The Committee also notes the Government's reference to several provisions of the Penal Code, including section 122 of the Penal Code which prohibits discrimination against persons in commercial activities, public services and economic activity. The Committee observes that these provisions do not directly relate to the application of the Political Parties Act. Referring to paragraph 307 of its General Survey of 2012 on the fundamental Conventions concerning rights at work, the Committee recalls that the prohibition of political views as a consequence of the prohibition of political parties or associations (subject to penalties involving compulsory labour) are not in conformity with the Convention. ***The Committee therefore requests the Government to take the necessary measures to repeal or amend sections 80–82 of the Political Parties Act to ensure that penalties of imprisonment (involving compulsory labour) cannot be imposed for having expressed political views as a consequence of the prohibition of political parties or associations. Pending the adoption of such an amendment, the Committee requests the Government to provide information on the application of these provisions in practice.***

*Article 1(b). Use of conscripts for purposes of economic development.* The Committee previously noted that section 10 of the Military Service Act, No. 1111, as amended by Act No. 3358, as well as section 5 of Council of Ministers Resolution No. 87/11945 of 12 July 1987, adopted pursuant to section 10 of Act No. 1111, lay down procedures relating to the surplus reserves, including procedures concerning persons liable to perform military service who are assigned duties in public bodies and institutions. The Committee subsequently noted the Government's statement that Act No. 3358, which amended section 10 of the Military Service Act, No. 1111, was no longer applied after 1991. Moreover, the Committee noted the Government's indication that a new draft Military Service Bill, aimed at bringing legislation into conformity with "current conditions" had been examined by a special expert committee of the Turkish Grand National Assembly. The Government indicated, in particular, that the Bill had been drawn up in a way to embody a policy of protecting persons conscripted into military service from being assigned duties in public bodies or undertakings without their consent. The Committee requested the Government to provide information on the adoption of this Bill.

The Committee notes the Government's statement that the Bill to amend the Military Service Act, No. 1111, was submitted to the Turkish Grand National Assembly in 2008, but was not discussed during this legislative term. However, the Government also states that persons working for the Ministry of National Defence are employed under service contracts. **The Committee therefore requests the Government to strengthen its efforts to ensure the amendment of the Military Service Act, No. 1111, to bring it into conformity with the Convention and the indicated practice.**

*Article 1(d). Punishment for participation in strikes.* The Committee previously noted that Act No. 2822 of 1983 on collective agreements, strikes and lockouts, pursuant to sections 70–72, 75, 77 and 79, provides for penalties of imprisonment (involving compulsory labour) as a punishment for participation in unlawful strikes, in circumstances falling within the scope of Article 1(d) of the Convention. It expressed the firm hope that Act No. 2822 would be amended. The Committee notes the Government's statement that negotiations with the social partners are ongoing with regard to the amendment of Act No. 2822. The Government states that amending this Act is one of the Government's priorities. **Referring to its comments under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee requests the Government to take the necessary measures to ensure that Act No. 2822 is amended so that it does not contain any penal sanctions involving compulsory labour as a punishment for the peaceful participation in strikes.**

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

## Uganda

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1963)**

*Articles 1(1) and 2(1) of the Convention. Legislation concerning compulsory placement of unemployed persons on agricultural enterprises in rural areas.* For many years, the Committee has been referring to section 2(1) of the Community Farm Settlement Decree, 1975, under which any unemployed able-bodied person may be settled on any farm settlement and required to render service. Section 15 of the Decree makes it an offence punishable with a fine and imprisonment for any person who fails or refuses to live on any farm settlement or who deserts or leaves such settlement without authorization. However, the Committee noted the Government's indication that the 1975 Decree was no longer applied in practice and subsequently that it had been repealed. The Committee requested a copy of the legislation repealing the Decree.

In this regard, the Committee notes with *satisfaction* that the schedule of the Law Revision (Miscellaneous Repeals) Act of 2001 repeals the Community Farm Settlement Decree, 1975.

The Committee is raising other points in a request addressed directly to the Government.

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)**

*Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.* For a number of years, the Committee has been referring to the following legislation:

- 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; and
- sections 54(2)(c), 55, 56 and 56(A) of the Penal Code, empowering the minister to declare any combination of two or more people an unlawful society and thus render any speech, publication or activity on behalf of, or in support of, such a combination, illegal and punishable with imprisonment (involving an obligation to perform labour).

The Committee notes an absence of information on this point in the Government's report, but notes the information on the Government's website that section 56 of the Penal Code is still applied in practice, as the Attorney-General issued the Declaration of Unlawful Societies Order in 2012. In this regard, the Committee once again recalls that Article 1(a) of the Convention prohibits all recourse to forced or compulsory labour, including compulsory prison labour, as a means of political coercion or as a punishment for holding or expressing political views, or views ideologically opposed to the established political, social or economic system. It also points out that the protection conferred by the Convention is not limited to activities expressing or manifesting opinions diverging from established principles; even if certain activities aim to bring about fundamental changes in state institutions, such activities are covered by the Convention, as long as they do not resort to, or call for, violent means to these ends. **The Committee accordingly urges the Government to take the necessary measures to ensure that the abovementioned provisions of the Public Order and Security Act, No. 20 of 1967, and of the Penal Code, are amended or repealed so as to ensure that no prison sentence entailing compulsory labour**

*can be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. It requests the Government to provide information on measures taken in this regard with its next report.*

The Committee is raising other points in a request addressed directly to the Government.

## Ukraine

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1956)**

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Prevention and law enforcement.* The Committee previously noted the adoption of the Law on Combating Trafficking in Human Beings in 2011, and requested information on its application.

The Committee notes the information in the Government's report that, pursuant to section 149 of the Criminal Code (on trafficking), there were 197 cases opened in 2011, 155 cases opened in 2012 and 71 cases opened in the first six months of 2013. With regard to prevention, the Government indicates that it has implemented measures to raise public awareness concerning forms of human trafficking frequently encountered in Ukraine, including through public advertisements, media events, interviews for newspaper, radio and television, the dissemination of information on websites, public awareness events and seminars and advisory services for persons who are looking to work abroad. The State Border Guard Administration is engaged in efforts to combat trafficking in persons, a national hotline on trafficking in persons has been established and the Government continues to collaborate with both the International Organization for Migration and the Organization for Security and Co-operation in Europe to combat the phenomenon.

While taking note of the measures taken, the Committee notes the Government's statement, in a report submitted to the Committee on the Elimination of Discrimination against Women, of 19 September 2012, that trafficking in persons, especially women and children, is a pressing problem for Ukraine (CEDAW/C/UKR/CO/7/Add.1, paragraph 1). The Committee further notes that the Human Rights Committee, in its concluding observations dated 22 August 2013, noted with appreciation the Government's efforts in preventing and combating trafficking in persons, but also expressed concern regarding the persistence of trafficking in the country (CCPR/C/UKR/CO/7, paragraph 16). ***The Committee urges the Government to strengthen its efforts to prevent, suppress and combat trafficking in persons, and to continue to provide information on the measures taken in this regard. Noting that the information provided only relates to the number of cases opened, the Committee requests the Government to provide information on the number of convictions under section 149 of the Criminal Code, as well as the specific penalties applied to those convicted. Lastly, it requests the Government to provide information on the implementation of the Law on Combating Trafficking in Human Beings with regard to prevention and law enforcement measures.***

*2. Protection and assistance for victims of trafficking in persons.* The Committee notes the Government's indication that it has approved systematic recommendations for providing social services to victims of human trafficking, and that its new approach involves the broad involvement of non-governmental and international organizations in assisting and protecting victims. Moreover, the country has 21 social and psychological help centres which can provide comprehensive emergency assistance to facilitate the recovery of victims, including medical, educational and legal services. The Ministry of Social Policy has been given the task of establishing the status of victims of trafficking and to provide financial assistance to such victims. The Government indicates that while 60 victims of human trafficking were identified in the first half of 2013, only 38 persons (15 women, 19 men and four children) were granted the status of a victim of trafficking between September 2012 and July 2013, based on applications received. Since July 2012, 23 persons have received lump-sum assistance available for victims of trafficking. ***Taking due note of the measures implemented by the Government, the Committee requests the Government to pursue its efforts to identify victims of trafficking and to ensure that all such victims are provided with appropriate protection and assistance. It requests the Government to continue to provide information on measures taken in this regard, including the implementation of protection measures provided for in the Law on Combating Trafficking in Human Beings in 2011, as well as the number of persons benefiting from available services.***

The Committee is raising other points in a request addressed directly to the Government.

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2000)**

*Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.* The Committee previously noted that under section 185-1 of the Code on Administrative Offences, a second breach (within a year) of the rules governing the organization and conduct of public meetings, street marches and demonstrations may be punishable with correctional labour for a term of up to two months. It requested information on the application of this provision in practice.

The Committee notes the Government's statement that, in 2012, there were a total of 139 offences under section 185-1 of the Code on Administrative Offences, including six repeat offences, and that 124 persons were issued with an administrative offence notice by the police. In the first six months of 2013, 87 such offences were recorded, including five repeat offenders, and 78 persons were issued with an administrative offence notice. The Government

indicates that, in general, the sentence imposed by courts on persons convicted of an administrative offence under section 185-1 is a warning, a fine or administrative detention. The Committee also notes that a draft Law on Freedom of Peaceful Assembly has been developed, containing provisions to repeal section 185-1. In this regard, the Committee notes that the Human Rights Committee (HRC), in its concluding observations of 22 August 2013, expressed concern at the lack of a domestic legal framework regulating peaceful events and at the application by domestic courts of outdated regulations which are not in line with international standards and severely restrict the right to freedom of assembly. The HRC also expressed concern at reports that the success rate of local authorities' applications in court for banning peaceful assemblies may be as high as 90 per cent (CCPR/C/UKR/CO/7, paragraph 21).

With reference to paragraph 302 of its 2012 General Survey on the fundamental Conventions concerning rights at work, the Committee recalls that *Article 1(a)* of 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". The range of activities which must be protected, under this provision, from punishment involving forced or compulsory labour thus comprises the freedom to express political or ideological views as well as various other generally recognized rights, such as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views and which may also be affected by measures of political coercion. ***The Committee accordingly requests Government to take the necessary measures to ensure that any legislation adopted regulating public assemblies does not contain penalties involving compulsory labour for activities protected by Article 1(a) of the Convention. It also requests the Government to provide information on any progress made towards the adoption of the draft Law on Freedom of Peaceful Assembly. Pending its adoption, the Committee requests the Government to provide information on the specific penalties applied to persons found to have committed repeat offences under section 185-1 of the Code on Administrative Offences, and to provide copies of relevant court decisions in this regard. It requests, in particular, for the Government to indicate if any persons sentenced under this provision have been sentenced to correctional work, as provided for in paragraph 2 of section 185-1.***

The Committee is raising other points in a request addressed directly to the Government.

## United Arab Emirates

### ***Forced Labour Convention, 1930 (No. 29) (ratification: 1982)***

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Strengthening the legal framework and law enforcement.* In its previous comments, the Committee requested the Government to supply a copy of the amendment of Federal Act No. 51 of 2006 on human trafficking, once adopted.

The Committee notes the Government's indication that the amendment to the Federal Act No. 51 of 2006 on human trafficking is still under consideration and will be sent as soon as it is adopted. It also notes that according to the annual statistics prepared by the National Committee to Combat Human Trafficking (NCCHT), in 2012, 47 lawsuits were registered for trafficking involving 149 persons who were convicted and sentenced to penalties of imprisonment and fines.

The Committee notes the additional information provided by the Government on the measures taken by the NCCHT in 2013. Among these measures, the Committee notes that the NCCHT, in collaboration with the ILO, the United Nations Office on Drugs and Crime, the Regional Office of the High Commissioner on Human Rights in the Middle East, and representatives of relevant bodies responsible for law enforcement, met at a regional symposium in January 2013, entitled "Combating human trafficking from a labour market perspective". The aim of this symposium was to identify the dimensions of the crime of human trafficking, learn the best practices in combating this phenomenon and offering protection to victims, to review the efforts of the United Arab Emirates in this area, and to predict the perspectives for collaboration among the social partners in the fight against trafficking. The NCCHT, in collaboration with the Dubai police and the Dubai Airport Corporation, also launched an awareness-raising campaign in order to inform the public of the hazards of human trafficking crimes at Dubai airport, which is targeting a large segment of residents and visitors to the United Arab Emirates. Moreover, the Committee notes the Government's information pertaining to the measures taken at the level of international cooperation, including the joining by the United Arab Emirates to the "Bali system" in April 2013, which is a cooperation agreement between Asian countries established with the aim of exchanging expertise, mechanisms and examples of good practice in order to combat human trafficking.

***The Committee strongly encourages the Government to pursue its efforts to prevent, suppress and combat trafficking in persons. The Committee requests the Government to take the necessary measures to ensure the adoption of the amendment to Federal Act No. 51 of 2006 on human trafficking without delay, as well as to ensure that perpetrators of human trafficking are punished and prosecuted with adequate penal sanctions as required by Article 25 of the Convention. In this regard, the Committee requests the Government to continue to provide information on the number of infringements reported, convictions and penal sanctions applied for violations of Federal Act No. 51 of 2006 on human trafficking.***

*2. Protection and assistance for victims of trafficking.* The Committee previously noted the Government's indication that the main functions of the sheltering centre, set up to welcome and care for female and child victims of trafficking for sexual exploitation are rescue, care and rehabilitation.

The Committee notes the Government's information submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), that a new shelter centre for victims of trafficking for male adults was set up in July 2013. As the first centre of its kind, it aims to provide protection and health, legal, and rehabilitation services to male victims of trafficking and forced labour. It further notes that on 7 October 2013, the NCCHT adopted a decision which established a fund for the support of human trafficking victims, as well to assist them by providing them with financial support to facilitate their lives and compensate them for the damage inflicted upon them. The Committee notes the Government's indication that in 2012, there were 75 victims of trafficking. However, the Committee notes an absence of information on the concrete measures taken to provide protection and assistance to these victims of trafficking.

***The Committee requests the Government to strengthen its efforts to ensure that appropriate protection and assistance is provided to all victims of trafficking, male and female. It also requests the Government to provide information on the number of victims of trafficking who have benefited from financial assistance through the fund for the support of human trafficking victims.***

The Committee is raising other points in a request addressed directly to the Government.

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)**

*Article 1(a) of the Convention. Penalties involving compulsory labour as a punishment for expressing political views.* 1. *Federal Law No. 15 of 1980.* In its previous comments, the Committee noted that Federal Law No. 15 of 1980 governing publications and publishing imposes penal sanctions of imprisonment (involving compulsory labour) in accordance with sections 86 and 89 of the Law, for the violation of the following provisions:

- section 70: prohibition upon criticizing the Head of State of the Republic or the rulers of the Emirates;
- section 71: prohibition on publishing documents harmful to Islam, or to the Government, or to the country's interests or the basic systems on which society is founded;
- section 76: prohibition on publishing material containing information shameful to the Head of State of an Arab or Muslim country or a country with friendly ties, as well as material which may threaten the ties of the country with Arab, Muslim or friendly countries;
- section 77: prohibition on publishing material which causes an injustice to Arabs or constitutes a misrepresentation of Arab civilization or cultural heritage;
- section 81: prohibition on publishing material which harms the national currency or causes confusion over the economic situation of a country.

The Committee observes that the application of these provisions is not limited to acts of violence (or incitement to violence), armed resistance or uprising, but allows punishment involving the obligation to work to be imposed for the peaceful expression of opinions contrary to the Government's policy and the established political system. In this regard, with reference to its 2012 General Survey on the fundamental Conventions concerning rights at work, the Committee recalls that *Article 1(a)* of the Convention prohibits the use of forced or compulsory labour "as a means of political coercion or as a punishment for holding political views or views ideologically opposed to the established political, social and economic system". While 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, sanctions of imprisonment (involving compulsory labour) are not in conformity with the Convention if they enforce a prohibition of the expression of views or of opposition to the established political, social or economic system (paragraphs 302–303).

The Committee notes the Government's indication that the draft law regulating media activities is currently in the last stage prior to promulgation. Section 2 of this draft law specifies that freedom of opinion and expression, whether reflected orally or by any other means, is guaranteed by the law. The Committee also notes that Chapter 6 of the draft law lays down financial penalties in case of a violation of any provision and does not include any penalties which restrict or deprive freedom. Lastly, the Committee notes the Government's indication that the draft law will repeal, in sections 31 and 32, the penalty of imprisonment specified for the violation of the abovementioned provisions of Federal Law No. 15 of 1980 on publications and publishing.

***The Committee accordingly hopes that within the framework of the adoption of the draft law on media activities, the Government will take the necessary measures to ensure that no sanctions involving compulsory labour can be imposed for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The Committee also requests the Government to provide information on any progress made in the adoption of this draft law, as well as a copy of the text once adopted.***

2. *Penal Code.* Over a number of years, the Committee has been drawing the Government's attention to the incompatibility with the Convention of certain provisions of the Penal Code which prohibit the establishment of an organization or the convening of a meeting or conference for the purpose of attacking or mistreating the foundations or teachings of the Islamic religion, or calling for the observance of another religion, with such offences being punishable with imprisonment for a maximum period of ten years (sections 317 and 320). It also referred to sections 318 and 319 of the Penal Code pursuant to which a prison sentence could be imposed involving an obligation to work, on any person who

is a member of an association specified in section 317, who challenges the foundations or teachings of the Islamic religion, proselytizes another religion or advocates a related ideology.

The Committee notes the Government's detailed explanations on the purpose of employing convicted persons referred to in Law No. 43 of 1992, which regulates penitentiaries. The Government indicates that the law does not include an obligation of employing a specific category of prisoners, as any person sentenced to a penalty which deprives him of his liberty carries out work for the purpose of rehabilitation.

The Committee recalls that in the great majority of cases, labour imposed on persons as a consequence of a conviction in a court of law will have no relevance on the application of the Convention, such as in the cases of the exaction of compulsory labour from common offenders convicted, for example, of robbery, kidnapping or other acts of violence or of having endangered the life or health of others, or numerous other offences. However, if a person is required to perform compulsory prison labour following a conviction under sections 317 and 320 for the holding or expression of certain political views or views ideologically opposed to the established political and social system, the situation is incompatible with the Convention which prohibits the imposition of any form of forced or compulsory labour as a sanction in these circumstances.

***The Committee therefore once again expresses its firm hope that appropriate measures will be taken to bring sections 317–320 of the Penal Code into conformity with the Convention and that, pending the adoption of such measures, the Government will provide information on the application of sections 317–320 in practice, including copies of any relevant court decisions, indicating the penalties imposed.***

The Committee is raising other points in a request addressed directly to the Government.

## United Kingdom

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1931)**

*Articles 1(1), 2(1) and (2)(c) of the Convention. Privatization of prisons and prison labour. Work of prisoners for private companies.* For a number of years, the Committee has been making comments on the privatization of prisons and work of prisoners for private companies in the United Kingdom. In this regard, it requested the Government to take the necessary measures to ensure that, with regard to contracted-out prisons and prison industries, any work by prisoners for private companies be performed under the conditions of a freely consented upon labour relationship.

The Committee notes the Government's statement that there has been no change in the Government's position or in national law and practice since its previous report, and that it continues to be of the view that its approach to imprisonment and rehabilitation is fully in line with the aims of the Convention. The Committee notes the Government's statement that it is currently exploring possible models for increased work in prisons, having regard to the relevant ILO Conventions. The Government once again reiterates that the United Kingdom continues to have in place a robust set of rules and regulations to ensure that prison labour is not abused, and that both public and private sector prisons and workshops are subject to rigorous independent inspections. The Government also takes the view that, if it accepts the interpretation of the Convention of the Committee, work by prisoners in a number of prisons in the country, as well as work in the community supervised by private sector entities, would no longer be viable, and that this would be damaging for prisoners and their rehabilitation.

While noting these comments, the Committee must once again recall that the work of prisoners for private companies is only compatible with the Convention where it does not involve compulsory labour, which requires the formal, freely given and informed consent of the persons concerned, as well as further guarantees and safeguards covering the essential elements of a labour relationship, such as wages and social security. As the Committee has repeatedly pointed out, it is therefore possible for governments to apply the Convention when designing or implementing a system of privatized prison labour, once the abovementioned requirements are complied with. In this regard, the Committee draws the Government's attention to paragraph 291 of its 2012 General Survey on the fundamental Conventions concerning rights at work, where it observed that a number of countries have already made progress towards full compliance with the Convention by taking measures, in both law and in practice, to ensure that conditions of the private employment of prisoners progressively approach those of free workers. ***Noting the Government's indication that the development of new models of work for prisoners will take into account the relevant ILO Conventions, the Committee trusts that measures will be taken to ensure that formal, freely given and informed consent is required for the work of prisoners in privately operated prisons, as well as for all work of prisoners for private companies, both inside and outside prison premises, with such consent being authenticated by the conditions of work approximating those of a free labour relationship, with regard to wage levels (leaving room for deductions and attachments), social security and occupational safety and health. It requests the Government to provide information on any new models of work it may be developing in this regard, in its next report.***

The Committee is raising other points in a request addressed directly to the Government.

## Uzbekistan

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)**

The Committee notes the Government's reports dated 3 and 6 May 2013 and 11 November 2013. It also notes the communication of the International Trade Union Confederation (ITUC) dated 21 August 2013 and the International Organisation of Employers (IOE) dated 1 September 2013, as well as the Government's reply to both communications, dated 31 October 2013. The Committee further notes the ITUC's observations dated 25 November 2013, which refer to the systematic state mobilization of the forced labour of adults in the 2013 cotton harvest. These observations were transmitted to the Government for its comments. Lastly, it notes the report of the ILO high-level mission (mission report) on the monitoring of child labour during the 2013 cotton harvest in Uzbekistan, dated 19 November 2013.

*Article 1(b) of the Convention. Mobilization and use of labour for purposes of economic development in agriculture (cotton production).* In its earlier comments, the Committee noted the allegations made by the IOE and the ITUC concerning the systematic and persistent use of forced labour of adults for purposes of economic development in cotton production. The Committee also noted that the Government denied these allegations and reiterated that under no circumstances may employers use compulsory labour for the production or harvesting of agricultural products in Uzbekistan, the exaction of forced labour being punishable with penal and administrative sanctions.

The Committee notes that the ITUC, in its communication dated 21 August 2013, states that despite legislative and policy measures taken to address forced labour, the Government has not provided evidence of any impact of these measures. State-sponsored forced labour of adults continued during the 2012 cotton harvest in virtually all administrative areas in Uzbekistan, and the burden of field work shifted from younger children to children over the age of 15 and adults, including university students, public sector workers, citizens who receive welfare benefits and private sector employees. With regard to schools, colleges, universities, hospitals and ministries, groups of employees were assigned to pick cotton for two to three weeks on a rotating basis. Approximately 60 per cent of teachers were forced to pick cotton, and the only way to avoid such work was by paying a fine of 400,000 Uzbekistani soms (approximately US\$183). The ITUC further alleges that the Government defines an annual cotton production quota for farmers, and those farmers that fail to meet this quota face severe consequences including loss of their land, prosecution on criminal charges and physical punishment. During the 2012 cotton harvest, authorities intensified efforts to mobilize labour to harvest cotton including through police intimidation, extortion and threats regarding loss of jobs, pensions and welfare benefits. Additionally, in January 2013, the Government required public sector employees to sign new contracts that included a clause that they would voluntarily help with agriculture and farming work. The ITUC also provides information on the poor working conditions of cotton pickers, including poor accommodation, long working hours and the lack of safe drinking water.

The Committee notes that the IOE, in its most recent communication dated 1 September 2013, states that as the preparation for the 2103 cotton harvest began, it appeared that teachers had been enlisted to prepare for the cotton season. The IOE emphasizes that new information on the 2013 cotton harvest would soon be available, and that if the cotton harvest replicated the same scenario as in previous years, the Government would be failing to comply with its obligations under the Convention. Previous years had involved a state-ordered system of forced labour for the cotton harvest, whereby farmers and employees in the public and private sector were obligated to collect cotton. Refusal to work, or failure to meet a quota, could result in beatings, threats, expulsion from university, loss of employment, loss of public benefits and the confiscation of land. The IOE underlines that it is expecting the full engagement of the Government and the national social partners to address these issues, including the implementation as a matter of urgency of measures to apply the Convention, the improvement in the exchange of information between the Government and the ILO (particularly this Committee), and the enhancement of a wide monitoring process where ILO representatives would have full freedom of movement and access to all regions and relevant parties.

The Committee notes that the Government, in its report dated 3 May 2013, states that workers called upon to participate in agricultural work are paid for the work they perform, in addition to receiving the average wage for their usual job. The Committee also notes the Government's statement in its reply to the comments of the ITUC dated 31 October 2013 that all the cotton produced in the country is grown by private farmers. The Government indicates that during the cotton harvest, pickers are engaged through individual employment contracts, generally motivated by a desire to earn additional income, and a minimum payment is set per kilogram of cotton picked. It also indicates that in the run-up to the 2013 cotton harvest, the Council of the Federation of Trades Unions carried out an initiative regarding the establishment of favourable working and living conditions for the cotton pickers and timely payment of their wages, which was supported by the Government. Recommendations in this regard were brought to the attention of local authorities, labour inspectorates and farmers, and this trade union monitored the observance of labour legislation and labour protection during the performance of cotton-picking work, as well as rules relating to sanitary and hygiene conditions, the availability of medical care and the provision of drinking water and three full hot meals a day. Moreover, hotlines have been set up at all trades union bodies for workers to report violations of their labour rights, and no reports of violations of the rights of workers had thus far been received in the 2013 cotton harvest.

In addition, the Committee notes the Government's reply to the comments of the IOE that the institutional foundations have been established for resolving this issue. The Government states that the Action Plan for Co-operation with the ILO for 2013–15 has been adopted in accordance with decisions taken at the round table held on 17–18 July 2013

in Tashkent. Under this Plan, a Decent Work Country Programme and a programme for cooperation with ILO–IPEC have been drafted.

In this regard, the Committee notes the information in the high-level mission report that, following a round table in July 2013, it was agreed that there would be joint ILO–Uzbek monitoring of the cotton harvest in 2013 based on the ILO proposed document on child labour monitoring. The monitoring took place from 11 September until 31 October 2013, covering approximately 40,000 kilometres across the country. The monitoring units had full access and were on no occasion hindered in their access to any cotton farm, school or community in any zone. These units made 806 documented site visits comprised of 406 farms, 206 households, and 395 places offering education to children and young people. During stops at farms, schools, colleges, lyceums, and buildings within communities in the vicinity of the farms, the units interviewed employers, farmers, adult farm workers, children found in or around cotton farms, teachers, school administrators, students, parents and community members. Of the 275 colleges and lyceums covered by the monitoring, monitors found six closed colleges in two zones and significant absenteeism in grades one and two of colleges in four zones. One of the reasons provided in interviews with school staff was that they were closed for the cotton harvest but that students under 18 years of age were reassigned to other classes or activities. The mission report does not indicate whether students over the age of 18 at these colleges, closed due to the cotton harvest, participated in the harvest on a voluntary basis. In this regard, the mission report emphasizes that the monitoring carried out during the cotton harvest was limited to the scope of the Worst Forms of Child Labour Convention, 1999 (No. 182), and that, consequently, the monitoring results cannot either establish or deny reported practices of forced labour of adults. Nevertheless, the Committee observes the monitoring report which states that the monitors were in a position to note other issues relevant to the mandate of the ILO. The report also states that, importantly, among these issues is the framework and various practices under which the entire cotton production is conducted. This pertains to the campaign and recruitment of the labour force to harvest the cotton, the potential and consequences of mechanization on the labour market, and the realization of fundamental rights of the workers, including the respect for the effective implementation of the Convention. The mission report further states that comprehensive inter-ministerial support and action will be required to fully address all relevant issues related to cotton production and harvest.

In this regard, the Committee welcomes the Government’s statement, in its report of 11 November 2013, expressing its readiness for the further broad development of cooperation with the ILO within the framework of the Decent Work concept, including effective measures for eradicating forced and child labour in accordance with this Convention and Convention No. 182 and requesting the ILO to provide technical assistance for questions of their implementation. The Government states that the social partners, represented by the Council of the Federation of Trade Unions, the Chamber of Commerce and Industry and the Union of Farmers of Uzbekistan have also expressed their readiness for expanded cooperation with the ILO as well as other interested organizations (such as the IOE and ITUC) who express good will, strive towards constructive dialogue and wish to assist Uzbekistan in the questions of prohibiting forced labour. ***Taking due note of the Government’s collaboration with the ILO during the cotton harvest in 2013, as well as its stated commitment to implementing this Convention, the Committee urges the Government to pursue its efforts to ensure the complete elimination of the use of compulsory labour of public and private sector workers as well as students in cotton production. In this regard, it urges the Government to continue to engage in cooperation with the ILO and the social partners, within the framework of a country programme, towards the full application of the Convention. It requests the Government to provide information on concrete measures taken in this respect, in its next report.***

The Committee is raising other points in a request addressed directly to the Government.

*[The Government is asked to reply in detail to the present comments in 2014.]*

## **Bolivarian Republic of Venezuela**

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1964)**

*Article 1(a) and (d) of the Convention. Imposition of sentences of imprisonment involving the obligation to work as a punishment for expressing political opinions or views ideologically opposed to the established political, social or economic system or as a punishment for having participated in strikes.* In its previous comments, the Committee noted that persons sentenced to a penalty of deprivation of liberty of *presidio* or *prisión* are subject to the obligation to work. Only persons sentenced to a penalty of *arresto* are excluded from the obligation to work (sections 12, 15 and 17 of the Penal Code). Recalling that the Convention prohibits the imposition of work, including prison labour, as a punishment on persons who express political views, the Committee requested the Government to provide information on the application in practice of the following provisions of the Penal Code which establish penalties of *prisión* for certain forms of behaviour:

- offending or showing a lack of respect for the President of the Republic or for a number of public authorities (sections 147 and 148);
- public denigration of the National Assembly, the Supreme Court of Justice, etc. (section 149);
- offending the honour, reputation or prestige of a member of the National Assembly or a public servant, or of a judicial or a political body (sections 222 and 225); proof of the truth of the facts is not admitted (section 226);
- defamation (sections 442 and 444).

In its report, the Government specifies that under the terms of the Constitution and the Basic Labour Act, in the Bolivarian Republic of Venezuela, labour is considered to be voluntary and free from any coercion. It cannot be required as a disciplinary measure, or a punishment for expressing political opinions as there exist constitutional guarantees in the social, civil and political fields setting forth the rights of citizens. Similarly, forced labour cannot be imposed as a punishment for participating in a strike. Workers may withdraw their labour on condition that they comply with the procedures envisaged in that respect and that they ensure essential and minimum services.

The Committee notes this information. It recalls that, where the national legislation provides for the obligation to work for persons convicted to sentences of imprisonment, as is the case in the Bolivarian Republic of Venezuela for penalties of *presidio* and *prisión*, provisions of the legislation which lay down limits or restrictions on the exercise of certain civil rights or public freedoms, the violation of which may be punished by sentences of imprisonment, have an effect on the application of the Convention. Indeed, persons who do not comply with these limits could be convicted to a sentence of imprisonment and, accordingly, be subjected to compulsory labour.

In this regard, the Committee recalls that it noted that the Inter-American Commission on Human Rights (IACHR) had on several occasions expressed concern at the situation with regard to freedom of thought and expression in the Bolivarian Republic of Venezuela and noted information attesting to a trend of acts of reprisal against individuals who express public disapproval of government policies; a trend to take disciplinary, administrative and penal action against the media and journalists; the use of the punitive power of the State to criminalize human rights defenders, judicialize peaceful social protests and bring criminal prosecutions against persons considered by the authorities to be political opponents (OEA/Ser.L/V/II. Doc. 54 of 30 December 2009, and OEA/Ser.L/V/II. Doc. 5 corr. 1 of 7 March 2011). Similarly, the Confederation of Workers of Venezuela (CTV) referred to several provisions of the national legislation which restrict the exercise of the right to strike and can serve as a basis for criminalizing social protest through high fines as well as sentences of imprisonment against persons who, in the exercise of the right to strike, paralyse the activities of an enterprise. The criminalization of legitimate trade union activities was also a cause for concern for this Committee and the Committee on the Application of Standards of the International Labour Conference in the context of their supervision of the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

The Committee observes that, in its latest annual report (2012), the IACHR considered that the situation remained a matter of concern and decided to include the Bolivarian Republic of Venezuela in Chapter IV of its report devoted to countries whose human rights practices merit special attention. The IACHR recommended that the Government refrain from making reprisals or using the punitive power of the State to intimidate or sanction individuals based on their political opinions, guarantee the conditions necessary for defenders of human rights and trade union rights to be able to engage freely in their activities, and refrain from taking any action or adopting any new legislation that would limit or impede their work.

*In view of the above considerations, the Committee once again requests the Government to take all the necessary measures to ensure that no one who, in a peaceful manner, expresses political views, opposes the established political, social or economic system or who participates in a strike can be sentenced to imprisonment, under the terms of which compulsory labour could be imposed. It also requests the Government to provide information on the application in practice of the provisions of the Penal Code referred to above, as well as copies of court decisions based thereon and an indication of the facts that gave rise to the convictions. Finally, noting that in August 2013 the National Assembly adopted a new Basic Prison Code, which does not yet appear to have been promulgated, the Committee requests the Government to indicate whether the adoption of this text affects the requirement to work of persons convicted to a sentence of *presidio* or *prisión*.*

## Viet Nam

### **Forced Labour Convention, 1930 (No. 29) (ratification: 2007)**

*Articles 1(1) and 2(1) of the Convention. Work exacted in drug rehabilitation centres.* The Committee previously noted that the Decree on regulating in detail the implementation of the law to amend and supplement a number of articles of the Law on drug prevention regarding post-rehabilitation management (No. 94/2009/ND-CP) states that persons in drug rehabilitation centres must actively participate in labour and production and complete assigned target volume and quality of work (sections 26(2) and 34(1)(b)) and that the director of the centre has the authority to apply coercive measures against those failing to comply with the centre's rules and regulations regarding education, learning and labour (section 43(1)(a)). Noting that work is part of the treatment in these centres, the Committee requested information on how persons enter these centres.

The Committee notes the Government's statement that persons staying at drug rehabilitation centres are involved in production. The Government states that this is not forced labour, that this work helps drug addicts to realize the value of their labour and to recover their work skills, and that no sanction shall be applied to those who do not wish to work. However, the Government also states that those who are healthy enough are allocated a certain amount of product to produce, and that persons with low labour discipline will be criticized or reprimanded. The Committee further notes the Government's indication that section 28 of the Law on drug prevention states that the sending of drug addicts into

compulsory drug rehabilitation establishments shall be implemented by a decision of the President of the People's Committees in districts, towns and cities.

With reference to paragraph 52 of its 2007 General Survey on the eradication of forced labour, the Committee reminds the Government that *Article 2(2)(c)* of the Convention provides that work can only be exacted from a person as a consequence of a conviction in a court of law. In this respect, it recalls that compulsory labour imposed by administrative or other non-judicial bodies or authorities is not compatible with the Convention. ***Therefore, noting that persons are sent to drug rehabilitation centres following an administrative decision, the Committee urges the Government to take the necessary measures, in both law and practice, to ensure that persons detained in drug rehabilitation centres who have not been convicted by a court of law may not be subject to the obligation to perform work. In this regard, the Committee requests the Government to provide information on how, in practice, the free and informed consent to work of persons in drug rehabilitation centres is formally obtained, free from the menace of any penalty and taking into account the situation of vulnerability of such persons.***

*Article 2(2)(a). Compulsory military service.* The Committee previously noted that article 77 of the Constitution provides for compulsory military service and participation in building a national defence among citizens' obligations. The Government indicated that compulsory military service is purely of a military character in order to protect the sovereignty and territorial integrity of the country, and that the use of labour and services exacted from persons in military duty for economic purposes for any organization or individual is strictly prohibited. However, the Committee noted that, pursuant to the Ordinance on militia and self-defence forces 2004, all Vietnamese citizens were obliged to serve for five years in the militia or self-defence force, and that this service included the active implementation of socio-economic development programmes in localities.

The Committee notes the Government's statement that all citizens have the obligation to participate in the military service or the militia and self-defence forces, and participation in one service will exempt a person from the obligation to serve in the other. Between July 2010 and December 2012, the militia and self-defence forces had 163,124 enlisted persons who worked 2,508,812 public working days. The Committee also notes the Government's indication that the Ordinance on militia and self-defence forces of 2004 has been replaced by the Law on militia and self-defence forces of 2009. Section 8(3) of the Law on militia and self-defence forces of 2009 states that the tasks of the militia and self-defence forces include, inter alia, protecting forests and preventing forest fires, protecting the environment and the construction and socio-economic development of localities and establishments. The Government indicates that this work includes dredging canals, building roads, supporting the economic development of households, planting trees and contributing to reducing and eliminating poverty.

In this regard, the Committee observes that these tasks do not appear to be work of a military character, and once again recalls that, under *Article 2(2)(a)* of the Convention, work or service exacted by virtue of compulsory military service legislation which is not of a purely military character is incompatible with the Convention. ***Taking note of the Government's indication that such service is obligatory, the Committee requests the Government to take measures, in law and practice, to ensure that persons working by virtue of compulsory military conscription laws, including in the militia and self-defence forces, only engage in work of a military nature. It requests the Government to provide information on measures taken in this regard, in its next report. The Committee once again requests the Government to provide a copy of the Law on military service 1981 with its next report.***

The Committee is raising other points in a request addressed directly to the Government.

## Zambia

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1964)**

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Law enforcement and penalties.* The Committee previously noted the information in the report of the Special Rapporteur on violence against women, its causes and consequences, of 2 May 2011, that trafficking occurs within Zambia's borders where women and children from rural areas are exploited in cities in involuntary domestic servitude or other types of forced labour (A/HRC/17/26/Add.4, paragraph 27). It also noted that the Committee on the Elimination of Discrimination against Women, in its concluding observations of 19 September 2011, expressed concern that Zambia remains a country of origin, destination and transit for the trafficking of persons (CEDAW/C/ZMB/CO/5-6, paragraph 23). The Committee requested the Government to take measures in this regard, and to provide information on the application of the Anti-Human Trafficking Act (2008) in practice.

The Committee notes the Government's statement that it acknowledges that trafficking is a problem in the country, and that due to current data collection impediments, it is unable to provide comprehensive statistics on trafficking. However, the Government indicates that, according to the anti-trafficking secretariat, two cases have been successfully prosecuted, and the convicted persons are awaiting sentencing. Additionally, the Government indicates there are nine cases pending. The Committee also notes the Government's indication that the ILO and the Ministry of Labour and Social Security have, in conjunction with the Immigration Department and the Ministry of Home Affairs, conducted capacity building workshops relating to the investigation and prosecution of suspected cases of trafficking. The Government indicates that labour officers carry out joint inspections with the Ministry of Home Affairs in this regard. ***The Committee***

*requests the Government to pursue its efforts to ensure that thorough investigations and effective prosecutions are carried out against those who commit the offence of trafficking in persons, including internal trafficking. It requests the Government to continue to provide information on measures taken in this regard. The Committee further requests the Government to continue to provide information on the application of the Anti-Human Trafficking Act in practice, particularly the number of investigations, prosecutions, convictions and the specific penalties applied.*

2. *National Plan of Action.* The Committee previously noted the adoption of the National Plan of Action to Combat Human Trafficking, and that the Government was taking measures to establish an inter-ministerial committee on trafficking.

The Committee notes the Government's statement that it has made progress in establishing the National Committee on Human Trafficking, which comprises of 12 ministries, as well as NGOs. In addition, the Ministry of Community Development has established 12 district coalitions that carry out awareness-raising campaigns concerning the dangers of human trafficking. The Committee also notes that the Government is receiving support from the UN Joint Programme on Human Trafficking (consisting of the ILO, UNICEF and the International Organization for Migration) for the implementation of the National Plan of Action to Combat Human Trafficking. It further notes that the Ministry of Labour and Social Security hosted in November 2013, the ILO Conference on Forced Labour and Human Trafficking in Africa, which aimed to assess current responses to trafficking and document good practices. *The Committee requests the Government to pursue its efforts, within the framework of the National Plan of Action to Combat Human Trafficking, and with its international partners, to prevent, suppress and combat trafficking in persons. It requests the Government to continue to provide information on the specific measures taken in this regard, as well as the results achieved.*

3. *Protection and assistance to victims.* The Committee previously noted the rising number of identified trafficking victims, from eight victims in 2009 to 53 victims in 2010. It requested information on measures taken to assist such victims.

The Committee notes the information in the Government's report that victims of the trafficking cases that are pending include persons from South Asia being trafficked through Zambia for labour exploitation in South Africa, as well as victims from Somalia trafficked for unknown reasons. The Government states that measures to assist victims of trafficking include free legal services and their exemption from criminal investigations if a crime is committed during the course of their exploitation. The Government also indicates that the anti-trafficking legislation prohibits the summary deportation of victims of trafficking, and allows victims to apply for a non-renewable permit to remain in the country for up to 60 days. Moreover, it indicates that it is developing a national referral mechanism. *The Committee requests the Government to strengthen its efforts to provide protection and assistance to victims of trafficking, and to provide information on the measures taken in this regard in its next report, particularly progress with regard to the development of a national referral mechanism. It also requests the Government to provide information on the number of persons benefiting from appropriate services, including the number of victims of trafficking receiving free legal assistance.*

The Committee is raising other points in a request addressed directly to the Government.

## Zimbabwe

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1998)**

*Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for the expression of views opposed to the established political, social or economic system.* The Committee previously noted the continued recourse to the Public Order and Security Act (POSA) and the Criminal Law (Codification and Reform) Act to repress basic civil liberties and trade union rights. The Committee referred to the following provisions of national legislation, under which penalties of imprisonment (involving compulsory prison labour by virtue of section 76(1) of the Prisons Act (Cap. 7:11) and section 66(1) of the Prisons (General) Regulations, 1996) may be imposed in circumstances falling within *Article 1(a)* of the Convention:

- sections 15, 16, 19(1)(b) and (c), and 24–27 of the POSA: publishing or communicating false statements prejudicial to the State; making any false statement about or concerning the President; performing any action, uttering any words or distributing or displaying any writing, sign or other visible representation that is threatening, abusive or insulting, intending thereby to provoke a breach of peace; failure to notify the authority of the intention to hold public gatherings; and violation of the prohibition of public gatherings or public demonstrations;
- sections 31 and 33 of the Criminal Law (Codification and Reform) Act (Chapter 9:23), which contain provisions similar to the abovementioned sections of the POSA concerning publishing or communicating false statements prejudicial to the State or making any false statement about or concerning the President, etc.; and
- sections 37 and 41 of the Criminal Law (Codification and Reform) Act (Chapter 9:23), under which sanctions of imprisonment may be imposed, inter alia, for participating in meetings and gatherings with the intention of “disturbing the peace, security or order of the public”; uttering any words or distributing or displaying any writing, sign or other visible representation that is threatening, abusive or insulting, “intending thereby to provoke a breach of peace”; and engaging in disorderly conduct in public places with similar intention.

In this respect, the Committee referred to the recommendations of the Commission of Inquiry appointed under article 26 of the ILO Constitution to examine the observance by the Government of Zimbabwe of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), which recommended that the POSA be brought into line with these Conventions. The Committee also noted that during the discussion by the United Nations Human Rights Council of the Universal Periodic Review of Zimbabwe in October 2011, concern was expressed about the Criminal Law (Codification and Reform) Act and the POSA and their effects on freedom of expression, freedom of association and assembly, and freedom of the press. The working group made numerous recommendations in order to amend the legislation and ensure the respect of these freedoms in practice, yet the Government of Zimbabwe clearly indicated that it did not support these recommendations (A/HRC/19/14, 19 December 2011).

The Committee notes the Government's statement affirming the position expressed to the Human Rights Council regarding the POSA and the Criminal Law (Codification and Reform) Act. The Government states that the POSA does not apply to trade union activities, and that the issue of its previous application on trade union activities is being addressed with the social partners, within the context of the activities to implement the Commission of Inquiry's recommendations.

In this connection, the Committee reminds the Government that the scope of *Article 1(a)* of the Convention is broader than trade union activities, and encompasses the freedom to express political or ideological views (which may be exercised orally or through the press and other communications media), as well as various other generally recognized rights, such as the right of association and of assembly. While 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, sanctions of imprisonment (involving compulsory labour) are not in conformity with the Convention if they enforce a prohibition of the peaceful expression of non-violent views that are critical of Government policy and the established political system, whether the prohibition is imposed by law or by an administrative decision. Moreover, referring to paragraph 302 of its 2012 General Survey on the fundamental Conventions concerning rights at work, the Committee recalls that freedom of expression of political views is closely linked to the right of association and of assembly through which citizens seek to secure the dissemination and acceptance of their views. Therefore, provisions requiring the granting of prior authorization for meetings and assemblies at the discretion of the authorities, where violations can be punished by sanctions of imprisonment involving compulsory labour, are also not compatible with the Convention. ***The Committee accordingly urges the Government to take the necessary measures to ensure that the abovementioned provisions of the POSA and the Criminal Law (Codification and Reform) Act are repealed or amended, so as to ensure that no prison sentence entailing compulsory labour can be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system.***

*Article 1(d). Penal sanctions involving compulsory labour as a punishment for having participated in strikes.* In its earlier comments, the Committee referred to certain provisions of the Labour Act (sections 102(b), 104 (2) and (3), 109(1) and (2), and 122(1)) punishing persons engaged in an unlawful collective action with sanctions of imprisonment, which involves compulsory prison labour. However, the Committee noted the Government's indication that these sections of the Labour Act were included in the draft Principles for the Harmonization and Review of Labour Laws in Zimbabwe. In 2011, the social partners had agreed to the principle of streamlining mechanisms to deal with collective job action and review ministerial powers and those of the Labour Court on collective job action. This principle would provide the framework to amend section 102(b) defining essential services, section 104 on balloting for strike action, sections 107, 109 and 112 on excessive penalties, including lengthy periods of imprisonment and deregistration of trade unions and dismissal of employees involved in collective job action.

The Committee notes the Government's statement that it is still seized with amending the Labour Act in this regard. The Government indicates that this process also has to take account of the provisions of the new Constitution of 2013. ***With reference to its comments under Convention No. 87, the Committee urges the Government to take the necessary measures to amend the relevant provisions of the Labour Act to ensure that no sanctions of imprisonment may be imposed for organizing or peacefully participating in strikes, in conformity with Article 1(d) of the Convention.***

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. 29** (Algeria, Angola, Burundi, Chad, Comoros, Democratic Republic of the Congo, Djibouti, Dominican Republic, Equatorial Guinea, Gambia, Ghana, Guinea-Bissau, Italy, Kiribati, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libya, Malawi, Malaysia, Mali, Mauritius, Montenegro, Namibia, Niger, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Singapore, Solomon Islands, South Africa, Spain, Sri Lanka, Syrian Arab Republic, Tajikistan, United Republic of Tanzania, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom, United Kingdom: Montserrat, United Kingdom: St Helena, Uruguay, Uzbekistan, Vanuatu,

*Bolivarian Republic of Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe); Convention No. 105 (Angola, Bahamas, Barbados, Burundi, Chad, Comoros, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Ghana, Guinea, Guinea-Bissau, Kiribati, Kuwait, Lesotho, Libya, Malawi, Mali, Mauritius, Montenegro, Namibia, Niger, Oman, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Qatar, Romania, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Serbia, Seychelles, Sierra Leone, Slovakia, South Africa, Sri Lanka, Sudan, Suriname, Tajikistan, United Republic of Tanzania, Thailand, Togo, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United States, Uzbekistan, Vanuatu, Yemen, Zimbabwe).*

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 29** (*United Kingdom: Anguilla*).



## Elimination of child labour and protection of children and young persons

### Burundi

#### Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

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(1) of the Convention. Scope of application.* In its previous comments, the Committee noted the indication by the International Trade Union Confederation (ITUC) that child labour constitutes a serious problem in Burundi, particularly in agriculture and informal activities in urban areas. It also noted the statement by the Government that the socio-political crisis experienced by the country had aggravated the situation of children, some of whom were obliged to perform work "illegally" to support their families, very frequently in the informal economy and in agriculture. The Committee noted that section 3 of the Labour Code, in conjunction with section 14, prohibits work by young persons under 16 years of age in public and private enterprises, including farms, where such work is carried out on behalf of and under the supervision of an employer.

In its report, the Government confirmed that the country's regulations did not apply to the informal sector, which consequently escapes any control. Nevertheless, the question of extending the application of the labour legislation to this sector was to be discussed in a tripartite context on the occasion of the revision of the Labour Code and its implementing texts. The Committee reminded the Government that the Convention applies to all sectors of economic activity and covers all forms of employment and work, whether or not there is a contractual employment relationship, including own-account work. *It once again expresses the firm hope that the Government will take the necessary measures to extend the scope of application of the Convention to work performed outside an employment relationship, particularly in the informal economy and in agriculture. The Committee requests the Government to provide information in this respect.*

*Article 2(3). Age of completion of compulsory schooling.* The Committee previously noted the ITUC's indications that the war had weakened the education system due to the destruction of many schools and the death or abduction of a large number of teachers. According to the ITUC, the school attendance rate is lower and the illiteracy rate higher for girls. The Committee further noted that, according to a report of UNESCO of 2004 relating to data on education, Legislative Decree No. 1/025 of 13 July 1989 reorganizing education in Burundi does not provide for free and compulsory primary education. Entry into primary education is around the age of 7 or 8 years and lasts six years. Children therefore complete primary education around the age of 13 or 14 years and then have to pass a competition to enter secondary education. The Committee further noted that in 1996 the Government had prepared a Global Plan of Action for Education designed to improve the education system, among other measures, by reducing inequalities and disparities in access to education and achieving a gross school attendance rate of 100 per cent by the year 2010.

The Committee duly noted the information provided by the Government in its report with regard to the various measures adopted in the field of education. It noted that, under article 53(2) of the Constitution of 2005, the State is under the obligation to organize public education and promote access to such education. It further noted that basic education is free of charge and that the number of children attending school tripled during the 2006 school year. In 2007, primary schools would be constructed and other mobile and temporary schools would be established. Furthermore, coordination units for girls' education had been established and over 1,000 teachers recruited. *The Committee once again encourages the Government to pursue its efforts in the field of education and to provide information on the impact of the above measures in terms of increasing the school attendance rate and reducing the drop-out rate, with special attention to the situation of girls. It also requests the Government to indicate the age of completion of compulsory schooling and the provisions of the national legislation which determine this age.*

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 near future.*

### Chad

#### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Forced recruitment of children for use in armed conflict.* In its previous comments, the Committee noted that, according to the report of the United Nations Secretary-General of 7 August 2008 on children and armed conflict in Chad (S/2008/532, for the period July 2007–June 2008), the forced recruitment and use of child soldiers in the conflict in Chad is related to the regional dimension of the conflict. According to information in the Secretary-General's report, between 7,000 and 10,000 children are associated with the armed forces and armed groups. The Committee noted that the Working Group on Children and Armed Conflict, in its conclusions of December 2008 (S/AC.51/2008/15), expressed concern that all parties to the conflict continue to recruit and use children and called for measures to be taken to prosecute the perpetrators and put an end to impunity.

The Committee notes that, according to the report of the United Nations Secretary-General of 15 May 2013 on children and armed conflict (A/67/845–S/2013/245, paragraphs 45–46), despite progress in the implementation of the action plan signed between the Government and the United Nations in June 2011 concerning children associated with the armed forces and armed groups in Chad, and although the national army of Chad did not recruit children as a matter of policy, the country task force verified 34 cases of recruitment of children by the army during the reporting period. In June 2012, a joint verification mission by the Government and the United Nations identified 24 children in an army training centre. An additional ten cases were verified by the head of the army in the Moussoro training centre in September 2012 in

the framework of the action plan. All 34 children appeared to have been enlisted in the context of a recruitment drive in February–March 2012, during which the army gained 8,000 new recruits.

Furthermore, despite the positive measures taken by the Government, including implementation of the action plan of 2011 concerning children associated with the armed forces and armed groups in Chad, the Secretary-General reports that further measures are needed to strengthen the screening mechanisms for recruitment by the national army of Chad and to establish directives to prevent the enlistment of children (A/67/845–S/2013/245, paragraph 48). While the issuance of military directives concerning the prohibition of under-age recruitment is consistent with the action plan, such instructions need to clearly spell out penalties for violations. Furthermore, no investigations into allegations of recruitment and use of children were undertaken, nor was any disciplinary action taken against recruiters.

The Committee takes note of the new roadmap of May 2013 sent by the Government and adopted further to the review of the implementation of the action plan concerning children associated with the armed forces and armed groups in Chad and aimed at achieving full observance of the 2011 action plan by the Government of Chad and the United Nations task force. The roadmap establishes new deadlines for implementation of the action plan's objectives. The Committee observes that, in the context of the roadmap, one of the priorities is to speed up the adoption of the preliminary draft of the Child Protection Code, which prohibits the recruitment and use of young persons under 18 years of age in the national security forces and lays down penalties to that effect. Moreover, during 2013 it is planned to establish transparent, effective and accessible complaint procedures regarding cases of recruitment and use of children, and also to adopt measures for the immediate and independent investigation of all credible allegations of recruitment or use of children, for the prosecution of perpetrators and for the imposition of appropriate disciplinary sanctions.

The Committee again expresses *deep concern* at the current situation, especially as the persistence of this worst form of child labour leads to other violations of the rights of the child, such as abduction, death and sexual violence. It again reminds the Government that under *Article 3(a)* of the Convention, the forced or compulsory recruitment of children under 18 years of age for use in armed conflict is considered to be one of the worst forms of child labour and that, under *Article 1* of the Convention, member States must take immediate and effective measures to secure the elimination of the worst forms of child labour as a matter of urgency. *The Committee requests the Government to intensify its efforts to end, in practice, the forced recruitment of children under 18 years of age by the armed forces and armed groups and immediately undertake the full demobilization of all children. With reference to Security Council Resolution 2068 of 19 September 2012, which recalls the “responsibilities of States to end impunity and to prosecute those responsible for ... , war crimes and other egregious crimes perpetrated against children”, the Committee urges the Government to take immediate steps, in the context of the implementation of the 2013 roadmap, to ensure that perpetrators are investigated and prosecuted and that sufficiently effective and dissuasive penalties are imposed on persons found guilty of recruiting and using children under 18 years of age in armed conflict. It requests the Government to supply information in this respect in its next report.*

*Article 7(2). Effective and time-bound measures. Clauses (b) and (c). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration, including access to free basic education and vocational training. Children who have been enlisted and used in armed conflict.* In its previous comments, the Committee noted that, according to the report of the United Nations Secretary-General of 7 August 2008 on children and armed conflict in Chad (S/2008/532), the Government of Chad signed an agreement with the United Nations Children's Fund (UNICEF) on 9 May 2007 to ensure the release and sustainable reintegration of all child soldiers associated with the armed forces and groups in the country. The Committee also noted that, according to the Secretary-General's report, Chad undertook to release as a matter of priority children associated with armed groups held in detention. Moreover, it decided that an inter-ministerial task force would be established to coordinate and ensure the effective reintegration of children. The Committee on the Rights of the Child (CRC), in its concluding observations of February 2009 (CRC/C/TDC/CO/2, paragraph 71), urged the Government to take the necessary measures immediately to facilitate contact between armed groups operating in Chad and the United Nations in order to promote the demobilization of children and prevent the recruitment of children, particularly in refugee camps. In this regard, the CRC urged the Government to extend the disarmament, demobilization and reintegration programme, placing particular emphasis on the demobilization and reintegration of girls.

The Committee notes that, according to the report of the United Nations Secretary-General of 15 May 2013 on children and armed conflict (A/67/845–S/2013/245, paragraph 49), the actions taken by the Government for the release, temporary care and reunification of separated children, while encouraging, are not yet in line with the commitments made in the action plan signed between the Government and the United Nations in June 2011 concerning children associated with the armed forces and armed groups in Chad. For example, 18 of the 24 children identified in Mongo were not part of a separation process involving the United Nations and, therefore, could not benefit from reintegration assistance. Similarly, the ten children identified in the Moussoro training centre were released and reunited with their families in N'Djamena without receiving reintegration support.

The Committee notes that one of the priorities referred to in the 2013 roadmap is to secure the release of children and support their reintegration, particularly by identifying, monitoring, registering and planning the release of all children associated with the armed forces and paramilitary groups and by supporting the reintegration of released children, in conjunction with the government departments and civil society organizations involved, by sharing a monthly list, for

confirmation and verification, of children who have been demobilized. *The Committee again requests the Government to intensify its efforts and continue its collaboration with UNICEF and the United Nations in order to improve the situation of child victims of forced recruitment for use in armed conflict. Moreover, the Committee requests the Government to supply information on measures taken in the context of the 2013 roadmap to ensure that child soldiers removed from the armed forces and groups receive adequate assistance for their rehabilitation and social integration, including reintegration into the school system or vocational training, wherever appropriate. It requests the Government to supply information on the results achieved in its next report.*

The Committee is raising other points in a request addressed directly to the Government.

## Congo

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)**

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. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Sale and trafficking of children.* In its previous comments, the Committee noted the Government's statement that there is child trafficking between Benin and the Congo for the purpose of forcing children to work in Pointe-Noire in trading and domestic work. According to the Government, the children are forced to work all day in harsh conditions by their host families, and are subjected to all kinds of hardships. The Committee noted that sections 345, 354 and 356 of the Penal Code lay down penalties for anyone found guilty of the forcible or fraudulent abduction of persons including young persons under 18 years of age. It requested the Government to indicate to what extent sections 345, 354 and 356 of the Penal Code have been implemented in practice. *The Committee requests the Government once again to supply information on the application of sections 345, 354 and 356 of the Penal Code in practice, including, in particular, statistics on the number and nature of offences reported, investigations, prosecutions, convictions and penalties imposed.*

*Article 7(2). Effective and time-bound measures. Clause (b). Removal of children from the worst forms of child labour and ensuring their rehabilitation and social integration. Sale and trafficking of children.* In its previous observations, the Committee noted the Government's statement acknowledging that the trafficking of children between Benin and the Congo for the purpose of forcing children to work in Pointe-Noire in trading and domestic work is contrary to human rights. It also noted that the Government has taken certain measures to curb child trafficking, including: (a) the repatriation by the Consulate of Benin of children who have either been picked up by the national police or removed from families; and (b) the requirement at borders (airport) for minors (young person under 18 years of age) to have administrative authorization to leave the territory of Benin. The Committee asked the Government to provide information on the impact of the measures taken with regard to the rehabilitation and social integration of children following their withdrawal from labour. It noted that the Government's report does not contain any information on this subject. *The Committee requests the Government once again to supply information on the time-bound measures taken to remove young persons under 18 years of age from this worst form of child labour and to ensure their rehabilitation and social integration. It also requests the Government to supply information on the impact of these measures.*

*Part V of the report form. Application of the Convention in practice.* The Committee noted that, according to the concluding observations of the Committee on the Rights of the Child on the initial report of the Congo of October 2006 (CRC/C/COG/CO/1, paragraph 85), a study of the root causes and repercussions of trafficking is due to be conducted in the country. *The Committee requests the Government to supply information on the results of this study and to supply a copy of it once it has been prepared.*

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 near future.*

## Democratic Republic of the Congo

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2001)**

*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 that the Committee on the Rights of the Child (CRC) expressed concern at the prevalence of child labour in the country (CRC/C/15/Add.153, paragraph 66). It also noted that, according to the Government's initial report submitted to the CRC (CRC/C/3/Add.57, paragraph 196), because of the economic situation a number of parents tolerate or even send their children to do work which they are forbidden to perform by law. The Government indicated that the Ministry of Employment, Labour and Social Insurance was endeavouring to put the National Committee to Combat the Worst Forms of Child Labour in to operation and that, once up and running, the committee would devise a national strategy for the abolition of child labour and its worst forms. In the context of this strategy, national action programmes would be formulated, in particular to identify child labour and its worst forms and, with the assistance of the labour inspectorate, to supervise and penalize enterprises that have recourse to child labour.

The Committee notes the information from the Government to the effect that the National Committee to Combat the Worst Forms of Child Labour, in operation since 2006, has drawn up a National Action Plan (NAP) to eliminate the worst forms of child labour by 2020, with technical and financial support from ILO-IPEC. The NAP sets out the strategies and priority actions to be taken for children who are vulnerable to the worst forms of child labour and for poor communities. According to information communicated by ILO-IPEC, the NAP has not as yet been officially adopted. The Committee observes that, according to the results of the Multiple Indicator Cluster Survey of 2010 (MICS-2010) published by UNICEF, in the 5–14 age group, virtually one child in every two is engaged in child labour, particularly in

rural areas (46 per cent in rural areas as compared to 34 per cent in urban areas). While noting the measures the Government plans to take to combat child labour, the Committee is bound to express **concern** at the number of children exposed to child labour whose age is lower than the age for admission to employment or work. ***The Committee strongly encourages the Government to strengthen its efforts to secure the elimination of child labour. It expresses the firm hope that the NAP will be adopted and implemented without delay, and requests the Government to provide a copy of it with its next report. It also requests the Government to provide information on the application of the Convention in practice, including statistics, disaggregated by sex and age group, on the employment of children and young persons, together with extracts of labour inspection reports.***

*Article 2(1) and Part III of the report form. Scope of application and labour inspection.* The Committee noted previously that Act No. 015/2002 of 16 October 2002 issuing the Labour Code applies only where there is a labour relationship. It also noted that the CRC expressed concern at the prevalence of child labour in the informal economy, which frequently falls outside the protection afforded by national legislation (CRC/C/15/Add.153, paragraph 66). The Committee reminded the Government that the Convention applies to all branches of economic activity and that it covers all types of employment or work, whether or not it is performed on the basis of a subordinate labour relationship and whether or not it is remunerated. The Government indicated in this regard that it would redouble its efforts to secure more effective labour inspection.

The Committee notes the information from the Government that the concern expressed by the Committee regarding child labour in the informal economy will be taken into account when the NAP strategy is implemented. Referring the Government to its General Survey of 2012 on the fundamental Conventions concerning rights at work (paragraph 345), the Committee points out that the expansion of the relevant monitoring mechanisms to the informal economy can be an important manner in which to ensure that the Convention is applied in practice, particularly in countries where expanding the scope of the implementing legislation to address children working in this sector does not seem a practicable solution. ***Recalling that the Convention applies to all forms of work or employment, the Committee requests the Government to take measures, in the context of the NAP, to adapt and strengthen the labour inspection services so as to ensure oversight of child labour in the informal economy, and to ensure that children have the protection established in the Convention. It also requests the Government to provide information in its next report on the organization, functioning and work of the labour inspectorate as they concern child labour.***

The Committee is raising other points in a request addressed directly to the Government.

## Kazakhstan

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 2001)***

*Parts III and V of the report form. Labour inspection and the application of the Convention in practice.*

1. *General application.* The Committee previously noted that, according to the 2006 multiple clusters indicator survey, approximately 3.2 per cent of all children aged 5–14 years (approximately 79,515 children) engaged in some form of economic activity. It also noted that the Committee on the Rights of the Child (CRC), in its concluding observations of 19 June 2007, expressed concern at the large number of socially vulnerable children engaged in labour (CRC/C/KAZ/CO/3, paragraph 63). The Committee further noted the Government's indication that in the course of inspections carried out as part of a nationwide campaign against child labour, it was revealed that child labour was used in car washes (in wet and cold conditions); in city markets (in the transport of goods in handcarts and in unloading goods); in private retail outlets; in agriculture; and as attendants in petrol stations, including at night. The Committee finally noted that the Committee on Economic and Social Rights (CESCR), in its concluding observations of 7 June 2010, expressed concern regarding the persistence of child labour in the country (E/C.12/KAZ/CO/1, paragraph 27).

The Committee notes the Government's information that along with state monitoring, there is also public monitoring of labour law in the enterprises or organizations by the public safety and health inspector appointed by the trade union committee of the enterprise/organizations. In this regard, the Committee notes from the ILO–IPEC project report of June 2013 on Combating Child Labour in Central Asia (PROACT CAR Phase III) that a training project on child labour and its monitoring concepts as well as mainstreaming child labour into the education sector was conducted in Astana City and Akmola region in 2012 and in Shymkent City in April 2013. The Committee notes the information provided by the Government in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that within this project, seven training sessions were held which were attended by 133 people, including employers, entrepreneurs, trade union members as well as teachers. The Committee also notes from the ILO–IPEC project report of June 2013 that a programme was implemented in Kazakhstan from 16 May to 15 August 2013 which undertook a public awareness-raising campaign in 14 regions, during which 76 children were identified as involved in hazardous child labour including at markets (35), as waiters (31), at car wash stations (eight) and at gasoline stations (two), while 14 employers were made administratively liable for the violation of the Labour Code. ***The Committee strongly encourages the Government to strengthen its efforts, in collaboration with the ILO–IPEC, to effectively monitor and combat child labour in the country. The Committee further requests the Government to provide information on the number of inspections on child labour carried out by the state labour inspectors as well as by the public safety and health inspectors, and on the number of violations detected and penalties imposed in this regard.***

2. *Tobacco and cotton plantations.* The Committee previously noted the Government's statement that it was prohibited to employ minors on tobacco and cotton plantations, and that the List of Works in which it is prohibited to employ workers under the age of 18 (of June 2007) includes both work in cotton and tobacco. However, the Committee noted that the CRC, in its concluding observations of 19 June 2007, expressed concern at the large number of children engaged in labour within the tobacco and cotton industries (CRC/C/KAZ/CO/3, paragraph 63). It also noted that the CESCR, in its concluding observations of 7 June 2010, expressed concern about child labour in Kazakhstan performed by children of migrant workers in tobacco and cotton farms, and that these children did not attend school during farming periods (E/C.12/KAZ/CO/1, paragraph 27). Moreover, the Committee noted that the Human Rights Committee, in its concluding observations of 19 August 2011, expressed regret at the increase in the number of children employed in cotton and tobacco fields (CCPR/C/KAZ/CO/1, paragraph 16).

The Committee notes from the Government's report under Convention No. 182 that a Social Centre for Prevention and Preclusion of the Worst Forms of Child Labour which has been operating in the Almaty Province since 2008, has implemented a project entitled "Prevention of the use of child labour" in conjunction with the NGO Karlygash and TOO Philip Morris Kazakhstan. Within the framework of this project, the following components were implemented for children living in the rural population, including children of migrant workers:

- the provision of supplementary education, acquisition of computer skills, development of handicraft skills, sports, and arts;
- the provision of occupational training to 14 children in 2011, and 28 children in 2012;
- the provision of material assistance and school accessories to 150 children; and
- organization of quality leisure time in order to prevent the use of children in harvesting tobacco. For example, every year, the company Philip Morris Kazakhstan organizes summer holidays for children of migrant workers. From 2010 to 2012, a total of 594 children participated in the summer holiday programmes.

The Committee notes from the ILO-IPEC project report of June 2013, that an action programme on "Establishing and Piloting a Child Labour Monitoring System (CLMS) in Maktaaral district in South Kazakhstan region" is being implemented. This action programme aims at establishing the CLMS in agriculture, building the capacity of national and local authorities in CLMS, providing direct services for children involved in or at risk of entering child labour in agriculture, and raising awareness of community members, general public and the media. The Committee notes, however, from the Government's report under Convention No. 182, that according to the data available at the Procurator's Office of the Maktaral District, 39 pupils from grades 7–11 were found involved in cotton picking during school hours, while eight secondary school children were found working during the tobacco harvest in the Karatal District. The Committee takes due note of the measures taken by the Government to eliminate child labour in agriculture, in particular tobacco and cotton plantations. ***It strongly encourages the Government to pursue its efforts to ensure the elimination of child labour in tobacco and cotton plantations, including through the strengthening of labour inspection. The Committee requests the Government to continue to provide information on measures taken in this regard, and on the results achieved. It also requests the Government to continue providing information on the number of children and young persons under the minimum age involved in child labour in the cotton and tobacco plantations.***

The Committee is raising other points in a request addressed directly to the Government.

### ***Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)***

*Part V of the report form. Application of the Convention in practice.* The Committee previously noted that studies on child labour in Kazakhstan revealed that children were mostly engaged in the informal and agricultural sectors. In agriculture, child labour was mostly identified in tobacco and cotton harvesting, although this agricultural work is prohibited for persons under 18. In this regard, the Committee noted the Government's indication that investigations in the Almaty province revealed that children from Kyrgyzstan (aged 6–15 years) were working in tobacco fields for approximately 75 hours a week, and that Uzbek children were discovered working in cotton fields in the Maktaaral district of South Kazakhstan. The Committee also noted that the Human Rights Committee, in its concluding observations of 19 August 2011, expressed regret at the increase in the number of children employed in cotton and tobacco fields (CCPR/C/KAZ/CO/1, paragraph 16).

The Committee notes the Government's detailed information on the various child labour monitoring bodies in the country in addition to the state labour inspectorates and the Procurator's Office such as the Committee for Control and Social Security; Committee for the Protection of the Rights of the Child (CPRC); the National Coordinating Council on Child Labour (NCCCL); the Confederation of Employers (COE) and the Federation of Trade Unions (FTU) of the Republic of Kazakhstan. The Committee notes the Government's information that following the proposals made by the NCCCL, the Government has adopted Order No. 468 of 2010 ensuring the rights of child migrants to receive access to education.

The Committee also notes the Government's detailed information on the various seminars and conferences organized in the various districts to introduce to the participants the elements of how to monitor child labour. Accordingly, the Committee notes that a round table conference was conducted in June 2012 in Maktaaral district with the assistance of the CPRC, particularly involving the directors of major cotton receiving plants and stations and non-governmental

organizations, on programmes for elimination of the worst forms of child labour in the region during the cotton harvest and on observing the law on compulsory education for all children. Moreover, the Ministry of Labour, with the assistance of the *akimat* (Mayor) of the Almaty Province and of the Union of commodity producers and exporters of Kazakhstan, held a round table in the city of Almaty which led to the adoption of a resolution on “Working conditions of agricultural workers in the Almaty Province”.

The Committee further notes, from the ILO–IPEC project report of June 2013, that an action programme on “Establishing and piloting a child labour monitoring system (CLMS) in Maktaaral district in South Kazakhstan region” is being implemented. This action programme aims at establishing the CLMS in agriculture, building the capacity of national and local authorities in the CLMS, providing direct services for children involved in or at risk of entering child labour in agriculture, and raising awareness of community members, general public and the media. The Committee, however, expresses its *regret* at the insufficient data on children working in agriculture, in particular cotton and tobacco plantations. ***The Committee, therefore, urges the Government to take the necessary measures to ensure that sufficient data on the situation of working children, in particular children working in tobacco and cotton plantations in Kazakhstan, is made available. The Committee also requests the Government to continue taking measures to train the various child labour monitoring bodies in order to enable them to monitor the effective implementation of the national provisions giving effect to the Convention. Lastly, the Committee requests the Government to provide information on the number of inspections carried out by the state labour inspectors and the Procurator’s Office, the number of violations detected and penalties applied, related to work performed by children under 18 years, including in cotton and tobacco harvesting.***

The Committee is raising other points in a request addressed directly to the Government.

## Kenya

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1979)**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee takes note of the Government’s report as well as of the detailed discussion which took place at the 102nd Session of the Conference Committee on the Application of Standards in June 2013 (Conference Committee) concerning the application by Kenya of the Convention.

*Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice.* The Committee previously noted from the ILO–IPEC “Tackling child labour through education” TACKLE project report that, according to the 2009 National Census, nearly 4 million children of school-going age were out of school, which implied that the number of children in or at risk of child labour could be higher than the 756,000 reported in the 2008 Child Labour Analytical Report.

In this regard, the Committee noted the various efforts taken by the Government through the county administration to ensure that children are kept in school including providing an extra budget for the purpose of strengthening the County Child Labour Committees (CCLCs) for carrying out child labour inspections. It also noted the information from the ILO–IPEC–SNAP project report that the net enrolment rate at primary level increased to 96 per cent in 2011 and the transition rate from primary to secondary school reached 72 per cent. In addition, the Committee noted from the ILO–IPEC TACKLE project report that it supported a rapid assessment on child labour in salt mines located in the Coast Province. Finally, the Committee noted the Government’s information that it was engaged in consultations with ILO–IPEC to undertake a child labour survey in Kenya which was expected to be carried out in October 2012.

The Committee notes the information provided by the Government representative of Kenya to the Conference Committee in June 2013 that Kenya has been continuing its efforts to improve the child labour situation through legislative and constitutional reforms, technical assistance and relevant projects and programmes, including TACKLE and SNAP implemented with the support of ILO–IPEC. The Government representative further stated that the rapid assessment survey of child labour in salt mines in Coast Province, conducted by the ILO–IPEC TACKLE programme, revealed that child labour was prevalent prior to 2006, but that children no longer worked in the salt mines.

The Committee notes that the Conference Committee, while noting the various measures taken by the Government to combat child labour, expressed its deep concern at the high number of children who were not attending school and were involved in child labour, including hazardous work, in Kenya. It urged the Government to strengthen its efforts to combat child labour in the country with a view to eliminating it progressively within a defined time frame. Moreover, in light of the contradictory data on the number of children working under the minimum age, the Conference Committee urged the Government to undertake a national child labour survey in the very near future.

In this regard, the Committee notes the Government’s statement in its report that the Government is engaging development partners to assist in resource mobilization for a specific child labour survey, while the Kenya National Bureau of Statistics has scheduled a Labour Force Survey which will include a module on child labour by the end of 2014. Nevertheless, the Committee notes that, according to the findings of the ILO–IPEC Labour Market Survey carried out in the districts of Busia and Kitui in 2012, over 28,692 children were involved in child labour in the district of Busia, most of

them involved in farm work, domestic work, street vending or engaged in drug trafficking. The survey report in the district of Kitui indicated that 69.3 per cent of children above five years of age were reported to be working, the majority of them between the ages of 10–14 years. Of these, 27.7 per cent were involved in farm work, 17 per cent in domestic work, 11.7 per cent in sand harvesting and 8.5 per cent in stone crushing and brick making. The Committee expresses its **concern** at the situation of children under 16 years of age who are compelled to work in Kenya. **The Committee therefore urges the Government to strengthen its efforts to improve the situation of children under the age of 16 years and to ensure the progressive elimination of child labour. It requests the Government to provide information on the measures taken in this regard and on the results achieved. The Committee also urges the Government to undertake the national child labour survey in the very near future, to ensure that sufficient up-to-date data on the situation of working children in Kenya are available and to provide a copy thereof, once completed.**

*Article 3(2) and (3). Determination of hazardous work and admission to hazardous work as from 16 years of age.* The Committee previously noted the Government's statement that the list of types of hazardous work prohibited for children under 18 years of age had been approved by the National Labour Board and was awaiting publication in the *Gazette* by the Ministry of Labour. It noted that the draft document entitled "Determining Hazardous Child Labour in Kenya: July 2008", prepared by the Ministry of Labour and Human Resources Development in consultation with the Central Organization of Trade Unions and the Federation of Kenya Employers, contained a comprehensive list of 18 types of hazardous occupations/sectors with each sector further providing a list of various activities that are prohibited to children. Furthermore, the Committee observed in its previous comments that the Government had been stating since 2005 that the regulations in respect of periods of work and establishments where children aged at least 16 years may work, including hazardous work, referred to in section 10(4) of the Children's Act, had been issued by the Minister.

The Committee notes the Government's statement in its report that the list of hazardous work has been incorporated into the Employment Act Regulations of 2013 which will soon be adopted. It also notes the Government's indication that amendments with regard to the admission to hazardous work from the age of 16 years have been formulated and will soon be adopted. The Committee notes that the Conference Committee strongly urged the Government to ensure the adoption, in the very near future, of the necessary provisions addressing the issues of non-compliance with the Convention, including the determination of the types of work prohibited to children under 18 years of age and the regulation of periods of work and establishments where children aged at least 16 years may perform hazardous work. **The Committee therefore once again urges the Government to take the necessary measures to ensure that the regulation determining the types of work prohibited for children under the age of 18 years and the regulations in respect of periods of work and establishments where children aged at least 16 years may perform hazardous work are adopted in the very near future. It requests the Government to supply copies thereof once they have been adopted.**

*Article 7(3). Determination of light work.* The Committee previously noted the Government's statement that the rules prescribing light work in which a child of 13 years of age and above may be employed and the terms and conditions of that employment pursuant to section 56(3) of the Employment Act had been developed and discussed by stakeholders and were at the Attorney-General's Office for adoption.

The Committee once again notes the Government's statement that the regulation on light work activities will be adopted soon and that a copy will be provided to the Office as soon as it has been adopted. **The Committee once again expresses the firm hope that the regulation determining the light work activities that may be undertaken by children of 13 years of age and above and the number of hours during which, and the conditions in which, such work may be undertaken, will be adopted soon.**

*Article 8. Artistic performances.* The Committee previously noted section 17 of the Children's Act, which provides that a child shall be entitled to leisure, play and participation in cultural and artistic activities. It also noted that the national legislation does not provide for permits to be granted to children participating in cultural artistic performances. The Committee noted with regret that, despite its reiterated comments for many years, no measures had yet been taken by the Government to this effect.

The Committee notes the Government's information that a regulation on granting of permits for artistic performances has been formulated and forwarded for adoption under the Employment Act Regulations of 2013. **The Committee once again expresses the firm hope that the provisions allowing for young persons below 16 years of age to take part in artistic activities through permits granted in individual cases, and which prescribe the number and hours during which, and the conditions in which, such employment or work is allowed, will be formulated and adopted in the near future. It requests the Government to supply information on any progress made in this regard.**

The Committee notes the Government's indication in its report that it is currently in the process of making the necessary amendments to the national legislation in order to bring it into compliance with the Convention and its adoption will be completed by the end of 2014. In this regard, the Committee notes the Government's intention to invite a direct contacts mission to visit the country as requested by the Conference Committee in order to assess the progress made and to provide the necessary guidance on how to improve the child labour situation in the country. **The Committee strongly encourages the Government to invite and receive an ILO direct contacts mission to the country at the beginning of 2014.**

The Committee is raising other points in a request addressed directly to the Government.

## Kyrgyzstan

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1992)**

*Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice.* The Committee previously noted that a national child labour survey (CLS) was planned to be conducted in Kyrgyzstan with the support of ILO-IPEC-SIMPOC, which was expected to be finalized and presented by the end of 2007.

The Committee notes that the CLS was duly completed and disseminated in 2007. According to the CLS estimates, 672,000 of the 1,467,000 children aged 5–17 years in Kyrgyzstan (45.8 per cent) were economically active. The prevalence of employment among children increases with age: from 32.7 per cent of children aged 5–11 years; to 55 per cent of children aged 12–14 years; and 62.3 per cent of children aged 15–17 years.

The Committee notes that, in the framework of the ILO-IPEC project entitled “Combating Child Labour in Central Asia – Commitment becomes Action” (PROACT CAR Phase III), which aims to contribute to the prevention and elimination of the worst forms of child labour in Kazakhstan, Kyrgyzstan and Tajikistan, a wide array of actions have been undertaken to combat child labour, including its worst forms, in Kyrgyzstan. These include the adoption of the Code on Children of 31 May 2012, section 14 of which bans the use of child labour; a mapping, in 2012, of the legislation and policies on child labour and youth employment in Kyrgyzstan, which aims to identify the link between the elimination of child labour and the promotion of youth employment; the finalization of the Guidelines on Child Labour Monitoring in Kyrgyzstan; as well as a number of action programmes to establish child labour free zones and to establish child labour monitoring systems in various regions of the country. ***The Committee strongly encourages the Government to pursue its efforts towards the progressive elimination of child labour through the ILO-IPEC PROACT CAR Phase III project and to provide information on the results achieved, particularly with respect to reducing the number of children working under the minimum age (16 years) and in hazardous work.***

*Article 2(1) and Part III of the report form. Scope of application and labour inspection.* The Committee previously noted the Government’s information that the Attorney-General of the Republic of Kyrgyzstan and the state labour inspectorate are responsible for the application and enforcement of labour legislation. It noted that the minimum age provisions applied to work carried out at home or in a business, domestic work, hired work, commercial agriculture, and family and subsistence agriculture. However, it noted the statement in a 2006 report of the International Confederation of Free Trade Unions (now the International Trade Union Confederation) that many children were working in family enterprises, domestic services, agriculture (tobacco, cotton, rice), cattle breeding, gasoline sales, car washing, shoe cleaning, selling products at the roadsides, and retail sales of tobacco and alcohol. The Committee also noted the Government’s information that child labour was widespread in farms, private enterprises, individual business activities and self-employment.

The Committee notes the Government’s information that the Labour Code, by virtue of its section 18, applies to the parties involved in contractual labour relations, that is the worker and the employer. It notes, however, that according to the CLS, the overwhelming majority of child labourers (96 per cent) work in agriculture or home production, and in terms of work status, the overwhelming majority (95 per cent) are unpaid family workers. ***The Committee requests the Government to take immediate measures to ensure that self-employed children, children in the informal economy and children working on family farms benefit from the protection laid down in the Convention. In this regard, it once again requests the Government to indicate any measures adopted or envisaged to strengthen the labour inspection, particularly in the abovementioned sectors. Lastly, the Committee once again requests the Government to provide information on the manner in which the state labour inspectorate and the Attorney-General enforce specific legislative provisions giving effect to the Convention.***

*Article 7. Light work.* The Committee previously noted that, according to section 18 of the Labour Code, pupils who have reached the age of 14 years may conclude an employment contract with the written consent of their parents, guardians or trustees to perform light work outside school hours, provided that it does not harm their health and does not interfere with their education. The Committee noted that according to sections 91 and 95 of the Labour Code, the working hours for workers aged 14–16 years shall not exceed 24 hours per week, and daily working hours shall not exceed five hours. The Committee therefore requested the Government to indicate the manner in which the attendance at school of children working five hours per day was ensured. It also requested the Government to indicate the activities in which light work by children aged 14–16 years may be permitted.

The Committee notes the information in the 2007 CLS according to which, despite the high employment ratio among children, school attendance is also very high, with 98.9 per cent of children aged 7–14 years and 89.2 per cent of children aged 15–17 years attending school. However, children in employment are also found to have slightly lower school-attendance rates than non-working children. Among non-working children aged 7–17 years, the school attendance rate is estimated to be 97.4 per cent, compared to 94.5 per cent among working children aged 7–17 years, with the difference mainly resulting from the lower school attendance of older working children. ***The Committee requests the Government to take immediate measures to ensure that children under 14 years of age are not engaged in work or employment. With regard to children over 14 years of age engaged in light work, the Committee requests the Government to take the necessary measures to ensure that their school attendance is not prejudiced. The Committee***

also once again requests the Government to indicate the activities in which light work by children aged 14–16 years may be permitted. If these activities are not yet determined by the law, the Committee urges the Government to take the necessary measures to adopt a list of types of light work activities which are permitted to children over 14 years of age.

The Committee is raising other points in a request addressed directly to the Government.

## Lebanon

### Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

The Committee previously noted the Government's statement that the draft amendments to the Labour Code had reached an advanced stage and would be referred to the competent authority for its adoption in the shortest delay.

The Committee notes the Government's indication that it has submitted the draft amendment to the Labour Code to the Council of Ministers for its examination and approval, but that this was delayed due to a change in governments. The Government declares that as soon as a new government is formed, the draft amendments will be submitted once again to the Council of Ministers for their re-examination. Moreover, the Committee notes that the country is participating in an ILO technical assistance programme, the Special Programme Account (SPA) project. It notes with *interest* that this technical assistance resulted in the development of action plans to concretely address the comments of the Committee, including the adoption of a list of types of hazardous work. In this regard, the Committee notes the indication contained in the mission report of the tripartite inter-ministerial workshop carried out in February 2013 within the framework of the SPA (SPA mission report), according to which it is planned to adopt the draft amendments to the Labour Law within the year, national circumstances permitting. **Considering that the Government has been referring to the draft amendments to the Labour Code for a number of years, the Committee once again expresses the firm hope that the Government will take the necessary measures to ensure that the amendments are adopted in the very near future. Furthermore, the Committee encourages the Government to take into consideration, during the review of the relevant legislation, the following comments on discrepancies between national legislation and the Convention.**

*Article 2(1) of the Convention. Scope of application.* The Committee previously noted that the Labour Code only applies to work performed under an employment relationship (by virtue of sections 1, 3 and 8 of the Code). The Committee reminded the Government that the Convention applies to all branches of economic activity and covers all types of employment or work, whether they are carried out on the basis of an employment relationship or not, and whether they are remunerated or not. The Committee noted that Chapter 2, section 15, of the draft amendments to the Labour Code, prepared by a tripartite committee, provides for rules governing "the employment or work of young persons". The Committee noted the Government's statement that the principles in this amendment therefore include all young persons, and not solely those bound by an employment relationship. **The Committee once again requests the Government to take the necessary measures to ensure the adoption in the near future of the draft amendments to the Labour Code relating to self-employed children or children in the informal economy, and to provide a copy, once adopted.**

*Article 2(2). Raising the minimum age for admission to employment or work.* In its previous comments, the Committee noted that, at the time of ratifying the Convention, Lebanon declared 14 years as the minimum age for admission to employment or work and that Act No. 536 of 24 July 1996, amending sections 21, 22 and 23 of the Labour Code, prohibits the employment of young persons before they complete 13 years of age (i.e. beginning of 14 years). The Committee also noted that the Government intended to amend the Labour Code to prohibit the employment or work of young persons before they complete 14 years (that is, beginning of 15 years). The Committee noted that section 19 of the draft amendment to the Labour Code prohibits the employment or work of persons under the age of 15 years. Noting that the Government specified a minimum age of 14 years at the time of ratification, the Committee drew the Government's attention to the fact that *Article 2(2)* of the Convention establishes the possibility for a State which decides to raise the initially specified minimum age for admission to employment or work to notify the Director-General of the ILO by means of a further declaration, thus enabling the age fixed by the national legislation to be aligned to that provided for at the international level. **The Committee once again requests the Government to provide information on any progress made in the adoption of the provisions of the draft amendments to the Labour Code regarding the minimum age for employment or work.**

*Article 2(3). Compulsory education.* The Committee previously noted that Act No. 686/1998 relating to free and compulsory education at the primary school level insufficient educational facilities. The Committee noted the information in the November 2008 report of the Minister of Education and of Higher Education submitted to UNESCO for the 48th International Conference on Education entitled "The Development of Education in Lebanon", that the Government intended to raise the age at which compulsory education ends, from the current 12 years to 15 years of age.

The Committee notes the Government's information that the Higher Council for Childhood of the Ministry of Social Affairs, in collaboration with the Jesuit University and "Sidroom", has prepared a draft law which raises the minimum age of compulsory education to 15 years and that this draft law has been sent to the Council of Ministers for examination. The Committee once again emphasizes the necessity of linking the age of admission to employment to the age limit for compulsory education. If the two ages do not coincide, various problems may arise. If the minimum age for admission to work or employment is lower than the school-leaving age, children may be encouraged to leave school as children required to attend school may also be legally authorized to work (see the 2012 General Survey on the fundamental

Conventions concerning rights at work, paragraph 370). Noting the Government's intention to raise the age of completion of compulsory schooling to 15 years, the Committee once again reminds the Government that pursuant to *Article 2(3)* of the Convention the minimum age for admission to employment (currently 14 years) should not be lower than the age of completion of compulsory schooling. **Therefore, the Committee urges the Government to intensify its efforts to raise the minimum age for admission to employment or work to 15 years (with the adoption of the draft amendments to the Labour Code), and to provide for compulsory education up until this minimum age. The Committee requests the Government to provide information on any new developments on this point in its next report.**

*Article 3. Minimum age for admission to, and determination of, hazardous work, and admission to hazardous types of work from the age of 16 years.* The Committee previously urged the Government to take the necessary measures to ensure the adoption by the Council of Ministers of the Draft Decree Prohibiting Hazardous Work (as issued by Advisory Opinion No. 239 of the State Council on 26 May 2009).

The Committee notes with *satisfaction* the adoption of Decree No. 8987 on the prohibition of the employment of minors under the age of 18 in works that may harm their health, safety or morals. The Committee observes that, according to this decree, minors under the age of 18 shall not be employed in prohibited types of work and activities which, by their nature, harm the health, safety or morals of children, limit their education and constitute one of the worst forms of child labour included in Annex No. 1 of the Decree. Moreover, minors under the age of 16 shall not be employed in such types of hazardous work which are listed in Annex No. 2 of the Decree, and which include work in agricultural activities; work in factories that manufacture tiles, rocks, and the like, work in building, demolition, excavation, construction, and heights climbing, and working in commercial and industrial enterprises. Minors who are at least 16 years of age may be employed in the types of work listed in Annex No. 2, provided that they are offered full protection for their physical, mental and moral health, and provided that they have received a special education or appropriate vocational training in the relevant field of work.

*Article 6. Vocational training and apprenticeship.* In its previous comments, the Committee noted the Government's information that section 16 of the draft amendments to the Labour Code provides for the definition of "training contract" and states that the minimum age to receive vocational training under a contract is 14 years, provided that conditions to safeguard the health, safety or morals of the young persons in question are respected. **The Committee once again expresses the firm hope that section 16 of the draft amendments to the Labour Code, fixing a minimum age of 14 years for entry into an apprenticeship, in conformity with Article 6 of the Convention, will be adopted in the very near future.**

*Article 7. Light work.* In its previous comments, the Committee noted that section 19 of the draft amendments to the Labour Code provides that employment or work of young persons in light work may be authorized when they complete 13 years of age (except in different types of industrial work in which the employment or work of young persons under the age of 15 years old is not authorized), on the condition that such employment or work, by its nature or the circumstance in which it is carried out, does not jeopardize their development, health, safety or morals. Section 19 further states that this work should not weaken their capacity to benefit from the instruction received, nor should it impact on their participation in vocational orientation and training approved by the competent authority. The Committee also noted the Government's statement that light work activities would be determined by virtue of an Order promulgated by the Ministry of Labour. The Committee further noted that the Ministry of Labour set up a committee, pursuant to Memorandum 58/1 of 20 June 2009, which in consultation with employers' and workers' organizations, shall formulate this statute, among other labour standards.

The Committee notes the Government's information that a study on the legal shortcomings was prepared, including a comparative analysis of the national laws and international conventions relating to child labour, which will lead to a review of the existing legislation and the formulation of a draft law on light work. **The Committee once again requests the Government to take the necessary measures to ensure the formulation and adoption of a statute determining light work activities, in conformity with Article 7 of the Convention, following the adoption of the draft amendments to the Labour Code. It requests the Government to provide information on the progress achieved in its next report.**

The Committee is raising other points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

The Committee notes the Government's indication that it has submitted the draft amendments to the Labour Code to the Council of Ministers for its examination and approval, but that this was delayed due to a change in government. The Government declares that as soon as a new government is formed, the draft amendments will be submitted once again to the Council of Ministers for their re-examination. Moreover, the Committee notes that the country is participating in an ILO technical assistance programme, the Special Programme Account (SPA) project. It notes with *interest* that this technical assistance resulted in the development of action plans to concretely address the comments of the Committee, including the adoption of a list of types of hazardous work. The Committee notes the indication contained in the mission report of the tripartite inter-ministerial workshop carried out in February 2013 within the framework of the SPA (SPA mission report), according to which it is planned to adopt the draft amendments to the Labour Law within the year, national circumstances permitting. **Considering that the Government has referred to these draft amendments to the Labour Code for a number of years and, given that Article 1 of the Convention obliges member States to take**

**immediate measures to prohibit the worst forms of child labour, the Committee urges the Government to take the necessary measures to ensure that the amendments are adopted as a matter of urgency. Furthermore, the Committee once again encourages the Government to take into consideration, during the review of the relevant legislation, the Committee's comments on discrepancies between national legislation and the Convention.**

*Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). All forms of slavery or practices similar to slavery. Trafficking.* The Committee previously drew the Government's attention to the lack of legislation prohibiting the sale and trafficking of children.

The Committee notes with **satisfaction** the promulgation of Act No. 164 of 24 August 2011 prohibiting trafficking in persons. By virtue of sections 586(1) and 586(5) of the Act, the trafficking of child victims under 18 years of age for the purpose of exploitation – which includes sexual exploitation and exploitation for the purpose of forced or compulsory labour – is punishable by a sentence of imprisonment varying between ten and 12 years and by a fine that can amount to 200 to 400 times the official minimum wage. **The Committee requests the Government to provide information on the application of the provisions of Act No. 164 which prohibit the sale and trafficking of children, including, in particular, statistics on the number and nature of violations reported, investigations, prosecutions, convictions and penalties imposed.**

*Clauses (b) and (c). Use, procuring or offering of a child for the production of pornography or for pornographic performances and for illicit activities, in particular for the production and trafficking of drugs.* The Committee previously noted that section 33(b) of the draft amendments to the Labour Code specifies that any person who participates, encourages, facilitates or incites anyone to use, procure or offer a child or young person for the production of pornography or for pornographic performances is liable to punishment under the Penal Code, in addition to the penalties imposed by the Labour Code. Furthermore, the Committee noted the Government's information that section 33(c) of the draft amendments to the Labour Code provides that any person who participates, encourages, facilitates or incites another to use, procure or offer a child or young person for illicit activities, especially for the production and trafficking of drugs, commits a crime under the Penal Code.

The Committee notes that, according to the Government's information, in 2010, 29 children were found engaged in prostitution (three boys and 26 girls; and five aged between 12 and 14 years, nine between 15 and 16 years, and 15 above 16 years of age). In 2011, 15 children were found in prostitution (all girls; and three aged between 12 and 14 years, six between 15 and 16 years, and six above 16 years of age). In the first six months of 2012, eight children were found in prostitution (one boy and seven girls; and three aged between 15 and 16 years, and five above 16 years of age).

The Committee notes that, by virtue of section 3 of Annex No. 1 of Decree No. 8987 of 2012 on the prohibition of the employment of minors under the age of 18 in works that may harm their health, safety or morals, it is prohibited to engage a child under 18 years of age in any work using or exploiting a child's body for sexual or pornographic purposes or similar acts, and any illicit work or activity that violates the criminal laws, such as the transportation, sale, marketing, dealing or use of all kinds of drugs. **The Committee requests the Government to take immediate and effective measures to ensure the application in practice of the provisions of Decree No. 8987 of 2012 prohibiting the engagement of children for sexual or pornographic purposes or for illicit activities, and to provide information in this regard, in particular, statistics on the number and nature of violations reported, investigations, prosecutions, convictions and penalties imposed.**

**As for the draft amendments to the Labour Code, the Committee requests the Government to take the necessary measures to ensure the adoption of the provisions prohibiting the use, procuring or offering of persons under the age of 18 for the production of pornography or for pornographic performances, and the use, procuring or offering of persons under the age of 18 for illicit activities, as well as of the provisions providing for the penalties imposed.**

*Clause (d). Hazardous work.* Following its previous comments, the Committee notes with **satisfaction** that Decree No. 8987 on the prohibition of the employment of minors under the age of 18 in works that may harm their health, safety or morals was adopted in 2012. The Committee observes that, according to this decree, minors under the age of 18 shall not be employed in the extensive list of prohibited types of work and activities which, by their nature, harm the health, safety or morals of children, limit their education and constitute one of the worst forms of child labour included in Annex No. 1 of the Decree. This list includes activities involving physical hazards (for example, activities requiring the handling of explosives or weapons, working in quarries or caves, or exposing children to carcinogenic substances); activities involving psychological hazards (for example forced labour, domestic service, or working in the streets); activities involving moral hazards (for example betting and gambling); and activities limiting education. **The Committee requests the Government to provide information on the application in practice of Decree No. 8987, including statistics on the number and nature of violations reported, investigations, prosecutions, convictions and penalties imposed by virtue of the relevant provisions of the Labour Code.**

The Committee is raising other points in a request addressed directly to the Government.

## Lesotho

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2001)**

*Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour.* The Committee previously noted that the Programme Advisory Committee on Child Labour had endorsed the Action Plan for the Elimination of Child Labour (APEC) in 2008, but that it had not yet been submitted to Cabinet. The Government indicated that a review of the APEC was necessary.

The Committee notes the Government's statement that the APEC has been finalized, and that it has been approved by the National Advisory Committee on Labour (NACOLA). The Government indicates that it is planning to hold a workshop aimed at presenting the APEC in 2013. The Committee also notes the draft APEC of January 2012, submitted with the Government's report on the Worst Forms of Child Labour Convention, 1999 (No. 182). This draft contains six main objectives, concerning child labour legislation; community awareness of child labour issues; education; protection of vulnerable households; the establishment of clear institutional arrangements to reach out to children in child labour; and developing a knowledge base on child labour and the capacity of the Government, social partners and civil society institutions to address child labour. Each objective is divided into specific actions steps, with corresponding performance indicators and targets. **Observing that the APEC was first developed in 2008, the Committee urges the Government to strengthen its efforts to ensure the adoption of the APEC in the near future. It requests the Government to provide information on the implementation of the APEC.**

*Article 2(1) and Part III of the report form. Scope of application and labour inspectorate. Self-employment and work in the informal economy.* In its previous comments, the Committee noted that the provisions of the Labour Code excluded self-employment from its scope of application. In this regard, the Committee noted the Government's indication that the law does not currently provide for inspections to be carried out in the informal economy, hindering the detection of child labour. Moreover, Government stated that it is facing considerable capacity constraints, making it difficult to extend inspection services to the informal economy. However, the Committee subsequently noted that the draft revision of the Labour Code contained a provision to apply the Code's provisions on the minimum age to self-employed children. This draft had been given to the Government's legal draftsmen in preparation for submission to Parliament.

The Committee notes the Government's indication that the revised Labour Code, which contains provisions related to children working on a self-employed basis and in the informal economy, has been withdrawn from Parliamentary Counsel on the request that it be complemented with drafting instructions justifying each new provision introduced. The Government indicates that it hopes the Bill will be reintroduced soon. In addition, the Government reiterates, in its report submitted under Convention No. 182, that inspections are not carried out in the informal economy, where child labour is prevalent. However, the Government indicates that through the support of the ILO, it is preparing to undertake a staff auditing and needs analysis exercise at the Department of Labour as a means of trying to expand the reach as well as strengthen the capacity of the labour inspectorate and Child Labour Unit. The Committee further notes the information in the Decent Work Country Programme (DWCP) 2012–17 of Lesotho, that regulating and preventing child labour is a major concern particularly where the coverage of the labour inspectorate does not reach the informal economy activities. However, the DWCP also states that measures will be undertaken under this programme to establish a child labour unit, within the labour inspectorate, to address child labour particularly in the informal economy. **Recalling that the Convention applies to all sectors of the economy, the Committee requests the Government to take the necessary measures to ensure that the protection guaranteed in the Convention is provided to children working on a self-employed basis and in the informal economy, in law and in practice. In this regard, it requests the Government to take the necessary measures to ensure that the provisions of the revised Labour Code concerning the minimum age apply to children working in the informal economy. It also encourages the Government to pursue its efforts to strengthen the capacity and expand the reach of the labour inspectorate, to improve the ability of labour inspectors to monitor child labour in this sector.**

*Article 2(1). Minimum age for admission to employment or work.* Following its previous comments, the Committee notes with **interest** that section 228 of the Children's Protection and Welfare Act of 2011 states that the minimum age for admission to employment is 15 years of age, in line with the minimum age specified by Lesotho upon ratification of the Convention. Section 228(3) of the Act states that a person who contravenes this section commits an offence and is liable to a fine not exceeding 20,000 Lesotho lotis (approximately US\$2,150) or to a period of imprisonment not exceeding 20 months.

*Article 2(3). Age of completion of compulsory schooling.* The Committee previously noted that pursuant to the Education Act of 2010, primary school is free and compulsory. However, the Committee observed that primary school is generally completed at the age of 13 years in Lesotho, two years before a child is legally eligible to work.

The Committee once again notes the Government's statement that it will engage with the Ministry of Education and Training to harmonize the age of admission to employment with the age limit for free and compulsory education. Moreover, the Committee notes that the draft APEC contains measures to address this. This draft states that the Education Act makes no provision for those children who have completed primary education but are still below the minimum age for employment of 15 years, and that children aged 13 and 14 are not required to be in school. Objective 3.1 of the draft APEC is therefore to ensure that all boys and girls up to the minimum age for admission to employment attend and remain

in school. The draft APEC indicates that in the long term, the Government will consider making education compulsory up to the minimum age for employment of 15 years, although much ground work is needed to prepare for this.

In this regard, the Committee reminds the Government that if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (see General Survey of 2012 on the fundamental Conventions concerning rights at work, paragraph 371). **Recalling that education is one of the most effective means of combating child labour, the Committee encourages the Government to pursue its efforts to ensure compulsory education up to the minimum age of employment (of 15 years), and urges the Government to collaborate with the Ministry of Education and Training in this regard. It requests the Government to continue to provide information on any measures taken in this regard, including measures taken under the APEC.**

*Article 6. Minimum age for admission to apprenticeship.* The Committee previously noted the Government's indication that there was no minimum age for admission to apprenticeships. However, the Government indicated that this matter would be taken up with the Ministry of Education and Training.

The Committee notes the Government's statement that it has appointed a committee to address the issue of apprenticeships which is composed of representatives from the Department of Labour, the Ministry of Gender and Youth, the Ministry of Education and Training, the social partners and other relevant stakeholders. In this regard, the Committee reminds the Government that pursuant to *Article 6* of the Convention, the minimum age for admission to work in undertakings in the context of vocational training or an apprenticeship programme cannot be below 14 years. **It therefore requests the Government to take the necessary measures, within the framework of the committee appointed on this subject, to ensure that no child under 14 years of age is permitted to undertake an apprenticeship in an enterprise. It requests the Government to provide information on steps taken in this regard, in its next report.**

*Article 7. Light work.* The Committee previously noted that section 124(2) of the Labour Code permits the employment of children between the ages of 13 and 15 for light work only in technical schools and similar institutions, provided that the work has been approved by the Department of Education. Observing the significant number of children working under the minimum age in practice, the Committee encouraged the Government to consider regulating light work *outside* of technical schools to ensure that these children benefit from the protection of the Convention.

The Committee notes the Government's statement that light work is regulated under the Child Protection and Welfare Act. In this regard, the Committee notes with *interest* that section 229(1) of the Child Protection and Welfare Act of 2011, states that a child who is 13 years old may be engaged in light work, and section 229(2) defines light work as work which is not likely to be harmful to the health or development of a child and does not affect the child's attendance at school or the capacity of the child to benefit from school.

*Part V of the report form. Application of the Convention in practice.* The Committee previously noted that, according to the 2004 Lesotho Child Labour Survey, 23 per cent of the children in Lesotho are child labourers. The survey also indicated that children mainly work in agricultural activities followed by those who work as domestic workers. The Committee noted the Government's indication that it was making efforts to conduct a new child labour survey, and that consultations were held with ILO-IPEC in June 2011 regarding technical assistance for this purpose.

The Committee notes the Government's indication that regarding the Child Labour Survey, it is making efforts to ensure that the survey is carried out in the near future. **The Committee encourages the Government to pursue its efforts to ensure that information on the situation of working children in Lesotho is made available, including, for example, data on the number of children and young persons below the minimum age who are engaged in economic activities, and statistics relating to the nature, scope and trends of their work.**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Article 3 of the Convention. Worst forms of child labour. Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.* In its previous comments, the Committee noted that street children were used by adults in illegal activities, such as housebreaking and petty theft. It also noted that there was no specific provision in national legislation prohibiting the use, procuring or offering of a child under the age of 18 for illicit activities. However, it noted that section 129A(3)(c) of the draft revision of the Labour Code prohibited the worst forms of child labour, including the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.

The Committee notes the Government's statement that the draft revision of the Labour Code, containing provisions prohibiting the use, procuring or offering of a child for illicit activities, has been withdrawn from Parliamentary Counsel. The Government indicates that it hopes to resubmit the bill in 2013. **Observing that the Government has been referring to the impending adoption of the draft revision of the Labour Code since 2006, the Committee urges the Government to take the necessary measures to ensure its adoption in the near future, to prohibit the use, procuring or offering of a child under 18 for illicit activities.**

*Clause (d). Hazardous work. Child domestic work.* The Committee previously noted that, according to the 2004 Lesotho Child Labour Survey, girls performing domestic work face verbal, physical and, in some cases, sexual abuse from their employers, and that these children generally do not attend school. This survey also indicated that 17.4 per cent of all working children were paid domestic workers. Moreover, the Government indicated in its report to the Committee on the Elimination of Discrimination against Women of 26 August 2010 that domestic work is an unregulated sector and the rights of these workers are open to abuse (CEDAW/C/LSO/1-4, paragraph 68). However, the Committee noted the Government's indication that pursuant to tripartite discussions at the National Advisory Committee on Labour, separate regulations would be promulgated on domestic work.

The Committee notes the Government's statement that it will take measures to ensure that child domestic workers are protected from hazardous work. The Government indicates that it will consider promulgating regulations on domestic work to prohibit hazardous work in this sector to children under 18. The Committee also notes the information in the draft Action Plan for the Elimination of Child Labour (APEC) of January 2012, submitted with the Government's report, that one of the objectives of the Plan is working towards ratifying and applying the Domestic Workers Convention, 2011 (No. 189), taking measures to address child domestic labour. ***The Committee urges the Government to take immediate and effective measures to ensure that child domestic workers are protected from hazardous work. In this regard, it requests the Government to take the necessary measures to ensure the development and adoption of regulations which prohibit hazardous domestic work to all children under 18 years of age. It requests the Government to provide a copy of these regulations, once adopted.***

*Part V of the report form. Application of the Convention in practice.* The Committee previously noted the information in a joint document produced by ILO-IPEC and the Ministry of Employment and Labour of 2006 indicating that the trafficking of children, commercial sexual exploitation, the use of children by adults in illegal activities and hazardous street work were all present in Lesotho. The Government also indicated that a child labour survey needed to be carried out in order to determine the nature, extent and trends of child labour in Lesotho, as the last such survey was carried out in 2004.

The Committee notes the Government's indication in its report submitted under the Minimum Age Convention, 1973 (No. 138), that it is making efforts to ensure that a child labour survey is carried out in the near future. The Committee also notes the statement in the draft APEC that the worst forms of child labour exist in Lesotho, such as commercial sexual exploitation, use of children as domestic workers and herd boys, and the use of children in street work. ***The Committee strongly encourages the Government to pursue its efforts to undertake a survey on child labour and its worst forms, to ensure that up-to-date information on this subject is made available. It also requests the Government to provide, along with its next report, information on the number and nature of infringements reported, investigations, prosecutions, convictions and penalties imposed related to the worst forms of child labour. To the extent possible, all information provided should be disaggregated by sex and age.***

The Committee is raising other points in a request addressed directly to the Government.

## Liberia

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a). Forced recruitment of children in armed conflict.* The Committee previously requested the Government to take the necessary measures to prohibit the use of children under the age of 18 years in armed conflict.

The Committee notes with ***satisfaction*** the adoption of the Children's Law of 2011 which, under section 22 states that every child shall have the right to be protected from involvement in armed or any kind of violent conflicts. The Committee notes that according to section 3 of Chapter I of the Children's Law a "child" shall mean any person below the age of 18 years. Section 22 further prohibits the recruitment or conscription of children into military service. The Committee further notes that chapter XII of the Children's Law amends section 16 of the Penal Code which states that a person commits a first degree felony (defined in section 50.5 of the Penal Code as an offence for which a sentence to imprisonment for a maximum of ten years shall be imposed) if he/she recruits or enlists any child for purposes of engaging in violent conflict, while recruitment of a child for supporting an armed conflict shall constitute a second degree felony (imprisonment to a maximum of five years) (section 16.14). The Committee underlines the need for the effective implementation of this law. The Committee notes, however, that in practice, as indicated in the concluding observations of the Committee on the Rights of the Child (CRC) of December 2012, it appears that the armed actors along the borders continue to recruit children into their ranks and that the state party has not taken any action to address this situation (CRC/C/LBR/CO/2-4, paragraph 74). ***The Committee, therefore, urges the Government to take immediate and effective measures to put an end, in practice, to the forced or compulsory recruitment of children for use in armed conflict and proceed with the full and immediate demobilization of all children. It also requests the Government to take the necessary measures to ensure that persons who forcibly recruit children under 18 years of age for use in armed conflict are prosecuted and punished.***

*Article 7(2). Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Child soldiers.* Following its previous comments, the Committee notes the information contained in the Government's periodic report to the CRC of 2011 that the Government, in cooperation with UNICEF, has implemented the Reintegration Programme for Children associated with Fighting Forces which aims at the social and economic reintegration, community reintegration and education through vocational skills and apprenticeships of children associated with armed conflict. In addition to helping establish 293 child welfare committees, the programme contributed towards the formation of 228 children's clubs and 193 youth clubs to facilitate greater participation for the children. The Committee further notes the Government's indication that, as of 2007, in addition to a large number of children who have benefited from vocational skills and apprenticeship, 50 per cent of the children associated with the fighting forces were returned to school (CRC/C/LBR/2-4, paragraphs 196–197). **The Committee encourages the Government to continue taking measures to rehabilitate former child soldiers and to reduce and eliminate the possibility of re-recruitment in any conflict in the region. The Committee requests the Government to continue providing information on the number of child soldiers who have been rehabilitated and reintegrated by the Reintegration Programme for Children associated with Fighting Forces, as well as by any other ongoing programmes for the rehabilitation and reintegration of children affected by conflict.**

*Clause (d). Identifying and reaching out to children at special risk. Child victims/orphans of armed conflict and HIV/AIDS.* Following its previous comments, the Committee notes the Government's information contained in its written replies to the CRC that a National Independent Accreditation Committee (IAC) was established in 2010 to oversee and guide the selection of credible institutions providing alternative care services for vulnerable children. Out of the 88 alternative care institutions that remain in the country, 35 institutions have been assessed by the IAC, of which ten institutions were accredited, while the rest were instructed to undertake relevant measures to comply with the standards. According to the Government's information, 3,637 children are currently living in 88 functional orphanages. Since 2009, 637 non-orphans living in orphanages have been reunited with families or relatives (paragraphs 27–30).

The Committee notes, however, that the 2011 UNICEF statistics indicated that there are approximately 230,000 orphans in Liberia, due to armed conflict, HIV/AIDS and other causes. The Committee expresses its *deep concern* at the high number of children orphaned due to armed conflict and HIV/AIDS. **Recalling that children orphaned by armed conflict, HIV/AIDS and other vulnerable children continue to be at an increased risk of being engaged in the worst forms of child labour, the Committee urges the Government to take effective and time-bound measures to ensure their protection from the worst forms of child labour. It further requests the Government to provide detailed information on the concrete measures implemented in this regard and on the results achieved.**

The Committee is raising other points in a request addressed directly to the Government.

## Malawi

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1999)**

*Article 1 of the Convention and Part V of the report form. National policy and practical application of the Convention.* In its previous comments, the Committee noted that the National Child Labour Policy was finalized and that the National Action Plan (NAP) on Child Labour for Malawi (2010–16), was launched, in which the responsibilities of all stakeholders in the fight against child labour were well articulated. The Committee also noted that, considering that the last comprehensive survey on child labour in Malawi was undertaken in 2002 and that no follow-up survey was done, it was also envisaged to conduct a national child labour survey and regularly update national child labour statistics in order to determine their trends and prevalence.

The Committee notes the Government's indication that it is not yet possible to provide information on the results achieved through the implementation of the NAP, but that information will be supplied in its next report. In addition, the results of the national child labour survey will be made available to the Committee once the survey is conducted. The Committee notes, however, that three baseline surveys were conducted in 2011 in Mulanje, Mzimba and Kasungu concerning children of 5–17 years of age. According to these surveys, 26.7 per cent of the 1,403 children interviewed in Mulanje (375 children) were involved in child labour, most of whom worked outside of their homes (24.6 per cent), while 1.2 per cent did household chores. A total of 52.2 per cent of children were involved in economic activity while attending school, while 37.8 per cent only attended school. The study also reveals that a high number of children worked in hazardous conditions or with hazardous equipment, such as hoes, knives or saws. In Mzimba, 40 per cent of the 888 interviewed children (355 children) were involved in child labour. Most children worked in their homes as unpaid family workers (91 per cent), followed by employees (3.9 per cent), and own-account workers (3 per cent). Similarly to Mulanje, children were found to be working with hazardous equipment, mostly hoes, and in hazardous conditions, including in extreme temperatures. In Kasungu, 401 children, representing 40 per cent of the total sample, were involved in conditional hazardous activities. Moreover, the findings revealed that the main occupations of working children are household work (71.6 per cent), and work in farms and plantations (20.4 per cent), followed by factory work (3.9 per cent), and work in street or market stalls (1.3 per cent). **Expressing its concern at the number of children involved in child labour in Malawi, including in hazardous conditions, the Committee once again urges the Government to redouble its efforts to ensure the progressive abolition of child labour and the enforcement of the relevant legislation in**

*the country. The Committee also once again requests the Government to supply information on the implementation of the NAP on Child Labour, and on the results achieved in terms of the progressive abolition of child labour, with its next report. Lastly, the Committee requests the Government to provide a copy of the results of the national child labour survey with its next report.*

*Article 2(1). Scope of application.* In its previous comments, the Committee noted that the Committee on the Rights of the Child, in its concluding observations of 27 March 2009, expressed concern that many children between 15 and 17 years of age were engaged in work that was considered as hazardous, especially in the tobacco and tea estate sector (which continued to be a major source of child labour) (CRC/C/MWI/CO/2, paragraph 66). The Committee noted, however, that the Employment Act was applicable only where there was an employment contract or labour relationship and did not cover self-employment. The Committee therefore drew the Government's attention to possibilities for providing self-employed children or those working in the informal economy with the protection of the Convention. In this regard, the Committee noted that the Tenancy Bill, a Bill which establishes a minimum age for employment in the tobacco sector and provides for frequent inspections of tobacco estates, had been finalized technically and was awaiting Cabinet approval (prior to submission to Parliament). The Government indicated that the forthcoming parliamentary sitting would likely discuss the Bill and adopt it, at which point a copy of the Tenancy Act would be forwarded to the Committee.

The Committee notes the Government's statement that it is doing all it can to ensure that the Tenancy Bill is enacted and that copies of the Act will then be communicated to the Office. The Committee must once again express its *concern* that the Tenancy Bill has yet to be adopted. *It accordingly urges the Government to take the necessary measures to ensure the adoption of the Bill at the next parliamentary sitting. It once again expresses the firm hope that, in adopting the Tenancy Bill, the labour inspection component concerning children working in the commercial agricultural sector on their own account will be strengthened, and requests the Government to provide information on the progress made in this regard along with its next report. If the Tenancy Bill is not adopted in the near future, the Committee requests the Government to take any alternative necessary measure to ensure that self-employed children or children working in the informal economy benefit from the protection of the Convention.*

*Article 3(1). Minimum age for admission to hazardous work.* In its previous comments, the Committee noted a discrepancy between article 23 of the Constitution, which provides for protection from dangerous work for children below the age of 16 years, and section 22(1) of the Employment Act, which, in accordance with the Convention, lays down a minimum age of 18 years for work that is likely to be harmful to their health, safety, education, morals or development, or prejudicial to their attendance in school. This issue was discussed at a tripartite meeting in 2005, where it was agreed by all social partners that there was a need to harmonize the provisions of the national laws. Subsequently, this issue was presented to the Malawi Law Commission for consideration, and the Commission recommended that the age stipulated under article 23 of the Constitution be raised to 18 years of age. The Committee also noted that, according to the NAP on Child Labour, inconsistencies among various pieces of legislation relating to children, including the Constitution, remain an issue.

The Committee notes with *regret* that, once again, the Government does not provide any information on this point in its report. *Observing that the discrepancy between section 22(1) of the Employment Act and article 23 of the Constitution has been under discussion since 2005, the Committee once again strongly urges the Government to take the necessary measures, within the framework of the NAP on Child Labour or otherwise, to ensure that the recommended amendment to article 23 of the Constitution is adopted in the very near future, in conformity with Article 3(1) of the Convention.*

*Article 3(2). Determination of types of hazardous work.* Following its previous comments, the Committee notes with *satisfaction* that the Employment (Prohibition of Hazardous Work for Children) Order was adopted and gazetted in 2012. The Committee notes that this Order contains an extensive list of prohibited types of work for children under 18 years of age in the following sectors: agriculture; industry (including the tobacco sector); entertainment; tourism; health; and miscellaneous. The Committee notes the Government's information that a country wide dissemination programme of the gazette is being implemented in collaboration with ILO-IPEC.

*Article 9(3). Keeping of registers by employers.* The Committee previously noted that section 23 of the Employment Act stipulates that every employer is required to maintain a register of persons aged below 18 years employed by, or working for, him/her. However, the Committee also noted the indication of the Malawi Trade Unions Congress (MCTU) that some estates did not have registers, particularly in commercial agriculture. The Committee noted the Government's information that the draft model register would be finalized before the end of the year, and that this draft would be submitted to the Tripartite Labour Advisory Council for adoption. The Government also indicated that the model register of employment would be in conformity with *Article 9(3)* of the Convention and would be submitted to the Committee as soon as it is finalized. In this regard, the Committee reminded the Government that, pursuant to *Article 9(3)* of the Convention, the registers kept by employers shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom they employ, or who work for them, and who are less than 18 years of age.

The Committee notes that the Government reiterates its commitment to finalize the model register of employment and to communicate a copy of it as soon as it is prepared. **Observing that the Government has been referring to the model register of employment since 2006, the Committee strongly urges the Government to take the necessary measures to ensure its elaboration and adoption without delay. It once again requests the Government to supply a copy of the model register as soon as it is adopted.**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)**

*Articles 3 and 7 of the Convention. Worst forms of child labour and penalties. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children.* In its previous comments, the Committee noted that section 179(1) of the Child Care, Protection and Justice Act provides that a person who takes part in any transaction involving child trafficking is liable to life imprisonment. The Committee observed, however, that according to section 2(d) of the same Act, a “child” means a person below the age of 16 years. The Committee reminded the Government that by virtue of *Article 3(a)* of the Convention, member States are required to prohibit the sale and trafficking of all children under 18 years of age.

The Committee notes the Government’s indication that it has taken note of this observation and that this matter will be taken up with the Malawi Law Commission. The Government further indicates that it will provide information on the application in practice of the Child Care, Protection and Justice Act in subsequent reports, since the Act has only recently come into force. The Committee further notes that, according to the concluding observations of the Human Rights Committee of 18 June 2012, in consideration of the reports submitted under the International Covenant on Civil and Political Rights (CCPR/C/MWI/CO/1, paragraph 15), Malawi has drafted an anti-trafficking bill which should be considered by Parliament soon. **The Committee accordingly once again urges the Government to take immediate measures to ensure that the Child Care, Protection and Justice Act is amended to extend the prohibition of sale and trafficking to cover all children under the age of 18, as a matter of urgency, and to ensure that the anti-trafficking bill prohibits the sale and trafficking of all children under the age of 18, and is adopted as soon as possible. The Committee also, once again, requests the Government to provide information on the application in practice of this Act, as well as of the anti-trafficking bill once adopted, including in particular, statistics on the number and nature of violations reported, investigations, prosecutions, convictions and penal sanctions imposed.**

*Clause (b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.* In its previous comments, the Committee noted the Government’s statement in its report to the Committee on the Rights of the Child (CRC) of 17 July 2008, that, while there are no data available on the number of children involved in sexual exploitation, including prostitution and pornography, these are recognized problems in the country (CRC/C/MWI/2, paragraph 323). In this regard, it noted that section 87(1)(d) of the Child Care, Protection and Justice Act only provides that a social welfare officer who has reasonable grounds to believe that a child is being used for the purposes of prostitution or immoral practices, may remove and temporarily place the child in a place of safety. The Committee reminded the Government that *Article 3(b)* of the Convention requires member States to prohibit the use, procuring or offering of a child under 18 years for prostitution, for the production of pornography or for pornographic performances.

The Committee once again notes the Government’s indication that it will endeavour to include the prohibition against the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, in the labour laws currently under review. The Government also indicates that, meanwhile, the Censorship Board is doing its best to censor pornography. However, the Committee must once again express its **deep concern** at the continued lack of regulation to prohibit the commercial sexual exploitation of children, and once again draws the Government’s attention to its obligation under *Article 1* to take immediate measures to prohibit the worst forms of child labour, **as a matter of urgency. The Committee accordingly, once again, urges the Government to take the necessary measures, as a matter of urgency, to ensure the adoption of national legislation prohibiting the use, procuring or offering of both boys and girls under 18 years of age, for the purpose of prostitution, for the production of pornography or for pornographic performances, and to include sufficiently effective and dissuasive sanctions in this legislation. It requests the Government to provide information on the progress made in this regard with its next report.**

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and providing assistance for the removal of children from these types of work and for their rehabilitation and social integration. Children engaged in hazardous work in commercial agriculture, particularly tobacco estates.* In its previous comments, the Committee noted that the CRC, in its concluding observations of 27 March 2009, expressed concern that many children between 15–17 are engaged in work that is considered as hazardous, especially in the tobacco and tea estate sector, which continues to be a major source of child labour (CRC/C/MWI/CO/2, paragraph 66). The Committee noted the Government’s information that labour inspections were undertaken in the tobacco sector, to help withdraw children from this sector, to rehabilitate and then to send them back to school. It further noted that it is indicated in the National Action Plan (NAP) on Child Labour that the agricultural sector, including tobacco plantations and family farms, constitutes one of its sectoral priorities, as it accounts for 53 per cent of child labour in the country.

The Committee notes with *regret* that the Government provides no information on this point in its report. It notes that, according to the 2011 surveys conducted in Mzimba, Mulanje and Kasungu, child labour continues to be dominated by the agricultural sector. In Mzimba, 36.6 per cent of the interviewed children worked in agriculture; and in Mulanje and Kasungu, 23 per cent and 20.4 per cent of the interviewed children respectively had worked in a plantation, farm or garden. All three surveys reported that these children often worked in hazardous conditions without protective gear, and with hazardous equipment such as hoes, ploughs, saws, sickles, panga knives and sprayers. ***Expressing its concern at the number of children engaged in hazardous work in agriculture, the Committee once again urges the Government to strengthen its efforts to protect children from hazardous work in this sector, in particular in tobacco plantations, through measures taken within the framework of the NAP on Child Labour. In this regard, it once again requests the Government to provide concrete information on the number of children who have been thus prevented or withdrawn from engaging in this type of hazardous work, and then rehabilitated and socially integrated.***

*Clause (e). Special situation of girls.* The Committee previously noted that, according to the Malawi Child Labour Survey of 2002, all the child victims of commercial sexual exploitation were girls. Half of these girls had lost both of their parents, while 65 per cent of them did not attend school past the second year. The Committee also noted that the Committee on the Elimination of Discrimination Against Women (CEDAW), in its concluding observations of 5 February 2010, expressed concern at the extent to which women and girls are involved in sexual exploitation, including prostitution, and the limited statistical data regarding these issues (CEDAW/C/MWI/CO/6, paragraph 24). It therefore requested the Government to provide information on the measures taken to protect girls under the age of 18 from commercial sexual exploitation.

The Committee once again notes with *regret* that the Government provides no information on this point in its report. ***It, therefore, once again urges the Government to strengthen its efforts to prevent girls under the age of 18 from becoming victims of commercial sexual exploitation, and to remove and rehabilitate victims of this worst form of child labour, within the framework of the NAP on Child Labour or otherwise. It once again requests the Government to provide information on the concrete measures taken in this regard, as well as information on the impact of these measures, with its next report. To the extent possible, all information provided should be disaggregated by age and sex.***

The Committee is raising other points in a request addressed directly to the Government.

## Mali

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2002)**

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 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 that, according to the report of the National Survey on Child Labour (ENTE), conducted in 2005 by the National Directorate of Statistics and Information, in collaboration with the National Directorate of Labour and ILO-IPEC-SIMPOC, around two children out of three between the ages of 5 and 17 years are economically active, or just over 3 million girls and boys throughout the country. Of these, nearly 2.4 million children between the ages of 5 and 14, or 65.4 per cent of children between 5 and 14 years of age, are engaged in work. This phenomenon affects both girls and boys, in rural areas and in towns. The Committee noted that the phenomenon is more widespread in rural areas (68 per cent of 5–14 year-olds) than in urban areas (59 per cent of 5–14 year-olds). The Committee also noted that in 2006 Mali launched a ***Time-bound Programme (TBP)*** on the worst forms of child labour in collaboration with ILO-IPEC. The Committee further noted that, in the framework of the ***TBP***, a programme of action was launched in 2009 for the preparation and design of the National Plan of Action for the Elimination of Child Labour in Mali (PANETEM) with a view to reinforcing the progress achieved over more than a decade of combating child labour and addressing the difficulties encountered.

The Committee took due note of the technical validation of the PANETEM at the national level in April 2010 and its adoption by the Council of Ministers on 8 June 2011. The PANETEM covers a period of ten years divided into two phases: the first five-year phase (2011–15) focuses on the elimination of the worst forms of child labour (60 per cent of targeted children) and the second five-year phase (2016–20) on the abolition of all forms of unauthorized child labour (40 per cent of the targeted children). However, the Committee noted that, in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), the Government indicated that, in view of the delay in the adoption of the PANETEM, its implementation is envisaged in 2012. ***Observing with deep concern that a considerable number of children are engaged in work under the minimum age for admission to employment or work, the Committee strongly encourages the Government to intensify its efforts to combat child labour, and requests it to provide information on the implementation of the PANETEM and on the results achieved in terms of the elimination of child labour.***

*Article 2(1). 1. Scope of application.* In its previous comments, the Committee noted the information provided by the Government to the effect that children under 15 years of age working on their own account could be informed by the labour inspector covering their area of the risks involved in their work and the social security measures to be envisaged in the event of employment accidents. The Committee however noted the Government's indication that no specific measures have been adopted in Mali to allow labour inspectors to target more specifically children under 15 years of age engaged in an economic activity on their own account.

The Committee noted that absence of information in the Government's report on this subject. It once again reminded that Government that the Convention applies to all branches of economic activity and that it covers all types of employment or work, whether or not it is based on an employment relationship and whether or not it is paid. ***The Committee urges the Government to take measures to ensure that children who are not bound by an employment relationship, such as those working on their own account or in the informal economy, benefit from the protection afforded by the Convention. In this respect, it requests the***

**Government to envisage the possibility of taking measures to adapt and strengthen the labour inspection services with a view to ensuring such protection.**

2. *Minimum age for admission to employment or work.* In its previous comments, the Committee noted that under section 20(b) of the Child Protection Code, all children have the right to be employed *as from 15 years of age*, in accordance with the minimum age specified when ratifying the Convention. It noted, however, that pursuant to section L.187 of the Labour Code, the minimum age for the admission of children to employment in enterprises, even as apprentices, is *14 years*, except with a written waiver issued by the Minister of Labour. The Committee also noted that section D.189-23 of Decree No. 96-178/P-RM of 13 June 1996 issued under the Labour Code lists the loads that *children between the ages of 14 and 17 years* may not carry, drag or push, depending on the type of transport equipment, the weight of the load and the sex of the child. In this respect, the Committee noted the Government's indication that it undertook to take the necessary measures to amend section L.187 of the Labour Code, which will "lead to the raising of the minimum age for admission to employment".

The Committee noted that the Government has not provided any information on this subject in its report. However, it observed that one of the principal aims of the PANETEM is to reinforce the respective legal framework and regulations in relation to combating child labour. In this context, it is envisaged to organize a national workshop for the revision of the Labour Code and its implementing texts with a view to harmonizing them with the legislative provisions for the protection of children. **Expressing the firm hope that the relevant provisions of the Labour Code and of Decree No. 96-178/P-RM of 13 June 1996 will be brought into harmony with the Convention so as to prohibit work by children under 15 years of age, the Committee requests the Government to take measures with a view to finalizing this revision in the very near future. It requests the Government to provide information on the progress achieved in this respect.**

*Article 2(3). Age of completion of compulsory schooling.* The Committee noted previously that Decree No. 314/PGRM of 26 November 1981 regulates school attendance and that the age of completion of compulsory schooling in Mali is 15 years. It noted the information provided by the Government according to which the implementation of phase II of the Sectoral Investment Programme for the Education Sector (PISE) would increase the number of classes and teachers in the poorest regions and improve the access to schooling for thousands of children, particularly in rural areas. The Committee also noted that Mali is one of 11 countries involved in the implementation of the ILO-IPEC project "Tackle child labour through education in 11 countries" (the TACKLE project), the overall objective of which is to contribute to the reduction of poverty in the least developed countries by providing equitable access to primary education and the development of knowledge amongst the most underprivileged members of society. Moreover, an integrated framework to cover the educational needs of the most vulnerable categories of children was being formulated with a view to the integration of these needs into phase III of the PISE. However, the Committee noted that, according to the Education for All Global Monitoring Report of 2008, published by UNESCO under the title *Education for All by 2015: Will we make it?*, although there has been substantial progress in the field of education, Mali is still far from achieving the objective of universal primary education by 2015, and will probably not achieve gender parity by 2015, or 2025. The Committee also noted the low school enrolment rate of children between 13 and 15 years of age, which shows that a number of children drop out of school before reaching the minimum age for admission to employment and that they enter the labour market.

The Committee noted that the TACKLE project has been extended up to 2013 and that its objective is to strengthen links between educational policies and measures to combat child labour with a view to giving vulnerable children and victims of child labour the opportunity to benefit from training and education. It also notes the Government's indications that the third phase of PISE (PISE III) takes into account children with special educational needs. The Committee observed that, according to the table of data provided by the Government, the net school attendance rate in primary school rose from 56.6 per cent in 2005-06 to 60.9 per cent in 2007-08 and to 62.7 per cent in 2008-09. In secondary education, these rates are 23.5 per cent, 28.8 per cent and 30.7 per cent, respectively.

The Committee took due note of the measures adopted by the Government in relation to education. However, it noted that the school attendance rates for primary education remain fairly low and that the low rates of school attendance in secondary education, compared with primary education, show that a significant number of children drop out of school after primary school. **Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee strongly encourages the Government to pursue its efforts to improve the functioning of the education system in the country, particularly by increasing school attendance rates. In this respect, it requests the Government to provide information on the progress achieved, particularly through the implementation of the TACKLE project and of PISE III, and the results obtained.**

*Article 3(3). Admission to hazardous types of work from the age of 16 years.* The Committee noted previously that certain provisions of Decree No. 96-178/P-RM of 13 June 1996 allow children to be employed in hazardous types of work from the age of 16 years. It noted the Government's indication that the authorization of the labour inspector, which is required to employ young persons between 16 and 18 years of age, is a guarantee that these types of hazardous work are performed under healthy, safe and moral conditions. The Government indicated that section D.189-33 of Decree No. 96-178/P-RM establishes the requirement to ascertain that young persons between the ages of 16 and 18 years engaged in hazardous types of work have received adequate specific instruction or vocational training in the relevant branch of activity, in accordance with *Article 3(3)* of the Convention. However, the Committee noted that section D.189-33, which refers to the declaration that the employer has to make to the Employment Office for the recruitment of a child, does not make any reference to the instruction or vocational training that has to be followed by a young person over 16 years of age to be able to perform hazardous types of work. **Noting the absence of information in the Government's report on this subject, the Committee once again urges the Government to take measures to ensure compliance with the conditions set out in Article 3(3) of the Convention. It requests the Government to provide information in its next report on any developments in this respect.**

*Article 7. Light work.* In its previous comments, the Committee noted that section 189-35 of Decree No. 96-178/P-RM of 13 June 1996 allows exceptions from the minimum age for admission to employment in the case of boys and girls of at least 12 years of age for domestic work and light work of a seasonal nature. It noted the Government's indication that it undertook to raise the minimum age for domestic work and light work of a seasonal nature from 12 to 13 years. It also noted that a draft order was being prepared to determine light work activities and the conditions for their performance.

The Committee noted that the Government has not provided any further information in its report on this subject. **The Committee urges the Government to take the necessary measures to harmonize the national legislation with the Convention and to regulate the employment of children on light work from the age of 13 years. To this end, it once again hopes that the order respecting light work will be formulated and adopted in the near future.**

*The Committee also urges the Government to renew its efforts and to take the necessary measures to ensure that the revision of the legislation envisaged in the context of the PANETEM does not fail to take into account the Committee's detailed comments on the divergences existing between the national legislation and the Convention, and that amendments will be made in this respect.*

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

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. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. 1. Sale and trafficking of children.* In its previous comments, the Committee noted that, although the Government had taken several measures to combat the sale and trafficking of children for the exploitation of their labour, the trafficking of children still constituted a problem in practice, even though it is prohibited by section 244 of the Penal Code and section 63 of the Child Protection Code. It noted that, in the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 of 3 April 2008, the International Federation for Human Rights (FIDH) indicated that, even though no statistics are available, Mali is a transit country for the trafficking of women and children, and it therefore recommended that the Malian authorities strictly apply sections 240 et seq. of the Penal Code penalizing the trafficking of children, and that it improve the assistance provided to children who have been victims of trafficking (A/HRC/WG.6/2/MLI/3, paragraphs 13–14). The Committee requested the Government to provide information on the effect given in practice to the provisions respecting the sale and trafficking of children for the exploitation of their labour.

The Committee noted with regret that the Government has not provided any information on this matter in its report. *The Committee therefore urges the Government to take immediate measures to ensure in practice the protection of children under 18 years of age against sale and trafficking and to ensure that thorough investigations and robust prosecutions of offenders are carried out, and that effective and sufficiently dissuasive penalties are imposed. It once again requests the Government to provide information on the effect given in practice to the provisions respecting the sale and trafficking of children for the exploitation of their labour through the provision of statistics on the number of convictions and the penal sanctions imposed.*

*2. Forced or compulsory labour. Begging.* In its previous comments, the Committee noted that, according to the 2006 UNICEF report, *talibé* children originating from neighbouring countries, including Mali, are found on the streets of Dakar, who have been brought to the city by Koranic teachers (*marabouts*). These children are kept in conditions of servitude and are obliged to beg daily. The Committee also noted that the 2006 UNICEF report refers to the involvement of *marabouts* in the trafficking of children for the exploitation of young *talibé* workers from Burkina Faso in the rice fields of Mali. The Committee noted that the Committee on the Rights of the Child (CRC), in its concluding observations of May 2007, expressed concern at the vulnerability of children living in the streets or who are engaged in begging, particularly to all forms of violence, sexual abuse and exploitation, as well as economic exploitation (CRC/C/MLI/CO/2, paragraph 62). The Committee noted that section 62 of the Child Protection Code defines begging as a sole or main activity of a dehumanizing nature and an obstacle to the rights of the child. It further noted that section 183 of the Penal Code provides that any person inciting a child to beg shall be liable to a sentence of imprisonment of from three months to one year. However, the Committee noted that, in the report of the Working Group on the Universal Periodic Review of Mali of 13 June 2008, the representative of Mali indicated that begging by children in Koranic schools is an infringement of the law (A/HRC/8/50, paragraph 55).

The Committee noted with regret the absence of information on this matter in the Government's report. The Committee once again observed that, although the legislation is in conformity with the Convention on this point, the phenomenon of child *talibés* remains a cause for concern in practice. The Committee once again expressed serious concern at the use of these children for purely economic purposes. The Committee once again reminded the Government that, under the terms of *Article 1* of the Convention, immediate and effective measures shall be taken to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency and, in accordance with *Article 7(1)* of the Convention, it shall 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 sufficiently effective and dissuasive sanctions. *The Committee urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of marabouts who make use of children under 18 years of age for purely economic purposes are carried out and that sufficiently effective and dissuasive sanctions are imposed upon them. In this respect, the Committee requests the Government to take the necessary measures to reinforce the capacities of the law enforcement agencies. It also requests the Government to take effective and time-bound measures to prevent children under 18 years of age from becoming victims of forced or compulsory labour, such as begging, and to identify child talibés who are compelled to beg and remove them from these situations, while ensuring their rehabilitation and social integration.*

*Clause (b). Use, procuring or offering of a child for prostitution.* In its previous comments, the Committee noted that section 229 of the Penal Code, under which inciting a girl or a woman, even with her consent, to debauchery or forcing her to engage in prostitution are punishable offences, applies only to female children. The Committee noted the Government's indication that it undertook to examine the question of bringing its legislation into conformity with the Convention and protecting boys from sexual exploitation, and particularly prostitution. The Government indicated that the measures taken in this respect consist of the adoption of Act No. 01-081 of 24 August 2001 concerning crimes related to minors and the appointment of magistrates to hear cases involving minors (Act No. 01-081). The Committee observed that not only do these provisions fail to prohibit the use, procuring or offering of a child for prostitution, but they also appear to punish the children concerned, making them criminally liable for their involvement in prostitution or illicit activities. The Committee observed that children who are used, procured or offered for prostitution are consequently not treated as victims and receive neither support nor protection.

The Committee noted with regret that the Government has not provided any information on this matter in its report. It once again reminds the Government that, under the terms of *Article 3(b)* of the Convention, the use, procuring or offering of a child under 18 years of age for prostitution is considered to be one of the worst forms of child labour and that, by virtue of *Article 1* of the Convention, immediate and effective measures have to be taken to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. *The Committee urges the Government to take immediate measures to ensure that the national legislation prohibits the use, procuring or offering of boys under 18 years of age for prostitution.*

*Clause (c). Use, procuring or offering of a child for illicit activities.* The Committee noted previously that Act No. 1986/18 on the punishment of offences involving poisonous substances and narcotics prohibits the cultivation, production, offering and sale of drugs, but not the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. The Government indicated that the measures taken in this respect consisted of the adoption of Act No. 01-081. However, the Committee observed that these provisions do not prohibit the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.

The Committee noted with regret that the Government has not provided any information on this matter in its report. It once again reminds the Government that, under the terms of *Article 1* of the Convention, immediate and effective measures shall be taken to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. **The Committee therefore urges the Government to take immediate measures to ensure that the national legislation prohibits the use, procurement or offering of children under 18 years of age for illicit activities, in particular for the production, offering and sale of drugs. It requests the Government to provide information in its next report on any progress achieved in this respect.**

*Article 5. Monitoring mechanisms. 1. Monitoring committees.* In its previous comments, the Committee noted that local monitoring committees (CLV) to combat child labour had been established in the circles of Kangala, Bougouni, Kolondiéba and Koutiala, that 344 monitoring committees are now operational in Mali and that their principal role was to identify potential victims of child trafficking, and to indicate cases in which children are the victims of trafficking and collect and disseminate data on the trafficking of children. **Noting the absence of information on this subject in the Government's report, the Committee once again requests the Government to provide information on the number of children who are prevented from becoming victims of trafficking or are removed from trafficking for labour exploitation as a result of the activities of monitoring committees.**

*2. National Committee to follow-up programmes to combat the trafficking of children.* The Committee noted previously the Government's indications that the National Committee to follow up programmes to combat the trafficking of children in Mali (CNS) is responsible for evaluating the action taken in the context of the implementation of programmes to combat the trafficking of children, for following the implementation of cooperation agreements signed by Mali to combat the trafficking of children and for learning from the experience acquired in this field in taking responsibility for child victims of trafficking. However, the Government indicated that, since it was established in 2006, the CNS was not operational, thereby creating a gap in the coordination of action to combat the trafficking of children in Mali. To overcome this problem, three meetings had been planned between September and November 2009, during which the programme and action of the CNS were to be determined and the annual workplan for 2010 adopted.

The Committee noted that the Government has not provided any information on this subject in its report. **The Committee once again requests the Government to provide information on the activities carried out by the CNS and their impact on the elimination of the trafficking of children for the exploitation of their labour.**

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and assistance for their removal from these worst forms of child labour. Sale and trafficking of children.* In its previous comments, the Committee noted that, in the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 of 3 April 2008, the FIDH indicated that there are no institutional facilities available in Mali to shelter, offer guidance to or assist young women who have been the victims of trafficking or sexual exploitation (A/HRC/WG.6/2/MLI/3, paragraphs 13–14). It therefore recommended the authorities of Mali to set up care and guidance facilities and to provide assistance for the return of girls who are victims of trafficking.

The Committee noted the Government's indication that one of the strategic focuses of the National Plan of Action for the Elimination of Child Labour in Mali (PANETEM), adopted in 2010, is the implementation of direct action to combat the worst forms of child labour, including trafficking. **The Committee requests the Government to provide information on the measures adopted within the framework of the PANETEM project to prevent children under 18 years of age from becoming victims of sale or trafficking and to remove child victims from this worst form of child labour. It also once again requests the Government to envisage the establishment of care and guidance facilities and the provision of assistance for the return of child victims of trafficking, as recommended by the FIDH, with a view to ensuring their rehabilitation and social integration. The Committee once again requests the Government to provide information on any progress achieved in this regard.**

*Article 8. Regional cooperation.* In its previous comments, the Committee noted that the Government had signed bilateral cooperation agreements on the cross-border trafficking of children with Burkina Faso, Côte d'Ivoire, Guinea and Senegal. It also noted that, in addition to the Multilateral Cooperation Agreement to Combat Child Trafficking in West Africa, signed in July 2005, Mali had also signed the Abuja Multilateral Cooperation Agreement in 2006. It further noted that, in the context of the ILO-IPEC project to combat the trafficking of children, it was planned to reinforce the application of the bilateral and multilateral treaties signed by Mali. However, the Government indicated that, although the countries which signed agreements with Mali met periodically, they were more dynamic in their activities within the national territory than in terms of mutual international assistance. Indeed, the Committee observed that, in the Report of the Working Group on the Universal Periodic Review of Mali of 13 June 2008, the representative of Mali noted that, with regard to trafficking in children, the main difficulties stemmed from the cross-border nature of the phenomenon (A/HRC/8/50, paragraph 54).

The Committee noted the Government's indication that the National Cell to Combat Child Labour (CNLTE) represented the Ministry of Labour at the follow-up meetings to the Cooperation Agreement to Combat Trans-border Child Trafficking between Mali and Burkina Faso, held in Ouagadougou in March 2009, as well as the meeting between Mali and Guinea, held in Bamako in September 2010. However, it observed that the Government has not provided any information on the number of child victims of trafficking for sexual exploitation or for labour who have been protected through the implementation of the multilateral agreements signed by Mali, or on the arrests that have been made as a result of the concerted action of the national border police. **In view of the importance of trans-border trafficking in the country, the Committee urges the Government to take practical and effective measures for the implementation of the multilateral agreements signed in 2005 and 2006, particularly through the establishment of a system for the exchange of information to facilitate the discovery of child trafficking networks and the arrest of persons working in these networks. It also requests the Government to provide information on the outcome of the follow-up meetings held in Ouagadougou in 2009 and Bamako in 2010.**

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 near future.**

## Mauritania

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2001)**

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 took note of the communication from the General Confederation of Workers of Mauritania (CGTM) dated 22 August 2011, and of the Government's report.

*Article 1 and Part V of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted the indications of the International Trade Union Confederation (ITUC), according to which the Ministry of Labour authorized, without exception, work by 13-year-old children in both the agricultural and non-agricultural sectors. The Committee noted that, according to the study undertaken by the Government in 2004 in collaboration with UNICEF, entitled "Child labour in Mauritania", around 90,000 children under 14 years of age worked in the country, signifying an increase of around one third over four years. The study showed that poverty was responsible for child labour.

The Committee noted the allegations of the CGTM that, despite this worrying situation, the Government is not conducting any coherent and concerted policy to redress the situation. There is a department specifically dealing with children's matters, but none of the programmes developed in this department tackle the problem of child labour. Furthermore, the trade union organizations are not involved in these programmes.

The Committee expressed its deep concern at the large number of young children working out of personal necessity in Mauritania. *The Committee urges the Government to take short or medium-term measures to bring about a gradual improvement in this situation, for instance by adopting a national policy aimed at abolishing child labour once and for all, in cooperation with the employers' and workers' associations concerned, and to provide information in this respect. The Committee also asks the Government to provide information on the way in which the Convention is applied in practice, by providing, for example, statistical data disaggregated by sex and age group on the nature, extent and trends of child labour and the employment of young persons working below the minimum age specified by the Government at the time of ratification, as well as extracts from the reports of the inspection services.*

*Article 2(3). Compulsory schooling.* The Committee previously noted the information provided by the Government to the effect that one of the methods to ensure the abolition of child labour was the adoption of Act No. 2001-054 of 19 July 2001, making basic education compulsory for children of both sexes from 6 to 14 years of age, signifying a minimum duration of schooling of six years. It also noted that the parents were henceforth required, subject to penalties, to send children aged between 6 and 14 years to school.

The Committee noted the allegations of the CGTM that thousands of school drop-outs contribute greatly to the phenomenon of child labour in Mauritania and that children are often forced to leave school because of pressure from their parents.

The Committee noted that, according to the Government, it is sparing no effort to improve the education system. In this respect the Government states that it is planning to organize a general education meeting (*états généraux de l'éducation*) in the near future. Furthermore, the Government indicated that the capacity of the labour inspections services has been strengthened and that they now have enough human resources to combat child labour effectively. A new labour inspectorate was also set up in 2010, which will help to cut child labour and help children enter economic and social life by providing training and apprenticeship programmes carried out in the formal and informal sectors.

While noting the efforts made by the Government, the Committee noted that, according to 2009 UNICEF statistics, 79 per cent of girls and 74 per cent of boys are in primary school, whereas only 15 per cent of girls and 17 per cent of boys are in secondary school. The Committee expressed once again its concern at the persistence of low school attendance rates, especially at the secondary school level. *Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee requests the Government to renew its efforts to improve the working of the education system, particularly by increasing the secondary school attendance rate, especially among girls. In this respect, it asks the Government to provide information on the outcome of the general education meeting, as well as on any improvements in the education system it might bring. It also requests the Government to provide information on the number of children working under the minimum age who have been identified by the labour inspection services and integrated into the school system or in apprenticeships or vocational training, on condition that the minimum age requirements are respected.*

*Article 3(3). Authorization to employ children in hazardous work as from the age of 16 years.* In its previous comments, the Committee noted that section 1 of Order No. 239 of 17 September 1954 (Order No. 239), as amended by Order No. 10.300 of 2 June 1965 respecting child labour (the Child Labour Order), unequivocally provides that "it is prohibited to employ children of either sex under 18 years of age on work that exceeds their strength, involves risks of danger or which, by its nature or the conditions in which it is carried out, is likely to harm their morals". The Committee nevertheless pointed out that this provision had established the general prohibition of employing young persons under 18 years of age on hazardous types of work, whereas other provisions, such as sections 15, 21, 24, 25, 26, 27 and 32 of Order No. 239 and section 1 of Order No. R-030 of 26 May 1992 (R-030), set forth exceptions to this prohibition for young persons between 16 and 18 years of age. The Committee requested the Government to provide information on the measures taken to ensure that the performance of hazardous types of work by young persons aged between 16 and 18 was only permitted under strict conditions of protection and prior instruction in conformity with the provisions of *Article 3(3)* of the Convention.

The Committee noted the allegation of the CGTM that children are exploited in dangerous work in large cities, as apprentices, in the bus transport sector, as deliverers of large amounts of goods and as garage workers.

The Committee noted that, according to the Government, labour inspectors and supervisors ensure strict compliance of the provisions of the Orders in question. The Government also stated that, if the need exists, measures are taken to guarantee that the performance of hazardous work by young persons between 16 and 18 years of age is only authorized if their health, safety and morals are fully protected and if they have received adequate specific instruction or vocational training in the relevant branch of activity. While taking account of the Government's information, the Committee noted that the national legislation still does not stipulate that the two conditions provided for under *Article 3(3)* of the Convention are a prerequisite for allowing young people aged 16 years and over to perform hazardous work, despite the fact that there seems to be a problem in practice in this respect. *The Committee therefore requests the Government to take the necessary measures to ensure that Orders Nos 239 and R-030*

*are amended so as to provide that hazardous types of work by young persons aged 16 to 18 years is only authorized in accordance with the provisions of Article 3(3) of the Convention.*

*Article 7(3). Determination of light work.* In its previous comments, the Committee noted that, under section 154 of the Labour Code regulating the employment of children between 12 and 14 years of age in light work, no child over 12 but under 14 years of age may be employed without the express permission of the Minister of Labour, and only under certain conditions restricting the hours of this employment. The Committee had reminded the Government that *Article 7(3)* provided that, in addition to the hours and conditions of work, the competent authority should determine the activities in which light employment might be permitted for children between 12 and 14 years of age. The Committee had noted the Government's indication that it would take the necessary measures to determine the activities in which light work or employment by children might be authorized.

The Committee noted the Government's indication that a copy of the provisions determining the activities in which light employment or work may be permitted for children will be sent to the Office as soon as they have been adopted. ***Observing that a significant number of children work under the minimum age for admission to employment in Mauritania, the Committee urges the Government to take the necessary measures to bring national legislation into line with the Convention and to regulate the employment of children engaged in light work from the age of 12 years. It expresses the firm hope that light work will be determined by the national legislation in the very near future.***

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 near future.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

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 communication of 22 August 2011 from the General Confederation of Workers of Mauritania (CGTM), and the Government's report.

*Article 3 of the Convention. 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 adoption of Act No. 025/2003 of 17 July 2003 to suppress the trafficking of persons. The Committee also noted that, according to a UNICEF report on trafficking in persons with particular reference to women and children in West and Central Africa, in the streets of Dakar there are boy *talibés* from neighbouring countries, including Mauritania, who have been brought to the city by their Koranic masters (*marabouts*). According to the same report, there is also child trafficking inside Mauritania in which *talibé* children from rural areas beg on the streets of Nouakchott. The Committee observed that Mauritania appeared to be a country of origin for the trafficking of children for the purpose of exploiting their labour.

The Committee noted that, in its concluding observations of 17 June 2009, the Committee on the Rights of the Child (CRC) expressed concern at reports of children being sold to work as jockeys in the Middle East (CRC/C/MRT/CO/2, paragraph 77). The CRC was also concerned to note that Mauritania's report contained no information on the extent of the trafficking or the measures taken to prevent such crimes. The Committee noted with regret the lack of information on this subject in the Government's report. ***The Committee once again expresses concern at the situation of child victims of trafficking, and requests the Government to step up its efforts to ensure that, in practice, children under 18 years of age are protected against the sale and trafficking of children for the purposes of sexual exploitation or exploitation of their labour. The Committee again requests the Government to provide information on the application of Act No. 025/2003 of 17 July 2003 to suppress the trafficking of persons in practice, including statistics on the number and nature of offences reported, investigations held, prosecutions, convictions and penal sanctions applied.***

2. *Forced or compulsory labour. Begging.* In its previous comments, the Committee noted that section 42(1) of Ordinance No. 2005-015 on the protection of children under penal law provides that the act of causing a child to beg or directly employing a child to beg is punishable by imprisonment of one to six months or a fine of 100,000 ouguiyas. The Committee nonetheless noted that a UNICEF study entitled "Child Labour in Mauritania" indicated that, according to a study of July 2003 by the National Children's Council (CNE), observations in the field suggested that street children tended to be beggars who give a daily account of their begging activities to their *marabouts*.

The Committee noted that, according to the CGTM, teachers in religious schools force children onto the streets to beg, exposing them to crime and the danger of assault on their integrity.

The Committee noted that, in its concluding observations of 17 June 2009, the CRC expressed concern over the lack of protection for *talibé* children, who are forced by *marabouts* to beg in slavery-like conditions (CRC/C/MRT/CO/2, paragraph 73). The Committee also noted that, in her report of 24 August 2010 to the Human Rights Council, the Special Rapporteur on contemporary forms of slavery stated that, although she had been informed that the Government was working with religious leaders to put an end to this practice, many did not consider forced begging to be a form of slavery (A/HRC/15/20/Add.2, paragraph 46). The Minister of Families, Children and Social Affairs nonetheless informed the Special Rapporteur of the collaboration between her and the Ministry of the Interior to address the issue of street children, some of whom are *talibés* in Nouakchott. There appears to be a specialized police force which is trained to work with children, and the services of the Minister of the Interior monitor *madrassas* to ensure that children are not encouraged to go begging for their religious teachers (paragraph 75).

The Committee nevertheless noted with regret that the Government provides no information on this matter in its report. It again noted with deep concern that children are being used for *purely economic purposes*, in other words children are being exploited for their labour by certain *marabouts*. The Committee again pointed out to the Government that, according to *Article 1* of the Convention, immediate and effective measures must be taken as a matter of urgency to secure the prohibition and elimination of the worst forms of child labour and that, in conformity with *Article 7(1)* of the Convention, the Government must take all necessary steps to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of effective and sufficiently dissuasive sanctions. ***The Committee urges the Government to take the necessary measures to ensure that thorough investigations are carried out and completed and that marabouts who use children under 18 years of age for purely economic purposes are effectively prosecuted and punished by effective and sufficiently dissuasive penalties. The Committee requests the Government to provide information on the number of talibé***

*children identified by the special police unit and the services of the Minister of the Interior, and requests it to take the necessary steps to build the capacity of law enforcement bodies.*

*Article 7(2). Effective and time-bound measures. Clause (b). Assistance for the removal of children from the worst forms of child labour. Forced or compulsory labour. Begging.* In its previous comments, the Committee noted that, according to information in the second periodic report submitted by Mauritania in July 2008 to the CRC (CRC/C/MRT/2, paragraph 88), a centre for the protection and social integration of children in difficult situations was established which targets street children, children forced to beg or children subject to economic exploitation.

The Committee noted that, in her report, the Special Rapporteur on contemporary forms of slavery indicates that the Ministry of the Interior informed her that *talibé* children are offered education or vocational training and provided with shelter (A/HRC/15/20/Add.2, paragraph 75). The Committee nonetheless noted with regret that the Government provides no information on this matter in its report. It also observed that, in its concluding observations of 17 June 2009, the CRC likewise expressed concern at the lack of information on the measures adopted by Mauritania to identify and protect children working or living in the street (CRC/C/MRT/CO/2, paragraph 73). ***The Committee urges the Government to indicate the number of child victims of begging who have been removed from the street and rehabilitated and integrated into society, particularly by the centre for the protection and social integration of children in difficult situations or by the services of the Ministry of the Interior. The Committee also requests the Government to indicate any other effective time-bound measures taken to prevent children under 18 years of age from falling victim to forced or compulsory labour, such as begging, and to identify talibé children who are forced to beg, and to remove them from such situations, ensuring their rehabilitation and social integration.***

*Clause (e). Special situation of girls. Domestic work.* In its previous comments, the Committee noted the Government's statement that most girls engaged in domestic work received little schooling or no schooling at all. Furthermore, according to the results of a survey on girls in Mauritania which was cited in a UNICEF study entitled "Child Labour in Mauritania", girls could be recruited as from 8 years of age, and 32 per cent of the girls questioned during the survey were under 12 years of age. The Committee noted that, according to the second periodic report submitted by Mauritania to the CRC in July 2008 (CRC/C/MRT/2, paragraphs 247 and 255), two surveys had been under way for some time on child labour (including girls in domestic service) in Kiffa and Nouakchott "to determine the possibilities of educating and training these young workers and securing their social reintegration". It noted that the "El Mina Centre for Child Protection" in Nouakchott has been carrying out various activities since 2001 (training, literacy, hygiene, etc.) for girl domestic workers. A basic education pilot programme was also carried out in Dar Naim and a unit for "girls in difficult situations" was established.

The Committee noted that, according to the CGTM, domestic work amounts to a daily workload of heavy chores for children, who are subjected to abuse from a very young age. Furthermore, the International Trade Union Confederation (ITUC) indicated, in a report it submitted to the General Council of the World Trade Organization for the trade policy reviews of Guinea and Mauritania on 28 and 30 September 2011, that many girls are forced into unpaid domestic service and are particularly vulnerable to exploitation. The Committee also noted that, in its concluding observations of 17 June 2009, the CRC expressed particular concern at the situation of girls who work as domestic servants in exploitative slavery-like conditions (CRC/C/MRT/CO/2, paragraph 75).

The Committee noted with regret that the Government provides no information on this matter in its report. It again pointed out that small girls, particularly those employed as domestic servants, are often the victims of exploitation, which can take many different forms, and that it is difficult to supervise their conditions of employment in view of the clandestine nature of their work. ***It therefore urges the Government to take measures to ensure that children who are victims of exploitation in domestic work, particularly girls, are removed from this worst form of child labour and are rehabilitated and integrated in society, in particular through the activities of the El Mina Centre for the Protection of Children and the Dar Naim pilot project. The Committee requests the Government to provide information on progress made in this regard. Lastly, it urges the Government to provide information on the development and conclusions of the two surveys under way in the country.***

*Part V of the report form. Application of the Convention in practice.* The Committee noted that, according to the report of 24 August 2010 of the Special Rapporteur on contemporary forms of slavery, children under 13 years of age work in all sectors of activity in Mauritania. In rural areas, enslaved children usually work taking care of livestock, cultivating subsistence crops and performing domestic work and other significant labour in support of their masters' activities. Children live in slavery-like conditions in urban areas and are often found working in domestic households (A/HRC/15/20/Add.2, paragraphs 42–45). The Committee noted however that, in its concluding observations of 17 June 2009, the CRC expressed particular concern at the lack of comprehensive documentation on the incidence of child labour and effective measures to ensure that children are protected from economic exploitation and the worst forms of child labour and that they can exercise their right to education (CRC/C/MRT/CO/2, paragraph 75). ***The Committee expresses concern at the situation of children engaged in hazardous work and in slavery-like conditions, and therefore urges the Government to take immediate and effective measures to ensure protection in practice for these children against this worst form of child labour. It also requests the Government to provide statistics of the nature, extent and tendencies of worst forms of child labour, particularly as concerns the sale and trafficking of children begging in the streets. It also requests the Government to provide information on the number and nature of the offences reported, investigations and prosecutions, and convictions and the penal sanctions imposed. To the extent possible, all information provided should be disaggregated by sex and age.***

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 near future.***

## Mongolia

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 2002)***

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 1 of the Convention. National policy designed to ensure the effective abolition of child labour.* In its previous comments, the Committee noted that in 2002 the Government approved a National Programme of Action for the Development and Protection of Children for 2002–10 (NPA 2002–10). It noted that particular attention has been given to the issue of child labour in this document and that one of its objectives is to amend national legislation to ensure the protection of children. The

Committee requested the Government to provide information on any developments regarding the review and possible amendments to the Labour Code and the Law on the Protection of the Rights of the Child in order to better address the problem of child labour. The Committee noted in the Government's report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), that the Labour Code has recently been amended. It also noted that the NPA 2002–10 is ongoing, as are a number of other projects and programmes, most of them dealing with the worst forms of child labour. **The Committee requests the Government to supply a copy of the recently amended Labour Code. The Committee also requests the Government to continue providing information on the NPA 2002–10, or any other such programmes, aimed at ensuring the effective abolition of child labour.**

*Article 2(1). Scope of application.* The Committee previously noted that the Labour Code, according to its section 4, covers relations governed by a labour contract, defined as a mutual agreement on work for pay between an employee and an employer (section 3(1)(3)). The Committee therefore noted that the Labour Code appeared to exclude work performed outside the framework of a labour contract and self-employment from its scope of application. In this regard, the Committee noted the Government's information that, according to the survey conducted by the Mongolian Employers' Federation in 2003, 54.3 per cent of employers involved in the survey had been employing children without a labour contract. In this regard, the Committee requested the Government to provide information on the manner in which protection is given to children carrying out an economic activity that is not covered by a labour contract, such as work on their own account.

The Committee noted the information in the Government's report that, following an audit by the ILO on labour inspection in Mongolia, the Parliament approved a review of the Labour Code and state policy on informal employment. The Committee noted that the Government plans to revise the Labour Code to extend its scope of application in 2010. The Committee also noted the Government's statement that child protection is still weak in the informal sector. The Committee further noted the information in the Human Rights and Freedoms in Mongolia Status Report, issued in 2007 by the National Human Rights Commission of Mongolia, that approximately 6,950 children were working in the informal economy in urban areas (page 50). **The Committee requests the Government to take the necessary measures to ensure that, within the review of the Labour Code and the state policy on informal employment, protection is given to children carrying out work on their own account or in the informal economy. The Committee requests the Government to continue to provide information on developments in this regard.**

*Article 2(3). 1. Age of completion of compulsory education.* In its previous comments, the Committee noted that, according to section 109(2) of the Labour Code, a person aged 15 years may enter into a labour contract with the permission of parents or guardians. It noted however that, according to National Programme for the Prevention and Elimination of Child Labour in Mongolia (Phase II, ILO–IPEC Multi-bilateral Programme of Technical Cooperation of 9 April 2002, page 8), the new Law on Primary and Secondary Education was adopted on 3 May 2002. The Committee also noted that the Government indicated in its report to the Committee on the Rights of the Child (CRC) that “the Law on Education provides that a child shall be provided a compulsory basic education up to 17 years of age” (CRC/C/65/Add.32 of 15 November 2004, page 19). The Committee observed that the minimum age of 15 years specified by the Government seems to be lower than the age of completion of compulsory schooling.

The Committee noted, in its concluding observations, that the CRC expressed concern “about some contradictory provisions of the domestic laws leaving children without adequate protection, e.g. the compulsory school age is 17, whereas the labour law allows children aged 14 and 15 years old to work 30 hours per week” (CRC/C/15/Add.264, 21 September 2005, paragraph 9). The Committee further noted in the Government's report submitted under Convention No. 182, that the Law on Education was amended in December 2006, and noted the Government's statement in its report to the CRC of 9 June 2009 that education is mandatory until the age of 16 (CRC/C/MNG/3-4, paragraph 280).

The Committee recalled that, pursuant to *Article 2(3)* of the Convention, the minimum age for admission to employment (currently 15 years) should not be lower than the age of completion of compulsory schooling. The Committee also considered that compulsory schooling is one of the most effective means of combating child labour. If the age of admission to employment and the age limit for compulsory education do not coincide, a number of problems may arise. For example, if the age of completion of compulsory education is higher than the minimum age for admission to work or employment, children who are required to attend school are at the same time legally competent to work and may be tempted to abandon their studies. **The Committee therefore requests the Government to indicate the legislative provisions contained in the Law on Primary and Secondary Education, in the Law on Education or in any other legislation, fixing the actual age of completion of compulsory education and to supply a copy of the same. Noting that the minimum age for admission to employment appears to be less than the age of completion of compulsory schooling, the Committee requests the Government to take the necessary measures to raise the minimum age for admission to employment in order to link it with the age of completion of compulsory schooling in conformity with Article 2(3) of the Convention.**

*2. Providing education for school drop-outs.* The Committee noted that, according to the National Programme for the Prevention and Elimination of Child Labour in Mongolia (Phase II, ILO–IPEC Multi-bilateral Programme of Technical Cooperation of 9 April 2002, page 9), since the mid-1990s, school enrolment has been gradually improving and the school drop-out rate has reversed.

The Committee noted in the Government's report submitted under Convention No. 182 that the National Statistical Office with support from UNICEF carried out the “Random sampling research on groups with mixed indicators” in 2005–06. One finding of this research was that 90.2 per cent of children living in Ulaanbaatar are studying in secondary school versus only 76.1 per cent in the remote rural areas, mostly due to a high drop-out rate for children of herders, who need the assistance of their children in their family's livestock herding activities. The CRC expressed similar findings (CRC/C/15/Add.264, 21 September 2005, paragraphs 51–52). The Committee noted that the Ministry of Education, Culture and Science, with financial support from UNICEF, is implementing the “Circular for alternative training of primary, basic and complete secondary education” (Circular). This Circular, as well as the newly amended Law on Education both make explicit provisions for providing working children and drop-out children with educational services, including informal education. **The Committee requests the Government to continue providing information on the impact of the Circular, and any other measures taken, on providing educational services to both working and drop-out children as well as in increasing school attendance rates, in particular in the remote areas. It also requests the Government to continue providing statistical information on school attendance and school drop-out rates, in particular in rural schools.**

*Article 7. Light work.* The Committee previously noted that, according to a national survey conducted by the National Statistical Office in 2000, quite a number of children under the specified minimum age for admission to employment are economically active in some way or another. The Committee recalled that *Article 7(1)* of the Convention provides that national laws or regulations may permit persons from the age of 13 to engage in 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. The Committee also recalled that, according to *Article 7(3)* of the Convention, the competent authority shall determine what is light work and shall prescribe the number of hours during which, and the conditions in which, such employment or work may be undertaken. ***Noting the absence of information in this regard, the Committee once again requests the Government to indicate the measures taken or envisaged in respect of provisions to determine light work activities and the conditions in which such employment or work could be undertaken by young persons of 13 years or more.***

*Article 8. Artistic performances.* The Committee previously noted that section 25(6) of the Law on the Protection of the Rights of the Child provides that individuals and officials using a child in press and commercial advertising without the consent of the child or his/her parents, guardians, caregivers and conducting profit-oriented activities illegally using the name of the child will face a penalty of 20,000–30,000 Mongolian tugriks (MNT) with confiscation of their income and profit. The Committee recalled that, according to *Article 8* of the Convention, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment under the general minimum age, for such purposes as participation in artistic performances. Permits so granted shall limit the number of hours during which, and prescribe the conditions in which, employment or work is allowed. It requested the Government to indicate whether in practice children under the age of 15 years participate in artistic performances and, if so, to provide information on provisions of the national legislation which determine conditions of such work. The Committee noted the information in the Government's report that, pursuant to section 8.1 of the Law on the Protection of the Rights of the Child, a list of plays and performances which may adversely affect a child's health shall be developed and approved by Governmental officials responsible for health issues. ***The Committee requests the Government to provide a copy of this list, once approved.***

*Article 9(1). Penalties.* In its previous comments, the Committee noted that, according to section 141(1)(6) of the Labour Code, if an employer forces minors to do work prohibited to them, or to lift or carry loads exceeding the prescribed limits, or has required employees under 18 years of age to work in a workplace that adversely affects their health and mental development, or in abnormal working conditions, or compels them to work overtime or during public holidays or weekends, the state labour inspector shall impose a fine on that officer of MNT15,000–30,000. It also noted that section 25(5) of the Law on the Protection of the Rights of the Child provides for penalties for engaging a child in hazardous work stating "individuals forcing the child to beg and officials engaging the child in a work harmful for his/her health will face a penalty of 10,000–20,000 tugriks".

The Committee noted in the Government's report, submitted under Convention No. 182, that the penalties for breach of provisions found in the Criminal Code (such as human trafficking in children, involvement in pornography, sexual exploitation, drug trafficking) and other laws relating to children's rights are appropriate. However, the penalties imposed upon employers, parents and other representatives in connection with employment in hazardous work are weak. The Committee further noted the Government's indication that the fine imposed upon someone employing minors in prohibited work is insufficiently small to deter employers from resorting to the labour exploitation of minors. The Government indicated that much still remains to be done in relation to updating the legislation by imposing penalties, by ordering injunctions and ameliorating the penalty mechanism imposed upon parents and family members who allow the employment of children in the worst forms of child labour. ***The Committee encourages the Government to continue updating the legislation in this regard and requests it to provide information on any developments thereof. The Committee also requests 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, in particular those in respect of hazardous work, is prosecuted and that adequate penalties are imposed. It asks the Government to provide information on the types of violations detected, the number of persons prosecuted and the penalties imposed.***

*Article 9(3). Registers of employment.* In its previous comments, the Committee noted that the national legislation does not appear to contain provisions on the obligation of an employer to keep and make available the registers of persons under the age of 18 whom he/she employs. The Committee reminded the Government that, in accordance with *Article 9(3)* of the Convention, national laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer containing the names and ages or dates of birth, duly certified, wherever possible, of persons whom he/she employs or who work for him/her and who are less than 18 years of age. ***Noting the absence of information in the Government's report, the Committee once again requests the Government to indicate in which manner it ensures that employers shall keep and make available registers, which contain the names and ages or dates of birth, duly certified whenever possible, of persons under the age of 18 years employed or working for them.***

*Part V of the report form. Application of the Convention in practice.* The Committee noted in the Government's report submitted under Convention No. 182 that the National Statistics Office recently conducted the second National Child Labour Survey (2006–07) (NCL Survey). The Committee noted 621,500 children, of which 60.3 per cent were boys and 39.7 per cent girls, were covered in the NCL Survey and that at least 11.5 per cent worked at least one hour a week or were economically active. Though the survey has some shortcomings as it did not include homeless children, as well as those living in correctional labour colonies, orphanages and childcare institutions, it is nevertheless significant in creating the official and objective database. The prevalent sectors of work for children were: 84.6 per cent in agriculture; 5.1 per cent in services; 3.5 per cent in trade and industry; and 5.8 per cent in sweatshops. In relation to the employment relationship, the NCL Survey indicated that 93.1 per cent of working children work in household enterprises and are not paid, 9.2 per cent are self-employed and 1.7 per cent have a contractual relationship.

Another survey, conducted by the Mongolian Employers Federation in 2003, (Employers' Survey), reveals that labour standards in relation to children working in the formal sector are not always adhered to: 59.5 per cent of employers hiring children aged 14–18 years of age did not conclude any contracts and 29.2 per cent were employing the children on a wage or work performance contract. The main motives for not concluding a contract were not wanting to pay the social insurance premiums and other deductions (36 per cent) and the temporary nature of the employment (52 per cent). According to the reports submitted by employers and used in the Employers' Survey, 46 per cent of the children's conditions at the workplace were deemed "normal", 11.7 per cent were too hot, 21 per cent too dusty or with poor air circulation and 10.6 per cent were too noisy.

In addition, the Committee noted that the Population Training and Research Centre of the National University of Mongolia also carried out a survey which focused mostly on children aged 16–18 years of age working in the gold- and coal mining sectors in the Selenge and Tuv aimags (provinces). This survey indicates that most children started mining at an average age of 12, work an average of four hours per day in the winter, and an average of eight to nine and 10–11 continuous hours in the summer for children aged below 16 and 16–18, respectively. A total of 37.7 per cent of the children mining gold used mercury and 66.7 per cent of them work at home. Of these, 22.5 per cent have been involved in an accident in which 92.6 per cent have injured their legs, arms or their organs. Half of all children mining gold experience some form of health problem: 43.3 per cent suffer regularly

from respiratory diseases, 41.7 per cent suffer from kidney and urinary disorders, 25 per cent suffer from orthopaedic illnesses and 23.3 per cent suffer from ear, nose and throat diseases.

Finally, the Committee noted that the report “Understanding children’s work and youth employment outcomes in Mongolia”, issued in June 2009 by the ILO, UNICEF and the World Bank (through the Understanding Children’s Work Project), indicates that 13.2 per cent of children between the ages of 5 and 14 are engaged in economic activity and that 7.5 per cent of children between the ages 15 and 17 are engaged in hazardous work. The Committee also noted that, in its concluding observations, the CRC expressed concern “at the high rate of working children in Mongolia and the various kinds of negative consequences resulting from the exploitation of child labour, including the school drop outs and negative impacts on health caused by the harmful and hazardous work. The high number of child domestic and rural workers and children working in very harmful conditions in gold and coal mines give cause for serious concerns” (CRC/C/15/Add.264, 21 September 2005, paragraph 59). ***While noting the efforts made by the Government to combat child labour, the Committee expresses serious concern at the large number of children working under the age of 15, as well as the significant number of children engaged in hazardous occupations, and therefore strongly encourages the Government to redouble its efforts to improve the situation, including through the allocation of additional resources for the implementation of measures aimed at combating child labour. The Committee also requests the Government to continue providing information on the situation of child labour in Mongolia and, in particular, to supply copies or extracts from official documents of inspection services. The Committee also asks the Government to provide information on the number and nature of the contraventions reported and penalties imposed.***

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

## Nicaragua

### Minimum Age Convention, 1973 (No. 138) (ratification: 1981)

*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 measures taken and results achieved through the implementation of the National Strategic Plan for the Prevention and Elimination of Child Labour and the Protection of Young Workers (PEPETI 2007–16). The Committee also noted the adoption, in December 2010 of the “Roadmap” to make Nicaragua a country free of child labour and its worst forms in order to reach the objective of the eradication of all forms of child labour by 2020.

The Committee takes note of the results achieved under the Coffee Harvesting Plan, the support provided to street children under the “Love programme”, the measures undertaken to give effect to national legislation protecting children in domestic work and the integral assistance provided to children working in mines and hazardous conditions in the departments of Chinandega, El Rama and El Bluff in terms of education, health care and recreational activities. The Committee likewise notes that a total of 4,111 agreements were signed with employers in all departments of the country covering the different sectors of the economy (such as mining, fishing and agriculture) committing to not use any child labour. In addition, 306 parents benefited from educational campaigns on the prevention of child labour and labour rights of young workers, and a total of 25,000 leaflets were produced and distributed to raise awareness of child labour, in particular as regards the recently adopted hazardous work list, the role of the labour inspectorate and child domestic labour.

The Committee observes, however, that according to UNICEF statistics for the years 2000–10, 15 per cent of children under 14 years of age are still involved in child labour. The Committee also notes, on the basis of the report of June 2012 on the ILO–IPEC project entitled “Eliminating Child Labour in Latin America (Phase IV)”, that unlike other countries in the region, the Government has not yet taken programmatic measures nor assigned resources for the implementation of the “Roadmap”. While noting the absence of statistical information in the Government’s report on the nature, extent and trends of child labour, the Committee notes from the report of the ILO–IPEC project that the Government is currently processing the household surveys carried out in December 2010 to establish a national study on child labour.

***The Committee strongly encourages the Government to pursue its efforts to combat child labour and requests it to continue to provide information on the results obtained under PEPETI 2007–16. It also requests the Government to ensure the allocation of the necessary resources and programmatic measures to implement the “Roadmap” to abolish child labour in all its forms by 2020 ensuring coordination with the activities under the PEPETI 2007–16. The Committee furthermore again requests the Government to provide statistical information on the nature, extent and trends of the employment of children under 14 years of age, once the child labour survey has been completed. To the extent possible, all information provided should be disaggregated by sex and by age.***

*Article 2(1). Scope of application of the Convention.* The Committee noted previously the comments of the Trade Union Unification Confederation (CUS) reporting that children work in quarrying limestone at San Rafael del Sur, in coffee harvesting in the north of the country and in itinerant trading in the streets of Managua. It also noted the information provided by the Government as regards the increase in inspection visits supervising child labour legislation, the rise in awareness-raising activities on child labour, the adoption of legislation authorizing labour inspectors to visit homes that employ children and young persons as domestic workers and the results of the “Coffee harvesting without child labour” programme.

The Committee notes the Government's indications that as part of the "Coffee harvesting without child labour" programme, a number of collaborative tripartite agreements were signed between the Ministries of Labour, Education and Health, coffee producers and key actors in the agricultural sector. In 2010–11, a total of 1,371 children benefited from the programme in the departments of Jinotega, Matagalpa and Carazo. The Committee further notes the measures undertaken to give effect to Ministerial Agreement JCHG-08-06-10 of 19 August 2010, which prohibits hazardous work for children and young persons under 18 years of age and contains a detailed list of the list of the types of hazardous work.

With regard to labour inspection in general and the implementation of the National Strategic Plan for the PEPETI 2007–16, the Committee notes from the information provided by the Government in its report that in the period 2007–11 a total of 2,709 inspections were carried out as a result of which 2,775 children were withdrawn from child labour and the rights of 6,629 young workers were protected. The Committee notes with *interest* that the number of inspections increased from 624 in 2010 to 1,301 in 2011. Consequently, in 2011 alone, 1,628 were withdrawn from child labour (compared to 64 in 2010) and the rights of 2,425 young workers were protected (compared to 485 in 2010).

The Government further indicates that special inspection services have focused on the protection of children working in quarrying limestone in San Rafael del Sur. Besides inspection services, activities have focused on raising awareness of employers and parents to the dangers of these workplaces for minors and to the laws prohibiting and penalizing the employment of children. While noting the information provided in the Government's report on the educational assistance provided to street children through the "Love Programme", as well as the information on the number of labour inspections carried out targeting child labour in general, the Committee notes that the Government's report contains no information on inspection visits carried out to protect children involved in itinerant trading in the streets of Managua.

***Taking due note of the measures taken by the Government to strengthen the capacity of the labour inspection services, the Committee requests the Government to pursue its efforts to remove children working in limestone quarrying and coffee harvesting from hazardous work and provide information on the measures taken and results achieved in this regard. Noting the absence of information on this point in the Government's report, the Committee again requests the Government to provide information on the measures taken to ensure that children engaged in itinerant trading benefit from the protection provided by the Convention.***

*Article 2(3). Age of completion of compulsory schooling.* The Committee previously noted the measures taken to improve the functioning of the education system, in particular access to free primary and secondary education and the adoption of a National Education Strategy (2010–15). However, the Committee also noted the relatively low attendance rates and high school drop-out rates. Considering that the 2006 Education Act provides that schooling is compulsory only to the age of 12, the Committee strongly encouraged the Government to take the necessary steps to ensure compulsory schooling up to the minimum age of admission to employment or work of 14 years.

The Committee notes the various measures undertaken by the Government to reduce school drop-out rates, such as the provision of food at school and school kits, which have resulted in a reduction of the school drop-out rate from 14 per cent in 2007 to 9.4 per cent in 2011. Other activities have included the strengthening of bilingual education to ensure teaching in several indigenous languages. The Committee further notes the measures taken to implement the National Education Strategy (2011–15). The Committee notes that according to the statistics available through the UNESCO Institute for Statistics, the percentage of children that complete primary education has been steadily growing and has increased from 68 per cent in 2002 to 81 per cent in 2010.

However, the Committee notes that the Government's report contains no information on steps taken to ensure compulsory schooling up to the minimum age for admission to employment or work of 14 years. The Committee notes that while article 121 of the Constitution of Nicaragua provides that primary education is free and obligatory, section 19 of the 2006 Education Act specifies that schooling is compulsory only until the 6th grade of primary school (i.e. up to the age of 12 approximately). The Committee notes that according to statistical tables of the *Education for All: Global Monitoring Report 2012*, "Youth and skills: Putting education to work", Nicaragua is the only country in Central America where compulsory education only covers the age group of children between 5 and 12 years of age, instead of children until 14 or 15 years of age. In this regard, the Committee is bound to recall that if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (2012 General Survey on the fundamental Conventions concerning rights at work, paragraph 371).

***Considering that compulsory education is one of the most effective means of combating child labour, the Committee again strongly encourages the Government to take the necessary steps to ensure compulsory schooling up to the minimum age for admission to employment or work of 14 years. It also requests the Government to pursue its efforts to increase school attendance rates and reduce school drop-out rates so as to prevent children under 14 years of age from working. It requests the Government to provide information on progress made in this respect.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Article 3 of the Convention. Worst forms of child labour. Clause (d). 1. Hazardous work in agriculture.* The Committee previously noted the adoption of Ministerial Agreement JCHG-08-06-10 of 19 August 2010, which prohibits hazardous work for children and young persons under 18 years of age and contains a detailed list of the types of hazardous work.

The Committee notes the information provided by the Government in its report as regards the measures undertaken to give effect to Ministerial Agreement JCHG-08-06-10, which have concerned special inspection services focusing in particular on the protection of children working in quarrying limestone. These services have also focused on raising awareness of employers and parents to the dangers of these workplaces for minors and to the laws prohibiting and penalizing the employment of children. The Committee further notes that a total of 4,111 agreements were signed with employers in all departments of the country covering all different sectors of the economy (such as mining, fishing and agriculture) committing to not use any child labour.

The Committee notes, however, that the Government's report does not provide information on the number of inspection visits carried out in the agricultural sector by the inspectorate responsible for child labour, nor statistics of the number of violations recorded and the penalties imposed. This absence of information is all the more worrisome, since according to the latest available statistics of the 2005 national study on child labour (ENTIA 2005) 70.5 per cent of children between the ages of 7 and 14 years work in agriculture. ***The Committee therefore urges the Government to strengthen its efforts to ensure that children under 18 years of age employed in the agricultural sector are not engaged in hazardous work. For this purpose, the Committee reiterates its request to strengthen the capacity of the inspectorate responsible for child labour in agriculture. In this regard, it also requests the Government to provide information on the practical effect given to Ministerial Agreement JCHG-08-06-10 of 19 August 2010.***

2. *Domestic work by children.* Further to its previous comments, the Committee notes the information provided by the Government in its report as regards the application of Act No. 666 of 4 September 2008 on domestic work, which protects young persons in domestic service by laying down recruitment and working conditions, penalties for abuse, violence or humiliation and provisions on the promotion of education of these young domestic workers. The Committee notes that according to the Government since the adoption of the Act, 8,483 labour inspection visits have been carried out at homes in order to monitor the working conditions of children and young persons employed as domestic workers, ensuring the protection of 601 children and young persons. As a follow-up to the registration of children and young persons engaged in domestic work, the Government states that five seminars have been organized in the departments of Estelí, Nueva Segovia, Madriz Masaya and Managua, attended by 149 young persons to provide information about their rights at work and educational scholarships. ***Taking due note of the measures taken by the Government, the Committee requests the Government to pursue its efforts to guarantee the protection laid down in Act No. 666 of 4 September 2008 for children and young persons employed in domestic service and continue to provide information on the number of inspections carried out. Noting the absence of information on this point in the Government's report, the Committee once again requests the Government to provide information on the number of offences reported and the penalties imposed.***

*Article 7(2). Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Child labour in agriculture.* Further to its previous comments, the Committee notes the Government's indication that as part of the "Coffee harvesting without child labour" programme, a number of collaborative tripartite agreements were signed between the Ministries of Labour, Education and Health, and coffee producers and key actors in the agricultural sector. In 2010–11 a total of 1,371 children benefited from this programme in the departments of Jinotega, Matagalpa and Carazo. The Committee also notes that as part of the programme "From work to school" a number of children were withdrawn from working in mines and breaking rocks in the municipalities of Chinandega, El Rama and El Bluff. The programme has provided these children with educational, health care and recreational services and has supplied young persons with tools (such as sewing machines, worktables, irons) with the objective of promoting self-employment and collective cooperation. ***The Committee encourages the Government to pursue its efforts and requests it to continue to provide information on the results obtained under the various programmes aimed at withdrawing children and young persons from carrying out hazardous work in all agricultural sectors and on the measures taken to ensure their rehabilitation and social integration.***

The Committee is raising other points in a request addressed directly to the Government.

## Niger

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1978)**

*Article 2(1) of the Convention. Scope of application.* In its previous comments, the Committee noted that the Labour Code did not apply to types of employment or work performed by children outside an enterprise, such as work performed by children on their own account. It noted the Government's indication that the broadening of the scope of application of the labour legislation to children engaged in an economic activity on their own account would require formal collaboration between the Ministries of the Public Service, Labour, Mines, the Interior, Justice and Child Protection. The Committee also noted the Government's indications that a national survey of the informal economy would be organized by the National Statistical Institute (INS) in 2012, which would make it possible to measure the extent of the phenomenon of children working on their own account and would enable the labour administration to intervene more effectively in this field.

The Committee observes that the Government has not provided any further information concerning child labour in the informal economy in Niger. ***The Committee once again requests the Government to provide information on the implementation of the INS survey in the informal economy, and on the impact of the survey on the action taken by the labour administration for children working on their own account in Niger.***

*Article 2(3). Compulsory schooling.* In its previous comments, the Committee noted that, in its concluding observations of 18 June 2009 (CRC/C/NER/CO/2, paragraph 66), the Committee on the Rights of the Child expressed concern at the poor quality of the education system, the high drop-out rate and the weak gender equity in education. The Committee noted that, according to the National Survey on Child Labour in Niger (ENTE) of 2009, 43.2 per cent of children between the ages of 5 and 11 years and 62.5 per cent of children between the ages of 12 and 13 years in Niger were engaged in types of child labour that were to be abolished at an age when they are supposed to be in school, as school attendance is compulsory up to 14 years. Despite the efforts made by the Government, the Committee expressed concern at the persistence of low rates of school attendance.

The Committee notes the Government's indication that Niger has initiated a policy to encourage school attendance by children and an action plan intended, among other objectives, to raise the awareness of the population concerning the consequences of child labour and the benefits of schooling. The Committee also notes that, according to the UNESCO 2012 Education For All Global Monitoring Report, the gross primary school enrolment rate rose to 71 per cent in 2010 (64 per cent for girls and 77 per cent for boys), in contrast with 67.8 per cent (58.6 per cent for girls and 77 per cent for boys) in 2008–09. ***Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee strongly encourages the Government to pursue its efforts and to take measures to enable children to attend compulsory basic education. It also requests the Government to continue taking measures to increase the school attendance rate and to reduce the school drop-out rate, particularly for girls, with a view to preventing children under 14 years from age from working. The Committee once again asks the Government to provide information in its next report on the results achieved.***

*Article 3(3). Authorization to employ children in hazardous work from the age of 16 years.* In its previous comments, the Committee noted that, in certain types of hazardous work, Decree No. 67-126/MFP/T of 7 September 1967 authorizes the employment of young persons over 16 years of age. It also noted that health and safety committees are established in enterprises and that they are responsible for training and awareness-raising on safety. The Committee observed that these committees do not appear to provide adequate specific instruction or vocational training in the relevant branch of activity. In this respect, the Government indicated that a distinction needed to be made between three categories of young persons, including those who are trained under the traditional system for learning a trade and whose superior/trainer has also been trained under this system of transmission of practical knowledge. With regard to this category, the Committee requested the Government to provide information on the manner in which the health and safety committees ensure that the work performed by young persons does not jeopardize their health and safety.

The Committee once again notes the absence of information in the Government's report. ***Observing that this matter has been raised on many occasions, the Committee once again urges the Government to take the necessary measures to ensure that enterprise health and safety committees ascertain that the conditions of work of young persons aged between 16 and 18 years do not jeopardize their health and safety, in accordance with Article 3(3) of the Convention. It urges the Government to provide information on this subject in its next report.***

*Part V of the report form. Application of the Convention in practice.* In its previous comments, the Committee noted that, according to the findings of the ENTE of 2009, economically active children account for 50.4 per cent of children between 5 and 17 years (i.e. about 1,922,637 children in absolute terms) and that the phenomenon of child labour is more significant in rural than in urban areas. It also shows that in Niger girls are much more engaged in work than boys. Furthermore 83.4 per cent of children between 5 and 17 years who are economically active, that is 1,604,236 children, are engaged in types of work that are to be abolished (that is, all the types of work prohibited by the Convention). Of these children, 1,187,840 are involved in hazardous types of work. In other words, nearly two out of three children (61.8 per cent) between 5 and 17 years of age who are economically active perform their work under hazardous conditions, with the figures being 63.6 per cent for children aged between 5 and 11 years and 57.9 per cent for children between 12 and 13 years.

Noting the absence of information on this subject in the Government's report, the Committee once again expresses its ***deep concern*** at the high number of children engaged in work in Niger who are below the minimum age for admission to employment or work, and at the significant proportion of these children who work under hazardous conditions. ***The Committee once again strongly encourages the Government to intensify its efforts to combat and progressively eliminate child labour in the country and requests it again to provide information in its next report on the application of the Convention in practice, including extracts from the reports of the labour inspection services indicating the number and nature of the contraventions reported and the penalties applied.***

***[The Government is asked to supply full particulars to the Conference at its 103rd Session and to reply in detail to the present comments in 2014.]***

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery and practices similar to slavery.* 1. *Sale and trafficking of children.* In its previous comments, the Committee noted that, according to the information obtained by the high-level fact-finding mission (the mission), which visited Niger from 10 to 20 January 2006 at the request of the Conference Committee in June 2005, “Niger is certainly a transit country since its geographical location makes it a hub for trade between North Africa and sub-Saharan Africa,” and that “Niger is both a country of origin and a country of destination for human trafficking, including the trafficking of children”.

The Committee noted the adoption of Ordinance No. 2010-086 of 16 December 2010 on action to combat trafficking in persons in Niger, which is a comprehensive law prohibiting all forms of sale and trafficking and providing for penalties of imprisonment of from ten to 30 years in cases where the victim is a child. It also noted that a National Plan to Combat Trafficking in Children was drawn up and validated, but had still not been adopted.

The Committee observes that the National Commission to Coordinate Action Against Trafficking in Persons (CNLTP) and the National Agency to Combat Trafficking in Persons (ANTP) have been established under the terms of Ordinance No. 2010-086 (Decrees Nos 2012-082/PRN/MJ and 2012/PRN/MJ of 21 March 2012). The CNLTP is entrusted with designing programmes, strategies and national plans to combat trafficking in persons, while the ANTP is the operational structure responsible for the implementation of the national policies and programmes initiated by the Government against trafficking in persons. ***The Committee urges the Government to provide information in its next report on the application in practice of Ordinance No. 2010-086 to combat trafficking in persons, including statistics on the number and nature of the violations reported, the investigations undertaken, prosecutions, convictions and penal sanctions. The Committee once again requests the Government to provide a copy of the Ordinance with its next report. The Committee also urges the Government once again to take the necessary measures to ensure the adoption on an urgent basis of the National Plan to Combat Trafficking in Children and its implementation. Finally, the Committee requests the Government to provide information on the activities carried out by the CNLTP and the ANTP in relation to combating trafficking in children under 18 years in age.***

2. *Forced or compulsory labour. Begging.* The Committee previously noted the indication by the International Trade Union Confederation (ITUC) that children were forced to beg in West Africa, including Niger. For economic and religious reasons, many families entrusted their children from the age of 5 or 6 years to a spiritual guide (*marabout*), with whom they lived until they were 15 or 16 years of age (*talibé*). During this period, they were entirely under the responsibility of the *marabout*, who taught them religion and, in return, required them to carry out certain tasks, including begging. The Committee noted that the existence of begging for purely economic ends had been acknowledged by those interviewed by the mission, including the Government, and that, in this form of begging, children were especially vulnerable since their parents, even though they were concerned for the children’s religious education, were unable to provide for their subsistence. The children were therefore left entirely dependent on the *marabouts*. The Committee expressed serious concern at the use of children for purely economic ends by certain *marabouts*, particularly since, according to the information gathered by the mission, this form of begging seemed to be very much on the increase.

The Committee noted previously that a National Observatory to Combat Begging had been set up. It also noted with interest that Circular No. 006/MJ/DAJ/S/AJS of 27 March 2006 of the Minister of Justice of Niger, addressed to the various judicial authorities, called for sections 179, 181 and 182 of the Penal Code, which punish begging and any person, including the parents of minors under 18 years of age, who habitually engage in begging, who cause others to beg or who knowingly make a profit from begging, to be strictly applied through the prosecution, without leniency, of any persons engaging in begging or using children for begging for purely economic ends. In this respect, the Committee noted the Government’s indications that there had been some cases of the arrest of *marabouts* presumed to use children for purely economic ends. However, the Government indicated that in general they are released for lack of legal proof of their guilt.

The Committee notes with ***deep concern*** that the Government has been repeating for a number of years that *marabouts* who have been arrested for using children for purely economic ends have been released for lack of legal proof of their guilt. The Committee is therefore bound to note once again with ***regret*** that, even though the legislation is in conformity with the Convention on this matter, the phenomenon of *talibé* children remains a cause of serious concern in practice. The Committee once again reminds the Government that, under *Article 1* of the Convention, immediate and effective measures have to be taken as a matter of urgency to secure the prohibition and elimination of the worst forms of child labour and that, under *Article 7(1)* of the Convention, it is under the obligation to take all the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of sufficiently effective and dissuasive sanctions. ***The Committee once again urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of marabouts who use children under 18 years of age for purely economic ends are carried out and that sufficiently effective and dissuasive sanctions are applied to them. In this respect, the Committee once again requests the Government to take the necessary measures to reinforce the capacities of the law enforcement agencies. The Committee further requests the Government to take effective and time-bound measures to prevent children under 18 years of age from becoming victims of forced or compulsory labour, such as begging, and to identify talibé children who are compelled to engage in begging, remove them from such situations and ensure their rehabilitation and social***

**integration. The Committee requests the Government to provide information in its next report on the progress achieved in this respect.**

*Clause (d) and Article 4(1). Hazardous work and the determination of hazardous types of work. Children working in mines and quarries.* In its previous comments, the Committee noted that, according to the information gathered by the mission, work by children in hazardous types of work, particularly in mines and quarries, exists in informal locations, that young children accompany their parents to informal sites and that they “become involved in the chain of production, whether in gypsum mines or salt quarries, sometimes performing small tasks to facilitate their parents’ work or, in some cases, tasks that are physically hazardous for more than eight hours a day, every day of the week, running the risk of accident or disease”. The Committee noted with interest that the Minister of the Interior had issued a circular strictly prohibiting the employment of children in mines and quarries in the areas concerned, namely Tillabéri, Tahoua and Agadez, and that the Minister for Mining had received directives to take this prohibition into account in drawing up mining agreements. However, the Committee noted the Government’s indication that no conviction had yet been handed down in this respect. It further noted that the review and modification of the list of hazardous types of work were undertaken at a workshop held in Ayorou on 2 and 3 July 2009, in collaboration with the technical ministries and the employers’ and workers’ organizations concerned.

The Committee notes that, under the terms of section 107 of Act No. 2012-45 of 25 September 2012 issuing the Labour Code, the list of types of work covered by this section, including hazardous work, and the categories of enterprises prohibited for children, shall be determined by regulation. **Expressing the hope that the list of hazardous types of work will be adopted in the very near future, the Committee urges the Government to take immediate measures to ensure the effective application of the national legislation protecting children against underground work in mines and to provide information in its next report on the progress achieved in this respect. It also once again requests the Government to provide a copy with its next report of the amended list of hazardous types of work.**

*Article 5. Monitoring mechanisms. Labour inspection.* In its previous comments, the Committee noted the indication by the mission in its report that it recommended that a labour inspection audit be carried out to ascertain the exact nature and extent of the needs of the labour inspectorate in Niger. The Committee also noted the ITUC’s allegations that the inadequacy of resources means that the labour inspection services were very ineffective and that no inspections on child labour were carried out in 2010. The Committee noted the Government’s indication, in reply to the ITUC’s allegations, that it made significant efforts in 2011 to provide the labour inspection services with sufficient resources, and that these efforts would continue so that they are able to discharge effectively the duties entrusted to them.

The Committee observes that once again the Government has not provided any information on the outcomes of the inspections conducted by labour inspectors in relation to the worst forms of child labour or on the implementation of the labour inspection audit. **The Committee therefore once again urges the Government to take the necessary measures to reinforce and adapt the capacities of the labour inspection services so as to ensure better supervision of children under 18 years of age who are engaged in the worst forms of child labour, including the implementation of the mission’s recommendation. It once again urges the Government to provide information in this respect in its next report.**

*Articles 7(1) and 8. Penalties and regional cooperation.* The Committee noted previously that, following the implementation of various cooperation agreements to combat trafficking in children, Niger has established 30 vigilance committees and widespread joint mobile brigades on all national frontiers. The Government added that child victims of trafficking have been intercepted in frontier areas. However, the Committee noted with deep concern the Government’s indication that those presumed guilty had been released by the police for lack of legal proof.

The Committee observes that the Government has not provided any further information in its report concerning the interception of victims of trafficking in children and the prosecution of the perpetrators of this crime since 2009. **Recalling that, under Article 7(1) of the Convention, the Government is under the obligation to take all the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention as a matter of urgency, the Committee once again urges the Government to take the necessary measures to ensure that persons involved in the trafficking of children are prosecuted and that sufficiently effective and dissuasive sanctions are imposed upon them, in the context of the agreements concluded with other signatory countries.**

*Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Raising awareness and educating the public about the problems of child labour and forced labour.* The Committee noted previously the recommendation made by the mission in its report that specific measures should be taken “to raise awareness among Koranic teachers and parents to prevent the ‘instrumentalization’ of begging by certain *marabouts*”. The Committee noted the information provided by the Government concerning the awareness-raising and training activities undertaken among those involved in combating child labour, and particularly its worst forms, which have succeeded in raising the awareness of these actors with regard to the danger represented by this phenomenon.

The Committee notes the Government’s indication that it will continue its awareness-raising activities on the danger that child labour represents among traditional chiefs. **The Committee urges the Government to provide detailed information in its next report on the awareness-raising activities undertaken by the Government in relation to**

*traditional chiefs, civil society and local elected officials, and on their impact in terms of the number of children who have been prevented from begging for purely economic ends by certain marabouts.*

*Parts IV and V of the report form. Application of the Convention in practice.* In its previous comments, the Committee noted that, according to the findings of the National Survey on Child Labour (ENTE), 83.4 per cent of economically active children between the ages of 5 and 17 years, or 1,604,236 children, are engaged in types of work that are to be abolished. Of these, 1,187,840 children are involved in hazardous types of work and, as a result, 74 per cent of the children between the ages of 5 and 17 years engaged in types of work that are to be abolished do so under hazardous conditions. *Expressing its deep concern at the situation of children under 18 years of age engaged in the worst forms of child labour, the Committee once again urges the Government to intensify its efforts to ensure the protection of children from these forms of labour in practice, and particularly from hazardous types of work. It once again requests the Government to provide information in its next report on the progress achieved in this respect.*

The Committee is raising other points in a request addressed directly to the Government.

## Oman

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Article 4(1) of the Convention. Determination of types of hazardous work.* The Committee previously noted that the Ministry of Manpower prepared, in collaboration with the social partners and other competent bodies, a list of hazardous types of work prohibited for persons under the age of 18. The Government indicated that this list was being revised for submission to the competent bodies. *Noting the absence of information on that point in the Government's report, and that the Government has been referring to the pending adoption of this list since 2007, the Committee strongly urges the Government to take immediate measures to ensure that a list determining the types of hazardous work prohibited to persons under the age of 18 is adopted as a matter of urgency. It requests the Government to provide a copy of this list, once adopted, complemented by information on follow-up measures.*

## Pakistan

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2006)**

The Committee notes that the country is participating in an ILO technical assistance programme, the Special Programme Account (SPA) project. It notes with *interest* that this technical assistance resulted in the development of action plans, by each of the provincial governments, to concretely address the comments of the Committee, including the adoption of legislation establishing a minimum age and prohibiting the employment of children under 18 in hazardous work. In this regard, the Committee notes the indication contained in the mission report of the tripartite interprovincial workshop carried out in May 2013 within the framework of the SPA project (SPA mission report), according to which each province planned to adopt the draft Prohibition of Employment of Children Act by the end of December 2013.

*Article 2(1) of the Convention. Minimum age for admission to employment or work.* The Committee previously noted that by virtue of sections 2 and 3 of the Employment of Children Act 1991, children below 14 years are only prohibited from being employed in the six occupations and 14 processes enumerated in Part I and Part II of the Schedule of the Employment of Children Act. However, the Committee noted that a draft Employment and Service Conditions Act 2009 had been elaborated, which would prohibit the employment of children under 14.

The Committee notes the Government's statement that, following the 18th Constitutional Amendment, the power to legislate on labour matters has been transferred to the provinces. The Government indicates that, within the framework of the Combating Abusive Child Labour II project, an interprovincial tripartite workshop on legislative reforms related to child labour was organized in February 2012, and that the participants (including representatives from the four provincial governments as well as the social partners) agreed that new legislation should completely prohibit the employment of children under 14 years of age. In this regard, the Committee notes with *interest* that the four provinces have, in coordination with the Federal Government, drafted a Prohibition of Employment of Children Act, which prohibits the employment of children below the age of 14 years, and that these drafts will soon be introduced to the provincial legislative assemblies. *Recalling that, at the time of ratification in 2006, Pakistan specified 14 years as the applicable minimum age, the Committee urges the Government to take the necessary measures to ensure that the Prohibition of Employment of Children Act is adopted in the four provinces to prohibit the employment of children under 14 years of age. It also requests the Government to provide a copy of the relevant legislation, once adopted.*

*Article 3(1) and (2). Minimum age for admission to, and determination of, hazardous work.* The Committee previously noted that pursuant to sections 2, 3 and 7 of the Employment of Children Act of 1991, the employment of children under 14 is prohibited in a variety of occupations. Section 12 of the Employment of Children Rules of 1995 also provides for types of work that shall not be performed by children under 14. In this regard, the Committee observed that these provisions do not comply with the provisions of *Article 3(1)* of the Convention which sets 18 years as the minimum age for admission to hazardous work.

The Committee notes with *interest* that the draft Prohibition of Employment of Children Act of the provinces, submitted with the Government's report, prohibits the employment of persons under 18 years in hazardous types of work. The Committee also notes the information from ILO-IPEC of October 2012 that, as part of the Combating Abusive Child Labour II Project, preparation of new provincial lists of hazardous child labour would begin. In this regard, the Committee notes the information from the SPA mission report that the action plans of some of the provinces included undertaking, in 2013, tripartite consultations with a view to revising the hazardous work list. ***The Committee urges the Government to take the necessary measures to ensure that, in conformity with Article 3(1) of the Convention, this draft Act prohibiting the employment of persons under 18 in hazardous types of work, is adopted in each of the four provinces in the near future. It also requests the Government to take the necessary measures, after consultation with the organizations of employers and workers concerned, to determine the types of hazardous employment or work prohibited to young persons under 18, in conformity with Article 3(2) of the Convention.***

*Article 6. Vocational training and apprenticeship.* The Committee recalls that *Article 6* of the Convention authorizes work to be carried out by persons aged at least 14 years in enterprises within the context of an apprenticeship programme. ***In this regard, it once again requests the Government to indicate if the national legislation provides for apprenticeship programmes and, if so, to indicate the minimum age applicable for admission to apprenticeships.***

*Article 7. Light work.* The Committee previously noted that while the Employment of Children Act 1991 permitted children under 14 to work for up to seven hours a day, there did not appear to be a minimum age for this permitted work.

The Committee notes that the Government does not indicate whether the draft Prohibition of Employment of Children Act contains provisions permitting and regulating light work for children between the ages of 12 and 14. Moreover, the Committee observes that a large number of children under the age of 14 (approximately 3 million children) are economically active. In this regard, the Committee recalls that by virtue of *Article 7(1) and (4)* of the Convention, national laws or regulations may permit children from the age of 12 to engage in light work, which is: (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance in school, their participation in vocational orientation or training programmes approved by the competent authority, or their capacity to benefit from the instruction received. ***The Committee therefore encourages the Government to consider, within the framework of the draft Prohibition of Employment of Children Act, taking measures to permit and regulate light work to ensure that children under 14 who are, in practice, engaged in economic activity, benefit from the protection of the Convention.***

*Article 9(1) and Part III of the report form. Penalties and the labour inspectorate.* The Committee previously noted indications that enforcement of child labour legislation was weak due to the lack of inspectors assigned to child labour, lack of training and resources, in addition to corruption, and that the penalties imposed were often too minor to act as a deterrent. The Committee also noted that the Committee on the Rights of the Child (CRC), in its concluding observations of 15 October 2009, expressed concern that the ineffectiveness of labour inspection machinery reduces the likelihood of investigations into reports of child labour, and hinders the prosecution, conviction or punishment of those responsible (CRC/C/PAK/CO/3-4, paragraph 88).

The Committee notes the Government's statement that building the capacity of labour inspectors is a priority area for the Government, to improve the implementation of labour laws. The provincial labour departments each have training centres for inspectors, and provide training on child labour. Moreover, measures have been taken within the Combating Abusive Child Labour II project towards the establishment of a Child Labour Monitoring System in Sukkur. The Committee also notes that, according to the SPA mission report, the tripartite participants of the workshop indicated that they experienced difficulties in enforcing the legislative provisions relating to child labour, due to, among others, a lack of capacity among labour inspectors, and that there was a need for the more effective application of penalties for child labour related violations. ***The Committee requests the Government to take the necessary measures to ensure that persons who violate the provisions giving effect to the Convention are prosecuted and that penalties are applied in practice. It also requests the Government to provide information on the number and nature of violations relating to the employment of children and young persons detected by the labour inspectorate, the number of persons prosecuted, and the penalties imposed. Lastly, it requests the Government to continue providing information on the measures taken to adapt and strengthen the labour inspectorate.***

*Part V of the report form. Application of the Convention in practice.* In its previous comments, the Committee noted that, according to the National Child Labour Survey conducted in 1996, 3.3 million children aged between 5 and 14 years were economically active on a full-time basis. The Committee also noted that the CRC, in its concluding observations of 15 October 2009, expressed concern that the prevalence of child labour is extremely high and has increased in recent years due to growing poverty (CRC/C/PAK/CO/3-4, paragraph 88).

The Committee notes the Government's statement that the second National Child Labour Survey is planned under the Combating Abusive Child Labour II project, in consultation with the Federal Bureau of Statistics. However, the Committee notes the information from ILO-IPEC of September 2012 that the survey was subsequently cancelled. ***The Committee expresses its concern at the high number of working children under the minimum age in Pakistan and urges the Government to strengthen its efforts to improve this situation, including through continued cooperation with ILO-IPEC. It requests the Government to provide information on the results achieved, in its next report. It also***

*encourages the Government to take the necessary measures to ensure that statistical information is made available on the application of the Convention, including the number of working children under the minimum age.*

The Committee is raising other points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

The Committee notes that the country is participating in an ILO technical assistance programme, the Special Programme Account (SPA) project. It notes with *interest* that this technical assistance resulted in the development of action plans, by each of the provincial governments, to concretely address the comments of the Committee, including the adoption of legislation establishing a minimum age of 18 for engagement in hazardous work. In this regard, the Committee notes the indication contained in the mission report of the tripartite inter-provincial workshop carried out in May 2013 within the framework of the SPA project according to which each province planned to adopt this draft legislation by the end of December 2013.

*Article 3 of the Convention. 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 that pursuant to the Prevention and Control of Human Trafficking Ordinance of 2002 (PCHTO), human trafficking for the purpose of sexual exploitation, slavery or forced labour is prohibited. Nonetheless, the Committee noted that the Committee on the Rights of the Child (CRC), in its concluding observations of 19 October 2009, expressed concern that Pakistan remains a significant source, destination and transit country for children trafficked for the purposes of commercial sexual exploitation and forced and bonded labour (CRC/C/PAK/CO/3-4, paragraph 95). The Committee further noted the allegations of the International Trade Union Confederation (ITUC) indicating that human trafficking is a serious problem in Pakistan, and that women and children reportedly arrive from various countries in the region, many to be bought and sold in shops and brothels and that, in some rural areas, children are sold into debt bondage.

The Committee notes the Government's statement that the situation in the country is not as grave as the ITUC indicates and that the Federal Investigating Agency in Pakistan is responsible for the implementation of the PCHTO. The Committee also takes note of the Anti-Human Trafficking report provided with the Government's report, which indicates that until 31 October 2009, 235 child victims of trafficking had been identified (95 boys and 140 girls). This report indicates that 21,735 cases against human traffickers were registered, which resulted in 3,371 convictions, as well as 147 disciplinary cases for law enforcement officers for complicity. The Committee also notes the information from UNICEF in the compilation prepared by the Office of the High Commissioner for Human Rights for the Universal Periodic Review of 13 August 2012 that the child protection issues negatively affected by floods remain in the country, including trafficking and exploitation (A/HRC/WG.6/14/PAK/2, paragraph 31). ***Therefore, while taking due note of the measures taken, the Committee once again urges the Government to strengthen its efforts to combat and eliminate both internal and cross-border trafficking of persons under 18. It requests the Government to continue to provide information on the measures taken in this regard and the results achieved, particularly the number of persons convicted and sentenced for cases involving victims under the age of 18.***

2. *Debt bondage.* In its previous comments, the Committee noted the ITUC's indication that Pakistan has several million bonded labourers, including a large number of children. Debt slavery and bonded labour were mostly reported in agriculture, construction (in particular in rural areas), brick kilns and the carpet-making sector. The Committee also noted that the Bonded Labour System (Abolition) Act (BLSA) 1992 abolished bonded labour, but noted that it remained ineffective in practice as officials had not yet been able to secure a conviction under this Act. The Committee further noted measures to address this phenomenon, such as the adoption of the 2001 National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers, and an action programme to provide health services and education and skills training to child bonded labourers working in mines within the national ***Time-bound Programme (TBP)*** for the elimination of the worst forms of child labour 2008–16. Moreover, district vigilance committees (DVCs) were constituted to monitor the implementation of the BLSA, but that there were reports of serious corruption within these committees.

The Committee notes the Government's statement that the DVCs are functional, with meetings being held regularly in most districts and that district complaint cells are also working under the DVCs. The Government indicates that there are no issues relating to corruption, as the DVCs do not operate or manage accounts. It further states that since forced labour is a socio-cultural and economic issue, its exposure is not possible through labour inspection alone, but requires society as a whole to expose it.

The Committee also notes the Government's information on the continued implementation of the National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers. Through the "Fund for the education of working children and rehabilitation of freed bonded labourers", free legal aid services have been provided to bonded labourers in Khyber Pakhtunkhwa, Punjab, Balochistan and Sindh, and 75 houses were constructed for the families of ex-bonded labourers in Sindh. Moreover, the "Elimination of bonded labour in brick kilns" project is being implemented in two districts in Punjab. This project included the establishment of 200 non-formal education centres at brick kilns for 9,199 learners, the provision of health and hygiene services and the disbursement of interest-free microcredit loans to 3,132 workers. In addition, a project entitled "Strengthening law enforcement responses and action against internal trafficking and bonded labour" was started in 2010 by the ILO in the provinces of Sindh and Punjab, with

the aim of engaging with brick kiln owners, to institute practices towards the eradication of bonded labour, and efforts to link brick kiln workers with social safety nets. The Government also indicates that the Honourable Supreme Court of Pakistan issued a criminal petition in July 2013 directing the Government of Punjab to reactivate the vigilance committees as soon as possible, and that the Government is rigorously pursuing efforts to enforce this decision. **Recalling that child bonded labour is one of the worst forms of child labour, the Committee requests the Government to continue to take the necessary effective and time-bound measures to eliminate child debt bondage. It also requests the Government provide information on the impact of the abovementioned measures on removing children from bonded labour and on providing for their rehabilitation and social integration, including the number of children reached through these initiatives. The Committee further requests the Government to take the necessary measures to strengthen the capacity of DVCs and law enforcement officials responsible for the monitoring of bonded labour, to ensure the effective implementation of the BLSA.**

3. *Compulsory recruitment of children for use in armed conflict.* The Committee previously noted that the CRC, in its concluding observation of 19 October 2009 expressed deep concern at reports of *madrasas* being used for military training, as well as instances of recruitment of children to participate in armed conflict and terrorist activities. The CRC expressed grave concern with regard to reports of forced under-age recruitment and training of children by non-state actors for armed actions and terrorist activities, including suicide attacks, and at the lack of preventive measures, including awareness raising, and physical and psychological recovery for children affected by armed conflict (CRC/C/PAK/CO/3-4, paragraph 80).

The Committee notes the Government's statement that the activities of terrorists have been minimized following military operations in the affected regions of the country, and that the recruitment of children for terrorist activities has been reduced. The Government also indicates that an awareness campaign was carried out by law enforcement agencies in cooperation with religious leaders on the offence of recruiting children, with positive results. The Committee notes the information in the report of the Secretary-General on child and armed conflict of 26 April 2012 that, in 2011, 11 incidents were reported of children being used by armed groups to carry out suicide attacks, involving ten boys, some as young as 13, and one 9-year-old girl. This report also indicates that a rehabilitation and reintegration programme in Malakland for children taken into custody by the Pakistan security forces for alleged association with armed groups received 29 new cases in 2011(S/2012/261, paragraphs 141 and 146). **Recalling that the forced recruitment of children for use in armed conflict constitutes one of the worst forms of child labour, the Committee requests the Government to take immediate and effective measures to bring an end in practice to the forced recruitment of persons under 18 years of age by armed groups. It requests the Government to continue to provide information on the measures taken in this regard, and on the results achieved.**

*Articles 3(d) and 4(1). Hazardous work.* The Committee previously noted the statement in the communication of the Pakistan Workers' Federation (PWF), that a large number of children in Pakistan are employed in hazardous work, particularly in the brick kiln, glass and leather industries, and in the informal economy. The Committee also noted that the national legislation only prohibited the employment of children *under 14* in a variety of occupations. In this regard, the Committee recalled that under *Article 3(d)* of the Convention, children *under 18* shall 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.

The Committee notes the Government's statement that, following the 18th Constitutional Amendment, the power to legislate on labour matters has been transferred to the provinces. The Committee notes with *interest* the Government's indication that the four provinces have, in coordination with the Federal Government, drafted a Prohibition of Employment of Children Act, which prohibits the employment of persons under 18 years in hazardous types of work. The Committee notes the statement in the Government's report that the provinces are in the final stage of preparation to present the draft law to their respective provincial legislative assemblies. In the province of the Punjab, the draft has been sent to the Provincial Cabinet for approval and will subsequently be sent to the Provincial Assembly. In addition, as part of the Combating Abusive Child Labour II Project, preparation of new provincial lists of hazardous child labour will be undertaken. **The Committee requests the Government to take the necessary measures to ensure that, in conformity with Article 3(d) of the Convention, this draft Prohibition of Employment of Children Act prohibiting the employment of persons under 18 in hazardous types of work is adopted in each of the four provinces in the near future and is implemented effectively. It also requests the Government to take the necessary measures, following consultation with the organizations of employers and workers concerned, to determine the types of hazardous employment or work prohibited to young persons under 18, in conformity with Article 4(1) of the Convention.**

*Article 5. Monitoring mechanisms. Labour inspection.* The Committee previously noted the ITUC's indication that the number of labour inspectors is insufficient, that they lack training and that they may be open to corruption. The ITUC added that inspections do not take place in undertakings employing less than ten employees, where most child labour occurs. The Committee also noted the PWF's statement that the Government should take more effective measures to monitor the use of child labour in the informal economy.

The Committee notes the Government's statement that building the capacity of labour inspectors, to improve the implementation of labour laws, is a priority area for the Government. The provincial labour departments each have training centres for inspectors, and provide training on child labour. The Committee also notes the information from ILO-IPEC that measures have been taken within the Combating Abusive Child Labour II Project towards the

establishment of a child labour monitoring system in the districts of Sukkur and Sahiwal. *The Committee requests the Government to pursue its efforts to strengthen the capacity of the labour inspection system, to enable the labour inspectors to effectively monitor the implementation of the provisions giving effect to the Convention. It requests the Government to provide information on the specific measures taken in this regard, including measures to train labour inspectors and provide them with adequate human and financial resources. Lastly, the Committee requests the Government to provide information on the development of child labour monitoring systems in the country.*

*Article 7(1). Penalties.* The Committee previously noted the ITUC's indication that persons found guilty of violating child labour legislation are rarely prosecuted and that when prosecution did occur, the fines imposed are usually insignificant. The Committee also noted the statement of the All Pakistan Federation of Trade Unions (APFTU) that, although child labour is prohibited by national legislation, child labour and its worst forms are still widespread.

The Committee notes the Government's statement that the draft of the Prohibition of Employment of Children Act of each of the provinces contains enhanced penalties for offences relating to child labour. The Committee recalls that by virtue of *Article 7(1)* of the Convention, the Government must 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 urges the Government to pursue its efforts to enhance the penalties for violations related to the worst forms of child labour legislation, and to ensure that the draft Prohibition of Employment of Children Act, containing stronger penalties, is adopted in the near future. It also requests the Government to strengthen its efforts to ensure that persons who violate the legal provisions giving effect to the Convention are prosecuted and that sufficiently effective and dissuasive penalties are imposed in practice.*

The Committee is raising other points in a request addressed directly to the Government.

## Panama

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2000)**

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 took note of the comments from the Trade Union Convergence (CS) of 25 August 2011 and from the General and Autonomous Confederation of Workers of Panama (CGTP) of 26 August 2011, as well as of the Government's reply dated 7 November 2011.

*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 expressed its concern at the increasing number of children who were working in Panama and strongly encouraged the Government to redouble its efforts to combat child labour.

The Committee noted the concerns expressed by the CS and the CGTP about the increase in the number of children working in the country during the past few years, a situation which they believe reflects the inadequacy of the measures taken by the Government to ensure the abolition of child labour.

The Committee noted the Government's reply that, according to the findings of the child labour survey of 2010, the number of children and young persons aged between 15 and 17 years engaged in economic activity has been reduced by 29,065. According to the Government, this drop in numbers is linked to the strengthening of the labour inspection services, which has led to the recruitment of 116 additional labour inspectors and the increase of inspection visits concerning child labour. The Government also stated that the Bill on the protection of children and young people was approved by the National Assembly on 27 October 2011 and is waiting to be approved by the President of the Republic. Furthermore, the Committee took due note of the detailed information in the Government's report concerning the measures adopted to ensure the abolition of child labour. It also noted that the Government, through the Committee for the Eradication of Child Labour and the Protection of Young Workers (CETIPPAT) is pursuing a policy to eliminate child labour with a view to reaching the objectives set forth in the "Decent work in the Americas: An agenda for the Hemisphere", i.e. to eliminate the worst forms of child labour from now until 2015 and to eliminate child labour from now until 2020. It also took due note of the establishment, in February 2010, of the National Directorate against Child Labour and Protection of Young Workers (DIRETIPPAT), technical secretariat of the CETIPPAT, responsible in particular for supporting the elaboration and follow-up to the National Plan for the Elimination of Child Labour (2007–11).

The Committee noted the statistics sent by the Government on the progress made by the DIRETIPPAT and noted with interest that 2,716 children were withdrawn from their work between 2010 and 2011. It also noted that the Government adopted the 2011–13 programme to implement the "roadmap to make Panama a country free from child labour" in March 2011. This programme is intended to be a planning tool to facilitate the elaboration of short and middle-term actions to prevent child labour and its worst forms. Its main areas of action are poverty reduction, education and health. The Committee also noted the Government's information on the results of the Government programme of direct action for the prevention and elimination of child labour, carried out in collaboration with the non-governmental organizations FUNDESPA, Casa Esperanza and Fundación Telefónica in the nine provinces of the country. It observed that more than 1,500 children and young people engaged in child labour benefited from this programme in 2011. Finally, the Committee noted the findings of the third national survey on child labour enclosed with the Government's report, which, in addition to indicating the reduction in the number of working children aged 5 to 17 years who are working (which has dropped from 89,767 to 60,702), shows that children and young people mainly work in the agricultural sector, forestry, fishing, hunting and as itinerant traders. The majority of these children work in rural areas and come from indigenous communities. Furthermore, girls are more affected by child labour (75 per cent of girls recorded as opposed to 25 per cent of boys). *The Committee welcomes the measures taken by the Government to ensure the effective abolition of child labour and strongly encourages it to pursue its efforts. It requests the Government to continue providing information on the results obtained in this respect, particularly in the context of the National Programme for the Elimination of Child Labour. Furthermore, the Committee requests the Government to provide additional statistical information on the*

*number of children under 14 years of age engaged in an economic activity and the number of children and young people under 18 years of age who are involved in hazardous work.*

*Article 3(3). Authorization to employ young persons from the age of 16 years onwards in hazardous types of work.* In its previous comments, the Committee noted that, although section 118 of the Labour Code and section 510 of the Family Code prohibit young persons under 18 years of age from undertaking hazardous work, this prohibition does not apply to work performed by minors in training establishments when the work is approved by the competent authority and carried out under its supervision. The Committee thus observed that a young person of 14 years of age may be authorized to carry out hazardous work in the context of a training programme, which is not in conformity with *Article 3(3)* of the Convention.

The Committee noted that, according to the Government, the exception under section 118 of the Labour Code is only authorized in the context of teaching or a vocational training course and is not in the context of a labour contract. The Committee nevertheless reminded the Government that, under the terms of *Article 3(3)* of the Convention, the competent authority may, after consultation with the organizations of the employers and workers concerned, authorize the employment or work of young persons from the age of 16 years onwards on condition that their health, safety and morals are fully protected and that they have received adequate specific instruction or vocational training in the corresponding branch of activity. It noted that in no event can children under 16 years of age be authorized to carry out hazardous work. **Consequently, the Committee urges the Government to take the necessary legislative measures to ensure that only young persons of 16 years and over, having received adequate specific instruction or vocational training, are authorized to carry out hazardous work, in accordance with the conditions provided for under Article 3(3) of the Convention. The Committee requests the Government to provide information on the progress achieved in this respect in its next report.**

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

## Papua New Guinea

### Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

*Article 1 of the Convention and Part V of the report form. National plan of action and application of the Convention in practice.* The Committee previously noted the comments made by the International Trade Union Confederation (ITUC) that child labour occurred in rural areas, usually in subsistence agriculture, and in urban areas in street vending, tourism and entertainment. It noted that Papua New Guinea was one of the 11 countries that participated in the 2008–12 ILO–IPEC *Time-bound Programme* entitled “Tackling child labour through education” (TACKLE project) which aimed at contributing to the fight against child labour.

The Committee notes from the Government’s report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that within the framework of the TACKLE project, a rapid assessment was carried out in Port Moresby targeting children working on the streets and those involved in commercial sexual exploitation. The Committee notes the Government’s statement that the findings of the rapid assessment conducted in Port Moresby were alarming and that it is believed that a similar child labour situation is occurring in other regions of the country. The rapid assessment findings indicate that children as young as 5 and 6 years of age are working on the streets and about 68 per cent of them worked under hazardous conditions. About 47 per cent of the street children between 12 and 14 years of age have never been to school and a further 34 per cent had dropped out of school. The Committee expresses its *deep concern* at the situation of children under 16 years of age who are compelled to work in Papua New Guinea. **The Committee, therefore, urges the Government to strengthen its efforts to improve the situation of children working under the age of 16 years and to ensure the effective elimination of child labour. Noting that there is no concrete or reliable data reflecting the real situation of children in the rest of the country, the Committee urges the Government to undertake a national child labour survey to ensure that sufficient up-to-date data on the situation of working children in Papua New Guinea is available.**

*Article 2(1). Minimum age for admission to employment.* The Committee previously noted that, although the Government of Papua New Guinea had declared 16 years to be the minimum age for admission to employment or work, section 103(4) of the Employment Act permits a child of 14 or 15 years to be employed during school hours if the employer is satisfied that the child is no longer attending school. It also noted that, by virtue of sections 6 and 7 of the Minimum Age (Sea) Act, 1972, the minimum age to perform work on board ships is 15 years and 14 years, respectively.

The Committee notes the Government’s information that the Australian Assistance for International Development through its Facilities and Advisory Services in close consultation with the ILO–IPEC and the Department of Labour and Industrial Relations has undertaken a review of the Employment Act and that the amendment process is ongoing. It also notes the Government’s indication that this process will also address the issue related to the minimum age stipulated under the Minimum Age (Sea) Act, 1972. **Noting that the Government has been referring to the review of the Employment Act and the Minimum Age (Sea) Act for a number of years, the Committee once again urges the Government to take the necessary measures to ensure that the proposed amendments are adopted in the near future. In this regard, it expresses the hope that the amended provisions will be in conformity with Article 2(1) of the Convention.**

*Article 2(3). Age of completion of compulsory education.* The Committee previously noted that education is neither universal nor compulsory in Papua New Guinea, and that the law does not specify a legal age for entering school or an age at which children are permitted to leave school. It noted that the Education Department has developed a ten-year National Education Plan for 2005–15 (NEP) to enable more children to be in school. However, the Committee observed that the NEP seemed intended to make only three years of basic education compulsory up to the age of 9. Moreover, the Committee noted that according to the ITUC, the gross primary enrolment rate was 55.2 per cent, and only 68 per cent of

these children remain at school up to the age of 10, while only less than 20 per cent of the country's children attend secondary school.

The Committee notes from the Government's report under Convention No. 182 that the NEP is being supported by donor agencies to implement programmes focusing on formal education and non-formal education (NFE), including assistance from the Asian Development Bank and the European Union in order to extend the NFE to the needy and the disadvantaged. The Committee notes, however, that according to the findings of the rapid assessment conducted in Port Moresby during 2010–11, although educational reforms are in place, 92.2 per cent of those children who enrolled in grade 3 would drop out along the way. The Committee expresses its *deep concern* at the significant number of children under the minimum age of admission to work who are not attending school. In this regard, the Committee must emphasize the desirability of linking the age of completion of compulsory schooling with the minimum age for admission to work, as provided under Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). If compulsory schooling comes to an end before young persons are legally entitled to work, there may arise a vacuum which opens the door to the economic exploitation of children (see General Survey of 2012 on the fundamental Conventions concerning rights at work, paragraph 371). **Therefore, considering that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to take the necessary measures, particularly within the framework of the NEP, to provide for compulsory education for boys and girls up to the minimum age for admission to employment of 16 years. The Committee requests the Government to provide information on the progress made in this regard.**

*Article 3(1) and (2). Minimum age for admission to, and determination of, hazardous work.* In its previous comments, the Committee noted that while certain provisions of the national legislation prohibit hazardous work for children under the age of 16 years, there exist no provisions protecting children between the ages of 16–18 years from hazardous work. The Committee also noted the absence of any list of types of hazardous work prohibited to children under the age of 18 years.

The Committee notes from the Government's report that the ongoing legislative review of the Employment Act will ensure the compliance of the provisions of the Convention related to hazardous work. **The Committee expresses the firm hope that the amendments to the Employment Act, which will include a prohibition on hazardous work for children under the age of 18 years as well as a determination of types of hazardous work prohibited to such children, will be adopted in the near future. It requests the Government to provide information on any progress made in this regard.**

*Article 3(3). Admission to types of hazardous work from the age of 16 years.* The Committee previously noted that the conditions of work for young people would be examined through the ongoing Employment Act review and that the legislation relating to occupational safety and health shall also be reviewed in a way to ensure that hazardous work does not affect the health and safety of young workers. **The Committee once again expresses the strong hope that the review of the Employment Act and of the legislation pertaining to occupational safety and health will be completed as soon as possible. It also hopes that the amendments made to the legislation will include provisions requiring that young persons between 16 and 18 years of age who are authorized to perform hazardous types of work receive adequate specific instruction or vocational training in the relevant branch of activity. It requests the Government to provide information on the progress made in this regard in its next report.**

*Article 9(3). Registers of employment.* The Committee previously noted that the Employment Act does not contain any provision requiring the employer to keep registers and documents of people under the age of 18 working for them. It also noted that section 5 of the Minimum Age (Sea) Act provides for registers to be kept by people having command or charge of a vessel, which contains particulars such as the full name, date of birth, and the terms and conditions of service of each person under 16 years of age employed on board the vessel. The Committee requested the Government to take the necessary measures to ensure that, in conformity with *Article 9(3)* of the Convention, employers are obliged to keep registers that shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom they employ or who work for them and who are less than 18 years of age.

The Committee once again notes the Government's information that this issue will be addressed within the review of the Employment Act. **The Committee expresses the firm hope that the Government will take the necessary measures, without delay, to ensure that employers are obliged to keep register of all persons below the age of 18 years who work for them and to provide information with regard to the progress made in ensuring that the Employment Act and the Minimum Age (Sea) Act are in conformity with Article 9(3) of the Convention.**

**The Committee urges the Government to strengthen its efforts to ensure that, during its review of the Employment Act and the Minimum Age (Sea) Act, due consideration is given to the Committee's detailed comments on the discrepancies between national legislation and the Convention. The Committee requests the Government to provide information on any progress made in the review of these Acts in its next report and invites the Government to consider seeking technical assistance from the ILO.**

The Committee is raising other points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children.* The Committee previously noted that women and children were trafficked within the country for the purpose of commercial sexual exploitation and domestic servitude. It requested the Government to take the necessary measures, as a matter of urgency, to adopt legislation prohibiting the sale and trafficking of both boys and girls under 18, for the purposes of labour and sexual exploitation.

The Committee notes the Government's indication that it is addressing this issue through the adoption of the People Smuggling and Trafficking in Persons Bill which would amend the Criminal Code to include a provision prohibiting human trafficking, including children under the age of 18 years, for labour and sexual exploitation. However, the Committee notes that according to a survey conducted in 2012 within the framework of the Combating Trafficking in Human Beings in Papua New Guinea project implemented by the International Organization for Migration (IOM), trafficking for the purpose of forced labour, sexual exploitation and domestic servitude, including child trafficking, is occurring at a high rate in the country. Female children were indicated as over twice as vulnerable to becoming victims of trafficking than male children. The Committee further notes that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of 30 July 2010, expressed concern that there are no specific laws addressing trafficking-related problems and about cross-country trafficking, which involves commercial sex as well as exploitative labour (CEDAW/C/PNG/CO/3, paragraph 31). ***The Committee, therefore, urges the Government to take the necessary measures to ensure the adoption of the People Smuggling and Trafficking in Persons Bill, without delay, and to ensure that thorough investigations and robust prosecutions of persons who commit the offence of trafficking of children are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. The Committee requests the Government to supply a copy of the People Smuggling and Trafficking in Persons Bill, once it has been adopted.***

*Article 7(2). Effective and time-bound measures. Clause (e). Taking into account the special situation of girls.*  
1. *Child victims of prostitution.* The Committee previously noted the Government's indication that the number of girls (some as young as 13) who engaged in prostitution as a means of survival was a growing problem in both urban and rural areas. Moreover, the Committee also noted that the laws prohibiting prostitution were selectively or rarely enforced, even in cases involving children.

The Committee notes the absence of information in the Government's report on the measures taken or envisaged to combat the commercial sexual exploitation of children. The Committee notes that, according to the findings of the rapid assessment conducted in Port Moresby during 2010–11, there are an increasing number of girls involved in commercial sexual exploitation. The most common age at which girls engaged in prostitution is 15 years (34 per cent), while 41 per cent of the children are sex workers before the age of 15 years. The survey report further indicated that girls as young as 10 years are also involved in sex work. The Committee once again expresses its *deep concern* at the prevalence of the commercial sexual exploitation of children in Papua New Guinea. ***The Committee therefore urges the Government to take effective and time-bound measures to provide the necessary and appropriate direct assistance to remove children, particularly girls under 18 years of age from prostitution, and provide for their rehabilitation and social integration.***

2. *"Adopted" children.* The Committee previously noted the observation of the International Trade Union Confederation (ITUC) that indebted families sometimes pay off their dues by sending children – usually girls – to their lenders for domestic servitude. The ITUC indicated that "adopted" children usually worked long hours, lacked freedom of mobility or medical treatment, and did not attend school. The Committee also noted the Government's indication that the practice of "adoption" is a cultural tradition in Papua New Guinea. The Committee observed that these "adopted" girls often fall prey to exploitation, as it was difficult to monitor their working conditions, and it requested the Government to provide information on the measures taken to protect these children.

In this regard, the Committee noted the Government's reference to the Lukautim Pikinini Act of 2009 which provided for the protection of children with special needs. According to the Lukautim Pikinini Act, a person who has a child with special needs in his/her care but who is unable to provide the services required for the upbringing of a child may enter into a special needs agreement with the Family Support Service. Under these agreements, financial assistance may be provided. Pursuant to section 41 of the Lukautim Pikinini Act, the definition of a "child with special needs" includes children who have been orphaned, displaced or traumatized as a result of natural disasters, conflicts or separation, or children who are vulnerable to violence, abuse or exploitation.

The Committee notes that the Government has not provided any additional information on this issue. The Committee expresses its *concern* at the situation of "adopted" children under 18 years of age who are compelled to work under conditions similar to bonded labour or under hazardous conditions. ***It once again requests the Government to take immediate and effective measures to ensure, in law and in practice, that "adopted" children under 18 years of age may not be exploited under conditions equivalent to bonded labour or under hazardous conditions, taking account of the special situation of girls. The Committee also requests the Government to provide information on the number of "adopted" children engaged in exploitative and hazardous work who have benefited from special needs agreements.***

The Committee is raising other points in a request addressed directly to the Government.

## 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:

*Article 3 of the Convention. Period during which it is forbidden to work at night.* In its previous comments, the Committee noted with satisfaction that, under section 2 of Decree No. 4951 of 22 March 2005, night work between 7 p.m. and 7 a.m., i.e. a period of 12 hours, is classified as dangerous and that, pursuant to section 3 of the Decree, it is prohibited for children under 18 years of age. It nonetheless noted that section 58 of the Children's and Young Persons' Code prohibits night work for children aged 14 to 18 years for a period of ten hours including the interval between 8 p.m. and 6 a.m. In order to avoid any ambiguity in the law, the Committee deemed it advisable to align section 58 with the Children's and Young Persons' Code with Decree No. 4951 of 22 March 2005 and the Convention, by introducing an amendment to increase to 12 hours the period during which young persons must not work at night.

While noting the information from the Government that the exceptions allowed by this provision of the Convention have not been used, the Committee again expressed the view that it would be advisable to align section 58 of the Children's and Young Persons' Code with Decree No. 4951 of 22 March 2005, the Convention and practice. ***It requests the Government to take the necessary steps to amend section 58 of the Children's and Young Persons Code and to establish that the period during which children may not work at night must be 12 hours.***

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

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2004)**

*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 adoption of the National Strategy for the Prevention and Elimination of Child Labour and the Protection of Young Workers (2010–15) (ENPETI) by the National Council for Children and Young Persons. It also noted with interest that, in the context of an ILO–IPEC project, the Government of Paraguay had participated in an exchange of experience with Brazil, which led to the launching of coordinated action between the ABRAZO programme (for the progressive reduction of child labour on the streets) and the TEKOPORÁ programme (for the conditional transfer of financial resources) with a view to extending the scope of action of the ABRAZO programme to all forms of child labour. It noted that the extension of this programme would begin with the implementation of two pilot programmes: the first in garbage dumps in the city of Encarnación, and the second in brickworks in the Tobatí district.

The Committee notes that the strategic actions contemplated in the context of implementation of the ENPETI are particularly concerned with the identification and care of children engaged in the worst forms of child labour or in situations of risk. The Committee also notes the information supplied by the Government in relation to the implementation of the ABRAZO programme. It notes that this programme now covers ten out of 17 departments of the country. According to information from ILO–IPEC, it has assisted a total of 6,061 children and 3,304 families. Moreover, further to the implementation of the pilot programme in Encarnación, the city garbage dump has been declared “free of child labour” thanks to the joint efforts of civil society, the private sector and local government. The Government also indicates that the national TEKOPORÁ programme designed for households living in extreme poverty is one of the Government's priority programmes in the context of implementation of its public social development policy. The Committee further notes the study on the scope and features of the work of children and young persons in Paraguay, published in 2013 by ILO–IPEC and the Directorate-General for Statistics of Paraguay, which reproduces the results of the first national survey of child labour conducted in 2011. This study shows that 22.4 per cent of children and young persons under 18 years of age (approximately 417,000) are working below the minimum age for admission to employment or are engaged in one of the worst forms of child labour (16.3 per cent of children in the 5–13 age group and 36.8 per cent in the 14–17 age group). Almost half work in agriculture, stockbreeding, hunting and fishing. Boys working in rural areas are the category most affected by this phenomenon (43.4 per cent of children and young persons under 18 years of age in this category are affected by child labour). The vast majority of children and young persons who are engaged in activity that comes under the heading of child labour perform hazardous work (approximately 90.3 per cent of the 5–13 age group and 91.1 per cent of the 14–17 age group). Furthermore, it appears from the information provided by the Government in its report submitted under the Employment Policy Convention, 1964 (No. 122), that children aged 10 to 14 enter the labour market.

While welcoming the measures adopted by the Government to ensure the effective abolition of child labour, the Committee is bound to express its *concern* at the large number of children and young persons who are engaged in an economic activity below the minimum age for admission to employment or in hazardous work. ***The Committee requests the Government to intensify its efforts to improve the situation regarding child labour in the country. It requests the Government to continue providing information on the measures taken and the results achieved in this respect, particularly in the context of implementation of the ENPETI. It also requests the Government to continue to send statistics on the nature and scope of child labour in the country.***

*Article 9(1) and Part III of the report form. Penalties and labour inspection.* In its previous comments, the Committee noted that neither the Children and Young Persons' Code nor Decree No. 4951 of 22 March 2005 establish any penalties for violations of their provisions. According to the draft guide on inter-institutional intervention in cases of

child labour, the penalties that may be imposed for violations of the legislation regulating child labour are laid down in sections 384 to 398 of the Labour Code. Section 389 of the Labour Code provides that employers who oblige young persons under 18 years of age to perform work in unhealthy or hazardous workplaces, or night work in the industrial sector, shall be liable to a penalty of at least 50 daily wage equivalents for each worker concerned. Section 385 provides that failure to comply with provisions of the Labour Code for which no penalty has been established shall be liable to penalties of between ten and 30 minimum wage equivalents for each worker concerned. The Committee asked the Government to provide information on the violations reported by the labour inspectorate and the penalties imposed in relation to child labour, in accordance with sections 384–398 of the Labour Code.

The Committee observes that the Government's report does not contain any information on this matter. It observes that, according to the information provided in the Government's last report relating to the Labour Inspection Convention, 1947 (No. 81), the number of labour inspectors decreased from 34 to 31 between 2009 and 2011 and the number of inspections dropped from 1,641 to 1,204 during 2009–10. However, it notes that stepping up the enforcement of the national legislation relating to child labour is one of the planned areas of action in the ENPETI. In this regard, with reference to the 2012 General Survey on the fundamental Conventions concerning rights at work (paragraph 408), the Committee reminds the Government of the importance of an effective labour inspectorate in applying the Convention. ***The Committee requests the Government to take the necessary steps to adapt and strengthen the capacities of the labour inspectorate in order to improve its capability for detecting cases of child labour as part of the implementation of the ENPETI. It also requests the Government to supply information on the number of penalties imposed for violations of the Labour Code relating to child labour and of Decree No. 4951 approving the list of hazardous types of work.***

The Committee is raising other points in a request addressed directly to the Government.

### ***Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)***

*Articles 3(a) and (b), and 7(1) of the Convention. Sale and trafficking of children; use, procuring or offering of a child for prostitution, and sanctions.* In its previous comments, the Committee noted the comments by the International Trade Union Confederation (ITUC) that trafficking of persons is on the increase in the country. The ITUC also indicated that, although most child victims of prostitution in Paraguay are girls, boys are also beginning to work in prostitution from the age of 13 and are often victims of trafficking to Italy. The Committee also noted that the Conference Committee on the Application of Standards, at the 100th Session of the International Labour Conference in June 2011, expressed its deep concern at the allegations of complicity of government officials with traffickers. It noted that the legislative committee of the inter-institutional round table on trafficking was preparing a Bill against trafficking to strengthen the existing legal framework.

The Committee takes due note of the adoption of Act No. 4788 of 13 December 2012 on trafficking in persons. It notes that its scope of application covers both internal and international trafficking and trafficking for purposes of sexual exploitation or forced labour (sections 3 and 5). Act No. 4788 provides for prison sentences of between two and 15 years for the trafficking of children aged between 14 and 18 years (section 6), which can be increased to 20 years if the victim is under 14 years (section 7). The Committee also notes the provisions on the identification, protection and care of victims, particularly children and young persons, as well as the development of a national policy to prevent and combat trafficking in persons (section 48). However, the Committee notes with *regret* that the Government's report still does not provide information on the number of cases of sale, trafficking and sexual exploitation of children and young persons recorded and of the sanctions imposed. It notes that, in its concluding observations of 29 October 2013, the Committee on the Rights of the Child also noted the lack of information on investigations and prosecutions for the sale and prostitution of children and for child pornography. It also expressed concern at the high level of corruption in the country, particularly among law enforcement officers, which means that investigations and prosecutions are not carried out properly (CRC/C/OPSC/PRY/CO/1, paragraph 36).

The Committee is also bound to express *concern* at the lack of statistical data on convictions for acts of trafficking and sexual exploitation in view of the extent of the phenomenon in the country, and at the allegations of complicity of government officials in these kinds of cases. ***The Committee therefore urges the Government to take immediate and effective measures to ensure the elimination of the sale, trafficking and sexual exploitation of children and young persons under 18 years of age in practice, making sure that thorough investigations and effective prosecutions of persons committing such offences, including government officials suspected of complicity, are completed and that effective and sufficiently dissuasive sanctions are imposed on offenders. It again requests the Government to provide information in its next report on the number of offences reported, investigations conducted, prosecutions, convictions and penal sanctions imposed.***

*Article 5. Monitoring mechanisms. Trafficking and sexual exploitation.* In its previous comments, the Committee noted that, according to comments by the ITUC, very few controls are carried out at borders, which makes it easy to illegally transport children to Brazil or Argentina. The ITUC indicated that several Paraguayan officials from the Migration Department consider that they lack the authority to intervene in cases of trafficking and believe that the offence of trafficking can be committed only in the country of destination of the victims. It also asserted that the police lack personnel specializing in investigations into the sexual exploitation of children and that the law enforcement agencies do not clearly understand that children engaged in prostitution may be victims of a crime, and not criminals themselves.

The Committee notes that, although Act No. 4788 of 2012 on trafficking in persons provides for the implementation of a national policy to prevent and combat trafficking in persons (section 48), as well as for the preparation of guidelines on the identification of victims of trafficking by the inter-institutional round table (section 30), the Government's report does not provide any information on the measures taken or envisaged to strengthen the capacities of the law enforcement bodies. In addition, it notes that, in its concluding observations of 29 October 2013, the Committee on the Rights of the Child expressed its concern at the fact that efforts to ensure adequate training for law enforcement officials are not sufficient (CRC/C/OPSC/PRY/CO/1, paragraph 16). ***The Committee urges the Government to intensify its efforts to strengthen the capacities of the law enforcement bodies, particularly the police, the justice system and customs officials, in order to improve their capacity to identify cases of trafficking and sexual exploitation of children. It requests the Government to provide information on the measures taken in this regard within the framework of the national policy to prevent and combat trafficking in persons.***

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing children from becoming engaged in and removing them from the worst forms of child labour, and ensuring their rehabilitation and social integration. Trafficking and commercial sexual exploitation.* In its previous comments, the Committee noted that an anti-trafficking unit had been created within the Secretariat for Childhood and Adolescence (SNNA), for the purpose of assisting child victims of trafficking until they are reintegrated into society. In order to prevent and assist child victims of trafficking, SNNA regional offices have also been created in the border departments of Alto Paraná, Ciudad del Este and Encarnación.

The Committee takes due note of the adoption of the National Plan for the Prevention and Elimination of the Sexual Exploitation of Children and Young Persons (2012–17) (PNPEES). It also notes that Act No. 4788 of 2012 on trafficking in persons provides for the implementation of a national programme to prevent and combat trafficking in persons and to care for the victims. According to information provided by the Government in its report submitted under the Forced Labour Convention, 1930 (No. 29), 98 cases of child victims were reported to the SNNA between June 2012 and July 2013 through the coordination unit for prevention and care of child and adolescent victims of trafficking and sexual exploitation. The Committee notes however that, in its concluding observations of 29 October 2013, the Committee on the Rights of the Child regretted the absence of programmes to assist the reintegration of child victims of sale, prostitution and pornography (CRC/C/OPSC/PRY/CO/1, paragraph 44). ***The Committee requests the Government to take immediate and effective measures to ensure the rehabilitation and social integration of child victims of trafficking and sexual exploitation. It requests the Government to provide information on the results obtained through the implementation of the PNPEES and of the national programme against trafficking, specifying the number of children removed from this worst form of labour who have benefited from such measures.***

*Clause (d). Children at special risk. Children working as domestic workers. The “criadazgo” system.* The Committee previously noted the communication from the ITUC indicating that children living and working in domestic service in the houses of others in exchange for food, board and education (*criadazgo*) were very vulnerable to exploitation. According to the ITUC, as these children do not control their conditions of employment, the majority of them work under conditions of forced labour. The Committee also noted that, according to a study on child domestic work carried out in 2005 in cooperation with ILO–IPEC, 11 per cent of children between 10 and 17 years of age work in domestic service, two-thirds of whom are employed under the *criadazgo* system. At the 2011 Conference Committee on the Application of Standards, the Government representative stated that the Government was committed to taking specific measures through the National Committee for the Prevention and Elimination of Child Labour and the Protection of the Work of Young Persons (CONAETI) to protect children and young persons working for others, and was committed to implementing strategies to remedy the use of children in domestic work.

The Committee notes the Government's indications on the launching of the national awareness-raising campaign “Let's end *criadazgo*”, supported by the CONAETI. It notes that, according to the study on the extent and characteristics of work by children and young persons work in Paraguay published in 2013 by ILO–IPEC and the General Directorate of Statistics of Paraguay, the use of new indicators to measure the extent of the *criadazgo* system provided estimates of around 47,000 children and young persons under 18 years of age employed in this worst form of child labour (or 2.5 per cent of the total number of children under 18 years of age in the country), the vast majority of whom are girls. ***The Committee requests the Government to intensify its efforts to combat the exploitation of child labour in the *criadazgo* system. It requests the Government to provide information on the actions envisaged to protect these children and remove them from the worst forms of child labour, and to ensure their rehabilitation and social integration, in the framework of the implementation of the National Strategy to Prevent and Eliminate Child Labour and to Protect Young Workers (2010–15).***

The Committee is raising other points in a request addressed directly to the Government.

## Peru

### Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

The Committee notes the Government's report and the comments from the Single Confederation of Workers of Peru (CUT) dated 15 June 2013.

*Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice.* Referring to its previous comments, the Committee notes the CUT's concerns about the extent and scale of the number of children and young people working in Peru, and about the lack of coordination and dissemination of information on the various measures adopted by the Government to combat child labour among the trade union organizations.

The Committee takes due note of the adoption of the National Action Plan for Children and Young People (PNAIA 2021), and of the National Strategy for the Prevention and Eradication of Child Labour 2012–21 (ENPETI). It notes that the ENPETI is focused on four strategic objectives: (i) increasing family income; (ii) cutting drop-out and school failure rates; (iii) eliminating child labour and the hazardous work of young people; and (iv) strengthening the protection services for victims. It notes that, according to the Government, three pilot projects (2012–14) have been implemented in the context of the ENPETI. The "Huánuco" project, introduced in six provinces in this region, provides for cash transfers in the context of the "Juntos" programme to 3,200 families and 4,000 children involved in child labour, as well as for the distribution of vouchers to children and young people attending school and successfully completing the school year. The "Carabayllo" project, introduced in a neighbourhood to the north of the City of Lima where many children and young persons are involved in hazardous work in the informal economy, is planning to benefit a total of 1,000 homes and 1,500 children and young persons. Finally, the "Semilla" project, which sets out to prevent children from hazardous work in the agricultural sector and to remove them from the sector, has been introduced in three regions of the country (Junín, Pasco and Huancavelica) with a view to helping 6,000 children, 1,000 young people and 3,000 families. The Committee also notes the recent adoption of a multi-sectoral care framework to improve national coordination in the area of child labour. Furthermore, it notes that, at the request of the National Committee for the Prevention and Eradication of Child Labour, the National Statistics Institute has included new indicators to discern child labour in the National Household Survey (ENAHO). The findings of the ENAHO 2011, contained in the Government's report, show that 18.4 per cent of children under 14 years of age are involved in an economic activity and that 33.9 per cent of young persons aged between 14 and 17 years carry out hazardous work. The majority of these children and young persons live in rural areas (58.7 per cent).

While taking due note of the efforts made by the Government, the Committee expresses its *concern* at the significant number of children engaged in an economic activity or hazardous work. ***The Committee requests the Government to strengthen its efforts to improve the situation of child labour in the country. It also requests it to submit information on the results obtained from the assessment of the three pilot projects and on the follow-up given to these projects in the context of the ENPETI (2011–21). It also asks the Government to continue providing information on the application of the Convention in practice, including recent statistics on the employment of children and young persons in general and specifically in hazardous occupations, extracts from labour inspection reports showing the number and nature of offences reported and the penalties imposed.***

*Article 2(1). Minimum age of admission to employment or work.* In its previous comments, the Committee noted that section 51(2) of the Children and Young Persons Code allows permission to work to be granted exceptionally to young persons aged 12 years and over. The Government indicated that permission for children aged from 12 to 14 years to undertake paid work is at the discretion of the administrative authority, which seldom grants it. Given that there are no regulations on light work but that in practice a significant number of children under the age of 14 years work, the Committee asked the Government to take the necessary steps to ensure that no child under the age of 14 years be allowed to work. The Government stated that a Bill to amend the Children and Young Persons Code was being discussed by a special committee.

The Committee notes the Government's indication that the new Children and Young Persons Code has not yet been adopted. ***The Committee expresses once again the firm hope that the Bill to amend the Children and Young Persons Code will be adopted at the earliest possible date so as to guarantee that no child under the age of 14 years may be allowed to work. It requests the Government to provide information on all progress made in this respect.***

*Article 2(1) and Part III of the report form. Scope of application and labour inspection.* In its previous comments, the Committee noted the CUT's allegations that the majority of children under the age of 14 years engaged in an economic activity worked in the informal economy. It nevertheless noted that, according to sections 3 and 4 of the General Labour Inspection Act of 2006, labour inspectors are responsible for supervising child labour wherever it occurs, including in private homes.

The Committee notes the CUT's allegations that no inspection visit has been carried out in the informal economy despite the significant number of children working in this sector. The Committee notes that, according to the Government, a special group of labour inspectors has been trained to undertake preventive measures and identify cases of child labour. It also takes note of the statistics provided in the Government's report on the inspection visits concerning child labour carried out between 2008 and 2013, but nevertheless observes that these controls were only made on young persons over 14 years of age, therefore those who had already reached the minimum age of admission to employment. In this respect, referring to the 2012 General Survey on the fundamental Conventions concerning the right to work (paragraph 345), the Committee notes that, in certain cases, the limited number of labour inspectors makes it difficult for inspectors to cover the informal economy. Therefore, the Committee calls on State parties to strengthen the capacity of the labour inspectorate. ***Consequently, the Committee requests the Government to strengthen its efforts to adapt and strengthen***

*the labour inspectorate services so as to improve the inspectors' capacity to identify instances of child labour in the informal economy and to guarantee the protection afforded by the Convention to children under 14 years of age working in this sector. It requests the Government to provide information on the measures taken in this regard and on the results obtained.*

The Committee is raising other points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)**

*Articles 3(a), 7(2)(a) and (b) of the Convention. Sale, trafficking and commercial sexual exploitation of children; and effective and time-bound measures to prevent the engagement of children in the worst forms of labour, to remove them from these forms of labour and provide for their rehabilitation and social integration.* In its previous comments, the Committee noted that the Penal Code prohibits the sale and trafficking of children for the purpose of labour exploitation or for sexual exploitation (section 153), and provides for prison sentences ranging from 12 to 25 years where the victim is under 18 years of age. It also noted that the Penal Code prohibits and penalizes incitement to prostitution, procuring and sex tourism, and provides for heavier penalties where the victim is under 18 years of age. The Committee nevertheless noted that, according to two studies produced by ILO-IPEC in 2007, entitled "The demand side of the commercial sexual exploitation of children: A qualitative study in South America (Chile, Colombia, Paraguay and Peru)" and "Unforgivable: A study on the commercial sexual exploitation of children and young persons in Peru (Cajamarca, Cusco, Iquitos and Lima)", the commercial sexual exploitation of children exists particularly in the bars and nightclubs of the old city centre of Lima and in the tourist centres of Cusco, Iquitos and Cajamarca. It noted that the national police force had launched a plan of police operations to prevent and punish human trafficking, which involved the inspection of strategic locations. Following patrols carried out, children at risk were placed in shelters run by the national police force, the Ministry for Women and Social Development and the judiciary.

The Committee takes due note of the statistics contained in the Government's report on the number of trafficked persons registered by the Public Prosecutor and the national police force. It notes from these statistics that a total of 675 alleged perpetrators were arrested in 2012 and that 37.1 per cent of these incidents were related to sexual exploitation and 14.5 per cent to forced labour. As regards 2013, the national police force has recorded 61 cases of trafficking of persons, of which six cases were for purposes of forced labour and 56 cases for purposes of sexual exploitation. The Committee, nevertheless, notes that the Government's report does not contain statistics on the sentences handed down and penalties imposed as a result of these incidents.

Furthermore, the Committee notes the information contained in the working document of the Regional Action Plan against Human Trafficking and the Commercial Sexual Exploitation of Children and Young People in the Region of Loreto (2013–17), drafted by the regional government of Loreto in cooperation with the International Organization for Migration in September 2013. According to this document, thousands of adults and children are victims of internal trafficking for purposes of forced labour, especially for mining, agriculture and domestic labour, and indigenous persons are particularly vulnerable to commercial sexual exploitation. Many children are also used in the production and trafficking of cocaine. Furthermore, according to the information submitted by the Government in its report, young persons are also victims of sexual exploitation in the bars and discotheques located near the sites of artisanal mines in the north-east of the country.

The Committee notes that, according to the Government, one of the main objectives of the National Strategy for the Prevention and Eradication of Child Labour (2012–21) (ENPETI) is the eradication of hazardous work and the exploitation of children and young people. It also notes that one of the priorities of the Multisectoral Action Framework on Child Labour, drafted in March 2013, deals with providing care for children involved in the worst forms of labour and improvements in the living conditions of their families. The Committee takes note of the statistics provided by the Government on the number of trafficking victims registered in 2012 and 2013 by the national police force. It notes that in 2012, out of the 754 victims of these acts, 477 were less than 18 years of age and 57 per cent were aged between 13 and 17 years; and that, in 2013, 214 victims have been registered, among which 23 are under 18 years of age (15 girls and eight boys). It notes, however, that the Government's report does not provide information on the rehabilitation measures provided for these children. ***The Committee urges the Government to strengthen its efforts to bring about the elimination of these worst forms of child labour in practice, by ensuring that thorough investigations are conducted and completed and that persons committing such offences are prosecuted, and that sufficiently effective and dissuasive penalties are imposed. It requests the Government to provide information on the number of convictions and penalties imposed against these persons in its next report. The Committee also asks the Government to take immediate and effective measures to ensure the rehabilitation and social integration of child victims of trafficking and commercial sexual exploitation and to send information on the measures taken in this respect in the context of the ENPETI.***

*Articles 3(d), 7(2)(a) and (b). Hazardous work and effective and time-bound measures to prevent the engagement of children in the worst forms of labour, and to remove them from these forms of labour and guarantee their rehabilitation and social integration.* 1. *Child labour in artisanal mines.* The Committee previously noted the allegations of the International Trade Union Confederation (ITUC) and ILO-IPEC's 2007 report entitled "Girls in mining", revealing that children from the age of 5 years were working in the country's artisanal mines, especially in the districts of Madre de Dios, Puno, Ayacucho, Arequipa and La Libertad. These children are exposed to serious injury and harm because they

handle mercury when extracting the gold from the rocks and transport ore outside the mines, carrying very heavy loads of stone and rock on their backs. They are also exposed to soil and water contaminated with metals and chemicals. According to the working document of the National Plan for the Prevention and Elimination of Child Labour (2005–10), an estimated 50,000 children work in artisanal mines in Peru. The Committee took due note of the adoption of Supreme Decree No. 003-2010-MIMDES of 20 April 2010 approving a detailed list of occupations and processes that are hazardous or harmful to the health and morals of young persons and prohibiting mine work for children and young persons under 18 years of age.

The Committee notes that the elimination of work that is hazardous to children, and especially that of young persons, is among the major objectives of the ENPETI. It also notes that, according to the Government, the Multisectoral Action Framework on Child Labour involves the participation of authorities in the mining sector and provides for, under its strategic action programmes, the strengthening of the capacity of the labour inspectorate in the area of the worst forms of child labour. However, the Committee notes with *concern* the Government's statement that there have been no new inspections on child labour in artisanal mines between 2012 and 2013. ***The Committee urges the Government to intensify its efforts to protect children involved in hazardous work in mines from this worst form of child labour, by strengthening the capacity of the labour inspectorate so as to secure the inspection of mining sites. It also requests the Government to provide statistical information on the measures taken and outcomes achieved, in the context of the implementation of the ENPETI and the Multisectoral Action Framework, in removing children under 18 years of age from hazardous work in artisanal mines and ensuring their rehabilitation and social integration.***

2. *Child domestic work.* The Committee previously noted the ITUC's comments that it was a common practice for parents to send their children to cities to work as domestic servants. As a rule, these children receive no pay, although the employer provides board and lodging. They work at least 12 hours a day and do not have a day's leave. Very many children are victims of abuse and exploitation, such as insults and corporal punishment and, to a lesser extent, to sexual abuse. According to the ITUC, the number of domestic workers under the age of 18 years is estimated to be 110,000. The Committee also noted that the 2007 ILO-IPEC study on approaches to prevention and the vulnerability of children engaged in domestic work in families that live in rural and urban areas found that domestic work by children is widespread in the country. The Committee noted that, according to Supreme Decree No. 003-2010-MIMDES of 20 April 2010 approving a detailed list of occupations and processes that are hazardous or harmful to the health and morals of young persons, domestic work by children and young persons under 18 years of age in the homes of others is treated as hazardous work.

The Committee notes that, according to information provided by the Government, the possibility of extending the intervention of the labour inspectorate at the home of children and young persons working as domestic servants will be discussed in the context of the implementation of the Multisectoral Action Framework on Child Labour. Furthermore, the Committee notes that the elimination of the hazardous work of children, particularly that of young persons, is among the main objectives of the ENPETI. ***Consequently, the Committee requests the Government to provide information on the measures taken, particularly by strengthening the capacity of the labour inspectorate, to prevent children working as domestic servants from being involved in hazardous work, to remove them from this form of work, and ensure their rehabilitation and social integration. It also asks the Government to supply information on the results obtained.***

The Committee is raising other points in a request addressed directly to the Government.

## Philippines

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 1998)***

*Article 2(1) of the Convention. Scope of application.* Children working on their own account or in the informal economy. The Committee previously noted that there were approximately 155,000 self-employed working children aged 5 to 17 years in the Philippines. The Committee noted the information in the Baseline Survey for the ILO-IPEC Philippine *Time-bound Programme (TBP)* phase II, that in the province of Quezon, the majority of children identified were self-employed, while in the province of Masbate, 45 per cent of the children identified were self-employed. The survey also indicated that many children in the country were engaged in selling goods in the informal economy.

The Committee notes the statement in the report of the International Trade Union Confederation (ITUC), for the World Trade Organization General Council on the Trade Policies of Philippines of 20 and 22 March 2012, entitled "Internationally recognized core labour standards in Philippines" (ITUC report to the WTO), that most child labour in the Philippines occurs in the informal economy, often in family settings.

The Committee notes the Government's information that it is strengthening its efforts to ensure that self-employed children and children in the informal economy are protected and afforded the appropriate services. In this regard, the Government indicates that the Department of Labour and Employment (DOLE) launched the Campaign for Child Labour-Free Barangays in May 2012, with the aim of obtaining the commitment and support from various stakeholders in order to render *barangays* (villages) free from child labour. The Committee takes due note that, as of June 2013, a total of 132 *barangays* nationwide are listed as child labour-free. In addition, various advocacy activities were conducted by the DOLE regional offices and other stakeholders, particularly the local government units, and Barangay Councils for the Protection of Children were created in 172 *barangays* to help ensure the protection of children in their respective areas.

**The Committee urges the Government to pursue its efforts to ensure that children working in the informal economy or on a self-employed basis benefit from the protection of the Convention. It requests the Government to provide information on the results achieved, in terms of number of these children who are effectively protected and provided with the appropriate services.**

*Part V of the report form. Application of the Convention in practice.* Following its previous comments, the Committee notes the statement in the ITUC report to the WTO that, while child labour has been decreasing over the years, it remains a problem in the Philippines. In this regard, the ITUC indicates that the Government is implementing the National Programme of Action against Child Labour (NPACL), as well as phase II of the *TBP* for the years 2009–13, which aims to reduce child labour by 75 per cent.

The Committee notes the Government's information pertaining to additional measures taken to combat child labour. However, it also notes the Government's information pertaining to the preliminary results of the 2011 Survey on Children, conducted by the National Statistics Office, which show that an estimated 58.4 per cent of the 5.492 million working children aged 5 to 17 years (that is 3.21 million children) worked in a hazardous environment, or worked for long hours (more than 20 hours per week for children aged 5 to 14 years, and more than 40 hours per week for those aged 15 to 17 years).

While taking due note of the measures taken by the Government to combat child labour, the Committee must once again express its *concern* at the high number of children under the age of 15 years working in the Philippines. **It strongly urges the Government to strengthen its efforts, within the framework of the *TBP* phase II and the *NPACL*, as well as through any other measures, to prevent and eliminate child labour. It requests the Government to continue providing information on the results obtained.**

The Committee is raising another point in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). All forms of slavery or practices similar to slavery. 1. Sale and trafficking of children.* Following its previous comments, the Committee takes note of the report of 19 April 2013 of the Special Rapporteur on trafficking in persons, especially women and children, following her mission to the Philippines (A/HRC/23/48/Add.3). The Special Rapporteur observed that trafficking of persons, mostly women and children, for labour exploitation was proliferating in various sectors, including agricultural, construction, fishing, manufacturing and services industries. In addition, she noted that trafficking in women and children for sexual exploitation is widespread, both cross-border and internally. Exploitation of children, especially girls, for sex tourism is alarmingly common and sometimes socially and culturally tolerated in many areas of the country. While recognizing the current Government's enormous efforts, the Special Rapporteur noted that, given the prevalence of trafficking, only 1,711 cases were registered by the Inter-Agency Council Against Trafficking (IACAT) from 2005 to January 2013. Furthermore, while noting that the Government made significant efforts to investigate and prosecute trafficking cases, she reported that investigation and arrest of offenders seem to be focused on cases involving sexual exploitation. Of the 106 convictions secured (as of April 2013), very few cases pertain to trafficking for labour exploitation (only two out of the 31 persons convicted in 2011). Furthermore, the Special Rapporteur observed that despite widespread acknowledgement of the problem by government officials, deep-rooted corruption at all levels of law enforcement continues to be a major obstacle in the identification of trafficked persons, as well as a hindrance to the effective investigation of trafficking cases. In numerous cases, law enforcement officials were directly implicated in trafficking cases, which resulted in a deep mistrust of law enforcement officers by trafficked persons.

The Committee notes the Government's information that the Department of Justice (DOJ) established a case-monitoring programme to detect and address any delays in the resolution of cases of trafficking in persons. Moreover, a comprehensive database of all the cases of trafficking was created, in which the DOJ and the IACAT, established under the Anti-Trafficking in Persons Act No. 9208 of 2003 (ATIP Act), monitors and inventories the cases pending in the Regional Trial Courts of the country. The Government indicates that, between 2005 and 2012, there have been 1,891 cases filed involving trafficking in persons and 103 convictions, involving 113 persons convicted. In addition, the Government indicates that the Department of Labour and Employment (DOLE) Regional Offices also detected several labour cases involving minors, such as in Region VI, where assistance was given to eight minors working as migrant workers in sugar plantations in the preparation of their affidavits and filing of complaints for illegal recruitment and trafficking in persons, or in Region XIII, where 73 trafficking victims were rescued.

While taking note of the measures taken by the Government, the Committee must express its *serious concern* at the reports of high prevalence of trafficking in children for both labour and sexual exploitation, and at the allegations of corruption from public officials. **The Committee therefore urges the Government to intensify its efforts to ensure the elimination in practice of the sale and trafficking of children and young persons under 18 years of age by ensuring that thorough investigations and robust prosecutions of the perpetrators of such acts, including state officials suspected of complicity are carried out, and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to continue providing information on the number of reported violations, investigations, prosecutions, convictions and criminal penalties imposed.**

2. *Compulsory recruitment of children for use in armed conflict.* The Committee previously noted the International Trade Union Confederation's (ITUC) comments that numerous children under 18 years of age took part in armed conflicts in the country: the New People's Army included 9,000 to 10,000 regular child soldiers, and children were reportedly being recruited in the armed opposition groups, in particular the Moro Islamic Liberation Front (MILF). The Committee also noted the information in the annual report of the Special Representative of the Secretary-General for children and armed conflict (SRSG) of 21 July 2011 that, pursuant to the action plan signed by the United Nations and the MILF in 2009, child protection efforts had been translated into concrete action by the MILF (A/HRC/18/38, paragraph 13). However, the Committee noted that the SRSG identified the Philippines as a country where the implementation of action plans was delayed due to a lack of funding and where the reintegration of children formerly associated with armed forces and groups continues to be hampered by the lack of economic opportunities in already poor regions (A/HRC/18/38, paragraph 19).

The Committee notes the Government's indication that it does not condone the recruitment of children in militias and that it is closely collaborating with the United Nations Country Task Force on Monitoring and Reporting (UNCTFMR), UNICEF, and the Council for the Welfare of Children towards capacity-building efforts for the prevention of grave violations of children's rights, including their protection against recruitment in armed conflict.

However, the Committee notes that, according to the report of the Secretary-General on children and armed conflict in the Philippines of 12 July 2013 (S/2013/419), in the reporting period of 1 December 2009 to 30 November 2012, the parties to the conflict responsible for the recruitment, use, killing and maiming of children, included the MILF, the New People's Army, the Abu Sayyaf Group, and the Armed Forces of the Philippines. Moreover, the country task force received reports of 51 incidents of recruitment and use of children which involved at least 59 children (at least 52 boys and seven girls from 10 to 17 years of age). The Committee therefore expresses its *concern* that children are still being recruited and forced to join illegal armed groups or the national armed forces in practice. ***The Committee therefore urges the Government to take immediate and effective measures to put an end, in practice, to the forced or compulsory recruitment of children for use in armed conflict, and proceed with the full and immediate demobilization of all children. It urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of offenders are carried out and sufficiently effective and dissuasive penalties are imposed.***

*Articles 3(d) and 4(1). Hazardous work and child domestic work.* The Committee previously noted the ITUC's allegations that hundreds of thousands of children, mainly girls, worked as domestic workers in the Philippines and were subject to slavery-like practices. The ITUC further underlined that 83 per cent of child domestic workers lived in their employers' home and only half of them were allowed to take one day off per month. They were on call 24 hours a day, and more than half of them dropped out of school. The ITUC also referred to some examples of physical, psychological and sexual abuses and injuries suffered by children under 18 years of age, especially girls employed as domestic workers, and some examples of children working in harmful and hazardous conditions. The Committee also noted the ITUC's allegations that there were at least 1 million children in domestic work in the Philippines. In this regard, the Committee noted with interest that the Domestic Workers' Bill was approved on its third and final reading in the Senate, and that this Bill set the minimum age requirement for domestic workers at 18 years of age.

The Committee notes that Republic Act No. 10361 instituting policies for the protection and welfare of domestic workers was adopted in July 2012. The Committee observes that section 16 of this Act sets the minimum age for employment in domestic work at 15 years of age, subject to certain provisions of protection against exploitation set out in Republic Act No. 7610 on the special protection of children against child abuse, exploitation and discrimination. Moreover, the Act institutes policies for the protection and welfare of domestic workers, including provisions for their health and safety, daily and weekly rest periods, minimum wage and payment of wages, and the prohibition of debt bondage. While taking note of the Government's efforts in regulating domestic work, the Committee reminds the Government that, under *Article 3(a) and (d)* of the Convention, work done by young persons under 18 years of age under conditions similar to slavery or under hazardous conditions constitutes one of the worst forms of child labour and, under the terms of *Article 1*, should be eliminated as a matter of urgency. ***The Committee therefore requests the Government to take immediate and effective steps to ensure that Republic Act No. 10361 is effectively applied, and that sufficiently effective and dissuasive penalties are imposed in practice on persons who subject children under 18 years of age to domestic work in hazardous or exploitative conditions. It requests the Government to provide information on the number of investigations, prosecutions, convictions, and penal sanctions applied.***

The Committee is raising other points in a request addressed directly to the Government.

## Russian Federation

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 1979)***

*Article 2(1) of the Convention. Scope of application. Children working in the informal economy.* The Committee previously noted that section 63(1) of the Labour Code prohibits children under 16 years of age from signing an employment contract. It also noted the Government's statement that the illegal employment of minors and the violation of their labour rights were frequent occurrences in the informal economy. This involved minors who washed cars, engaged in trading and performed auxiliary work. The Committee also noted the information from a 2009 study carried out by the

ILO-IPEC, within the framework of a project on street children in the region of St. Petersburg, that children, some as young as 8 and 9 years old, were engaged in economic activities such as collecting empty bottles and recycling paper, transporting goods, cleaning workplaces, looking after property, street trading and cleaning cars. It further noted that the Committee on Economic, Social and Cultural Rights, in its concluding observations of 1 June 2011, expressed concern regarding the large number of children who live and work on the streets, in particular in the informal economy where they are vulnerable to abuse to such an extent that regular school attendance is severely restricted (E/C.12/RUS/CO/5, paragraph 24). Recalling that the Convention applies to all branches of economic activity and covers all types of employment or work, the Committee urged the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate to better monitor children working in the informal economy.

The Committee notes the information provided by the Government on the labour inspections carried out for the purpose of monitoring and supervising compliance with labour laws and on the violations detected with regard to the employment of children under the age of 18 years. However, the Committee notes with *regret* that, in spite of its repeated requests made since several years, the Government did not provide any information on the measures taken to address children working outside the scope of an employment contract or in the informal economy. The Committee recalls that the Convention applies to all branches of economic activity and covers all types of employment or work, whether or not there is a contractual employment relationship, and whether or not the employment or work is paid. In this regard, the Committee is of the view that the expansion of the relevant monitoring mechanisms to the informal economy can be an important manner in which to ensure that the Convention is applied in practice, particularly in countries where expanding the scope of the implementing legislation to address children working in this sector does not seem a practicable solution (see the 2012 General Survey on the fundamental Conventions concerning rights at work, paragraph 345). ***Noting with concern that a large number of children below the minimum age are working in the informal economy, the Committee urges the Government to take the necessary measures to ensure that all children under 16 years of age, including those who work on their own account or in the informal economy, benefit from the protection afforded by the Convention. In this regard, the Committee once again requests the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate to better monitor children carrying out economic activities without an employment relationship or in the informal economy. It requests the Government to provide information on the specific measures taken in this regard in its next report.***

*Parts IV and V of the report form. Labour inspectorate and application of the Convention in practice.* The Committee notes from the Government's report that 2,717 inspections were carried out in 2012 to verify compliance with legislation relating to children under 18 years of age, and 498 such inspections were carried out in the first quarter of 2013. Accordingly, 2,479 violations were detected relating to persons under 18 years of age in 2012, and 288 such violations were detected during the first quarter of 2013. The Committee also notes the Government's information that, in 2012, 1,101 notices were issued by the labour inspectors against employers for violations related to the employment of children, and nine cases were sent to the public prosecutor's office; during the first quarter of 2013, 60 such notices were issued and eight cases were sent to the public prosecutor's office. Most of the violations detected involved failure to conclude contracts, failure to include binding terms in the employment contracts, overtime work and failure to provide protective equipment and health and safety measures. ***The Committee accordingly urges the Government to pursue its efforts to effectively address and eliminate child labour, and to provide information on the measures taken in this regard. The Committee also requests the Government to take the necessary measures to ensure that sufficient updated data on the situation of working children in the Russian Federation is made available, including the number of children working under the minimum age and the nature, scope and trends of their work. The Committee finally requests the Government to continue providing information on the manner in which the Convention is applied in practice, including information from the labour inspectorate on the number and nature of contraventions reported, violations detected and penalties applied.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children.* In its previous comments, the Committee noted that while child trafficking is prohibited in law (pursuant to section 127.1 of the Criminal Code), it remains a source of serious concern in practice. In this regard, the Committee noted that, according to the International Trade Union Confederation, thousands of persons are trafficked from the Russian Federation to other countries, including Canada, China, Germany, Israel, Italy, Japan, Spain, Thailand and United States. Internal trafficking within the Russian Federation is also reportedly taking place and cases have been confirmed of children being trafficked for sexual exploitation. The Committee also noted that, according to the report of 24 January 2007 of the UN Special Rapporteur on the sale of children, child prostitution and child pornography in Ukraine (A/HRC/4/31/Add.2, paragraphs 48–49), the Russian Federation is also a destination country for boys and girls between 13 and 18 years of age trafficked from Ukraine, for exploitation in street vending, domestic labour, agriculture, dancing, employment as waiters/waitresses or for the provision of sexual services.

The Committee also noted that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of 10 August 2010, expressed concern at the high prevalence of trafficking in the country, which had increased more than sixfold during the reporting period. The CEDAW also noted with concern that the Russian Federation is a source, transit and destination country for trafficking and expressed regret regarding the lack of disaggregated data on the

number of victims of trafficking, including minors (CEDAW/C/USR/CO/7, paragraph 26). Moreover, the Committee noted that the Committee on Economic, Social and Cultural Rights, in its concluding observations of 1 June 2011, expressed concern about continued reports of trafficking in women and children for sexual exploitation and abuse (E/C.12/RUS/CO/5, paragraph 23).

The Committee notes the information in the Government's report submitted under the Forced Labour Convention, 1930 (No. 29), that, in 2012, 70 offences under section 127.1 of the Criminal Code were reported; 58 persons were found to have committed these offences; and 92 persons were identified as victims of trafficking of which 21 persons were minors. During the first four months of 2013, five cases of human trafficking were recorded and five persons were found to have committed these offences. The Committee notes with *concern* that while the trafficking of children remains to be a serious problem in practice, the number of recorded cases of trafficking of children reported is very low. ***In this regard, the Committee requests the Government to step up its efforts to ensure the elimination of the sale and trafficking of children and young persons under 18 years of age in practice, by ensuring that thorough investigations and robust prosecutions of persons who engage in the sale and trafficking of children are carried out and that sufficiently effective and dissuasive penalties are imposed. It also requests the Government to continue providing information on the number of reported violations, investigations, prosecutions, convictions and penalties imposed related to the sale and trafficking of children.***

*Article 7(2). Effective and time-bound 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 previously noted that Conference Committee on the Application of Standards at the 98th Session (June 2009) of the International Labour Conference called on the Government to take the necessary measures to ensure the adoption of the draft Law on combating human trafficking, which was under discussion and which aimed to establish appropriate measures to ensure the legal protection and social rehabilitation for victims. Noting that the Human Rights Committee, in its concluding observations of 24 November 2009, expressed concern at the notable lack of recognition of the rights and interests of trafficking victims in the counter-trafficking efforts of the Government (CCPR/C/RUS/CO/6, paragraph 18), the Committee requested the Government to strengthen its efforts to provide for the removal, rehabilitation and social reintegration of child victims of trafficking.

The Committee notes from the Government's report under Convention No. 29 that the Programme of Cooperation for 2011–13 adopted by the member states of the Commonwealth of Independent States (CIS), has introduced measures to assist victims of human trafficking. The report further indicates that a draft Programme of Cooperation 2014–18 among the members of the CIS is currently being prepared. ***The Committee requests the Government to provide information on the concrete measures taken within the framework of the Programme of Cooperation for 2014–18 of the CIS to provide assistance to child victims of trafficking and the results achieved in terms of the number of children who have been provided with assistance. The Committee further requests the Government to take immediate steps to ensure that the draft Law on combating human trafficking is adopted in the very near future to ensure the provision of legal protection and social integration services to child victims of trafficking.***

*Article 8. International cooperation and assistance.* The Committee notes from the Government's report under Convention No. 29 that the Programme of Cooperation of CIS has emphasized the need to join forces to increase the effectiveness of cooperation with non-governmental and international organizations. The Government's report further indicates that the internal affairs agencies of the Russian Federation are continuously involved on a range of operational and preventive measures with the law enforcement bodies of foreign states in order to combat human trafficking. The Committee notes the Government's statement that this interaction has resulted in more efficient handling of incidents of international human trafficking. In this regard, the Committee notes the information provided by the Government on the investigations carried out by the Russian Ministry of Internal Affairs, together with the National Security Agency of Russia's Interpol arm, and the Office of the Russian Ministry for the Far East Federal Circuit with the law enforcement agencies of Greece, Malta and the Republic of Moldova. These investigations resulted in the release of 300 young women who had been trafficked from Russia to Greece for sexual exploitation and the arrest of 19 members of a transnational group; eight criminal prosecutions against the members of a transnational group involved in trafficking of women to Malta; and the arrest of two Moldovan citizens for trafficking six Moldovan women to Moscow. ***While taking note of the measures taken by the Government, the Committee strongly encourages the Government to strengthen its international cooperation efforts to combat and eliminate the trafficking of children. It requests the Government to provide information on specific measures taken in this regard within the framework of the Programme of Cooperation of the CIS and other initiatives, and on the results achieved.***

The Committee is raising other points in a request addressed directly to the Government.

## Rwanda

### **Minimum Age (Underground Work) Convention, 1965 (No. 123) (ratification: 1970)**

*Article 2 of the Convention. Minimum age for admission to employment or work in underground mines.* In its previous comments, the Committee noted that the draft Ministerial Order determining the nature, the categories of enterprises and the list of types of work prohibited to children had been communicated by the Government.

The Committee notes with *satisfaction* the adoption of Ministerial Order No. 06 of 13 July 2010 determining the list of the worst forms of child labour, their nature and categories of institutions that may not employ children, which contains an extensive list of hazardous types of work prohibited to children, including works carried out on the surface or underground related to mining or works carried out underneath the water (section 4(1)), as well as in mining and quarry institutions, whether public or private (section 6(3)).

The Committee is raising other points in a request addressed directly to the Government.

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1981)**

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

*Article 1 of the Convention and Part V of the report form. National policy on the effective abolition of child labour and the application of the Convention in practice.* The Committee previously noted that a draft National Five-Year Action Plan for the Elimination of Child Labour (NAP) was first developed in 2007, but had not been adopted. It also noted that, according to the National Child Labour Survey (NCLS) of 2008, approximately 6.1 per cent of children between the ages of 5 and 14 in the country (approximately 142,570 children) were involved in economic activity. The NCLS also indicated that the majority of these working children (4.9 per cent of children in the age group) combined both school and economic activity. The NCLS further indicated that the overwhelming majority of working children (85 per cent) were in the agricultural sector.

The Committee noted the Government's statement that the revision of the NAP is in the final process of consultation. The Committee also noted the information from ILO-IPEC of April 2012 that the revised NAP should include recent data on child labour and, in this regard, an ILO technical team travelled to Kigali in the spring of 2012. The Committee further noted that Rwanda is one of several countries participating in the ILO-IPEC project entitled "Project Development, Awareness Raising and Support for the Implementation of the Global Action Plan on the Elimination of the Worst Forms of Child Labour by 2016". Information from ILO-IPEC indicates that implementation of the Project in Rwanda was extended until June 2013. *Noting that the NAP was first developed in 2007, the Committee urges the Government to ensure the elaboration, adoption and implementation of the NAP in the near future. The Committee requests the Government to provide information on progress made in this regard, and on the results achieved.*

*Article 2(2). Raising the initially specified minimum age for admission to work.* The Committee previously noted the adoption of the Law Regulating Labour (2009), which prohibits employing a child even as apprentice, before the age of 16. *Observing that, upon ratification the Government specified the minimum age of 14 years, the Committee draws the Government's attention to the fact that Article 2(2) of the Convention provides that any Member having ratified the Convention may subsequently notify the Director-General of the International Labour Office, by a new declaration, that it has raised the minimum age from that which it had initially specified. To allow the age fixed by national legislation (of 16 years) to be harmonized with that provided for at the international level, the Committee would be grateful if the Government would consider the possibility of sending a declaration of this nature to the Office.*

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 near future.*

## **Saint Vincent and the Grenadines**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a). Slavery or practices similar to slavery. Sale and trafficking of children.* Following its previous comments, the Committee notes with *satisfaction* that according to sections 5(2) and 8(1)(d) of the Prevention of Trafficking in Persons Act of 2011 (Trafficking Act of 2011) the recruitment, transportation, harbouring or receipt of a child (defined as persons under the age of 18 years), or giving of payment or benefits to obtain the consent of a person having control of a child, for the purpose of exploitation constitutes an aggravated offence of trafficking in persons and shall be liable to imprisonment of up to 20 years.

*Clause (b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.* The Committee previously noted that the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances did not appear to be prohibited in the national legislation.

The Committee notes with *satisfaction* that section 7 of the Trafficking Act of 2011 provides for penalties of imprisonment for 12 years or a fine of \$100,000 for the offences related to transporting a person for the purposes of exploiting such a person in prostitution. Subsection 2 of section 7 further states that the above offence, if committed against a child, amounts to an aggravated offence and shall be liable to an additional imprisonment of up to 15 years. The Committee further notes that the definition of the term "exploitation" as laid down under section 2 of the Trafficking Act of 2011 includes: child pornography, exploitation of the prostitution of another, engaging in any form of commercial sexual exploitation, including but not limited to pimping, pandering, procuring, profiting from prostitution, as well as engaging in sexual exploitation and any sexual activity.

*Articles 3(d) and 4(1). Hazardous work.* The Committee previously noted that the Employment of Women, Young Persons and Children Act (EWYPC Act), did not contain a general prohibition on the employment of children below 18 years of age in hazardous work, other than the prohibition on night work in any industrial undertaking (section 3(2)) nor a determination of hazardous types of work prohibited to children under 18 years of age.

The Committee notes the Government's indication that consultation with stakeholders to address the issues related to hazardous work by children will be commenced shortly and a draft report will be prepared by the end of 2013. ***The Committee expresses the firm hope that consultations with the stakeholders including the social partners will be held in the near future and legislation relating to the prohibition on hazardous work by children under 18 years of age as well as a regulation determining the types of hazardous work prohibited to children under the age of 18 years will be adopted soon. The Committee requests the Government to provide information on any developments made in this regard.***

*Article 7(1). Penalties. The Committee requests the Government to provide information on the application in practice of the sanctions established in the Trafficking Act of 2011 for the offences related to the sale and trafficking of children and for the use, procuring and offering of children for prostitution and child pornography.*

The Committee is raising other points in a request addressed directly to the Government.

## Samoa

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2008)**

*Article 2(3) of the Convention. Age of completion of compulsory education.* In its previous comments, the Committee noted that section 20 of the Education Act 2009 prohibits arranging for a compulsory school-aged child to engage in street trading or to carry out other work of any kind during school hours. However, the Committee noted that pursuant to section 2 of the Education Act 2009, a compulsory school-aged child is defined as a person between 5 years and 14 years of age, who has not completed the eighth year of school. Noting that the age of completion of compulsory schooling (14 years) is less than the minimum age for admission to employment (15 years), the Committee requested the Government to consider raising the age of completion of compulsory schooling to 15 years of age so as to be in line with the minimum age for admission to work, as provided under Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146).

The Committee notes the Government's statement that the provisions to raise the age of completion of compulsory schooling to 15 years will be incorporated in the Education Act after consultations with the Attorney General's Office. ***The Committee expresses the firm hope that the Government will take the necessary measures, without delay, to ensure that the age of completion of compulsory schooling is raised to 15 years which is the minimum age for admission to employment for Samoa. It requests the Government to provide information on any progress made in this regard.***

*Article 3(1). Minimum age for admission to hazardous work.* The Committee previously noted that the Labour and Employment Act 1972 appeared to prohibit employment with dangerous machinery or in any injurious occupation from the age of 15 years of age (section 32(2)). However, the Committee noted the information in the Government's report that a new Labour and Employment Relations Bill was under development which would prohibit hazardous work under the age of 18 years, and requested the Government to ensure its adoption.

The Committee notes that the Labour and Employment Relations Act of 2013 (LER Act of 2013) has been adopted. The Committee notes with **satisfaction** that pursuant to section 51(2) of the LER Act of 2013, children under 18 years of age are prohibited from being employed on dangerous machinery or in any occupation or in any place under working conditions injurious or likely to be injurious to the physical or moral health of such child.

*Article 3(2). Determination of types of hazardous work.* Following its previous comments, the Committee notes that according to section 83(2)(b) of the LER Act of 2013, regulations may be made to determine unhealthy, dangerous or onerous work and to indicate the minimum age for entry into employment in such work. Section 83(d) further provides for regulations protecting the health and safety of children. ***Recalling that, pursuant to Article 3(2) of the Convention, the types of hazardous employment or work prohibited to children under 18 years of age shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, the Committee requests the Government to indicate the measures taken or envisaged to adopt regulations determining types of hazardous work prohibited to children under 18 years pursuant to section 83(2)(b) and (d) of the LER Act of 2013. It requests the Government to provide information on any progress made in this regard.***

The Committee is raising other points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2008)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practice similar to slavery. Sale and trafficking of children.* In its previous comments, the Committee observed that the national legislation did not appear to contain any provisions specifically addressing the sale and trafficking of children. It, therefore, requested the Government to indicate the measures taken or envisaged to prohibit the sale and trafficking of both boys and girls under 18 years for the purposes of both labour and sexual exploitation.

The Committee notes with **satisfaction** the adoption of the Crimes Act 2013 which contains specific provision prohibiting the sale and trafficking of children. The Committee notes that according to section 157 of the Crimes Act 2013, the selling, buying, transferring, transporting, importing or bringing into any place a person under the age of

18 years for purposes of sexual exploitation or engagement in forced labour shall be punished with imprisonment for a term not exceeding 14 years. The Committee underlines the need for the effective implementation of these provisions.

*Clause (b). Use, procuring or offering of a child for prostitution, pornography or pornographic performances.*

1. *Prostitution.* The Committee previously noted the various provisions of the Crimes Ordinance 1961 which address offences related to living on the earnings of the prostitution of another person, soliciting any prostitute and procuring or offering to procure any woman or girl to have sexual intercourse. Noting that the Crimes Ordinance 1961 did not appear to protect boys under the age of 18 years from being procured or offered for the purpose of prostitution, the Committee requested the Government to take the necessary measures in this regard.

The Committee notes with *satisfaction* that according to section 73 of the Crimes Act 2013, any person who offers or agrees to pay or reward another person for sexual intercourse or sexual connection shall be punished. Moreover, pursuant to section 157 of the Crimes Act 2013 dealing in people under 18 years for sexual exploitation is an offence punishable with imprisonment not exceeding 14 years. The Committee underlines the need for the effective implementation of these provisions.

2. *Pornography or pornographic performances.* The Committee had previously observed that neither the Crimes Ordinance 1961 nor the Indecent Publications Ordinance 1960 appeared to specifically address the production of indecent materials, or the use, procuring or offering of children under the age of 18 years for the production of such materials.

The Committee notes that according to section 82 of the Crimes Act 2013, any person who sells, delivers, exhibits, prints, publishes, creates, produces or distributes any indecent material, that depicts a child engaged in sexually explicit conduct shall be punished. The Committee notes, however, that for the purposes of this section a child is defined as a person under the age of 16 years. In this regard, the Committee reminds the Government that by virtue of *Article 3(b)* of the Convention, the use, procuring or offering of children under 18 years of age for pornography or pornographic performances shall be prohibited. ***The Committee, therefore, urges the Government to take the necessary measures to ensure that the use, procuring or offering of children between the ages of 16 and 18 for the production of indecent materials is effectively prohibited.***

*Article 7(2). Effective and time-bound measures. Clause (d). Reaching out to children at special risk. Children working as street vendors.* The Committee noted that section 20 of the Education Act 2009 specifically prohibits the engagement of compulsory school-aged children in street trading during school hours, and that it provides for the appointment of school attendance officers, responsible for identifying children who are out of school during school hours and returning to them to the school. However, the Committee noted the statement in the National Policy for Children, that despite measures to increase school attendance, child vendors continue to be seen operating day and night around central Apia. Moreover, the Committee noted the information from the United Nations Development Programme in a compilation of information from United Nations bodies prepared by the Office of the High Commissioner for Human Rights for the Human Rights Council's Universal Periodic Review of 11 February 2011 that, due to recent economic difficulties, there had been an increase in the number of children selling various goods on the street (A/HRC/WG.6/11/WSM/2, paragraph 50). Furthermore, the Committee on the Rights of the Child, in its most recent examination of Samoa, expressed that it shared the Government's concern regarding the growing number of working children, including children involved in domestic work and child street vendors, and the need to undertake targeted activities to address this issue (16 October 2006, CRC/C/WSM/CO/1, paragraph 54).

The Committee notes the Government's information that children working as street vendors are those sent by their parents after school to sell goods for their own living. The Government further indicates that the school attendance officers identifies children of compulsory school age who are not in school during school hours, while the police is the authority to identify and remove children from street vending after school hours. The Committee also notes the Government's information that the Ministry of Women, Community and Social Development, in collaboration with the Samoa Law Reform Commission, is in the process of developing a draft child care and protection bill. The Government indicates that through this bill, the Government's commitment to childcare and protection initiatives can be enhanced. ***The Committee expresses the firm hope that the child care and protection bill will be adopted in the near future. Considering that children working on the streets are particularly vulnerable to the worst forms of child labour, the Committee requests the Government to take the necessary measures to identify and protect children engaged in street vending from the worst forms of child labour. It also requests the Government to provide information on the number of child street vendors who have been removed from the worst forms of child labour by the police and the school attendance officers.***

The Committee is raising other points in a request addressed directly to the Government.

## Saudi Arabia

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Article 3 of the Convention. Clause (a). Worst forms of child labour. All forms of slavery or practices similar to slavery. Forced or compulsory labour.* The Committee previously observed that Order No. 1/738 of 4 July 2004 does not explicitly prohibit the forced or compulsory labour of children under 18 years. Referring to its comments made in its

2008 observation under the Forced Labour Convention, 1930 (No. 29), the Committee noted that migrant domestic workers were vulnerable to exploitation in their working conditions, such as the retention of their passports by their employers, which in turn deprived them of their freedom of movement to leave the country or change their employment. In this regard, the Committee noted that the Committee on the Elimination of Discrimination against Women, in its concluding observations of 8 April 2008, expressed concern regarding the economic and sexual exploitation and ill-treatment of young migrant girls employed as domestic servants (CEDAW/C/SAU/CO/2, paragraph 23). The Committee noted the Government's reference to section 61(1) of the Labour Code which prohibits employers from using workers to exact labour without the payment of wages. In this regard, the Committee once again referred to its comments made under Convention No. 29 in 2009, where it noted that section 239 of the Labour Code limits the penalties for this offence to monetary fines. Moreover, the Committee notes that section 7 of the Labour Code excludes domestic workers from its scope of application.

The Committee notes the Government's indication that the Labour Code and the Child Protection Act, which was approved on 24 December 2012, prohibit all employment of children under 15 years of age. However, the Committee observes that, by virtue of *Article 3(a)* of the Convention, forced or compulsory labour is considered a worst form of child labour which must be prohibited to all children under 18 years of age. ***The Committee therefore strongly urges the Government to take the necessary measures to ensure that persons who commit offences with regard to the forced or compulsory labour of children, are prosecuted and that sufficiently effective and dissuasive penalties are imposed. It once again requests the Government to provide information on the number of prosecutions, convictions and penalties applied for cases involving the forced labour of children under the age of 18 years, particularly with regard to children engaged in domestic work.***

*Article 5 and Part V of the report form. Monitoring mechanisms and application of the Convention in practice. Trafficking.* The Committee previously noted that, according to the UNICEF report entitled "Preventing child trafficking in the Gulf countries, Yemen and Afghanistan" (UNICEF Trafficking Report), released in 2007, a UNICEF rapid assessment survey estimated that tens of thousands of children, particularly boys from Yemen, but also from Afghanistan, Chad, Nigeria, Pakistan and Sudan, were trafficked to Saudi Arabia for the purpose of labour exploitation each year. However, the Committee noted that, as of 2009, there were no infringements detected of Ministerial Order No. 244 of 20/7/1430 (2009) on human trafficking (Order No. 244), and no trials for perpetrators of human trafficking. Moreover, the Committee noted that, while trafficking of children remained a significant issue in Saudi Arabia, there was a severe lack of data on this topic. The Committee noted the Government's indication that it would take measures to complete available data on child trafficking. It also noted the Government's statement that labour inspectors did not detect, during inspections, any cases which would require intervention and notification.

The Committee notes the Government's information that the Agency responsible for investigation and public prosecution refers cases to the courts who apply the provisions of Order No. 244 and hand down the legal sentences against those convicted of trafficking. In this regard, the Government indicates, in its report under Convention No. 29, that in 2010–11, there were 32 sentences rendered against persons convicted of having committed crimes related to trafficking of persons, involving 51 victims. The Committee notes the Government's indication that no cases in which children were exposed to human trafficking for the purpose of sexual exploitation have been detected. However, the Committee must once again express its *deep concern* regarding the lack of detection of cases of child trafficking by law enforcement bodies, in particular for labour exploitation. ***The Committee, therefore, urges the Government to take immediate measures to strengthen the relevant monitoring mechanisms to ensure that thorough investigations and robust prosecutions of offenders of child trafficking are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. Moreover, the Committee urges the Government to take the necessary measures to ensure that sufficient data on the worst forms of child labour, including child trafficking, and the commercial sexual exploitation of children, is made available. It requests the Government to provide information on the progress made in this regard in its next report, including the number of violations detected, prosecutions, convictions and penalties applied in connection with cases of trafficking of persons under 18 years of age.***

*Article 7(1). Penalties. Child begging.* The Committee previously noted that the penalties provided in Order No. 1/738 for the offence of hiring children for the purpose of begging were not sufficiently effective and dissuasive. In this regard, the Government stated that a regulation was being examined which would guarantee the adoption of measures to ensure that persons who involve children under 18 years in begging would be prosecuted, and that sanctions would be imposed.

The Committee notes with *deep concern* the Government's indication that there are about 83,000 street children and child beggars in the Kingdom. The Committee once again recalls that, pursuant to *Article 7(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. Moreover, by virtue of *Article 1* of the Convention, immediate and effective measures must be taken as a matter of urgency to ensure the prohibition and elimination of the worst forms of child labour. ***The Committee, therefore, urges the Government to take immediate measures so that regulations are adopted containing sufficiently effective and dissuasive penalties for persons who use, procure or offer children under 18 years for the purpose of begging. It requests the Government to***

*provide a copy of the provisions adopted for this purpose with its next report, as well as information on prosecutions carried out in this regard and penalties imposed.*

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Measures taken to prevent the engagement of children in the worst forms of child labour and to provide direct assistance for their removal as well as for their rehabilitation and social integration. 1. Street children and children engaged in begging.* In its previous comments, the Committee noted that the Ministry of Social Affairs established the Office for Combating Beggary, and that this office employed social workers and inspectors, who cooperate with law enforcement agencies to undertake daily raids in areas where beggars are found, and arrest them. Once arrested, children under 15 years were sent to the shelter centre in Jeddah. However, the Committee noted that the majority of persons involved in begging were foreign nationals, and if found to be undocumented or illegal residents, these children were deported within a period of two weeks from their arrest. The Committee also noted that there was no effort made to distinguish between trafficked and non-trafficked children.

The Committee notes the Government's indication that an estimated 6,139 children were provided with services through the Centre for Foreign Child Beggars in Mecca, as well as those now established in Jeddah and Medina. The Government also indicates that 6,072 child victims of begging have been provided with support for their repatriation and family reunification. Moreover, the Government states that those foreign child victims of begging whose parents cannot be identified are also accommodated by the Centre for Foreign Child Beggar, where they receive medical, social, and psychological services. However, the Committee observes with *concern* that the number of child beggars who benefitted from support services is low comparatively to the overall number of street children and child beggars in the country (83,000 according to the Government). *The Committee urges the Government to pursue its efforts to provide appropriate services to children engaged in begging to facilitate their rehabilitation and social integration, and to provide information on the results achieved. With regard to child beggars who are foreign nationals, the Committee urges the Government to continue to take measures that include repatriation, family reunification and support for former child victims of trafficking, in cooperation with the child's country of origin.*

*2. Trafficking of children for labour or sexual exploitation.* The Committee previously noted that there were reported cases of children trafficked from Bangladesh to the Middle East to work as camel jockeys, in addition to women under the age of 18 years who were trafficked from Indonesia for the purpose of commercial sexual exploitation. The Committee noted that section 15 of Order No. 244 states that measures shall be adopted for victims of trafficking during investigations and prosecutions, including medical or psychological care; admittance to a rehabilitation centre or specialized centre; and police protection if necessary. The Committee also noted the Government's statement that, pursuant to Order No. 244, a committee to combat human trafficking crimes was established.

The Committee notes with *concern* the Government's statement that there have been no specific cases of child victims of trafficking for the purpose of commercial sexual exploitation or camel racing who have been identified and admitted to a shelter or a medical, psychological and social rehabilitation centre. *The Committee urges the Government to take effective and time-bound measures to ensure that, pursuant to Order No. 244, child victims of trafficking for the purpose of commercial sexual exploitation or camel racing are effectively identified and admitted to a shelter or a medical, psychological and social rehabilitation centre. It requests the Government to provide information on the results achieved.*

The Committee is raising other points in a request addressed directly to the Government.

## Senegal

### *Minimum Age Convention, 1973 (No. 138) (ratification: 1999)*

*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 that, according to a joint report of February 2010 by ILO-IPEC, UNICEF and the World Bank entitled "Understanding children's work and youth employment in Senegal", in 2005, the number of children aged between 5 and 14 years who were economically active was estimated at more than 450,000, that is, more than 15 per cent of children in this age group. It noted that this percentage was much higher in rural areas (21 per cent) than in urban areas (5 per cent); 80 per cent worked in agriculture and nearly 22 per cent of children under 15 years of age in urban areas were employed as domestic servants and had an average working week of more than 50 hours. The study also revealed that more than 160,000 young persons between 15 and 17 years of age, that is, nearly 20 per cent of this age group, were compelled to engage in hazardous work.

The Committee notes the information supplied by the Government on the various measures and initiatives taken to combat child labour. It also notes with *interest* the adoption and launch, in July 2013, of the National Framework Plan for the prevention and elimination of child labour (PCNPETE). Its implementation comprises two phases: (i) a pilot phase (2012–14) focusing on priority actions such as boosting institutional machinery, improving the legal framework, conducting studies on the worst forms of child labour, and the preparation of project files further to which an initial evaluation will be carried out; and (ii) a development phase (2014–16) devoted to the implementation of projects and programmes. The PCNPETE contains five strategic components and provides in particular for: organizing awareness-raising campaigns with regard to the harmful impact of child labour; holding workshops to reinforce capacity for civil

society, the social partners and the Government; incorporating action against child labour in sectoral policies and development programmes; conducting a national survey on child labour by 2014; expanding the provision of education and training; and reinforcing and harmonizing the national legal framework.

The Committee further notes that, according to UNICEF information, a National Programme of family assistance bursaries (PNBSF) (2013–17) was launched in 2013 with the objective of providing family assistance bursaries at national level for a total of 250,000 vulnerable families. ***While duly noting the measures taken by the Government, the Committee strongly encourages it to pursue its efforts to combat child labour, in view of the high number of children who are working without having reached the minimum age for admission to employment and who are exposed to hazardous work. It requests the Government to provide information, in its next report, on the results achieved at the end of the pilot phase of the PCNPETE, and on the projects that have been implemented. It further requests the Government to provide information on progress made with regard to conducting a new national survey on child labour.***

*Article 2(1). Minimum age for admission to employment or work.* The Committee previously noted that section L.145 of the Labour Code allows exemptions from the minimum age for admission to employment by order of the Minister for Labour. The Government indicated that a study had been launched to examine the conformity of the national legislation and that, once it had been completed, a second phase would be devoted to amending the legislation in the light of the Convention's requirements.

The Committee notes that the Government repeats its commitment to reviewing the provisions of the legislation with a view to making the necessary rectifications and bringing it into conformity with the provisions of the Convention. It also notes that the PCNPETE provides for the organization of workshops to prepare preliminary drafts for revision of the minimum age for admission to work and the exemption relating to admission to light work by the end of 2013.

While duly noting the Government's undertaking to reform the legislation, the Committee points out that it has been raising this issue since 2006. ***The Committee therefore urges the Government to take the necessary measures to bring its legislation into conformity with the Convention and to only provide for exemptions from the minimum age for admission to employment or work in cases that are strictly authorized by the Convention. It requests the Government to provide information on progress made with regard to the preparation and adoption of preliminary drafts for the revision of the Labour Code, as provided for by the PCNPETE.***

*Article 2(1) and Part III of the report form. Scope of application and labour inspection.* In its previous comments, the Committee noted that, even though the national legislation excludes all forms of self-employment by children, in practice, poverty has facilitated the development of such activities among children (shoeshiners, street vendors), who engage in them illegally. It noted the allegations dated 1 September 2008 from the National Confederation of Workers of Senegal (CNTS) to the effect that even though children working on their own account can be regarded as traders, the minimum age is not respected in the informal economy.

The Committee notes the Government's indication that dropping out of school and educational wastage are the main causes of child labour in the informal economy. The Government refers to strategic component No. 3 of the PCNPETE, which provides for the implementation of measures to broaden the provision of education and training. Furthermore, the Committee observes that strategic component No. 4 of the PCNPETE, concerning the strengthening and application of the legal framework, also provides for strengthening the capacity and resources of the labour inspectorate by 2014.

With reference to the 2012 General Survey on the fundamental Conventions concerning rights at work (paragraph 345), the Committee points out that the expansion of the relevant monitoring mechanisms to the informal economy can be an important manner in which to ensure that the Convention is applied in practice particularly in countries where expanding the scope of the implementing legislation to address children working in this sector does not seem a practicable solution. ***Recalling that the Convention applies to all forms of work or employment, the Committee requests the Government to take measures to adapt and strengthen the labour inspection services in order to ensure monitoring of child labour in the informal economy and to ensure that these children are afforded the protection established by the Convention. It requests the Government to supply information in its next report on the measures taken in this regard.***

*Article 3(3). Admission to hazardous work from the age of 16 years.* In its previous comments, the Committee noted that section 1 of Order No. 3748/MFPTEOP/DTSS of 6 June 2003 concerning child labour provides that the minimum age for admission to hazardous work is 18 years. It noted, however, that, according to Order No. 3750/MFPTEOP/DTSS of 6 June 2003 establishing the nature of hazardous work prohibited for children and young persons (Order No. 3750), boys under the age of 16 years are authorized to carry out the lightest work in underground mines and quarries, such as loading ore, handling and haulage of small wagons within the weight limits set by section 6 of the same Order, and the overseeing or handling of ventilation equipment (section 7). Furthermore, Order No. 3750 allows children aged 16 years to perform the following tasks: work using circular saws provided that authorization in writing has been obtained from the labour inspector (section 14); the operation of vertical wheels, widgets and pulleys (section 15); operation of steam valves (section 18); work on mobile platforms (section 20); and the performance of perilous feats in public performances in theatres, cinemas, cafes, circuses and cabarets (section 21). The Committee noted that the Government undertook to amend all the provisions that were not in conformity with the Convention.

The Committee notes the Government's indication that it has undertaken legislative and regulatory reform in the context of implementation of the PCNPETE with a view to rectifying all inconsistencies between the legislation and the Convention. The Committee observes that the PCNPETE makes provision, among its actions, for the organization of a tripartite workshop for the revision of the provisions of Ministerial Orders Nos 3749–3751 of 6 June 2003 by the end of 2014.

While duly noting the undertaking made by the Government to reform the legislation, the Committee points out that it has been raising this issue since 2006. *The Committee therefore urges the Government to take the necessary measures as soon as possible to bring the legislation into conformity with the Convention and ensure that children under 16 years of age cannot be employed in work in underground mines and quarries and that the conditions provided for in Article 3(3) of the Convention are fully guaranteed for young persons between 16 and 18 years of age engaged in the work covered by Order No. 3750 of 6 June 2003. It requests the Government to supply information on all progress made in this respect.*

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee takes note of the communication of 30 August 2013 by the International Trade Union Confederation (ITUC) and of the Government's report. It also notes the in-depth discussion held in the Conference Committee on the Application of Standards at the 102nd Session of the International Labour Conference, June 2013.

*Articles 3(a) and 7(1) of the Convention. Sale and trafficking for the purpose of economic exploitation of forced labour and sanctions. Begging.* In its previous comments, the Committee noted with concern that although section 3 of Act No. 2005-06 of 29 April 2005 to combat trafficking in persons and similar practices and to protect victims prohibits the organization, for economic gain, of begging by others or the employment, procuring or deceiving of anyone with a view to causing that person to beg or to continue begging, section 245 of the Penal Code provides that "the seeking of alms on days, in places and under conditions established by religious traditions does not constitute the act of begging". The Committee accordingly observed that, from a joint reading of these two provisions, it would appear that the act of organizing begging by *talibé* children cannot be criminalized as it does not constitute an act of begging under section 245 of the Penal Code.

The Committee took note of the ITUC's observation that the number of *talibé* children forced to beg, most of whom were boys between the ages of 4 and 12 years, was estimated at 50,000 in 2010. The ITUC also observed that most of these children live in isolated rural areas of Senegal or are victims of trafficking from neighbouring countries, including Mali and Guinea Bissau. It emphasized that in practice these children receive very little education and are extremely vulnerable, being totally dependent on their Koranic teacher or *marabout*. They live in unhealthy conditions and in poverty and are physically and psychologically abused if they fail to earn their financial quota through begging. As to the causes of the phenomenon, the ITUC explained that poverty cannot alone account for this form of exploitation as the evidence tends to show that some *marabouts* earn more from child begging than they need to maintain their *daaras* (Koranic schools). The ITUC added that there was no record of any arrests, prosecutions or convictions of *marabouts* for forcing *talibés* to beg until August 2010, when the Prime Minister announced the adoption of a decree prohibiting begging in public places. Since that measure, although seven Koranic teachers were arrested and sentenced to prison terms under Act No. 2005-06, the sentences have never been enforced. Indeed, the ITUC indicated that branch associations of Koranic teachers were reported to have condemned the application of Act No. 2005-06 and threatened to withdraw their support from the President in the elections of February 2012. In October 2010, the President, therefore, reversed the Government's decision. According to the ITUC, since the conviction and release of the *marabouts* arrested in 2010, there have been no further prosecutions, let alone convictions.

The Committee notes the recent comments by the ITUC stressing that the present Government of Senegal has declared its determination to combat the phenomenon of the *talibé* children. It indicates in this connection that following the death of nine *talibés* in a fire in a *daara* in Dakar in March 2013, the President has undertaken to close all Koranic schools that fall short of basic safety standards and to eradicate child begging by 2015. The ITUC observes, however, that although the Ministry of Justice distributed Circular No. 4131 in 2010 calling on the judicial authorities to show firmness in proceedings relating to the trafficking of persons and particularly the economic exploitation of children through begging, the Government has by and large failed to apply the legislation. The ITUC points out that in the rare cases where *marabouts* have been prosecuted, it has nearly always been on other charges, and that section 3 of Act No. 2005-06 has not been applied.

The Committee notes the information provided by the Government in its report and during the discussion held in the Conference Committee on the Application of Standards in June 2013 concerning the measures taken to combat the economic exploitation of begging by *talibé* children. It notes in particular that on 8 February 2013, an inter-ministerial council met to discuss ways and means of eradicating the phenomenon of begging and, subsequently, of establishing of a steering committee for follow up and implementation of the recommendations.

As to the inconsistency between section 245 of the Penal Code and section 3 of Act No. 2005-06, the Government asserts that the national legal framework as it stands allows persons who use begging by *talibé* children for economic purposes to be effectively prosecuted and punished. According to the Government, section 245(2) of the Penal Code, which allows a waiver to the general prohibition on begging, applies only to adults who engage freely in begging for socio-cultural and religious reasons. The Government indicates that begging by persons under 21 years of age is severely punished in any event. As regards the prosecutions and convictions of *marabouts*, the Government states that it disagrees with the ITUC's observation that no *marabouts* have been prosecuted or punished since 2010. In this connection, the Committee notes the information in the Government's report regarding the most recent cases recorded. It notes, however, that of the four *marabouts* recently prosecuted, only one was charged with the exploitation of begging, the other three having been arrested on charges of assault and battery. Furthermore, although it specifies the type of penalties imposed, the information from the Government says nothing of the legal provisions applied or the duration or amount of the penalty. The Committee points out that it needs such information in order to assess the extent to which Act No. 2005-06 is applied and to ascertain the dissuasive effect of the penalty imposed.

While noting the policies and measures adopted by the Government to combat the phenomenon of the economic exploitation of begging by *talibé* children, the Committee must once again express *deep concern* at the persistence of this phenomenon and at the few prosecutions brought under section 3 of Act No. 2005-06.

Referring to its General Survey of 2012 on the fundamental Conventions concerning rights at work (paragraph 483), the Committee reminds the Government although the issue of seeking alms as an educational tool falls outside the scope of the Committee's mandate, it is clear that the use of children for begging for purely economic ends cannot be accepted under the Convention. It also points out that under *Article 7(1)* of the Convention, the Government is required 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 sufficiently effective and dissuasive sanctions. ***The Committee urges the Government to take the necessary measures to ensure that section 3 of Act No. 2005-06 is applied in practice to persons who use begging by talibé children under the age of 18 years for economic ends. In this regard, the Committee requests the Government to take measures to build the capacity of law enforcement officials, particularly the police and the judicial authorities, to disseminate Act No. 2005-06 and ensure that the perpetrators of such acts are prosecuted and that sufficiently dissuasive penalties are applied in practice. It requests the Government to provide information on this matter, together with statistics of the number of prosecutions, convictions and penalties imposed pursuant to Act No. 2005-06.***

*Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Talibé children.* The Committee noted previously that a partnership for the withdrawal and reintegration of street children (PARRER) was established in February 2007 and is made up of members of the Senegalese administration, non-governmental organizations (NGOs), the private sector, development partners, religious organizations, civil society and the media. According to the ITUC, the Government adopted measures to promote a programme of modern *daaras* managed or regulated by the State. The Government indicated that it also planned to include certain actions in its strategy to prevent child begging, such as the implementation of social protection measures to be applied in the areas of origin of migrant children, the implementation of programmes for the conditional transfer of vulnerable families, support for the creation of income-generating activities for *marabouts* and the broadening of the teaching curriculum in Koranic schools with a view to facilitating the integration of young *talibés* into active life. The Committee further noted that according to information contained in the report of 28 December 2010, by the United Nations Special Rapporteur on the sale of children, child prostitution and child pornography, the Care, Information and Counselling Centre for Children in Difficulties (GINDDI Centre), which reports to the Ministry of Education, has been responsible since 2003 for taking children off the streets and reintegrating them, and for providing psychological support and social assistance to girl and boy victims of trafficking (paragraph 68).

The Committee notes the most recent communication from the ITUC in which it recommends that the Government strengthen the programme for the modernization of *daaras* and apply it countrywide in order to put an end to forced begging by *talibé* children.

The Committee takes due note of the detailed information sent by the Government in its report, concerning the various programmes for the modernization of *daaras* and the training of Koranic teachers, and concerning the latest results obtained in identifying, removing and reintegrating *talibé* children. It notes in particular that under the PARRER, 200 children were taken off the streets and benefited from reintegration measures between 2010 and 2011. Furthermore, the GINDDI Centre has taken in 214 children, and assisted in returning 15 *talibé* children to Guinea-Bissau, four to Gambia and four to Guinea and the return to their families of 13 Senegalese *talibé* children between January and May 2013. Thanks to the "social section of the medical emergency service" (SAMU) 309 children were taken off the streets between 2010 and 2012. The Committee also notes the adoption in April 2013 of the National Framework Plan for the Eradication of Child Begging (PNEMI) 2013–15 and the National Framework Plan for the Prevention and Elimination of Child Labour (PCNPETE), which provides for measures to contribute to improving the quality of the education and living conditions of children in *daaras* by 2016. The Government also indicates that it plans to implement a project to identify all the *daaras* in the country, and to set up school canteens to cater for 500 *talibé* children during the 2012–13 school year. Lastly, it notes that, according to the information provided by the ITUC, the Islamic Development Bank and the World

Bank have undertaken to finance the establishment of modern *daaras* (164 in all). *The Committee encourages the Government to pursue its effort to protect talibé children under the age of 18 years from being sold and trafficked, and from forced or compulsory labour, and to ensure their rehabilitation and social integration. It requests the Government to continue to provide information on the measures taken, particularly under the programme financed by PARRER, and the results obtained, specifying the number of talibé children who have been removed from the worst forms of child labour and who have benefited from rehabilitation and social integration measures in the GINDDI Centre. It also asks the Government to provide information on the measures taken and the results obtained under the PNEMI and the PCNPETE to modernize the daara system.*

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

## South Africa

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Article 5 of the Convention and Part V of the report form. Monitoring mechanisms and application of the Convention in practice.* In its previous comments, the Committee requested the Government to provide information on the results achieved through the monitoring mechanisms established by the Children's Act, including the number of violations detected and children removed from the worst forms of child labour.

The Committee notes that, according to the survey on child labour and other work-related activities in South Africa of 2010 (SAYP 2010), over the period of 12 months preceding the survey, a total number of 268,000 children aged 7 to 17 reported at least one kind of "market" economic activities, that is, work for a wage or salary, running of own business, or unpaid work in a family business, which amounts to 2.4 per cent of the total number of all children in this age group. When market and non-economic market work (that is, subsistence farming, collection of fuel and water, production of goods for household use, household construction, and catching of fish or animals for household consumption) are considered together, close to two-fifths (38 per cent) of children aged 16–17 years were engaged in economic work. For children involved in economic activities, the SAYP 2010 included a question asking whether they were exposed to a range of different hazardous situations.

The Committee notes with **concern** that exposure to hazardous work was common among all age groups. Among children aged 7 to 10 years involved in economic activities, 42.3 per cent were exposed to hazardous working conditions, compared to 41.8 per cent among children aged 11–14 years and 41.3 per cent among children aged 15–17 years. The results show that extreme temperatures were the most common hazard (16 per cent of children engaged in economic activities), followed by exposure to fumes, fire, gas or flames (9 per cent), carrying of heavy loads (8 per cent), and use of dangerous tools (7 per cent). Moreover, a total of 90,000 children reported having been injured in the 12 months preceding the SAYP 2010 while doing an economic work activity. *The Committee requests the Government to intensify its efforts to eliminate the worst forms of child labour, in particular hazardous work. It requests the Government to continue providing information on the nature, extent and trends of the worst forms of child labour, and to provide information on the number and nature of infringements reported through the monitoring mechanisms established by the Children's Act, investigations, prosecutions, convictions and penal sanctions applied. To the extent possible, the information provided should be disaggregated by age and sex.*

*Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk. Child orphans and other vulnerable children of HIV/AIDS (OVCs).* The Committee previously noted the information in the Government's country progress report to the United Nations General Assembly Special Session on the declaration of Commitment to HIV/AIDS of 2010 that there were between 1.5 million to 3 million child orphans in the country with one or both parents deceased. However, this report indicated that approximately 75 per cent of South Africa's OVCs received some form of support, through child support grants, foster-care grants and care-dependency grants, and that the school attendance rate of orphans between the ages of 10 to 14 was only 1 per cent lower than the attendance rate of non-orphans.

The Committee takes note of the statistics communicated by the Government relating to the number of OVCs benefiting from home and community-based care services. It observes that these numbers have increased, rising from 268,336 in 2007–08, to 441,263 in 2008–09, to 617,480 in 2009–10. However, while appreciating the measures taken by the Government to protect OVCs, the Committee notes with **deep concern** that, according to 2011 UNAIDS estimates, the number of OVCs due to HIV/AIDS has increased to approximately 2.1 million. *Recalling that OVCs are at an increased risk of being engaged in the worst forms of child labour, the Committee strongly urges the Government to strengthen its efforts to ensure that such children are protected from these worst forms. It requests the Government to provide information on the effective and time-bound measures taken in this regard, and on the results achieved, with its next report.*

The Committee is raising other points in a request addressed directly to the Government.

## Spain

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

The Committee notes the communication of 4 September 2013 from the General Union of Workers (UGT) and the report from the Government.

*Article 7(2) of the Convention. Effective and time-bound measures. Clauses (a) and (b). Preventing children from being employed in the worst forms of child labour, removing them from such labour and ensuring their rehabilitation and social integration. Trafficking and commercial sexual exploitation.* The Committee previously noted the adoption of the third National plan to combat the sexual exploitation of children and young persons (2010–13) (PESI III), which provides for awareness-raising campaigns on the subject of sexual exploitation and sex tourism involving children, the improvement of detection systems and offender reporting systems, and the introduction of specific mechanisms to take care of victims.

The Committee takes due note of numerous measures described in the Government's report for combating the trafficking and sexual exploitation of children and young persons. It notes, in particular, that awareness-raising campaigns for preventing sex tourism and sexual violence against children have been organized and training programmes for the hotel business have been funded, which have led to the adoption of a code of conduct in the tourism sector. Moreover, the Government indicates that a working party on children's affairs has been set up within the Social Forum against Trafficking in order to coordinate actions provided for in PESI III. The working party is coordinated by the Office of the Deputy Director for Children's Affairs at the Ministry of Health, Social Services and Equality (MSSI) and includes the participation of non-governmental organizations (NGOs), representatives of the autonomous communities and the ministries concerned. In this context, a framework protocol for the protection of trafficking victims was adopted in October 2011, with a view to promoting coordination and establishing procedures for interaction among the various administrations concerned. Regarding the number of children who have benefited from protection and reintegration measures, the Government's report indicates that 12,235 protection measures were adopted by the public bodies responsible for the protection of young persons in the autonomous communities in 2011 with regard to cases of sexual abuse, sexual exploitation or ill-treatment of children. Finally, the Committee notes that in 2013, an anti-trafficking unit was set up at the Ministry of the Interior and an operational plan against the trafficking of persons for sexual exploitation was adopted.

The Committee notes, however, that according to the 2012 study published by the Ombudsman relating to human trafficking in Spain, despite major efforts by the Government to combat this practice, there are significant gaps in the recording of data relating to foreign children intercepted at borders. The latter are not automatically registered in police databases, which prevents the child protection services from being aware of their presence on the territory and from detecting children who are potential victims of trafficking (page 124). The study recommends that young persons intercepted at borders who have no legal identity documents should be automatically registered in a database used jointly by the police and the child protection services (page 284). ***The Committee encourages the Government to pursue its efforts to protect young persons under 18 years of age, particularly migrant children, against trafficking for sexual exploitation or forced labour and against commercial sexual exploitation, taking account of the recommendations of the 2012 study published by the Ombudsman. It requests the Government to supply information on the results achieved further to the various measures adopted to promote coordination among the various services concerned.***

*Clause (d). Children at special risk. Migrant children and unaccompanied minors.* The Committee previously noted the adoption of a Strategic Plan for Citizenship and Integration (2007–10), which aimed, among other things, to guarantee access to mandatory education for migrant children and to facilitate their integration into the education system. It asked the Government to provide information on the measures taken and the results achieved in the context of the Plan.

The Committee notes the observations from the UGT to the effect that the second phase of the Strategic Plan for Citizenship and Integration (2011–14) has still not been implemented in practice. According to the UGT, the plan has not evolved in practical terms since 2012 and has not been the subject of monitoring or evaluation. The UGT also indicates that, despite the reduction in financing since 2008 for the Assistance Fund for the Welcome and Integration of Immigrants, the Fund has never been assigned the task of financing health care and education for the foreign population. The Committee observes that the Government's report reproduces the information from the UGT in this respect and does not provide any new information.

The Committee notes that the Committee on Economic, Social and Cultural Rights (CESCR), in its concluding observations of 6 June 2012, expressed concern at the reduction in effective protection levels resulting from the austerity measures adopted by Spain, which has had a disproportionate impact on the exercise of the rights of migrant children and asylum seekers (E/C.12/ESP/CO/5, paragraph 8). It observes that the CESCR also noted with concern that education has been one of the sectors most affected by budgetary restrictions (paragraph 27). ***Considering that migrant children are particularly exposed to the worst forms of child labour, the Committee requests the Government to intensify its efforts to protect children from the worst forms of child labour, particularly by ensuring their integration into the education system. It requests the Government to provide information on the measures taken and the results achieved in this respect in its next report.***

The Committee is raising other points in a request addressed directly to the Government.

## Sri Lanka

### Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes the Government's report and the comments made by the National Trade Union Federation (NTUF) dated 24 August 2013.

*Article 2(2) of the Convention. Raising the minimum age for admission to employment or work.* The Committee previously noted the Government's information that the Ministry of Labour Relations and Foreign Employment was considering the possibility of extending the age for admission to employment to 16 years and that steps were being taken to consult the relevant organizations/parties concerned. The Committee requested the Government to indicate whether any amendments raising the minimum age for employment to 16 years had been made.

The Committee notes the Government's statement that amendments in this regard have been submitted to the Attorney-General for approval, which will thereupon be submitted to the Parliament for adoption. ***The Committee expresses its firm hope that the amendments with regard to raising the minimum age for admission to employment to 16 years will be adopted in the near future. In this regard, the Committee would like to draw the Government's attention to the provisions of Article 2(2) of the Convention, which provides that any Member having ratified this Convention may subsequently notify the Director-General of the International Labour Office, by a new declaration, that it has raised the minimum age that it had previously specified. The Committee would be grateful if the Government would consider the possibility of sending a declaration of this nature to the Office, in case any amendments to the national legislation raising the minimum age for admission to employment or work to 16 years have been made.***

*Article 2(3). Compulsory education.* The Committee previously noted the Government's information that the Ministry of Education had taken steps to submit a Bill to the Parliament in respect of extending compulsory schooling up to 16 years of age.

The Committee notes the Government's information that the Cabinet of Ministers have approved the memorandum submitted by the Ministry of Education on raising the upper age limit of compulsory education from 14 years to 16 years. The Government further indicates that the amendments in this regard have been submitted to the Attorney-General for approval. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the amendments with regard to extending compulsory education up to 16 years will be adopted in the near future. It requests the Government to provide information on any progress made in this regard, as well as to supply a copy, once it has been adopted.***

*Part V of the report form. Application of the Convention in practice.* The Committee notes that, according to the findings of the Child Activity Survey of 2008–09 conducted by the Department of Census and Statistics, 2.5 per cent of the total child population aged between 5 and 17 years are involved in child labour, of which 1.5 per cent are engaged in hazardous work. About 80.8 per cent of the working children are engaged in unpaid family work; 66.3 per cent are engaged in elementary occupations such as street and mobile vendors, domestic helpers, mining, construction, manufacturing, transport and related work; while 61 per cent are engaged in the agricultural sector. The survey report further indicates that the average work time by children aged 5–17 years is 13.3 hours per week.

The Committee notes the Government's statement that the Department of Labour (DoL) is making every effort to enforce the law against child labour and that no incidence of child labour has been observed in the formal economy. In 2012, the DoL received 186 complaints on child labour in the informal economy of which four cases have been filed with the magistrate courts, while in the other cases legal action was impossible due to lack of evidence. The Committee further notes the Government's information that one of its districts, "Rathnapura", is envisaged to become a Child Labour Free Zone by 2015, and that the Government is trying to expand this concept into other districts as well. According to the Government's report, the main aspect of this concept is that it has the support of all government programmes related to education, vocational training, poverty alleviation and other social welfare schemes, as well as support of the private sector and the non-governmental organizations, in eliminating child labour. The Committee notes, however, the comments made by the NTUF that the number of cases of employment of children are much more than indicated by the Government as most of the children are employed as domestic workers where outsiders have no access. ***The Committee encourages the Government to take the necessary measures within the framework of its attempt to expand the Child Labour Free Zone concept to all of its districts by 2016, to ensure the application of the Convention to all branches of economic activity, including the informal economy. In this regard, the Committee requests the Government to take effective measures to strengthen the capacity and expand the reach of the labour inspectorate to better monitor children working in the informal economy, including domestic workers. The Committee also requests the Government to continue providing information on the manner in which the Convention is applied in practice, including information from the labour inspectorate on the number and nature of contraventions reported, violations detected and penalties applied.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

The Committee notes the Government's report and the comments made by the National Trade Union Federation (NTUF) dated 24 August 2013.

*Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution.* The Committee previously noted that sections 360A, 360B and 288A of the Penal Code, as amended, prohibited a wide range of activities associated with prostitution, including the prohibition of the use, procuring or offering of minors under 18 years of age for prostitution. It also noted the Government's information that prosecutions on the commercial sexual exploitation of children are carried out by the Department of Police and the National Child Protection Authority (NCPA). The Committee further noted that the Committee on the Rights of the Child (CRC), in its concluding observations of 19 October 2010 (CRC/C/LKA/CO/3-4, paragraph 69), expressed concern at the high incidence of exploitation of approximately 40,000 children in prostitution, that no comprehensive data were available on child sexual exploitation, and that no central body was established to monitor the investigation and prosecution of child sexual exploitation cases.

The Committee notes the Government's information that several initiatives and measures have been taken against the sexual exploitation of children, such as: the development of a national plan of action to combat trafficking in children for sexual and labour exploitation; the establishment of a children's council throughout the island; and the establishment of a special committee to look into the issue of reducing the duration of judicial proceedings relating to child sexual exploitation. The Committee also notes the information provided by the Government in its fifth periodic report of 31 January 2013 to the Human Rights Committee (CCPR/C/LKA/5, paragraph 294), that it has established a women and children police desk at district level consisting of specially trained police officers to deal with the incidence of sexual exploitation of children. The Committee further notes from the Government's report that, as per the data collected from the police unit and the NCPA, in 2012, 53 cases of commercial sexual exploitation of children were reported while, in 2013, 30 cases were reported. ***The Committee urges the Government to continue its efforts to combat the commercial sexual exploitation of children and to ensure that thorough investigations and robust prosecutions of persons who commit this offence are carried out and sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to continue providing information with regard to the number of prosecutions, convictions and penalties imposed on offenders in cases related to the commercial sexual exploitation of children.***

*Clause (d) and Article 4(1). Hazardous work.* The Committee previously requested the Government to provide information on the application in practice of section 20A of the Employment of Women, Young Persons, and Children Act of 2006, which prohibits the employment of children under the age of 18 years in any hazardous occupation.

The Committee notes the Government's statement that around 65,000 labour inspections are carried out annually and no incidents of hazardous work by children have been detected in the formal economy. The Committee notes, however, that, according to the findings of the Child Activity Survey 2009, out of the total child population of 107,259 reported to be in child labour, 63,916 children (1.5 per cent) between the ages of 5–17 years are engaged in hazardous work. The incidence of hazardous forms of child labour is highest in the manufacturing industries followed by the service and agricultural industries. ***Noting that a large number of children under the age of 18 years are involved in hazardous work in Sri Lanka, the Committee urges the Government to take immediate and effective measures to ensure their protection from hazardous work, including in the informal economy. It also requests the Government to provide information on the measures taken in this regard and on the results achieved.***

*Article 6. Programmes of action to eliminate the worst forms of child labour. Commercial sexual exploitation of children.* The Committee previously noted that the CRC, in its concluding observations of 19 October 2010 (CRC/C/LKA/CO/3-4, paragraph 71), expressed concern that Sri Lanka remained a common destination for child-sex tourism, with a high number of boys being sexually exploited by tourists. The CRC also expressed concern that the police lacked the necessary technical expertise to combat child-sex tourism; that the Cyber-Watch programme to monitor the Internet for child pornography and crimes related to child-sex tourism was discontinued; and that the Cyber Crimes Unit closed due to lack of funding.

The Committee notes that, according to the document entitled "Sri Lanka's Roadmap 2016 on the Worst Forms of Child Labour from Commitment to Action", one of the strategies of the 2016 Roadmap is to promote child-safe tourism. The document also indicates that Sri Lanka's Ten-Year Horizon Development Framework 2006–16, called *Mahinda Chintana*, which is vigorously tackling many of the root causes of child labour, aims to strengthen security against tourism-related crimes, including combating child-sex tourism through strict police vigilance and awareness-raising programmes. However, the Committee notes from the same document that the beach boy phenomenon along with the issue of paedophilia has been known for a long time along the south western coastal belt of Sri Lanka. The Committee further notes the comments made by the NTUF that the commercial sexual exploitation of children takes place mainly in seaside tourist resorts and the very secretive nature of these offences curtails complaints or facts from coming to light. The Committee expresses its **concern** at the situation of children involved in child-sex tourism. ***The Committee, therefore, once again urges the Government to strengthen its efforts to combat child-sex tourism and to ensure that perpetrators are brought to justice. The Committee requests the Government to provide information on the implementation of the***

*strategies of the 2016 Roadmap in promoting child-safe tourism as well as the measures taken within the framework of the Mahinda Chintana in combating child-sex tourism.*

The Committee is raising other points in a request addressed directly to the Government.

## Sudan

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a). Slavery and practices similar to slavery.* The Committee notes the Government's statement that it is concerned over the increase in cases of abduction, recruitment and exploitation of children by certain armed movements and groups. It affirms the need for more serious measures to be taken within the framework of the efforts of the international community against the armed movements that abduct, recruit and exploit children. It also notes the Government indication that it has concluded a number of agreements with the State of South Sudan with a view to securing the borders between the two States, in order to protect civilians, particularly children.

1. *Abduction and the exaction of forced labour.* The Committee previously noted the various legal provisions in Sudan which prohibit the forced labour of children (and abductions for that purpose), including article 30(1) of the Constitution of 2005, section 32 of the Child Act of 2004, and section 312 of the Penal Code. However, the Committee also noted the allegations of the International Trade Union Confederation (ITUC) regarding cases of abduction of women and children by the Janjaweed militia. The ITUC indicated that the signing of a comprehensive peace agreement (CPA) in January 2005 (and the adoption of the interim Constitution) provided a historic opportunity for the new Government of Sudan to resolve the problem of abductions. In 2009, the Committee noted that according to the Report of Activities of the Committee for the Eradication of Abduction of Women and Children (CEAWC), submitted by the Government, the CEAWC had successfully identified and resolved 11,237 of the 14,000 cases of abduction and reunified 3,398 abductees with their families. However, the Committee noted that the ILO Conference Committee on the Application of Standards, in its conclusions adopted in June 2010 on the application of the Forced Labour Convention, 1930 (No. 29), by Sudan, observed that there was no up-to-date information available on the activities of the CEAWC with regard to the number of victims identified or reunited with their families since 2008. In addition, the Committee noted that the Committee on the Rights of the Child (CRC) in its concluding observations of 10 October 2010, expressed concern over the abduction of children for the purpose of forced labour (CRC/C/SDN/CO/3-4, paragraph 78). The UN Secretary-General's Security Council report on children and armed conflict in Sudan of 5 July 2011 indicated that while within the three states of Darfur, allegations of the abduction of children had declined, there remained reports of this practice. In addition, the 13th periodic report of the UN High Commissioner for Human Rights on the situation of human rights in Sudan of August 2011 stated that the Human Rights Component of the UN Mission in Sudan continued to receive reports of abductions, including of children (S/2011/413, paragraphs 30–31).

The Committee notes the Government's statement that cases of abduction and forced labour which were a direct by-product of the civil war and ancient long-standing tribal practices, particularly in the southwest Sudan, have been brought to an end. The Government indicates that this is confirmed by the working group formed by the Chairman of the Advisory Council on Human Rights, which reported that specific regions have not had any abductions since the declaration of the new State of South Sudan. However, the Committee also notes the Government's statement in its report that it is concerned over the increases in cases of abduction by armed movements such as the Popular Movement in the Northern sector (SPLMN-N) and the Justice and Equality Movement (JEM) and that stronger measures need to be taken against such groups.

The Committee notes that the Working Group on Children and Armed Conflict, in its conclusions on children and armed conflict in the Sudan of 11 October 2012, noted a decrease in cases of abduction of children in Darfur. The Committee also notes that according to the report of the Secretary-General on children and armed conflict of 26 April 2012, there were allegations of abductions of children in Abyei, Blue Nile and South Kordofan in 2011, (A/66/782, paragraph 114). In this regard, it notes the Government's statement that the Minister of Justice has formed a fact-finding committee to investigate instances of the abduction of children in South Kordofan, in accordance with Decision No. 11 of 2012.

The Committee, therefore, observes that there appears to have been tangible steps taken to combat the forced labour of children, including the decline of reported abductions of children in the Darfur region, but that these practices remain an issue of concern. ***Accordingly, the Committee urges the Government to strengthen its efforts to eradicate abductions and the exaction of forced labour from children under 18 years, and to provide information on the effective and time-bound measures taken to this end. It requests the Government to provide information on results achieved in this regard and to provide a copy of the most recent report of the CEAWC, with its next report.***

2. *Forced recruitment of children for use in armed conflict.* In its previous comments, the Committee noted that the Government armed forces, including the paramilitary Popular Defence Forces (PDF), the Government-backed militias and other armed groups, including tribal groups not allied to government or armed opposition groups, had forcibly recruited child soldiers in Sudan. However, the Committee noted that the CPA of 2005 requires the demobilization of all child soldiers in the span of six months as from the date on which the CPA is signed and that both the Sudan Armed

Forces Act (adopted in 2007) and the Child Act (adopted in 2010) prohibit the recruitment of children. Nonetheless, the Committee noted the information in the UN Secretary-General's report on children and armed conflict in Sudan of 5 July 2011 that between January 2009 to February 2011, 501 children (including six girls) were verified as being associated with at least ten armed forces and armed groups in Darfur. While this represented a decline in the number of children associated with armed groups in Darfur, this report also indicated that the monitoring of the recruitment of children in armed groups continued to be seriously hampered by difficulties related to security, access to non-government controlled areas and movement restrictions imposed by the Government (S/2011/413, paragraph 17).

The Committee notes the Government's statement that the Child Soldier Unit (within the Northern Sudan Disarmament, Demobilization and Reintegration (DDR) Commission) works to sensitize armed forces and groups as to the need to demobilize child recruits and to raise awareness and knowledge of the rights of children in communities afflicted by the phenomenon of child recruitment. The Government also indicates that the Ministry of Defence was involved in the development of a plan to end the recruitment and use of children, adopted in 2009. However, the Government states that continued armed struggle, and the continued recruitment of children, are taking place in Darfur, and that the conflicts have flared up in South Kordofan and Blue Nile, with children being forcibly recruited by rebel movements. In this regard, the Committee notes the information in the report of the Secretary-General on children and armed conflict of 26 April 2012 that the country task forces on monitoring and reporting documented 45 cases of recruitment and use of children for armed conflict in Darfur in 2011, representing a significant decrease from the 115 recorded in 2010. Of the 45 cases, seven were perpetrated by the Sudanese police force; five by the Border Intelligence Forces; five by Central Reserve Police; 14 by pro-Government militias; five by the Sudan Liberation Army (SLA)/Abdul Wahid; three by the Popular Defence Forces (PDF); one by the Sudanese Armed Forces; one by SLA/Minni Minawi; one by JEM; and three by unidentified armed groups. The majority of these incidents took place in government-controlled areas (A/66/782, paragraph 109). This report also indicates that cases of recruitment and use of children significantly increased in the Three Areas (Abyei, Blue Nile and South Kordofan) in 2011, with 52 verified cases compared with eight in 2010 (A/66/782, paragraph 114).

While noting the apparent decline of the number of children associated with armed groups in the Darfur region, the Committee must once again express its *concern* that children are still being recruited and forced to join illegal armed groups or the national armed forces in practice, and that this practice appears to be increasing in the Three Areas. It expresses its *serious concern* with regard to the persistence of this practice, especially as it leads to other violations of the rights of children, in the form of abductions, murders and sexual violence. In this regard, the Committee refers to the conclusions of the Working Group on Children and Armed Conflict on children and armed conflict in Sudan of 11 October 2012, expressing concern regarding the presence of children in the armed forces and associated forces, and urging the Government to address that issue and prevent the recruitment and use of children, according to its national legislation and international obligations (S/AC.51/2012/1, paragraph 16). ***Recalling that the forced recruitment of children under 18 years is among the worst forms of child labour, the Committee urges the Government to adopt, as a matter of urgency, immediate and effective measures, in collaboration with the UN bodies operating in the country, to put a stop in practice to this recruitment by armed groups and the armed forces. The Committee requests the Government to continue to provide information on the concrete measures taken in this regard, and on the results achieved.***

*Article 7(1). Forced labour. Penalties.* The Committee previously noted that the Penal Code of 2003 and the Child Act of 2004 contained various provisions which provide for sufficiently effective and dissuasive penalties of imprisonment and fines for anyone who commits the offence of the forced labour of children. However, the Committee also noted the ITUC's allegation that the impunity enjoyed by those responsible for abductions and the exaction of forced labour – illustrated by the absence of any prosecutions for abductions in the last 16 years – had been responsible for the continuation of this practice throughout the civil war and more recently in Darfur. In this regard, the Committee noted the Government's statement of November 2005 that all of the tribes concerned, including the Dinka Chiefs Committee, have requested the CEAWC not to resort to legal action unless the amicable efforts of the tribes are not successful, due to the following reasons: that legal action is very long and expensive; that it may threaten the life of young abductees; and that it will not build peace among the tribes concerned. However, the Committee noted that the CRC, in its concluding observations of 10 October 2010, expressed concern at the de facto impunity enjoyed by perpetrators of the abduction of children for the purpose of forced labour (CRC/C/SDN/CO/3-4, paragraph 78).

The Committee notes the Government's statement that failure to penalize the abduction, recruitment and exploitation of children leads the leaders of the relevant groups to conclude that placing children at risk is permissible as long as it is not criminalized. The Government states that, for the purpose of accountability, the armed forces is considering conducting a statistical study of military crimes with a view to creating a military criminal register, which would contain offences committed in violation of the provisions of the 2007 Armed Forces Act as well as the Penal Code. The Government also indicates that the file on the CEAWC has been referred to the Ministry of Justice. The Government further indicates in its report that it has appointed a special prosecutor for crimes committed in Darfur, and that the President of the Judiciary has established a special court for crimes committed in Darfur. In this regard, the Committee notes the information from the Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur of 10 January 2013 that the Office of the Special Prosecutor for crimes committed in Darfur has commenced its

work, and that by December 2012, it had opened investigations into ten cases, among them crimes committed in 2005, 2010, 2011 and 2012 (S/2013/22, paragraph 6).

The Committee once again reminds the Government that, by virtue of *Article 7(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. The Committee considers that the lack of enforcement of the penal provisions prohibiting the forced labour of children under 18 years, while sometimes ensuring that victims are effectively retrieved, has the effect of ensuring impunity for perpetrators instead of punishing them. ***The Committee requests the Government to pursue and strengthen its efforts to ensure that thorough investigations and robust prosecutions of any persons, including members of the Government's armed forces, who abduct children under 18 for the exaction of forced labour, or who forcibly recruit them for use in armed conflict, are carried out. It also requests the Government to take the necessary measures to ensure that sufficiently effective and dissuasive sanctions are imposed on offenders in practice. It requests the Government to continue to provide information on measures taken in this regard, including by the office of special prosecutor for crimes committed in Darfur, and to provide any available information on the number of investigations, prosecutions, convictions and penal sanctions applied.***

*Article 7(2). Effective and time-bound measures. Clause (b). Removing children from the worst forms of child labour and providing for their rehabilitation and social integration. Child soldiers.* The Committee previously noted the Government's indication that through the Northern Sudan DDR Commission, established by the CPA, efforts were deployed to provide psychological and social support as well as education and skills training to former child soldiers. Moreover, the UN Secretary-General's report on children and armed conflict in Sudan of 5 July 2011 indicated that, from February 2009 to February 2011, the Northern Sudan DDR Commission had registered 1,041 former child soldiers in Darfur. However, this report also indicated that the re-recruitment of children who had been separated from armed forces or groups had occurred, and that this could be addressed only through the provision of support for the long-term reintegration of children (S/2011/413, paragraphs 20, 23 and 89).

The Committee notes the Government's statement that within the framework of the Northern Sudan DDR Commission, the Child Soldier Unit functions as a technical division tasked with improving the situation of children associated with armed forces or groups in the country. While the Child Soldier Unit's efforts have resulted in the demobilization and reintegration of a considerable number of children in Sudan, focusing on regions where significant numbers of children are at risk of being recruited, such as Darfur, and that activities of the Unit have expanded into the Three Areas. The Child Soldier Unit has established a database of child soldiers, with information relating to their registration, reintegration, and follow-up. The Government indicates that the Ministry of Social Affairs in Khartoum is working towards employment integration for such children over the minimum age, identifying opportunities for former child soldiers who have completed the reintegration process. The Government states that it is important to provide for the economic integration of children to ensure the success of their psychological and social reintegration.

The Government provides detailed information on the activities which have been undertaken, indicating that a total of 1,695 children have been registered, 593 of whom have been enrolled in school and 123 of whom have been provided with training opportunities. While work in the Eastern state (Kassala and the Red Sea state) saw notable progress, work in the Central Sector as well as South Kordofan and Blue Nile faced numerous challenges. In the Blue Nile state, the Child Soldier Unit was able to demobilize 140 of 220 children associated with the Popular Movement (SPLM), and efforts will be made to demobilize the rest of them. However, 78 children have been recruited or re-recruited in the Blue Nile state and South Kordofan, and 34 demobilized children could not be located. According to the Government, the challenge was the greatest in Darfur. The Government further indicates that reintegration projects have been negatively impacted by a decline in funding due to the global financial crisis and the priorities of donors. The political and security circumstances in the Three Areas and Darfur have also slowed the pace and diminished the quality of the work of the Child Soldier Unit. ***Noting the difficulties experienced by the Government, the Committee urges the Government to continue to take, in collaboration with the UN, effective and time-bound measures to remove children from armed conflict and ensure their rehabilitation and social integration, with particular attention to children at risk of re-recruitment. In this regard, it requests the Government to continue to supply information on the number of children under 18 years of age who have been removed from armed forces, rehabilitated and reintegrated into their communities as a result of the ongoing disarmament, demobilization and reintegration efforts.***

The Committee is raising other points in a request addressed directly to the Government.

## Suriname

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2006)**

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

*Article 1 of the Convention. Measures taken to secure the prohibition and elimination of the worst forms of child labour.* Following its previous comments, the Committee noted with interest the Government's statement that it is preparing draft legislation for accession to the Minimum Age Convention, 1973 (No. 138). ***The Committee encourages the Government to***

*pursue its efforts in this regard, and to continue to provide information on progress made towards the ratification of Convention No. 138.*

*Article 4(1). Determination of hazardous work.* The Committee previously noted the Government's indication that the Preparatory Working Group of the National Commission on Child Labour had formulated the draft Decree containing a list of types of hazardous work prohibited to children under 18 years of age. The Committee requested the Government to take measures to ensure the adoption of the draft Decree.

The Committee noted the Government's statement that the State Decree on Hazardous Labour for Young Persons has been adopted. The Government stated that this Decree contains a list of hazardous forms of work that are, or may be, hazardous for children and young persons. The Government stated that this list will be reviewed periodically. ***The Committee requests the Government to provide a copy of the State Decree on Hazardous Labour for Young Persons, with its next report.***

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 near future.***

## Swaziland

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2002)**

*Article 1 of the Convention. National policy.* The Committee previously noted the allegations made by the Swaziland Federation of Trade Unions (SFTU) that there was no national policy or action programme for the elimination of the worst forms of child labour and that there was no political will on the part of the Government to address the legislative and policy issues concerning child labour.

The Committee notes the Government's indication that the redrafting of the proposed Employment Bill and of the National Action Programme on the Elimination of the Worst Forms of Child Labour (NAP-WFCL) has been finalized by the Labour Advisory Board (LAB) and that both would soon be submitted to Cabinet for adoption and publication. ***Noting that the Government has been referring to the draft Employment Bill and draft NAP-WFCL for several years, the Committee urges the Government to take the necessary measures to ensure that they are adopted without delay, taking into consideration the comments made by the Committee. It requests the Government to provide information on the progress made in this regard.***

*Article 2(1). Scope of application. Informal economy, including family undertakings.* The Committee previously observed that, in practice, children appeared to be engaged in child labour in a wide range of activities in the informal economy. Yet, the Committee noted that, pursuant to section 2 of the Employment Act, domestic employment, agricultural undertakings and family undertakings were not included in the definition of "undertaking" and therefore not covered by the minimum age provisions of section 97. The Committee further observed that the draft Employment Bill also exempts family undertakings from the minimum age provisions. The Committee therefore reminded the Government that the Convention applies to all branches of economic activity and that it covers all types of work, including work in family undertakings. The Committee also recalled that, in its first report, the Government did not avail itself of the possibility of exclusion of limited categories of employment or work as envisaged in *Article 4* of the Convention.

The Committee notes the Government's indication that the Employment Bill, once adopted and promulgated, will include all workers, even those working in the informal economy, so as to be in line with the Convention. Moreover, the Committee notes the Government's information that, with technical assistance from the ILO, the Ministry of Labour and Social Security has been training labour inspectors on child labour issues and on how to identify child labour in all sectors of the economy. ***The Committee requests the Government to continue to take measures to adapt and strengthen the labour inspectorate in order to improve the capacity of labour inspectors to identify cases of child labour in the informal economy and to ensure that the protection afforded by the Convention is effectively applied to all child workers. It also requests the Government to provide a copy of the adopted Employment Bill along with its next report.***

*Article 2(3). Age of completion of compulsory education.* The Committee previously noted the Government's indication that it enacted the Free Primary Education Act of 2010, which contains provisions requiring parents to send their children to school until the completion of primary schooling. However, the Committee noted with concern that primary schooling finishes at the age of 12 years, while the minimum age for admission to employment is 15 years in Swaziland.

The Committee once again notes the Government's statement that the concerns raised by the Committee with regard to linking the school-leaving age with the minimum age for admission to employment will be considered in due course. ***Considering that compulsory education is one of the most effective means of combating child labour, the Committee once again urges the Government to take the necessary measures to extend compulsory education up to the minimum age for admission to employment, which is 15 years in Swaziland.***

*Article 3(2). Determination of hazardous work.* The Committee noted the Government's statement that once the draft Employment Bill was adopted, measures would be taken in consultation with the social partners to develop a list of types of hazardous work prohibited to children and young persons, as envisaged by section 10(2) of the draft Employment Bill. The Committee reminded the Government that, under the terms of *Article 3(2)* of the Convention, the types of hazardous work prohibited to children under 18 years of age shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned.

The Committee notes the Government's indication that the multi-stakeholder Child Labour Committee initiated talks to determine the list of hazardous work and that this list would be sent to the LAB for consideration before being transmitted to the Minister of Labour and Social Security. ***The Committee therefore requests the Government to take the necessary measures to ensure that the types of hazardous work prohibited to children under 18 years of age are determined and that the list is adopted in very near future. It requests the Government to provide information on the progress made in this regard.***

*Article 7. Light work.* The Committee previously noted that, according to the joint ILO–IPEC, UNICEF and World Bank report on Understanding Children's Work in Swaziland, 9.3 per cent of children between the ages of 5 and 14 years were engaged in child labour. The Committee noted that the draft Employment Bill did not appear to set a minimum age for light work, including work in family undertakings. Noting that national legislation did not regulate light work and that a significant number of children under the minimum age were engaged in child labour, the Committee requested the Government to envisage the possibility of adopting provisions to regulate and determine the light work activities performed by children between 13 and 15 years of age, in accordance with *Article 7* of the Convention.

The Committee notes the Government's indication that the concerns raised on this point have been noted. ***Expressing the hope that, in the framework of the draft Employment Bill, provisions will be adopted to regulate and determine light work activities, the Committee requests the Government to provide information on the progress made in this regard in its next report.***

***The Committee urges the Government to take the necessary measures to ensure, without delay, the adoption of the Employment Bill. In this regard, it strongly encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. The Committee reminds the Government that it may avail itself of ILO technical assistance to bring its legislation into conformity with the Convention.***

The Committee is raising other points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)**

*Article 3 of the Convention. Worst forms of child labour.* The Committee previously noted that section 10(1) of the draft Employment Bill prohibits the worst forms of child labour as laid down under *Article 3* of the Convention. The Committee noted that section 149(1) of the draft Employment Bill provides for penalties for the contravention of the provisions under section 10(1).

The Committee notes the Government's indication that the redrafting of the proposed Employment Bill has been finalized by the Labour Advisory Board (LAB) and that it would soon be submitted to Cabinet for adoption and publication. The Government also indicates that the LAB accepted and included the draft provisions on the prohibition of the worst forms of child labour, including the penalties. ***The Committee requests the Government to take immediate measures to ensure that the draft Employment Bill is passed without delay. It requests the Government to supply a copy thereof along with its next report, once it has been adopted.***

*Clause (b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.* The Committee previously expressed the firm hope that the Sexual Offences and Domestic Violence Bill would be adopted in the near future.

The Committee notes the Government's information that the Sexual Offences and Domestic Violence Bill, which seeks to protect children against commercial sexual exploitation, will soon be promulgated into law. ***The Committee urges the Government to take immediate measures to ensure that the Sexual Offences and Domestic Violence Bill is passed without delay. It requests the Government to supply a copy thereof once it has been passed.***

*Article 4(1). Determination of hazardous types of work.* The Committee previously noted that according to section 10(2) of the draft Employment Bill, the Minister may, after consultation with the LAB and by notice in the *Gazette*, specify particular types of hazardous work prohibited to children and young persons. The Committee noted the Government's indication that the necessary measures would be taken as envisaged by section 10(2) of the draft Employment Bill.

The Committee notes the Government's indication, in its report submitted under the Minimum Age Convention, 1973 (No. 138), that the multi-stakeholder Child Labour Committee initiated talks to determine the list of hazardous work and that this list would be sent to the LAB for consideration before being transmitted to the Minister of Labour and Social Security. ***The Committee, therefore, requests the Government to take the necessary measures to ensure that the types of hazardous work prohibited to children under 18 years of age are determined as a matter of urgency, and that the list is adopted without delay. It requests the Government to provide information on the progress achieved in this regard and to supply a copy of the list of types of hazardous work, once adopted.***

*Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Child orphans of HIV/AIDS.* In its previous comments, the Committee noted that, according to the Epidemiological Fact Sheet on HIV and AIDS of 2009 – Swaziland (UNAIDS), over 69,000 children under the age of 17 years were orphans due to AIDS.

The Committee notes that, according to the March 2012 United Nations General Assembly Special Session (UNGASS) country report, Swaziland is currently implementing a National Multisectoral Strategic Framework 2009–14, in the framework of which the most at risk populations, including orphans and vulnerable children (OVCs), are recognized. In addition, the Committee notes the Government's indication that children at special risk, once identified, are placed in residential Child Care Facilities, where they receive care and assistance. However, the Committee notes that, according to the March 2012 UNGASS country report, one of the main challenges in the area of OVC protection is the lack of a holistic programme that addresses OVC concerns and needs. Moreover, the Committee observes with *deep concern* that the number of children under the age of 17 years orphaned due to HIV/AIDS has risen to 78,000, according to the UNAIDS estimates for 2012. ***Recalling that children orphaned by HIV/AIDS and other vulnerable children are at an increased risk of being engaged in the worst forms of child labour, the Committee once again urges the Government to strengthen its efforts to protect such children from the worst forms of child labour. It requests the Government to provide concrete information on the results achieved through these efforts, in terms of number of OVCs who have effectively been prevented from becoming engaged in the worst forms of child labour or removed from these worst forms.***

The Committee is raising other points in a request addressed directly to the Government.

## Switzerland

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.* In its previous comments, the Committee noted that the Penal Code punishes anyone who commits a sexual act with a child under 16 years of age (section 187) or who induces a young person (that is, a person under the age of 18 years) to engage in prostitution (section 195). The Committee noted that although section 195 covers the prohibition set out in the Convention, the Penal Code is inconsistent with the Convention in that section 187 punishes the commission of a sexual act only with a person under the age of 16 years. The Committee emphasized that it is necessary to make a distinction between the age of sexual consent and the freedom to engage in prostitution. It considered that even though the national legislation recognizes that a child over 16 years of age may lawfully consent to a sexual act, the age of consent does not affect the obligation to prohibit this worst form of child labour. It also considered that to engage in a sexual act with a child under 18 years of age for remuneration amounts to the use of a child for prostitution, whether or not the child consents. The Committee further noted that section 197 of the Penal Code punishes the use, procuring or offering of a child for the production of pornography. It noted, however, that the term "child" used in section 197(3) of the Penal Code, which prohibits the production of pornography involving children, covers only persons under 16 years of age. The Government indicated in this connection that following the signing in June 2010 of the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), amendments were needed to the Penal Code. Such amendments include the criminalization of the use of persons between 16 and 18 years of age for prostitution and the extension of the scope of section 197 to young people aged from 16 to 18 years. It indicated that a draft report on the implementation and ratification of the Convention was being prepared at the Federal Office of Justice and that a consultation procedure was to be opened as soon as possible so that a message could be submitted to the Federal Chambers in 2012.

The Committee takes due note of the Federal Order of 27 September 2013 to approve and implement the Lanzarote Convention (FF 2013 6621). It notes with *interest* that the Order provides for the revision of certain provisions of the Penal Code, with a view to punishing anyone who commits a sexual act with a person under 18 years of age (new section 196) and to extend the coverage of section 197 to young persons aged from 16 to 18 years. It notes that the deadline for a referendum to oppose implementation of the Order and to submit it to a plebiscite is 16 January 2014. ***The Committee expresses the firm hope that the amendments to the Penal Code on the use, procuring or offering of a child under 18 years of age for prostitution, the production of pornography or pornographic performances (sections 196–197), as provided in the Order of 27 September 2013, will be implemented shortly. It requests the Government to continue to provide information on all progress made in this regard.***

## Syrian Arab Republic

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2001)**

The Committee notes the general human rights situation in the country as referred to in its comments under the Abolition of Forced Labour Convention, 1957 (No. 105). It also notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

*Article 3(3) of the Convention. Admission to hazardous work as from 16 years of age. Agricultural work.* The Committee previously noted that section 2 of Order No. 972 (of the Ministry of Social Affairs and Labour) of 7 May 2006 specifies a list of tiring jobs in the agricultural sector in which it is prohibited to employ children. This list includes: (1) all forms of irrigation except for drip irrigation; (2) crop harvesting and cutting fodder; (3) driving agricultural machinery, operating and maintaining water pumps by diesel engines; (4) working with and sprinkling agricultural pesticides, using chemical fertilizers and

pruning; (5) carrying, pulling and transporting loads; (6) cultivating soil through the use of a manual plough; and (7) dispersing seeds in an area exceeding 2,500 square metres. However, the Committee noted that, pursuant to section 1, Order No. 972 only prohibits these listed activities for children under 15 years of age. In this regard, the Committee recalled that *Article 3(3)* of the Convention permits the performance of hazardous work, under very specific conditions, only from the age of 16 years.

The Committee took note of the information in the Government's report on measures it intends to take to protect children working in agriculture. The Government indicated that it aims to establish a centre in 2011 for the rehabilitation of children in the agricultural region of the governorate of Dayr az-Zawr, through the National Programme for the Elimination of the Worst Forms of Child Labour.

Nonetheless, the Committee observed that the authorized age to perform hazardous work in the agriculture sector remains at 15 years of age, pursuant to Order No. 972. In this regard, the Committee once again recalled that by virtue of *Article 3(3)* of the Convention, national laws or regulations or the competent authority may, after consultations with the organizations of employers and workers concerned, where such exist, authorize employment or work as from the age of 16 years on condition that health, safety and morals of the young persons are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity. **The Committee urges the Government to take the necessary measures to ensure that no child under the age of 16 is permitted to engage in hazardous work in the agricultural sector. In this regard, the Committee requests the Government to take the necessary measures to amend Order No. 972 to prohibit hazardous types of agricultural activities to all children under 16 years of age.**

*Part V of the report form. Application of the Convention in practice.* The Committee noted the information in the Government's report that, in collaboration with the ILO and UNICEF, it has undertaken an analytical study on the situation of child labour in the country. The Government indicated that a database is being developed, and measures are being taken to monitor the cases identified. The Committee also noted the statistical information from the 2006 "Multiple Indicator Cluster Survey 3 of the Syrian Arab Republic" that 5.4 per cent of all children between the ages of 5 and 14 are engaged in economic activity. This survey indicates that boys are much more likely than girls to engage in economic activity under the minimum age, with 10.3 per cent of boys aged 12 years, 14.9 per cent of boys aged 13 years and 22.9 per cent of boys aged 14 years engaged in economic activity. This survey further indicates that boys between the age of 5 and 14 who engage only in economic activity (and do not attend school) work an average of 30.8 hours per week. Moreover, the Committee noted the statement by the UNICEF country representative of 7 November 2010 that child labour is a serious issue in Syria (in a document available from the Integrated Regional Information Networks operated by the UN Office for the Coordination of Humanitarian Affairs). **The Committee must express its concern over the number and situation of children under the minimum age of 15 years who are engaged in economic activity and it urges the Government to strengthen its efforts to improve the situation. The Committee also requests the Government to provide information from the analytical study on child labour in the Syrian Arab Republic, once it is available, including up-to-date statistical information on the number of children and young persons who are engaged in economic activity.**

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

## United Republic of Tanzania

### Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

The Committee notes that the country is participating in an ILO technical assistance programme, the Special Programme Account (SPA) project, and that, in the framework of the SPA, two tripartite inter-ministerial workshops were conducted in September 2012 in Zanzibar and Dar es Salaam with the aim of drawing attention to the legislative gaps and problems of application in practice identified by the Committee with regard to the child labour Conventions, as well as two follow-up missions in May 2013 to assess the progress achieved and identify the way forward. The Committee notes with *interest* that this technical assistance resulted in the development of action plans to concretely address the comments of the Committee, including the adoption of a list of types of hazardous work and the undertaking of targeted labour inspections in specific sectors.

*Article 1 of the Convention. National policy designed to ensure effective abolition of child labour.* The Committee previously noted that the Government signed a Memorandum of Understanding with the Government of Brazil with the technical support of the ILO to undertake a project in supporting the implementation of the National Action Plan for the Elimination of Child Labour (NAP).

The Committee notes the Government's information that the ILO facilitated the dissemination of the NAP by sensitizing 148 government officials in the southern regions of Lindi and Mtwara on its effective implementation, as well as 110 local government officials on upscaling child labour interventions into their plans and budgets. **The Committee requests the Government to take measures to ensure that the NAP is effectively implemented, and to provide concrete information on the results achieved in terms of gradually eliminating child labour.**

*Article 3(2). Determination of types of hazardous work.* 1. *Tanzania Mainland.* Following its previous comments, the Committee notes with *satisfaction* that the Law of the Child (Child Employment) Regulations were adopted in 2012, pursuant to Law of the Child Act No. 21 of 2009, which contain a list of hazardous activities in which a child under 18 years of age shall not be employed. The Committee observes that this list includes a wide range of hazardous types of work in the sectors of: agriculture (for example, applying pesticides, harvesting with dangerous tools or equipment, operating farm machinery, carrying wastes for disposal); fishing (for example, placing and hauling fishnets, sorting fish, deep sea fishing); mining and quarrying (for example, shaft, drift or trench digging, drilling and blasting, crushing ore); construction (for example, cement mixing, painting, brick making, excavation operations); service (domestic service, restaurant and hotel service, or community service); trade (carrying and selling merchandise in the streets and selling pornographic materials); transport (service stations, carrying luggage, and loading goods into vehicles);

and others (for example, carpentry and fixture working, manufacturing of detergents, carpet and mattress making, chemical formulation, tanning, pottery and ceramic manufactures).

2. *Zanzibar.* The Committee notes that, according to the May 2013 report on the follow-up mission conducted in the framework of the SPA (SPA mission report), a zero draft list on hazardous work was approved by the tripartite Multi-Sectoral Child Labour Steering Committee, which constitutes an internal effort to add some types of hazardous work occurring specifically in Zanzibar. According to the SPA mission report, this list should be gazetted by December 2013. ***The Committee requests the Government to provide a copy of the new list of types of hazardous work in Zanzibar along with its next report.***

*Parts III and V of the report form. Labour inspection and application of the Convention in practice.* The Committee previously noted that a review of the situation of enforcement of child labour legislation in selected districts was undertaken in April 2009, which indicated that child labour was widely recognized and acknowledged as a problem and that there was broad public support for its elimination. The Committee noted that the Ministry of Labour and Employment was working with the ILO on a project for improving labour law compliance, to strengthen labour inspection and to review labour inspection forms so as to improve the collection and compilation of child labour data. The Committee further noted that the Ministry of Labour and Employment was also working with the Office of the Director of Prosecutions on delegating the labour officers with powers to prosecute cases of labour law contraventions.

The Committee notes the Government's information that, in October 2012, a two-day meeting was held whereby labour officers had the opportunity to discuss and deliberate on effective labour inspection strategies, including with regard to child labour. In addition, with the support of the United Nations Development Assistance Programme, a total of 20 labour officers appointed as public prosecutors were trained in prosecution skills and management of labour cases, including those pertaining to child labour. According to the 2013 SPA mission report, further training will be given to labour officers who were not previously trained on labour issues. Moreover, the Committee notes that, according to the SPA mission report, special labour inspections were carried out in agriculture and mining in Arusha and Ruvuma in the spring of 2013. The three inspections in Ruvuma detected 16 boys and 21 girls under 18 years of age who were found engaged in hazardous work. In Arusha, the inspections were conducted in agriculture and in mining. Children over 15 years of age were identified as working in non-hazardous work in coffee and cut flower plantations, while no children were found working in mines. The mission report indicates that similar inspections will be undertaken in fishing-related activities, and that more targeted inspections will be conducted in mining and agriculture. ***The Committee strongly encourages the Government to pursue its efforts to strengthen the capacity of labour inspectors so that they can detect all cases of work by children under 14 years of age, particularly in the informal economy. It also requests the Government to continue providing information on the number of investigations undertaken and, where possible, to provide extracts from the labour inspection reports. Finally, the Committee requests the Government to take the necessary measures to ensure that sufficient data are made available on the situation of children engaged in work in the United Republic of Tanzania, and particularly on the number of children and young persons who work under the minimum age for admission to work or employment and the nature, extent and trends of such work.***

The Committee is raising other points in a request addressed directly to the Government.

### ***Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)***

The Committee notes that the country is participating in an ILO technical assistance programme, the Special Programme Account (SPA) project, and that two tripartite inter-ministerial workshops were conducted in September 2012 in Zanzibar and Dar es Salaam with a view to addressing implementation gaps regarding the child labour Conventions. Furthermore, two follow-up missions were conducted in May 2013 to assess the progress achieved and identify the way forward. The Committee notes with *interest* that, in the framework of the SPA, a time-bound action plan was developed by representatives from government ministries as well as from employers' and workers' organizations to address issues regarding the application of the child labour Conventions, including the adoption of a list of types of hazardous work.

*Articles 3(d) and 4(1) of the Convention. Prohibition and determination of hazardous work.* The Committee previously requested the Government to take the necessary measures to adopt the regulations determining the list of types of hazardous work prohibited to children under 18 years of age.

The Committee notes with *satisfaction* that the Law of the Child (Child Employment) Regulations were adopted in 2012, pursuant to Law of the Child Act No. 21 of 2009, which contains a list of hazardous activities in which a child under 18 years of age shall not be employed. The Committee observes that this list includes a wide range of hazardous types of work in the sectors of: agriculture (for example, applying pesticides, harvesting with dangerous tools or equipment, operating farm machinery, carrying wastes for disposal); fishing (for example, placing and hauling fishnets, sorting fish, deep-sea fishing); mining and quarrying (for example, shaft, drift or trench digging, drilling and blasting, crushing ore); construction (for example, cement mixing, painting, brick making, excavation operations); service (domestic service, restaurant and hotel service or community service); trade (carrying and selling merchandise in the streets and selling pornographic materials); transport (service stations, carrying luggage and loading goods into vehicles); and others (for example, carpentry and fixture working, manufacturing of detergents, carpet and mattress making, chemical formulation, tanning, pottery and ceramic manufactures).

*Article 7(1). Penalties.* The Committee previously noted that sections 78, 79, 80 and 83 of the Law of the Child Act establish penalties ranging from 100,000 Tanzanian shillings (TZS) to TZS500 million, in addition to imprisonment for the offences related to hazardous work, forced labour, prostitution and the sexual exploitation of children.

The Committee notes that, according to the May 2013 report on the follow-up mission conducted in the framework of the SPA (SPA mission report), special labour inspections were carried out in agriculture and mining in Arusha and Ruvuma, and the three inspections in Ruvuma detected 16 boys and 21 girls under 18 years of age who were found engaged in hazardous work. However, the Committee observes that, according to the report, while ensuring effective prosecutions for violations related to child labour is one of the aims of the action plan of the SPA and training was provided to labour prosecutors, there have not yet been any prosecutions on this matter and more effective mechanisms are necessary. In this regard, the Committee also notes the Government's statement that no convictions have been made so far in connection with the abovementioned provisions of the Law of the Child Act. ***The Committee requests the Government to take immediate measures to ensure that thorough investigations and robust prosecutions are carried out against the perpetrators of the worst forms of child labour, including hazardous work. In this regard, it requests the Government to provide information on the number of investigations, prosecutions, convictions and penalties imposed.***

*Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk. Child orphans of HIV/AIDS.* The Committee previously noted that, according to the Epidemiological Factsheet on HIV/AIDS (UNAIDS) of 2009, more than 1.3 million children aged below 17 years are HIV/AIDS orphans in the United Republic of Tanzania.

In this regard, the Committee notes the Government's information that, in collaboration with stakeholders, it developed and implemented the National Plan of Action for the Most Vulnerable Children (2007–10) (NAP–MVC). The Government indicates that, with the implementation of this plan, more than 611,000 vulnerable children (317,798 boys and 293,352 girls) were identified, out of whom 561,823 received basic support from various donors and organizations such as UNICEF and the Global Fund. The care and support for the most vulnerable children was mainstreamed into the budgets of the central Government and councils. The national data management system, as well as monitoring and evaluation, was strengthened. Moreover, 25,000 community justice facilitators were trained to provide paralegal support to the most vulnerable children, and 46 national facilitators, 1,480 district facilitators and 15,105 ward and village facilitators, were trained to identify the most vulnerable children. The Government indicates that it has developed the second NAP–MVC (2013–17) which will serve as guidance in the implementation of the policies aimed at enhancing the well-being of the most vulnerable children by preventing and reducing the incidence of risks, including that of children becoming engaged in the worst forms of child labour. Furthermore, the Government indicates that, in collaboration with stakeholders and development partners, it has been implementing programmes for the prevention, care and treatment of HIV/AIDS with the aim of mitigating the impact of the pandemic and reducing new infections, hence tackling the issue of children becoming orphans due to HIV/AIDS.

The Committee takes due note of the measures taken by the Government. However, it notes with *deep concern* that, according to the 2011–12 UNAIDS estimates on HIV and AIDS, there remain approximately 1,200,000 child orphans of HIV/AIDS in the United Republic of Tanzania. ***Considering that children orphaned by HIV/AIDS are at an increased risk of being engaged in the worst forms of child labour, the Committee once again urges the Government to strengthen its efforts to ensure that children orphaned by HIV/AIDS are prevented from being engaged in the worst forms of child labour, in particular by increasing their access to education and vocational training. The Committee requests the Government to continue providing information on the measures taken in this regard, and on the results achieved.***

The Committee is raising other points in a request addressed directly to the Government.

## Thailand

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

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. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances.* The Committee previously requested a copy of section 287 of the Penal Code. In this regard, the Committee noted that section 287 of the Penal Code prohibits, inter alia, producing or making any document, drawing, print, picture, photograph, film or tape which is "obscene". However, the Committee noted the information in a document entitled "UNICEF urges quick government action on child pornography" of 11 October 2010, available on the UNICEF website, that reports indicate the open display and sale in the country of graphic sexual videos involving children. In this document, UNICEF urged the Thai authorities to bring to bear "the full force of the law" on those found to be producing, distributing or selling videos or any other material related to the sexual exploitation of children, and urged the Government to investigate where and how such videos are produced. Therefore, while noting that the production of child pornography appears to be prohibited in law, the Committee noted with concern that this worst form of child labour continues to be a problem in practice. ***The Committee accordingly urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions are carried out in practice for persons who use, procure or offer persons under 18 years of age for the production of pornography or pornographic performances. The Committee further requests the***

**Government to provide information on whether the involvement of children in non-recorded pornographic performances (such as live performances) is prohibited in law.**

*Clause (c). Use, procuring or offering of a child for illicit activities, in particular, for the production and trafficking of drugs.* In its previous comments, the Committee noted that while the production, importation, exportation, possession or consumption of narcotics is prohibited under the Narcotics Act of 1979, the use procuring or offering of a child under 18 years of age for this purpose did not appear to be prohibited. It also observed that, according to a rapid assessment conducted by ILO-IPEC in 2002, children as young as 10 years of age participate in drug trafficking, and the majority of these are children between 12 and 16 years and are used to buy or sell drugs.

The Committee noted the Government's statement that, on this point, it was in the process of collecting information from relevant agencies. The Committee reminded the Government that pursuant to *Article 3(c)* of the Convention, the involvement of a person under 18 in illicit activities constitutes one of the worst forms of child labour, and that pursuant to *Article 1* of the Convention member States are required to take "immediate" measures to prohibit these worst forms as a matter of urgency. **Observing that Thailand ratified the Convention in 2001, and that the use of children in the production and trafficking of drugs appears to be a problem in practice, the Committee urges the Government to take immediate measures to explicitly prohibit the use of children in the illicit activities in legislation as a matter of urgency.**

*Article 5. Monitoring mechanisms. Trafficking.* The Committee previously noted that the Royal Thai Police was in the process of establishing a specific unit responsible for combating trafficking of children and women (Division on the Suppression of Offences against Children, Youth and Women), and it requested information on the measures taken by this Division with regard to combating the trafficking of children.

The Committee noted the information in the Government's report that the Division on the Suppression of Offences against Children, Youth and Women has formed teams for the investigation of particular persons and locations suspected to be linked to human trafficking and the use of child labour. It has assigned police officers (at deputy commander or commander levels) to monitor and accelerate the investigation of human trafficking cases, while coordinating with other relevant agencies. The Government indicated that the Division on the Suppression of Offences against Children, Youth and Women has formed campaign teams to sensitize communities, villages and factories and has launched a campaign against human trafficking, in conjunction with other government agencies and private sector organizations. The Committee also noted the information in the Government's report that it had engaged in capacity building for officials to improve their understanding of the phenomenon and to ensure the efficiency of their anti-trafficking efforts. The Committee further noted the information in the ILO-IPEC Technical Progress Report on the second phase of the ILO-IPEC "Project to combat trafficking in children and women in the Mekong subregion" (TICW II Project) of 30 January 2008 (TICW II TPR) that "Operational Guidelines on identification of victims of trafficking in labour cases" had been developed, as a collaboration between the Ministry of Social Development and Human Security (MSDHS) and the Ministry of Labour as a coordinated response to cases of trafficking for the purpose of labour exploitation. The ILO-IPEC Technical Progress Report for the project "Support for national action to combat child labour and its worst forms in Thailand" of 10 September 2010 (ILO-IPEC TPR 2010) indicated that training was provided to labour inspectors and other key stakeholders on these Operational Guidelines in 2009. Nonetheless, the Committee noted the information in the UNODC report entitled "Global Report on Trafficking in Persons" of 2009 (UNODC Report) that the vast majority of foreign victims of trafficking identified between October 2006 and December 2007 were minors (76 per cent of trafficking victims) and that Thailand remained a source country of trafficking victims. **The Committee therefore strongly urges the Government to redouble its efforts to strengthen the capacity of law enforcement officials responsible for the monitoring of trafficking in children, including those in the Division on the Suppression of Offences against Children, Youth and Women and border control officials, to ensure the effective implementation of the Anti-Trafficking in Persons Act. The Committee requests the Government to continue to provide information on measures taken in this regard.**

*Article 6. Programmes of action to eliminate the worst forms of child labour.* 1. *The ILO-IPEC TICW project and the National Plan on Prevention and Resolution of Domestic and Cross-border Trafficking in Children and Women (NPA on Trafficking in Children and Women 2003-07).* The Committee previously noted the launching of the TICW Project in 2000 and noted that within the TICW II Project (2003-08), the National Committee on Combating Trafficking in Children and Women launched the NPA on Trafficking in Children and Women 2003-07. It requested information on the concrete impact of measures taken through these initiatives.

The Committee noted the information in the Government's report that the implementation of the TICW II Project resulted in interventions in Phayao, Chiang Mai, Chiang Rai, Mukdaharn, and Bangkok. The Government indicated that the Chiang Mai Coordination Centre for the Protection of Children's and Women's Rights (Chiang Mai Coordination Centre) (under the MSDHS), developed a database on persons at risk for trafficking, as well the destination sites of vulnerable persons, and that this information was used by partnering agencies in the implementation of initiatives. The Government indicated that 306 community watchdog volunteers were trained in 124 villages in the Phayao Province, and efforts were made to include awareness raising on trafficking in a secondary school curricula. In this regard, the Committee noted the information from ILO-IPEC that within the context of the TICW II Project, the action programmes implemented included "Integrated hill tribe community development project for the prevention of trafficking in children and women (phase II)", "Programme for the prevention of trafficking in children and women in Chiang Rai province", "Strengthening the capacity of Ban Mae Chan School to launch a prevention programme on trafficking", and "Trafficking in children and women for forced labour and sexual exploitation in Chiang Mai". The Committee further noted the information in the Government's report that combating the trafficking in persons was a top priority for the Government, and specific policies announced in this regard included capacity building, intelligence exchange between countries and awareness-raising campaigns. **Observing that the NPA on Trafficking in Children and Women 2003-07 ended in 2007, and the TICW II Project concluded in 2008, the Committee urges the Government to take the necessary measures to ensure that comprehensive national efforts are undertaken to combat the sale and trafficking of persons under the age of 18. It requests the Government to provide information on any ongoing or envisaged national plans of action addressing this phenomenon, and on the implementation of these programmes.**

2. *Child commercial sexual exploitation.* The Committee previously noted that the Office of the National Commission on Women's Affairs estimated that there were between 22,500 and 40,000 children under 18 years of age in prostitution (representing approximately 15-20 per cent of the overall number of prostitutes) in the country, and that these estimates did not include foreign children in prostitution. The Committee further noted that the National Plan of Action on the Elimination of the Worst Forms of Child Labour (2004-09) included initiatives to address child prostitution, and requested information on the concrete measures taken in this regard.

The Committee noted the Government's statement that it was in the process of collecting information from relevant agencies on this point. It also noted the information in the Government's report that a National Plan for the Elimination of the Worst Forms of Child Labour (2009–14) was adopted in 2008. The Committee observed that although the commercial sexual exploitation of persons under 18 is prohibited by law, it remained an issue of serious concern in practice. **The Committee accordingly urges the Government to take comprehensive measures, including within the framework of the National Plan for the Elimination of the Worst Forms of Child Labour (2009–14), to combat this worst form of child labour. It requests the Government to provide information on the concrete results achieved in combating the commercial sexual exploitation of children.**

*Article 7(1) of the Convention and Part V of the report form. Penalties and application of the Convention in practice.*

1. *Trafficking.* The Committee noted the information in the Government's report that the Division on the Suppression of Offences against Children, Youth and Women undertook the collection and management of basic data. The Committee also noted the information in the Government's report that interviews conducted by the police to determine whether foreign children were victims of trafficking revealed 112 suspected child victims of this worst form of child labour. However, the Committee observed that the trafficking of children remained a much broader phenomenon, noting the information in the UNODC Report that between October 2006 and December 2007, 416 child victims of trafficking were detected. Moreover, the Committee noted an absence of information on the number of persons investigated and prosecuted as a result of the identification of child victims of trafficking. **The Committee urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of persons who traffic in children for the purpose of labour or sexual exploitation are carried out. It requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied in this regard, as well as any additional information from the Division on the Suppression of Offences against Children, Youth and Women on the prevalence of the trafficking of children. To the extent possible, all information provided should be disaggregated by sex and age.**

2. *Commercial sexual exploitation.* The Committee noted the information in the Government's report from the Division on the Suppression of Offences against Children, Youth and Women that in 2006 two child victims of commercial sexual exploitation were reported, in addition to two offenders. The Government also indicated that there were no reported victims or offenders in 2007, and that in 2008, 23 child victims and 16 offenders were recorded. The Committee observed an absence of information on the penalties applied to these offenders, and observed that these figures appear to represent only a fraction of the number of children engaged in prostitution (with previous Government estimates indicating that tens of thousands of persons under 18 are victims of this worst form of child labour). In this regard, the Committee noted the information in the ILO–IPEC TPR 2010 that, within the framework of the ILO Project “Support for national action to combat child labour and its worst forms in Thailand”, a study had been conducted (by the Khon Kaen University) on the commercial sexual exploitation of children in three provinces in the Northeast of Thailand including Nong Khai, Udon Thani and Khon Kaen (which are major source areas for girls and women in prostitution within Thailand). **The Committee requests the Government to provide information from the study conducted on the commercial sexual exploitation of children in Nong Khai, Udon Thani and Khon Kaen, with its next report. It also strongly urges the Government to redouble its efforts to ensure that persons who engage in the use, procuring or offering of persons under 18 for the purpose of commercial sexual exploitation are prosecuted and that sufficiently effective and dissuasive penalties are applied in practice. In this respect, the Committee requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied with regard to the commercial sexual exploitation of persons under 18 years.**

*Article 7(2). Effective and 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. Child victims of trafficking.* 1. *Services for child victims of trafficking.* The Committee previously noted the various measures adopted by the MSDHS to assist child victims of trafficking, and noted that 3,062 foreign trafficking victims had been protected in Thai shelters and repatriated to their home countries.

The Committee noted the information in the Government's report that the specific policies to combat trafficking announced include measures to protect victims, such as the provision of assistance to those at risk of trafficking, the establishment of a fund to assist victims of trafficking and campaigns to eliminate discriminatory attitudes against victims of trafficking to facilitate their reintegration into communities. The Committee also noted the Government's statement that the Baan Kred Trakarn Protection and Occupational Development Centre was established, and a learning centre was developed as part of its holistic assistance to victims of trafficking. Services provided to trafficked women and children through these centres included the provision of basic necessities, education, vocational training and assistance with psychological recovery. The Government also indicated that the four Protection and Development Centres in Ranong, Pratumthani, Songkhla and Chaing Rai provide assistance, protection and rehabilitation services to victims. The Government further indicated that the Division on the Suppression of Offences against Children, Youth and Women coordinated with agencies involved in the rehabilitation and repatriation of trafficking victims. Lastly, the Committee noted the information in the Government's report that the National Policy and Plan for the Elimination of the Worst Forms of Child Labour (2009–14) included measures to integrate children back into society by preparing their families and communities for their return, to repatriate children in a manner consistent with their needs and safety, and to follow-up on their reintegration, following rehabilitation. **The Committee takes due note of the measures implemented by the Government, and requests it to pursue its efforts to provide direct assistance to child victims of trafficking, with a view to ensuring that victims of trafficking under the age of 18 receive appropriate services for their rehabilitation and social reintegration with child participation.**

2. *Measures aimed at securing compensation for victims of trafficking.* The Committee previously noted that the Government had taken a number of measures aimed at securing justice and compensation for victims of trafficking, including children. It noted that the Prevention and Suppression of Human Trafficking Act provides for the possibility for victims of trafficking to claim compensation from the offenders and the provision of funds amounting to 500 million baht for their rehabilitation, occupational training and development. The Government also indicated that the Accused Act, BE 2544 (2001) states that children who are deceived into trafficking, prostitution, or forced labour, shall receive compensation.

The Committee noted the Government's statement that it was in the process of collecting information from relevant agencies on this point. **The Committee therefore once again requests the Government to indicate in its next report the number of former child victims of trafficking who have received compensation either from the offenders or through funds set up by the Government under the Accused Act BE 2544 (2001) or the Prevention and Suppression of Human Trafficking Act.**

*Article 8. International cooperation and assistance. Regional cooperation and bilateral agreements.* The Committee previously noted several measures taken by the Government to combat trafficking at the regional level, including meetings of the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT). The Committee requested information on measures taken in this regard and on the concrete measures adopted under bilateral MOUs for the elimination of the interstate trafficking of children.

The Committee noted the statement in the Government's report that, pursuant to the MOU of the COMMIT signed in 2004, and following the review of the first Subregional Plan of Action (2005–07), member countries endorsed the Subregional Plan of Action for 2008–10. This subregional action plan focused on several particular areas, including training and capacity building, multi-sectoral and bilateral partnerships, re-enforcing legal frameworks, law enforcement, victim identification, protection and reintegration and cooperation with the tourism sector. The Committee also noted the information in the Government's report that the Government had signed an agreement with the Government of Viet Nam on bilateral cooperation for eliminating trafficking in persons on 24 March 2008, and that pursuant to this agreement, the two Governments had developed an Action Plan for 2008–09. The Committee further noted that, pursuant to MOUs to combat human trafficking with the governments of Cambodia (signed in 2003) and Laos (signed in 2005), cooperation projects had been formulated and some measures implemented, including a workshop on human trafficking for Laos–Thai border officials. The Government also indicated that it was in the process of initiating similar bilateral MOUs with the Governments of Myanmar, China and Japan. The Government further indicated that within the framework of the TICW II Project, technical assistance and support was provided for combating trafficking efforts related to the MOUs between Thailand and its neighbouring countries. ***Noting that cross-border trafficking remains an issue of concern in practice, the Committee urges the Government to pursue its international cooperation efforts with regard to combating the trafficking of persons under 18. It requests the Government to continue to provide information on the concrete measures implemented in this regard, and on the results achieved.***

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 near future.***

## The former Yugoslav Republic of Macedonia

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 1991)***

*Article 2(1) of the Convention. Scope of application.* The Committee previously noted that the provisions relating to the minimum age for admission to employment or work in the Labour Relations Law did not apply to work performed outside a formal labour relationship, such as self-employment or work in the informal economy. The Committee noted, moreover, that the Committee on the Rights of the Child (CRC), in its concluding observations of 23 June 2010, expressed concern regarding the incidence of child labour in the informal economy, including in street vending at intersections, on street corners and in restaurants (CRC/C/MKD/CO/2, paragraph 69).

The Committee once again notes the Government's indication that it is its policy to prevent the misuse of child labour. In this regard, the Committee notes the Government's information that, according to the data collected through the labour inspectorate, no children under 15 years of age were found to be engaged in work. However, the Committee observes that, as stated by the CRC, most child labour in the Republic of Macedonia seems to occur in the informal economy. In this regard, the Committee is of the view that the expansion of the relevant monitoring mechanisms to the informal economy can be an important manner in which to ensure that the Convention is applied in practice, particularly in countries where expanding the scope of the implementing legislation to address children working in this sector does not seem a practicable solution (see the 2012 General Survey on the fundamental Conventions concerning rights at work, paragraph 345). ***The Committee accordingly once again requests the Government to take measures to ensure that all children carrying out economic activities without an employment contract, particularly children working in the informal economy, benefit from the protection afforded by the Convention. In this regard, the Committee urges the Government to take measures to expand the reach and strengthen the capacity of the labour inspection services to better monitor the work performed by young persons in the informal economy. The Committee requests the Government to provide information on the measures taken in this regard and on the progress achieved.***

*Article 3(2). Determination of types of hazardous work.* The Committee previously noted that a draft regulation defining the activities prohibited for workers under 18 years of age was being developed and requested the Government to take measures to ensure that this draft regulation was enacted in the near future.

The Committee notes with ***satisfaction*** the Government's indication that the Rulebook on the minimal requirements for safety and health during work for young workers was adopted and published on 15 November 2012. The Rulebook prescribes the minimum occupational safety and health requirements for employees younger than 18 years of age. In addition, the Rulebook prescribes the list of harmful factors and working conditions to which young workers should not be exposed. This list includes: activities involving lifting and moving heavy loads which put undue strain on the limbs; activities in which a worker is on his feet for longer than four hours per shift; activities that are performed in strenuous positions; activities in extreme temperatures; and activities with high noise levels. This list also includes jobs that involve harmful biological or chemical materials (such as toxic, flammable, carcinogenic and explosive substances, lead and asbestos); jobs involving excessive dust; jobs involving the slaughtering of animals; jobs in structures or facilities under construction; jobs with high-voltage related risks; and jobs at heights exceeding 1.5 metres.

*Article 7. Light work.* The Committee previously noted that, pursuant to section 18(2) of the Labour Relations Law, a person under the age of 15 who has not completed compulsory schooling may work for a maximum of four hours a day in activities determined by law. In this regard, the Committee reminded the Government that *Article 7(1)* of the Convention, permits children *between the ages of 13 and 15* to engage in light work and that, pursuant to *Article 7(3)* of the Convention, the competent authority shall determine the activities in which light work may be permitted.

The Committee notes the Government's statement that it will take the Committee's comments on this point into consideration when next amending the Labour Law. ***The Committee urges the Government to take measures to ensure that the performance of light work is only permitted for children over the age of 13 in the very near future. It also requests the Government to take the necessary measures to determine the types of light work which children between the ages of 13 and 15 years may undertake.***

The Committee is raising other points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)**

*Article 7(2) of the Convention. Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk.* 1. *Street children.* The Committee previously noted the information from UNICEF that many street children were engaged in begging, and that these children were vulnerable to trafficking. The Committee noted that, according to data from the Ministry of Labour and Social Policy (MLSP), there were approximately 1,000 street children in the country, 95 per cent of whom were Roma, and that labour exploitation and begging contributed to this phenomenon. The Committee noted that, despite the Government's measures, the Committee on the Rights of the Child (CRC), in its concluding observations of 23 June 2010, expressed deep concern regarding the growing number of street children and the absence of progress towards durable solutions to provide these children with protection, access to education and social reintegration (CRC/C/MKD/CO/2, paragraph 71).

The Committee notes the Government's information regarding the new measures it adopted to protect street children. These measures include the expansion of the network of daily centres for street children, by opening a new centre in the municipality of Prilep in 2013, thereby extending the number of daily centres to four. The Government also indicates that, in 2012, a national SOS helpline was created in order to receive calls from citizens who want to report on street children. In addition, the Committee notes the Government's indication that an action plan for children on the streets was adopted for the period of 2013–15 which includes concrete measures and activities in the areas of education and health protection, and aims to contribute to decreasing the harmful influence of the streets upon the development of these children. ***The Committee strongly encourages the Government to continue its efforts to protect street children from the worst forms of child labour and requests it to provide information on the number of children removed from the streets and who have benefited from rehabilitation and social integration measures.***

2. *Roma children.* The Committee previously noted that school drop-out rates were significantly higher among Roma children. It noted, however, that the Government was participating in the Roma Inclusion Decade, through which it had taken several measures to reduce the school drop-out rate of Roma children. Moreover, the Committee noted that the Government was implementing a Roma student scholarship, mentoring and tutoring project that began in 2008.

The Committee notes the Government's information that the MLSP is the coordinator for the Project of Inclusion of Roma Children in the public municipal institutions, kindergartens and preschool education. In this regard, the Government indicates that, in 2012–13, 425 Roma children were registered in kindergartens with state funding. Moreover, the Committee notes the Government's information that, in the framework of the Roma student scholarship programmes, in 2011–12, there were 591 high-school scholarship recipients, and that only five students participating in this programme had dropped out of school. In 2012–13, 593 students participated in the scholarship and tutoring programmes.

However, the Committee notes that, in its concluding observations of 22 March 2013, the Committee on the Elimination and Discrimination against Women (CEDAW), expressed its concern about the lack of sufficient data disaggregated by sex and ethnicity allowing for the comparison of the educational attainment of girls in different ethnic communities. In this regard, the CEDAW reiterated its concern at the drop-out rates of Roma girls and noted the low number of Roma girls in higher education and the lack of measures taken to ensure their access to education. The CEDAW is further concerned that there is a disproportionately high number of Roma children, including girls, in schools for children with special needs (CEDAW/C/MKD/CO/4-5, paragraph 29). ***Taking due note of the measures taken by the Government, the Committee urges the Government to strengthen its efforts with regard to facilitating access to education for Roma students, particularly girls. It requests the Government to continue providing information on the results achieved, particularly with regard to increasing school enrolment rates and reducing school drop-out rates.***

*Part V of the report form. Application of the Convention in practice.* The Committee previously noted that the CRC, in its concluding observations of 23 June 2010, expressed concern about weak implementation of child labour laws and policies, and the incidence of child labour in the informal economy, in particular begging and street vending (CRC/C/MKD/CO/2, paragraph 69).

The Committee observes that the Government does not provide information on this point in its report. ***The Committee, therefore, urges the Government to strengthen its efforts with regard to the prevention and elimination of the worst forms of child labour. It once again requests the Government to provide information on the measures taken and the results achieved, particularly information on the nature, extent and trends of the worst forms of child labour,***

*the number of children protected by the measures giving effect to the Convention, the number and nature of the infringements reported, investigations, prosecutions, convictions and penalties applied. To the extent possible, all information provided should be disaggregated by sex and age.*

The Committee is raising other points in a request addressed directly to the Government.

## Togo

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1984)**

*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 that the Government was participating in a project to combat child labour through education that was being implemented with the support of the ILO–IPEC (ILO–IPEC–CECLET project), under which a national survey on child labour in Togo (ENTE) was carried out and completed in 2010. The survey revealed that roughly six out of ten children aged between 5 and 17 years (58.1 per cent, or 1,177,341 children) were economically active at the national level. It also showed that the incidence of children aged 5 to 14 who were engaged in work to be abolished – meaning the performance by a child of prohibited work and, more generally, of types of work that should be eliminated as they are considered socially and morally undesirable under national law – was 54.9 per cent, or 894,360 out of the 1,629,072 Togolese children in that age group. The results further showed that children aged 5 to 14 years tended to work in agriculture (52.2 per cent), domestic work (26.3 per cent) and other sectors. The Committee noted the Government’s statement that a national action plan (NAP) to combat child labour was in the process of adoption as part of the ILO–IPEC–CECLET project.

While noting the Government’s statement that the NAP is currently in the process of being adopted, the Committee must express its *concern* at the number of children below the minimum age who work in Togo. ***The Committee urges the Government to pursue its efforts to combat child labour, notably by devoting special attention to children working in agriculture and in the informal economy, and to send information on the results obtained. It again requests the Government to provide information on progress achieved in drafting the NAP and to send it a copy of the plan once it has been validated.***

*Article 2(1) and Part III of the report form. Scope of application and labour inspection.* In its previous comments the Committee noted that section 150 of the 2006 Labour Code provides that children under 15 years of age may not be employed in any enterprise or perform any type of work, even on their own account. The Committee noted with interest that a number of measures had been adopted to strengthen the action of the labour inspection services. The Government also indicated that, with technical and financial support of the ILO, it envisaged establishing an information system on the activities of the labour inspection services so as to draw public attention to the steps taken to ensure compliance with the law. The Committee noted that action had been taken under the ILO–IPEC–CECLET project to strengthen the labour inspectorate, including 24 observation and monitoring missions led by 12 inspectors between 1 October 2011 and 31 March 2012 in the agricultural sector, the informal urban economy, restaurants and sand transport, in the framework of which 293 children (121 girls and 172 boys) were identified as being engaged in child labour.

The Committee notes the Government’s statement that, for lack of logistical and financial resources, it is difficult to continue strengthening the labour inspection services so as to rescue children working in the informal economy or for their own account and, more importantly, to assure their social reinsertion. In this regard, the Committee notes that the Government wishes to prevail itself of ILO technical assistance. ***The Committee requests the Government to continue taking the necessary measures to strengthen the capacity of the labour inspection services to ensure that all children under the age of 15, including those working for their own account or in the informal economy, benefit from the protection afforded by the Convention, and to inform it of results.***

***In response to the Government’s request for ILO technical assistance, the Committee asks the Office to see that the Government receives a positive response.***

*Article 3(3). Admission to hazardous work from the age of 16 years.* In its previous comments, the Committee noted that certain provisions of Order No. 1464/MTEFP/DGTLS of 12 November 2007 authorize the employment of children from the age of 16 in work that is liable to harm their health, safety or morals. The Committee also noted that section 12 authorizes children over 15 to carry, pull or push heavy loads – weighing up to 140 kilograms in the case of some 15 year-olds working with wheelbarrows. Furthermore, the Committee observed that there were no provisions that protect them in this type of work. The Committee reminded the Government that *Article 3(3)* of the Convention provides that national laws or regulations may, after consultation with employers’ and workers’ organizations, authorize the performance of hazardous types of work by young persons from *the age of 16 years* on condition that their health, safety and morals are fully protected and that they have received adequate specific instruction or vocational training in the relevant sector. In this regard, the Committee has noted the Government’s indication that it was committed to take the necessary measures to have Order No. 1464 amended to bring it into line with the Convention.

The Committee notes the Government's statement that tripartite discussions are currently under way on the amendment of Order No. 1464/MTEFP/DGTLS. **The Committee urges the Government to take the necessary measures to ensure that Order No. 1464/MTEFP/DGTLS is amended in the near future to bring it into line with Article 3(3) of the Convention. It once again requests the Government to provide a copy of the Order, once duly revised.**

*Article 6. Apprenticeships.* The Committee previously noted that, under the ILO–IPEC–CECLET project, a draft code on apprenticeship has been prepared that specifies the conditions to be respected in apprenticeship contracts, under which no such contracts may start before the completion of compulsory schooling and, in any case, not before an apprentice reaches 15 years of age.

The Committee notes the Government's statement that the Apprenticeship Code has already been approved from the technical standpoint and that it is now currently before the Government awaiting adoption by the Council of Ministers. **The Committee hopes that the draft Code will very soon be adopted and again requests the Government to keep it informed of progress in this respect.**

The Committee is raising other points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children.* In its previous comments, the Committee noted the adoption of Act No. 2005-009 of 3 August 2005 concerning the trafficking of children (2005 Trafficking of Children Act), which places an effective prohibition on the sale and trafficking of children. However, the Committee notes the allegations from the International Trade Union Confederation (ITUC) to the effect that internal and international trafficking of children for domestic work exists in Togo.

The Committee notes the Government's indication that efforts are continuing with a view to eliminating the trafficking of children in Togo. The Government indicates that in 2007 nine persons were prosecuted for the trafficking of children and six of them were convicted. In 2008, a total of 201 persons were prosecuted and 99 were convicted. In 2009, a total of 46 persons were prosecuted and 31 were convicted. Lastly, in 2010, a total of 51 persons were prosecuted and 40 were convicted. The Government also indicates that between January and August 2011 a total of 31 traffickers were arrested and imprisoned. The Committee notes, however, that the Committee on the Rights of the Child (CRC), in its concluding observations of 8 March 2012 (CRC/C/TGO/CO/3-4, paragraph 71), expressed concern at the fact that children from poor and rural areas continue to be particularly vulnerable to trafficking inside and outside Togo for the purpose of domestic and agricultural work and sexual exploitation, and that the internal trafficking and sale of thousands of children, which often take place through the practice of *confiage* (placement of rural children with urban relatives mainly for domestic work) have been and continue to be largely ignored. The CRC also expressed concern at the fact that the prosecution of traffickers is rare and some traffickers obtain release owing to the corruption of state officials. When prosecuted, traffickers are usually given light sentences ranging from six months to two years in prison. While noting the measures taken by the Government to combat trafficking in children, the Committee again expresses its **concern** at the allegations of corruption of which some traffickers take advantage to evade justice and at the lenient sentences handed down for convictions. **The Committee, therefore, urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of all persons who engage in the sale and trafficking of children under 18 years of age are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. The Committee urges the Government to provide information on the number of investigations conducted, prosecutions carried out and convictions obtained under the 2005 Trafficking of Children Act.**

*Clauses (a) and (d). Forced or compulsory labour and hazardous types of work. Child domestic work.* The Committee previously noted that section 151(1) of the 2006 Labour Code prohibits forced labour, which is defined as one of the worst forms of child labour. It further noted that, in accordance with Order No. 1464/MTEFP/DGTLS of 12 November 2007 (Order No. 1464) determining the types of work prohibited for children, domestic work is considered to be a hazardous type of work prohibited for children under 18 years of age. However, the Committee noted the ITUC's communication reporting that there are thousands of child domestic workers in Togo, the large majority of whom are girls, from poor and rural areas of the country, who perform various potentially hazardous household tasks in private homes and may also be called upon to sell products in the street or in markets on behalf of their employers. These children live in the house of their employers, are dependent upon the latter, and are isolated from their families, which makes them vulnerable to abuse and forced labour.

The Committee notes that the CRC, in its concluding observations of 8 March 2012 (CRC/C/TGO/CO/3-4, paragraph 65), expressed serious concern at the fact that children, especially girls as young as 9 years of age, employed as domestics work very long hours, without any rest days and for little or no remuneration, and are regularly subjected to verbal, physical and sexual abuse. The Committee again observes that, although the national legislation is in conformity with the Convention on this point, child domestic work performed under conditions similar to forced labour or under hazardous conditions remains a concern in practice. It again reminds the Government that, under the terms of *Article 3(a)* and *(d)* of the Convention, work or employment of children under 18 years of age under conditions similar to slavery or under hazardous conditions are some of the worst forms of child labour and that, by virtue of *Article 1* of the Convention, immediate and effective measures must be taken 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 take immediate and effective**

*measures to ensure that children under 18 years of age engaged in domestic work under conditions similar to slavery or under hazardous conditions benefit from the protection afforded by the national legislation. In this respect, it again requests the Government to provide information on the application of the provisions relating to this worst form of child labour, including statistics on the number and nature of reported violations, investigations, prosecutions, convictions and criminal penalties imposed. As far as possible, all information provided should be disaggregated by sex and age.*

Article 7(2). *Effective and time-bound measures. Clause (b). Removing children from the worst forms of child labour and providing for their rehabilitation and social integration. 1. Sale and trafficking of children.* In its previous comments the Committee noted that a National Commission for the Shelter and Social Reintegration of Child Victims of Trafficking (CNARSEVT) had been established in April 2002.

The Committee notes with *interest* the Government's indication that the CNARSEVT was successful in identifying 281 child victims of trafficking (194 girls and 87 boys) between January and September 2011. Of the 281 children identified, 225 were intercepted before arrival at their destination and 53 were repatriated from Nigeria, Benin and Gabon (eight girls were repatriated from Gabon, 20 girls from Benin, and 22 girls and three boys from Nigeria). *The Committee requests the Government to continue to provide information on the activities of the CNARSEVT and on the results achieved in terms of the number of child victims of trafficking who are repatriated, cared for and reintegrated.*

2. *Domestic work.* The Committee notes that, in the context of the ILO-IPEC project to combat exploitative child labour through education in Togo (CECLET project), an action programme has been implemented for the protection and school enrolment of 200 girls withdrawn from domestic work in Lomé and the establishment of protection mechanisms for 300 girls at risk in the prefectures of Sotouboua-Blitta and Agou. As part of this action programme, 662 girls between 6 and 17 years of age have been enrolled in school. *The Committee strongly encourages the Government to continue to take immediate and effective measures to remove child victims from domestic work, one of the worst forms of child labour, and requests it to continue to provide information on the number of children who have actually been removed from this worst form of child labour and socially rehabilitated.*

The Committee is raising other points in a request addressed directly to the Government.

## Trinidad and Tobago

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)**

Article 3 of the Convention. *Worst forms of child labour. Clause (c). Use, procuring or offering a child for illicit activities.* The Committee previously urged the Government to take the necessary measures to ensure that the Children's Bill was reviewed and subsequently adopted, to prohibit the use, procuring or offering of children under 18 years of age for the production and trafficking of drugs.

The Committee notes that the Children's Act, 2012, was passed on 6 August 2012. It notes with *interest* that section 37 of this Act provides that a person who uses a child or causes a child to be used as a courier, in order to sell, buy or deliver a dangerous drug or substance commits an offence and is liable, on summary conviction, to a fine of 50,000 Trinidad and Tobago dollars (TTD) and imprisonment for ten years, or on conviction on indictment, to a fine of TTD100,000 and to imprisonment for 20 years. However, the Committee notes that this Act will only become effective once it is proclaimed on the date fixed by the President, in accordance with section 1(2) of the Act. *The Committee therefore requests the Government to take the necessary measures to ensure that the Children's Act, 2012, is proclaimed without delay. It requests the Government to provide information on the progress made in this regard.*

Article 4(1). *Determination of hazardous work.* The Committee previously noted the Government's statement that work had begun to create a list of hazardous occupations. The Committee noted the Government's statement that a governmental delegation attended the ILO Subregional Workshop on the Elimination of Hazardous Child Labour for Select Caribbean Countries in October 2011. It noted that the report of this delegation would contain recommendations to assist in the development of a list of occupations deemed hazardous.

The Committee notes that the Government provides no information on this point in its report. *Recalling that, pursuant to Article 1 of the Convention, each member that ratifies the Convention shall take immediate measures to ensure the prohibition of the worst forms of child labour as a matter of urgency, and noting that work on the list of occupations deemed hazardous to children has been ongoing since 2004, the Committee once again urges the Government to take the necessary measures to ensure the adoption of this list in the very near future, following consultation with the social partners. It once again requests the Government to provide a copy of this list once it has been adopted.*

The Committee is raising other points in a request addressed directly to the Government.

## Turkey

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1998)**

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 noted the Government's report, in addition to the communication of the Confederation of Turkish Trade Unions (TÜRK-İŞ) dated 10 May 2011.

*Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour.* In its previous comments, the Committee noted the indication of TÜRK-İŞ that no national policy was being pursued in Turkey to ensure the effective abolition of child labour and that the number of child workers was increasing. It noted the Government's statement that the framework for a national programme and policy for the elimination of child labour had been elaborated by the Child Labour Unit (CLU), in response to feedback received from various parties consulted, to create a wide-ranging and integrated national policy that is participative and time-bound. The Committee noted the information in the Government's report that measures to progressively eliminate child labour have been integrated into a wide variety of governmental initiatives and policies, including the Government's Ninth Five-Year Development Plan and the Ministry of Labour and Social Security's strategic programme for the years 2009–13. The Committee also noted that the issue of child labour is included as a priority in the Government's Joint Inclusion Memorandum with the European Union (EU), and that the EU has provided pre-accession assistance to address this phenomenon. In addition, the Committee noted that on 10 February 2009, the Government signed a Memorandum of Understanding with the ILO on the implementation of a Decent Work Country Programme, which includes the elimination of child labour as a priority. While taking note of these measures, the Committee observed the statement in the UNICEF draft country programme document of 5 April 2010 that, despite progress, child labour continues to be a serious issue in Turkey, particularly in the agricultural sector (E/ICEF/2010/P/L.6, paragraph 4).

The Committee noted the observations made by TÜRK-İŞ, according to which child labour in Turkey is found in the urban informal sector, in the domestic service, and in seasonal agricultural work.

The Committee noted the Government's information, in its report, on the activities and measures it has adopted in order to combat child labour in Turkey. In particular, the Committee noted that the Ministry of Food, Agriculture and Livestock, in collaboration with related agencies and institutions, prepared a Rural Development Plan which covers the years 2010–13 and which aims to improve the working conditions and life standards of mobile seasonal agricultural workers. In this regard, significant measures are taken to prevent children from taking part in mobile seasonal agricultural work and to provide children of compulsory education age with access to education. Furthermore, a plan of action was prepared to remove children from child labour in seasonal agriculture in provinces where hazelnuts are produced, which is a sector where children accompany their parents and are exposed to unfavourable conditions that are not appropriate to their age and development.

Moreover, the Committee noted the Government's information that the Ministry of National Education is implementing, since 2008, the Programme of Raising Class Teaching (YSÖP) which introduces certain children aged 10–14 back to education, such as those who have been out of the education system due to economic or traditional reasons. The Committee observed that, with YSÖP, 28,559 students were introduced to schools between 2008–11, among which 7,677 in 2010–11 alone. The Committee also noted the Government's statement that the Ministry of Education has signed a Memorandum of Understanding in 2011 to enhance collaboration among agencies and institutions on the issue of providing children with access to quality education and removing the obstacles to access to education, including child labour. While taking due note of the measures taken by the Government, the Committee noted with concern that child labour continues to be a problem in practice, particularly in the agricultural sector. ***The Committee strongly encourages the Government to strengthen its efforts to combat child labour, including through the various measures mentioned above, and to continue providing detailed information on the results achieved.***

*Article 8. Artistic performances.* In its previous comments, the Committee noted that section 16 of the Civil Code provides that children under 15 years may appear in artistic performances with the consent of their family or legal representative. The Committee noted the statement by TÜRK-İŞ that a system regulating children's involvement in artistic endeavours is necessary, to allow for the monitoring and protection of these children. It noted the Government's indication that Chapter 19 (entitled "Social Policy and Employment") of the National Programme of Turkey for the Adoption of the EU Acquis (NPAA) (published in the *Official Gazette* of the Republic of Turkey on 31 December 2008 (No. 27097)), provides for the adoption of regulations in conformity with EU Council Directive 94/33, concerning the participation of persons under 18 in artistic activities. It also noted the Government's indication that preparatory technical work was completed in this regard. The Committee further noted that the Schedule of Legislative Alignment (table 19.4.1) of the NPAA indicates that amendments on the employment of children below the age of 18 in the field of fine arts is necessary, and shall be introduced in Turkish legislation by 2010 through the draft law amending Labour Law No. 4857 (page 210).

The Committee noted the Government's information that technical studies for the required amendments to Labour Law No. 4857 are completed but that a consensus on the details of the amendments has not yet been reached. In this regard, a project will be conducted in the second half of 2011 in order to decide what kind of authorization and monitoring mechanism should be established to provide the best protection for children involved in artistic performances. The Government indicated that conformity with the Convention on this point will be ensured through legal arrangements by the beginning of 2012 at the latest. ***Recalling that pursuant to Article 8(1) of the Convention, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment under the general minimum age for such purposes as participation in artistic performances, the Committee expresses the firm hope that the forthcoming amendments will be in conformity with the Convention. The Committee requests the Government to provide a copy of the relevant legislation with its next report.***

*Part V of the report form. Application of the Convention in practice.* The Committee previously noted that the third Child Labour Study (conducted in 2006 by the Turkish Statistics Institution (TSI) with ILO–IPEC support) indicated that, while the proportion of working children had dropped significantly, there remained 320,000 working children between the ages of 6–14 and 638,000 working children between the ages of 15–17 in 2006. The Committee noted the statement by TÜRK-İŞ that, while the number of working children has significantly decreased, there are still a number of children between the ages of 6–14 engaged in economic activity. TÜRK-İŞ indicated that to address this issue, poverty reduction is necessary and education should be encouraged.

The Committee noted the Government's information that the last Child Labour Force Survey is the one that was conducted by the TSI in 2006. There is no official updated data relating to the child labour force. However, the Government indicated that it is planned to update the child labour force data in collaboration with the TSI by the end of 2011 or beginning 2012. ***The Committee strongly urges the Government to take the necessary measures to ensure that the TSI conduct its research to obtain up-to-date information on the number of working children in Turkey. The Committee requests the Government to provide this information, particularly on the percentage of children below the age of 15 who are engaged in economic activity, in its next report. To the extent possible, this information should be disaggregated by age and sex.***

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (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 noted the Government's report, as well as the communication of the Confederation of Turkish Trade Unions (TÜRK-İŞ), dated 17 May 2011, and the communication of the Turkish Confederation of Employers' Associations (TİSK), of 24 May 2011.

*Article 3 of the Convention. Worst forms of child labour. 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 that, according to the indications of the International Trade Union Confederation (ITUC), Turkey is a country of transit and destination for trafficked children, who are forced into prostitution and debt bondage. The Committee noted that the Children's Office (in the Commission for the Provinces) organizes a yearly course for its officials on combating the trafficking and sexual harassment of children. It also noted the information contained in the Global Report on Trafficking in Persons of the United Nations Office on Drugs and Crime, according to which a second National Plan of Action to Combat Human Trafficking was prepared in 2007 and was awaiting adoption. The Committee however expressed concern at allegations of complicity by law enforcement officers with human traffickers.

The Committee noted the Government's indications that 3,816 security officers responsible for surveys of children have been trained by the children's units on subjects relating to the Convention, including the trafficking of children. The Government added that the second National Plan of Action to Combat Human Trafficking was approved on 18 June 2009 and that it has entered into force. In the framework of this Plan, a Bill on foreign nationals and international protection has been prepared, which establishes measures applicable exclusively to child victims of trafficking. The Government also indicated that, according to the reports of the Office of the Attorney-General, there were 366 cases of trafficking in persons in 2009 and 347 cases in 2010, in which 3,912 and 2,842 presumed traffickers were involved, respectively, as well as 50 and 90 child victims of trafficking. Nonetheless, according to the reports of the criminal courts, only 16 persons responsible for trafficking involving victims under 18 years of age were found guilty and convicted in 2009, and five in 2010. The Government added that 12 law enforcement officers presumed to have been involved in cases of trafficking were identified in 2009, and eight in 2010. However, the Government also indicated that specific sanctions are not envisaged for law enforcement officers, beyond the penalties established in section 80 of the Penal Code to punish persons found guilty of trafficking in persons, and administrative sanctions going as far as dismissal, in accordance with the provisions of the disciplinary rules of the police forces.

While taking due note of the measures adopted by the Government to combat trafficking, the Committee expressed concern at the low number of convictions in relation to the high number of presumed traffickers. ***The Committee therefore requests the Government to intensify its efforts to ensure that those responsible for the trafficking of children under 18 years of age, as well as complicit law enforcement officers, are prosecuted and that sufficiently effective and dissuasive sanctions are applied in practice. It requests the Government to continue indicating the number of persons found guilty and convicted in cases involving victims under 18 years of age. The Committee also requests the Government to provide information on the implementation of the second National Plan of Action to Combat Human Trafficking and the results achieved.***

*Article 7(2). Effective and time-bound measures. Clause (b). 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 agricultural sector.* The Committee noted previously that the protection afforded by the Labour Code does not cover children who work in agricultural undertakings employing fewer than 50 workers. It noted that, according to the Labour Inspection Board, 87 per cent of working children are employed in small enterprises with between one and nine workers. The Committee also noted that in 2006, 41 per cent of the 958,000 working children between the ages of 6 and 17 years were engaged in agriculture.

The Committee noted the indication by TÜRK-İŞ according to which one of the most important sectors in which children are engaged in hazardous work is seasonal agricultural work.

The Committee noted the Government's indication that Circular No. 2010/6 of the Prime Minister respecting the improvement of the social and professional life of nomadic seasonal agricultural workers and the project entitled "Improving the social and professional life of nomadic seasonal agricultural workers" (METIP project) envisage significant measures with a view to eliminating child labour in seasonal agricultural work and promoting their access to education. Furthermore, in towns producing nuts, where there is a high density of seasonal workers, a plan of action for the elimination of child labour in seasonal agricultural work for the production of nuts has been implemented. While noting the measures adopted by the Government, the Committee observed with concern that the engagement of children in hazardous types of work in the agricultural sector remains a problem in practice. ***The Committee requests the Government to intensify its efforts to ensure that children under 18 years of age are not engaged in hazardous types of work in the agricultural sector, particularly in seasonal agricultural work and the nut harvest. In this respect, the Committee requests the Government to indicate the results obtained through the METIP project and Circular No. 2010/6 in terms of the number of children who have been removed from work in the agricultural sector and who have benefited from rehabilitation and social integration services.***

2. *Children working in the furniture sector and other industrial sectors.* The Committee previously noted that the results of the survey on the worst forms of child labour, contained in the Government's report, showed that, while generally the proportion of working children engaged in the furniture industry is fairly low, in some provinces a significant number of children continue to be engaged in this dangerous work. The survey indicated that, in the province of Çankiri, 5.1 per cent of the children surveyed worked in the furniture industry.

The Committee noted from the communication of the TÜRK-İŞ that the worst forms of child labour continue to exist in this sector, as well as in the auto mechanic industry.

In this respect, the Committee noted the Government's indication that in the industrial sector children generally work in small enterprises and workshops for the repair and maintenance of cars, the production of furniture and shoes. The Government indicated that in 2009 the Labour Inspection Board conducted 639 inspections in furniture making, 143 inspections in shoemaking and 1,910 inspections in car repair workshops. In 2010, the number of visits in furniture-making and car repair workshops was 1,810. The Government indicated that, as a result of these inspections, the working conditions of 2,087 children and young workers have been improved, that no child under 15 years of age is employed in these sectors and that hazardous and arduous types of work are no longer performed by children and young workers. The Committee further noted that a project came into force in May 2011 in the furniture-making sector in Adana, Ankara, Çankiri, Eskişehir and Bursa with the objective of

improving working conditions in enterprises, eliminating unlawful work by children and guiding children towards education. *The Committee requests the Government to continue taking measures for inspections to be carried out in the furniture-making, shoemaking and car repair sectors with a view to ensuring that children under 18 years of age do not perform hazardous types of work in these sectors. The Committee requests the Government to continue providing information on the number of children performing hazardous types of work in such workshops or enterprises who have been identified in this way and removed from such work. It also requests the Government to provide information on the impact of the project that entered into force in May 2011 in the furniture-making sector in terms of the number of children who have been removed from hazardous types of work in the sector and then rehabilitated and socially integrated through educational measures.*

*Clause (d). Children at special risk. Children living or working on the streets.* In its previous comments, the Committee noted that, according to the TISK, nearly 10,000 children were working on the streets of Istanbul and nearly 3,000 in Gaziantep. They work under dangerous conditions without protection. It noted that, according to TÜRK-İŞ, work by children in the streets is one of the most dangerous forms of child labour in Turkey and that, while accurate estimates of children working in other sectors are available, the total number of street children remains unknown. The Committee also noted the results of the survey on the worst forms of child labour, contained in the Government's report, to the effect that, of the nearly 21,000 working children surveyed in the province of Van, 6.7 per cent were working on the streets. Other provinces with high proportions of children working on the streets include Erzurum, where 4 per cent of the nearly 28,000 children surveyed were found to be working on the streets, and Elazığ, where the figures are 6.7 per cent and 10,000 children, respectively. The Committee noted that since 1997, the General Directorate of Social Services and Child Protection (SHÇEK) has been operating 36 centres and six shelters in 28 different regions which offer rehabilitation services to children in difficulties, including those who work on the streets.

The Committee noted the indication by TÜRK-İŞ that the phenomenon of children working on the streets still exists in Turkey, but that there is a significant gap in statistics on this subject and that it is necessary to create a database on the phenomenon.

The Committee noted the Government's indication that there are now 37 centres for children and youth attached to the SHÇEK in 29 regions, offering various services and housing and health care assistance, education and guidance for children living or working on the streets. Through these centres, at the end of December 2010, 246 children had been removed from working in the streets and had returned to school, 948 children who were at risk of being engaged in work and in the worst forms of child labour were placed in school and 3,857 children were provided with support in the education system. The Government added that, in 2009 and 2010, with the support of UNICEF, workshops on the "Service and evaluation model for departmental plans of action" were held in eight pilot towns. The objective of the workshops is to develop plans of action in all towns to reduce the number of children living or working on the streets. *The Committee requests the Government to pursue its efforts to ensure that children under 18 years of age who live or work on the streets do not perform work which, by its nature, is likely to harm their health, safety or morals, and to continue indicating the results achieved. It also requests the Government to provide information on the progress achieved in the formulation of plans of action to reduce the number of children living or working on the streets, and the results obtained following their implementation.*

*Part V of the report form. Application of the Convention in practice.* In its previous comments, the Committee noted that, with technical support from the ILO and funding from the European Union, the Government had undertaken a study on the worst forms of child labour in seven provinces which covered 99,356 families in 103 districts and 330 towns. The Committee noted that the results of the study indicated the proportion of children in each of the provinces working in four hazardous sectors: work on the streets, tanning and shoemaking, furniture making and car repair. The Committee noted that of all the provinces surveyed, Van appeared to have the highest proportion of children working in these hazardous sectors (with 9.1 per cent of working children between the ages of 6 and 17 years working in one of the four sectors), followed by Elazığ (7.1 per cent) and Çankiri (6.2 per cent).

The Committee noted the Government's indication in its report under the Minimum Age Convention, 1973 (No. 138), that it is planned to conduct a survey to update the statistics on child labour towards the end of 2011 or the beginning of 2012, as the last national study was undertaken by the Institute of Statistics of Turkey in 2006. *Expressing the hope that the study on child labour in Turkey will include statistics on the worst forms of child labour, and particularly on hazardous types of work in street work, tanning and shoemaking, furniture making and car repairs, the Committee firmly encourages the Government to take measures to ensure that the study is conducted and completed within the envisaged time frame. It requests the Government to provide the results of this study with its next report. The Committee also requests the Government to continue providing information on the number and nature of the contraventions reported and the investigations undertaken, prosecutions, convictions and penal sanctions applied. To the extent possible, all information provided should be disaggregated by sex and age.*

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 near future.*

## Uganda

### Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

*Article 1 and Part V of the Convention. National policy designed to ensure the effective abolition of child labour and application of the Convention in practice.* In its previous comments, the Committee noted that the Government acknowledged the problem of child labour in the country and recognized its dangers. The Committee noted that, according to the joint ILO-IPEC, UNICEF and World Bank report on understanding children's work in Uganda of August 2008, an estimated 38.3 per cent of children aged 7 to 14 years, over 2.5 million children in absolute terms, were engaged in economic activity in 2005–06. Some 1.4 million children under the age of 12 years were engaged in economic activity, and 735,000 children aged less than 10 years were economically active. In this regard, the Committee previously noted that a national policy on child labour (NCLP), designed to ensure the effective abolition of child labour and progressively raise the minimum age for admission to employment or work, was adopted in 2006. It noted that the Government was cooperating with ILO-IPEC in the elaboration of a national action plan (NAP) in order to implement this national policy.

The Committee notes with *concern* that, according to the Uganda National Household Survey report of 2009–10, 2.75 million children aged 5 to 17 years are engaged in economic activities in Uganda; 51 per cent of them (1.4 million) are considered to be in hazardous child labour. The survey also indicates that child labour manifests itself in various forms and in different sectors, including domestic service, commercial agriculture (tea and sugar plantations), the informal economy, hotels and bars, commercial sexual exploitation, child trafficking, construction, fishing, stone and sand quarrying. Moreover, the Committee notes that a Child Labour Follow-up Survey was conducted in 2012 in the districts of Wakiso, Rakai and Mbale by the Uganda Bureau of Statistics with the collaboration of ILO–IPEC, in the framework of the Project of Support for the preparatory phase of the Uganda National Action Plan for the elimination of child labour (SNAP). According to the survey, children’s involvement in work remains common in these districts, with 35 per cent of children aged 6 to 17 years (about 353,000 children) being engaged in some economic activity. Out of this number, 121,000 children, i.e. 11 per cent of all children in the focus districts, were engaged in child labour. More specifically, about 49,000 children in Rakai, 7,800 children in Wakiso, and 21,700 children in Mbale below the age of 12 years were engaged in economic activity. An additional 6,600 children in Rakai, 4,900 children in Wakiso and 1,500 children in Mbale aged 12 to 13 years were in non-light economic activities or hazardous work. Furthermore, 3,900 children in Rakai, 23,000 children in Wakiso, and 2,100 children in Mbale aged 14 to 17 were working in some hazardous forms of work or were working excessive hours. Putting these groups together yields an estimate of about 60,400 children aged 5 to 17 in child labour in the Rakai district, about 35,700 in Wakiso, and about 23,300 in Mbale (for a total of about 121,400 child labourers).

The Committee takes due note of the Government’s indication that the NAP on the elimination of child labour was launched in June 2012. This NAP is a strategic framework that will set the stage for the mobilization of policy-makers and for awareness raising at all levels, as well as to provide a basis for resource mobilization, reporting, monitoring, and evaluation of performance and progress of the interventions aimed at combating child labour. *However, noting with concern that a significant number of children are involved in child labour, including in hazardous conditions, the Committee urges the Government to strengthen its efforts to ensure the effective elimination of child labour, especially in hazardous work. In this regard, it requests the Government to provide detailed information on the implementation of the NAP on the elimination of child labour in its next report. The Committee also requests the Government to continue to supply information on the application of the Convention in practice, particularly statistics on the employment of children under 14 years of age.*

The Committee is raising other points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Articles 3(a) and 7(2)(b) of the Convention. Worst forms of child labour and effective and time-bound measures to provide the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Abductions and the exaction of forced labour and compulsory recruitment of children for use in armed conflict.* The Committee previously noted that, according to the report of the United Nations Secretary-General on children and armed conflict in Uganda of 7 May 2007 (S/2007/260, paragraph 5), Uganda was among the countries where parties to armed conflicts – the Ugandan People Defence Force (UPDF), the local defence units and the Lord’s Resistance Army (LRA) – recruited or used children and were responsible for other grave violations. The Committee further noted that, in its concluding observations for the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 17 October 2008, the Committee on the Rights of the Child expressed concern over continued abductions of children living in border regions by the LRA, to be used as child soldiers, sex slaves, spies and to carry goods and weapons (CRC/C/OPAC/UGA/CO/1, paragraph 24).

However, the Committee noted that, according to the report of the Secretary-General on children and armed conflict in Uganda of 15 September 2009 (S/2009/462) (Secretary-General’s report of 2009), the LRA has not knowingly operated in Ugandan territory since the cessation of hostilities in August 2006. The Committee further noted that a number of measures had been taken in order to rehabilitate children affected by conflict. The Committee also noted that, according to the Secretary-General’s report of 2009, the action plan regarding children associated with armed forces in Uganda signed by the Government of Uganda and the Uganda Task Force on Monitoring and Reporting (UTF) on 16 January 2009 covered different areas of activities, including preventing the recruitment of children under 18 years for use in armed conflict and releasing and reintegrating under age recruits.

The Committee notes that, according to the report of 25 May 2012 of the Secretary-General on the situation of children and armed conflict affected by the LRA (S/2012/365), there does not appear to remain any cases of abduction, exaction of forced labour, or compulsory recruitment of children by the LRA on Ugandan territory. Moreover, the Committee notes with *interest* that, according to the Secretary-General’s report of 2012 (paragraph 46), during the reporting period, 106 Ugandan children (47 girls and 59 boys) were separated from the LRA and were received in reception centres in northern Uganda as part of the repatriation and reunification process for LRA-affected children, managed by non-governmental organization (NGO) partners with United Nations support. All children were provided with interim care, counselling, family tracing and reunification assistance, as well as, in some cases, age-appropriate vocational training. *The Committee encourages the Government to continue its efforts and take effective and time-bound measures to remove children from armed conflict and ensure their rehabilitation and social integration. In this*

regard, it requests the Government to continue providing information on the number of children under 18 years of age who have been rehabilitated and reintegrated into their communities through these measures.

*Article 4(1). Determination of hazardous work.* In its previous comments, the Committee urged the Government to take immediate measures to ensure that the list of hazardous types of work prohibited to children under 18 years was adopted as a matter of urgency.

The Committee notes with *satisfaction* that the Employment of Children Regulations, adopted in 2011, contain the list of hazardous activities prohibited to children under 18 years of age. It observes that this list includes occupations in a variety of sectors, such as agriculture (harvesting and marketing of tobacco or tea, preparing the land of rice plantations, maize milling, fishing); construction (building and roadwork), mining (sand harvesting and stone crushing); domestic work (cooking with fire, child minding, laundry work); the urban informal economy (market and street activities, motor garages and carpentry workshops); and in entertainment (waitressing and attending in hotels, bars, restaurants or casinos).

*Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk. Orphans and vulnerable children.* The Committee previously noted the Government's information that a range of factors has contributed to the problem of child labour, such as orphanhood arising from the HIV/AIDS pandemic.

The Committee notes that orphans and vulnerable children (OVCs) in Uganda are recognized in both the Policy on Orphans and Other Vulnerable Children and the National Strategic Plan on OVCs. The Committee also notes that the policies and activities of the National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda include orphans and HIV/AIDS affected persons in its target groups. However, the Committee notes with *concern* that, according to UNAIDS estimates for 2012, there are approximately 1 million orphans due to HIV/AIDS in Uganda. Moreover, according to the National Labour Force and Child Activities Survey 2011–12, about half (51.1 per cent) of the children in Uganda who lost both parents were involved in employment and, as a result of their plight, found themselves in child labour. The survey also reveals that, overall, orphans were less likely to attend school compared to non-orphans. **Recalling that children orphaned as a result of HIV/AIDS and other vulnerable children are at particular risk of becoming involved in the worst forms of child labour, the Committee urges the Government to intensify its efforts to protect these children from the worst forms of child labour. It requests the Government once again to provide information on specific measures taken in this respect, particularly in the framework of the Policy on Orphans and Other Vulnerable Children and the National Strategic Plan on OVCs, and the results achieved.**

The Committee is raising other points in a request addressed directly to the Government.

## Ukraine

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1979)**

*Article 2(1) of the Convention and Part III of the report form. 1. Scope of application and labour inspection.* The Committee previously noted that the Committee on the Rights of the Child (CRC), in its concluding observations (CRC/C/UKR/CO/3-4, paragraph 74, 21 April 2011), expressed concern at the high number of children below the age of 15 years working in the informal economy, in particular in illegal coal mines, as well as at the extent of violations of labour law regarding the employment of children. The Committee noted the Government's statement that the supervision of the use of child labour in the informal economy remained an outstanding issue which concerned, above all, the right of access to workplaces in this sector, and that the basic problem consisted in the development of a mechanism to collect evidence testifying to the fact that a child worked for an employer in the absence of any written arrangements.

The Committee notes the Government's information, in its report, that the state labour inspectorate, in collaboration with the Service for Children's Affairs, inspected 540 enterprises employing minors in 2012, and 188 in 2013. These inspections revealed that, in 2012, 44 minors were found working without formalized employment relations, three of these in state-owned enterprises, while 26 employers were paying 37 employed minors' salaries "under the table". In the first six months of 2013, 15 minors were found working without formalized employment relations, four in state-owned enterprises, while seven employers were paying seven employed minors' salaries "under the table". **The Committee urges the Government to take the necessary measures to adapt and strengthen the labour inspection services in the informal and illegal economy, in order to ensure that the protection established by the Convention is extended to children working in this sector. It once again requests the Government to provide information on any measures adopted or envisaged in this regard, and on the results achieved, along with its next report.**

**Moreover, having noted previously the Government's information that the Centre of Social Expertise of the Institute of Sociology of the National Academy of Sciences conducted a study on the use of child labour in six sectors of the informal economy (agriculture, street trade, work in mines, services sector, commercial sexual exploitation and illegal activities, including begging), the Committee once again requests the Government to provide statistical information on child labour gathered from the study, as well as other relevant information.**

*2. Minimum age for admission to employment or work.* The Committee previously noted that under section 188(2) of the Labour Code, children of 15 years of age may exceptionally be authorized to work with the consent of their parents or guardians. The Committee observed that the above provision of the Code allowed young people to carry out an economic activity at an age lower than the minimum age for admission to employment or work specified by

Ukraine upon ratifying the Convention, namely 16 years. It also noted that a draft Labour Code of Ukraine was being prepared, the provisions of which should comply with international labour standards. ***Once again noting the absence of information in the Government's report on this point, the Committee urges the Government to take the necessary measures within the framework of the adoption of the new Labour Code, to ensure that no person under the age of 16 years may be admitted to employment or work in any occupation, in conformity with Article 2(1) of the Convention. It also requests the Government to provide a copy of the new Labour Code, as soon as it has been adopted.***

*Articles 3(3) and 6. Authorization to perform hazardous work from the age of 16 years and vocational training.* The Committee previously noted that by virtue of section 2(3) of the Order of the Ministry of Health of Ukraine No. 46 of March 1994, persons under the age of 18 years pursuing vocational training may perform hazardous types of work for not more than four hours a day on condition that existing sanitary and health norms on labour protection are strictly observed. The Committee observed that children between 14 and 16 years were allowed to perform hazardous work during vocational training. It reminded the Government that, according to *Article 3(3)* of the Convention, 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 the condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity. ***Once again noting the absence of information in the Government's report on this point, the Committee urges the Government to take the necessary measures to ensure that children who follow vocational training programmes or apprenticeships are allowed to perform hazardous work only from the age of 16 years, in conformity with Article 3(3) of the Convention. It requests the Government to provide information on the progress made in this regard with its next report.***

*Article 7(3). Determination of light work.* The Committee previously noted that the draft Labour Code provides that the list enumerating the types of light work which may be performed by children over 14 years of age shall be approved by a specially authorized authority dealing with labour issues. ***Once again noting the absence of information in the Government's report, the Committee urges the Government to take the necessary measures to ensure that provisions determining light work activities which may be performed by children from the age of 14 years are adopted pursuant to the provisions of the draft Labour Code in the very near future. It once again requests the Government to provide information on any developments in this regard, and to provide a copy of the provisions determining light work activities as soon as they have been adopted.***

*Article 8. Artistic performances.* The Committee previously noted the Government's indication that an attempt was being made in the draft Labour Code to regulate the labour relations of young persons admitted to employment in the cinema, theatre and concerts. However, it observed the absence of provisions limiting the hours and prescribing the conditions of work by children under 14 years for artistic performances.

The Committee notes the Government's indication that the draft Labour Code sets no restrictions on daily work for children in artistic performances aged up to 14 years, but provides that the working conditions must be agreed upon with the Service for Children's Affairs. The Committee reminds the Government that, under the terms of *Article 8* of the Convention, the competent authority may grant individual work permits to children under the minimum age for admission to employment or work for participation in activities such as artistic performances, and these permits must limit the number of hours during which, and prescribe the conditions in which, employment or work is allowed. ***The Committee requests the Government to take the necessary measures to ensure that the number of hours during which children under 14 years may be granted permission to work in artistic performances is limited, as laid down in Article 8(2) of the Convention. It also requests the Government to indicate whether, by virtue of the draft Labour Code, the Service for Children's Affairs is the competent authority that may grant individual work permits for the participation of children in artistic performances, and if the working conditions that are agreed upon with the Service for Children's Affairs are prescribed in accordance with Article 8(1) of the Convention.***

The Committee observes with *concern* that the draft Labour Code which has been under preparation since 2007 has not yet been adopted. ***The Committee urges the Government to take all the necessary measures to bring the draft Labour Code into force, taking into consideration the above comments made by the Committee. In this regard the Committee once again invites the Government to consider seeking technical assistance from the ILO.***

The Committee is raising other points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Article 3 of the Convention and Part V of the report form. Worst forms of child labour and the application of the Convention in practice. Clause (a). Sale and trafficking of children.* The Committee previously noted that section 149 of the Criminal 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, and use in armed conflict and labour exploitation. Subsection 2 provides for a higher penalty when this offence is committed against a minor. However, the Committee noted that, according to the report of the Special Rapporteur on the sale of children, child prostitution and child pornography of 24 January 2007 (A/HRC/4/31/Add.2, paragraphs 48–53), trafficking in children through and from Ukraine was a major problem. In respect of cross-border trafficking, girls were sent to the Czech Republic, Italy, Poland, Russian Federation, Turkey and United Arab Emirates. Boys were sent to the Republic of

Moldova, Poland, Romania, Russian Federation and Turkey. Children trafficked across borders were exploited in street vending, domestic labour, agriculture, dancing, employment as waiters and for sexual services. The Committee noted that the Committee on the Rights of the Child (CRC) in its concluding observations of 21 April 2011 (CRC/C/UKR/CO/3-4, paragraph 80), remained concerned that Ukraine continued to be one of the largest source countries of trafficking in Europe. The Committee requested the Government to strengthen its efforts to ensure in practice, the protection of children under 18 years of age from the sale and trafficking of children for labour or sexual exploitation.

The Committee notes the Government's statement that several awareness-raising measures have been taken by representatives of the Ministry of Social Policy, who regularly use various media, both national and regional, to inform the public about the new regulatory and legal framework for combating trafficking in persons and preventing them from finding themselves in human trafficking situations, as well as by the Ministries of Culture and of Foreign Affairs, the State Employment Service, and the Ukrainian national TV company. The Committee also notes that, in order to combat the trafficking of children, including for their sexual exploitation, the police force cooperates with public human rights organizations, including the non-governmental organization "La Strada Ukraine". A national hotline telephone number has been set up, in collaboration with this organization, to provide consultation and targeted help for children in need.

With regard to the application of the provisions of the Criminal Code on trafficking, the Committee notes that, according to the Government's report submitted to the Committee on the Elimination of Discrimination against Women on 19 September 2012, data from the Ministry of Internal Affairs for 2010, 2011 and the first five months of 2012 show 554 offences punishable under section 149 of the Criminal Code (trafficking in persons and other illegal transactions in respect of a person) (CEDAW/C/UKR/CO/7/Add.1, paragraphs 1-4). In 2010, there were 257 offences with 277 victims, of whom 35 were children. In 2011, there were 197 offences with 294 victims, of whom 12 were children. Finally, in the first five months of 2012, there were 109 offences with 128 victims, of whom seven were children. Moreover, according to the Government's report under the Forced Labour Convention, 1930 (No. 29), in 2011, 17 cases were opened with regard to the application of section 149 of the Criminal Code on human trafficking in relation to children, 16 cases were opened in 2012; and five cases in the first six months of 2013. ***The Committee requests the Government to pursue its efforts to ensure, in practice, the protection of children under 18 years of age from the sale and trafficking of children for labour or sexual exploitation. In this regard, it requests the Government to continue to take the necessary measures to ensure that thorough investigations and robust prosecutions of persons who engage in the sale and trafficking of children are carried out and that sufficiently effective and dissuasive penalties are imposed in practice, in accordance with the national legislation in force. In this regard, the Committee also requests the Government to supply specific information on the number of convictions and the penalties imposed on persons found guilty of trafficking children under 18 years of age.***

*Clause (b). Use, procuring or offering of a child for prostitution, production of pornography or for pornographic performances.* The Committee noted the Federation of Trade Unions of Ukraine's (FTUU's) allegations that in Ukraine, children as young as 10 years old were involved in prostitution, pornographic activities and the sex industry. It observed that, although various provisions of the Penal Code prohibited the commercial sexual exploitation of children, it remained an issue of concern in practice. Moreover, despite the various institutional and practical measures taken by the Ministry of Internal Affairs (MIA) to improve the efficiency of the activities of the law enforcement bodies in terms of the prevention and detection of crimes against children, the Committee noted the grave concern expressed by the CRC, in its concluding observations of 21 April 2011 (CRC/C/UKR/CO/3-4, paragraph 78), at the increase in the number of cases of sexual abuse, exploitation and involvement of children in prostitution and pornographic materials, and the alarmingly high number of Internet users of child pornography (5 million users per month).

The Committee notes the Government's statement that the measures taken to combat child pornography are becoming more effective. In this regard, since the beginning of 2013, 856 criminal offences were registered involving the import, sale or dissemination of material advocating violence, cruelty or pornography, which led to 201 indictments. The Government also indicates that the police force registered 516 criminal offences involving procurement (section 302 of the Criminal Code) or pimping (section 303 of the Criminal Code). Of those, 281 investigations have led to notices being served to individual suspects, 51 persons have been taken into custody and 178 indictments have been served. ***The Committee strongly encourages the Government to pursue its efforts to eliminate the use, procuring or offering of children under the age of 18 for prostitution, the production of pornography and for pornographic performances, and to provide information on the measures taken in this regard. It also requests the Government to provide concrete information on the number of investigations, prosecutions and sanctions applied against persons found guilty of committing an offence under sections 302 and 303 of the Criminal Code against children under 18 years of age.***

The Committee is raising other points in a request addressed directly to the Government.

## United Arab Emirates

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). Slavery and practices similar to slavery. Sale and trafficking of children for commercial sexual exploitation.* In its previous comments, the Committee noted that section 346 of the Penal Code prohibits the trafficking of children, and section 363

prohibits abetting, enticing or inducing a male or a female to commit prostitution. The Committee also noted that, by virtue of Federal Act No. 51 of 2006, anyone who traffics a boy or girl under 18 years of age for all forms of sexual exploitation or prostitution is liable to life imprisonment.

The Committee notes the Government's information in its report that, in 2012, four lawsuits were registered for the commercial sexual exploitation of children, involving nine persons who were convicted and sentenced to penalties of imprisonment. *The Committee encourages the Government to pursue its efforts to ensure that persons who traffic in children for the purpose of sexual exploitation are, in practice, prosecuted, and that sufficiently effective and dissuasive penalties are imposed. It once again requests the Government to continue to provide information on the number of infringements reported, investigations, prosecution, convictions and penal sanctions applied for violations of the legal prohibition on the sale and trafficking of children for commercial sexual exploitation.*

*Article 5. Monitoring mechanisms. National Committee to Combat Human Trafficking (NCCHT).* In its previous comments, the Committee noted that the NCCHT met frequently, and that from 2008 to 2012, it took numerous measures to address the problem of trafficking.

The Committee notes the additional information provided by the Government on the measures taken by the NCCHT in 2013. Among these measures, the Committee notes that the NCCHT, in collaboration with the ILO, the United Nations Office on Drugs and Crime, the Regional Office of the High Commissioner on Human Rights in the Middle East, and representatives of relevant bodies responsible for law enforcement, met at a regional symposium in January 2013 entitled "Combating human trafficking from a labour market perspective". The objectives of this symposium included learning the best practices in combating this phenomenon and offering protection to victims, and predicting the perspectives for collaboration among the social partners in the fight against trafficking. The NCCHT, in collaboration with the Dubai Police and the Dubai Airport Corporation, also launched an awareness-raising campaign in order to inform the public of the hazards of human trafficking crimes at Dubai Airport, which is targeting a large segment of residents and visitors to the United Arab Emirates (UAE). *The Committee once again requests the Government to provide concrete information on the impact of the measures taken by the NCCHT and other institutions on combating child trafficking for labour or sexual exploitation. In this regard, it requests the Government to provide information on the number of children who were prevented from sale and trafficking through the various awareness-raising and cooperation measures taken by the NCCHT and the Government.*

*Article 7(2). Effective and time-bound measures. 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 for sexual exploitation.* The Committee previously urged the Government to ensure that all children under 18 years of age trafficked to the UAE for sexual exploitation were treated as victims rather than offenders. In this regard, the Committee noted the Government's information that a draft Child Protection Law was in the process of review and finalization. The draft Child Protection Law specifies that the penalties which may be imposed by a court on a delinquent child – defined as a person who has not completed his or her 18th year of age – include reprimands, the handing of the child to the authorities, the obligation to perform specific duties, working in the public interest, or consigning to one of the care or rehabilitation institutions appropriate to the case. The draft Child Protection Law also provides that child victims of trafficking shall be placed in care institutions. In this regard, the Committee noted the Government's detailed information regarding the role of the sheltering centre set up to welcome and care for victims of trafficking and sexual exploitation, the main functions of which are rescue, care, rehabilitation, follow-up and prevention.

The Committee notes the Government's indication that the Council of Ministers adopted the draft Child Protection Law in order to prepare for its promulgation in the UAE. The Committee also notes the Government's indication that, at its 31st Session, on 7 October 2013, the NCCHT adopted a decision which established a Fund for the support of human trafficking victims, as well as assist them by providing them with financial support to facilitate their lives and compensate them for the damage inflicted upon them.

The Committee notes that, in its report, the Government provides statistics on the number of prosecutions and convictions with regard to human sale and trafficking, as well as the commercial sexual exploitation of persons. It notes the Government's indication that, in 2012, there were nine child victims of commercial sexual exploitation. However, the Committee observes that the Government provides no information on the measures taken to rehabilitate these child victims, as well as the child victims of commercial sexual exploitation or trafficking detected in the previous years. *The Committee requests the Government to take the necessary measures to ensure the promulgation of the draft Child Protection Law, and to provide detailed information on the application of its provisions to child victims of trafficking for sexual exploitation, along with its next report. It also requests the Government to provide concrete information on the results attained through the implementation of the measures taken to ensure the rehabilitation and social integration of all child victims of trafficking and commercial sexual exploitation under 18 years of age. In this regard, it requests the Government to provide information on the number of child victims of trafficking who have benefited from financial assistance through the Fund for the support of human trafficking victims.*

The Committee is raising other points in a request addressed directly to the Government.

## United States

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)**

*Articles 3(d) and 4(1) of the Convention. Hazardous work and determination of types of hazardous work. Hazardous work in agriculture from 16 years of age.* The Committee previously noted that section 213 of the Fair Labor Standards Act (FLSA) authorizes children aged 16 years and above to undertake, in the agricultural sector, occupations declared to be hazardous or detrimental to their health or well-being by the Secretary of Labor. The Government, referring to Paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), which allows ratifying countries to permit 16–17 year-olds to engage in types of work referred to by *Article 3(d)* on the condition that the health, safety and morals of the children are fully protected, stated that Congress considered it as safe and appropriate for children from the age of 16 years to perform work in the agricultural sector.

However, the Committee noted the allegation of the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) that a significant number of children under 18 years were employed in agriculture under dangerous conditions, including long hours and exposure to pesticides, with risk of serious injury. It also noted the statement in the report of the International Trade Union Confederation (ITUC), for the World Trade Organization General Council on the Trade Policies of the United States of 29 September and 1 October 2010, entitled “Internationally recognized core labour standards in the United States of America” that health and safety standards for child farm workers were severely lacking, and that from 2005 to 2008, at least 43 children died in work-related accidents in farms. The Committee noted the statement in the document available on the website of the Department of Labor (DOL) entitled “Notice of proposed rulemaking to amend the child labor in agricultural regulations – Frequently asked questions” that “[c]hildren employed in agriculture are some of the most vulnerable workers in America. The fatality rate for young agricultural workers is four times greater than that of their peers employed in non-agricultural workplaces. Furthermore, the injuries suffered by young farm workers tend to be more severe than those suffered by non-agricultural workers. The current federal agricultural child labor rules were issued over 40 years ago and have never been updated or even revised.”

Nonetheless, the Committee took due note that, based on the recommendations of the National Institute for Occupational Safety and Health (NIOSH), the Wage and Hour Division (WHD) of the DOL published a Final Rule on child labour provisions on 20 May 2010, which revised existing Hazardous Orders (HOs) to prohibit children under 18 years from performing certain types of work, including: (i) working in poultry slaughtering and processing plants; (ii) forestry services and timber tract management; (iii) operating balers and compacters designed for non-paper products; and (iv) operating wood chippers. The Committee also noted that the DOL issued a Notice of Proposed Rulemaking in September 2011, containing proposals to revise the child labour agricultural HOs, as well as some non-agricultural HOs. The Government indicated that the proposal, if finalized, would adopt the remaining specific NIOSH recommendations on existing agricultural HOs, to increase the parity between agricultural and non-agricultural child labour prohibitions. This proposal created an HO to prohibit the employment of persons under the age of 18 years in occupations in farm product and raw materials, wholesale trade industries such as work in country grain elevators, grain bins, silos, feed lots, feed yards, stockyards, livestock exchanges and livestock auctions. Additionally, this proposal included several revisions to existing agricultural HOs, such as prohibiting hired farm workers under 16 years of age from: the planting, cultivating, topping, harvesting, baling, burning, and curing of tobacco; any work that falls within the Environmental Protection Agency classification of pesticide handler; occupations involving working inside a manure pit; work in the agricultural sector such as construction, wrecking and demolition and excavation; certain tasks involving working with or around animals; and operating all power-driven machines. However, the Committee noted with serious concern that this proposed rule was subsequently withdrawn in April 2012.

In this regard, the Committee notes the Government’s information that, notwithstanding the fact that the proposed rule to revise the child labour agricultural HOs was withdrawn in April 2012, the WHD continues to focus on improving the safety of children working in agriculture and protecting the greatest number of agricultural workers. One of the WHD’s strategies is to use education and outreach to promote understanding of agricultural employers’ and workers’ rights and responsibilities alike, which it does through several initiatives in specific sectors and in various States. In addition, the Occupational Safety and Health Administration (OSHA) has increased its focus on agriculture by creating the Office of Maritime and Agriculture (OMA) in 2012, which is responsible for the planning, development and publication of safety and health regulations covering workers in the agricultural industry, as well as guidance documents on specific topics, such as ladder safety in orchards and tractor safety. In 2013, OSHA reconvened the Agriculture Task Force to further increase its focus on assisting the agricultural industry. The OSHA has also undertaken a number of enforcement initiatives that address working conditions in the agricultural sector, including for agricultural workers under 18 years of age. The Government reiterates its dedication towards seeking improvements in child labour safety and health, in particular in agriculture, and states its willingness to continue the dialogue on this subject with the Committee.

The Committee welcomes the measures taken by the Government to protect agricultural workers, including those under 18 years. However, it reminds the Government that work in agriculture was found to be “particularly hazardous for the employment of children” by the Secretary of Labor. In this regard, according to the OSHA website, agriculture ranks among the most dangerous industries, and between 2003 and 2011, 5,816 agricultural workers died from work-related injuries in the United States. In 2011 alone, 570 agricultural workers died from work-related injuries, including

108 youths. Of the leading causes of fatal injuries to youths on farms in the United States, 23 per cent involved machinery (including tractors), 19 per cent involved motor vehicles (including all-terrain vehicles), and 16 per cent were due to drowning. In addition, the website indicates that an estimated 33,000 children have farm-related injuries each year in the United States, which are the result of being directly involved in farm work.

Therefore, the Committee must observe that, despite the several awareness-raising and educational measures taken by the Government to inform agricultural workers, including children, about their rights and safety at work, the agricultural sector remains an industry that is particularly hazardous and detrimental to young persons. ***The Committee, therefore, urges the Government to take the necessary measures to ensure that young persons between 16 and 18 years of age working in agriculture are only permitted to perform work in accordance with the strict conditions set out in Paragraph 4 of Recommendation No. 190, namely that their health and safety is protected and that they receive adequate specific instruction or vocational training. It requests the Government to provide information on the concrete measures taken in this regard and on the results achieved in its next report.***

***The Committee also strongly encourages the Government to reconsider the withdrawal of the proposals contained in the Notice of Proposed Rulemaking of 2 September 2011, which would have increased the parity between agricultural and non-agricultural child labour prohibitions by prohibiting some tasks associated with agricultural work to children under 18 years and strengthening the protection provided to children under 16 years working in agriculture.***

*Articles 5 and 7. Monitoring mechanisms and penalties. Hazardous work in agriculture.* The Committee previously noted that the WHD hired more than 300 new investigators since the summer of 2009. The Government indicated that with these added resources, WHD investigators were able to conduct agricultural investigations on evenings and weekends, when children were most likely to be working in the fields. The Committee also noted with interest that the Final Rule on child labour provisions of 2010 amended the child labour civil money penalty to provide for up to US\$50,000 for each violation that causes the death or serious injury of an employee under 18 years of age (which can be doubled if the violation is repeated or wilful).

The Committee notes the Government's information that, since 2011, the WHD has hired more new investigators, bringing the total of investigators to more than 1,000. The WHD has also opened 14 new offices and upgraded 18 across the country, making its services more readily accessible to the nation's workforce and regulated sectors. The Government also indicates that the WHD continues to use the full range of penalties and sanctions at its disposal, including the "hot goods" provision of the FLSA, which prohibits employers from shipping in interstate commerce any goods produced in violation of the Act's minimum wage, overtime or child labour requirements. For example, this provision was used in 2011, when the WHD fined three berry farms in Southwest Washington a total of US\$73,050 in penalties for violating the FLSA, including employing children as young as 6 years old as farm labourers. Moreover, the Government indicates that, in 2012, there were 749 concluded cases in which child labour violations were detected, involving 1,614 minors found working in violation of the FLSA, and child labour civil monetary penalties of more than US\$2 million were assessed. The Government indicates that the two most common violations were failures to comply with the hours standards for 14–15 year-olds in non-agricultural industries, constituting approximately 42 per cent of the child labour violation cases, and failure to comply with Hazardous Orders in non-agricultural industries for 16–17 year-olds, constituting approximately 40 per cent of the child labour violation cases. ***Taking due note of the measures taken, the Committee once again urges the Government to pursue its efforts to strengthen the capacity of the institutions responsible for the monitoring of child labour in agriculture, to protect child agricultural workers from hazardous work. It requests the Government to continue to provide information on measures taken in this regard, and on the results achieved, including data disaggregated by age and gender.***

## Uruguay

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 1977)***

*Article 3(2) of the Convention. Determination of hazardous types of work.* Further to its previous comments, the Committee notes the Government's statement that the list of hazardous types of work, which was drawn up by the National Committee for the Elimination of Child Labour (CETI) after consultation of the social partners and approved by means of Resolution No. 1012/006 of 29 May 2006 of the Uruguayan Institute for Children and Young Persons (INAU), is still in force. However, the Committee observes that even though this Decision draws up a detailed list of criteria for defining types of work that are to be regarded as hazardous to children, it does not clearly define these activities and does not have the force of law. ***Observing that the Government has been referring to the adoption of Resolution No. 1012/006 by decree since 2007, the Committee urges it to take the necessary measures to ensure that a list defining hazardous types of work is incorporated into the national legislation. It requests the Government to provide information on all progress made in this regard.***

The Committee is raising other points in a request addressed directly to the Government.

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Article 4(1) and (3) of the Convention. Determination and revision of the list of hazardous types of work.* Further to its previous comments, the Committee notes the Government's indication that the list of hazardous types of work was revised in 2009 following consultation with the social partners. However, the Government indicates that this list has still not been approved by the Executive Authority. The Committee points out that although Resolution No. 1012/006 of 29 May 2006, which the Government refers to in its report, includes a detailed list of criteria for use in defining the types of work which are to be deemed hazardous, it does not determine the types of activity which are to be prohibited and is unenforceable in practice. *Recalling that the Government has been referring to the adoption of the list of hazardous types of work by decree since 2007, the Committee urges it to take the necessary measures as soon as possible to ensure that the national legislation identifies the hazardous types of work prohibited to persons under the age of 18. The Committee requests the Government to supply information on progress made in this regard in its next report.*

The Committee is raising other points in a request addressed directly to the Government.

## **Uzbekistan**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2008)**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee notes the Government's reports dated 3 and 6 May 2013 and 11 November 2013. It also notes the communication of the International Organisation of Employers (IOE), dated 1 September 2013, and the communication of the International Trade Union Confederation (ITUC), dated 21 August 2013, as well as the Government's reply to both communications, dated 31 October 2013. The Committee further takes note of the detailed discussions that took place at the 102nd Session of the Conference Committee on the Application of Standards in June 2013, concerning the application by Uzbekistan of the Convention. In addition, the Committee notes the ITUC's observations contained in a communication dated 25 November 2013, which refer to the systematic state mobilization of the forced labour of children in the 2013 cotton harvest. These observations were transmitted to the Government for its comments. Lastly, it notes the report of the ILO high-level mission (mission report) on the monitoring of child labour during the 2013 cotton harvest in Uzbekistan, dated 19 November 2013.

*Article 3(a) and (d) of the Convention. Worst forms of child labour. Forced or compulsory labour in cotton production and hazardous work.* The Committee previously noted the various legal provisions in Uzbekistan which prohibit both forced labour (including article 37 of the Constitution, section 7 of the Labour Code, and section 138 of the Criminal Code) and the engagement of children in watering and picking cotton (pursuant to the list of occupations with unfavourable working conditions in which it is forbidden to employ persons under 18 years of age). However, the Committee also noted the communications, over a number of years, from the IOE and the ITUC, indicating that despite this legislative framework, children were mobilized each year to work in the national cotton harvest in a systematic manner by the State, and that this work was frequently hazardous. The Committee further noted the broad consensus among several United Nations bodies with respect to the practice of mobilizing schoolchildren for work in the cotton harvest. In addition, the Committee noted the discussions that took place at the Conference Committee in June 2010 and June 2011 concerning the Convention's application by Uzbekistan.

The Committee notes that, in its conclusions adopted at its most recent discussion regarding the application of the Convention by Uzbekistan in June 2013, the Conference Committee urged the Government to pursue its efforts to undertake, in the very near future, a round table discussion with the ILO, UNDP, UNICEF, the European Commission and the representatives of national and international organizations of workers and employers with a view to accepting an ILO high-level monitoring mission during the 2013 cotton harvest. This roundtable discussion took place in July 2013, and it was agreed that joint ILO–Uzbek monitoring would take place during the cotton harvest, based on the ILO proposed document on child labour monitoring. The principles for this monitoring would be credibility, transparency, objectivity, reliability, validity, the best interests of the child and local observation. Moreover, it was agreed that ILO–IPEC would resume activities in the country, to support capacity building, engage in advocacy, and provide technical advisory services, with monitoring being the first activity.

The Committee notes the statement in a report submitted by the ITUC under the Abolition of Forced Labour Convention, 1957 (No. 105), dated 21 August 2013, that in 2012 the Government systematically forced children aged 15–17 years, studying at colleges and lyceums, to pick cotton in 2012, and that in May 2013, children were forced to undertake preparatory tasks for the harvest, such as weeding and tilling.

The Committee notes the statement of the IOE that the discussion at this roundtable indicated that child labour remains a difficult issue in the country. It states that the Government's acceptance of the resumption of ILO–IPEC activities in the country, as well as its work with the ILO to develop a broader technical cooperation project based on the Decent Work Agenda, are steps forward. The IOE states that the full engagement from the Government and the national social partners is necessary for implementing measures to address child labour in the country, improving the exchange of information between the Government and the ILO (particularly this Committee) and enhancing a wide monitoring process.

The Committee notes with *interest* that joint ILO–Uzbek monitoring took place from 11 September until 31 October 2013 by monitoring units composed of both ILO and national monitors. These monitoring units had full access and undertook unannounced visits covering approximately 40,000 kilometres across the country (which was divided up into eight zones for the purpose of monitoring). The units made 806 documented site visits comprised of 406 farms, 206 households and 395 places offering education to children and young people. The units also conducted 1,592 documented interviews with employers, farmers, adult farm workers, children found in or around cotton farms, teachers, school administrators, students, parents and community members. There were no reports of non-cooperation filed by any of the monitors. During the site visits, monitoring units requested written documentation including identification papers, work lists, contracts of employment, payment slips, school attendance records, practical work experience placements and course lists. The mission report indicates that in some districts, monitors noted that improvements were needed with regard to school record keeping, in particular concerning school attendance, the work study programmes, and class schedules. The monitoring units also followed up on numerous allegations, complaints and information obtained from the social media. Sometimes the monitoring units were unable to verify the social media information. On other occasions, this information proved to be useful, relevant and verifiable. Moreover, the international monitors engaged in local awareness-raising and knowledge-building activities, holding over 20 seminars and trainings on decent work, international labour standards and child labour.

The mission report indicates that, overall, the monitors reported 62 observations of children in the cotton fields, including 57 confirmed cases of children working in the cotton fields. Of these cases, 53 children between the ages of 16 and 17 years (21 girls and 32 boys) were engaged in picking cotton. These confirmed cases were found in two out of the eight zones. Monitors reported no closed secondary schools across all areas, but six closed colleges in two zones were detected as well as significant absenteeism in grades one and two of colleges in four zones. In interviews with school staff, high rates of absenteeism was attributed to students being engaged in practical work experience programmes. It was indicated that closures were due to an epidemic, or due to the cotton harvest, but that students under 18 years of age were reassigned to other classes or activities. It was noted that the one zone where a relatively large number of children were found picking cotton corresponded to a higher level of absenteeism in the colleges. The mission report states that where child labour was found and could be documented, follow-up action was taken by the local authorities to ensure that the child was assisted and sent back to the educational institution. In some cases, reprimands, warnings or fines were issued against farmers and the responsible persons in the educational institutions.

The mission report also states that there was good and productive collaboration and cooperation on the part of the national and local authorities in Uzbekistan in the preparation process and throughout the monitoring period. Monitoring across all eight zones reported widespread awareness of national instructions transmitted to and through the *Mahalla* (the local administrations), to not allow the use of children under 18 years of age in the cotton harvest. The mission report further states that while the application of the law to not engage children under 18 years of age in the cotton harvest seems to be strengthening, there remain gaps in practice. Some child labour still takes place during the cotton harvest, but to a limited extent. The mission report states that it would appear that forced child labour was not used on a systematic basis in Uzbekistan to harvest cotton in 2013.

The Committee notes the Government’s statement in its report dated 11 November 2013, that in the course of the monitoring, where child labour was identified, relevant follow-up measures were taken to help reintegrate children into educational institutions. In specific cases, responsible persons were subject to administrative penalties. The Government indicates that it would be useful to further improve public monitoring to prevent the use of children under 18 in the cotton harvest, as well as to address other issues of compliance with labour standards. In this regard, the Government states that it is committed to further cooperate with the ILO on a wider basis within the framework of the Decent Work Agenda, including policies to abolish child and forced labour as required by this Convention and Convention No. 105, and it requests ILO technical assistance in matters of their implementation. The Committee observes from the mission report that these matters of implementation relate, inter alia, to the framework and various practices under which the entire cotton production is conducted. It refers, in this regard, to its comments made under Convention No. 105.

The Committee welcomes the Government’s collaboration with the ILO on the monitoring of child labour during the cotton harvest, and takes due note of the Government’s demonstrated political will to address the issue of child labour in the country. It observes that although some children aged 16 and 17 years old continue to be engaged in the cotton harvest, significant progress has been made towards the full application of the Convention. ***The Committee urges the Government to pursue and strengthen its efforts to ensure the effective implementation of national legislation prohibiting compulsory labour and hazardous work for children below the age of 18 years. In this regard, it urges the Government to continue to collaborate with the ILO, particularly ILO–IPEC, as well as with the social partners, with a view to completely eliminating the engagement of children, including those between 16 and 18 years of age, in hazardous work in the cotton harvest. The Committee requests the Government to continue to provide information on measures taken in this regard, including measures taken to monitor the cotton harvest, strengthen record keeping in educational institutions, apply sanctions against persons who engage children in the cotton harvest, and further raise public awareness on this subject.***

The Committee is raising other points in a request addressed directly to the Government.

***[The Government is asked to reply in detail to the present comments in 2014.]***

## Bolivarian Republic of Venezuela

### Minimum Age Convention, 1973 (No. 138) (ratification: 1987)

The Committee notes the Government's report and the communication from the Independent Trade Union Alliance (ASI) of 29 August 2013. It also notes the observations from the Confederation of Workers of Venezuela (CTV) of 16 September 2013 made in relation to the Worst Forms of Child Labour Convention, 1999 (No. 182).

*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 statements from the International Trade Union Confederation (ITUC) to the effect that child labour was widespread in the informal sector and in non-regulated activities in the country. The ITUC stated that, according to certain estimates, some 1.2 million children were working, particularly in agriculture, domestic service and as street vendors, and more than 300,000 were working in the informal economy. The Committee noted that the Ministry of Participation and Social Protection, in conjunction with the National Committee on the Rights of Children and Young Persons (IDENA), launched the "Neighbourhood children's mission", a programme aimed at guaranteeing the rights of children and young persons, especially those in situations of extreme poverty, in the context of the goals of the National Economic and Social Development Plan 2007–13.

The Committee notes the concerns of the ASI regarding the increase in the number of children and young persons working in the informal economy, the majority of whom are reportedly performing hazardous work. It also notes the concern of the CTV regarding the fact that official statistics do not allow the true scale of child labour in the informal sector to be grasped.

The Committee notes the statistics supplied in the Government's report relating to the results of the household survey conducted by the National Institute of Statistics (INE) in 2007. The Government refers in its report to these results and to a UNICEF study on the education and work of children in the Bolivarian Republic of Venezuela published in 2009, according to which work – defined as any type of gainful employment, including unpaid domestic work in the family home – performed by children showed a certain decrease throughout the country between 1999 and 2007. However, the study reveals that in 2007 some 2.2 per cent of children between 10 and 15 years of age were still involved in gainful employment without attending school.

The Committee notes the statistics supplied in the Government's report relating to inspections conducted between 2010 and 2013. However, it again expresses *concern* at the lack of recent information on the number of violations reported and convictions handed down for non-compliance with the legislation on child labour, and also at the lack of recent statistics on the scope and nature of work performed by Venezuelan children and young persons. ***The Committee strongly encourages the Government to pursue its efforts to ensure the elimination of child labour and requests it once again to take the necessary measures as soon as possible to ensure that up-to-date statistics on the situation of children and young persons who are working in the country, particularly in hazardous work and the informal economy, are made available. It also requests the Government to include statistics in its next report on the number and nature of violations reported by the labour inspectorate and on convictions applied.***

*Article 3(2). Determination of hazardous types of work.* In its previous comments the Committee noted that the National Institute for Occupational Hazard Prevention, Safety and Health (INPSASEL) was considering whether to adopt a decree that would determine minimum ages higher than 14 years and that, once the list of hazardous types of work had been adopted, minimum ages would be recommended taking account of the best interests of young persons and of their health.

The Committee notes the Government's statement that INPSASEL is still in the process of drawing up a list fixing the minimum ages for types of work which are potentially hazardous for children and young persons. The Government also indicates that the current legislation, namely the 1973 Regulations on occupational safety and health conditions, already prohibits certain types of activity considered to be hazardous for persons under 18 years of age; in this regard, it supplies a list of activities that are supposedly prohibited in the national legislation. Nevertheless, the Committee observes that, even though section 80 of the Regulations prohibits the employment of women and boys under 18 years of age in activities considered to be dangerous or unhealthy, as defined in section 79, the latter refers to a table containing a list of these activities which has not been incorporated in the Regulations or attached to them. ***The Committee therefore requests the Government to include with its next report a copy of the legal provisions determining activities considered to be dangerous or unhealthy, as referred to by section 79 of the Regulations on occupational safety and health conditions. If such legal provisions have not yet been incorporated in the national legislation, the Committee urges the Government to take the necessary measures to rectify this as soon as possible. It requests the Government to provide information on all progress made in this regard, and also on consultations with employers' and workers' organizations with a view to determining these activities.***

*Article 3(3). Admission to hazardous work from the age of 16 years.* The Committee previously noted that section 96(1) of the Act of 1998 concerning the protection of children and young persons prohibits the employment of young persons between 14 and 18 years of age in work that is expressly prohibited by law. It noted that, under the terms of section 96, the national executive authority may, by decree, determine minimum ages higher than 14 years for types of work that are dangerous or harmful to the health of young persons.

The Committee notes Decree No. 8938 of 7 May 2012 issuing the Basic Act on labour and workers, which is attached to the Government's report. It notes that under section 32 the work of children between 14 and 18 years of age will be regulated by the Act of 1998 concerning the protection of children and young persons. It further notes that section 18(8) prohibits the employment of young persons in work that may affect their full development. However, the Committee points out that the term "young person" is not defined in this Act and that, if reference is made to the definition of the term "young person" given in section 2 of the Act of 1998 concerning the protection of children and young persons, this prohibition would only cover children over 12 years of age. Moreover, the Committee points out that Decree No. 1631 of 31 December 1973, issuing the Regulations on occupational safety and health conditions, prohibits dangerous or unhealthy activities, as defined by the national legislation or the Ministry of Labour, for women and boys under 18 years of age.

The Committee wishes to remind the Government that, under *Article 3(3)* of the Convention, employment or work for young persons between 16 and 18 years of age is only authorized subject to strict conditions ensuring their protection and prior training. It stresses that this provision of the Convention aims to impose clearly defined limits on exceptions to the general rule of prohibiting the employment of young persons under 18 years of age in hazardous types of work and must not be interpreted as a general authorization to employ young persons between 16 and 18 years of age in hazardous work. ***The Committee requests the Government to take the necessary measures as soon as possible to bring its national legislation into conformity with the Convention, ensuring that the Basic Act concerning labour and workers and the Act concerning the protection of children also prohibit hazardous work for persons under 18 years of age, apart from in the exceptional cases laid down in Article 3(3) of the Convention for persons between 16 and 18 years of age.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2005)**

*Articles 3(a) and (b), and 7(1) of the Convention. Sale and trafficking of children; use, procuring or offering of a child for prostitution; and penalties.* In its previous comments, the Committee noted that, according to the information contained in the Government's second periodic report to the Committee on the Rights of the Child (CRC) in December 2006 (CRC/C/VEN/2, paragraph 187), child prostitution is one of the most serious problems confronting the country. It noted the statistics submitted in the Government's report relating to the number of cases of trafficking, prostitution and pornography involving children and young persons recorded between 2007 and 2010, and observed that just one case of child prostitution and no cases of trafficking of children were reported in 2010. The Committee expressed its concern that the number of reported cases of trafficking and prostitution of children remained relatively low in view of the scope and persistence of this practice in reality.

The Committee notes that the Government's report does not contain any information on this matter. However, it duly notes the adoption of the Act against organized crime and the financing of terrorism of 30 April 2012. It observes that these new provisions have made it possible to strengthen the system of penalties relating to the sale and trafficking of children and young persons for forced labour or sexual exploitation, and also relating to the illegal transportation of persons inside and outside the country as organized crime. The sale and trafficking of children now incurs a penalty of 20–25 years' imprisonment (section 41), and the penalty for the illegal transportation of persons is eight to 12 years' imprisonment (section 42). It also notes the Government's report to the CRC, at its 67th Session, with a view to the examination of the application of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/VEN/OPSC/1). According to the information in this report, a draft bill against the trafficking of persons has been submitted to the legislative authority (paragraphs 221 and 236). ***While noting the measures taken by the Government to strengthen its legislation relating to the sale and trafficking of children for forced labour or sexual exploitation, the Committee encourages the Government to intensify its efforts to combat this practice, in view of the low number of cases reported in recent years. It requests the Government to supply information in its next report on the number of convictions handed down and penalties imposed under sections 41–42 of the Act against organized crime. It also requests the Government to supply information on progress made regarding the adoption of the draft bill against the trafficking of persons.***

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in, and removing children from, the worst forms of child labour, and ensuring their rehabilitation and social integration. Trafficking and commercial sexual exploitation.* The Committee previously noted the adoption of the National Plan of Action against abuse and commercial sexual exploitation (PANAESC), the objectives of which include prevention of the sexual exploitation of young persons under 18 years of age, protection of young persons from such exploitation, and their rehabilitation. It also noted the adoption of the National Plan to prevent, combat and penalize the trafficking of persons and to assist the victims thereof. It asked the Government several times to provide information on the measures taken in the context of PANAESC and the National Plan to combat trafficking and on the number of children who have benefited from these measures.

The Committee notes with *regret* that the Government's report still does not contain any information on this point. ***It urges the Government to take effective measures to provide the necessary and appropriate direct assistance for the removal of children from trafficking and sexual exploitation and to ensure their rehabilitation and social integration. It again requests the Government to provide information on the number of child victims of trafficking and sexual exploitation who have been the beneficiaries of these measures.***

The Committee is raising other points in a request addressed directly to the Government.

## Viet Nam

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2003)**

*Part V of the report form. Application of the Convention in practice.* The Committee previously noted that, according to the joint ILO, UNICEF and World Bank report on Understanding Children's Work (UCW) in Viet Nam of April 2009, an estimated 1.3 million children between the ages of 6 and 17 years were involved in child labour.

The Committee notes the Government's information regarding the statistics on the employment of children and young persons, extracted from the reports of the labour inspection services for 2006–10. According to these statistics, 1,012 underage workers were detected in 2006; 101 in 2007; 501 in 2008; 496 in 2009; and 101 in 2010. However, the Government also indicates that the number of children subjected to heavy labour and in hazardous and dangerous conditions, while decreasing, was as high as 68,000 in 2005 and 25,000 in 2010. In this regard, the Government provides information on the new penalties provided in Decree No. 91/2011/ND-CP of 17 October 2011 and imposed in various cases of child labour, aimed at deterring the use of child labour in the country. These penalties include: a caution or fine of 1 to 5 million Vietnamese dong (VND) for parents who force their children to work too hard or overtime in a manner that affects their studies; a fine of VND10 to 20 million for employing children in certain types of work, such as working in massage rooms, in casinos, bars, pubs or places that risk adversely affecting the development of the child; a fine of VND20 to 40 million for employing children in certain illicit activities, such as the transport of illegal commodities.

The Committee takes due note of the Government's information regarding the measures adopted to combat child labour. However, the Committee notes that, in its concluding observations of 15 June 2012 (CRC/C/VNM/CO/3-4, paragraph 68), the Committee on the Rights of the Child expresses its concern that child labour remains widespread in the country, in particular in the informal economy, and that labour inspection outreach is limited. The Committee therefore observes that the statistics provided by the Government and taken from the labour inspection reports may not take into account the high number of children working in the informal economy in Viet Nam, as reflected in the joint ILO, UNICEF and World Bank report on UCW of April 2009. It must therefore once again express its *deep concern* at the prevalence of child labour in the country. ***The Committee urges the Government to intensify its efforts to ensure the effective elimination of child labour. It requests the Government to take practical measures to strengthen the capacity and expand the reach of the labour inspectorate in its action to prevent and combat child labour, in particular in the informal economy. The Committee also requests the Government to continue to provide information on the manner in which the Convention is applied in practice, based in particular on statistics on the employment of children under 15 years of age, extracts from the reports of the inspection services and information on the number and nature of the violations reported and the sanctions imposed.***

The Committee is raising other points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Articles 3(b) and 7(2)(b) of the Convention, and Part V of the report form. Use, procuring or offering of a child for prostitution; effective and time-bound measures to provide assistance for the removal of children in the worst forms of child labour and for their rehabilitation and social integration; and application of the Convention in practice.* The Committee previously noted that a Programme of Action to Combat Prostitution for the period 2011–15 (PACP) was approved by the Government through Decision No. 679/QD-TTg of 10 May 2011.

The Committee notes the Government's detailed information pertaining to the implementation of the PACP. In this regard, the Government indicates that, between 2006 and 2011, the police conducted 182,656 inspections of various service-providing establishments, and discovered 68,249 establishments that were violating the provisions related to prostitution, 12,563 warnings were issued, and 37,130 financial sanctions amounting to 103 billion Vietnamese dong (VND) were imposed. In addition, the police traced and raised 6,109 prostitution cases against 19,443 persons, including 4,113 pimps and brokers, 9,067 prostitutes, and 6,263 clients. The Government also indicates that the People's Procurators have prosecuted a total of 3,455 cases of crimes related to prostitution against 4,585 persons, including 114 cases against defendants who were accused of buying juvenile sex.

However, the Committee notes that, in its concluding observations of 22 August 2012, the Committee on the Rights of the Child (CRC) expressed its concern about the rise in child prostitution, the rise in the number of cases of child trafficking including, inter alia, for prostitution purposes, and the increasing number of children involved in commercial sexual activity, mainly due to poverty-related reasons (CRC/C/VNM/CO/3-4, paragraph 71). The CRC further expressed its concern that children who are sexually exploited are likely to be treated as criminals by the police, and that there is a lack of specific child-friendly reporting procedures. ***The Committee, therefore, urges the Government to intensify its efforts within the framework of the PACP to strengthen the capacity of the authorities in charge of applying the legislation against child prostitution, to combat the commercial sexual exploitation of children under 18 years of age. It also requests the Government to take the necessary measures to ensure that child victims of commercial sexual exploitation are treated as victims rather than as offenders. In this regard, the Committee also requests the Government to take effective and time-bound measures to remove children under 18 years of age from prostitution and provide them with the appropriate assistance to ensure their social integration through education, vocational training or jobs, and to provide information on the results achieved.***

The Committee is raising other points in a request addressed directly to the Government.

## Yemen

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2000)**

*Article 1 of the Convention and Part V of the report form. National policy designed to ensure the effective abolition of child labour and practical application of the Convention.* In its previous comments, the Committee noted that according to the findings of the National Child Labour Survey carried out in 2010 by the Central Statistical Organization (CSO) in collaboration with ILO-IPEC, 21 per cent of children between the ages of 5 and 17 were employed (11 per cent of 5–11 year-olds; 28.5 per cent of 12–14 year-olds and 39.1 per cent of 15–17 year-olds). The majority of working children were unpaid family workers (58.2 per cent) followed by 56.1 per cent working in the agricultural sector and 29 per cent working in the private household.

The Committee notes the information provided by the Government in its fourth periodic report to the Committee on the Rights of the Child (CRC) of 23 October 2012 (2012 report to the CRC) that the Government has been focusing on projects related to education, health, social affairs and youth with an emphasis on vital projects for children, including the National Poverty Reduction Strategy (2003–15) and the National Strategy for Children and Youth (2006–15) (CRC/C/YEM/4, paragraph 23). It also notes from the Government's report to the CRC that it is in the process of drafting a national action plan to combat child labour in cooperation with the ILO and the Centre for Lebanese Studies. While noting the measures taken by the Government, the Committee expresses its **concern** at the large number of children working below the minimum age for admission to employment or work. ***The Committee therefore strongly encourages the Government to intensify its efforts to ensure the progressive elimination of child labour. In this regard, the Committee expresses the firm hope that the national action plan to combat child labour will be developed and implemented in the very near future. The Committee further requests the Government to provide information on the manner in which the Convention is applied in practice, including extracts from the reports of inspection services and information on the number of inspections aimed, in whole or in part, at addressing child labour, as well as on the number and nature of violations detected involving children.***

*Article 2(1) and (2). Minimum age for admission to employment or work.* The Committee previously noted the contradiction between Ministerial Order No. 56 of 2004 and the Yemeni Child Rights Law of 2002, which established different minimum ages for admission to employment.

The Committee notes with **satisfaction** that according to section 5 of Ministerial Order No. 11 of 2013, which repeals Ministerial Order No. 56, the minimum age for admission to employment, which is free of any hazards, may not be lower than the age of completion of compulsory education and may not be lesser than 14 years in any case, which is the age specified by the Government upon ratification of the Convention.

*Article 2(3). Compulsory education.* The Committee previously noted the findings of the 2010 Child Labour Survey which indicated that the school attendance rate for 6–14-year-old children (ages for compulsory schooling) stood at 73.6 per cent. It also noted the information from the UNESCO *Education for All Monitoring Report 2011* that, in 2008, Yemen had the most children out of school in the region, more than 1 million.

The Committee notes the Government's information in its 2012 report to the CRC that it has adopted a number of policies and measures designed to expand basic education and enhance its effectiveness through the National Strategy for Basic Education (2003–15), the National Strategy for the Development of Secondary Education, the Strategy for Girls' Education and the Yemen Strategic Vision 2015. The Committee notes however that according to the UNESCO Institute for Statistics, in 2011, the net enrolment rates (NER) in primary education was 76 per cent (82 per cent for boys and 69 per cent for girls) while the NER at the secondary school level was 40 per cent (48 per cent for boys and 31 per cent for girls). While taking due note of the efforts made by the Government, the Committee expresses its **deep concern** at the low enrolment rates at the primary and secondary levels as well as at the high drop-out rates. ***Considering that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to intensify its efforts to increase the school enrolment and attendance rates at the primary and secondary levels and to reduce school drop-out rates. It requests the Government to provide information on the progress made in this regard and on the results achieved.***

*Article 6. Minimum age for admission to apprenticeship.* The Committee previously noted that the Labour Code does not contain a minimum age for apprenticeships, and recalled that by virtue of *Article 6* of the Convention, a young person must be at least 14 years of age to undertake an apprenticeship. ***Noting that Ministerial Order No. 11 also does not contain any provisions related to apprenticeship, the Committee once again requests the Government to take the necessary measures to adopt provisions establishing the minimum age for apprenticeship in conformity with Article 6 of the Convention. It requests the Government to provide information on any developments in this regard in its next report.***

The Committee is raising other points in a request addressed directly to the Government.

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Compulsory recruitment of children and forced or compulsory labour.* The Committee previously noted that the Compulsory National Service Act No. 22 of 1990 and the General Reserve Act No. 23 of 1990 set the minimum age for military service at 18 years.

The Committee notes that section 149 of the Child Rights Act provides that the State shall comply with applicable international law norms for the protection of children in armed conflict by prohibiting children from bearing arms, protecting children from the effects of hostilities, ensuring that children are not involved directly in hostilities, and ensuring that no person below the age of 18 years is enlisted. The Committee notes from the Report of the United Nations Secretary-General to the Security Council that in 2012, the United Nations verified 53 reports of the recruitment and use of children between 13 and 17 years of age of which 25 boys were recruited by the government forces (A/67/845-S/2013/245, issued on 15 May 2013). The report of the Secretary-General also indicated that in 2012, 50 children (45 boys and five girls) were reportedly killed and 165 (140 boys and 25 girls) maimed.

The Committee notes, however, the Government's statement in its initial report of 24 January 2013, to the Committee on the Rights of the Child on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC on the OPAC, 2013) that the current legislation does not prescribe explicit, clear and specific penalties for involving children in armed conflict or conscripting children who are under the age of 18 years as well as for inciting children to commit weapon offences (CRC/C/OPAC/YEM/1, paragraph 116). The Committee also notes from the Government's report to the CRC on the OPAC that in a comprehensive child protection assessment conducted by the Child Protection Sub Cluster and UNICEF in August 2010, 67.5 per cent of parents or caregivers in conflict-affected governorates of North Yemen reported that the recruitment of children had become an issue of serious and ongoing concern, while some 16.9 per cent of the caregivers interviewed reported that their sons had been forced to participate one way or the other in the armed conflict. Moreover, many internally displaced persons reported that armed groups in conflict zones systematically recruited children below 18 years of age. Lastly, community leaders in the Sa'dah governorate estimated that more than 20 per cent of Al-Huthi fighters and at least 15 per cent of the fighters in the Government-affiliated tribal militia were children under the age of 18 years.

The Committee expresses its *deep concern* at the persistence of this practice, especially as it leads to other grave violations of the rights of children, such as murder, sexual violence and abduction. ***The Committee, therefore, urges the Government to take immediate and effective measures to put an end, in practice, to the forced or compulsory recruitment of children for use in armed conflict and proceed with the full and immediate demobilization of all children. It also requests the Government to take the necessary measures to establish sufficiently effective and dissuasive penalties for the offences related to the use of children in armed conflict and to ensure that persons who forcibly recruit children under 18 years for use in armed conflict are prosecuted and punished.***

*Article 5. Monitoring mechanisms.* The Committee previously noted with concern the findings of the first national Child Labour Survey carried out in 2010, that 50.7 per cent of child labourers were engaged in hazardous work of which the overwhelming majority (95.6 per cent) were employed in hazardous occupations and the rest in hazardous economic activities (that is, mining and construction). The Committee notes that the Government has not provided any information on the measures taken by the labour inspectorate with a view to securing the enforcement of the legal provisions relating to the employment of children and young persons. ***The Committee, therefore, once again urges the Government to take the necessary measures to adapt and strengthen the capacity of labour inspectors, including through the provision of sufficient financial resources, to detect cases of the worst forms of child labour, in particular, hazardous work.***

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. Children in armed conflict.* The Committee notes from the Report of the United Nations Secretary-General to the Security Council (S/2013/383, paragraph 67) that on 18 April 2012, the Minister of the Interior sent a letter to the police and the relevant authorities in which he ordered the full implementation of the Police Commission Law No. 15 of 2000, which stipulated 18 years as the minimum age for recruitment and the release of any children within the government security forces. The Committee further notes from the report of the Secretary-General that the President has issued a decree to prohibit under age recruitment and immediately thereafter an inter-ministerial committee was established to serve as liaison for the development of an action plan to end the recruitment and use of children for armed conflict. ***The Committee urges the Government to ensure that the necessary measures are taken to comply with the instructions directed to the armed and security forces by the Ministry of the Interior regarding the release of children under the age of 18 years from the armed forces. The Committee further urges the Government to take effective and time-bound measures to ensure that children removed from armed groups and forces receive appropriate assistance for their rehabilitation and social integration, including reintegration into the school system or into vocational training.***

The Committee is raising other points in a request addressed directly to the Government.

***[The Government is asked to supply full particulars to the Conference at its 103rd Session and to reply in detail to the present comments in 2014.]***

## Zambia

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1976)**

*Articles 1 and 2(1) of the Convention. National policy and scope of application.* The Committee previously noted the International Trade Union Confederation's (ITUC) allegation that children were reported to be working in the unregulated economy. According to the ITUC, children were mostly found in agriculture, domestic service, small-scale mining operations, stone crushing and pottery.

The Committee notes the Government's information that the launch of the National Action Plan on Child Labour (NAPCL) and the National Child Labour Policy (NCLP) in 2011 provided a comprehensive framework and approach for the elimination of child labour in the country. It also notes the Government's statement that the NAPCL which will be implemented within the 2012–15 Decent Work Country Programme, cuts across all economic sectors, including the informal economy and provides a roadmap for implementing partners to adequately address child labour issues. A consultative workshop for social partners and implementing partners was held to solicit inputs from all the ten provinces into the draft monitoring and evaluation framework and resource mobilization strategies for the NAPCL. The Committee notes, however, that according to the joint ILO–IPEC, UNICEF and World Bank report on Understanding Children's Work (UCW) in Zambia of 2012, although there has been a substantial reduction in the incidence of child labour, over one third of children aged 7–14 years, some 950,000 children, were working in 2008, of which nearly 92 per cent worked in the agricultural sector. The Committee takes due note of the measures taken by the Government to combat child labour. However, it observes with *concern* that there remain a significant number of children under the minimum age of 15 years engaged in child labour in the country. ***The Committee therefore urges the Government to pursue its efforts to ensure that, in practice, children under the minimum age of 15 years are not engaged in child labour. The Committee also requests the Government to provide detailed information on the implementation of the NAPCL and the NCLP and their impact on effectively eliminating child labour, especially in the informal economy.***

*Article 3(2). Determination of hazardous work.* The Committee previously noted the Government's statement that the Ministry of Labour and Social Security, working in consultation with the Ministry of Justice, had taken steps to finalize a Statutory Instrument on Hazardous Work before the end of 2011. It also noted that this statutory instrument prohibits work in a covered site in any of the following types of occupations: excavation/drilling; stone crushing; block/brick-making; building; roofing; painting; tour guiding; selling/serving in bars; animal herding; fishing; working in tobacco and cotton fields; spraying of pesticides, herbicides and fertilizers; handling farm machinery; and processing in industries.

The Committee notes the Government's information that the draft Statutory Instrument on the List of Hazardous Work is in the process of being approved by the Minister of Justice. ***Noting that the Government has been referring to the adoption of this instrument since 2005, the Committee urges the Government to take the necessary measures to adopt the Statutory Instrument on Hazardous Work containing the list of types of hazardous work, in the near future. It requests the Government to supply a copy thereof, as soon as it has been adopted.***

The Committee is raising other points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Article 3 of the Convention and Part V of the report form. Worst forms of child labour and application of the Convention in practice. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children.* The Committee previously noted the allegations made by the International Trade Union Confederation (ITUC) on the trafficking of children from Zambia to neighbouring countries for prostitution as well as on the kidnapping of Zambian children to perform forced labour in Angola. The Committee previously requested the Government to provide information on the number of cases of trafficking of children reported to the victim support unit (VSU) and on the prosecutions, investigations, convictions and penal sanctions applied in such cases.

The Committee notes the Government's indication that a total of 56 cases of trafficking of children have been reported to the VSU since 2008, and in three cases the perpetrators were sentenced to imprisonment for 15–30 years. The Committee further notes from the Government's report under the Forced Labour Convention, 1930 (No. 29), that according to the anti-trafficking secretariat, the Government successfully prosecuted two cases of child trafficking under the Anti-human Trafficking Act of 2008 and the convicted persons are currently undergoing prison sentences, while the children were rescued. The Government report further indicates that currently nine cases of human trafficking are pending before the court. ***Noting the Government's statement that trafficking is a problem in Zambia, the Committee urges the Government to take the necessary measures to ensure that in-depth investigations and effective prosecutions are conducted against persons who engage in the sale and trafficking of children under 18 years of age. It requests the Government to continue providing information on the number of convictions made as well as the specific penalties applied for such offences.***

*Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Child orphans of HIV/AIDS and other vulnerable children.* The Committee previously noted the ITUC's indication that since the number of Zambians dying of HIV/AIDS had increased, the number of orphans had also increased and that nearly all of these children were engaged in hazardous work.

The Committee notes the Government's indication that in 2011 about 26.1 per cent of the children at grades 1–12 were orphans. It also notes the Government's information that it has established a Public Welfare Assistance Scheme which aims at assisting households and individuals in need, including orphans and vulnerable children and fulfilling their basic needs such as health, education, food and shelter. Furthermore, a total of 32,643 households with orphans or vulnerable children benefited from the social cash transfer scheme in 2011. In addition, several action programmes were developed, such as: combating child labour through education and social protection schemes in Livingstone; prevention and withdrawal of HIV/AIDS-affected children from child labour in the Luanshya and Masiati districts; prevention and withdrawal of children affected and at risk of entering into the worst forms of child labour through education, recreation and household social protection in Lusaka, Chibombo, Kafue and Rufunsa. The Committee further notes the Government's indication that through these action programmes, a total of 1,450 children were prevented and 1,133 children were withdrawn from child labour, including from the worst forms.

The Committee notes, however, that according to the Zambia Country Report of 31 March 2012 to the United Nations General Assembly Special Session on AIDS (UNGASS report) the percentage of households with vulnerable children that received free basic external support marginally increased from 11.9 per cent in 2005 to 19 per cent in 2009. Therefore, about 80 per cent of households with vulnerable children were still not receiving basic external support. The Committee notes that according to the Epidemiological Fact Sheet on HIV and AIDS of 2011 – Zambia (UNAIDS), over 680,000 children aged 0–17 years are orphans due to HIV/AIDS. While taking due note of the measures taken by the Government to protect orphans and other vulnerable children, the Committee expresses its *deep concern* at the high number of children orphaned in Zambia as a result of HIV/AIDS. **Recalling that children orphaned by HIV/AIDS and other vulnerable children are at an increased risk of being engaged in the worst forms of child labour, the Committee urges the Government to strengthen its efforts to protect such children from the worst forms of child labour. It requests the Government to provide information on the impact of the Public Welfare Assistance Scheme in preventing and withdrawing children/orphans affected by HIV/AIDS from the worst forms of child labour.**

*Part V of the report form. Application of the Convention in practice.* The Committee notes the Government's information that a total of 1,244 labour inspections were carried out in 2011 and no violations with regard to the minimum age was detected in the formal economy. It also notes the Government's statement that the 2012 labour force survey which is currently under way has included modules on child labour. The Committee notes, however, that according to the joint ILO–IPEC, UNICEF and World Bank report on understanding children's work (UCW) entitled "Towards Ending Child Labour in Zambia, inter-agency country report 2012" although there has been a substantial reduction in the incidence of child labour, over 950,000 children were working in 2008, of which nearly 92 per cent worked in the agricultural sector, many of them working in hazardous conditions. The Committee expresses its *deep concern* at the high number of children involved in hazardous work in Zambia. **It requests the Government to strengthen its efforts to remove children from hazardous work and ensure their rehabilitation and social integration. The Committee requests the Government to supply a copy of the 2012 labour force survey report, once it has been made available. To the extent possible, all information provided should be disaggregated by sex and age.**

The Committee is raising other points in a request addressed directly to the Government.

## Zimbabwe

### Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes the communication of the Zimbabwe Congress of Trade Unions (ZCTU) dated 29 August 2013, as well as the Government's report.

*Article 2(1) of the Convention. Scope of application.* In its previous comments, the Committee noted the Government's acknowledgement that, notwithstanding the comprehensive legal provisions that prohibit children from engaging in child labour, children were, in practice, found in employment situations. In this regard, the Committee noted the allegation of the ZCTU that the informal economy was among the sectors where child labour is the most common. Moreover, the Committee noted the information from the 2008 ILO–IPEC Draft Rapid Assessment Survey on the worst forms of child labour in Zimbabwe (ILO–IPEC Rapid Assessment Survey) that a full 87 per cent of children surveyed were self-employed.

The Committee notes the Government's indication that it is currently strengthening existing programmes in order to reach out to more children in child labour, such as the Orphans and other Vulnerable Children National Action Plan (OVC NAP) and the Basic Education Assistance Module (BEAM). The Committee once again reminds the Government that the Convention applies to all branches of economic activity, including the informal economy, and that it covers any type of employment or work, whether or not it is performed on the basis of an employment relationship and whether or not it is remunerated. **The Committee urges the Government to strengthen its efforts to ensure that children working outside an employment relationship, particularly those working on their own account or in the informal economy, benefit from the protection afforded by the Convention, and to provide information on the results achieved.**

*Article 2(3). Age of completion of compulsory schooling.* In its previous comments, the Committee observed that the Education Amendment Bill (to amend the Education Act), passed by the Senate in 2006, did not appear to address the issue of compulsory education. In addition, the Committee noted that, according to information from the 2011 UNESCO *Education for All: Global Monitoring Report*, primary education lasts from 6 to 12 years. The Committee therefore observed that the age at which compulsory schooling ends is two years below the current minimum age for admission to work of 14 years of age.

The Committee notes the Government's information pertaining to the measures it is taking to increase school attendance, such as ensuring that all rural primary school students do not pay tuition fees. The Committee also notes that, while the Government states that primary school in Zimbabwe is compulsory for every child by virtue of the Education Act of 2006, it does not provide information on measures taken or envisaged to ensure that the age of completion of compulsory schooling coincides with the age of admission to work or employment. The Committee recalls that, if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (see 2012 General Survey on the fundamental Conventions concerning rights at work, paragraph 371). ***Recalling that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to adopt legislation which would set the age of completion of compulsory schooling at 14, in line with the minimum age for admission to work.***

*Article 6. Apprenticeship.* The Committee previously noted that sections 11(1)(a) and (3)(b) of the Labour Act of 2002 permit the employment of apprentices from the age of 13 years. The Committee observed that permitting the employment of apprentices from the age of 13 years, pursuant to the Labour Act, was not in conformity with *Article 6* of the Convention. The Committee noted the Government's statement that this matter was being considered in the context of the ongoing labour law reform process, with a view to raising the minimum age for admission to apprenticeship. In this regard, the Committee noted the Government's indication that the principle of raising the minimum age for admission to apprenticeships was adopted by the social partners. ***Noting the absence of new information on this point, the Committee urges the Government to take the necessary measures, within the framework of the ongoing labour law reform process, to ensure the establishment of a minimum age of admission to apprenticeship of no lower than 14 years of age, in conformity with Article 6 of the Convention.***

*Part V of the report form. Application of the Convention in practice.* The Committee previously noted the information from the 2004 labour force survey that 42 per cent of children between the ages of 5–14 years were involved in economic child labour. The Committee further noted the information in the ILO–IPEC Rapid Assessment Survey that 68 per cent of child agricultural workers and 53 per cent of child domestic workers surveyed were 14 years old or younger. The Committee noted the ZCTU's allegations that, despite the existence of legislation applying the Convention, there was lack of enforcement due to the incapacity of labour inspectors. The ZCTU indicated that when breaches of the relevant legislation were detected, the cases took more than a year to be processed, both at the Department of Labour, and in the courts of law. The Committee noted the Government's statement that it was strengthening existing programmes to reach out to children engaged in child labour. The Committee also noted the Government's statement that phase II of the Worst Forms of Child Labour Project (WFCL Project) was not yet under way, but that this phase would focus on the agricultural and domestic sectors.

The Committee notes the ZTUC's allegation that the Government has still not made efforts to finance and implement the five-year WFCL Project, and that this project is almost coming to the end of its term before implementation.

The Committee observes that the Zimbabwe Statistics Agency has concluded the labour force survey of 2011. According to the 2011 Child Labour Survey Report, an estimated 1.2 million children aged 5 to 14 years are involved in economic activities in Zimbabwe, that is 37.1 per cent of children in this age group. The Committee must express its ***deep concern*** at the large number of children under the age of 14 who are found to be working, especially in the agricultural sector and in household activities, as well as at the weak enforcement of child labour legislation. ***The Committee therefore urges the Government to pursue its efforts to implement phase II of the WFCL Project and to reduce the number of children under the minimum age who are engaged in economic activities, especially with respect to children working in the agricultural sector and in domestic work.***

The Committee is raising other points in a request addressed directly to the Government.

### ***Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)***

The Committee notes the communication of the Zimbabwe Congress of Trade Unions (ZCTU) dated 29 August 2013, as well as the Government's report.

*Article 3 of the Convention. 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 that Zimbabwean children were trafficked internally, and were also trafficked to other states for sexual exploitation, forced agricultural labour and domestic servitude. The Committee noted the statement of the ZCTU regarding the existence of trafficking of children to other countries in the region, such as Botswana and South Africa. However, the Committee noted that according to the 2009 United Nations Office on Drugs and Crime (UNODC) Global Report on Trafficking in Persons, no prosecutions or convictions were recorded for trafficking in persons in recent years, due to the absence of a specific provision on human

trafficking. In this regard, the Committee noted the Government's statement that it was in the process of discussing comprehensive legislation to deal with human trafficking in all its facets, including the trafficking of children. However, the Committee observed that the Government had been referring to similar forthcoming legislation since 2005.

The Committee notes the Government's statement that it has had consultations with the relevant stakeholders on the development of a draft bill on human trafficking and that the Office of the Attorney-General is currently drafting this bill. The Committee must, therefore, express its *concern* that comprehensive legislation has yet to be adopted to prohibit the trafficking of persons under 18 years of age, including their trafficking for the purpose of labour exploitation. **Accordingly, the Committee once again strongly urges the Government to take immediate measures to ensure that legislation prohibiting the sale and trafficking of children (including internal trafficking) for both labour and sexual exploitation is adopted as a matter of urgency, and to provide a copy of the relevant legislation, once adopted.**

*Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk.*

1. *Orphans of HIV/AIDS and other vulnerable children.* The Committee previously noted that many children in Zimbabwe were orphaned due to HIV/AIDS and that most of these children found themselves involved in the worst forms of child labour. In this regard, the Committee noted the ZCTU's allegation that the HIV/AIDS pandemic had contributed to the phenomenon of child poverty and child labour, as the number of child-headed families increased. The Committee noted that the Government launched the Orphans and other Vulnerable Children National Action Plan (OVC NAP) 2004–10, which sought to ensure that these children had access to education, food, health services, and that they were protected from abuse and exploitation.

The Committee notes the Government's information that it continues to take effective measures to protect children orphaned by HIV/AIDS from becoming engaged in the worst forms of child labour, including the implementation of the Harmonized Social Cash Transfers Schemes (HSCT) and the Basic Education Assistance Module (BEAM), which contain components aimed at protecting and supporting orphans and vulnerable children. Moreover, the Committee notes that, according to the 2012 Zimbabwe Country Report to the United Nations General Assembly Special Session on HIV/AIDS, the second phase of the OVC NAP (2011–15) aims to reach out to about 250,000 households annually with cash transfers by 2015, in addition to paying school fees for about 550,000 primary-school children and 200,000 secondary-school children annually through the BEAM. However, the Committee notes with *deep concern* that, according to the 2011 UNAIDS estimates, an average of 1 million children aged 0 to 17 years are orphans due to HIV/AIDS in Zimbabwe. **The Committee therefore urges the Government to take effective and time-bound measures, within the framework of the OVC NAP, and other programmes such as the HSCT and the BEAM, to protect children orphaned by HIV/AIDS and other vulnerable children from the worst forms of child labour.**

2. *Children engaged in mining activities.* The Committee previously noted the ZCTU's statement that one of the worst forms of child labour most common in Zimbabwe is work in the mining sector, where children scavenge for minerals to survive. The Committee also noted the information in the Rapid Assessment Survey of 2009 that 11.6 per cent of the children surveyed were engaged in mining work and that these children were mostly self-employed boys between the ages of 15 and 17 (though most started below the age of 14). The Rapid Assessment Survey further indicated that 67 per cent of children working in this sector use chemicals (including mercury, cyanide and explosives), and approximately 24 per cent of these children work for more than nine hours a day.

The Committee notes the ZCTU's allegation that the Government has still not made efforts to finance and implement the five-year Project on the Elimination of the Worst Forms of Child Labour in Zimbabwe (WFCL Project), and that this project is almost coming to the end of its term before implementation.

However, the Committee notes the Government's indication that it intends to embark on a resource mobilization exercise in order to carry out more data collection with a view to elaborate the appropriate interventions to protect children from all the worst forms of child labour, including those engaged in mining activities, and to provide them with rehabilitation services. **The Committee urges the Government to take immediate and effective measures, in the framework of phase II of the WFCL Project or otherwise, to prevent children from engaging in hazardous mining activities, to remove them from these activities and to provide them with rehabilitative services. It once again requests the Government to provide information on effective and time-bound measures taken in this regard and the results achieved.**

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. 59** (Lebanon, Yemen); **Convention No. 77** (Comoros, Lebanon, Tajikistan, Turkey); **Convention No. 78** (Lebanon, Tajikistan); **Convention No. 79** (Tajikistan); **Convention No. 90** (Guinea, Lebanon, Tajikistan); **Convention No. 123** (Mongolia, Rwanda, Turkey, Uganda); **Convention No. 124** (Uganda); **Convention No. 138** (Burundi, Cabo Verde, Chad, Comoros, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Gambia, Grenada, Guyana, Kazakhstan, Kenya, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Mauritania, Oman, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Romania, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Seychelles, Sierra Leone, South Africa, Sudan, Swaziland, Tajikistan,

*United Republic of Tanzania, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukraine, United Arab Emirates, Uruguay, Uzbekistan, Viet Nam, Yemen, Zambia, Zimbabwe);*  
**Convention No. 182** (*Chad, Comoros, Congo, Djibouti, Equatorial Guinea, Gambia, Ghana, Grenada, Iceland, Kazakhstan, Kiribati, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Malawi, Mali, Mauritania, Mongolia, Netherlands: Aruba, Nicaragua, Niger, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Republic, Tajikistan, United Republic of Tanzania, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom: Falkland Islands (Malvinas), United Kingdom: Guernsey, United Kingdom: St Helena, Uruguay, Uzbekistan, Bolivarian Republic of Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe*).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 77** (*Malta*); **Convention No. 78** (*Malta*); **Convention No. 123** (*Ecuador*); **Convention No. 138** (*Libya, Serbia, Singapore, Switzerland, United Kingdom*); **Convention No. 182** (*Poland, United Kingdom*).

## Equality of opportunity and treatment

### Algeria

#### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1962)**

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous observation, which read as follows:

*Gender pay gap. Private sector. ... Recalling that it is particularly important to have available full and reliable statistical data on the remuneration of men and women as a basis for drawing up, implementing and then evaluating the measures taken to eliminate pay gaps, the Committee asks the Government to intensify its efforts to gather and analyse such data in the various economic sectors, including the public sector, and for the different occupational categories, and to provide such data with its next report. The Committee also asks the Government to take the necessary measures to eradicate pay gaps between men and women, including through awareness-raising measures on the principle of equal remuneration for men and women for work of equal value among employers, workers and their organizations and to provide information on any action taken in this respect and on any obstacles encountered.*

*Public service.* The Committee notes the Government's view, in reply to its previous comment, that it is not necessary to include in the general public service regulations (Ordinance No. 06-03 of 15 July 2006) a provision requiring equal remuneration for men and women for work of equal value since all the laws and regulations governing the personnel of public institutions and administrations apply to all public employees irrespective of sex. The Committee wishes to draw the Government's attention to the fact that the adoption and application of wage scales without sex distinction in the public service is not sufficient to exclude any gender discrimination in relation to remuneration. Indeed, such discrimination may have its roots in the criteria used for the classification of jobs, under-evaluation of the work performed mainly by women, or inequalities resulting from the provision of certain accessory benefits (bonuses, indemnities, allowances, etc.) to which men and women do not have access on an equal footing by law or in practice. *In the light of the above, the Committee once again asks the Government to indicate the manner in which it ensures the application of the principle of equal remuneration (basic wages and additional emoluments) between men and women for work of equal value, with an indication of whether objective job evaluations have already been undertaken or are envisaged in the public service.*

*Objective job evaluation. Collective agreements.* In its previous observation, the Committee noted that the framework collective agreement for the private sector concluded on 30 September 2006 between the General Union of Algerian Workers (UGTA) and five employers' organizations contains provisions relating to the classification of jobs on the basis of job descriptions and the analysis, evaluation and rating of their content, leading to their classification according to the results of the evaluation. It also noted that the collective agreement sets out evaluation criteria (qualifications, responsibility, physical or intellectual effort, working conditions, and any particular constraints or requirements), but that it does not specifically envisage the application of the principle of equal remuneration for men and women for work of equal value. The Committee notes that the Government confines itself in its report to referring once again to the framework collective agreement, without providing the information requested on its application in practice, particularly with regard to job evaluation and classification. *The Committee therefore asks the Government to indicate how jobs in the private sector are classified in practice, in accordance with the framework collective agreement, and to indicate whether such classification has recently been reviewed in the various occupational branches. The Committee also asks the Government to provide information on the clauses in recently concluded branch collective agreements reflecting the principle of equal remuneration for men and women for work of equal value and providing for the evaluation of jobs on the basis of the work to be performed, and on the implementation of these clauses.*

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 near future.*

#### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)**

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous observation, which read as follows:

*Legislation. Grounds of discrimination. ... Noting that the draft Labour Code is still being prepared, the Committee once again urges the Government to take this opportunity to ensure that the provisions of the new Labour Code respecting prohibited grounds of discrimination also include race, colour, religion and national extraction and that they cover all stages of employment and occupation. The Committee requests the Government to provide information on the progress achieved in the revision of the labour legislation and on any measures adopted or envisaged for the amendment of the general conditions of service of the public service to ensure that the prohibition of discrimination explicitly covers as a minimum all the grounds enumerated in the Convention.*

*Sexual harassment. ... Drawing the Government's attention once again to its 2002 general observation, the Committee hopes that the new Labour Code will ensure complete protection against sexual harassment by prohibiting those quid pro quo sexual harassment and harassment due to a hostile working environment, and it requests the Government to provide information on this subject. The Committee once again requests the Government to provide information on the measures taken in practice to prevent and combat sexual harassment in employment and occupation, including information on any education and awareness-raising campaigns and on the organization of activities in collaboration with employers' and workers' organizations.*

*Articles 2 and 3 of the Convention. National policy. Discrimination based on sex and the promotion of equality between men and women.* The Committee recalls that for several years it has been expressing deep concern at the low participation rate of women in employment and at the persistence of strongly stereotyped attitudes with respect to the roles and responsibilities of women and men in society and in the family, and has been emphasizing the negative impact of these attitudes on the access of women to employment and training. The Committee notes that, according to the information provided by the Government on the application of the Equal Remuneration Convention, 1951 (No. 100), that women represented 15.1 per cent of the employed population in the fourth quarter of 2010 (16.09 per cent in 2006). *... Recalling that the participation of women in the labour*

market remains very low, the Committee urges the Government to take practical measures to promote and ensure equality of opportunity and treatment for women in all aspects of employment and occupation, including measures intended to combat sexist attitudes and prejudices, as well as proactive measures, particularly in relation to education and vocational training, with a view to overcoming inequalities in practice that affect women and to increasing their opportunities of gaining access to quality jobs. It requests the Government to provide information on any measures taken in this respect and up-to-date statistical data on the situation of men and women in employment in the public and private sectors, where possible by sector or occupational category.

*Promoting equality and combating discrimination based on criteria other than sex set out in Article 1(1)(a).* For many years the Committee has been requesting the Government to provide information on the measures adopted to promote equality of opportunity and treatment in employment and occupation in law and practice without any distinction based on the criteria enumerated by the Convention other than sex. The Committee once again notes that the Government's report does not contain any information on this subject. *Recalling that Act No. 90-11 on labour relations does not prohibit discrimination based on race, colour, religion or national extraction, the Committee requests the Government to indicate the manner in which workers are protected against any discrimination based on these grounds in practice. It urges the Government to provide information on the measures adopted or envisaged to combat discrimination and promote equality in employment and occupation without distinction on the grounds of race, colour, religion, political opinion or social origin, in collaboration with employers' and workers' organizations.*

*Article 5. Special protection measures.* For a number of years the Committee has been drawing the Government's attention to the importance of reviewing the provisions prohibiting night work for women, as well as those respecting the assignment of women to work that is hazardous, unhealthy or harmful to their health. It also recalled that, when reviewing these provisions, a distinction should be made between special measures to protect maternity, as envisaged in Article 5, and measures based on stereotyped perceptions of the capacity and role of women in society, which are contrary to the principle of equality of opportunity and treatment. The Committee notes the Government's indication that its comments will be taken into account when drawing up the new Labour Code. Recalling that the objective is to repeal discriminatory measures applicable to the employment of women, the Committee considers that it would undoubtedly be necessary to examine which other measures, such as to improve the health protection of all workers, safety and adequate transport, the availability of social services to improve the sharing of family responsibilities which would be necessary to enable women to benefit from the same opportunities of men in terms of access to employment. *The Committee requests the Government to ensure that, in the context of the review of the labour legislation, occupational safety and health provisions take into account the need to provide a safe and healthy environment for both men and women workers, while taking into account the differences which mean that they are exposed to specific risks in terms of health, and to ensure that they are not an obstacle to the access of women to employment and to the various occupations. It also requests the Government to ensure that the measures for the protection of women are limited to what is strictly necessary to protect maternity and requests it to provide information on any measures adopted to amend the legislation along these lines.*

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 near future.*

## Australia

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1973)**

The Committee notes the observations of the Australian Council of Trade Unions (ACTU) of 31 August 2012.

*Legislative developments. Federal.* The Committee recalls that as of 1 January 2010, the states, with the exception of Western Australia, have referred their industrial relations powers to the Commonwealth. Thus the Fair Work Act of 2009 applies to all employers and employees in Victoria, the Northern Territory and the Australian Capital Territory; to private sector employers in New South Wales, Queensland, South Australia and Tasmania; local government employers in Tasmania; and national system employers and employees in Western Australia. The Committee notes the Government's indication that a post-implementation review of the Fair Work Act of 2009 was undertaken by an independent panel of experts in 2012. The Committee also recalls that under the Human Rights Framework, which was launched in April 2010, the anti-discrimination consolidation project constitutes a key element, with a view to streamlining five Commonwealth anti-discrimination acts into a single comprehensive law. The Committee notes that the Senate Legal and Constitutional Affairs Committee released its inquiry report on the "exposure draft" of the Human Rights and Anti-discrimination Bill on 21 February 2013, and that the Government is now considering this report. The Government also indicates that it has held three stakeholder forums and separately met directly with a number of key stakeholders. In this connection, the Committee notes the observations of the ACTU, in particular, pointing out the discrepancy between the Fair Work Act and the state legislation concerning the protection for workers with family or caring responsibilities, and asking the Government to ensure that both family and caring responsibilities are included as grounds of discrimination in the consolidated Act.

The Committee notes with *interest* the adoption of the Workplace Gender Equality Act, 2012, which entered into force on 1 August 2013. The Act incorporates all amendments to the Equal Opportunity for Women in the Workplace Act No. 91 of 1986, and now makes specific reference to the Convention (section 5(9)), establishes the Workplace Gender Equality Agency (section 8A), requires employers to report against gender equality indicators, such as gender composition of the workforce, gender composition of governing bodies, equal remuneration between women and men, availability and utility of flexible working arrangements, and consultation with employees on issues concerning gender equality in the workplace (sections 13 and 3(1)). In addition, pursuant to section 1.1 of the Workplace Gender Equality Procurement Principles, which came into effect on 1 August 2013, "non-public sector" employers with 100 or more employees must

supply a letter of compliance with the Workplace Gender Equality Act with their tender submission or prior to contracting with the Government. Pursuant to section 1.3 of the Principles, the Workplace Gender Equality Agency has responsibility for promoting and facilitating the implementation of the Principles. ***The Committee asks the Government to continue to provide information on the application of the Fair Work Act of 2009 with respect to the implementation of the principles of the Convention, including information on any follow-up activities to the review by the independent panel of experts. The Committee also requests information on the progress made in the anti-discrimination and equality in employment and occupation, including specific information on the consultation process and any follow-up to the Senate Committee's inquiry report. Please also reply to the issues raised by the ACTU, including with respect to the protection of workers with family or caring responsibilities. The Committee further requests the Government to provide information on the practical application of the Workplace Gender Equality Act of 2012.***

***Legislative developments. State.*** The Committee recalls the concerns raised by the ACTU on the *Victoria Equal Opportunity Act of 2010*, in particular with respect to the extension of the “permanent exceptions” in the Act, enabling discrimination by faith-based groups and schools, and the limitations on the powers of the Victorian Equal Opportunities Commission. The Committee notes that pursuant to Act No. 26 of 2011, amendments were made to the *Equal Opportunity Act of 2010* before its entry into force on 1 August 2011, including with regard to religious bodies and schools. Pursuant to section 127 of the *Equal Opportunity Act of 2010*, as amended, the Victorian Equal Opportunity and Human Rights Commission may conduct an investigation where there is evidence of serious systemic discrimination. Pursuant to sections 82(2) and 83(2) of the same Act, prohibition of discrimination does not apply to religious bodies and schools that conform with the doctrines, beliefs or principles of the religion, or is reasonably necessary to avoid injury to the religious sensitivities of adherents of the religion. The Committee recalls that the concept of inherent requirements must be interpreted restrictively so as to avoid undue limitation of the protection that the Convention is intended to provide (General Survey on fundamental Conventions, 2012, paragraph 827). ***The Committee asks the Government to indicate how it is ensured that sections 82(2) and 83(2) of the Victoria Equal Opportunity Act of 2010, as amended, do not in practice deprive equality of opportunity and treatment in respect of employment. The Committee also asks the Government to continue to provide information on new or revised legislation on non-discrimination and equality of the states and territories, as well as information on its application in practice.***

***Discrimination on the basis of race, colour and social origin. Indigenous peoples.*** The Committee recalls the findings and conclusions of the Northern Territory Emergency Response (NTER) evaluation report regarding restrictions on the rights of indigenous peoples to land, property, work and remedies. It also recalls difficulties for the recognition of traditional lands, in particular, the five-year leases, resulting in compulsory acquisition of townships which had been held under the title provisions of the *Native Title Act of 1993*. The Committee further recalls the recommendations made by the Australian Human Rights Commission in 2010, including regarding the need for improved consultation and cooperation with Aboriginal and Torres Strait Islander peoples before adopting or implementing any legislative or administrative measures relating to native title reforms. The Committee notes that *Stronger Futures in the Northern Territory Act* and the *Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Act* came into force on 16 July 2012. It further notes the Government's indication that the *Stronger Futures in the Northern Territory Act of 2012* contains measures aimed at removing barriers so that Aboriginal landowners of community living areas and town camps can use their land voluntarily for a wider range of purposes, including economic development and private home ownership. The *Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Act of 2012* repealed the *Northern Territory National Emergency Response Act of 2007*, and as a result of this new legislation, compulsory five-year leases ceased on 17 August 2012. In addition, pursuant to an amendment made by the *Native Title Amendment Act No. 1 of 2010* to the *Native Title Act of 1993*, native title owners may request to be consulted about public housing developments. The Committee notes the Government's indication in this regard that from June to August 2011, more than 450 meetings were held with people in around 100 communities and town camps across the Northern Territory. The Government indicates that further proposed amendments to the *Native Title Act of 1993* are being finalized, outlining the consultation process and a reporting mechanism for the consultation process. The Committee also notes the Government's indication that the *Strong Futures* legislation involves an investment of 3.4 billion Australian dollars (AUD) over 10 years to provide programmes and services to Aboriginal people in regional and remote areas to live strong and independent lives. The Committee notes in this connection the observation by the ACTU that adequate and appropriate consultation should also be reflected in policy development processes. ***The Committee asks the Government to provide specific information on the measures taken or envisaged to ensure that indigenous peoples have access to land and resources to allow them to engage in their traditional occupations. The Committee also asks the Government to provide information on the practical application of the Stronger Futures in the Northern Territory Act of 2012 and the Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Act of 2012, as well as any other measures taken to address discrimination against indigenous peoples with respect to employment and occupation, including information on consultation with indigenous peoples in developing policies. Please also provide information on any cases brought under the Racial Discrimination Act.***

*Equality of opportunity and treatment of indigenous peoples.* The Committee notes the Government's indication that in January 2012, an expert panel established by the Government to consult and report on options for the constitutional recognition of Aboriginal and Torres Strait Islander peoples, presented its report to the Government, and that in February 2012, the Prime Minister announced AUD10 million in funding for Reconciliation Australia to raise community awareness and build support for indigenous constitutional recognition. The Committee also notes the Government's indication that among the "Closing the Gap" targets, progress has been made as follows: (i) 95 per cent enrolment for indigenous 4-year-old children in remote communities by 2013 is on track, since in 2011, almost 94 per cent of indigenous children in remote areas were enrolled in a pre-school programme; (ii) the gap in apparent retention rates until year 12 between indigenous and non-indigenous Australians has fallen from 42.5 percentage points in 1995 to 32.2 percentage points in 2010; (iii) the rate of indigenous Australians of workforce age in regional and urban areas has risen to 54.3 per cent in 2008, from 36.4 per cent in 1994. The Government also indicates that the Indigenous Economic Development Strategy 2011–18 identifies five priority areas, including strengthening skills development and business and entrepreneurship. The Committee notes concerns expressed by the ACTU that historically, programmes under the Indigenous Economic Development Strategy have produced few real outcomes, with many participants out of work once the government funding has ceased. Under the Indigenous Employment Programme (IEP), the Indigenous Youth Career Pathways Program commenced in 2012 and provides support to Aboriginal and Torres Strait Islander secondary students to stay in school and undertake school-based traineeships. From July 2013, the IEP and other employment programmes will be replaced by a Remote Jobs and Communities Programme, with funding of AUD1.5 billion.

The Committee notes the range of initiatives being undertaken in some of the states and territories to promote equality of opportunity and treatment of indigenous peoples and address discrimination. The Committee notes in particular that in *New South Wales*, a Career Pathway Indigenous Jobs Market Programme 2012 provides employers the opportunity to identify and engage with indigenous jobseekers. In the public sector, an Aboriginal Employment Action Plan 2009–12 provides strategies, including for removing barriers to indigenous people in the recruitment process. As of June 2011, a national target of 2.6 per cent indigenous employment in the public sector by 2015 was achieved in New South Wales. Following a commitment made in 2009 to employ an additional 2,229 indigenous people in the public sector over four years, by the end of December 2011, about 75 per cent of the extra positions had been filled. In *Victoria*, funding of AUD4.26 million has been committed to place at least 350 indigenous people in employment by June 2014. An Aboriginal Public Sector Employment and Career Development Action Plan 2010–15 focuses on building pathways for indigenous people between education and public sector employment. The "Works for Indigenous Jobseekers" programme engaging aboriginal employment brokers also continues. In *Queensland*, key achievements of a Reconciliation Action Plan include involving indigenous communities in taking action towards reconciliation and addressing issues of discrimination. In *South Australia*, a comprehensive set of programmes for aboriginal people and employers are funded addressing indigenous discrimination and disadvantage in employment. In the *Northern Territory*, a Public Sector Indigenous Employment and Career Development Strategy 2010–12 is being implemented, and a new strategy is being developed. In the *Australian Capital Territory*, an Employment Strategy for Aboriginal and Torres Strait Islander People has been newly developed. ***The Committee asks the Government to continue to provide information on the measures taken by all the states and territories to address discrimination and promote equality in employment and occupation of indigenous peoples, and to indicate the results achieved. The Committee also asks the Government to continue to provide information on the impact of the measures undertaken at the federal level, including with regard to the "Closing the Gap" targets, and to provide detailed information on the Remote Jobs and Communities Programme, and the Commonwealth Indigenous Economic Development Strategy 2011–18, including concrete results achieved, as well as information on any other federal initiatives aimed at promoting equality of indigenous peoples and addressing discrimination against them. Please also continue to provide information on the status of the process to recognize specifically Aboriginal and Torres Strait Islander peoples in the Constitution.***

The Committee is raising other points in a request addressed directly to the Government.

## Barbados

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1974)***

*Legislative protection against discrimination.* For many years, the Committee has been commenting that the existing legislation does not provide full legislative protection against discrimination as defined under the Convention. It has noted, in this context, that the Government has continued to refer to the forthcoming adoption of the Employment Rights Bill since 2004 and that the Barbados Workers' Union had expressed disappointment at the time it was taking to enact legislation on sexual harassment and employment rights. The Committee notes that a new Employment Rights Act, 2012-9 has been adopted. Part VI addresses unfair dismissal for reasons relating to trade union membership or activities, real or perceived HIV or AIDS status, disability, pregnancy, or reasons that relate to the race, colour, gender, age, marital status, religion, political opinion or affiliation, national extraction, social origin or indigenous origin of the employee, or the responsibility of an employee for the care and welfare of a child or a dependent family member with a disability (section 27(1) and (3) and section 30(1)(c) ((i)–(iii), (v), (vii), (x) and (xi)(A)–(B)). While welcoming the inclusion of all

the prohibited grounds of discrimination set out in *Article 1(1)(a) of the Convention*, and the additional grounds as foreseen in *Article 1(1)(b)*, the Committee notes that the opportunity was not taken to ensure full legislative protection against direct and indirect discrimination, not only with respect to dismissal but in all aspects of employment and occupation and beyond dismissal, for all workers, and that the new Employment Rights Act does not contain provisions protecting against sexual harassment. **Noting, however, the Government's statement that discrimination legislation is currently being drafted by the Chief Parliamentary Counsel, the Committee requests the Government to take steps without further delay to address the protection gaps in the legislation, and to ensure that the discrimination legislation expressly defines and prohibits sexual harassment (both *quid pro quo* and hostile environment harassment), as well as direct and indirect discrimination in all aspects of employment and occupation, for all workers, and with respect to all the grounds set out in the Convention. In the meantime, the Committee requests the Government to provide information on the practical measures taken to ensure that workers are being protected in practice against discrimination with respect to all aspects of employment and occupation, on the grounds set out in the Convention.**

The Committee is raising other points in a request addressed directly to the Government.

## Brazil

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1965)**

**Legislative developments.** The Committee welcomes the adoption of Constitutional Amendment No. 72 of 2013, which expands the scope of protection of domestic workers' rights under article 7 of the Constitution. Pursuant to the amendments domestic workers are protected, inter alia, against discrimination in respect to recruitment, employment and wages on the basis of sex, age, colour or marital status, as well as wage discrimination and discrimination in recruitment on the ground of disability (article 7(XXX) and (XXXI)). In this connection, the Committee notes the Government's indication that the legislative review process was undertaken in collaboration with domestic worker's organizations at municipal, state and federal levels. With regard to the Bill on equality and the elimination of discrimination, the Committee notes the Government's statement that, in spite of the efforts of the Secretariat for Women's Policies and other bodies of the federal government to speed up the legislative process, divergences regarding the content of the law continue to hinder its adoption. The Committee notes further the Government's indication that the Bill on equal opportunities and treatment for women in employment (PLS No. 136/2011) is currently being considered by the Senate commission for social affairs. The draft law establishes mechanisms to prevent, address and punish discrimination against women, and sets out measures to promote equal opportunities for women in employment and career development. **The Committee asks the Government to provide information on any progress made in the adoption of the Bill on equality and the elimination of discrimination, as well as the Bill on equal opportunities and treatment for women in employment (PLS No. 136/2011). The Committee also requests the Government to provide information on the practical impact of the Constitutional Amendment No. 72 of 2013 on the elimination of discrimination against domestic workers and promotion of equality. The Committee also reiterates its request for information on the implementation and impact of the Charter for Racial Equality, issued under Act No. 12288 of 2010.**

**Article 2 of the Convention. Equality of opportunity and treatment irrespective of race, colour and ethnicity.** The Committee notes the statistical information, disaggregated by race, colour (white, black and mixed race) and sex provided by the Government. The figures show that in 2011 the employment rate of mixed-race workers increased by 9.3 per cent compared to 2010, while that of white workers increased by 3.38 per cent and that of black workers by 4.53 per cent. The employment rate of indigenous workers decreased by 2.54 per cent. The Committee also notes that the participation rate of black workers in the labour market decreased slightly from 5.5 per cent in 2010 to 5.2 per cent in 2011, while that of mixed-race workers increased from 28.98 per cent to 29.85 per cent in the same period. The statistical information submitted under the Equal Remuneration Convention, 1951 (No. 100), further indicates that black, indigenous and mixed-race workers continue to receive lower wages than white workers, with black, indigenous and mixed-race women being the most affected by the wage gap. While noting these statistics and the information previously provided by the Government on measures and activities undertaken in the context of plans and programmes at both national and state levels to combat discrimination on the basis of race, colour or ethnicity, the Committee once again draws the Government's attention to the fact that such information remains insufficient for it to assess whether real progress has been achieved as a result of the measures adopted. **The Committee therefore asks the Government to step up its efforts to combat discrimination on the basis of race, colour and ethnicity, and to actively promote equality in employment and occupation. In particular, the Committee asks the Government to provide information on the concrete impact of measures adopted in the context of the National Plan for Racial Equality, the Ethno Programme for the development of Quilombola communities, or otherwise, and the concrete results obtained in this regard. The Committee also asks the Government to continue to provide statistics, disaggregated by sex, race and colour, on the distribution and participation of workers in the various occupations and economic sectors, including on their remuneration rates.**

The Committee is raising other points in a request addressed directly to the Government.

## Burundi

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)**

The Committee notes the observations of 30 August 2013 submitted by the Trade Union Confederation of Burundi (COSYBU) on the application of the Convention, emphasizing, as has the Committee, that section 73 of the Labour Code needs to be amended so as to reflect fully the principle of the Convention. The Committee once more notes with *regret* that the Government's report has not been received.

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee recalls that according to article 57 of the Constitution, "for equal qualifications, all persons, without discrimination, have a right to an equal wage for equal work" and that section 73 of the Labour Code provides that "in equal conditions of work, occupational qualification and output, the wage shall be equal for all workers, whatever their origin, sex, age". For several years the Committee has stressed that these provisions do not give effect to the principle of equal remuneration for work of equal value laid down in *Article 1(b)* of the Convention. It recalls that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value, and the promotion of equality. It is essential to combating gender-based occupational segregation (which characterizes the labour market of almost all countries), since it allows for a broad comparison and includes but goes beyond equal remuneration for "equal", the "same" or "similar" work and also encompasses work that is of an entirely different nature but nevertheless of equal value (see General Survey on the fundamental Conventions, 2012, paragraphs 672–675). The Committee also recalls that in its report for 2007, the Government indicated that there were no obstacles to incorporating the principle of the Convention into the national legislation. *The Committee again asks the Government to take the necessary steps to ensure that article 57 of the Constitution and section 73 of the Labour Code are amended to align them with the Convention and to give full effect to the principle of equal remuneration for men and women for work of equal value, as set out in Article 1(b) of the Convention. The Government is asked to provide information on any measures taken in this regard.*

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 observations dated 30 August 2013 of the Trade Union Confederation of Burundi (COSYBU) on the application of the Convention. The COSYBU reiterates its observations of 2012 and 2008 concerning the existence of discriminatory recruitment practices in the public service, based on membership of the political party in power, specifying that these practices are particularly prevalent in the education and health sectors. *Noting that the Government has not replied to the observations submitted by the COSYBU in 2008 and 2012 or to those of 2013, the Committee asks the Government to provide comments on the COSYBU's allegations concerning the existence of discriminatory recruitment practices in the public service based on political opinion, especially in the education and health sectors, and to indicate any steps taken to ensure that recruitment in the public service should be exempt from any discrimination.*

Furthermore, the Committee once again notes with *regret* that it has not received the Government's report. It is therefore bound to repeat its previous observation, which read as follows:

*Discrimination based on race, colour or national extraction.* In its previous comments the Committee requested the Government to provide information on the measures taken to address discrimination in employment between different ethnic groups. In reply, the Government once again refers to the 2005 Constitution, and to the Arusha Agreement. As previously noted by the Committee, article 122 of the Constitution prohibits discrimination based, inter alia, on an individual's origin, race, ethnicity, sex, colour and language. The Committee also notes that, pursuant to article 129(1) of the Constitution, 60 per cent and 40 per cent of the seats in Parliament are reserved for Hutus and Tutsis, respectively. Similar provisions also exist for government positions. In its report, the Government also asserts that ethnic discrimination in employment and occupation no longer exists. As the elimination of discrimination and the promotion of equality is a continual process, and cannot be achieved solely through legislation, the Committee finds it difficult to accept statements to the effect that discrimination is inexistent in a given country. It stresses the need for the Government to take continuing action with a view to promoting and ensuring non-discrimination and equality in employment and occupation. *The Committee therefore reiterates its request for information on any specific measures taken to promote and ensure equality of opportunity and treatment, irrespective of ethnic origin, in respect of employment in the private and public sectors, including awareness-raising activities and measures to promote respect and tolerance between the different groups. It also reiterates its request for information on the activities of the newly established public service recruitment commission with a view to promoting equal access to public service employment of different ethnic groups.*

*Indigenous peoples. ... The Committee urges the Government to take all measures necessary to ensure equal access of the Batwa to education, vocational training and employment, including through reviewing and strengthening relevant national laws and policies and ensuring their full implementation. The Committee also requests the Government to take measures to combat stereotypes and prejudice against this group. The Government is requested to provide detailed information with regard to these matters in its next report.*

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 near future.*

## Canada

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*** ***(ratification: 1964)***

*Discrimination on the grounds of political opinion and social origin.* The Committee recalls its previous comments urging the Government to amend the Canadian Human Rights Act and to take the necessary measures to amend the legislation of specific provinces and territories, as the grounds of social origin or “social condition” and political opinion are only covered by the legislation of Quebec, Northwest Territories, New Brunswick and Newfoundland and Labrador. The Committee also recalls that “social condition” is used in Canadian legislation and jurisprudence in a manner consistent with the term “social origin” under the Convention.

The Committee notes that pursuant to the *Manitoba Human Rights Code Amendment Act*, which was adopted on 14 June 2012, discrimination in employment based on “social disadvantage” which is based on a negative bias or stereotype related to the said disadvantage is now prohibited under the *Manitoba Human Rights Code* (sections 9(1), 9(2.1), and 14(1)). “Social disadvantage” is defined to mean diminished social standing or social regard, due to (a) homelessness or inadequate housing; (b) low levels of education; (c) chronic low income; or (d) chronic unemployment or underemployment (section 1). The Committee also notes the Government’s indication that the *Ontario Human Rights Code* and the *Canadian Charter of Rights and Freedoms* provide comprehensive protection against discrimination including for the poor and other vulnerable groups in society. The Committee notes, however, that social origin or “social condition” is not specifically enumerated as a prohibited ground of discrimination under the *Canadian Charter of Rights and Freedoms* or the *Ontario Human Rights Code*. ***The Committee asks the Government to take concrete steps to amend the Canadian Human Rights Act (CHRA) to include social origin or “social condition” and political opinion as prohibited grounds of discrimination in employment and occupation, and to indicate any progress made in this regard, including information on any follow-up measures taken to the research paper released in 2009 by the Canadian Human Rights Commission on adding the ground of “social condition” to the CHRA. The Committee also asks the Government to provide information on the practical application of the Manitoba Human Rights Code with regard to the prohibited ground of “social disadvantage”. Please further indicate any steps taken to include social origin or “social condition” and political opinion in the legislation of the relevant provinces and territories, including Ontario.***

*Gender equality in employment and occupation.* The Committee recalls that section 13(5) of the *Canada Post Corporation Act* excludes a mail contractor from the application of Part I of the *Canada Labour Code*. It also recalls the observation provided by the *Canadian Labour Congress* that the exclusion discriminates against women, who accounted for 71 per cent of rural and suburban mail carriers. The Committee notes the Government’s acknowledgement that men and women are concentrated in different economic sectors. The Government indicates that there is no obvious or intended link between section 13(5) and gender discrimination. ***The Committee asks the Government to take measures to examine and address the impact of the exclusion pursuant to section 13(5) of the Canada Post Corporation Act on women, in terms of equality of opportunity and treatment in employment and occupation.***

The Committee notes the Government’s indication on the measures taken for the increase of women’s access to various occupations, including apprenticeship programmes, in which women accounted for 16 per cent in total, and 3 per cent in non-traditional sectors in 2010. Sector councils at the federal level have started implementing strategies designed to encourage women to enter non-traditional sectors, including construction and mining. The Committee also notes the similar measures taken to increase women’s access to non-traditional occupations, including political office, science, engineering and technology, at the provincial levels, including New Brunswick, Nova Scotia, and Ontario. ***The Committee asks the Government to continue to provide information on the measures taken both at the federal and the provincial levels, to promote women’s access to employment and occupation, including those that have been traditionally dominated by men, as well as on the impact of such measures.***

*National policy.* The Committee recalls the observation by the *Canadian Labour Congress* stressing the need for a more structured national policy on equality in employment and occupation that encompasses unifying principles for all jurisdictions. The Committee notes the Government’s indication that all Canadian jurisdictions are pursuing and coordinating active policies designed to implement the Convention, and that the federal Government is not in a position to develop and implement laws, regulations, policies and programmes at the federal level with respect to matters such as employment discrimination, where the provinces and territories exercise jurisdiction. ***The Committee asks the Government to provide information on any initiative at the federal level to address differences of policies on equality in employment and occupation at the provincial and territorial levels, and to indicate any measures taken to coordinate provincial and territorial equality policies. Please also indicate how the social partners collaborate in such initiatives and measures at the federal level.***

The Committee is raising other points in a request addressed directly to the Government.

## Central African Republic

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1964)**

The Committee notes the Government's statement that the observations made by the Central African Workers' Union (USTC), the Central African Workers' Confederation (CSTC), the National Union of Central African Employers (UNPC) and the Central African Interoccupational Grouping (GICA) were incorporated in its report at a tripartite meeting on 29 May 2012 dealing with the updating of reports.

The Committee notes the serious concerns expressed by the various bodies of the United Nations and the African Union Peace and Security Council regarding the human rights situation in the country and its specific effects on women, which the Committee considers may have a serious impact on the application of the principles of the Convention. In this regard, the Committee refers to its observation on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

*Article 1(b) of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* The Committee recalls that sections 10 and 222 of Act No. 09.004 issuing the Labour Code limit the right to equal wages to jobs involving "equal working conditions, skills and output". In its previous comments, the Committee asked the Government to amend these provisions to give full effect to the principle of equal remuneration for men and women for work of equal value, thereby including not only jobs involving equal working conditions, skills and output but also work which involves different working conditions, skills and output but is nevertheless work of equal value overall. The Committee notes the Government's indication that sections 10 and 222 will be amended by a decree implementing the Labour Code which is in the process of being adopted. ***The Committee requests the Government to take the necessary steps to ensure that sections 10 and 222 of the Labour Code are amended so as to provide explicitly for equal remuneration for men and women for work of equal value, and to provide information on progress made regarding the procedure for the adoption of the abovementioned decree.***

The Committee is raising other points in a request addressed directly to the Government.

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1964)**

The Committee notes the report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Central African Republic, according to which grave violations, such as summary executions – particularly of political opponents – torture, enforced disappearances, sexual violence against women and children, and arbitrary arrests and detention, have been perpetrated by armed groups in the country since December 2012 (A/HRC/24/59, 12 September 2013). The Committee notes that the report's recommendations to the transitional Government include the adoption of urgent measures to restore security, democratic governance, constitutional order and the functioning of the justice system so that the perpetrators of these violations are brought to justice, and also the adoption of legal reforms to combat sexual and gender-based violence and improve protection for victims. The Committee also notes resolution 2121 (2013) adopted by the Security Council on 10 October 2013, in which the Security Council expresses grave concern at the numerous serious human rights violations committed in the Central African Republic and strongly condemns these widespread violations (S/RES/2121(2013)). The Committee further notes the Security Council's particular concern at the reports of violence targeting representatives of ethnic and religious groups and reports of increasing tensions between communities. In this regard, the Committee notes that, in the decision adopted on 13 November 2013, the African Union Peace and Security Council also expresses particular concern at the tensions and clashes between communities and religious groups. The Committee recalls that the objective of the Convention, particularly regarding equality of opportunity and treatment in employment and occupation without any distinction made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, cannot be achieved in a general context of serious human rights violations and social inequalities. ***In view of the serious concerns expressed regarding the human rights situation and its specific effects on women and ethnic and religious communities, the Committee urges the Government to take the necessary steps to promote equality of opportunity and treatment without any distinction made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin and, in particular, to tackle the inferior social position of women and discriminatory laws, particularly relating to civil matters, which are reflected in sexual violence against them, which the Committee considers to have a serious impact on the application of the principles of the Convention. In this context, the Committee also urges the Government to create the necessary conditions to restore the rule of law and to give effect to the provisions of the Convention.***

*Article 1(1)(a) of the Convention. Prohibition of discrimination in employment or occupation. Legislation.* The Committee notes the adoption on 18 July 2013 of Act No. 13.001 issuing the Constitutional Transition Charter, section 5 of which states that all human beings are equal before the law, without distinction as to race, ethnic origin, geographical origin, sex, religion, political affiliation or social status, and that the law guarantees equal rights for men and women in all spheres. It also notes that the Penal Code (Act No. 10.001 of 6 January 2010) provides that any person who commits discrimination towards natural or legal persons on the basis of their origin, sex, family situation, state of health, disability, customs, political opinions, trade union activities, or belonging to a particular nation, ethnic group, race or religion, shall be liable to punishment. However, the Committee recalls that the Labour Code (Act No. 09.004 of 29 January 2009) does

not expressly prohibit discrimination on all the grounds enumerated in *Article 1(1)(a)* of the Convention, and does not cover all stages of employment. **The Committee requests the Government to take the necessary steps to supplement the provisions of the Labour Code in order to clearly define and expressly prohibit any form of discrimination, on at least all the grounds set out in Article 1(1)(a) of the Convention, at all stages of employment, including recruitment.**

*Articles 2 and 3. Policy to promote equality of opportunity and treatment. In view of the above, the Committee requests the Government to take the necessary steps, in cooperation with workers' and employers' organizations, to implement the following:*

- (i) *a genuine national policy to promote equality of opportunity and treatment in employment and occupation without discrimination on the basis of religion, ethnic origin or any other ground prohibited by the Convention;*
- (ii) *the 2005 gender equality policy aimed at promoting and ensuring equal access for women and men to training and employment, particularly by combating stereotypes and prejudice regarding women's role in the family and society, and also at making women more aware of their rights and better able to defend them.*

## Chad

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1966)**

The Committee notes that the Government's report does not contain a reply to its previous comments. The Committee notes nevertheless that a new Labour Code is currently being drafted and hopes that it will soon be adopted.

*Article 1(1)(a) of the Convention. Grounds of discrimination. The Committee asks the Government to ensure that the new Labour Code specifically bans any direct and indirect discrimination on the basis of at least all the grounds of discrimination listed in the Convention, that is race, colour, sex, religion, political opinion, national extraction or social origin. Hoping that the new Labour Code will be adopted in the near future, the Committee asks the Government to provide information on the status of the adoption of the text and to provide a copy once it has been adopted.*

*Discrimination on the basis of sex. Occupational segregation.* The Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) stated its concern about the persistence of patriarchal attitudes and deep-rooted stereotypes concerning women's roles and responsibilities that discriminate against women and perpetuate their subordination within the family and society (CEDAW/C/TCD/CO/1-4, 4 November 2011, paragraph 20). The Committee considers that such stereotypes, based on traditional assumptions concerning gender roles in the labour market and in society, including those relating to family responsibilities, channel women and men into different education and training and subsequently into different jobs and career tracks, resulting in labour market inequalities, particularly with respect to remuneration and career development (see General Survey on the fundamental Conventions, 2012, paragraph 713). For a number of years, the Committee has been stating that section 9 of Ordinance No. 006/PR/84 of April 1984 on the status of shopkeepers, which entitles a husband to object to his spouse's activities, is incompatible with the provisions of the Convention, and has been asking the Government to take the necessary steps to repeal this provision. The Committee notes that CEDAW also recommended that the Government review the relevant labour-related legislation with a view to repealing all provisions discriminating against women, in particular Ordinance No. 006/PR/84 (CEDAW/C/TCD/CO/1-4, paragraph 32). ***In the absence of a reply from the Government on this point, the Committee is bound to repeat its request and consequently urges the Government to take the necessary steps to repeal any legislative provisions resulting in discrimination against women in employment and occupation, particularly section 9 of the 1984 Ordinance, and to adopt specific measures to combat stereotypes and prejudices on the respective roles of women and men in society with a view to removing obstacles to women's employment.***

The Committee is raising other points in a request addressed directly to the Government.

## Comoros

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1978)**

The Committee notes the observations of the Confederation of Workers of Comoros (CTC) of 27 August 2013 reiterating its observations of 2011 regarding the absence of a minimum wage and wage scale for employers to determine the wages of their employees. **The Committee asks the Government to provide its comments on the points raised by the CTC.**

The Committee further 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 took note of observations of the Men and Women Workers Confederation of Comoros (CTC) received on 1 September 2011, in which the organization reported that the principle of equal remuneration between women and men in the private and parastatal sectors is not being respected because there is no wage scale or indicator to which employers might refer. The Committee invited the Government to send its comments on the matter. The Committee notes that the Government's report has not been received but that a new Labour Code was adopted on 28 June 2012.

*Equal remuneration for work of equal value. Legislation.* In its earlier comments the Committee noted that section 97 of the Labour Code providing for equal wages regardless of the worker's origin, sex, age or status "under equal working conditions, professional qualifications and output" did not give full effect to the Convention. The Committee notes that according to section 104 of the new Labour Code "all employers shall provide equal remuneration for the same work or for work of equal value". It further notes that this provision contains a definition of "remuneration" that reflects that of *Article 1(a) of the Convention*. **The Committee asks the Government to provide information on the application of section 104 of the Labour Code in practice. It encourages the Government to publicize the new provisions of the Labour Code and to consider the organization of training to raise awareness among workers and employers and their organizations, labour inspectors, judges and others involved in enforcing the Labour Code concerning the principle of equal remuneration for work of equal value.**

*Collective agreements.* The Committee notes that section 92(7) of the new Labour Code provides that "collective agreements [which may be extended] must include provisions on the ways and means of applying the principle of equal remuneration for men and women for work of equal value". **The Committee asks the Government to provide information on the effect given in practice to section 92(7) of the new Labour Code. It also asks the Government to indicate the measures taken to encourage the social partners to include in collective agreements the principle of equal remuneration for men and women for work of equal value and the ways and means of applying it, and to provide extracts of relevant collective agreements.**

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 near future.**

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2004)***

The Committee notes the observations of the Men and Women Workers Confederation of Comoros (CTC) of 27 August 2013, indicating that in the public service, although recruitment is to be undertaken, according to the legislation, through a competition process, in practice, recruitment decisions are based on how close the candidate is to politically powerful persons and on other considerations. With respect to the private sector, the CTC states that no one is able to determine how recruitment is undertaken or the criteria used for fixing wages or related benefits. **The Committee asks the Government to provide its comments on the points raised by the CTC.**

The Committee further 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 that the new Labour Code was adopted on 28 June 2012.

*Article 1(1)(a) and (b) of the Convention. Definition of discrimination. Additional grounds of discrimination. ... The Committee asks the Government to provide information on steps taken to publicize the provisions of the Labour Code that ban discrimination based on real or perceived state of health, including HIV status, and to raise awareness of this matter among workers and employers and their organizations, labour inspectors, judges and other officials dealing with work-related matters. The Committee also asks the Government to provide information on the application in practice of section 2 of the new Labour Code prohibiting discrimination based on real or perceived state of health including HIV status, and section 71 prohibiting all discrimination based on real or perceived HIV status in practice, indicating any action taken by labour inspectors or any court decisions handed down on such matters.*

*Sexual harassment. ... The Committee requests the Government to take measures to publicize the new provisions of the Labour Code prohibiting sexual harassment, among workers and employers and their organizations, labour inspectors and judges, and to provide information on any measures taken to this end. It asks the Government to provide information on any instances of sexual harassment addressed by the competent authorities, including any relevant administrative or judicial decisions. It also asks the Government to indicate the measures taken by employers, pursuant to section 2.2 of the Labour Code, to prevent any acts of sexual harassment at the workplace. Furthermore, in order to facilitate application of the provisions prohibiting sexual harassment in practice, and in particular the identification of instances of *quid pro quo* harassment, the Committee requests the Government to envisage the possibility of supplementing the definition of sexual harassment so as to specify that there is harassment when the worker's rejection of the behaviour concerned or the worker's submission to such behaviour, is used explicitly or implicitly to take a decision affecting his or her work.*

*Article 2. National policy. Equality of opportunity and treatment of men and women.* In its previous comments, the Committee noted the adoption in June 2008 of the National Policy on Gender Equity and Equality (PNEEG) to ensure equality in employment and occupation. It also noted that the Employers' Organization of Comoros (OPACO), in a communication received on 1 September 2009, indicated that it had not been informed of the elaboration of such a policy and regretted that no measures had been taken to prevent the exclusion of women from certain jobs and occupations. The Committee takes note of the Government's brief comments to the effect that an action plan has been drawn up to introduce measures implementing the PNEEG. The Government also states, in reply to OPACO's observations, that equality in employment is guaranteed in enterprises and that the promotion of social dialogue is part of the Government's action plan for 2011–15 to ensure effective collaboration with the social partners with a view to achieving perfect social concentration and cohesion. In this respect, workshops designed to strengthen the capacity of employers' and workers' organizations have been held throughout the country. **Taking note of this information, the Committee requests the Government to provide specific information on the awareness-raising and training activities carried out or planned with the social partners, within the framework of the implementation of the PNEEG. Furthermore, the Committee requests the Government to provide detailed information on the action plan implementing the PNEEG and, more specifically, on the measures taken or envisaged to promote equality of opportunity and treatment between men and women in respect of access to education, vocational training, wage and non-wage employment and working conditions (including remuneration, promotion, and security of tenure). The Government is asked to forward a copy of the PNEEG and the action plan.**

*Equality of opportunity and treatment irrespective of race, colour, religion, political opinion, national extraction and social origin. ... The Committee once again requests the Government to indicate the measures taken or envisaged to elaborate and apply a national policy to promote equality of opportunity and treatment in employment and occupation, irrespective of race, colour, religion, political opinion, national extraction and social origin.*

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 near future.*

## Costa Rica

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1960)**

The Committee notes the Government's reply to the observations made by the Confederation of Workers Rerum Novarum (CTRN).

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee has been referring for a number of years to article 57 of the National Constitution and section 167 of the Labour Code, which set out the principle of equal wages for equal work. The Committee notes that the Government's report does not contain any new elements in this regard. The Committee once again reiterates that the concept of "work of equal value", on which the Convention is based, includes but goes beyond equal remuneration for "equal", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value (see the General Survey of 2012 on the fundamental Conventions, paragraph 673 et seq.). *The Committee once again asks the Government to take the necessary measures to amend the legislation to give full legislative expression to the principle of equal remuneration for men and women for work of equal value and to provide information on any progress achieved in this respect. The Committee reminds the Government that it can request the technical assistance of the Office, if it so wishes.*

*Occupational sex segregation.* The Committee notes that in its observations the CTRN indicated that, although women have a higher educational level, they have not been able to gain access to more and better job opportunities or better wages, and that there exists a high level of occupational segregation, which is demonstrated, for example, by the fact that 20 per cent of women and less than 3 per cent of men are employed in domestic service and approximately 12 per cent of women and 4 per cent of men are employed in the education sector. The Committee notes the Government's information on training activities for women on work and jobs traditionally undertaken by men. The Government nevertheless adds that occupational segregation is a response to circumstantial and cultural elements and that the Decree on minimum wages determines wages irrespective of the sex of those employed. The Committee noted in its previous observation the occupational profiles which, according to the Government, involved the grouping of various occupations into 23 categories, which are then subdivided into unskilled, semi-skilled and skilled. The Committee notes that the Government reiterates that these occupational profiles have been developed based on objective criteria and grouping together a broad range of occupations. The Government indicates that it is not yet able to determine the distribution of men and women for each occupational profile. The Committee notes the statistical data provided by the Government, which demonstrates the existence of occupational segregation, with most women being engaged in the commercial, teaching and services sectors. The Committee recalls that historical attitudes towards the role of women in society, along with stereotypical assumptions regarding women's aspirations, preferences and capabilities and "suitability" for certain jobs, have contributed to occupational sex segregation within the labour market, with women being concentrated in certain jobs and certain sectors of activity. These views and attitudes also tend to result in the undervaluation of "female jobs" in comparison with those of men who perform different work and use different skills, when determining wage rates (see the General Survey of 2012, paragraph 697 et seq.). *The Committee asks the Government to provide a copy of the occupational profiles, and the categories of jobs included in each profile, as well as information on the average wage received for each occupational profile. The Committee once again asks the Government to provide examples of cases in which the Ministry of Labour and Social Security has placed private sector workers in wage categories.*

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

## Democratic Republic of the Congo

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)**

*Article 1 of the Convention. Equal remuneration for work of equal value. Legislation.* For several years the Committee has been asking the Government to bring the Labour Code into line with the Convention. It notes that, as in previous reports, the Government merely states that it takes due note of the Committee's comments and will incorporate them into the legislation when the Labour Code is next revised, and that the principle is applied in practice. The Committee recalls that section 86 of the Labour Code which provides that for equal conditions of work, qualifications and output, wages are equal for all workers irrespective of origin, sex or age, is narrower than the principle set out in the Convention. Not only does section 86 fail to reflect the concept of "work of equal value" but it is not applicable to all the components of remuneration as defined in *Article 1(a)* of the Convention, since it appears to exclude all emoluments that are additional to the "wage" whether they are components of remuneration as defined in section 7(h) of the Labour Code

(commissions, cost of living allowances, bonuses, etc.) or not (health care, accommodation and accommodation allowances, transport allowances, statutory family allowances, travel costs and “emoluments granted solely to assist workers in performing their duties”). ***The Committee therefore urges the Government to take the necessary steps to amend the Labour Code so that it expressly enshrines the principle of equal remuneration for men and women for work of equal value and applies to all the components of remuneration as defined in Article 1(a) of the Convention. The Committee asks the Government to provide information on measures taken to this end, and to specify when the next revision of the Labour Code is scheduled to take place.***

*Family allowances.* The Committee notes with *interest* the repeal of the Legislative Order No. 88-056 of 29 September 1988, which provided that a woman magistrate had no entitlement to family allowances if her spouse carried out an activity remunerated by the State entitling him to allowances amounting to not less than those of a magistrate. The Order has been replaced by Basic Act No. 06/20 of 10 October 2006 issuing the magistrates’ regulations, which provides that this restriction applies to all magistrates, both men and women, whose spouse carries on an activity remunerated by the Treasury, entitling him or her to allowances that are not less than those of a magistrate (section 25).

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

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)***

With regard to the human rights situation, the seriousness of which it emphasized in its previous comments, the Committee observes that, in its report of 13 January 2013 (A/HRC/19/48), the United Nations High Commissioner for Human Rights noted with grave concern the staggering number of cases of sexual and gender-based violence and called for an intensification of efforts to ensure continued progress in combating these acts of violence. The High Commissioner once again highlighted that the obstacles to combating sexual violence go beyond the weakness of state institutions and are related to cultural and socio-economic issues. In addition to the need to strengthen state responses in cases of sexual violence, there is a need to address the root causes of this violence, and particularly the precarious and disadvantaged socio-economic position of women in Congolese society. According to the report of 12 July 2013 of the United Nations High Commissioner for Human Rights (A/HRC/24/33), the human rights situation had significantly deteriorated since the January 2012 report especially in the eastern part of the country where there was an important increase in the number of human rights violations and serious violations of international humanitarian law that could amount to war crimes, committed by national security and defence forces, as well as by national armed groups. The Committee observes that the High Commissioner also confirmed that sexual violence continues to be committed at “appalling levels” throughout the country and highlighted the alarming increase in mass rape committed by armed groups and members of the Congolese army. The Committee is bound to reiterate that the objective of the Convention, especially with regard to equality of opportunity and treatment between men and women in employment and occupation, cannot be achieved in a general context of serious violations of human rights and inequality in society. ***Taking into account the grave concerns which continue to be expressed regarding the human rights situation and its serious effects on women, the Committee once again urges the Government to take the necessary measures to address the inferior position of women in society, which is reflected in the sexual violence committed against them and in the discriminatory legislation, which the Committee considers to have a serious impact on the application of the principles of the Convention, and to create the necessary conditions to give effect to the provisions of the Convention.***

*Articles 1 and 2 of the Convention. Prohibition of discrimination in employment and occupation. Legislation.* The Committee recalls that neither the Labour Code nor Act No. 81/003 of 17 July 1981, issuing the conditions of service of career members of the state public service contain provisions prohibiting and defining direct or indirect discrimination in employment and occupation. The Committee notes that the Government confines itself to indicating that provisions to this end will be included in the national legislation when the Labour Code is revised and Act No. 81/003 amended. ***The Committee once again requests the Government to take the necessary measures in the near future to ensure that all discrimination, both direct and indirect, based as a minimum on the grounds set forth in the Convention and covering all aspects of employment and occupation, are defined and explicitly prohibited by the labour legislation applicable to the public and private sectors, and to provide copies of the texts that are adopted.***

*Discrimination based on sex. Legislation.* The Committee recalls that in its previous comments it emphasized that sections 448 and 497 of Act No. 87/010 of 1 August 1987 issuing the Family Code, section 8(8) of Act No. 81/003 of 17 July 1981 and section 1(7) of Legislative Ordinance No. 88-056 of 29 September 1988 issuing the conditions of service of magistrates, under the terms of which a married woman has to obtain authorization from her husband to work, discriminated against women in employment and occupation. The Committee notes with *interest* that the new conditions of service of magistrates (Act No. 06/020 of 10 October 2006) no longer contain this type of provision. The Government also indicates that it has just forwarded a revised draft of the Family Code to Parliament for adoption, and that the new conditions of service of employees in the public administration have still not been enacted. ***While noting this information, the Committee observes that these texts have been in the process of revision for several years and trusts that the Government will make every effort to ensure that the Family Code is revised, new conditions of service for employees in the public administration are adopted and enacted in the near future, and that their provisions are in conformity***

*with the Convention. The Committee requests the Government to provide copies of these texts as soon as they are adopted and enacted.*

*Discrimination based on race or ethnic origin. Indigenous peoples.* For several years, the Committee, based in particular on the concluding observations of the United Nations Committee on the Elimination of Racial Discrimination (CERD), has emphasized the marginalization and discrimination of indigenous “pygmy” peoples in relation to the enjoyment of their economic, social and cultural rights, particularly with regard to access to education, health and the labour market and it urges the Government to take measures to guarantee equality of opportunity and treatment for indigenous peoples in employment and occupation. The Committee notes that the Government confines itself to indicating that indigenous peoples benefit from all the rights guaranteed by the Constitution and that a Bill to ensure their protection is being examined by Parliament. The Committee recalls that a true policy of equality must also include measures to correct de facto inequalities of which certain categories of the population are victims and take into account their specific needs. *The Committee requests the Government to take practical measures to allow indigenous peoples access, on an equal footing with other members of the population, to all levels of education, vocational training and employment, and to resources which enable them to carry out their traditional and subsistence activities, particularly to land. In this regard, the Committee requests the Government to accord particular attention to indigenous women, who are faced with additional discrimination in the labour market and within their community based on gender. The Committee also requests the Government to take measures to combat prejudices and stereotypes of which indigenous peoples are victims and to raise the awareness of other categories of the population of their culture and way of life so as to promote equality of treatment and mutual tolerance. It asks the Government to supply information on the progress made in the legislative process and the contents of the Bill to protect indigenous peoples, as well as data, disaggregated by sex, on their socio-economic situation.*

The Committee is raising other points in a request addressed directly to the Government.

## Dominican Republic

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*** *(ratification: 1964)*

#### ***Follow-up to the conclusions of the Committee on the Application of Standards*** ***(International Labour Conference, 102nd Session, June 2013)***

The Committee notes the discussion in the Conference Committee in June 2013. In its conclusions, the Conference Committee recalled that the case had last been examined in 2008 and that it raised issues relating to discrimination in employment and occupation against Haitians and dark-skinned Dominicans, discrimination based on sex, and particularly mandatory pregnancy testing and sexual harassment, and mandatory testing to establish HIV status. The Conference Committee requested the Government, in collaboration with employers’ and workers’ organizations, to take firm steps to ensure that workers are protected against discrimination, particularly workers of Haitian origin and dark-skinned Dominicans, migrant workers in an irregular situation, women working in export processing zones and workers in construction and agriculture. It also urged the Government to continue and reinforce its efforts to raise awareness and to bring an end to the practice of pregnancy testing and HIV testing to gain access to and keep a job. The Conference Committee also asked the Government to ensure the efficacy and accessibility of monitoring and enforcement to address discrimination, and to ensure that complaint mechanisms are accessible to all workers in practice, including those not represented by trade unions. The Conference Committee hoped that the technical assistance requested by the Government would be provided in the near future. The Committee observes that the Government’s report in response to the request made by the Conference Committee on the Application of Standards in June 2013 has not been received.

The Committee notes the communication of the International Organisation of Employers (IOE) and the Employers’ Confederation of the Dominican Republic (COPARDOM) of 30 August 2013, which refers to the legal framework relating to non-discrimination and the tripartite activities carried out with a view to preparing a policy on HIV/AIDS in the workplace for export processing zones, as well as training activities on gender violence and harassment. According to these comments, the Migration Act No. 285-04 and the Migration Regulations (No. 631-11) establish a mechanism with a view to issuing a work visa to migrant workers, and pilot initiatives have been adopted in the agricultural sector through which visas were issued to 325 workers and training is provided to migrant workers with a view to their regularization.

In this regard, the Committee notes with *deep concern* Ruling No. TC/0168/13 of the Constitutional Court, issued on 23 September 2013 which, applying the law retroactively, denies Dominican nationality to a person born in the country who is the daughter of foreign migrants (Haitians) considered to be in transit or transitionally resident. In the same ruling, the Constitutional Court ordered the Central Electoral Board to: conduct a detailed audit of the birth registers of the Civil Registry from 21 June 1929 up to the date of the ruling to identify all foreign nationals registered and set out in a separate list all those registered unlawfully; notify all births contained on this list of persons registered unlawfully to the respective consulates and embassies; forward the list to the National Migration Council so that, under the terms of section 151 of the Migration Act, it can draw up within 90 days a national plan for the regularization of illegal foreign nationals and provide a report to the executive authorities, who shall implement the plan. Although the Government’s report has not been

received, the Committee notes the communication sent by the Government to the Office on 28 October 2013 containing its official statement relating to the ruling of the Constitutional Court and indicating its sensitivity to the situation of those persons who consider themselves to be Dominican and whose rights are affected as a consequence of the ruling, with the indication that the National Migration Council will prepare a report within 30 days on the impact of the ruling on the foreign nationals, both in regular and irregular situations, recorded in the registration system. The plan for the regularization of foreign nationals will also be drawn up. The Committee observes that this ruling of the Constitutional Court (as recognized by the Court) affects hundreds of thousands of persons considered to be foreign despite having been born or residing in the country for decades by creating uncertainty regarding their nationality. It particularly affects persons of Haitian origin, who account for the majority of foreign nationals in the country. The Committee recalls that it has been referring for a number of years to the discrimination against Haitians and dark-skinned Dominicans and recalls that in 2008 the Conference Committee called on the Government to address the intersection between migration and discrimination with a view to ensuring that migration laws and policies do not result in discrimination based on race, colour or national extraction. The Conference Committee once again examined the situation of workers of Haitian origin in the country in 2013. The Committee observes that Ruling No. TC/0168/13 increases the vulnerability of a significant section of the population which was already recognized as being subject to discrimination on grounds of race and national extraction. The Committee is concerned about the impact of this decision on workers of Haitian origin and migrant workers in an irregular situation pending the adoption of the Regularization Plan envisaged in section 151 of the Migration Act. ***The Committee requests the Government to take all the necessary measures to ensure that, pending the adoption and implementation of the Regularization Plan, the ruling of the Constitutional Court, under which Dominican nationality is denied to the children of illegal foreign nationals who are born in the country, does not cause additional discrimination against workers of Haitian origin, dark-skinned Dominicans and migrant workers in an irregular situation. The Committee also requests the Government to take all the necessary measures to ensure that the assessment of the impact of the Constitutional Court's ruling, and in particular with respect to section 151 of the Migration Act, is undertaken without delay and that it takes into account, in particular, the consequences on foreign nationals, with an indication of the number of persons affected and their national origin, and of the direct and indirect consequences on their life and work. The Committee asks the Government to provide detailed information on this subject, and on the preparation, adoption and implementation of the plan for the regularization of foreign nationals.***

*Discrimination on the basis of sex.* The Committee has for a number of years been raising concerns about the persistence of cases of discrimination based on sex, particularly mandatory pregnancy testing, sexual harassment and the failure to apply the legislation in force effectively, including in export processing zones. ***The Committee once again urges the Government to take specific measures, including through the Committee to Promote Equal Opportunities and Prevent Discrimination at Work of the Ministry of Labour, to ensure the effective application of the legislation in force and to take proactive measures to prevent, investigate and punish sexual harassment, the requirement of pregnancy testing to obtain or keep a job, and to provide adequate protection to victims. The Committee also requests the Government to:***

- (i) ***take the necessary measures to reinforce the penalties against such acts and to ensure that the mechanisms for settling disputes regarding discrimination in employment and occupation are efficient and accessible to all workers, including those in export processing zones;***
- (ii) ***provide information on the scope of section 47(9) of the Labour Code, and on the status of the proposed amendments to the Labour Code relating to sexual harassment and pregnancy testing, and it expresses the firm hope that the amendments will include an explicit prohibition of both quid pro quo and hostile environment sexual harassment and will establish adequate penalties; and***
- (iii) ***provide detailed information on the training measures for judges, labour inspectors and the social partners on sexual harassment and pregnancy testing, including representative samples of the training materials used.***

*Real or perceived HIV status.* With regard to mandatory testing to establish HIV status, the Committee noted in its previous observation the adoption of Act No. 135-11 of 7 June 2011, section 6 of which prohibits HIV testing as a requirement for obtaining or keeping a job, or for obtaining promotion. ***The Committee requests the Government to continue providing information on the measures adopted to prevent and eradicate discrimination based on HIV and AIDS. It requests the Government to provide statistical data on the complaints filed with the administrative and judicial authorities concerning discrimination based on HIV and AIDS, and particularly mandatory HIV and AIDS testing, and the decisions handed down in this respect.***

The Committee is raising other points in a request addressed directly to the Government.

***[The Government is asked to supply full particulars to the Conference at its 103rd Session and to reply in detail to the present comments in 2014.]***

## Ecuador

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1957)**

*Gender pay gap.* The Committee notes that, although the Government provides information on the considerable increase in the participation of women in popular elected office, ministries, the judicial authorities and the parliamentary assembly, as well as on the unification of the basic wage as from 2010, the information supplied does not provide a basis for determining trends in the gender pay gap, nor the measures adopted by the Government for its reduction. **The Committee requests the Government to provide information on the remuneration levels of men and women in the various sectors of activity, disaggregated by occupational category, and, in so far as possible, colour and race, so as to enable the Committee to assess the progress achieved. The Committee also asks the Government to provide information on the measures adopted with a view to promoting the employment of women in a broader range of sectors and occupations, including through appropriate vocational training.**

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee recalls that for a number of years it has been referring to the need to amend section 79 of the Labour Code, which provides for equal remuneration for equal work, which is more restrictive than the principle set out in *Article 1* of the Convention, which refers to work of “equal value”. This concept lies at the heart of the fundamental right of equal remuneration for men and women and the promotion of equality. It is key to tackling occupational sex segregation in the labour market, as it permits a broad scope of comparison including, but going beyond equal remuneration for “equal”, “the same” or “similar” work, and also encompasses work that is of an entirely different nature, but which is nevertheless of equal value. With a view to overcoming occupational segregation, the application of the principle set out in the Convention is not confined to a comparison between men and women in the same establishment or enterprise, but also allows a much broader comparison between the jobs performed by men and women in different workplaces or enterprises, or between different employers (see the General Survey on the fundamental Conventions, 2012, paragraphs 669 and 673, et seq.). **The Committee urges the Government, within the framework of the reform of the Labour Code, to amend section 79 of the Labour Code so as to give full expression to the principle of equal remuneration for men and women for work of equal value. The Committee encourages the Government to request ILO technical assistance in this regard.**

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1962)**

*Article 1 of the Convention.* In its comments on the application of the Equal Remuneration Convention, 1951 (No. 100), the Committee noted the reform process of the Labour Code. Moreover, the Committee has been referring for a number of years to the need to amend section 17(b) of the Regulations issued under the Cooperatives Act, pursuant to which married women require the authorization of their husbands to be members of agricultural housing and family vegetable garden cooperatives. The Committee notes that, according to the Government, the Constitution as the highest norm, prohibits any type of discrimination. **The Committee requests the Government, with a view to ensuring that section 17(b) of the Regulations issued under the Cooperatives Act does not lead to discrimination against women, and to achieve greater legislative coherence, to take the necessary measures to repeal section 17(b) of the Regulations. The Committee hopes that the Labour Code will be adopted in the near future, and asks the Government to take the necessary measures to include in the Labour Code a provision prohibiting both direct and indirect discrimination based on at least all of the grounds set out in Article 1(1)(a) of the Convention in respect of access to employment, vocational training and guidance and terms and conditions of employment for all workers, including domestic workers and workers in export processing zones.**

*Sexual harassment.* The Committee recalls its previous observations, noting that sexual harassment is addressed only under the Penal Code, and inviting the Government to take appropriate legislative measures to define and prohibit sexual harassment in employment and occupation. The definition should include both quid pro quo and hostile environment harassment, define those responsible for harassment, such as employers, supervisors and work colleagues and, where possible, clients or other persons linked to the performance of work (see General Survey on fundamental Conventions, 2012, paragraphs 789–794). **The Committee requests the Government, in the context of the process of amending the Labour Code, to take the opportunity to include a provision defining and clearly prohibiting sexual harassment. The Committee also asks the Government to consider including a requirement for employers to adopt measures to prevent sexual harassment in the enterprise. The Committee also requests the Government to provide information on any other measures adopted with a view to preventing sexual harassment.**

The Committee is raising other points in a request addressed directly to the Government.

## France

### New Caledonia

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

*Article 1(1)(a) of the Convention. Prohibited grounds of discrimination. Legislation.* The Committee refers to its previous comments concerning section Lp. 112-1 of the Labour Code of New Caledonia and recalls once again that, when national legislation gives effect to the Convention, it has to cover as a minimum all of the prohibited grounds of discrimination set out in *Article 1(1)(a)*. ***The Committee therefore once again requests the Government to take the necessary measures to explicitly prohibit any discrimination in employment and occupation on the basis of colour, national extraction or social origin, in accordance with Article 1(1)(a) of the Convention, and to provide information on any measures adopted in this respect. The Committee requests the Government to indicate the manner in which workers are protected in practice against discrimination on the basis of colour, national extraction and social origin, and the remedies that are available to them in this regard.***

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

## Gambia

#### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2000)***

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

*Article 1(1)(a) of the Convention. Discrimination in employment and occupation. Legislation.* The Committee recalls its previous comments in which it pointed out that the provisions of the Constitution regarding discrimination did not include any reference to the prohibition of direct and indirect discrimination in employment and occupation and only concerned discriminatory treatment by public officials (section 33(3)). The Committee had also noted that the Labour Act 2007 neither defines nor prohibits discrimination in employment and occupation on the basis of any of the grounds enumerated in the Convention, except in the case of dismissal and disciplinary action (section 83(2)). The Committee notes that the Government provides no response to its request regarding the need to amend the legislation. The Committee recalls once again that, although general constitutional provisions regarding non-discrimination are important, they are generally not sufficient to address specific cases of discrimination in employment and occupation, and comprehensive anti-discrimination legislation is generally needed to ensure the effective application of the Convention, based on at least all the grounds of discrimination listed in *Article 1(1)(a)* and in all areas of employment and occupation. ***The Committee asks the Government to take steps in order to include legislative protection against direct and indirect discrimination at all stages of employment and occupation based on, as a minimum, all of the grounds enumerated in the Convention, namely, race, colour, sex, religion, political opinion, national extraction and social origin. The Committee also asks the Government to include in legislation provisions establishing dissuasive sanctions and appropriate remedies in cases of discrimination. Please provide specific information on progress made in this regard.***

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 near future.***

## Georgia

#### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)***

*Articles 1 and 2 of the Convention. Legislation.* The Committee has for a number of years been raising concerns regarding the absence of legislation giving full expression to the principle of equal remuneration for men and women for work of equal value. The Committee recalls that the principle of the Convention is not reflected explicitly in the Labour Code of 2006, section 2(3) of which contains a general prohibition of discrimination in labour relations, article 14 of the Constitution which provides broadly for equality before the law, or in the Law on Gender Equality adopted on 26 March 2010. The Committee notes that the Government refers to the equality provisions in the Constitution, the Labour Code and other legislation as well as to the Action Plan on Gender Equality for 2011–13. The Committee once again recalls that while general non-discrimination and equality provisions are important, they will not normally be sufficient to give effect to the Convention, as they do not capture the key concept of “work of equal value”. This concept lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value, and the promotion of equality. Due to historical attitudes and stereotypes regarding women's aspirations, preferences and capabilities, certain jobs are held predominantly or exclusively by women (such as in caring professions) and others by men (such as in construction). Often “female jobs” are undervalued in comparison with work of equal value performed by men when determining wage rates. The concept of “work of equal value” is fundamental to tackling occupational sex segregation, as it permits a broad scope of comparison, including, but going beyond equal remuneration for “equal”, “the same” or “similar” work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value (see General Survey on fundamental Conventions, 2012, paragraphs 672–679). ***The Committee once again urges the Government to take concrete steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, with a view to ensuring the full and effective implementation of the Convention. The Committee once***

*again asks the Government to provide information in this regard, including any proposals made by the Council for Gender Equality.*

*Parts III and IV of the report form. Enforcement.* The Committee notes with **concern** the Government's indication that further to the abolition of the Labour Inspection Service in 2006, there is no longer a labour supervisory body. The Committee understands from the Government's report that the supervisory body to be established in the future will be responsible for enforcing only occupational safety and health provisions. The Committee draws the Government's attention to the need to put in place adequate and effective enforcement mechanisms to ensure that the principle of equal remuneration between men and women for work of equal value is applied in practice and to allow workers to avail themselves of their rights. ***The Committee asks the Government to provide information on the manner in which it ensures effective enforcement of the principle of the Convention. The Committee also asks the Government to take steps in order to raise awareness among workers, employers and their organizations of the laws and procedures available, and to strengthen the capacity of judges, labour officials or other competent authorities to detect and address unequal pay. Please provide any information on decisions handed down by the courts or other competent bodies with regard to this issue.***

The Committee is raising other points in a request addressed directly to the Government.

## Ghana

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1968)**

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee notes that since the adoption of the Labour Act in 2003, the Committee has been raising concerns regarding sections 10(b) and 68 of the Act, which are set out in terms that are more restrictive than the principle of the Convention. The Committee notes the Government's statement that "equal pay for equal work without distinction of any kind" under sections 10(b) and 68 of the Labour Act is synonymous with the principle of equal remuneration for men and women for work of equal value. However, the Government provides no details in support of this assertion and gives no indication that jobs of a completely different nature can be compared under the Act. The Committee notes further the Government's indication that it will, however, re-examine the Committee's concerns. The Committee recalls that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value, and the promotion of equality. Due to historical attitudes and stereotypes regarding women's aspirations, preferences and capabilities, certain jobs are held predominantly or exclusively by women (such as in caring professions) and others by men (such as in construction). Often "female jobs" are undervalued in comparison with work of equal value performed by men when determining wage rates. The concept of "work of equal value" is fundamental to tackling occupational sex segregation in the labour market, which exists in almost every country, as it permits a broad scope of comparison, including, but going beyond equal remuneration for "equal" work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value (see General Survey on fundamental Conventions, 2012, paragraphs 672–679). ***The Committee asks the Government to take the necessary measures to amend sections 10(b) and 68 of the Labour Act of 2003, in order to give full legislative expression to the principle of equal remuneration for men and women for work of equal value set out in the Convention, and to provide information on any progress made in this regard.***

*Equal remuneration for work of equal value in the public service.* The Committee recalls that the job evaluation exercise to determine the value of all public service jobs had been completed in April 2009, and that as a result, a public service pay policy setting out a single spine salary structure had been adopted in November 2009, effective January 2010. The Committee also recalls that the evaluation had been made on the basis of four main job factors (knowledge and skill, responsibility, working conditions and effort) which had been subdivided into 13 sub-factors. The Committee notes the Government's indication that currently 95 per cent of all public service employees have been brought under the single spine salary structure, and that all public service employees would be brought under this structure by the end of 2012. ***The Committee asks the Government to provide information on the progress made in covering all public service employees by the single spine salary structure, and how this has impacted on the relative pay of women and men in the public service. Please provide, in particular, specific information on the number of men and women at each level of the pay structure. It also asks the Government to provide information on the practical application of this single spine salary structure, including on the issues dealt with by the Fair Wages and Salaries Commission and the steps taken by this Commission to ensure full application of the principle of the Convention in the public service. The Government is again requested to provide a copy of the single spine salary policy and the single spine salary structure adopted.***

The Committee is raising other points in a request addressed directly to the Government.

## Guatemala

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1961)**

The Committee notes the observations of the General Confederation of Workers of Guatemala (CGTG) dated 30 August 2013, according to which women receive lower pay in the coffee sector. ***The Committee asks the Government to provide its comments on this matter.***

***Gender pay gap.*** The Committee observes that the Government has not sent any statistical information that would make it possible to identify the current gender pay gap. The Committee recalls that pay differentials remain one of the most persistent forms of inequality between women and men and that collecting, analysing and disseminating this information is important in identifying and addressing inequality in remuneration. ***The Committee asks the Government to provide up-to-date statistical information on pay levels for men and women in the various economic sectors of activity, and occupational categories, to enable it to evaluate progress made.***

***Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.*** The Committee notes that the Government reiterates the fact that article 102(c) of the Constitution provides for equal pay for equal work performed under the same conditions and with equal efficiency and seniority. Section 89 of the Labour Code provides for equal pay for equal work performed in the same posts and under equal conditions of efficiency and seniority within the same enterprise. The Committee notes that the principles established in the Constitution and the Labour Code are more restrictive than the principle established in the Convention, which refers to “work of equal value”. The concept of “work of equal value” lies at the heart of the fundamental right of equal remuneration for men and women and the promotion of equality. The concept is also fundamental to tackling occupational sex segregation in the labour market, as it permits a broad scope of comparison, including, but going beyond, equal remuneration for “equal”, “the same” or “similar” work, and also encompasses work of an entirely different nature which is nevertheless of equal value. With regard to tackling occupational segregation, application of the Convention’s principle is not limited to comparisons between men and women in the same establishment or enterprise. It allows for a much broader comparison to be made between jobs performed by men and women in different places or enterprises, or between different employers (see General Survey on fundamental Conventions, 2012, paragraphs 673, 697–699). ***The Committee urges the Government to take steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The Committee encourages the Government to seek technical assistance from the Office in this regard.***

The Committee is raising other points in a request addressed directly to the Government.

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)**

The Committee notes the observations of the General Confederation of Workers of Guatemala (CGTG), dated 30 August 2013, indicating that, as a result of the general context of impunity, no penalties are imposed in cases of discrimination on the basis of gender, race or sex. ***The Committee requests the Government to provide its comments in this regard.***

***Discrimination based on pregnancy.*** For many years the Committee has been referring to the discriminatory practice of requiring pregnancy testing and dismissing pregnant women in the *maquila* (export processing) sector and the public administration. The Committee notes the Government’s statement that the labour inspectorate has detected 231 cases of dismissal of women due to pregnancy, which are being investigated. However, the Committee observes that the Government does not provide any information on the specific issues raised in the previous observation. ***The Committee requests the Government to provide information on the outcome of the cases of dismissal of pregnant women detected by the labour inspectorate. Furthermore, given that this involves a serious form of discrimination, the Committee requests the Government, in consultation with the social partners, to take urgent and concrete measures, including legislative measures, to secure effective protection for women against discrimination based on pregnancy in access to employment and retention of jobs, and against reprisals for reporting such discrimination. The Committee also requests the Government to take measures to raise awareness among judges, lawyers, labour inspectors and other bodies responsible for monitoring and enforcing the relevant provisions, and ensure appropriate sanctions are imposed and remedies provided where discrimination on the basis of pregnancy is found. The Committee requests the Government to provide detailed information on this matter.***

***Discrimination on grounds of race and colour. Indigenous peoples.*** The Committee notes the Government’s statement that, under the *Mi familia progresa* (progress for the family) programme, there has been an increase in the rate of school enrolment and attendance for children living in poverty, including indigenous children. As a result of the programme, there has also been an improvement in productive capacity and a reduction in the economic dependence of the beneficiaries. ***The Committee requests the Government to continue to adopt concrete measures in education and access to employment for indigenous peoples with a view to reducing the disparity between indigenous and non-indigenous persons regarding employment, occupation and conditions of work. The Government is also requested to indicate the obstacles encountered and the budget available for the implementation of such measures.***

The Committee is raising other points in a request addressed directly to the Government.

## Guinea

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (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 1 of the Convention. Prohibited grounds of discrimination. Public service.* The Committee recalls the comments which it has been making for more than 20 years, in which it underlines the need to amend section 20 of Ordinance No. 017/PRG/SGG of 23 February 1987 concerning the general principles of the public service, which prohibit discrimination only on the basis of philosophical or religious views and on the basis of sex, so as to ensure that officials enjoy protection against discrimination on the basis of at least all the criteria set forth in *Article 1(1)(a)* of the Convention. The Committee notes the Government's reference in its report to section 11 of Act No. L/2001/028/AN of 31 December 2001 establishing general regulations for public officials, which states that no distinction may be made among officials on account of their political, trade union, philosophical or religious opinions, or on the basis of their sex or ethnic origin. The Government adds that it considers that section 11 of the general regulations for public officials takes account of *Article 1(1)(a)* of the Convention. However, the Committee notes the Government's indication that it has also duly noted the Committee's observations concerning section 20 of Ordinance No. 017/PRG/SGG and that it will take the necessary steps to amend this section.

The Committee recalls that, even though discrimination against an ethnic group indeed constitutes racial discrimination within the meaning of the Convention, it nevertheless wishes to emphasize that discrimination on the basis of ethnic origin does not cover all aspects of discrimination on the basis of race, colour, or national extraction and, even less so, of discrimination on the basis of social origin. The Committee recalls that the concept of national extraction covers distinctions made on the basis of a person's place of birth, ancestry or foreign origin, and that social origin refers to an individual's membership of a social class, socio-occupational category or a caste, such membership being likely to determine his or her occupational future. ***In order to ensure that officials and candidates for employment in the public service are afforded protection against all direct or indirect discrimination on the basis of at least all the grounds of discrimination referred to in Article 1(1)(a) of the Convention, namely race, colour, sex, religion, political opinion, national extraction and social origin, the Committee requests the Government to take the necessary steps to amend the provisions of section 11 of Act No. L/2001/028/AN establishing the general regulations for public officials and section 20 of Ordinance No. 017/PRG/SGG establishing the general principles for the public service, and to supply information on any measures taken towards this end. Pending these amendments and in the absence of legislative provisions to this effect, the Committee requests the Government to indicate the manner in which officials and candidates for employment in the public service are protected against discrimination on the basis of race, colour, national extraction or social origin, indicating in particular whether, and how, cases of discrimination on the basis of the aforementioned grounds have already been dealt with by the competent authorities.***

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 near future.***

## Guyana

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)**

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:

*Legislation.* The Committee recalls that section 9 of the Prevention of Discrimination Act No. 26 of 1997 imposes the obligation on every employer to pay equal remuneration to men and women performing work of equal value, while section 2(3) of Equal Rights Act No. 19 of 1990 provides for "equal remuneration for the same work or work of the same nature", which is a narrower concept than that required by the Convention. Further, the Committee recalls that section 28 of the 1997 Act stipulates that the Act shall not derogate from the provisions of the Equal Rights Act of 1990 but that the Government previously stated that the 1997 Act takes precedence over the 1990 Act. In light of the fact that section 2(3) of the 1990 Act falls short of the requirements of the Convention, the Committee remains concerned about the inconsistency between the above provisions concerning equal remuneration. ***Noting that no progress has been made concerning this matter for a number of years, the Committee asks the Government once again to amend the legislation in question with a view to ensuring that it is in accordance with the Convention and to avoid any uncertainties as to the interpretation of the provisions concerned, for instance, through expressly providing that the 1997 Act, in case of conflict, takes precedence over the 1990 Act. The Committee asks the Government to indicate any measures taken or envisaged in this respect.***

*Application in practice.* The Committee recalls its previous comments asking the Government to provide information on the measures taken or envisaged to promote and supervise the application of the equal remuneration provisions of the Prevention of Discrimination Act. The Committee also recalls the communication received from the International Confederation of Free Trade Unions (ICFTU, now International Trade Union Confederation (ITUC)), of 30 October 2003 which was forwarded to the Government on 13 January 2004 and again on 1 June 2006, and to which the Government has not yet replied. The ICFTU raises concerns regarding the promotion and effective enforcement of equal pay legislation. In this context, the Committee notes the Government's statement that there were no cases of male and female workers receiving different pay for the same work and that it was a long established fact that men and women received equal remuneration both in the public and private sectors. The Committee draws to the Government's attention the fact that the principle of equal remuneration for men and women for work of equal value does not merely require equal pay for the same or equal work but also equal pay for different work that is nevertheless of equal value, as established on the basis of an objective evaluation of the content of the work performed. The absence of differential wage rates for men and women, while necessary in order to apply the Convention, is not sufficient to ensure its full application. ***Concerned that the Government's report indicates misunderstandings as to the scope and meaning of the Convention's principle, the Committee considers that training concerning the principle of equal remuneration for labour inspectors and judges, as well as workers' and employers' representatives is essential to effectively ensure the application of the Convention. It asks the Government to indicate in its next report any measures envisaged or taken to ensure***

*the application of the equal pay legislation and the Convention through training and awareness raising and to indicate any steps taken to seek the cooperation of workers' and employers' organizations in this regard. Further, the Committee reiterates its request to the Government to provide information on any judicial or administrative decisions relating to the equal pay provisions of the Equal Rights Act No. 19 of 1990 and the Prevention of Discrimination Act of 1997.*

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 near future.*

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1975)**

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 its previous observation in which it noted the communication from the International Confederation of Free Trade Unions (ICFTU, now International Trade Union Confederation (ITUC)) pointing to the low representation of women in traditionally male-dominated areas of work, the weak labour force participation of Amerindian women, and the lack of effective procedures dealing with complaints of discrimination. The Committee notes the Government's reply that more and more women are undergoing training and are entering areas of work that had previously been dominated by men. Women are now engaged in technical fields including working as electricians, mechanics and masons, and they make up a large percentage of employees of security firms. Women also represent the largest portion of graduates of the University of Guyana. The Government refers in this regard to statistics showing the number of women in areas of study that were traditionally male. However, these statistics were not attached to the Government's report. The Government concludes that persons are free to choose whatever field of occupation they desire and that the various branches of education are accessible to all.

The Committee notes the developments on women's employment and training mentioned by the Government but wishes to point out that without reliable statistics disaggregated by sex or any other information on the participation of women, as compared to men, in a wide range of occupations and vocational training courses, it is difficult for the Committee to assess whether progress has been made in achieving the objectives of the Convention. The Committee recalls that while some women may in theory be free to choose the occupations or training courses they desire, discrimination often flows from social stereotypes that deem certain types of work as suitable for men or for women. As a result, persons may apply for jobs based on work deemed to be suitable for them, rather than on actual ability and interest. Such stereotypes channel women and men into different education and training and subsequently into different jobs and career tracks which may not be in keeping with their ability or interest. Lastly, the Committee recalls the importance of effective complaints procedures to enforce legislation on non-discrimination and equality in employment and occupation. *The Committee, therefore, requests the Government to provide in its next report information on the following points:*

- (i) *statistical data disaggregated by sex on the participation of men and women, including Amerindian women, in the various occupations and sectors of the economy as well as their participation in vocational training courses;*
- (ii) *the measures taken or envisaged to ensure that policies and plans under its control are not reinforcing stereotypes on the roles of men and women in employment and occupation;*
- (iii) *the measures taken or envisaged, including in the area of vocational training and education, to encourage women to consider a wider choice of trades and occupations; and*
- (iv) *the measures taken to ensure that the existing complaints procedures allow for effective implementation of the legislation prohibiting discrimination in employment, including on the measures taken or envisaged to prevent delays in litigating complaints. Please also indicate whether any cases alleging discrimination on the grounds set out in the Convention have been brought to the courts, and the outcome thereof.*

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.*

## **Honduras**

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)**

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous observation, which read as follows:

*Article 1 of the Convention. Work of equal value.* The Committee has been referring for many years to the need to amend section 44 of the Equal Opportunities for Women Act (LIOM), which establishes the requirement for equal wages for equal work. In this respect, the Committee notes that on 3 December 2008 Regulations under the Act were adopted, but that the Regulations do not contain any provision expanding section 44. The Committee however observes that strategic objective 1.3 of the II<sup>nd</sup> Gender Equality and Equity Plan, 2010–22, refers to the right to equal remuneration for work of equal value. *The Committee once again asks the Government to give full legislative expression to the principle of equal remuneration for men and women for work of equal value and to provide information on any progress achieved in this respect. The Committee also asks the Government to indicate any measure adopted in accordance with the II<sup>nd</sup> Gender Equality and Equity Plan, 2010–22.*

*Objective job evaluation. Articles 2 and 3.* The Committee notes that, in relation to the objective evaluation of jobs, the Government only refers to evaluations relating to those seeking jobs, and not evaluations of jobs in themselves. The Committee further notes the indication by the Honduran National Business Council (COHEP) in its communication that it is not aware of public or private initiatives undertaken for the purpose of the objective evaluation of jobs. The Committee also notes COHEP's concern regarding the absence of a job classification system for the civil service, in accordance with sections 12 to 15 of the Civil Service Act, and their indication that there are significant wage disparities in the public sector. According to COHEP, the absence of a harmonized national classification of occupations with tripartite approval makes it difficult to undertake comparisons between jobs and it is not feasible to establish a comparison of the value of the various tasks. The Committee notes that,

according to COHEP, at the end of 2006 an inter-institutional working group was established, composed of representatives of the Secretariat of State for the Labour and Social Security Offices, the National Institute of Statistics, the National Institute of Vocational Training, the Secretariat of State for the Education Office, the Honduran Export Processing Association (AHM) and COHEP, to undertake the revision and harmonization of existing classifications.

*The Committee asks the Government to take steps to ensure progress is made in developing a national classification system, based on objective and non-discriminatory criteria free from gender bias. The Government is also asked to provide specific information on the progress made in formulating a job classification system for the civil service, and to undertake an examination of the nature and extent of any wage disparities between men and women in the public sector. Please also provide information on the progress made by the inter-institutional working group in undertaking the revision and harmonization of existing classifications.*

The Committee is raising other matters 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 near future.*

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)**

*Broad National Agreement.* In its previous observation, the Committee referred to the National Solidarity Plan for Anti-Crisis Employment adopted on 4 November 2010 and the comments on that subject made by the Workers' General Central Union (CGT), the Single Confederation of Workers of Honduras (CUTH) and the Workers' Central Union of Honduras (CTH), and it requested the Government to provide information on the impact of the Solidarity Plan on equality policies. The Committee notes the Government's indication that up to May 2013 a further 144,171 jobs had been generated, 46 per cent of which were for women. The Government adds that in 2012 there were 66,003 dismissals. The Committee further notes the conclusion on 12 February 2012 of the Broad National Agreement by the Government, the Honduran National Business Council (COHEP), the CGT, CUTH, CTH, the National Rural Workers' Federation of Honduras (CENACH), the Coordinating Council of Rural Workers' Organizations of Honduras (COCOCH), the National Confederation of Rural Workers (CNC), among other organizations. Through this Agreement the Government undertakes to focus its action on compliance with the Agreement. The objectives of the Agreement include the protection of vulnerable population groups (indigenous peoples, Afro-Hondurans, persons with disabilities, migrants) and women through the rationalization of public sector expenditure and the increased effectiveness of projects and of conditional and unconditional cash transfers. It will lead to an improvement in the coverage of programmes and increase their impact. The Single Registry of Beneficiaries and the Single Focus System have been established with a view to achieving greater equity in the distribution of plans and programmes. Enterprises will participate through a corporate social responsibility strategy. The Agreement provides specifically for the allocation of resources to business development programmes for 5,000 women and the training of 2,500 young persons. The Agreement also establishes a mechanism, in the Economic and Social Council (CES), which is of tripartite composition, to monitor outcomes in the achievement of its objectives. *The Committee requests the Government to provide specific information on the evaluation of the implementation of the Broad National Agreement and the results achieved through its application, and on the manner in which it has influenced the implementation of the various equality and non-discrimination plans and programmes at the national level, and particularly the II<sup>nd</sup> Gender Equality and Equity Plan of Honduras 2010–22 (IIPIEGH), the Youth Employment Plan and the other employment plans, the PROCINCO programme in maquilas and the Comprehensive Development Programme for Indigenous Peoples (DIPA). The Committee also asks the Government to provide information on the monitoring of the implementation of the Agreement and its results by the CES and on the participation of the social partners in the CES.*

The Committee is raising other points in a request addressed directly to the Government.

## **Hungary**

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)**

*Article 1 of the Convention. Discrimination in employment and occupation. Legislation.* The Committee recalls that the Labour Code, 2012 provides for the principle of equal treatment. However it does not explicitly prohibit discrimination nor does it enumerate any prohibited grounds of discrimination or refer to the numerous prohibited grounds enumerated in the Equal Treatment Act, 2003. *The Committee asks the Government to envisage taking steps to include in the Labour Code provisions defining and prohibiting direct and indirect discrimination on at least all the grounds enumerated under Article 1(1)(a) of the Convention (race, colour, sex, political opinion, religion, national extraction and social origin) and in all aspects of employment and occupation, and provide information on the steps taken in this respect. In this context, the Committee also asks the Government to ensure that any permissible exceptions are limited to inherent requirements of the particular job as strictly defined pursuant to Article 1(2) of the Convention and special measures of protection or assistance as set out in Article 5.*

The Committee is raising other points in a request addressed directly to the Government.

## India

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1958)**

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* In its General Survey of 2012, the Committee noted that legal provisions that do not give expression to the concept of “work of equal value” hinder progress in eradicating gender-based pay discrimination (General Survey on fundamental Conventions, 2012, paragraph 679). For a number of years, the Committee has been pointing out that the provisions of the Constitution of India (article 39(d)) and the Equal Remuneration Act (ERA) 1976 (sections 2(h) and 4) are more restrictive than the principle of equal remuneration for men and women for work of equal value, as set out in the Convention, as the scope of comparison is limited to “work of a similar nature” whereas it should be possible to compare work of an entirely different nature. The Committee had noted that, in spite of the existence of the ERA, significant earnings differentials between men and women persisted across all sectors, and had therefore urged the Government to bring its legislation into line with the Convention. The Committee notes from the latest statistics provided by the Government on the average daily earnings of women and men for the period 2009–10 that significant earnings differentials persist within states and across all industries.

The Committee notes, however, that the Government continues to take the view that amending the ERA is not necessary in the Indian context and that the legal provisions have to be read in conjunction with judicial interpretations. The Government refers in this respect to the Supreme Court Decision in *Dharwad Distt PWD LWD Employees Association v. State of Karnataka (1990)* and considers that this decision defined the ERA as legislation providing for “equality of pay for equal work between men and women”. The Committee notes nonetheless that this interpretation of the ERA does not give full expression to the principle of the Convention. It draws the Government’s attention to the essential role of the courts in interpreting equal remuneration provisions in accordance with the Convention, including recognizing the possibility in equal remuneration cases of comparing jobs of a different nature, involving different duties, skills and responsibilities with the view to determining if they are of equal value. The Committee draws the Government’s attention in this regard to its General Survey, including the examples of different jobs which were found to be of equal value (see General Survey of 2012, paragraphs 673–675). The Committee further notes that the Government reiterates that the Centre for Gender and Labour of the V.V. Giri National Labour Institute (VVGNI) has been entrusted with undertaking research on the adequacy, effectiveness and implementation of the ERA, but no further information is provided with respect to the modalities and outcome of this research. ***Given the legal uncertainty and restrictive interpretations by the court of the equal remuneration provisions, the Committee urges the Government to take immediate and concrete measures to ensure that the legislation clearly establishes the right to equal remuneration for men and women for work of equal value. The Committee asks the Government to ensure that the research undertaken by VVGNI to assess the impact of the ERA will cover situations in which men and women do entirely different work with different skills, effort and responsibilities, but which are nevertheless of equal value, and to provide detailed information on the results which the Committee hopes will be available in due course.***

The Committee is raising other points in a request addressed directly to the Government.

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)**

*Articles 1–3 of the Convention. Measures to address discrimination based on social origin.* The Committee recalls that discrimination in employment and occupation due to real or perceived belonging to a certain caste is unacceptable under the Convention, and that continuing measures are required to end any such discrimination. The Committee notes the information on the schemes and programmes aimed at the educational, economic and social empowerment of the scheduled castes, including education grants, subsidies and loans. It notes the Government’s indication that, under the 12th Five-Year Plan, education will continue to be the most important means to uplift the status of the scheduled castes and to maximize their participation in economic opportunities. Measures include scholarships, increasing hostel facilities and ensuring that scheduled castes are able to secure the full quota and enter the merit quota in higher education. The pre-matric scholarship scheme will also be extended to all scheduled caste students from Class I to X and special attention will be given to quality education through incentives. The Committee notes, however, that the information provided by the Government on measures taken to promote and ensure equal treatment and opportunities irrespective of social origin, including caste, is of a very general nature and that it mainly refers to elements of national law and practice which the Committee noted previously. The Committee regrets the continuing lack of information, including statistics, in the Government’s report on: the representation of scheduled castes in central government services beyond 2008; the concrete achievements of the reservation system in state government employment; the implications of denying quota rights regarding jobs in government and educational institutions to Christian and Muslim Dalit; and on awareness-raising campaigns on the prohibition and unacceptability of caste-based discrimination in employment and occupation. It recalls that the 11th Five-Year Plan had drawn attention to the need for new measures to address persisting exclusion and discrimination of the scheduled castes in employment and occupation. ***The Committee urges the Government to seek and provide comprehensive and up-to-date information on the concrete results achieved by the various existing schemes and programmes with respect to improving the employment situation and educational opportunities of persons belonging to the scheduled castes, including through the reservation system for the public***

*service at the central and state levels. It further requests the Government to provide information on the adoption and implementation of any new measures, including any affirmative action measures, particularly for the private sector, to address exclusion and discrimination based on social origin in an effective manner. The Committee requests the Government to take the necessary steps to seek and provide detailed information on the implications of denying quota rights to Dalit Muslims and Dalit Christians under the reservation system, and on specific measures taken to intensify awareness-raising campaigns on the prohibition and unacceptability of caste-based discrimination in employment and occupation, including on steps taken to seek the cooperation of the workers' and employers' organizations in this regard.*

*Manual scavengers.* In its previous observation, the Committee requested the Government to take vigorous and comprehensive measures to combat caste-based discrimination and end the continuing degrading and inhumane practice of manual scavenging in which Dalit, and very often Dalit women, are engaged due to their social origin, in contravention of the Convention. The Committee recalls that the National Advisory Council in a resolution of 23 October 2010 had made a number of proposals to address the persistent practice of manual scavenging in the country, including the following: (a) the amendment of the legislation so as to improve the definition of manual scavenging and ensure accountability of public officials; (b) a nationwide survey in every state and union territory to collect accurate data on remaining dry latrines and manual scavengers; (c) improved access requirements to rehabilitation schemes of manual scavengers, especially women and their families; and (d) a specific education programme for children of families presently or previously engaged in manual scavenging.

The Committee welcomes the adoption of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act No. 25 of 18 September 2013 which prohibits any person, local authority or agency from constructing insanitary latrines, or engaging or employing a manual scavenger, or for manual cleaning of sewers and septic tanks without protective equipment (sections 5 and 6), and imposes penalties, including imprisonment, for non-compliance (sections 8 and 9). The Act also provides for the identification of manual scavengers in urban and rural areas through surveys by municipalities and *Panchayats*, or self-identification by manual scavengers (sections 11, 12(1), 14 and 15(1)), and their rehabilitation (sections 13 and 16). Monitoring and vigilance committees are to be set up at district, state and central levels (sections 24(1), 26(1) and 29(1)) and the Central Government shall, by notification, publish model rules for the use and guidance of state governments on the implementation of the provisions of the Act (section 37(1)(a)). The Committee further notes that the Ministry of Social Justice and Empowerment is coordinating a Survey on Manual Scavengers in Statutory Towns in light of data available in Census 2011 and the Social-economic and Caste Census (Rural) covering 3,546 statutory towns in 34 states and union territories. *The Committee requests the Government to take steps to collect comprehensive information on the practical application of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act No. 25 of 2013, including on the activities of the district and state and central level vigilance and monitoring committees, district magistrates and inspectors to monitor its implementation, and on the number and nature of offences registered, investigations and prosecutions instigated and penalties imposed on private persons and public authorities and to provide this information with its next report. Please also provide copies of any model rules published by the Central Government on the implementation of the Act. The Committee further requests the Government to provide the results of the Survey on Manual Scavengers in Statutory Towns, which was to be completed in 2013, and detailed information, disaggregated by sex, on the number of persons effectively benefiting from the rehabilitation measures, including those set out in section 13(1)(a) to (f) of Act No. 25 of 2013. Please also indicate the measures taken to rehabilitate manual scavengers who left scavenging before the enactment of the new legislation and on the education programme for children of families presently or previously engaged in manual scavenging. The Committee also requests information on any measures taken to improve the effectiveness of the rehabilitation schemes for women beneficiaries and for the protection and rehabilitation of Dalit Muslims and Christians engaged in manual scavenging.*

*Equality of opportunity and treatment of women and men.* The Committee had previously noted from the 11th Plan that the labour force participation of women remained much lower than that of men and that in urban areas unemployment was much higher for young women than for men in the corresponding age group in both the unorganized and the private sectors. With respect to the results achieved under the 11th Five-Year Plan of the concrete measures taken to promote equality of opportunity and treatment in employment and occupation in the public and private sectors, the Committee notes that the Government provides only general information and indicates that providing decent quality jobs to the majority of women in the workforce remains a challenge. The Government anticipates that educational attainment will empower women to join the labour market at a slightly later age, be better qualified and to access quality employment in the organized sector. The Government indicates that one of the priorities of the 12th Five-Year Plan (2012–17) is to provide opportunities for education and skills development to all sections of society irrespective of gender, while at the same time recognizing the need to give priority to women in the National Rural Livelihood Mission (NRLM), launched by the Ministry of Rural Development in 2011, which aims at facilitating the creation of self-help groups of women at the national scale and enabling them to undertake a self-sustaining economic activity. The Committee notes the measures taken to offer training courses for women in vocational and industrial training institutes, and refers in this context to its direct request on this Convention. *Noting that the Government's report contains no further information regarding the specific measures foreseen under the 12th Five-Year Plan to promote and ensure equality of opportunity in employment and occupation between men and women, in rural and urban areas, as well as the private, public and*

*unorganized sectors, the Committee requests the Government to provide such information, as well as information on the impact of major employment generation programmes including the NRLM, in enhancing equal employment opportunities for men and women. It also requests the Government to make the necessary efforts to collect and provide more recent and relevant statistical information on the participation of men and women in employment, according to sector and employment status, allowing an assessment of the progress made over time.*

The Committee is raising other points in a request addressed directly to the Government.

## Indonesia

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1958)**

*Gender wage gap and occupational segregation.* The Committee recalls the wide gender wage gap noted in 2011 in the agriculture, forestry, hunting and fishing sector (48.4 per cent) and in the mining and quarrying sector (44.3 per cent) and the persistent occupational segregation with women being under-represented in higher paying jobs and senior management positions. The Committee notes from the ILO “Labour and social trends report 2013: Reinforcing the role of decent work in equitable growth” that there continues to be a discrepancy between the average nominal wages for men and women across all educational levels. The gender wage gap is particularly high among employees with a low level of education (35.54 per cent for those not completing primary school and 36.42 per cent for those completing primary school) as well as those with tertiary education (33.94 per cent for those with a university education). The report indicates that while some of the gap can be explained, part of the unexplained gap may suggest discrimination on the basis of sex. Regarding measures to reduce the gender wage gap, the Committee notes the Government’s indication that, with a view to strengthening previous institutional mechanisms to promote equal employment opportunity, the Ministry of Manpower and Transmigration (MoMT) adopted Decree No. 184/2013 of July 2013 establishing the National Level Equal Employment Opportunity (EEO) Task Force to conduct and promote the EEO programme. Regarding measures to improve women’s access to a wider range of jobs, the Government indicates in a general manner that the EEO Guidelines and the EEO programme have been disseminated and that training has been provided to industrial relations mediators and structural labour officers at central and provincial levels. The MoMT has developed, in cooperation with the ILO, a “Guide on equality and non-discrimination at work” to support the application of the Convention and provided training to provincial and local officials; a MoMT–ILO “Step-by-step guide on gender neutral pay equity for employers” will also be published soon. While welcoming the Government’s efforts to strengthen its institutional mechanisms to promote the EEO programme and conduct educational and capacity-building activities on equality and non-discrimination, including equal pay, the Committee considers that specific measures may be required to promote women’s access to a wider range of jobs, including those that lead to higher levels of pay, as a means to promote the application of the principle of the Convention. It refers in this regard also to its comments on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). ***The Committee hopes that the National EEO Task Force will be instrumental in the achievement of real progress in attaining the Convention’s objective, and asks the Government to provide information on its activities undertaken to formulate, promote and implement programmes aimed at reducing the gender pay gap and improving women’s participation in a wider range of jobs at all levels. Please continue to provide information on the educational and capacity-building activities undertaken for relevant government officials, workers and employers and their organizations on the principle of the Convention, and on their impact on effectively addressing discrimination in remuneration and achieving equal remuneration for men and women for work of equal value. Please continue to collect and provide statistics on the distribution of men and women in the various economic sectors and occupations, and their corresponding earning levels, in the public and private sectors.***

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* For a number of years, the Committee has been drawing the Government’s attention to the need to review or amend the Manpower Act (No. 13/2003) which only contains a general equal opportunity provision (section 5) and a general equal treatment provision (section 6), and in this regard provides less protection than the previous Manpower Act of 1997. Section 3 of Government Regulation No. 8 of 1981 concerning remuneration protection also limits the protection against discrimination in remuneration by the employer to equal work performed by men and women. The Committee recalls that these provisions, while important, are not sufficient to give effect to the Convention, as they do not include the concept of “work of equal value” (see General Survey on Fundamental Conventions, 2012, paragraphs 673–679). In this regard, the Committee welcomes the fact that, during the tripartite consultation and capacity-building workshops, held in 2013, on the new National EEO Task Force, participants confirmed the importance of adopting provisions that fully reflect the principle of the Convention, and of promoting objective job evaluation methods as a means to reduce the gender pay gap. It further notes that the Government has undertaken efforts to promote a better understanding of the concept of “equal value” through dissemination of and training on the EEO Guidelines and the development of the Step-by-step guide on gender neutral pay equity. ***In the context of the wide gender pay gap and the persisting occupational segregation, the Committee hopes that the National EEO Task Force will effectively address the gaps in the current legislation and urges the Government to take the necessary steps to review and amend the current legislation, including the Manpower Act (No. 13/2003) and Government Regulation No. 8 of 1981 in order to give explicit legislative expression to the principle of equal remuneration for men and women for work of equal value, and to provide information on any consultations held with social partners in this regard.***

*Discriminatory provisions.* The Committee previously expressed concern over the possible discriminatory impact of section 31(3) of the Marriage Act (No. 1/1974) on women's employment-related benefits and allowances. The Committee notes the Government's confirmation that, from a philosophical viewpoint and in the context of a strong patriarchal culture, the Act considers the man as the head of the family. **The Committee asks the Government to take steps to ensure that women do not face direct or indirect discrimination in law or practice with respect to family allowances and employment-related benefits, and provide information on the progress made in this respect.**

The Committee is raising other points in a request addressed directly to the Government.

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)**

*Promoting equality of opportunity and treatment. Equal Employment Opportunity (EEO) Task Force.* The Committee recalls the Decision of the Minister of Manpower and Transmigration (MoMT) on the Establishment of a Task Force on Equal Employment Opportunity (EEO) (No. KEP-53/MEN/IV/2004), and the EEO Guidelines drafted by this Task Force in 2005, to fill some of the gaps in the Manpower Act of 2003. The Committee notes that the EEO Task Force had been dormant since 2006. The Committee notes that ILO technical assistance has been provided in the area of gender equality and non-discrimination, including technical assistance under the Special Programme Account (SPA) to address the comments of the Committee. In this regard, the Committee notes with *interest* that the Government has taken steps to revitalize the membership, programme and activities of the EEO Task Force including through the adoption of Decree No. 184 of 2013 of the MoMT concerning the Establishment of a National Task Force on EEO which is mandated to promote and conduct the EEO programme in coordination with the respective ministries, and employers' and workers' organizations. The tripartite Steering and Advisory Team of the Task Force shall provide guidance and direction with a view to formulating programmes and activities on EEO at the national level, and provide input to the ministries and institutions as a basis for policy decisions on EEO. The inter-ministerial Technical Implementing Team of the Task Force shall be in charge of formulating, promoting and implementing, as well as evaluating and monitoring the EEO programme in the respective areas in coordination with MoMT, other relevant ministries and institutions, and employers' and workers' organizations; and shall encourage the establishment of EEO task forces at the provincial level. The Committee notes that tripartite consultations and capacity building of the Task Force members was organized in 2013, during which the implementation of the following strategic objectives were discussed: increasing public awareness (training and education) and knowledge, including research, on equality and non-discrimination; strengthening advisory services to government agencies regarding discriminatory laws, regulations and practices; and strengthening law enforcement mechanisms (including mediation and conciliation) with respect to discrimination and equality. **The Committee hopes that the National EEO Task Force will be instrumental in the achievement of the objectives of the Convention, and asks the Government to provide information on the action plan and activities of the Task Force undertaken to formulate, promote and implement EEO programmes. It also asks the Government to provide information on any steps taken by the Task Force with a view to the establishment of EEO task forces at the provincial level, and the results achieved. Please also provide information on any further capacity-building activities organized for its members.**

*Equality of opportunity between men and women.* The Committee notes that according to the labour force survey of the National Statistics Bureau, in May 2013, the labour force participation of women was 53.26 per cent while the labour force participation of men reached 85.31 per cent. Informal employment for women reached 40.1 per cent, and of those women who work, unpaid workers represented 30.11 per cent in May 2013. The Committee notes from the data provided by the Government that the participation rate of women in various economic sectors decreased from 39.2 per cent in February 2011 to 37.66 per cent in August 2012. Women also continue to be concentrated in agriculture, forestry, hunting and fishing (37 per cent); processing industries (41.5 per cent); wholesale, retail, restaurant and hotel (50.1 per cent); and social services (46.78 per cent). Women continue to be underrepresented in leadership and management positions (16.31 per cent), and the Committee notes that informal employment is high in those sectors in which women are highly represented, in particular the agriculture, forestry, hunting and fishing sector and the wholesale, retail, restaurant and hotel sector. The Committee also notes from a study in East Java undertaken in the context of the ILO project "MAMPU – Access to employment and decent work for women" the high number of women among homeworkers. The Committee noted in the past that despite the progress made in education with participation rates of men and women almost reaching parity, gender segregation in skills training appeared to persist. The Committee had requested the Government to take measures to promote equal opportunities for men and women to access a wider range of educational and vocational training courses, and employment opportunities, including higher level posts. The Committee notes the statistical information on the participation of men and women in vocational training in 2012, which, however, do not allow an assessment to be made in this regard. **The Committee asks the Government to indicate the specific measures taken, in cooperation with the social partners, to address occupational sex segregation and skills segregation, and to promote women's access to a wider range of vocational training courses and occupations, including those traditionally reserved for men, and provide information on the results achieved. Please continue to seek and provide comprehensive statistical information, disaggregated by sex, on the labour force participation rates in the various sectors and occupations in the formal and informal economies, and on the number of men and women participating in vocational training and education, specifying the type of courses attended.**

The Committee is raising other points in a request addressed directly to the Government.

## Islamic Republic of Iran

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1972)**

*Article 1(b). Equal remuneration for work of equal value. Legislation.* The Committee has been noting for a number of years that section 38 of the Labour Code is narrower than the principle of the Convention, and urged the Government to take the opportunity of the review of the Labour Code to give full expression to the principle of equal remuneration for men and women for work of equal value. The Committee recalls that section 38 provides that “In compensating for equal work performed under equal conditions at a workshop, equal wages must be paid to men and women. Discrimination in determining the wages on the basis of age, sex, race, nationality, and political and religious beliefs shall be prohibited.” The Government previously indicated that in the review of the Labour Code, the comments of the Committee would be considered; from its most recent report, it appears that the process of reviewing the Labour Code is still ongoing.

The Committee recalls that the concept of “work of equal value” lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value, and the promotion of equality. The concept of “work of equal value” is key to tackling occupational sex segregation, which characterizes the labour market of Iran, with women working in a narrower range of jobs than men, and with certain jobs being held predominately or exclusively by women and others by men. The concept of “work of equal value” permits a broad scope of comparison, including but going beyond equal remuneration for “equal work” or work performed under “equal conditions”, and also encompasses work that is of an entirely different nature which is nevertheless of equal value (see General Survey on fundamental Conventions, 2012, paragraph 673). The Committee also notes that legislation should not exclude the possibility of bringing equal pay claims where no comparator is available within the enterprise, or “workshop” (see General Survey of 2012, paragraph 699). *Noting that the labour law review process has been underway for a number of years, the Committee asks the Government to take steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, ensuring that the provision encompasses not only equal work or work performed under equal conditions, but also work of an entirely different nature which is nevertheless of equal value, and to provide information on the steps taken in this regard.*

The Committee is raising other points in a request addressed directly to the Government.

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1964)**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2013, and the conclusions adopted. The Conference Committee urged the Government to take concrete and immediate action to end discrimination against women, and ethnic and religious minorities in law and in practice, to promote women’s empowerment and entrepreneurship, to take decisive action to combat stereotypical attitudes underlying discriminatory practices, and to address sexual and other forms of harassment. It also urged the Government to take effective measures to ensure protection against discrimination based on political opinion and respect for freedom of expression, and to address the continued absence of an environment conducive to freedom of association as a matter of urgency. Given the seriousness of the case and the lack of progress, the Conference Committee urged the Government to accept a High-level mission, and asked it to provide a report to this Committee on all the issues raised by the Conference Committee and this Committee. While noting the report of the Government submitted in June 2013, prior to the discussion by the Conference Committee, the Committee notes that no report as requested by the Conference Committee has been provided by the Government.

*Legislation.* The Committee notes the Government’s indication that, in the context of the Five-Year Economic, Cultural, Political and Social Development Plan, the Government has adopted effective strategies and constructive measures for the efficient modification and amendment of laws and regulations, and expects to receive further ILO technical assistance and expertise in this context. The Government also states generally that the Bill on non-discrimination in employment and education has been passed by Parliament. However, the Government does not address the Committee’s concerns expressed previously that the Bill did not provide effective and comprehensive legal protection for all workers against discrimination, and that sexual harassment was not addressed. In this regard, the Committee refers the Government to its detailed comments on the Bill in its observation published in 2011. On the issue of sexual harassment, the Government indicates that a draft by-law for the establishment of women’s safety committees, which would be legal entities related to securing women’s safety against violence, has been forwarded to the National Centre for Women and Families for approval. The Committee notes that among the objectives of the committees would be “recognition of women’s role and prohibition of violence against women in the Islamic precepts ...” The Government also states that each enterprise may establish a disciplinary committee to address any violence against personal and occupational dignity, and points to the Islamic Penalties Law providing for prison sentences of two to six months for harassing or insulting women’s dignity and security. The Committee notes that these measures do not address the full range of behaviour that constitutes sexual harassment in employment and occupation. *The Committee again urges the Government to ensure that effective*

*and comprehensive legal protection for all workers is ensured, whether nationals or foreigners, against direct and indirect discrimination on at least all the grounds enumerated in Article 1(1)(a) of the Convention, and with respect to all aspects of employment and occupation. Recalling that sexual harassment is a serious manifestation of sex discrimination, the Committee asks the Government to take effective measures to prevent and prohibit sexual harassment, both quid pro quo and hostile environment harassment, at work. The Committee also asks the Government to provide information on measures taken, as urged by the Conference Committee, to address other forms of harassment. Noting the Government's indication that an amendment Bill on the Civil Service Management Code for Women and Family is under discussion, the Committee urges the Government to take the opportunity of the revision to the Code to include provisions actively supporting equality of opportunity and treatment of women and men in the civil service, and to seek ILO technical assistance in this regard.*

The Committee also notes the adoption of the Family Protection Act, which according to the Government was passed by Parliament on 27 February 2013, and is now in force. The Government states that section 18 of the Act provides that "Upon court approval, the husband can prevent his wife from taking up a job or profession incompatible with the family interests or his dignity or that of his wife. The wife can also make the same request to the court. Then the court prohibits employment of the man to the said occupation if family livelihood is not disrupted." The Government indicates that this provision, and no longer section 1117 of the Civil Code, is applicable. While noting that the new provision also allows a woman, although in more limited circumstances, to object to her husband taking up a job or profession, the Committee considers that the provision will continue to have a negative effect on women's employment opportunities, and is likely to have a disproportionate impact on women. With respect to discriminatory provisions in social security regulations favouring the husband over the wife in terms of pension and child benefits, the Committee notes the Government's indication that, pursuant to the Social Security Act, a husband and wife subject to the Labour Code enjoy all privileges mentioned in the Labour Code equally, including housing allowance and family allowance, even if they work in the same place. The Government also states that provision has been made for women to benefit from the pension of their deceased husband. The Committee understands that this has been reflected in amendments to the Family Protection Act in April 2013. With respect to the mandatory dress code, the Government reiterates that there is no specific regulation, but that observance of the Islamic dress code is established in the Constitution as a national norm. The Committee recalls the concerns raised by the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran regarding the negative impact of criminalizing improper veils on women's participation in public and social arenas (A/66/374, 23 September 2011, paragraph 56). *The Committee is bound once again to express concern that such a restriction could have a negative impact on the employment of non-Islamic women and to their access to education. The Committee urges the Government to take steps to ensure that women have the right, in law and practice, to pursue freely any job or profession, including in the context of the Family Protection Act. In this context, the Committee also asks the Government to take concrete measures to address any barriers to women's employment, including the mandatory dress code. The Committee also asks the Government to specify any situations where the husband is entitled to the payment of certain allowances as the presumed breadwinner or head of the family, and whether any social security benefits of a wife are still derived from her husband's entitlement. Please also provide the text of the provisions of the Family Protection Act that are currently in force.*

*Equality of opportunity and treatment of men and women.* The Committee notes from the statistics provided by the Government in the context of its report under the Equal Remuneration Convention, 1951 (No. 100), that women's labour market participation in 2012 was 13.8 per cent, having declined from 16 per cent in 2010. The Committee notes that there remain significant barriers to women's equality of opportunity and treatment in employment and occupation. According to the Government's report, there has been an increase in the number of female teachers and in the number of female judges, although women hold only 7.5 per cent of judicial positions. On the issue of discriminatory job advertisements, the Government replies generally that this could be addressed through the inspection process. Regarding practical barriers to women over 30 years old being recruited, the Government repeats that the law allows women and men alike to be recruited up to 40 years of age, and in some cases to 45. *The Committee asks the Government to examine the obstacles in practice to women over 30 years old being employed, including due to their family responsibilities and to hiring preferences by employers, and to take concrete measures to address such obstacles. Welcoming the information provided by the Government on the range of activities aimed at promoting women's entrepreneurship, the Committee urges the Government to indicate the concrete impact of such measures, including the number of women who have benefited therefrom. Noting that it continues to be unclear whether women have access to all positions in the judiciary or whether female judges are authorized to hand down judgments on an equal footing with male judges, the Committee again asks the Government to provide specific information in this regard. The Committee also again urges the Government to take concrete steps to prohibit discriminatory job advertisements, and to provide specific information on how such prohibition has been enforced.*

Recalling the concerns raised previously regarding the increasing number of women in temporary and contract employment, who are thus not eligible for certain legal entitlements and conditions, including maternity protection, the Committee notes that the Government replies generally that the law does not differentiate between men and women with respect to types of contracts, and that any problems arising from contracts should be brought before the courts. With respect to promoting women's employment, the Committee notes the Government's indication that a range of measures are being taken with a view to implementing the Act on the Five-Year Development Plan, including to permit distance

working arrangements for women, to allow women with children under 5 years of age to work shorter hours, have flexible working arrangements, and to be entitled to ten years' leave taken intermittently. *While noting the importance of arrangements to assist workers to reconcile work and family responsibilities, the Committee asks the Government to evaluate and adapt the measures under consideration with a view to ensuring that they do not in fact result in reinforcing traditional roles and stereotypes, including that women are solely responsible for the family or that they should be confined to certain types of jobs, thus further limiting their access to the labour market in practice. The Committee asks the Government to evaluate and address the impact of temporary and contract employment on employment benefits and entitlements of women, including due to non-renewal of such contracts when women become pregnant. Noting the absence of a reply by the Government to the Committee's previous request for information on the application in practice of the quota system in universities, and noting the concerns raised by the Special Rapporteur on the situation of human rights regarding policies prohibiting women from enrolling in 77 fields of study (A/68/503, 4 October 2013, paragraph 34), the Committee urges the Government to ensure that women have access in practice to all education and training opportunities, and to take steps to promote women's access to a wider range of jobs, including those with career opportunities, and higher pay.*

*Discrimination based on religion and ethnicity.* The Government repeats that the Baha'i are considered to be a political sect, and states generally that they "enjoy all citizenship rights according to the legal framework, except whose actions violate citizenship principles and national laws." With respect to ethnic minorities, the Government provides information regarding development plans for the provinces of Khoozestan, Sistan and Baloochestan. However, despite this Committee and the Conference Committee regularly urging the Government to take action to address discrimination in law and practice against religious minorities, in particular the Baha'i, the Government has taken no such measures. The Committee notes further that, according to the Special Rapporteur, Baha'i websites and web pages maintained by ethnic minorities have been blocked, and he refers to "what appears to be an escalating pattern of systemic human rights violations targeting members of the Baha'i community", including with respect to access to employment and education (A/68/503, 4 October 2013, paragraphs 40–42). The Committee also recalls the concerns raised by Education International (EI) regarding religious-based discrimination against the Baha'i in terms of access to education, universities and to particular occupations, and the failure to provide all ethnic groups with access to quality education. *The Committee cannot but echo the expression of continued and deep concern by the Conference Committee regarding the systematic discrimination against members of religious and ethnic minorities, particularly the Baha'i, and once again urges the Government to take immediate and decisive action to address such discrimination. In this context, the Government is asked to provide detailed information on the specific measures taken to promote respect and tolerance for religious minorities, including the Baha'i, to repeal all discriminatory legal provisions, and to withdraw all discriminatory circulars and other government communications. Recalling that unrecognized religions remain subject to the selection procedure requiring prospective state officials and employees to demonstrate allegiance to the state religion (gozinesh), the Committee urges the Government to take concrete steps to put an end to this practice, and to amend the Selection Law accordingly. The Government is also asked to provide detailed information on the education and employment situation of religious and ethnic minority groups, including the Baha'i, disaggregated by sex, in both the public and private sectors, and at the various levels of responsibility. Please also provide information on the impact of the development plans for the provinces of Khoozestan, Sistan and Baloochestan with respect to improving employment and education opportunities of ethnic minorities.*

*Discrimination based on political opinion.* The Committee previously raised concerns regarding the persecution and prosecution of teachers, students and trade unionists advocating for social justice, equal rights to education and employment and for women's rights, which the Government had characterized as activities of a political nature. The Government replies that it is dealing with the issues raised through two mechanisms: first, holding internal meetings with representatives of unions and associations; and, secondly, paying the debts of some teachers, and intervening with the administrative court. The Government indicates further that there are no limitations on access to websites. The Committee notes in this regard that, according to the Special Rapporteur, in the days preceding the recent election, there were again reports of intimidation of political activists, journalists, trade unionists and student activists, and the Internet was virtually shut down (A/68/377, 10 September 2013, paragraph 8). *The Committee asks the Government to take specific measures to ensure that teachers, students, journalists, and their representatives, are effectively protected against discrimination based on political opinion. In this regard, the Government is also requested to provide information on the outcome of the internal meetings with the unions, as well as of its interventions with the administrative court.*

*Enforcement.* *Noting the absence of specific information in the Government's report in response to its previous requests, the Committee asks the Government to provide detailed information on the number and nature of complaints related to equality and non-discrimination in employment and occupation, and how such complaints have been addressed by the labour inspectorate, the courts, the conciliation boards for religious minorities and any administrative bodies, including the remedies provided and sanctions imposed. The Committee also again asks the Government to take concrete measures to increase the awareness of workers, employers and their organizations of the principle of the Convention and the available complaints procedures, and to increase the capacity of those involved in monitoring and enforcement to identify and address discrimination in employment and occupation. The Committee also asks the Government to indicate the progress made in establishing a national human rights institute in full compliance with the*

*Paris Principles, as agreed in the context of the Universal Periodic Review (A/HRC/14/12, 15 March 2010, paragraph 90(10)).*

*Social dialogue.* The Committee notes the Government's indication that, with a view to promoting social dialogue, a technical tripartite national committee was established in October 2012, and that the items on the agenda of the committee include a review of the Convention, issues related to labour relations and collective bargaining, and a survey of fundamental rights at work. The Government also provides detailed information on the work of the National Labour Committee on the Labour Law and Social Security Act Amendment, established in October 2011, including the range of sections of the Labour Code Amendment Bill on which the members have agreed. ***The Committee asks the Government to provide information on the outcome of the technical tripartite national committee with respect to the review of the Convention, and any other measures taken in cooperation with the social partners to promote and ensure the application of the principle of the Convention. Recalling the conclusions of the Conference Committee urging the Government to accept a High-level mission, the Committee urges the Government to take the necessary steps for the conduct of such as mission, with a view to examining all the issues raised by this Committee and the Conference Committee concerning the application of the Convention.***

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Iraq

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1963)**

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee recalls section 4(2) of the Labour Code, which limits equal remuneration to work of the same nature and the same volume performed under identical conditions, therefore being more restrictive than the principle of the Convention. The Committee also recalls that, since 2008, the Government has been referring to a draft Labour Code, and indicating that section 4 of the draft Labour Code provides for equal remuneration for men and women for work of equal value. In its report of March 2012, the Government indicated that the draft was before Parliament awaiting a second reading. In its most recent report, there is no indication given regarding the stage of advancement of the draft. The Committee again draws the Government's attention to the fact that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value, and the promotion of equality. Due to historical attitudes and stereotypes regarding women's aspirations, preferences and capabilities, certain jobs are held predominantly or exclusively by women (such as in caring professions) and others by men (such as in construction). Often "female jobs" are undervalued in comparison with work of equal value performed by men when determining wage rates. Therefore, the concept of "work of equal value" is fundamental to tackling occupational sex segregation, which characterizes the Iraqi labour market, as it permits a broad scope of comparison, including, but going beyond, equal remuneration for "the same" or "identical" work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value (General Survey of 2012 on fundamental Conventions, paragraph 673). ***The Committee again urges the Government to ensure that in the revision process of the Labour Code, full legislative expression is given to the principle of equal remuneration for men and women for work of equal value, without limiting it to work of the same nature and same volume performed under identical conditions, and ensuring that the principle applies to all workers, whether skilled or unskilled. Please provide specific information on the concrete steps taken and progress made in this regard.***

The Committee is raising other points in a request addressed directly to the Government.

## Ireland

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)**

*Articles 1 and 2 of the Convention. Equality of opportunity and treatment for men and women.* In its previous comments, the Committee expressed concern that article 41.2 of the Constitution, which provides that "the State recognizes that by her life within the home, woman gives to the State a support without which the common good cannot be achieved" and that "the State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home", might encourage stereotypical treatment of women in the context of employment, contrary to the Convention, and requested the Government to consider reviewing it. The Committee notes the information provided by the Government on the establishment in 2012 of a Constitutional Convention, made up of 66 citizens, 33 parliamentarians, and an independent chairperson, to make recommendations on constitutional reform, including with regard to article 41.2. It welcomes the Government's indication that a sizable majority of members of the Constitutional Convention voted in favour of amending article 41.2, as well as other provisions in the Constitution with a view to adopting gender-neutral language. The Committee notes, however, that providing that "[carers] shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home", while aiming at recognising the role of caregivers in society, is likely to apply mainly in practice to women, who, according to the Government's report under the Equal Remuneration Convention, 1951 (No. 100), are responsible for more than 80 per cent of family-related tasks. The Committee considers that in the absence of further measures aimed at assisting both men and women to reconcile work and family responsibilities, and encouraging men to take on a greater

share of family responsibilities, the provision may continue to hinder the inclusion or re-entry of women in the labour market. ***The Committee asks the Government to take the opportunity of the current constitutional review process to ensure that the Constitution, including article 41.2, does not encourage, directly or indirectly, stereotypical treatment of women in the context of employment and occupation, and to provide information on specific steps taken in this regard. The Committee also asks the Government to provide information on measures taken or envisaged to promote equality of opportunity and treatment for men and women, including with regard to access to the labour market and reconciliation of work and family responsibilities.***

*Article 1(1)(a). Discrimination based on political opinion or social origin.* The Committee recalls its previous comments, in which it noted that the grounds of discrimination provided for in the Employment Equality Act do not cover political opinion and social origin. The Committee notes the Government's repeated statement that there are no immediate plans to amend the equality legislation so as to include social origin and political opinion as prohibited grounds of discrimination. ***The Committee asks the Government to take steps to ensure legislative protection against discrimination in employment and occupation based on political opinion and social origin, and to provide information on the progress made in this regard. The Committee also asks the Government to provide information on the measures taken to ensure protection against discrimination based on political opinion and social origin in practice.***

*Article 1(2). Inherent requirements of the job.* The Committee has previously noted that section 2 of the Employment Equality Act excludes from the Act's scope of application with regard to access to employment "persons employed in another person's home for the provision of personal services for persons residing in that home where the services affect the private or family life of such persons". The Committee pointed out that, in practice, the broad and non-exhaustive definition of "personal services" in section 2 appeared to allow employers of domestic workers to make recruitment decisions on the basis of the grounds of discrimination set out in section 6(2) of the Act. The Committee recalls that the Convention is intended to promote and protect the fundamental right to non-discrimination and equality of opportunity and treatment in employment and occupation of all workers and that it only allows for exceptions to the principle of equal treatment in so far as they are based on the inherent requirements of a particular job, as strictly defined, and that there are very few instances where the requirements of a job are justified with reference to the grounds listed in the Convention. The Committee recalls further that overly broad exceptions to equality legislation excluding domestic workers from the protection against discrimination in respect to access to employment may lead to discriminatory practices by employers against these workers, contrary to the Convention. ***The Committee urges the Government to take steps to amend the relevant parts of section 2 of the Employment Equality Act, so as to ensure that any limitations on the right to non-discrimination in all aspects of employment and occupation are restricted to the inherent requirements of the particular job, as strictly defined.***

The Committee is raising other points in a request addressed directly to the Government.

## Israel

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1965)***

*Application of the principle of the Convention to caregivers.* In its previous observation the Committee referred to the possible discriminatory impact of the decision of the High Court of Justice in *Yolanda Gloten v. the National Labour Court* (HCJ 1678/07) of 29 November 2009 excluding the application of the Hours of Work and Rest Law 1951, including provisions on overtime pay, to foreign women workers providing care on a live-in basis. The Committee notes the Government's indication that there is no discrimination against female caregivers on the basis of sex although they are in a female dominated sector. The Government also indicates that the High Court of Justice recently rejected the petition of Ms Gloten as it considered that live-in caregivers fall outside the current formulation of the Hours of Work and Rest Law because of the nature of the employment which cannot be restricted to specific hours and depends on the client's health status. The Committee further notes that the governmental staff committee submitted the following recommendations to the Minister of Economy: the Hours of Work and Rest Law and its regulations concerning overtime pay should be amended in order to clarify that live-in caregivers are not excluded from the scope of the law, emphasizing the difficulty of supervising their work hours; instead of overtime pay, these workers would be entitled to a comprehensive wage which would include payment for overtime of not less than 120 per cent of the monthly minimum wage; the weekly rest would be no less than 25 hours; the Wage Protection Law, 1958, would be amended in order to limit the rate of the wage that the employer could pay in food and drink to no more than 732 shekels (ILS) per month; the regulation which entitles the employer to deduct half of the sum for housing should be abolished with respect to live-in caregivers and deductions for various expenses would not exceed ILS409 in the caregiving sector only. ***The Committee asks the Government to provide information on the measures adopted to give effect to the recommendations formulated by the governmental staff committee and any difficulties encountered in this regard. The Committee further requests the Government to ensure that caregiving, which is a female-dominated sector, is not undervalued based on gender stereotypes, and to provide information on the specific measures adopted in this respect. Please include information on any complaints submitted by female foreign and national caregivers with the competent authorities, indicating the nature of the complaint and the outcome thereof.***

The Committee is raising other points in a request addressed directly to the Government.

## **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1959)**

*Foreign caregivers.* In its previous observation the Committee referred to the possible discriminatory impact of the decision of the High Court of Justice in *Yolanda Gloten v. the National Labour Court* (HCJ 1678/07) of 29 November 2009 excluding the application of the Hours of Work and Rest Law, 1951, including provisions on overtime pay, to foreign women workers providing care on a live-in basis. The Committee notes the Government's indication that there is no discrimination against female caregivers on the basis of sex although they are in a female dominated sector. Moreover, the Government also indicates that the High Court of Justice recently rejected the petition of Ms Gloten as it considered that live-in caregivers fall outside the current formulation of the Hours of Work and Rest Law because of the nature of the employment which cannot be restricted to specific hours. The Government further indicates that a staff committee submitted the following recommendations to the Minister of Economy: the Hours of Work and Rest Law and its regulations concerning overtime pay should be amended in order to clarify that live-in caregivers are not excluded from the scope of the law, emphasizing the difficulty of supervising their working hours; instead of overtime pay, these workers would be entitled to a comprehensive wage which would include payment for overtime not less than 120 per cent of the monthly minimum wage; the weekly rest would be no less than 25 hours; the Wage Protection Law, 1958, would be amended in order to limit the rate of the wage that the employer can pay in food and drink to no more than 732 Israeli shekel (ILS) per month; the regulation which entitles the employer to deduct half of the sum for housing should be abolished with respect to live-in caregivers and deductions for various expenses will not exceed ILS409 in the caregiving sector only. **The Committee requests the Government to ensure that female foreign workers are not being directly or indirectly discriminated against on the basis of sex, race, colour or national extraction, and to provide information on any differential impact between national and foreign workers with respect to the measures of protection or requirements applying to the caregiving sector. The Committee also requests the Government to provide information on the measures adopted to give effect to the recommendations formulated by the governmental staff committee and any difficulty in this regard. Please include information on any complaints submitted by female foreign and national caregivers with the different authorities, indicating the nature of the complaint and the outcome thereof.**

The Committee is raising other points in a request addressed directly to the Government.

## **Italy**

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1963)**

*Discrimination on the basis of sex. Pregnancy and maternity.* The Committee referred in its previous comments to the "*licenziamento in bianco*", namely the practice of having the worker sign an undated letter of resignation at the time of hiring for future use by the employer at his or her convenience and which affects more specifically pregnant women. In this respect, the Committee notes that the Government refers to the adoption of Act 92/2012 of 28 June 2012 on Labour Market Reform, which provides that the resignation by a pregnant woman or by the worker with a child under three years old, has to be validated by the labour inspectorate to be effective. The Committee notes, however, that according to statistics provided by the Government, the labour inspectorate validated 17,681 resignations in 2011 and 19,187 in 2012 which amounts to a 9 per cent increase in one year. According to the Annual report on the validation of resignations of working mothers and fathers, the great majority of these resignations concern women between 26 and 35 years of age and the motive put forward for resignation refers mostly to the impossibility to reconcile family responsibilities and working obligations due to the lack of available childcare or parental support. **Noting the high number of resignations of women between 26–35 years, the Committee requests the Government to take additional concrete measures in order to address the issue of resignation without cause of pregnant women and working mothers, and to prevent and eliminate all discrimination against women on the basis of pregnancy and maternity. The Committee requests the Government to continue to provide information on any developments in this respect.**

*Equality of opportunity and treatment irrespective of race, colour or national extraction.* The Committee notes the different activities carried out and measures implemented by the Office for the Promotion of Equality of Treatment and Elimination of Discrimination based on Race and Ethnic Origin (UNAR) to address racial and ethnic discrimination. It notes in particular the activities developed in the framework of the Protocol of intention signed in 2005 and renewed in 2009, with the social partners. The Committee notes, in particular, the decision adopted in 2011 to establish a Centre for the research and monitoring of xenophobia and racial and ethnic discrimination (CERIDER). The Government does not provide, however, specific information on the concrete impact of these measures in the promotion of equality and the elimination of racial and ethnic discrimination, even though many of these activities have already been carried out for a certain period of time. The Committee recalls that the Convention envisages that the results achieved in the implementation of the national equality policy are to be regularly assessed with a view to reviewing and adjusting existing measures and strategies on a continuing basis. Such continual monitoring, assessment and adjustment is required not only of the measures in place to promote equality, but also of their impact on the situation of the protected groups and the incidence of discrimination (see General Survey on the fundamental Conventions, 2012, paragraph 847). **The Committee requests the Government to ensure that the impact of the various measures adopted to address discrimination on the**

*basis of race, colour and national extraction is adequately assessed in order to examine the relevance of these measures or the need for their improvement. In this context the Government is asked to monitor closely the impact of the financial and economic crisis and the measures taken to address it on the employment situation of minorities and migrant workers. The Committee also requests the Government to indicate whether the CERIDER has already been established, and if so, to provide information on the activities it has carried out. Please continue to provide information on the activities of the UNAR, including statistics as well as information on its current situation with respect to personnel, budget and means of action.*

*Roma, Sinti and Travellers.* The Committee notes that according to the report of the European Union Agency for Fundamental Rights (FRA), 7 per cent of young Roma women and 1 per cent of young Roma men have never attended school while 63 per cent of Roma women and 71 per cent of Roma men dropped out of school before the age of 16. With respect to employment, according to the report, 9 per cent of women and 13 per cent of men are in paid full time work, while the great majority (71 per cent of women and 74 per cent of men) are self-employed (see Analysis of FRA Roma survey results by gender, September 2013). The Committee notes in this respect the adoption of a National Strategy for the inclusion of Roma, Sinti and Travellers implementing communication No. 173/2011 of the European Commission which contains four main axes of intervention: education, work, health and housing. The Committee notes in this respect that the Commissioner for Human Rights of the Council of Europe welcomed this strategy (CommDH(2012)26 of 18 September 2012) and highlighted the importance of Roma and Sinti genuine participation through adequate mechanisms for its successful implementation. The Strategy, which is in its early implementation phase, favours early school enrolment of children without discrimination and access to university and high education of young people. It also promotes access to training, labour regularization, individualized assistance to Roma women to improve their employment opportunities and access of young workers to employment. The Committee also notes the activities and programmes carried out under UNAR's monitoring, including those developed in the framework of the Dosta campaign which has been continued in 30 Italian cities for the biennium 2012–13. The Committee further notes the research project between ISTAT and the Department of Equal Opportunities on the integration of Roma, Sinti and Travellers which would conclude in 2014 with the establishment of specific indicators and methodology. *The Committee requests the Government to continue to take measures in order to address discrimination and promote social inclusion of Roma, Sinti and Travellers communities. The Committee requests the Government to provide information on: the impact of the National Strategy for the inclusion of Roma, Sinti and Travellers, in particular with respect to their access to training and employment opportunities; the impact of all the activities carried out throughout the country implementing the Dosta campaign; and the results of the research project on the integration of Roma, Sinti and Travellers carried out by ISTAT and the Department of Equal Opportunities as well as the indicators and statistical data gathered.*

The Committee is raising other points in a request addressed directly to the Government.

## **Jamaica**

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)**

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee recalls that the Employment (Equal Pay for Equal Work) Act, 1975 (the Equal Pay Act) requires employers to pay women and men equal pay for “equal work”, and is thus narrower than the principle of the Convention, as it does not fully capture the concept of “work of equal value”. The Committee notes the Government's indication that no consideration has been given to amending the Act since it was felt that it dealt adequately with the issue of equal pay for men and women performing similar tasks. The Committee notes further that in its report on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Government indicates that a review of the Equal Pay Act is currently under way. The Committee also notes the concluding observations of the UN Committee on the Elimination of Discrimination against Women (CEDAW) raising concerns regarding the concentration of women in low-paying jobs, and the horizontal and vertical gender segregation of the labour market (CEDAW/C/JAM/CO/6-7, 27 July 2012, paragraph 27). The Committee also notes that the UN Committee on Economic, Social and Cultural Rights (CESCR) expressed concern regarding the wage gap between men and women (E/C.12/JAM/CO/3-4, 10 June 2013, paragraph 14). The Committee recalls that the concept of “work of equal value” is fundamental to tackling occupational sex segregation, as it permits a broad scope of comparison, including but going beyond equal remuneration for “equal”, “the same” or “similar” work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value (see General Survey on Fundamental Conventions, 2012, paragraph 673). *The Committee urges the Government to take the opportunity of the review of the Equal Pay Act to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, and asks the Government to consider requesting ILO technical assistance in this regard. The Committee also asks the Government to provide information on the steps taken to this end, as well as on the specific measures taken to address occupational sex segregation and the gender pay gap, in the public and the private sectors.*

The Committee is raising other points in a request addressed directly to the Government.

## Jordan

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1966)**

*National Steering Committee for Pay Equity.* The Committee welcomes the Government's indication that the National Steering Committee for Pay Equity (NSCPE) was granted permanent and official status pursuant to a ministerial decree of 15 May 2013. The Committee also notes the detailed information provided by the Government regarding the activities carried out by the NSCPE and its subcommittees, including the recently established media and promotion subcommittee. It notes, in particular, the legal review which was conducted by the NSCPE, with the support of the ILO, and aimed at identifying and documenting the legal and practical obstacles hindering the achievement of pay equity in Jordan, and providing recommendations (*Towards pay equity: A legal review of Jordanian national legislation*, 2013). In this regard, the Committee notes that an action plan was prepared in order to implement the study's recommendations for improvement at legislative level, and that a workshop was organized in July 2013 by the Ministry of Labour, the NSCPE and the National Committee on Child Labour, in collaboration with the ILO, in order to discuss specific amendments to the Labour Law, 1996, and its related Interim Act of 2010, prior to their consideration by Parliament. The Committee notes further that initiatives were organized by the media and promotion subcommittee with a view to raising awareness of pay and employment equity issues, including through mass media and a recently developed pay equity website. **The Committee asks the Government to continue to provide information on the work of the NSCPE and its subcommittees, including with regard to initiatives to raise awareness of equal remuneration between men and women for work of equal value among workers, employers and their organizations, as well as the general public, and the impact of such measures.**

*Article 1(a) of the Convention. Additional allowances in the public service.* Recalling its previous comments with regard to the limitations on women's access to family allowance pursuant to section 2 of the Civil Service Regulations No. 30 of 2007, the Committee considers that a difference in allowances, based on sex, is direct discrimination with respect to remuneration and contrary to the Convention (see General Survey on fundamental Conventions, 2012, paragraph 693). The Committee also notes that the NSCPE legal review recommends amendments to the Civil Service Regulations, including section 25 (*Towards pay equity: A legal review of Jordanian national legislation*, page 12). **The Committee asks the Government to amend the Civil Service Regulations No. 30 of 2007 to ensure that women and men are entitled to all allowances, including family allowance, on an equal basis.**

*Article 1(b). Equal remuneration for work of equal value.* For a number of years, the Committee has been drawing the Government's attention to the need to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. In this regard, the Committee notes the Government's reference to findings of the NSCPE legal review, as well as the recommendations of the July 2013 workshop, which confirm the importance of such provisions. The Committee welcomes the amendments proposed in the NSCPE legal review, which provide for equal remuneration for men and women for work of equal value "including work of a different type", and makes reference to the use of objective job evaluation methods to determine if jobs are of equal value. **The Committee urges the Government to take the necessary steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The Committee also asks the Government to provide information on any measures taken or envisaged to promote objective job evaluation methods in the public and private sectors.**

The Committee is raising other points in a request addressed directly to the Government.

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1963)**

*Legislative framework.* The Committee recalls its previous comments noting the absence of legislative provisions clearly defining and prohibiting direct and indirect discrimination, covering all aspects of employment and occupation, including recruitment, and based on at least all the grounds enumerated in *Article 1(1)(a) of the Convention*, as well as the insufficient protection against sexual harassment in employment and occupation. The Committee welcomes the findings and recommendations of the legal review on pay equity conducted by the National Steering Committee for Pay Equity (NSCPE), with ILO support. The review proposes a range of amendments, including to section 4 of the Labour Law, to prohibit direct and indirect discrimination "on the basis of real or perceived gender, race, colour, religion, political opinion, national extraction or social origin, marital status, family responsibilities, disability, or HIV status, with respect to any aspect of employment, working conditions, rights or benefits, promotion at work, training or termination" (*Towards pay equity: A legal review of Jordanian national legislation*, 2013, page 4). The review also recommends the amendment of section 29A(6) of the Labour Law, which provides that workers subject to sexual harassment may only leave their employment without giving notice. The review recommends ensuring that workers have a right to a harassment-free environment, adding a specific definition of both quid pro quo and hostile environment sexual harassment, and a wider range of remedies, as well as covering sexual harassment by co-workers (*Towards pay equity: A legal review of Jordanian national legislation*, 2013, page 5). **The Committee asks the Government to provide information on the steps taken to implement the recommendations of the NSCPE legal review on pay equity as they relate to the Convention, in particular with respect to sections 4 and 29A(6) of the Labour Law, with a view to explicitly defining and prohibiting direct and indirect discrimination based on at least all the grounds enumerated in Article 1(1)(a) of the Convention, in**

***all areas of employment and occupation, and covering all workers, as well as providing clear protection and remedies with respect to quid pro quo and hostile environment sexual harassment.***

***Restrictions on women's employment.*** The Committee recalls that pursuant to section 69 of the Labour Code, the Minister shall specify industries and occupations in which it is prohibited to employ women, and times during which women shall not work. The Committee notes that Ordinance No. 6828 of 1 December 2010, which has been issued pursuant to section 69, excludes all women from working in a range of industries and occupations (section 2), and allows women to work at night, after approval, in only a very limited number of sectors and jobs (section 4). While noting that the Ordinance also prohibits the employment of pregnant and breastfeeding women in certain hazardous occupations (section 3), which is a special measure of protection under *Article 5* of the Convention, the Committee considers that the broad limitations on women's employment set out in sections 2 and 4 of the Ordinance constitute obstacles to the recruitment and employment of women and are contrary to the principle of equality of opportunity and treatment of men and women in employment and occupation. The Committee recalls that protective measures for women should be limited to the protection of maternity in the strict sense, and that provisions relating to the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific risks to their health (see General Survey on fundamental Conventions, 2012, paragraphs 838–840). ***The Committee asks the Government to take the opportunity of the ongoing legislative review process to amend section 69 of the Labour Code and the corresponding Ordinance, to ensure that any restrictions on women's employment are limited to maternity in the strict sense, and to provide information on any steps taken in this regard.***

The Committee is raising other points in a request addressed directly to the Government.

## **Kazakhstan**

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)***

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous observation, which read as follows:

***Article 1(b) of the Convention. Legislative framework. Work of equal value.*** The Committee recalls that the Labour Code of 2007 contains provisions that are narrower than the principle of the Convention. The Committee recalls that section 7(1) prohibits sex discrimination in the exercise of labour rights and section 22(15) provides that the employee shall have the right to "equal payment for equal labour without any discrimination". The Committee notes that the Government replies that there is no discrimination on any grounds, including sex, in the determination of the amount of a worker's wage, and it considers that the legislation is in compliance with the Convention. The Committee recalls that prohibiting sex discrimination in labour rights, including wages, is not sufficient to give effect to the Convention, as it does not capture the concept of "work of equal value" (General Survey on the fundamental Conventions, 2012, paragraph 676). The Committee notes further that "equal payments for equal labour without discrimination", is also insufficient, as it also does not capture the concept of work of equal value. The Committee recalls that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value, and the promotion of equality. Due to stereotypical attitudes regarding women's aspirations, preferences and capabilities, certain jobs are held predominantly or exclusively by women and others by men, and often "female" jobs are undervalued in comparison with work of equal value performed by men (General Survey, 2012, paragraph 673). ***The Committee urges the Government to take concrete steps to amend the Labour Code to give full legislative effect to the principle of equal remuneration for men and women for work of equal value, allowing for comparisons not only of similar jobs, but of jobs which are of an entirely different nature. Please provide information in this regard.***

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 near future.***

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)***

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous observation, which read as follows:

***Article 1 of the Convention. Prohibition of discrimination.*** The Committee recalls that section 7(2) of the Labour Code of 2007 covers all prohibited grounds listed in *Article 1(1)(a)* of the Convention, except the ground of colour. It also recalls that section 7(2) includes a number of additional grounds, as envisaged in *Article 1(1)(b)* of the Convention (such as age, physical disability, tribe and membership in a public association). ***The Committee asks the Government to provide information on the implementation of section 7(2) of the Labour Code, including information on any activities undertaken to make the legislation known and information on the number, nature and outcome of discrimination cases dealt with by the courts or the labour inspectorate. The Committee again recommends that the prohibited ground of colour is added to section 7(2) of the Labour Code.***

***Article 2. Exclusion of women from certain occupations.*** The Committee recalls that the list of jobs for which it is prohibited to engage women and the maximum weights for women to lift and move manually pursuant to section 186(1) and (2) of the Labour Code shall be determined by the state labour authority in agreement with the health authorities. The Committee recalls that protective measures applicable to women's employment which are based on stereotypes regarding women's professional abilities and role in society, violate the principle of equality of opportunity and treatment between men and women in employment and occupation. Provisions relating to the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific risks to their health (General Survey on the fundamental Conventions, 2012, paragraph 840). ***The***

**Committee asks the Government to provide a copy of the list referred to in section 186 of the Labour Code for examination by the Committee, and to indicate how it is ensured that any measures limiting women's employment are strictly limited to maternity protection.**

*Equality of men and women in employment and occupation.* The Committee recalls that the Law of 2009 on State Guarantees on Equal Rights and Equal Opportunities of Men and Women provides for gender equality in labour relations and in education and training, among others. It also recalls that the objectives of the Strategy for Gender Equality 2006–16 include: (i) achieving equal representation of men and women in the executive and legislative bodies and in decision-making positions; and (ii) developing women's entrepreneurship, and increasing women's competitiveness in the labour market. **The Committee again asks the Government to provide full information on the practical application of the Law of 2009 on State Guarantees on Equal Rights and Equal Opportunities of Men and Women, as well as on all the measures taken to implement the Strategy for Gender Equality 2006–16, and on the results achieved, including statistical information disaggregated by sex.**

The Committee also recalls that sections 194 and 195 of the Labour Code grant paid leave to adoptive parents and unpaid childcare leave to parents until the child reaches the age of 3, which are available for women and men on an equal footing. However, the Committee also recalls that section 187 of the Labour Code requires written consent of women with children under the age of 7 years and other persons bringing up children under the age of 7 years without a mother in cases of night work, overtime work, business trips or rotation work. Under sections 188 and 189, fathers have the right to child-feeding breaks and to part-time work only in respect of children without a mother. The Committee recalls that when legislation reflects the assumption that the main responsibility for family care lies with women or excludes men from certain rights and benefits, it reinforces and prolongs stereotypes regarding the roles of women and men in the family and in society. The Committee considers that, in order to achieve the objective of the Convention, measures to assist workers with family responsibilities should be available to men and women on an equal footing (General Survey, 2012, paragraph 786). **The Committee asks the Government to amend sections 187–189 of the Labour Code, so as to grant the entitlements on an equal footing for women and men. The Committee also asks the Government to provide information on the extent to which the entitlements under sections 194 and 195 of the Labour Code are being used by men and women.**

*Practical application.* The Committee notes that the Government has adopted the Employment Programme 2020, which seeks to foster employment opportunities and to provide subsidized trainings to self-employed, unemployed and poorer people, as well as to facilitate entrepreneurship in rural areas. It also notes the Government's indication that in order to tackle the financial crisis, it has adopted a package of measures to stimulate the economy, including the regional employment and managerial training strategy. As a result of financing US\$2.3 billion to this strategy in 2009 and 2010, 258,600 jobs in 2009 and 132,000 jobs in 2010 were created. In addition, 200,000 persons from targeted groups were placed in temporary, state-subsidized jobs and 150,000 persons received training for new jobs. The Government also indicates that the unemployment rate fell from 6.6 per cent in 2008 to 5.4 per cent in 2011. The Committee further notes that the United Nations Committee on the Elimination of Racial Discrimination (CERD), in its concluding observations of 2010, noted that, while ethnic groups represented about 36.4 per cent of the population in 2010, more than 84 per cent of public servants as a whole and more than 92 per cent in central government bodies were ethnic Kazakhs; the CERD recommended that the Government takes effective measures with a view to improving the representation of minority groups in state bodies and public services and preventing and combating all forms of discrimination in the selection and recruitment process in the central and local administration (CERD/C/KAZ/CO/4-5, 6 April 2010, paragraph 12). With regard to enforcement, the Committee notes the Government's indication that it has set up a monitoring and social protection committee in the Ministry of Labour and Social Protection and local monitoring and social protection departments in all regions. **The Committee asks the Government to provide the following:**

- (i) **detailed information on the specific measures taken to promote and ensure equality of opportunity and treatment for women and men in employment and occupation, including measures to promote women's access to occupations and employment in areas where they are currently under-represented, including within the civil service;**
- (ii) **the impact of the measures taken to tackle the financial crisis, including statistical information on the participation of men and women, disaggregated by sex, in the labour market (private and public sectors), branch of economic activity, occupational group and status of employment;**
- (iii) **information indicating how the principle of gender equality has been integrated into the programmes and measures to promote employment, including in the context of the Employment Programme 2020, including statistical information on the number of women who have benefited from employment promotion measures;**
- (iv) **statistical information on the position in the labour market of men and women belonging to ethnic or religious minorities, including information on their participation in employment in the civil service, as well as the measures taken to increase the representation of ethnic or religious minorities in the civil service;**
- (v) **information on the measures taken to plan and implement activities to raise awareness of the principle of equality, in cooperation with workers' and employers' organizations, as envisaged under Article 3(a) and (b) of the Convention; and**
- (vi) **information on the training provided for law enforcement officials concerning the principle of the Convention.**

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

## Kenya

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)**

*Specialized equality body.* The Committee notes with *interest* the creation of the National Gender and Equality Commission (NGEC) through the enactment of the National Gender and Equality Commission Act, 2011, pursuant to article 59(4) of the Constitution. The Government indicates that the NGEC, which has the overall mandate of promoting gender equality and freedom from discrimination in accordance with article 27 of the Constitution, was fully constituted in May 2012 and has started some activities of awareness raising of civic rights. It has also taken steps to promote affirmative action measures, through participation in public interest litigation before the Supreme Court, seeking direction on the implementation of the two-thirds gender principle within the Parliament. The NGEC, which is composed of five

independent members, has a comprehensive mandate and extensive functions in the field of equality and non-discrimination, such as: facilitating mainstreaming of issues of gender, persons with disabilities and other marginalized groups in national development; monitoring, facilitating and advising on affirmative action; investigating complaints and making recommendations for the improvement of the institutions concerned; conducting audits on the status of special interest groups (minorities, marginalized groups, persons with disabilities, women, youth and children); conducting and coordinating research activities; establishing databases; and preparing annual reports for the Parliament (section 8 of the 2011 Act). The NGECC also has general powers which include adjudicating on matters relating to equality and freedom from discrimination and entering any establishment, premises or land (by order of the court), as well as specific powers relating to investigations and dealing with complaints, and may, upon inquiry into a complaint, refer the matter to the Prosecutor or recommend to the complainant a course of other judicial redress or settlement (sections 26–41 of the Act). ***The Committee requests the Government to continue to provide information on the NGECC's advisory, promotional and investigative activities in the field of non-discrimination and equality in employment and occupation, indicating the number and nature of discrimination cases dealt with and the results thereof.***

## Republic of Korea

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)***

The Committee notes the observations from the Federation of Korean Trade Unions (FKTU) and the Korea Employers' Federation (KEF), annexed to the report, and the Government's reply thereto.

***Gender wage gap.*** The Committee notes the statistics provided by the Government, according to which in 2012, women earned 68.4 per cent of men's hourly wages (or a gender wage gap of 31.6 per cent). While overall women's wages improved slightly in manufacturing and wholesale and retail, the data indicate that the gender wage gap still remains largely over 30 per cent (2012 Survey on Employment-type Based Labour, Ministry of Employment and Labour). The Committee notes, however, that the FKTU provides data indicating that the gender wage gap hardly improved and even widened in some industries in which women are predominantly employed (Report on Women and Employment of the Ministry of Employment and Labour (2012)). The Committee also notes from the Government's report that when the hourly and gross monthly wages of regular and non-regular workers are compared, female regular workers earned 62.8 per cent of male regular workers while the wage gap was considerably higher for female non-regular workers who earned 48 per cent of male regular workers' hourly wages and 37.7 per cent of male regular workers' monthly wages (according to the FKTU, these figures were 40.3 per cent (hourly wages) and 35.4 per cent (monthly wages) of those of male regular workers). The Committee further notes that according to the Supplementary Results of the Economically Active Population Survey in August 2012, non-regular workers (contingent, part-time and atypical workers) represented 33.3 per cent of all wage earners of whom 53.4 per cent were women; female non-regular workers represented 41.5 per cent of all female wage earners; according to the FKTU, these figures are 47.8 per cent, 53.3 per cent and 59.4 per cent, respectively. The Committee further notes the statistics provided by the Government and the KEF on the wage gap between regular and non-regular workers and the KEF's comment in this regard that an assessment of the part of the wage gap that is due to discrimination requires an analysis that takes the characteristics of the industries and human factors into account. While noting the diverging opinions of the Government and the FKTU regarding the size of the gender wage gap, the Committee nonetheless considers that despite some positive trends, the overall hourly and monthly gender wage gap, especially when comparing regular and non-regular workers, remains significant. ***The Committee therefore asks the Government to continue to analyse and provide statistical information on the gender wage gap, including data calculated on the basis of hourly and monthly wages, and data disaggregated by industry and occupation, regular and non-regular employment, and in the public and private sectors.***

***Articles 1 and 2 of the Convention. Legislation and measures to address the gender pay gap.*** Regarding measures to ensure that wages in sectors and occupations in which women are predominantly employed are not set on the basis of gender-biased evaluation of the work performed, the Committee notes that the Government refers to the provisions of the "Equal Treatment Regulation" regulating wage discrimination and the yearly inspections in workplaces in which women are predominantly employed to ensure compliance with the principle of equal pay (1,132 workplaces in 2012). The Government also mentions measures to avoid career interruptions by women and assist women in combining work and family, which the Committee addresses in its direct request on this Convention. The Committee notes that the FKTU considers that difficulties remain in applying the concept of work of equal value in female-dominated industries and that the Government's efforts in eliminating the gender wage gap are insufficient because no objective job analysis has been undertaken in these industries.

The Committee previously noted that section 8(1) of the Act on Equal Employment and Support for Work-Family Reconciliation only provides for equal wages for work of equal value "in the same business" and that the Ministry of Labour Regulation No. 422 on Handling Equal Employment Matters (Equal Treatment Regulation) and the Supreme Court ruling of 2003 (2003DO2883) on the Regulation, limited the possibility of comparing work performed by men and women to "slightly different" work. The Committee notes the Government's statement that Regulation No. 422 was amended in June 2013 and that "the understanding of the concept of work of equal value has broadened from work of almost equal value or 'slightly different' work to 'work of a similar nature'". The Committee notes, however, that "work

of a similar nature” is more restrictive than the wording required by the Convention, and the Committee underlines that the concept of equal value is fundamental to tackling occupational sex segregation as it permits a broad scope of comparison, including, but going beyond, equal remuneration for “similar” work and also encompasses work that is of an entirely different nature, which is nevertheless of equal value. The Committee draws the Government’s attention in this regard to its General Survey, including the examples of different jobs which were found to be of equal value (see General Survey on fundamental Conventions, 2012, paragraphs 673–675). The Committee notes the occupational sex segregation of the Korean labour market and the high gender wage gap in female dominated industries, and points out that occupational sex segregation tends to correlate with the undervaluation of “female jobs” in comparison of those of men who are performing different work and using different skills, when determining wage rates. Where women are more heavily concentrated in certain sectors or occupations, there is a risk that the possibilities for comparison at the enterprise or establishment level will be insufficient (see General Survey on fundamental Conventions, 2012, paragraphs 697–698). *Therefore, and in light of the persistent and high gender wage gap, particularly in sectors in which women are predominantly employed, the Committee urges the Government to take immediate steps to examine, in cooperation with workers’ and employers’ organizations, which measures are most urgently needed to reduce the gender wage gap in these sectors in an effective manner, and provide information on any progress made in this regard. It asks the Government to take the necessary steps, in cooperation with employers’ and workers’ organizations, to assess in a comprehensive manner whether wages in female dominant occupations and sectors are set on the basis of an under-evaluation of the work performed, and provide the results of this assessment. The Committee, however, urges the Government to take the necessary steps to bring the Act on Equal Employment and Support for Work-Family Reconciliation and the Equal Treatment Regulation into full conformity with the Convention so as to ensure that men and women receive equal remuneration not only for work of a similar nature but also for work that is entirely different but nevertheless of equal value, and that the scope of comparison between men and women extends beyond the same establishment or enterprise.*

The Committee is raising other points in a request addressed directly to the Government.

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*** ***(ratification: 1998)***

The Committee notes the observations of the Federation of Korean Trade Unions (FKTU) and the observations of the Korea Employers’ Federation (KEF), attached to the Government’s report, and the Government’s reply thereto, as well as the communication from the Korean Confederation of Trade Unions (KCTU), dated 31 August 2013 and the Government’s reply thereto. It also notes the communication of the International Organisation of Employers (IOE), dated 27 August 2013.

### ***Follow-up to the conclusions of the Committee on the Application of Standards*** ***(International Labour Conference, 102nd Session, June 2013)***

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2013, and the conclusions adopted. The Conference Committee requested the Government to take steps, in collaboration with employers’ and workers’ organizations, to ensure that the Employment Permit System (EPS) provided appropriate flexibility for migrant workers to change employers and did not in practice give rise to situations in which they became vulnerable to discrimination. It also requested the Government to continue to strengthen initiatives to ensure that migrant workers received all the assistance and information they needed, and were made aware of their rights. The Conference Committee also asked the Government to examine the impact of the recent measures taken to address non-regular employment on the employment of women and to take measures to ensure that women could freely choose their employment and had access in practice to a wide range of jobs. It further called on the Government to ensure rapid, effective and accessible procedures to address discrimination and abuse in practice. The Conference Committee also urged the Government to take steps to ensure effective protection against discrimination based on political opinion, in particular for pre-school, primary- and secondary-school teachers.

*Articles 1 and 2 of the Convention. Migrant workers.* For a number of years, the Committee has been drawing attention to the need to provide appropriate flexibility to allow migrant workers to change workplaces and to ensure the effective protection of these workers against discrimination. In this context, it recalls, as noted by the Conference Committee, the changes made to the EPS, including section 25(1)(2) of the Act on foreign workers’ employment, etc., and the Notification (No. 2012-52) issued by the Ministry of Employment and Labour (MEOL) providing that “unfair treatment” – as one of the causes not attributable to the worker, for workplace change – covers “unreasonable discrimination by the employer based on nationality, religion, gender, physical disability and so on”. The Committee further notes the Government’s indication that “unreasonable discrimination” is determined according to social norms and it is difficult to set criteria in advance for its determination. With regard to how it is “objectively recognized” that a foreign worker suffers from discrimination, and who is the authority responsible, the Government explains that a foreign worker can file a complaint with the National Human Rights Commission (NHRC) and submit the outcome of the decision of the NHRC to the jobcentres which then decide in a prompt manner whether to allow the foreign worker to change workplace. When a foreign worker applies for a workplace change directly to the jobcentres, without filing a complaint to the NHRC, jobcentres carry out an investigation into whether the case constitutes discrimination before

determining the workplace change. The Committee notes that it is still not entirely clear how the jobcentres “objectively recognize” a victim of discrimination, which would allow the worker concerned to request an immediate change of workplace, pursuant to section 25(1)(2) of the Act on foreign workers’ employment etc. The Committee notes that the KCTU and the FK TU reiterate that further positive measures are required in order to provide appropriate flexibility to migrant workers to choose their employer, whereas the IOE considers that frequent mobility would undermine employers’ ability to manage their workforce. The IOE provides statistics showing that the number of workers applying for a workplace change has increased from 60,542 applications for 156,429 foreign workers in 2006 to 75,033 applications for 189,189 foreign workers in 2011. The Government considers that it is dealing with workplace changes in an integrated manner, considering protection of foreign workers’ human rights, employers’ benefit, possible negative impact on vulnerable groups due to frequent workplace changes of foreign workers and deterioration of working conditions. ***The Committee encourages the Government to continue its efforts to ensure that migrant workers are able, in practice, to change workplaces when subject to violations of the anti-discrimination legislation, and requests it, in cooperation with employer’s and workers’ organizations, to keep the applicable legislation governing migrant workers, the EPS and related measures, under regular review, and to continue to provide information in this respect. Please provide information on the number of migrant workers who applied to the jobcentres for a change of workplace on the basis of “unfair treatment by the employer”, the outcome of those cases, and the manner in which the jobcentres “objectively recognize” a victim of discrimination.***

With regard to enforcement of the anti-discrimination provisions in respect of migrant workers, the Committee notes that according to the information provided by the Government, only six cases were lodged by migrant workers with the NHRC, five of which were rejected. It notes, however, that between June 2012 and March 2013, 4,025 cases were brought to the MEOL by foreign workers (including workers under the EPS) with regard to delayed payment of wages, of which 2,244 cases were settled, 1,608 faced judicial action and 173 remained pending in court. The Government also indicates that in 2012, in the 4,402 workplaces inspected, 5,078 cases were found that concerned violations of the Act on foreign workers’ employment etc., which resulted in the issuing of 4,887 corrective orders (most of which were related to insurance for foreigners). The Government also provides information on additional measures taken to raise awareness among the foreign workers of the relevant legislation and available procedures for redress. ***The Committee requests the Government to continue to provide information on the measures taken to ensure that the legislation protecting migrant workers from discrimination is fully implemented and enforced, and that migrant workers have access in practice to speedy complaints procedures and effective dispute resolution mechanisms when subject to discrimination on the grounds set out in the Convention. Please continue to provide information on the inspection of workplaces employing migrant workers, including the number and nature of violations detected, and remedies provided, as well as the number, content and outcome of complaints brought by migrant workers before labour inspectors, the courts and the NHRC.***

***Discrimination based on sex and employment status.*** The Committee recalls the policy measures taken by the Government in 2011 with a view to eliminating discrimination against non-regular workers, many of whom are women. The Committee notes that the FK TU considers that following the implementation of the above measures, the quality of female employment in the public sector deteriorated. According to the FK TU the proportion of female non-regular workers in the public sector decreased (from 44.2 per cent in August 2011 to 42.3 per cent in August 2012), in particular the proportion of female workers on fixed-term contracts of less than two years (converted into open-ended contracts), whereas the proportion of female, dispatched and part-time workers increased. According to the KCTU, the number of “indirectly employed” workers has doubled and wage discrimination of workers already converted is not being addressed. The IOE indicates that a growing number of enterprises are changing or planning to change their non-regular workers into regular workers and that labour inspections have been undertaken on a regular basis since August 2012; also, the MEOL can order directly the rectification of any discrimination. The Committee notes the Government’s indication that, in 2012, a total of 22,069 non-regular workers were converted into workers with open-ended contracts, 479 cases of illegally dispatched workers were found and 2,958 workers were ordered to be hired directly by their employers; another 66,711 non-regular workers will be converted to regular workers between 2013 and 2015, and measures are being taken to improve the working conditions and wages for workers with open-ended contracts. The Government disagrees that the employment status of female workers in the public sector has changed as a result of the implementation of the measures adopted in 2011 and indicates that conversion of non-regular workers to open-ended contracts is taking place mainly in occupations (nutritionists, cooks and librarians) where many female workers are employed. ***The Committee asks the Government to continue to assess the impact of the measures taken to address discrimination against non-regular workers on the employment of fixed-term, part-time and dispatched workers, and provide information on the results achieved, including statistics disaggregated by sex and employment status. Noting the Government’s intention to improve further the effectiveness of the anti-discrimination measures through the revision of the Act on protection, etc. of fixed-term and part-time employees and the Act on the protection, etc. of dispatched workers, the Committee asks the Government to provide information on any developments in this regard.***

***Equality of opportunity and treatment between men and women.*** The Committee recalls the low labour force participation of women (54 per cent in recent years) and the measures taken by the Government to address gender discrimination and promote women’s employment. The Committee notes the Government’s intention to implement a roadmap to achieve an employment rate of 70 per cent, including measures to assist workers, in particular women having

taken career breaks, and to reconcile work and family life, including through the system of reduced working hours and parental leave. In this regard, the Committee refers the Government to its direct request on this Convention and its 2011 observation on the Workers with Family Responsibilities Convention, 1981 (No. 156). Regarding affirmative action schemes, the Committee notes that as of May 2013 the measure was extended to businesses with less than 50 employees, but that there was only a minor increase in the ratio of women workers and women managers employed in workplaces in the private and public sectors subject to the scheme in 2012. The Committee notes that the IOE points to the positive results of the affirmative action schemes in the private sector, whereas the FKTU considers that the affirmative action measures do not provide enough incentives to increase female employment in large businesses. The FKTU also finds it difficult to assess whether any improvement has been made in the quality of women's employment in terms of employment type (daily, temporary or regular work), and indicates that more efforts are needed to increase the number of female workers and managers in public institutions. In this regard, the Government indicates that "a name and shame" system will be introduced to ensure compliance with affirmative action measures and that the relevant amendment Bill to the Act on equal employment and support for work-family reconciliation is pending in the National Assembly. Regarding the honorary equal employment inspectors (a person recommended by both labour and management among the workers concerned in the workplace), the Committee notes that their number increased to 4,958 inspectors in 4,955 workplaces in 2012, and that 19 consultative bodies were set up and are currently functioning to enhance their expertise. In reply to concerns expressed by the FKTU regarding the effectiveness of the system of honorary equal employment inspectors, the Government indicates that the MEOL will monitor progress in implementing the system, promote the system and consult with relevant government agencies to secure a budget for further strengthening the inspectors' expertise to address employment discrimination and promote gender equality. ***The Committee asks the Government to continue to take steps, in consultation with workers' and employers' organizations, to promote in an effective manner the access of women to employment in a wider range of jobs both in the public and the private sectors, and to take measures to address the underlying causes of gender discrimination, including gender stereotypes regarding job preferences of men and women, and provide detailed information in this regard. Please continue to provide information on results achieved through the implementation of affirmative action schemes in the private and the public sectors and any specific measures taken to improve their implementation in the public sector, and on any progress made in the adoption of the amendment Bill to the Act on Equal Employment and Support for Work-Family Reconciliation. Please also indicate the results achieved through the measures to improve the effectiveness of the system of honorary equal employment inspectors, and its impact on addressing gender discrimination in employment.***

***Discrimination on the basis of political opinion.*** The Committee recalls its previous observation noting the concerns of Education International (EI) and the Korean Teachers and Education Workers' Union (KTU) regarding alleged discrimination based on political opinion against pre-school, primary- and secondary-school teachers. The Committee notes that the Government reiterates the differences in duties between elementary, middle and high-school teachers and the duties of university teachers. The Government also recalls articles 7, 31, and 31(6) of the Constitution regarding the right to education, political neutrality of government officials and political neutrality of education, and refers to rulings of the Constitutional Court in this respect. The Government also indicates that the Government Officials Act and the Act on the establishment, operation, etc. of trade unions for teachers limit political activities of government officials and teachers' trade unions. In addition, according to the Government, the Supreme Court ruled that "a declaration by teachers of the state of the affairs constitutes "collective action for matters other than their duty" (Supreme Court Decision 2010Do6388)". The Committee notes that the IOE recalls the ruling of the Supreme Court of 19 April 2012 and concurs with the Government's views regarding political neutrality of teachers of public schools, while the KCTU reiterates the observations submitted by the KTU in 2012, including the request that the ILO send a fact-finding mission to Korea to investigate discrimination on the basis of political opinion. The Committee notes the explanations by the Government but must conclude that the information provided does not demonstrate that any concrete and objective criteria are being used to determine the very limited cases where political opinion could be considered an inherent requirement of a particular job, including that of pre-school, primary- and secondary-school teachers, in the context of the Convention. ***The Committee therefore urges the Government to take immediate measures to ensure that elementary, primary- and secondary-school teachers enjoy protection against discrimination based on political opinion, as provided for in the Convention, and to establish concrete and objective criteria to determine the cases where political opinion could be considered an inherent requirement of the particular job, in accordance with Article 1(2) of the Convention. The Committee asks the Government to provide full information on the measures taken in this respect, as requested by the Conference Committee, including any steps taken to avail itself of ILO technical assistance.***

The Committee is raising other points in a request addressed directly to the Government.

## Latvia

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1992)***

***Legislative developments.*** The Committee welcomes the adoption on 29 November 2012 of the Law on Prohibition of Discrimination of Natural Persons Engaged in Economic Activity which prohibits discrimination on the basis of

gender, religious, political or other convictions, sexual orientation, disability, race or ethnic origin with respect to access to self-employment. ***The Committee requests the Government to examine the possibility of including colour and social origin in the list of prohibited grounds of discrimination in the Law on Prohibition of Discrimination of Natural Persons Engaged in Economic Activity and to provide information on the application of the law in practice, including any violations detected by or brought to attention of labour inspectors or other competent authorities.***

***Discrimination on the basis of national extraction.*** The Committee welcomes the amendment of the Labour Law on 21 June 2012, to include a new provision according to which “it is prohibited to indicate a skill of specific foreign language in a job advertisement, except when it is justifiably necessary for the performance of work duties” (section 32(2<sup>1</sup>)) and therefore improves equal opportunities for minority language groups. The Committee recalls that for a number of years, it has expressed concern, over certain provisions of the Law on State Language of 1999, which might have a discriminatory effect on the employment or work of minority groups. The Committee notes the detailed information provided by the Government on the numerous Latvian language courses offered to children and adults of minority groups by the Latvian Language Agency (LLA). The Committee notes the Government’s indication that the number of violations for not mastering the official language to the extent necessary to perform professional duties or duties of office remained relatively stable from 2005 to 2012 (between 529 and 544). The Committee however notes that the European Commission against Racism and Intolerance (ECRI) indicates that the list of occupations in the private sector which “affect the lawful interests of the public” – which means occupations in which the official language shall be used in accordance with section 6(2) of the Law on State Language – has been repeatedly expanded and now includes over 1,000 professions. According to the ECRI “the progressive tightening of the regulations on language use and raising of the sanctions for violations of the Law on State Language is creating an inquisitorial climate which is very likely to deteriorate inter-ethnic relations (notably with the Russian speaking population), as well as affect migrants’ ability to integrate in Latvian society” (CRI(2012)3, 9 December 2011, paragraph 62). The Committee considers that discrimination based on national extraction can occur when legislation imposing a State language for employment in public and private sector activities is interpreted and implemented too broadly, and as such disproportionately and adversely affects the employment and occupational opportunities of minority language groups (General Survey on the fundamental Conventions, 2012, paragraph 764). ***Furthermore, it recalls that any limitation regarding access to employment must be required by the characteristics of the particular job, and be in proportion to its inherent requirements. The Committee asks the Government to take measures to ensure that workers from minority groups are effectively protected against discrimination in employment and occupation, including measures to ensure that the level of language proficiency required does not disproportionately affect them as regards access to employment and occupation, both in the private and public sectors. The Committee also asks the Government to assess the impact of such limitations on the employment of members of minority groups, and to review and revise the list of occupations for which the use of the official language is required under section 6(2) of the Law on State Language to ensure that the language prerequisite is based on the inherent requirements of the particular job. The Government is asked to provide information on the measures taken in this respect.***

***Discrimination on the basis of political opinion.*** The Committee recalls its previous comments regarding the provisions of the State Civil Service Act, 2000, which sets out as mandatory requirements in order to qualify as a candidate for any civil service position that the person concerned “is not or has not been in a permanent staff position in the state security service, intelligence or counter-intelligence service of the USSR, the Latvian Soviet Socialist Republic (SSR) or some foreign State” (section 7(8)), or “who are not or have not been the members of organizations banned by laws or court rulings” (section 7(9)). The Committee notes the Government’s indication that there is no list of the organizations referred to in section 7(9) of the Act. It also notes the Government’s explanation that these provisions which take into account the historical situation in Latvia, intend to ensure a loyal and politically neutral state administration. The Committee remains concerned that such broad exclusions from being a candidate for any civil service position as provided by section 7(8) and (9) are not sufficiently well defined and delimited, and could result in discrimination in employment and occupation on the basis of political opinion. It further recalls that political opinion may be taken into account as an inherent requirement only for certain posts involving special responsibilities directly concerned with developing government policy. ***The Committee urges the Government to revise section 7 of the State Civil Service Act to ensure that any requirements to apply for a position in the public service are based on the inherent requirements of the particular job, as strictly defined. The Committee also asks the Government to provide information on the application of sections 7(8) and (9) of the State Civil Service Act in practice, including any available data on the number of candidates to a civil servant position whose application has been rejected on the basis of these provisions and the functions concerned.***

The Committee is raising other points in a request addressed directly to the Government.

***[The Government is asked to reply in detail to the present comments in 2014.]***

## Lebanon

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1977)**

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

*Legislation.* For a number of years the Committee has been asking the Government to give full legal expression to the principle of equal remuneration for men and women for work of equal value. The Committee notes the Government's indication that section 56 of the draft Labour Code now provides that "the principle of equal remuneration for men and women shall apply without discrimination for work of equal value i.e. equal, the same or similar work. Discrimination shall be prohibited not be allowed if the work is different, even if it is of equal value". The Committee recalls that the concept of "work of equal value" implies a broad scope of comparison including but going beyond equal remuneration for "equal", "the same", or "similar work", and encompasses work that is of an entirely different nature, which is nevertheless of equal value. The Committee considers that in referring to "equal, the same and similar work", the wording of the draft provision continues to lack clarity as to whether it would allow a comparison to be made between work performed by men and women containing entirely different types of tasks, skills, responsibilities or working conditions. *The Committee asks the Government to address the ambiguity in section 56 of the draft Labour Code with a view to ensuring that it permits a broad scope of comparison also encompassing work performed by men and women that is of an entirely different nature, and giving full legislative expression to the principle 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.

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

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1977)**

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 observations of the Association of Industrialists, annexed to the Government's report.

*Legislative prohibition of discrimination in employment and occupation.* For a number of years, the Committee has been encouraging the Government to take the opportunity in the context of revision of the Labour Code to introduce a comprehensive prohibition of direct and indirect discrimination in employment and occupation based on all the grounds set out in *Article 1(1)(a) of the Convention*. The Committee notes the Government's statement that section 1 (definition of wage earner) of the draft Labour Law specifies "... without any discrimination whatsoever as to race, colour, sex, religion, national extraction, political opinion and social origin, which is likely to invalidate or weaken the application of the principle of equal opportunity or treatment in employment and occupation". Draft section 35 (protection of women against discrimination) specifies that "... all legal provisions which regulate work without discrimination, or distinction in the same work shall apply to working women, with respect to wages, conditions of recruitment, promotion, and vocational training for the reasons mentioned in section 1 of this law ...". The Committee must once again point out that the mere inclusion of a non-discrimination clause in the definition of "wage earner" does not offer effective protection against discrimination and falls short of prohibiting discrimination in employment and occupation as defined in the Convention. *The Committee asks the Government to take the opportunity to insert a separate provision prohibiting direct and indirect discrimination based on at least all the grounds set out in Article 1(1)(a) of the Convention with respect to all aspects of employment and occupation. The Committee asks the Government to provide detailed information on any progress made in the adoption of the draft Labour Law.*

*Domestic workers.* For a number of years, the Committee has been following the measures taken by the Government to address the lack of legal protection of domestic workers, many of whom are female migrants, due to concerns regarding potential discrimination against these workers on the basis of sex as well as other grounds such as race, colour or ethnic origin, contrary to the Convention. The Committee recalls that "domestic servants employed in private houses" are excluded from the scope of application of the Labour Code of 1946 (section 7(1)) and that contractual relations between domestic workers and private individuals employing them to perform domestic work in their residence are governed by the Law on obligations and contracts. The Committee had previously welcomed some measures taken by the Government to improve the employment situation of female migrant domestic workers, including the establishment of a National Steering Committee (2006), Decision No. 70/1 of 9 July 2003 and Decision No. 13/1 of 22 January 2009 relating to employment agencies for foreign domestic workers, and the publication of a standard contract of employment for foreign domestic workers in 2009.

The Committee notes that section 5(1) of the draft Labour Law continues to exclude "Servants and whoever is of a similar standing performing housework and living in the homes of their employers", from its scope of application – which would in practice largely concern foreign domestic workers due to their contractual obligation to reside in the employer's home. The Committee also notes that a comprehensive draft Law on the regulation of domestic workers is being discussed and considers this an opportunity to improve protection of domestic workers, nationals and non-nationals, against discrimination and to regulate their working conditions in their own right. The Committee notes in this regard the Government's decision to wait for the outcome of the deliberations on the draft ILO instruments on domestic workers in June 2011 before continuing the examination of the draft law, with a view to bringing its national legislation into conformity with international standards. *Noting the adoption of the Domestic Workers Convention, 2011 (No. 189), the Committee asks the Government to review the draft Law on the regulation of domestic workers, which it hopes will include a specific provision expressly prohibiting direct and indirect discrimination of domestic workers in all aspects of their work. Please provide information on any progress made in the adoption of the draft Law.*

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.*

## Lithuania

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1994)**

*Gender pay gap.* The Committee notes from Eurostat that the gender pay gap (average gross hourly earnings) continued to decrease, reaching 11.9 per cent in 2011, compared to 14.6 per cent in 2010 and 15.3 per cent in 2009. Nonetheless, in 2011, male workers' wages were higher than those of their female counterparts in most sectors, except for transportation and storage. The pay gap between men and women was particularly wide in financial and insurance activities (40.8 per cent), manufacturing (26.9 per cent) and information and communication (25.7 per cent). Pay differentials between men and women were higher in the private sector (16 per cent) than in the public sector (12.1 per cent). In this connection, the Committee recalls that one of the main objectives of the third National Programme on Equal Opportunities for Women and Men (2010–14) is the reduction of the gender remuneration gap, with a particular focus on analysing and addressing the causes of pay discrimination, such as horizontal and vertical occupational segregation on the labour market and vocational training counselling based on gender stereotypes, through a greater involvement of the social partners in gender equality issues in employment and occupation. ***Noting that the Government's report contains no information in this regard, the Committee reiterates its request for information on the measures taken to further reduce the gender pay gap and address its underlying causes, including in the context of the National Programme on Equal Opportunities for Women and Men (2010–14), and the results achieved. The Committee also asks the Government to continue to provide statistics on the distribution of men and women in the different sectors of the economy and occupational levels and their respective levels of earnings.***

*Articles 3 and 4 of the Convention. Objective job evaluation. Cooperation with workers' and employers' organizations.* The Committee had previously noted that workshops were organized between 2006 and 2009, to introduce the methodology for the appraisal of jobs and job positions to representatives of trade unions and financial and human resources managers of private enterprises. The Committee had also noted that there were plans for carrying out a survey on the implementation of this methodology, which was developed in the context of the National Programme on Equal Opportunities for Women and Men (2003–04). The Committee had noted further that the aims of the Programme for Strengthening Social Dialogue (2007–11) included promoting the conclusion of branch and enterprises collective agreements, which would include provisions on remuneration. In this regard, the Committee notes the Government's indication that neither a branch collective agreement signed between the Lithuanian Journalists Union and the National Regional and Local Newspaper Publishers Association in 2007, nor a territorial collective agreement signed between the Association of Western Lithuanian Trade Unions of Constructors and Designers and the Western Lithuanian Construction and Design Group in 2012 contain clauses on the use of the methodology for the appraisal of jobs and job positions. The Government also indicates that 81 collective agreements were signed in the context of the implementation of the Programme for Strengthening Social Dialogue between 2007 and 2011, but no information is available as to whether clauses promoting the use of the methodology for the appraisal of jobs have been included in any of the agreements. ***Noting the above, the Committee asks the Government to provide information on any other measures adopted to promote the use of objective job evaluation methods that are free from gender bias, and the results achieved. The Committee also asks the Government to provide information on the steps taken, in cooperation with the social partners, to promote the principle of the Convention in branch, territorial and enterprise negotiations, and to ensure that work in sectors and occupations in which women are predominantly employed, is not being undervalued. Please continue to provide information on any collective agreements containing provisions reflecting the principle of the Convention.***

The Committee is raising other points in a request addressed directly to the Government.

## Luxembourg

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)**

*Article 1(1)(a) of the Convention. Prohibited grounds of discrimination. Legislation.* The Committee recalls that, following the adoption of the Act of 28 November 2006, any direct or indirect discrimination on the basis of religion or belief, disability, age, sexual orientation or real or presumed membership or non-membership of a race or ethnic group is prohibited under the Labour Code, the Act of 16 April 1979, issuing the general conditions of service of public servants and the Act of 24 December 1985, issuing the general conditions of service of local government officials. For several years, the Committee has been drawing the Government's attention to the fact that no provision prohibits discrimination on the basis of colour, political opinion, national extraction or social origin and recalls that national legislation which defines and prohibits discrimination in employment and occupation should cover at least all the grounds enumerated in *Article 1(1)(a)* of the Convention. ***In the absence of a reply from the Government on this point, the Committee requests it to take the necessary measures to ensure that colour, political opinion, national extraction and social origin are included in the list of prohibited grounds of discrimination in the Labour Code (section L.241-1), the Act of 16 April 1979, issuing the general conditions of service of public servants (section 1bis), and the Act of 24 December 1985, issuing the general conditions of service of local government officials (section 1bis), and to provide information in this regard.***

The Committee is raising other points in a request addressed directly to the Government.

## Madagascar

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1962)**

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* For several years, the Committee has been emphasizing that the provisions on equal remuneration of section 53 of Act No. 2003-044 of 28 July 2004 issuing the Labour Code are more restrictive than those of the Convention, as they limit the application of the principle of equal remuneration for work of equal value to persons in the same job and with the same vocational qualifications. The Committee notes the Government's indication that equal remuneration for work of equal value is guaranteed by the current legislation. The Committee nevertheless draws the Government's attention to the fact that the notion of "work of equal value" allows for a comparison between different jobs requiring different vocational qualifications, but which in overall terms, are of equal value determined on the basis of a set of objective criteria. The Committee draws the Government's attention in this regard to its General Survey, including the examples of different jobs which were found to be of equal value (see General Survey on fundamental Conventions, 2012, paragraphs 673–675). **The Committee requests the Government to take the necessary measures to bring section 53 of the Labour Code into full conformity with the Convention in order to ensure that the principle of equal remuneration for work of equal value is applied to workers with different jobs and different vocational qualifications, and to provide information on any progress made to this end.**

The Committee is raising other points in a request addressed directly to the Government.

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)**

The Committee notes the observations of 22 August 2013 made by the General Confederation of Workers' Unions of Madagascar (FISEMA) and the observations of 30 August 2013 made by the Christian Confederation of Malagasy Trade Unions (SEKRIMA). **The Committee invites the Government to provide its comments on the points raised by FISEMA and SEKRIMA.**

*Article 1 of the Convention. Provisions prohibiting discrimination.* For several years, the Committee has been emphasizing that neither the Labour Code nor the Civil Service Regulations prohibit discrimination on all the grounds covered by the Convention (namely, colour and social origin for the Labour Code and race, colour and social origin for the Civil Service Regulations) and it has been asking the Government to take the necessary measures to bring the legislation into conformity with the Convention. The Committee notes the Government's statement that the term "colour" is not appropriate for the reality of Malagasy society and that, as regards discrimination on the basis of social origin, the issue does not arise since access to employment and vocational training is based on the criteria of competence and capacity. The Committee considers that, to be in a position to achieve the objectives of the Convention, it is essential to recognize that no society is free from discrimination and that constant effort is needed to take action against it. Discrimination in employment and occupation is a universal phenomenon and continues to grow. The Committee recalls that the current absence of any complaint of discrimination on the basis of colour or social origin does not necessarily mean that such practices do not exist in the country but may be due to the absence of an appropriate legislative or regulatory framework. It may also be the result of the fact that government officials, workers, employers or their organizations are not aware of this issue, that the complaints mechanism is not accessible or is unsuitable, or even that it does not provide effective protection against reprisals. **The Committee requests the Government to take the necessary measures to add the grounds of colour and social origin to the list of prohibited grounds of discrimination in the Labour Code and to add race, colour and social origin to those prohibited by the Civil Service Regulations, in accordance with Article 1(1)(a) of the Convention. In addition, with a view to supplementing and increasing the effectiveness of the legislative measures protecting workers against discrimination, the Committee requests the Government to consider the possibility of including provisions defining and explicitly prohibiting all discrimination, including indirect discrimination, in the Labour Code and the Civil Service Regulations. It requests the Government to provide information on the progress made in this respect.**

*Discriminatory job vacancy announcements.* The Committee notes that according to FISEMA vacancy announcements for jobs as guards, domestic employees or workers in export processing zones advertised on the radio or through notices in the street, impose affiliation to a certain religion as a condition for recruitment or specify that the job is solely for men or women. **The Committee requests the Government to provide information on the existence of such practices and on the remedial action taken in reported cases.**

*Export processing zones (EPZs).* The Committee recalls that in 2008 the Confederation of Malagasy Workers (CTM) drew attention to section 5 of Act No. 2007-037 on EPZs, according to which the provisions of the Labour Code prohibiting night work by women are not applicable in EPZs. In its previous comments the Committee, recalling that special protective measures for women should be limited to maternity protection and should be proportional to the nature and scope of the protection required, asked the Government to examine what other measures would be necessary so as to ensure that men and women have access to employment on an equal footing in EPZs. Also referring to its direct request of 2011 on the application of the Night Work Convention, 1990 (No. 171), the Committee notes the Government's indication that it is for the employer to make transport facilities available to staff working at night. The Committee also notes that

SEKRIMA underlines the precarious nature of the conditions of work of workers in EPZs, particularly the lack of an employment contract, holiday entitlement, social protection or a collective agreement, and failure to pay the minimum wage. *The Committee requests the Government to provide information on the measures taken to prevent exploitation and abuse in EPZs and ensure protection against discrimination of workers in EPZs. It also requests the Government to supply information on inspections conducted by labour inspectors with regard to workers' conditions of employment in EPZs, including night work, and on the results of these inspections.*

*Domestic workers.* The Committee notes that SEKRIMA highlights the precarious nature of the conditions of employment of domestic workers and indicates that some domestic workers are employed without an employment contract. *Recalling that domestic workers are at particular risk of discrimination, including sexual harassment, the Committee requests the Government to provide information on the measures taken to ensure the protection of domestic workers against abuse and exploitation. The Government is also requested to provide information on how the enforcement of the provisions of the Labour Code, particularly those relating to non-discrimination and to conditions of employment, is ensured with regard to domestic workers and on the results of inspections carried out, including extracts from relevant inspection reports.*

The Committee is raising other points in a request addressed directly to the Government.

## Malawi

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1965)**

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

*Application of the principle in the public service.* The Committee has been raising concerns for a number of years regarding the male and female denominations in the civil service job grading and salary structure. The Committee recalls that such terminology reinforces stereotypes as to whether certain jobs should be performed by men or women, and may therefore result in the undervaluing of those jobs with a typically female denomination. The Committee notes with regret that the Government's report once again does not address this issue. The Government merely states that remuneration is determined in accordance with grades irrespective of gender, without referring to how the grades themselves are determined. The Government also indicates generally that it would ensure that equal remuneration is recognized not only for women and men performing the same job, but also for men and women performing jobs of different nature but which are, nonetheless, of equal value. *The Committee urges the Government to take concrete steps to ensure that gender-neutral terminology is used in the civil service grading system and salary structure, and to provide information in this regard. The Committee asks the Government to indicate how it is ensured that the grading structure in the public service is free from gender bias, and to provide specific information on the measures taken or envisaged to ensure that men and women receive equal remuneration for work for equal value when performing jobs of a different nature which are nonetheless of equal value.*

In its previous comments, the Committee noted the low percentage of women holding managerial posts in the public service, and asked the Government to provide information on the measures taken or envisaged to retain women in the public service with a view to encouraging their advancement towards decision-making positions. The Committee notes the Government's indication that a baseline survey on women in the public sector, the formal sector and the informal sector is being undertaken, which is intended to result in the elaboration of a Charter on Gender, which would enable women to "understudy" women in decision-making positions to prepare them for higher level positions. *The Committee asks the Government to provide information on the elaboration of the Charter on Gender, in particular with respect to the measures envisaged to promote greater access of women to higher level positions, and on any other action taken in this regard.*

*Application of the principle in rural areas and the informal economy.* In response to its previous comments regarding the wage disparities between men and women in rural areas, the Committee notes the Government's indication that sensitization and awareness-raising activities on equal pay are being intensified, and that training targeting the agricultural sector has been organized for labour inspectors and agricultural extension officers. *The Committee asks the Government to provide detailed information on the contents and results of the awareness-raising activities on the principle of equal remuneration for men and women for work of equal value in the agricultural sector. The Committee also asks the Government to provide information on the training for labour inspectors and agricultural extension officers, as well as details of any case of violation detected by the inspectors and officers relevant to the principle of the Convention. Please also provide information, as previously requested by the Committee, on the measures adopted to facilitate the reconciliation of work and family responsibilities and the equal sharing of family responsibilities, including between men and women rural workers. Noting the Government's indication that the Charter on Gender will enable women to move from the informal to the formal economy, the Committee asks the Government to provide information on the specific measures taken in this regard.*

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 near future.*

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1965)**

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

*National equality policy.* The Committee notes the Government's general statement that there is no discrimination as regards vocational training, or employment and occupation, based on a person's race, colour, sex, religion, political opinion, national extraction or social origin, and that all recruitment is solely merit-based. The Committee recalls that, for the purposes of achieving the objectives of the Convention, it is important to acknowledge that no society is free from discrimination and that continuous action is required to address it. The Committee also recalls the obligation under the Convention to declare and pursue

a national equality policy with a view to eliminating any discrimination in employment and occupation on all the grounds enumerated in the Convention. **Recalling that in assessing whether a country has declared and is pursuing a national policy on equality of opportunity and treatment in accordance with the Convention, the Committee is guided by the criteria of effectiveness, and under Article 3(f) there is an obligation to provide information regularly on measures taken to promote equality and also to indicate the results secured by such action, the Committee requests the Government to provide detailed information in this regard in its future reports.**

*Access to education and vocational training.* The Committee notes the Government's indication that there is no discrimination in vocational training, and that the Technical, Entrepreneurial and Vocational Education and Training Act, 1999, is designed to promote equality of opportunity and treatment in respect of occupational and vocational training. The Government also refers to the development of a National Gender Policy in this context, as well as to the training of labour officers dealing with placement, and states generally that these measures have yielded positive results. The Committee recalls that vocational training and education have an important role in determining the actual possibilities of gaining access to employment and occupation, including access to less traditionally or typically "female" professions. **The Committee, therefore, asks the Government to provide detailed information on the measures taken to address unequal access of women to training and education at all levels, including through the National Gender Policy and the training of placement officers, and the results achieved through such measures, including whether they have led to women gaining access to traditionally "male" jobs, and higher level positions.**

*Access to soft loans and credit facilities for rural women.* The Committee understands that from 2004–09, under the women's economic empowerment programme, an average of 500 business groups have been formed and trained per year, and 600 rural business groups with more than 20 members obtained grants worth 80 million Malawian Kwacha (MWK) from UNDP Malawi while others received MWK60 million from the African Development Bank as loans. **The Committee asks the Government to provide information on the number of men and women in rural areas that have benefited from soft loans and credit facilities. Please also provide further information on the measures taken or envisaged to facilitate access to soft loans and credit facilities for rural women, such as dissemination of information regarding soft loans and credit facilities, or any training provided on business management and various production skills.**

*Statistics.* The Committee notes that the Government is still not in a position to provide statistical information on the participation of women in training and education. The Committee also notes that the United Nations Committee on the Elimination of Discrimination against Women, in its concluding observations, expressed concern at the lack, or limited availability of data disaggregated by sex (CEDAW/C/MWI/CO/6, 5 February 2010, paragraphs 44 and 45). **Recalling the importance of appropriate data and statistics in determining the nature, extent and causes of discrimination, and to monitor the impact of measures taken, the Committee asks the Government to take steps to collect and analyse statistical information, disaggregated by sex, regarding participation in education, vocational training, and at the various levels in the different sectors and occupations in both the public and private sectors, including in the informal economy if possible.**

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 near future.**

## Malaysia

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)**

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

*Articles 1 and 2 of the Convention. Application in law and practice.* The Committee notes the Government's indication that the review of the country's labour law and policies is regularly considered by the Ministry of Human Resources in particular in order to provide "equitable protection for workers regardless of gender". The Committee also recalls its previous comments noting that in 2006 the Cabinet Committee established three inter-agency committees to review, among other things, the Federal Constitution and the rules and regulations related to employment with the objective of ensuring that they do not contain gender discriminatory provisions. In this regard, the Committee once again notes that the Constitution, the Employment Act and the Wages Council Act do not reflect fully the principle of equal remuneration for men and women for work of equal value; and emphasizes that provisions that are narrower than the principle as laid down in the Convention hinder progress in eradicating gender-based pay discrimination against women at work.

The Committee also notes the Government's indication that section 18 of the Industrial Relations Act, 1967 (Act 177), which provides for conciliation in cases of trade disputes would allow a trade union to lodge a complaint relating to the principle of equal remuneration for men and women for work of equal value. However, the Government indicates that no complaints have been reported to the Director General for Industrial Relations. The Committee considers that it is unclear how this provision could provide for a right to equal remuneration for men and women for work of equal value.

The Committee notes once again the Government's indication that in practice there is no discrimination in remuneration between men and women performing jobs of the "same nature and category". The Government also indicates that no complaints related to equal remuneration have been dealt with by the Department of Labour of the Ministry of Human Resources for a total of 11,044 cases; but that the principle of equal remuneration is promoted through statutory inspections by the Department of Labour and the Department of Industrial Relations. The Committee considers from the indication given in the Government's report that there may still be some misunderstanding regarding the meaning of the provisions of the Convention, their scope and application in practice. In this regard, the Committee again refers the Government to its 2006 general observation and recalls that the protection under the Convention goes beyond equal remuneration for equal, the same or similar work and includes the comparison of remuneration received by men and women in jobs that are of an entirely different nature, but are nevertheless of equal value.

Finally, the Committee notes from the Government's report that the Department of Labour of the Ministry of Human Resources initiates knowledge enrichment programmes, seminars, workshops on labour and industrial laws and practices at both regional and district levels. Gender sensitization and equal remuneration regardless of gender are among the issues addressed through these initiatives. **The Committee asks the Government as follows:**

- (i) to review the legislation, in consultation with the social partners, with a view to incorporating expressly the principle of equal remuneration for men and women for work of equal value, and to indicate whether any steps have been taken or envisaged by the inter-agency committees with a view to giving legislative expression to the principle of the Convention;
- (ii) to take steps to increase the ability of judges, labour inspectors and other relevant public officials, such as members of the inter-agency committees established by the Cabinet Committee on Gender Equality, to better identify and address issues related to equal remuneration for men and women for work of equal value;
- (iii) to take appropriate measures to raise awareness among workers, employers and their organizations, as well as public understanding of the principle of the Convention, and to provide specific information as to how the principle of equal remuneration for men and women for work of equal value is promoted through the initiatives undertaken by the Department of Labour of the Ministry of Human Resources; and
- (iv) to provide information on any steps taken and results achieved regarding these points.

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 near future.*

## Malta

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1968)**

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

*Legislative developments. Indirect discrimination.* The Committee notes with interest the 2009 amendments to the Equality for Men and Women Act, pursuant to which a new section, 4A, has been added, providing that "indirect discrimination may be proved by any means of evidence including statistical evidence". The Committee considers that such provisions facilitate proof of indirect discrimination and access to appropriate remedies. *The Committee asks the Government to provide information on the practical application of the new section 4A of the Equality for Men and Women Act, including any cases brought alleging indirect discrimination and the results thereof.*

*Grounds of discrimination. Social origin.* For a number of years, the Committee had been pointing out the lack of legislation to address discrimination on the ground of social origin. The Committee notes that the Government has still not provided any information on the measures taken or envisaged in law or in practice to address discrimination on the ground of social origin. *The Committee therefore once again asks the Government to provide information on any progress made in this respect, and to take the necessary measures to ensure protection against discrimination on at least all the grounds enumerated in Article 1(1)(a) of the Convention.*

*Sex discrimination.* With regard to the period of employment service of female employees accumulated prior to the time they were required to resign due to marriage, the Committee asked the Government to indicate how many women were still in service whose pensionable remuneration would be negatively affected by the fact that they had been forced to resign due to marriage prior to 1980. The Committee notes with regret that the Government has once again not provided a reply on this issue. *The Committee, therefore, urges the Government to take necessary measures to address the issue that the period of service before marriage is not recognized for the purposes of calculating pensions, thereby placing re-employed women at a distinct disadvantage.*

*Sexual harassment.* The Committee had previously asked the Government to provide information on the practical application of section 9 of the Equality for Men and Women Act, which defines sexual harassment in employment and occupation. The Committee also observes that section 29 of the Employment and Industrial Relations Act prohibits sexual harassment. In addition, the Committee notes that, the public service has issued "Guidelines on what constitutes sexual harassment and on the procedures to be adopted in cases of sexual harassment", which deals with, inter alia, training, assistance for victims and complaint procedures. *The Committee asks the Government to provide information on the practical application of the public service guidelines on sexual harassment, including the impact on preventing and addressing sexual harassment. Please also provide information on the number of complaints lodged pursuant to section 9 of the Equality for Men and Women Act, and section 29 of the Employment and Industrial Relations Act, as well as the remedies provided and/or penalties imposed. The Committee also requests information on measures taken or envisaged to raise awareness on sexual harassment, both quid pro quo and hostile environment, in the private sector.*

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 near future.*

## Mauritania

### **Equal Remuneration Convention, 1951 (No. 100) (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:

#### *Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 98th Session, June 2009)*

*Article 2 of the Convention. Application of the principle. Legislation and collective agreements.* The Committee takes note of the discussion held in June 2009 in the Conference Committee on the Application of Standards and the conclusions of the Conference Committee. It notes in particular that the Conference Committee had urged the Government to amend the Labour Code and Act No. 93-09 of 18 January 1993 on the public service so as to give full expression to the principle of equal remuneration for men and women for work of equal value, in both the private and public sectors. In its conclusions, the Conference Committee had urged the Government to examine the causes of the very high remuneration gap that existed between

men and women in the country, and to take the necessary measures, including through a broader range of opportunities for education and training, in consultation with employers' and workers' organizations, to reduce this gap, including in the informal economy, and to increase women's opportunities to access a wider range of jobs and occupations, including those with higher levels of remuneration. Finally, the Conference Committee had stressed the importance of reinstating social dialogue between the workers' and employers' organizations to give effect to the Convention.

In its previous observation, the Committee had taken note of the comments made in 2008 by the General Confederation of Workers of Mauritania (CGTM), which had emphasized the marginalization still suffered by women in Mauritania, pointing out that their wages were on average 60 per cent lower than those of men. The Government states that the revision of the Labour Code is ongoing and that the Committee's concerns will be taken into consideration during this process. The Government has also decided to put in place a permanent consultation and social dialogue framework and to take the necessary steps to improve the social partners' understanding of the principle of the Convention so that it might be fully reflected in collective agreements. In this respect, the Committee notes that the Government requests the Office's assistance in training the social partners on the principle of equal remuneration for men and women workers for work of equal value.

*While noting the Government's commitments and its request for technical assistance, the Committee urges the Government to take the necessary measures, as soon as possible and in collaboration with the social partners, to amend the Labour Code and Act No. 93-09 of 18 January 1993 on public officials to ensure that both these pieces of legislation reflect the principle of equal remuneration for men and women for work of equal value, a principle that extends beyond the principle of "equal pay for equal work". The Committee asks the Government to provide specific information on legislative developments in this area. It also asks the Government to specify whether the social partners envisage revising clause 37 of the general collective labour agreement of 13 February 1974, which also confines the application of the principle of equal remuneration to equal work.*

*Application of the Convention in practice. Noting that the Government's report does not give any information on this point, the Committee, referring to the conclusions of the Conference Committee in this respect, asks the Government to undertake an examination of the causes of the wage discrepancy between men and women with a view to taking the necessary steps to remedy the situation.*

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 near future.*

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1963)**

The Committee notes the comments made by the Free Confederation of Mauritanian Workers (CLTM) in a communication received on 29 August 2013. The CLTM emphasizes that discrimination based on race, colour and origin is a common practice in the country. According to the CLTM, former slaves, who make up 50 per cent of the population, are excluded, marginalized and deprived of decent work, access to public service and to higher political administrative and military positions. It adds that former slaves are denied basic services (schools, health, water) and excluded from economic income-generating activities. It refutes the Government's claims, to which the Committee refers in its observation, according to which, in the framework of the Programme for the Eradication of the Remnants of Slavery (PESE), former slaves have benefited from opportunities for employment and commercial activities. According to the CLTM, all the beneficiaries of the PESE belong to the Arab community. The CLTM emphasizes that there is no strategy to combat slavery in the country and that the National Agency to Combat Slavery and Poverty and to Promote Insertion, established at the beginning of 2013, has no programme, resources or strategy. Finally, the CLTM reports that former black Mauritanian managers and public employees are still unable to reassert their rights following their expulsion in 1989–90 due to racial discrimination. The Committee also notes the observations of the CLTM and the General Confederation of Workers of Mauritania (CGTM) made in the context of the Forced Labour Convention, 1930 (No. 29).

*The Committee requests the Government to provide its comments on these observations.*

Furthermore, 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 1 of the Convention. Discrimination on the basis of race, colour, national extraction or social origin. With respect to discriminatory practices in recruitment and occupation to which slaves, former slaves and descendants of slaves are exposed, as raised previously by the Free Confederation of Mauritanian Workers (CLTM), the Committee notes the information provided by the Government on the implementation of the Programme for the Eradication of Remnants of Slavery (PESE). It notes in particular that the PESE has carried out more than 1,000 activities, such as establishing businesses, which have benefited 93,000 persons in the target villages, and that 45,000 casual jobs have been created. The Committee also notes that, in her report published in 2010, the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences, refers to a programme started in 2008 by the Ministry of Employment and Vocational Training to provide microcredit to ex-slaves so that they can set up small businesses (A/HRC/15/20/Add.2, 24 August 2010, paragraph 77). This report also mentions that former slaves find themselves back in slavery as a result of discrimination, lack of education or vocational training and lack of the means to find an alternative livelihood, or end up in service and manual labour positions in urban areas (A/HRC/15/20/Add.2, paragraphs 36 and 51). On the issue of the continuing existence of slavery and slavery-like practices, the Committee draws the Government's attention to the Committee's 2010 observation under the Forced Labour Convention, 1930 (No. 29), in which it highlighted the importance of a global strategy to combat slavery and its vestiges. The Committee considers that, in the context of the global strategy, it is important that measures be taken to address the discriminatory practices, in particular those resulting in former slaves finding themselves back in slavery. **The Committee requests the Government to take measures, including in the context of the global strategy, to combat slavery as well as discrimination, especially on the ground of social origin, and the stigmatization to which certain segments of society are exposed, in particular former slaves and descendants of slaves. The Committee requests the Government to provide information on the impact of such measures, as well as regarding the measures taken to improve access to education, vocational training, employment and various occupations. The Committee also requests the Government to supply information***

*on all measures to educate and raise awareness on the issue of equality of opportunity and treatment in employment and occupation, in order to overcome prejudices based on race, colour, national extraction or social origin, and to promote tolerance among workers, employers, their respective organizations and the general public.*

*Follow-up to the recommendations of the tripartite committee  
(representation made under article 24 of the Constitution of the ILO)*

With regard to the situation of black Mauritanian workers of Senegalese origin who, in terms of their employment, suffered the consequences of the conflict with Senegal in 1989, the Committee is continuing to examine the action taken on the recommendations adopted in 1991 by the Governing Body with regard to a representation made by the National Confederation of Workers of Senegal (CNTS) under article 24 of the ILO Constitution. In this respect, the Committee noted in its previous comment that on 12 November 2007 the Mauritanian Government, the Senegalese Government and the United Nations Office of the High Commissioner for Refugees (UNHCR) signed an agreement on the voluntary return of Mauritanian refugees to Senegal. In its report, the Government indicates that income-generating programmes, linked particularly to livestock farming, setting up businesses and developing cooperatives, have been implemented to benefit the repatriated families. It also states that the census launched in 2010 on state officials and employees who had been victims of the events in 1989 will enable these persons to recover their rights and be fully involved as Mauritanians in the country's development process. ***Taking note of these indications, the Committee requests the Government to provide information on the number of victims of the events of 1989 identified as a result of the ongoing census and on the follow-up to this procedure, particularly on the measures taken to:***

- (i) reintegrate the persons concerned into the public service or to compensate them as well as their dependants;*
- (ii) improve their chances of training and employment in the private sector; and*
- (iii) implement the agreement of 2007, through the National Agency to Assist and Integrate Refugees, with respect to employment and occupation.*

*The Committee also requests the Government to provide information on any measures taken to prevent discrimination against these persons in employment and occupation, particularly when they are recruited.*

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 measures in the near future.*

## Mauritius

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 2002)**

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee notes with ***satisfaction*** that the amendment to section 20 of the Employment Rights Act 2008 (Act No. 33 of 2008) by the Employment Rights (Amendment) Act 2013 (Act No. 6 of 2013), which entered into force on 11 June 2013, replaces the words "the same type of work" with the words "work of equal value" thereby giving legislative expression to the principle of equal remuneration for work of equal value. ***The Committee asks the Government to provide information on the application in practice of section 20 of the Employment Rights Act, as amended, including any cases of violations detected by or brought to the attention to the labour inspection services. The Committee also invites the Government to organize awareness-raising activities on the principle of equal remuneration for work of equal value among workers, employers and their organizations, labour inspectors and other officials, as well as judges.***

*Article 2. Determination of minimum wages. Remuneration Regulations.* The Committee welcomes the removal of discriminatory provisions prescribing wages on a gender basis for domestic workers in the new Domestic Workers (Remuneration) Regulations of 2010. The Committee notes that the National Remuneration Board (NRB) has recommended the review of the Cleaning Enterprises (Remuneration) Regulations; the Office Attendants (Remuneration) Regulations; the Electrical Engineering and Mechanical Workshops (Remuneration) Regulations, so as to remove all gender-specific job appellations and pay discrimination. The Government indicates that the Remuneration Regulations governing the salt manufacturing industry, the sugar industry and tea industry still contain different wage rates for male and female workers which are gradually being looked into by the NRB. ***While welcoming the continuous efforts of the Government to remove discriminatory provisions from the Remuneration Regulations, the Committee urges the Government to accelerate the process of reviewing and modifying Regulations establishing different wage rates for men and women, including in the salt manufacturing, sugar and tea industries, and containing gender-based appellations, which constitute direct discrimination based on sex. The Committee asks the Government to provide information on how it is ensured, when determining minimum wage rates by occupation, that female dominated occupations are not undervalued in comparison with male dominated occupations. The Committee also asks the Government to provide information on the status of revision of the Remuneration Regulations and copies of the relevant texts once they are adopted.***

The Committee is raising other points in a request addressed directly to the Government.

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)**

*Equality body.* The Committee notes with ***interest*** that the Equal Opportunities Act 2008 came into force on 1 January 2012, establishing the Equal Opportunities Commission (EOC) and the Equal Opportunities Tribunal (EOT). The Government indicates that the EOC, created as an independent body to implement the Act, provide advice, examine

discrimination complaints and make recommendations to the Government, was set up on 26 April 2012. By 20 June 2013, the EOC had received a total of 655 cases, of which 430 had been examined. The EOT, which hears the complaints referred by the EOC, issues interim orders if the matter is urgent, makes orders for payment of compensation and for action of redress and issues directives to ensure compliance with the Act, was also established. *The Committee asks the Government to continue to provide information on the enforcement and awareness-raising activities of the EOC, including relevant extracts of reports, and on any orders issued by the EOT addressing specifically non-discrimination and equality in employment and occupation. Please also provide information on any measures taken further to the recommendations made by the EOC.*

The Committee is raising other points in a request addressed directly to the Government.

## Mexico

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1952)**

*Article 1(b) of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* The Committee notes with *regret* that the Government did not take the opportunity of the recent reform of the Federal Labour Act to include the principle of equal remuneration for men and women for work of equal value, as set out in the Convention. Indeed, section 86 of the Act continues to provide that there shall be equal pay for equal work performed in the same post, the same working day and conditions of efficiency. However, in its previous observation, the Committee noted the Mexican Standard on Equality at Work for Women and Men, which broadens the concept of equal wages to that of “equal wages for work of comparable value”, and it requested the Government to clarify the scope of the term “comparable value”. The Committee observes that, according to the Government’s explanations, the Standard is a certification that is individual in scope and is granted to entities which apply practices aimed at equality at work, but that it does not explain the meaning of the term “comparable value”. The Committee recalls that the concept of “work of equal value” is the cornerstone of the Convention and that it is applicable to all workers. *The Committee requests the Government to take measures to give full legislative expression to the principle of the Convention and to provide information on any developments in this respect.*

*Gender pay gap.* The Committee notes that the information provided by the Government does not enable it to determine the current situation with regard to the remuneration gap between men and women. The Committee notes that according to the study “Poverty and Gender in Mexico” prepared by the National Council for the Evaluation of the Social Development Policy in 2012, there is major occupational segregation and the labour market participation gap between men and women is higher in the poorest sectors, including and particularly for youth. The Committee recalls that in 2009 the pay gap measured in terms of average income was 29.3 per cent. The Committee referred previously to the comments of the National Union of Workers (UNT) on the absence of an adequate system for the compilation of statistics. The Committee notes the Government’s indication concerning the adoption of key labour market indicators for inclusion in the national catalogue of indicators. The Committee recalls that pay differentials continue to be one of the most persistent forms of inequality between women and men, and that the persistence of these disparities requires governments, together with employers’ and workers’ organizations, to take more proactive measures to raise awareness, assess, promote and give effect in practice to the principle of equal remuneration for men and women for work of equal value. The compilation, analysis and dissemination of statistical data are fundamental to detecting and addressing inequalities in remuneration. *The Committee requests the Government to ensure that the arrangements that are implemented for the compilation of statistics make it possible to determine in a satisfactory manner the gender pay gap and trends in that gap, and to take specific measures for its reduction. The Committee asks the Government to provide information on any developments in this respect.*

The Committee is raising other points in a request addressed directly to the Government.

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)**

*Article 1(1)(a) of the Convention. Grounds of discrimination.* The Committee notes the amendment of 30 November 2012 to the Federal Labour Act, sections 2 and 3 of which establish the following prohibited grounds of discrimination: ethnic or national origin, gender, age, disability, social status, state of health, religion, migration status, opinions, sexual preference and marital status. Section 56 provides that, in addition to the enumerated grounds, no distinction may be made or exclusion applied on the grounds of sex, pregnancy or family responsibilities. The Committee recalls that the provisions which are adopted to give effect to the Convention should include all the criteria set out in *Article 1(1)(a)* of the Convention. The Committee notes that race, colour, national extraction, social origin and political opinion are not explicitly covered by the Federal Labour Act. *In order to determine the scope of the provisions of the Federal Labour Act and its conformity with the Convention, the Committee requests the Government to indicate whether: national origin covers national extraction (which is broader than nationality and applies also to differences between citizens of the same country, based on birth or foreign extraction); ethnic origin covers race and colour; political opinion is covered by opinions and social status covers social origin (which is broader and can also refer to the social situation of family members in the past), and to provide relevant court cases in this regard.*

*Discrimination on the basis of pregnancy.* In previous comments, the Committee noted with concern the practice of requiring pregnancy tests to obtain or retain employment, particularly in the export processing zones. The Committee therefore notes with *interest* that, in addition to the protection established in section 56, the recently amended Federal Labour Act in section 113 prohibits employers from requiring certificates that women are not pregnant to obtain or keep a job, or for promotion, and from dismissing or directly or indirectly coercing women to resign because of pregnancy, a change in civil status or care for children. ***The Committee requests the Government to provide information on the application in practice of these provisions. The Committee requests the Government to indicate the manner in which it is guaranteed that the existing legislation is also effectively applied in export processing zones, the various complaints mechanisms available for these kinds of acts, and the number of complaints filed, including in export processing zones. The Committee also requests the Government to provide concrete information on the measures adopted in the export processing zones with a view to eliminating discrimination based on sex and their impact.***

*Discrimination on the basis of race and colour.* The Committee has for many years been referring to the need to take measures to investigate the existence of the practice of publishing advertisements for vacancies that discriminate in relation to race and colour. The Committee notes the Government's indication of the publication, with the assistance of the National Council for the Prevention of Discrimination (CONAPRED), of the guide on institutions committed to inclusion, aimed at public and private institutions, which proposes measures for equality. In addition, CONAPRED has been carrying out various training activities since 2010. The Committee nevertheless notes the conclusions of the UN Committee on the Elimination of Racial Discrimination (CERD) on the existence of structural racial discrimination, the lack of visibility of the situation of Afro-descendants and the situation of indigenous peoples (CERD/C/MEX/CO/16-17 of 9 March 2012). ***While welcoming the measures adopted by CONAPRED, the Committee requests the Government to take additional, concrete and specific measures to address discrimination on the basis of race and colour, to provide information on the cases and complaints filed on that subject and on the action taken as a result.***

*Sexual harassment.* The Committee notes that the Federal Labour Act, as amended, defines sexual harassment in section 3bis as "a form of violence in which, even where there is no subordination, there is an abusive exercise of power that incites a state of defencelessness and risk for the victim, regardless of whether it takes the form of one or of several acts". The Committee notes, however, that while the Federal Labour Act foresees sanctions in Part XVI, these do not appear to apply in the case of violations of 3bis. The Committee had previously noted that the procedures available with respect to sexual harassment ended in the termination of the employment relationship and the payment of compensation, and raised concerns that the termination of the employment relationship was a penalty against the victim, and could dissuade victims from bringing complaints. The Committee notes further that the penal codes of all the federated entities contain provisions punishing sexual harassment. The Government has also provided detailed information on the procedures for reporting sexual harassment to the Office of the Attorney-General of the Republic and on how the complaints are dealt with, the duration of the procedures and the application in practice of the Protocol for the intervention in cases of sexual harassment in the public administration, and the various awareness-raising activities carried out. ***Recalling that measures to prevent and prohibit sexual harassment in employment and occupation should cover both quid pro quo and hostile environment harassment, the Committee requests the Government to indicate the manner in which section 3bis of the Federal Labour Act covers these two elements. The Committee also requests the Government to indicate the procedures, sanctions and remedies available pursuant to the legislation applicable to sexual harassment in employment and occupation. The Government is also requested to indicate how it is ensured that complaints of sexual harassment do not result in the termination of the victim's employment relationship. Please provide information on the number and nature of cases of sexual harassment filed, including under 3bis of the Federal Labour Act, and the penal codes of the federated entities.***

*Women domestic workers.* In relation to the observations made by the National Union of Workers (UNT), the Committee notes the measures adopted by the Government to raise awareness and publicize the situation of women domestic workers. ***The Committee requests the Government to provide information on access of women domestic workers to administrative and legal remedies for the protection of their labour rights and any difficulties that they face in this regard. Please provide information on the number of complaints of discrimination in employment made by women domestic workers, indicating the grounds and the action taken as a result.***

The Committee is raising other points in a request addressed directly to the Government.

## Mongolia

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)***

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 Mongolian Employer's Federation (MONEF) and those of the Confederation of Mongolian Trade Unions (CMTU), which were incorporated in the Government's report.

*Articles 1 and 2 of the Convention. Work of equal value.* Recalling that it has asked the Government to take measures for the adoption of legislation to ensure equal remuneration for men and women for work of equal value in both the public and private sectors, and noting that the Law on gender equality has been adopted by Parliament in 2011, the Committee notes with regret that, according to the information given by the Government in its report, section 2 of the Law, as drafted, provides only for

equal opportunities for men and women to receive the “same compensation for the same work”. It also notes from the Government’s report that the employer shall pay the “same compensation to male and female employees performing the same work”. The Committee, therefore, points out that the provisions of the Law on gender equality, as drafted, which are similar to section 49(2) of the 1999 Labour Code, do not give expression to the concept of “work of equal value” in accordance with the principle of the Convention. The Committee recalls its 2006 general observation emphasizing that legislation should not only provide for equal remuneration for equal, the same or similar work, but also address situations where men and women perform work of a different nature that is nevertheless of equal value. The Committee further notes the comments of MONEF indicating that the term “same work” provided by section 49(2) of the Labour Code does not correspond to the concept of “work of equal value” laid down in the Convention, and that the Code does not provide a methodology for calculating compensation. ***The Committee urges the Government to take the necessary steps to ensure that full legislative expression is given to the principle of equal remuneration for men and women for work of equal value, and to provide information in this regard. Please also forward a copy of the newly adopted Law on gender equality. The Committee once again asks the Government to provide information on any activities undertaken by the National Committee for Gender Equality to promote the principle 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 near future.***

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)***

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

*Article 1 of the Convention. Legislative developments.* ***The Committee recalls the adoption on 2 February 2011 of the Law on the promotion of gender equality and asks the Government to provide information on the practical application of the Law on the promotion of gender equality, including the activities carried out by the National Committee on Gender and the number and nature of complaints examined and the outcome thereof, as well as details regarding any proceedings brought before the National Human Rights Commission and the labour dispute resolution process. The Committee also asks the Government to indicate any practical impact of section 11.3 of the Law on preventing discriminatory job advertisements.***

*Exclusion of women from certain occupations.* The Committee recalls its previous comments concerning the exclusion of women from a wide range of occupations under section 101.1 of the Labour Law of 1999 and Order No. A/204 of 1999. The Committee notes the Government’s indication that section 8(b) of the list under the Order of 1999, which prohibits women from driving a vehicle weighing more than 2.5 tons, is being restated because the State Professional Inspection Agency affirmed that a modern heavy load truck is not harmful for women’s health. The Committee once again recalls that protective measures applicable to women’s employment which are based on stereotypes regarding women’s professional abilities and role in society, violate the principle of equality of opportunity and treatment between men and women in employment and occupation (General Survey on fundamental Conventions, 2012, paragraph 840). ***The Committee urges the Government to ensure that protective measures are strictly limited to protecting maternity and that those measures aimed at protecting women because of their sex or gender based on stereotyped assumptions, in accordance with section 101.1 of the Labour Law and Order No. A/204 of 1999 are repealed. Please provide information on the steps taken in this regard, including the status of section 8(b) of the list under the Order No. A/204 of 1999.***

*Inherent requirements.* The Committee notes that section 6.5.6 of the Law on the promotion of gender equality allows recruitment of a person of particular sex in accordance with section 101 of the Labour Law, or “based on a specific nature of some workplaces such as in preschool education institutions”. It also notes that sections 6.5.1 and 6.5.2 of the Law allows provisions of separate educational services or workplace facilities for men and women, whose scope seems to be too broad as constituting exceptions to gender discrimination. ***Recalling that the concept of inherent requirements of a particular job must be interpreted restrictively so as to avoid undue limitation of the protection provided by the Convention, the Committee asks the Government to take steps to review and revise section 6.5.6 of the Law on the promotion of gender equality. It also asks the Government to indicate how it is ensured that provisions of separate educational services or workplace facilities for men and women under sections 6.5.1 and 6.5.2 of the Law do not in practice deprive men and women of equality of opportunity and treatment in respect of their employment.***

*Workers with family responsibilities.* The Committee recalls section 100 of the Labour Law, which limits protection against dismissal on grounds of care for a child under 3 years of age only to mothers and single fathers. The Committee notes that the Law on the promotion of gender equality prohibits preferential treatment in employment or dismissal based on sex, pregnancy, child caretaking roles or family status (section 11.1), and that incorporation in collective agreements of provisions on the creation of conditions and opportunities for men and women to combine their work and family responsibilities is required (section 11.2). ***The Committee asks the Government to provide information on whether any steps have been taken or envisaged to amend section 100 of the Labour Law, with a view to aligning it with the provisions of the Law on the promotion of gender equality. It also asks the Government to provide information on the practical application of sections 11.1 and 11.2 of the Law on the promotion of gender equality, including the number and nature of discrimination cases handled by the courts or the National Human Rights Commission, on grounds of family responsibilities. Please further provide any examples of collective agreements incorporating provisions aimed at the creation of conditions and opportunities for men and women to combine their work and family responsibilities.***

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 near future.***

## Montenegro

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 2006)

*Article 1 of the Convention. Legislation.* The Committee notes with *interest* the adoption of the Law on the prohibition of discrimination (Anti-Discrimination Law) on 28 July 2010, which defines and prohibits direct and indirect discrimination on the grounds of race, colour, national affiliation, social or ethnic origin, affiliation to a national minority, language, religion, political opinion, gender, gender identity, sexual orientation, health status, disability, age, financial status, marital or family status, membership of a group or assumed membership of a group, political party or other organization, as well as other personal characteristics (section 2), thus covering all the grounds enumerated in *Article 1(1)(a)* of the Convention, as well as a number of additional grounds pursuant to *Article 1(1)(b)*. According to section 16, discrimination in employment includes, in addition to the cases stipulated under the laws governing labour and employment, payment of unequal wages or remuneration for work of equal value based on any of the grounds referred to in section 2. Section 20 establishes a category of “grave forms of discrimination”, which include multiple discrimination and repeated and extended discrimination. The Anti-Discrimination Law also contains provisions on court proceedings and the role of inspection, and establishes penalties for acts of discrimination. The Committee notes further that the 2010 Law broadens the scope of the competencies of the Protector of Human Rights and Freedoms (Ombudsperson), and that the Ombudsperson’s mandate is further regulated by a specific law, adopted on 24 July 2011. ***The Committee asks the Government to provide information on the application in practice of the Anti-Discrimination Law of 2010, and on the measures taken, in cooperation with the social partners, to promote and ensure the observance of the national legislation on non-discrimination, and to promote equality in employment and occupation.***

*Restrictions on women’s employment.* The Committee recalls its previous comments in which it noted that section 104 of Labour Law No. 49/08, which provides that “an employed woman ... shall not work in a job position with prevailing hard physical labour, works under ground or water, or a job involving tasks that can have detrimental effect on and an increased risk for [her] health and life”, may give rise to violations of the principle of equality of opportunity and treatment. The Committee draws the Government’s attention to the fact that protective measures for women should be limited to the protection of maternity in the strict sense, and that provisions relating to the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific risks to their health (see General Survey on the fundamental Conventions, 2012, paragraphs 838–840). ***The Committee once again asks the Government to take the necessary measures to revise section 104 of Labour Law No. 49/08 with a view to ensuring that restrictions on women’s employment are limited to maternity in the strict sense, and to provide information on the progress made in this regard.***

The Committee is raising other points in a request addressed directly to the Government.

## Morocco

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1979)**

*Application of the principle in the private sector.* The Committee notes that the Government states in a general way that in the context of the implementation of the Government Plan for Gender Equality 2012–16, the Department of Employment has taken a series of measures to strengthen the process of gender mainstreaming, including measures for training and raising awareness about equality issues. The Committee recalls that the study entitled “Assessment of the situation with regard to equality/equity in the employment, vocational training and social protection sectors”, published in June 2010, on the wage gaps between men and women (5.5 per cent in the export sector and 40.3 per cent in “other sectors”) found that these wage gaps were essentially due to discrimination. ***The Committee requests the Government to take specific steps, within the framework of gender mainstreaming or otherwise, with a view to eliminating wage discrimination between men and women in the private sector and ensuring compliance with the principle of equal remuneration for work of equal value. The Committee asks the Government to provide information on the steps taken in this regard, including in the formulation and implementation of objective job evaluation methods free from gender bias.***

*Monitoring and enforcement. Labour inspection.* The Committee notes with *interest* that training sessions on fundamental rights, including equal remuneration, have been organized for labour inspectors, in collaboration with the ILO, in various municipalities across the country. ***Taking note of the Government’s information on this matter, the Committee trusts that the Government will soon be in a position to provide specific information on the inspections carried out by the labour inspectorate in relation to equal remuneration, the violations of section 346 of the Labour Code reported by labour inspectors and the penalties applied, particularly in the textile sector and the informal manufacturing sector.***

The Committee is raising other points in a request addressed directly to the Government.

## ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*** ***(ratification: 1963)***

*Equality of opportunity and treatment between men and women in employment.* The Committee notes with *interest* the adoption of the Government Plan for Gender Equality “Ikram” (2012–16), accompanied by a significant budget, which provides for 143 measures and sets 24 goals in eight areas. These include: gender mainstreaming and the dissemination of gender equity and equality principles; measures to combat all forms of discrimination against women; women’s social and economic empowerment; and the achievement of equality of opportunity between sexes on the labour market. The Committee welcomes the establishment of the Ministerial Equality Commission, in September 2013, which is entrusted with monitoring the implementation of the government plan and assessing its outcomes. The Committee notes that the gender component has been incorporated into the state budget since 2005 to take account of the differentiated concerns of women, men, girls and boys, and that a report on the gender budget, which now covers 27 ministerial departments, is drafted and submitted to Parliament each year. The Committee notes that, according to the Government, the National Agency for the Promotion of Small and Medium-Sized Enterprises (ANPME) has implemented a number of programmes to promote women’s access to entrepreneurship (only 10 per cent of enterprises are owned or run by a woman) and to address the various difficulties with which women are confronted when setting up their enterprise (limited access to credit, training and information). The Committee notes the Government’s statement that the activity rate of women was only 24.7 per cent in 2012 (17.3 per cent for women aged between 15 and 24 years) and that, taking all sectors into consideration, girls accounted for only 39 per cent of overall trainees in the vocational training system. ***Stressing the Government’s continuous efforts to make equality between men and women a central component of its policy and the progress achieved in this area, the Committee requests the Government to provide information on the specific measures taken, in the context of the government plan “Ikram”, to combat effectively discrimination against women and to promote equality between men and women in employment and occupation, as well as on the outcomes achieved in terms of women’s access to employment in the private and public sectors, the diversification of employment opportunities and training, and the improvement of working conditions. Furthermore, the Committee requests the Government to provide information on the employment component of the National Emergency Plan on Vocational Training and the Strategic Medium-Term Programme for the Mainstreaming of Equality and Gender Equity (2011–15).***

*Specialized body responsible for promoting equality and combating discrimination.* The Committee welcomes the fact that article 19 of the Constitution of 1 July 2011 provides for the establishment of the Authority for Parity and the Fight against All Forms of Discrimination (APALD). The Committee understands that the Bill establishing APALD will soon be submitted to Parliament for adoption. ***The Committee requests the Government to provide information on the status of the adoption of the Bill establishing APALD and the contents of the Bill and hopes that it will soon be adopted.***

*Labour inspection.* The Committee notes with *interest* that training sessions for labour inspectors on fundamental rights, including equality and non-discrimination, were organized in various municipalities in 2013, in collaboration with the ILO, and that the Minister of Employment and Vocational Training adopted a circular on the implementation of legal provisions on women at work on 13 February 2013 (Circular No. 16/13); this circular requests labour inspectors and the Ministry’s regional delegates to focus on respect for provisions concerning women’s rights and measures to combat discrimination at work. The circular also stipulates that they must submit data on “labour indicators on women wage earners” to the central administration, which specify: the number of establishments visited; the total number of wage earners; the number of women employed (positions of responsibility and others) and their age; the number of female staff representatives; the number of observations made concerning discrimination (wages, employment, promotion and others); and the number of infringements noted (maternity, night work and others). ***The Committee requests the Government to provide specific information on the activities of the labour inspectorate concerning equality and non-discrimination, including extracts from relevant inspection reports, as well as statistical data established on the basis of the tables of “labour indicators on women wage earners”.***

The Committee is raising other points in a request addressed directly to the Government.

## **Mozambique**

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1977)***

The Committee notes that the Government’s report contains no reply to its previous comments. It notes, however, that there were representatives from Mozambique participating in the ILO Workshop on International Labour Standards and Constitutional Obligations held in September 2013, in Lisbon. The workshop aimed at strengthening the capacity of governments as well as workers’ and employers’ organizations with regard to reporting and legislative requirements under articles 19 and 22 of the ILO Constitution. The Committee welcomes the Government’s participation in the event and hopes that the assistance provided by the Office will offer additional guidance in the elaboration of the Government’s next report. It hopes that the next report will contain full information on the questions raised in its previous observation, which read as follows:

*Article 1 of the Convention. Legislation.* In its previous comments, the Committee requested the Government to take all necessary steps to amend section 108 of Labour Act No. 23/2007, which establishes only the right to equal pay for the same work, so that it fully reflects the principle of equal remuneration for men and women for work of equal value. The Committee notes that in its report the Government mentions no developments in this area. The Committee recalls that, in its general observation of 2006, it stressed that the concept of “work of equal value” includes but goes beyond equal remuneration for “equal”, the “same” or “similar” work and also encompasses work that is of an entirely different nature which is nevertheless of equal value. ***The Committee therefore once again asks the Government to take all necessary steps to amend section 108 of Labour Act No. 23/2007, so that this provision fully reflects the principle of equal remuneration for men and women for work of equal value. The Committee encourages the Government, should it deem appropriate, to seek technical assistance from the ILO on this matter.***

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 near future.***

## Namibia

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)***

*Article 1(1)(b) of the Convention. Legislation.* The Committee recalls its previous comments in which it noted that while the general non-discrimination provision of the Labour Act (section 5) includes the grounds of HIV and AIDS, degree of mental disability and family responsibilities, these grounds are omitted under section 33 of the Act which prohibits unfair dismissal. With regard to specific provisions addressing the issue of dismissal based on HIV status, the Government refers to sections 45 and 46 of the Affirmative Action (Employment) Act, Act No. 29 of 1998. The Committee notes however that sections 45 and 46 of the Affirmative Action (Employment) Act are general procedural provisions which govern the process of filing a complaint with the Labour Commission, and do not create any additional substantive protection prohibiting unfair dismissal based on the grounds of HIV and AIDS, degree of mental disability or family responsibilities. The Government indicates that it has a National Policy on HIV and AIDS, and that every workplace has a wellness unit which provides counselling and guidance. The Committee notes from the 2007 National Policy on HIV and AIDS that section 6.2(2)(iii) prohibits termination of employment which is solely on the grounds of HIV status or family responsibilities relating to HIV/AIDS. ***The Committee once again requests the Government to consider including specific provisions prohibiting dismissal based on the grounds of HIV and AIDS, degree of physical or mental disability and family responsibilities with a view to ensuring consistency between sections 5 and 33 of the Labour Act. The Committee also asks the Government to provide information on the application in practice of section 6.2 of the National Policy on HIV and AIDS.***

*Sexual orientation.* In its previous comments, the Committee noted with regret that the Labour Act no longer prohibited discrimination based on sexual orientation. The Committee notes that the Government repeats its statement that article 10 of the Constitution prohibits discrimination based on sex, race, colour, ethnic origin, creed, and social or economic status. The Government also indicates that all workers have the same level of protection against discrimination under section 5(2) of the Labour Act. The Committee recalls however that neither section 5 nor any other section of the Labour Act prohibit discrimination based on the ground of sexual orientation. ***The Committee again requests the Government to ensure that workers have the same level of protection against discrimination on the ground of sexual orientation as provided under section 5 of the Labour Act with respect to other grounds, and asks the Government to provide information on specific measures taken in this regard.***

*Articles 2 and 5. Implementation of the national policy and affirmative action.* The Committee notes that the Government indicates that employees from previously disadvantaged groups because of race comprised 30 per cent of executive directors, while the previously advantaged (“whites”) represented 59 per cent of executive directors and that during the 2011–12 review period, the representation of previously disadvantaged (“blacks”) in senior and middle management rose to 65 per cent compared to 62 per cent in the previous review period. Women comprised 42 per cent of executive directors, while accounting for 46 per cent of all employees. The Committee notes that persons with disabilities continued to comprise only 0.5 per cent of the total workforce. The Government indicates that at the time of reporting, 64 cases of non-compliance had been filed in court, and that the Employment Equity Commission (EEC) had considered 738 affirmative action reports submitted by employers. The Committee welcomes the Government’s indication that the EEC has increased its staff from nine to 15 members, and that a senior police officer has been assigned to the office to investigate cases of non-compliance and to bring defaulters before the court. With regard to access to vocational training, the Government indicates that section 17(2)(c)(iii) of the Affirmative Action (Employment) Act provides that persons from designated groups may receive preferential treatment in employment decisions, which pursuant to section 1 of the Act includes access to vocational guidance, training and placement services. The Committee notes that at the time of reporting, 47,518 employees had been trained, of which 10 per cent were executive directors and managers respectively, 44 per cent were women and 0.3 per cent were persons with disabilities. ***The Committee requests the Government to continue providing information on the application of the Affirmative Action (Employment) Act, including specific information on cases of employers’ non-compliance with the Act. Noting the Government’s indication that the Act does not cover discrimination based on the grounds of national extraction and social origin, the Committee asks the Government to provide information on how it is ensured that persons facing discrimination on these grounds have***

*adequate access to employment and training opportunities. The Committee also requests the Government to provide information on measures taken to promote access to training not only for current employees, but also for those who are unemployed.*

The Committee is raising other points in a request addressed directly to the Government.

## Nepal

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1976)**

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee recalls that article 13(4) of the interim Constitution and Rule No. 11 of the Labour Regulations, 1993, are narrower than the principle of the Convention, as they do not encompass the concept of “work of equal value”. In this regard, the Committee understands that the process of developing the permanent Constitution and the labour legislation review are still under way. The Committee also notes the Government’s indication that determining the value of work is a technical process, and thus it requests ILO technical assistance in this regard. *In the context of the present legislative reform process, the Committee urges the Government to ensure that full legislative expression is given to the principle of Convention, providing equal remuneration for men and women for not only the same work or work of the same nature, but also for work of an entirely different nature but which is nevertheless of equal value, and to provide information of progress made in this regard. Noting the Government’s request for ILO technical assistance in determining the value of work, the Committee hopes that such assistance can be provided in the near future, and asks the Government for information on the steps taken to secure such assistance.*

The Committee is raising other points in a request addressed directly to the Government.

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1974)**

*Legislative developments.* The Committee notes with *interest* the adoption on 1 June 2011 of the Caste Based Discrimination and Untouchability (Offence and Punishment) Act, 2068 (2011), providing that no one shall commit, or attempt to commit, or cause, aid, abet, or provoke anyone to commit, caste-based discrimination and untouchability (section 3). Caste-based discrimination and untouchability is defined in section 4 as any act based on “custom, tradition, religion, culture, rituals, caste, race, descent, community or occupation”, and is prohibited in a wide range of circumstances, including with respect to carrying on a profession or business; producing, selling or distributing any goods, services or facilities; in employment or remuneration. The Act also prohibits demonstrating “any other kind of intolerant behaviour” and disseminating or transmitting any material, etc., denoting hierarchical supremacy of a particular caste or race, or any conduct indicating caste-supremacy or hatred (section 4). Pursuant to the Act, a complaint may be lodged with the police, or if the police fail to register the complaint, the person may seek the assistance of the Dalit Commission to pursue the complaint (section 5). Sanctions for violation of the provisions regarding employment and remuneration include one month to one year imprisonment or a fine of 500 to 10,000 Nepalese rupees (NPR), or both (section 7(1)(b)). The Committee also notes the Government’s indication that the Sexual Harassment at the Workplace Bill was approved by Cabinet, submitted to Parliament, and a parliamentary subcommittee was established; however, due to the dissolution of Parliament, the process has been suspended. *The Committee asks the Government to provide information on the practical application of the Caste Based Discrimination and Untouchability (Offence and Punishment) Act, 2011, including the number, nature and outcome of any complaints lodged pursuant to section 5, as well as the role of the National Dalit Commission in this regard, and steps taken to raise awareness of the Act. The Committee also asks the Government to continue to provide information on the status of the Sexual Harassment at the Workplace Bill, as well as on the steps taken to ensure that it defines and prohibits both quid pro quo and hostile environment harassment. Noting that the labour legislation reform process is still under way, the Committee asks the Government to ensure that the new legislation defines and prohibits direct and indirect discrimination, on at least all the grounds set out in Article 1(1)(a) of the Convention, and covers all workers and all aspects of employment and occupation.*

The Committee is raising other points in a request addressed directly to the Government.

## Netherlands

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1971)**

The Committee notes the observations on the Government’s report by the Confederation of Netherlands Industry and Employers (VNO–NCW) and the Netherlands Trade Union Confederation (FNV).

*Measures to address the pay gap and differences in remuneration of part-time workers.* The Committee recalls that, with a view to addressing equal pay in a wider context the Task Force Part-Time Plus was established. The Committee had requested the Government to indicate the measures taken to implement, in cooperation with the social partners, the recommendations of the Task Force, including an assessment of their impact on reducing differences in remuneration between men and women relating to part-time work. The Committee notes the Government’s indications that a Bill on combining work and childcare is currently being discussed in Parliament, and the Social and Economic

Council (SER) has been asked to advise by the end of 2013 on discrimination in the labour market, including differences in remuneration. The Government indicates that it will take no further action until the advice of the SER is published. While acknowledging the importance of this advice, the FNV regrets the lack of additional information provided by the Government on the policies and measures taken to follow up on the recommendations of the Task Force Part-Time Plus and the abovementioned Bill. With respect to other proactive measures taken or envisaged to promote the principle of equal remuneration for men and women for work of equal value, previously suggested by the FNV, the Committee notes that the Government also intends to await the advice of the SER. The Committee notes that the VNO–NCW highlights that some initiatives have been taken by the social partners in the past decade to eliminate or reduce discrimination in general and with respect to remuneration in particular. ***The Committee asks the Government to provide details of the advice given by the SER, including to what extent it addressed the recommendations of the Task Force Part-Time Plus. The Committee asks the Government to indicate the specific follow-up given to the Task Force recommendations and any recommendations by the SER, and the results achieved. It also asks the Government to provide detailed information on any proactive measures to address the gender pay gap, including any follow-up to some recommendations, previously referred to by the FNV, with respect to an equal pay campaign, the enforcement of equal pay provisions by the labour inspectorate, and the development of an equal pay policy when providing government support to financial institutions, as the pay gap is significant in this sector, and the results achieved.***

The Committee is raising other points in a request addressed directly to the Government.

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1973)***

*Articles 2 and 3. National policy to promote equality of opportunity and treatment of ethnic minorities.* The Committee notes the statistics provided by the Government on the active population in 2011 according to economic activity, level of education, sex and origin, and recalls its previous observation in which it noted the precarious labour force participation of “non-Western” minorities, particularly workers of Turkish and Moroccan origin. It also recalls that uncertainty remained about the actual impact of the various measures taken to address discrimination against them and achieve genuine equality in employment and occupation. The Committee notes the Government’s indication that during the period 2007–10 the unemployment rates of ethnic minorities were 2.8 per cent higher than for native Dutch and are increasing under the influence of the economic recession. Particularly immigrants of Moroccan and Antillean origin continue to be over-represented among the unemployed and differences exist not only between but also within ethnic groups, particularly between men and women of Turkish origin. According to the Government part of the unemployment rate can be explained by the lower educational levels of immigrants compared to native Dutch and when differences are assessed with respect to educational level, age, employment history, job experience, gender, household composition and degree of urbanization, only 16 per cent of the difference remains unexplained. On the other hand, for Moroccans the variables explained only just over half of the differences (The Netherlands Institute for Social Research (2012), Annual Integration Report 2011). Research findings also suggest that discrimination is primarily related to access to the labour market and that discriminatory differences in earnings and level of occupation are virtually absent for those already in employment. In this connection, the Committee recalls the target of a 50 per cent increase in the proportion of people of ethnic minorities employed in the public sector and notes the Government’s statement that additional support for diversity policies in the public sector, and to private sector employers, has ended. The Government indicates that it is the task of the social partners to make arrangements about working conditions within the existing legal framework and that the Social Economic Council (SER) has been asked to provide advice on labour market discrimination by the end of 2013; no further action will be taken by the Government until the advice is published. ***In light of the above, the Committee asks the Government to provide detailed information on the SER advice on labour market discrimination, which it hopes will include an evaluation of the various projects and programmes undertaken to eliminate discrimination in employment and occupation against certain ethnic minority groups, in particular workers of Moroccan and Turkish origin, and to promote their equality of opportunity and treatment in the labour market. In this connection, the Committee also asks the Government to indicate all the measures taken to address unexplained differences in employment between native Dutch and “non-Western” minorities, and to set specific targets in the context of projects and programmes aimed at eliminating discrimination on the basis of race, colour and national extraction, and to measure the effectiveness of these programmes. Please indicate the reasons for ending support to diversity policies in the public sector and provide statistical data on the actual employment of ethnic minorities in the public sector as compared to 2008 (when the latest data were provided), as well as in the private sector.***

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)***

*Discrimination on political grounds.* With regard to the previous comments of the Trade Union Unification Confederation (CUS) concerning the dismissal of 21,000 public sector workers because they were not members or did not

share the ideology of the party of the present Government, and that 128 trade unions had ceased to exist, the Committee notes the Government's indication that the confederation has not supplied the requested information to be able to conduct the investigation into the claims referred to above. ***The Committee requests the Government once again to collect the necessary information, in cooperation with the CUS, to conduct an investigation into this matter and, should the allegations be substantiated, to take steps to address the situation of discrimination. The Committee requests the Government to report on any new developments in this regard.***

The Committee is raising other points in a request addressed directly to the Government.

## Nigeria

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)***

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

*Articles 1, 2 and 3 of the Convention. Discrimination based on sex with regard to employment in the police force.* The Committee previously noted that sections 118–128 of the Nigeria Police Regulations, which provide special recruitment requirements and conditions of service applying to women, are discriminatory on the basis of sex and thus incompatible with the Convention. Accordingly, the Committee urged the Government to bring the legislation into conformity with the Convention. The Committee had noted that the criteria and provisions relating to pregnancy and marital status contained in sections 118, 124 and 127 constitute direct discrimination, and sections 121, 122 and 123 are likely to go beyond what is permitted under *Article 1(2)* of the Convention. The Committee also noted that legal provisions establishing common height for admission to the police are likely to constitute indirect discrimination against women. The Committee recalls that women should have the right to pursue freely any job or profession and the Committee points out that exclusions or preferences in respect of a particular job in the context of *Article 1(2)* of the Convention, should be determined objectively without reliance on stereotypes and negative prejudices about men's and women's roles (General Survey on fundamental Conventions, 2012, paragraph 788). ***Recalling that each Member for which this Convention is in force, in accordance with Article 3(c), is under the obligation to repeal any statutory provisions which are contrary to equality of opportunity and treatment, the Committee once again urges the Government to bring the legislation into conformity with the Convention, and to indicate the measures taken to this end. The Committee trusts that the Government, in collaboration with workers' and employers' organizations, will take the necessary measures to ensure equality of opportunity and treatment of women in the police force.***

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 near future.***

## Norway

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1959)***

The Committee notes the observations made by the Norwegian Confederation of Trade Unions (LO), the Confederation of Unions for Professionals (Unio) and the Confederation of Norwegian Business and Industry (NHO), which were submitted with the Government's report.

*Gender pay gap.* The Committee notes the extensive information in the Government's report on the measures taken to follow up on the recommendations made under the 2008 report of the Equal Pay Commission. It notes with ***interest*** the adoption of "Equality 2014", an action plan for gender equality (2011–14), which sets out a number of objectives, measures and indicators aimed at reducing gender-based pay differentials. The Committee notes, in particular, the measures envisaged to address the underlying causes of the gender pay gap, such as vertical and horizontal gender segregation in the labour market, high prevalence of women in involuntary part-time work and limited participation of women in top management positions in both the public and private sectors. Other measures are aimed at ensuring more information and transparency with respect to wages and wages differences. In this connection, the Committee notes the amendments to section 1(a) of the Gender Equality Act with regard to the obligation of employers to promote equality in relation to all aspects of employment, including remuneration and wage transparency. The Government also indicates that as a substantial part of the gender pay gap is linked to work–family responsibilities, a number of steps have been taken, including amendments to the Gender Equality Act and the Working Environment Act aimed at improving maternity benefits, paid parental leave, as well as the equal sharing of parental leave between mothers and fathers. The Committee notes further from the observations submitted by LO that, as a result of the confederation's involvement in the promotion of part-time workers' rights, changes to the Working Environment Act were adopted so as to ensure greater legal protection to this category of workers. ***The Committee requests the Government to continue to provide information on the practical implementation of the measures set out in the action plan to promote the principle of equal remuneration, to address gender segregation in the labour market and to narrow the gender pay gap, as well as on the role of the social partners in this process, and the results achieved. Please also provide information on the practical application of section 1(a) of the Gender Equality Act, as well as on any proactive measures taken or envisaged to strengthen the enforcement of the duty to promote gender equality at the enterprise level, including through training and awareness raising.***

The Committee is raising other points in a request addressed directly to the Government.

## Sao Tome and Principe

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1982)**

For a number of years the Committee has been requesting the Government to reply to questions initially raised in its 2007 direct request. While taking due note of the Government's report submitted this year, the Committee is bound to point out that the report is identical to the one provided six years ago and does not enable the Committee to assess the extent to which the principle of equal remuneration for work of equal value is applied in practice. It notes, however, that Sao Tome and Principe participated in the ILO Workshop on International Labour Standards and Constitutional Obligations held in September 2013, in Lisbon. The workshop aimed at strengthening the capacity of governments as well as workers' and employers' organizations with regard to reporting and legislative requirements under articles 19 and 22 of the ILO Constitution. The Committee welcomes the Government's participation in the event and hopes that the assistance provided by the Office will offer additional guidance in the elaboration of the Government's next report. It hopes that the report will contain full information on the following matters.

*Legislation.* The Committee notes from the Government's report that a draft General Labour Act has been prepared and submitted to the National Assembly. However, due to a change of Government, it was unlikely that the legislation would be adopted very soon. The Committee recalls its previous comments in which it noted that the provisions of the Constitution do not fully reflect the Convention's principle as they refer to equal wages for "equal work" rather than "work of equal value". Hence, the need to take further legislative action to ensure full compliance with the Convention. The Committee recalls its 2006 general observation, stressing the importance of giving full legislative expression to the principle of the Convention, providing not only for equal remuneration for equal, the same or similar work, but also prohibiting pay discrimination that occurs in situations where men and women perform different work that is nevertheless of equal value (paragraph 6). ***The Committee, therefore, urges the Government to ensure that the future General Labour Act explicitly provides for the right of men and women to receive equal remuneration for work of equal value, in accordance with the Convention, and to indicate any progress made in this regard. The Committee also reminds the Government that ILO technical assistance is available and asks the Government to consider forwarding a copy of the draft legislation to the Office for its review.***

*Cooperation with workers' and employers' organizations.* The Committee recalls the important role of workers' and employers' organizations with respect to giving effect to the provisions of the Convention. ***It therefore asks the Government to seek the cooperation of these organizations with regard to the establishment of an appropriate legislative framework to apply the Convention, as indicated above, as well as with regard to practical measures to ensure equal remuneration for men and women for work of equal value. Please keep the Committee informed of progress made in this regard.***

...

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 near future.***

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1982)**

The Committee notes the brief information provided by the Government in reply to its previous comments. Acknowledging the Government's participation in the ILO Workshop on International Labour Standards and Constitutional Obligations held in September 2013, in Lisbon, the Committee hopes that the assistance provided by the Office will offer additional guidance in the elaboration of the Government's next report. It hopes that the report will contain full information on the matters raised in its previous observation, which read as follows:

*Legislation.* The Committee notes from the Government's report on the application of the Equal Remuneration Convention, 1951 (No. 100), that a draft General Labour Act has been prepared. ***The Committee requests the Government to ensure that the legislation will include a prohibition of direct and indirect discrimination at all stages of the employment process and on all the grounds listed in Article 1 of the Convention. It requests the Government to indicate the measures taken to this end.***

*Policies and institutions. Equality of opportunity and treatment of men and women in employment and occupation.* The Committee notes that the Government has adopted a National Strategy for Gender Equality and Equity, which also deals with issues relating to women's equality in the world of work. Further, the Government indicates that participation of women in education and vocational training is a priority of the Government. With a view to strengthening the promotion of women, a new institute for women is being established under the Ministry of Labour. ***The Committee requests the Government to provide the following:***

- (i) a copy of the National Strategy for Gender Equality and Equity;***
- (ii) information on the establishment and activities of the institute for women, on the specific measures taken to promote women's equal access to vocational training and employment in the private and public sectors, and the results obtained by such action; and***
- (iii) statistical information on the participation of men and women in vocational training and the labour market, indicating their levels of participation in the different sectors and occupations.***

*Awareness raising.* The Committee recalls the importance of educational programmes to raise awareness of the principle of equality of opportunity and treatment in employment and occupation. ***The Committee requests the Government to provide information on any action taken or envisaged to promote understanding and awareness of the principle of equality among workers and employers as well as society at large, including through cooperation with workers' and employers' organizations.***

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

## Saudi Arabia

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1978)

#### **Follow-up to the conclusions of the Committee on the Application of Standards** (International Labour Conference, 102nd Session, June 2013)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2013, and the conclusions adopted. The Conference Committee urged the Government to ensure it had a national policy designed to promote equality of opportunity and treatment in employment and occupation, for all workers, with a view to the elimination, in the very near future, of any discrimination on all the grounds set out in the Convention. With reference to the high number of migrant workers, the Conference Committee asked the Government to give particular attention to ensuring the rights of migrant workers, including domestic workers, were being effectively protected. It further requested the Government to accept a direct contacts mission with a view to assessing the situation on the ground and assisting the Government and the social partners to continue to make tangible progress in the application of the Convention. *The Committee welcomes the Government's indication that it has accepted the direct contacts mission, and notes that arrangements have been made for the mission to take place early in 2014. The Committee asks the Government to provide information on the outcome of the mission and the follow-up thereto, with respect to all the issues raised by this Committee and the Conference Committee.*

*National equality policy.* The Committee recalls that the Conference Committee noted that the national equality policy required under the Convention needs to be concrete, specific and effective, and that the impact of the Government's efforts in this area remained unclear. The Committee recalls further that terms of reference had been provided in 2006 by an ILO high-level mission on the development of a national equality policy. The Committee notes the Government's indication that the society is based on equality in rights and duties without discrimination based on race, colour, sex, religion, political opinion, national extraction or social origin, and the acknowledgment that there may, however, be some cases of discrimination which have not been reported. The Government further expresses interest in technical assistance on formulating a national equality policy. The Government considers that it has not adopted discriminatory legislation, decisions or circulars, and in particular that the Labour Code, 2006, is not discriminatory. The Committee recalls that while a national equality policy should include the repeal or modification of discriminatory laws and administrative practices, it also involves the adoption of a range of specific measures to promote equality of opportunity in employment and occupation, which often include legislative and administrative measures, public policies, affirmative action measures, specialized bodies, awareness raising, etc. (see General Survey on the fundamental Conventions, 2012, paragraphs 843–849). *The Committee again urges the Government to develop and implement a national policy designed to promote equality of opportunity and treatment in employment and occupation, in collaboration with the relevant stakeholders. It further urges the Government to take concrete steps to include as part of its national equality policy, legislation specifically defining and prohibiting direct and indirect discrimination, on the grounds of race, sex, colour, religion, political opinion, national extraction and social origin, covering all workers and all aspects of employment. Recalling that sexual harassment is a serious form of sex discrimination, the Committee asks the Government to provide specific protection, in law and practice, against sexual harassment at work, and to provide information on any progress made by the Advisory Council for Women's Work in this regard. The Committee also asks the Government to provide specific information on the steps taken to undertake a national survey, covering national and foreign workers, and different sectors (including construction, domestic work, agriculture) on the situation in the country with regard to discrimination on the grounds set out in the Convention, and the establishment of an action plan, as foreseen in the terms of reference for the multi-stakeholder task force. Please also provide details of the special policies for workers with disabilities referenced in the report, as well as information on the National Observatory for the Workforce as it relates to the implementation of the Convention.*

*Discrimination against migrant workers.* The Committee recalls that the Conference Committee stressed the importance of the Government giving particular attention to ensuring effective protection of the rights of migrant workers, including domestic workers. The Committee notes the steps taken to monitor payments of wages of migrant workers, and the establishment of a consolidated contact centre to assist migrant workers who have problems communicating their complaints to the relevant body. The Committee recalls further that the Government had previously indicated that it was committed to abolishing the sponsorship system. The Committee notes that the Government states in its most recent report that there is no sponsorship system, without specifying the measures taken to abolish it. The Government indicates that in specific cases a worker has the right to transfer their service from one employer to another, though it is not clear what those specific cases involve. Referring specifically to migrant domestic workers, the Committee notes the Government's indication that a protective insurance program has been submitted to the official bodies in countries of origin, and a bilateral agreement was signed with the Government of the Philippines in 2013, and that similar agreements with other countries of origin are under discussion. The Committee also notes the Government's indication that a special regulation for domestic workers was adopted in July 2013. *The Committee asks the Government to provide information on the specific measures taken to abolish the sponsorship system, and to provide appropriate flexibility for workers to change employers. The Committee also asks the Government to provide information, disaggregated by sex and origin, on the*

*number and nature of complaints dealt with by the consolidated contact centre, and the outcome thereof, as well as information on the regulation on recruitment agencies and the regulation on domestic workers referred to by the Government. The Government is also asked to provide information on any steps taken to include in bilateral agreements provisions specifically relating to protection of the rights of migrant workers once in the country, as well as requiring countries of origin to take measures for their protection. Please provide a copy of the bilateral agreements with countries of origin, as well as copies of any model contracts for domestic workers. The Committee also asks the Government to provide specific information on measures taken to identify and address sexual harassment of migrant workers.*

*Equality of opportunity and treatment between men and women.* The Committee notes the Government's indication that the number of women in employment has increased substantially over the last 30 years. The Committee notes in this regard ILO statistics evidencing an increase in female labour market participation from 17.4 per cent in 2009 to 20.3 per cent in 2012, with men's labour market participation increasing in the same period from 74.2 per cent to 77.6 per cent. The Committee also notes that the Government refers very generally to a range of measures taken by the Ministries of Education, Higher Education and Labour, the Shura Council, the Technical and Vocational Training Corporation, and the Fund for Human Resources Development aimed at increasing the opportunities for women's participation in non-stereotyped and high-level work. The Government also refers to measures taken to promote women's work from home and part-time work. On the issue of restrictions on women's employment pursuant to section 149 of the Labour Code, the Government states that the provision prohibits employers employing women in specific occupations and tasks that jeopardize health or are likely to expose women to specific risks, and indicates in the context of the process of amending the Labour Code, that the repeal of this provision is under serious consideration. The Committee recalls that extensive criteria regulating women's ability to work is also set out in the Council of Labour Force Order No. 1/19M/1405(1987), paragraph 2/A. *The Committee urges the Government to amend or repeal section 149 of the Labour Code to ensure that any restrictions on women's employment are strictly limited to maternity protection, and to repeal the Council of Labour Force Order No. 1/19M/1405(1987), paragraph 2/A, with a view to ensuring that women have the right, in law and practice, to pursue freely any job or profession. The Committee also asks the Government to clarify whether the Order of 21 July 2003 approving women's participation in conferences suitable to them has been amended, to ensure that women are able to participate in international conferences on an equal footing with men. The Committee asks the Government to continue to undertake measures to support women's access to a wider range of jobs, and to provide detailed information on the measures taken and their impact, specifying the number and nature of jobs secured by women due to such measures, including through the Public Training Plan and Vocational Training Corporation. The Committee again asks the Government to provide information on the establishment, mandate and activities of the Higher National Committee for Women's Affairs.*

*Monitoring and enforcement.* The Committee notes the Government's indication that a significant programme has been launched for the development of workers' dispute settlement bodies, with a view to providing high quality service to clients in all types of cases, reducing the number and length of lawsuits by workers, and establishing a high quality consolidated mechanism to deal with workers' claims within a clear and effective governance framework. The Government states that these bodies will be open to all, including citizens and non-citizens, regardless of the legal nature of the labour relationship. The Committee notes further the project on the development of the judiciary. *Noting the efforts made to reinforce workers' dispute settlement bodies and the judiciary, and the Government's reference to the establishment of women's sections in courts, the Committee asks the Government to provide information on the impact of these measures on increasing accessibility of workers to dispute resolution processes, particularly for complaints of discrimination in employment and occupation. Please indicate the number and nature of complaints regarding discrimination, disaggregated by sex and origin, including with respect to agricultural workers, brought before these bodies, labour inspectors, labour dispute commissioners or the Human Rights Commission, and their outcome. Noting further the Government's stated commitment to develop the judicial system based on international good practices, the Committee encourages the Government to take this opportunity to seek assistance with a view to increasing the capacity of judges, labour inspectors and other officials to identify and address discrimination in employment and occupation.*

*[The Government is asked to reply in detail to the present comments in 2014.]*

## **Sierra Leone**

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1966)**

*Article 1(1)(b) of the Convention.* The Committee notes with *interest* the adoption of the Persons with Disability Act, 2011, section 19(1) of which provides that "no person shall deny a person with disability having the requisite skills and qualifications, access to opportunities for suitable employment," and section 20 of which provides that no employer shall discriminate against a person with a disability in relation to the advertisement of employment, recruitment, creation or classification of post, determination of wages, training or advancement, provision of facilities related to employment, or any other matter related to employment. The Act also establishes the National Commission for Persons with Disabilities,

which pursuant to section 6(2)(e) has the authority to investigate allegations of discrimination based on disability. ***The Committee requests the Government to provide information on the practical application of sections 19 and 20 of the Persons with Disability Act.***

The Committee also notes with *interest* the adoption of the National HIV and AIDS Commission Act, 2011. Section 2 of the Act established the National HIV and AIDS Commission, which is charged with the prevention, management and control of HIV and AIDS (section 4(1)). The Act also provides that “no person shall be denied access to any employment for which the person is qualified, or transferred, denied promotion or have his employment terminated on the grounds only of his actual, perceived or suspected HIV status” (section 39(1)). The Committee notes that while the language of section 39(1) is identical to that of section 23(1) of the Prevention and Control of HIV and AIDS Act of 2007, section 39 of the National HIV and AIDS Commission Act does not contain the exceptions to the prohibition on discrimination included under section 23(2) of the Prevention and Control of HIV and AIDS Act. ***The Committee requests information on the status of the Prevention and Control of HIV and AIDS Act of 2007, with a view to determining whether the exceptions permitted under section 23(2) of the Act continue to be applicable. The Committee also requests the Government to provide information on the practical application of section 39 of the National HIV and AIDS Commission Act, including information on the mechanisms through which aggrieved persons may lodge complaints. Please also provide copies of any judicial or administrative decisions relevant to the National HIV and AIDS Commission Act or the Prevention and Control of HIV and AIDS Act.***

The Committee is raising other points in a request addressed directly to the Government.

## Syrian Arab Republic

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1957)***

The Committee notes the general human rights situation in the country as referred to in its comments under the Abolition of Forced Labour Convention, 1957 (No. 105).

It also 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 continuing human rights violations reported and the ongoing climate of violence (Report of the United Nations Secretary-General, A/HRC/21/32, 25 September 2012).

The Committee notes that the Human Rights Council condemned and expressed profound concern at the grave and systematic human rights violations in the Syrian Arab Republic (Resolution by the Human Rights Council at its 17th special session on the human rights situation in the Syrian Arab Republic, 23 August 2011 – A/HRC/S-17/2) and regretted the lack of progress made in the political reform process. The Committee recognizes that, without an inclusive, credible and genuine dialogue conducted in an environment without fear and intimidation, and without effective protection of human rights, the implementation of the Convention is seriously hindered, if not rendered impossible.

*Legislative developments.* The Committee notes the adoption of a new Labour Law (No. 17/2010), section 75(a) of which provides that the employer shall apply the principle of “equal pay for work of equal value” to all workers without any discrimination, including discrimination based on gender. Section 75(b) then defines “work of equal value” as “work that requires equal scientific qualifications and professional skills, as attested by a work experience certificate”. While welcoming the specific reference to “work of equal value” in the new Labour Law, the Committee is concerned that the definition in section 75(b) may unduly restrict the application of section 75(a), as it does not appear to allow a comparison of jobs requiring different qualifications and skills, which are nonetheless of equal value. ***The Committee asks the Government to provide information on the practical application of section 75 of the new Labour Law, including any administrative or judicial decisions. Please also provide specific information regarding the scope of comparison permitted under section 75(b), and in particular whether it is possible to compare jobs of an entirely different nature, requiring different qualifications and skills, to determine whether they are of equal value under section 75(a).***

*Application in practice.* The Committee notes that the Government’s report contains no information in response to its previous observations regarding concrete measures taken to determine the nature, extent and causes of inequalities in remuneration that exist in practice, in order to identify specific measures to address these inequalities. ***The Committee once again urges the Government to undertake studies to determine the nature, extent and causes of inequalities in remuneration existing in practice between men and women for work of equal value in the public and private sectors, and to identify specific measures to address these inequalities. Please also provide full information on the occupational classification system referred to in the previous report, including information on the criteria used to ensure that this classification system is free from gender bias.***

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 near future.***

## Uganda

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 2005)

*Sexual harassment.* The Committee notes with *interest* the adoption of the Employment (Sexual Harassment) Regulations, 2012, pursuant to sections 7 and 97(1) of the Employment Act, 2006 (the Act). The Regulations supplement the provisions on sexual harassment set out in section 7 of the Act, providing clear indications of what would constitute sexual harassment and intimidation, setting out what is to be included in a sexual harassment policy, detailing the composition and functioning of enterprise sexual harassment committees, and providing that sexual harassment is to be included in collective agreements. It also provides clear provisions prohibiting retaliation or discrimination against those filing a complaint as well as against witnesses or others cooperating in an investigation. The Government indicates that various activities have been undertaken to disseminate the new instrument and that further awareness-raising initiatives will be implemented by local governments. ***The Committee asks the Government to continue to provide information on the implementation of section 7 of the Employment Act, and of the Employment (Sexual Harassment) Regulations, and on the specific measures taken, including by workers' and employers' organizations, to prevent and address sexual harassment in employment and occupation in practice.***

*HIV and AIDS.* The Committee notes with *interest* the adoption of the National HIV/AIDS Policy, 2011, and the National Policy on HIV/AIDS and the World of Work, 2007, the implementation of which were recently the subject of specific training provided to judges and legal professionals. The Committee notes in particular that the National HIV/AIDS Policy stresses the importance of workplace policies in the public and private sectors, and formal and informal economies, and that all forms of discrimination against people living with HIV will be identified and addressed through appropriate policies and programmes. The Committee notes further that the policy focussing specifically on the world of work prohibits employment-related discrimination or abuse on the basis of real or perceived HIV status, and provides for protection against stigma and discrimination, which is to be addressed in education and information activities. Mandatory HIV testing is also prohibited and all HIV-related information is to be kept confidential. ***The Committee asks the Government to continue to provide information on the measures taken to implement the policies on HIV and AIDS, as well as on the impact of such measures on addressing discrimination in employment and occupation based on real or perceived HIV status. Noting the reference in the National HIV/AIDS Policy to the development of specific legislation on HIV and AIDS, the Committee draws the Government's attention to the HIV and AIDS Recommendation, 2010 (No. 200), and asks the Government to provide information on the status of the development of the law.***

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** (Algeria, Angola, Australia, Bahamas, Barbados, Brazil, Burundi, Central African Republic, Chad, Comoros, Costa Rica, Democratic Republic of the Congo, Djibouti, France: New Caledonia, Gabon, Gambia, Georgia, Germany, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Islamic Republic of Iran, Iraq, Ireland, Israel, Italy, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Republic of Korea, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand: Tokelau, Nicaragua, Nigeria, Norway, San Marino, Sao Tome and Principe, Sierra Leone, Uganda); **Convention No. 111** (Algeria, Angola, Australia, Barbados, Brazil, Burundi, Cambodia, Canada, Central African Republic, Chad, Comoros, Costa Rica, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Equatorial Guinea, France: New Caledonia, Gabon, Gambia, Georgia, Germany, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Israel, Italy, Jamaica, Jordan, Kenya, Kiribati, Republic of Korea, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Lithuania, Luxembourg, Madagascar, Malawi, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand: Tokelau, Nicaragua, Nigeria, Norway, San Marino, Sierra Leone, Uganda); **Convention No. 156** (Azerbaijan, Guinea, San Marino, Slovakia, Yemen).

## Tripartite consultation

### Bangladesh

#### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1979)**

*Effective tripartite consultations required by the Convention.* The Committee notes the Government's report received in September 2013 in reply to its previous observation. The Government reiterates that it has constituted the Tripartite Consultative Council (TCC) which is composed of 60 members having equal representation from employers' organizations, workers' organizations and Government. The Committee notes with *interest* that at the TCC meeting held on 30 July 2013, the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and the Maritime Labour Convention, 2006 (MLC, 2006), were recommended for ratification. **The Committee invites the Government to provide a report containing more detailed information on the effective consultations held by the Tripartite Consultative Council on the matters relating to international labour standards covered by the Convention. It also invites the Government to provide in its next report information on the progress made towards ratification of Convention No. 185 and the MLC, 2006 (Article 5(1)(c) of the Convention). The Committee also invites the Government to re-examine some other unratified Conventions with the social partners, in particular the Minimum Age Convention, 1973 (No. 138), which is deemed a fundamental Convention; the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Employment Policy Convention, 1964 (No. 122), which are deemed governance Conventions; and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), whose ratification would result in the immediate denunciation of the Indigenous and Tribal Populations Convention, 1957 (No. 107).**

*Unratified Conventions on occupational safety and health.* Following the tragic events resulting from the Rana Plaza building collapse in April 2013 and the Tazreen factory fire in November 2012, the Committee notes the National Tripartite Plan of Action on Fire Safety and Structural Integrity in the ready-made garment sector in Bangladesh signed on 25 July 2013 and notes the ILO programmes developed with the tripartite partners. It recalls that in the Tripartite Statement of Commitment, adopted in Dhaka on 15 January 2013, the social partners in Bangladesh expressed the need to respect and promote the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), the Occupational Safety and Health Convention, 1981 (No. 155), and other relevant standards such as the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121). **The Committee invites the Government and the social partners to take advantage of the tripartite consultation procedures required by the Convention to achieve progress towards the application and ratification of the instruments of the ILO relevant to the framework for occupational safety and health.**

### Burundi

#### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)**

*Tripartite consultations required by the Convention. Technical assistance to help member States fulfil their reporting obligations and comply with the provisions of the Convention.* The Committee notes the comments by the Trade Union Confederation of Burundi (COSYBU) submitted to the Government in September 2013. The COSYBU indicates that consultation is not yet rooted in government practice and in its decentralized structures. It also adds that the National Committee on Social Dialogue was established and held two meetings. The Committee notes with *regret* that it has been unable to examine a report from the Government since 2007. **Referring once again to its 2007 observation, the Committee invites the Government to submit a report containing detailed information on the content and outcome of tripartite consultations held since November 2007 on questions concerning international labour standards, and in particular on the reports to be made to the ILO as well as on the re-examination of unratified Conventions and Recommendations (Article 5(1)(c) and (d)).** The Committee draws the Government's attention to the possibility of availing itself of the ILO's technical assistance to fill the gaps in the implementation of the Convention.

*[The Government is asked to reply in detail to the present comments in 2014.]*

### Chad

#### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1998)**

##### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

*Technical assistance.* The Committee notes the tripartite discussion regarding the application of this Convention which took place in the Conference Committee. In its conclusions, the Conference Committee invited the Government to

take all appropriate measures to ensure the effective operation of the procedures required by this governance Convention. The Conference Committee also invited the Government to request technical assistance from the ILO, including the exchange of good practices with other member States in order to strengthen social dialogue and establish effective national procedures to support tripartite consultation, as required by the Convention. ***The Committee hopes that technical assistance from the ILO will enable the Government to strengthen social dialogue and the practice of tripartism in the areas covered by the Convention. It invites the Government to send a report containing details of the progress made in this regard.***

*Articles 2 and 5(1) of the Convention. Consultation mechanisms and effective tripartite consultations required by the Convention.* The Committee notes the information in the Government's brief report received in June 2013. The Government states that, in addition to the Higher Committee for Labour and Social Security, another tripartite body, the National Committee for Social Dialogue, has been established through Decree No. 1437/PR/PM/MFPT/09, adopted on 5 November 2009, concerning the creation, organization and operation of social dialogue structures. The National Committee for Social Dialogue played a role in a recent labour-related crisis between the Government and trade unions. The Committee refers once again to the 2008 Declaration on Social Justice for a Fair Globalization, which reaffirms that "social dialogue and the practice of tripartism between governments and the representative organizations of workers and employers within and across borders are now more relevant to achieving solutions and to building up social cohesion and the rule of law through, among other means, international labour standards". ***The Committee invites the Government to send a report containing detailed information on the consultations held in 2013–14 on all the items covered by Article 5(1) of the Convention.***

*Article 4(2). Training.* ***The Committee invites the Government to describe any arrangements made for the financing of any necessary training of participants in the consultative procedures.***

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Chile

### ***Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1992)***

*Effective tripartite consultations.* The Committee takes note of the report received in October 2013 referring to tripartite administrative measures implemented by the Government for the protection of workers' health and safety. The Government also indicates that the Labour Directorate has introduced a procedure for the establishment and operation of regional tripartite councils of users of the Labour Directorate. As to the still outstanding issue of the submission to the National Congress of the instruments adopted by the Conference, the Government states that it will explore the best means of taking into account the views of the employers and the workers. ***The Committee requests the Government to provide in its next report information on the tripartite consultations held with the representative organizations concerned on the matters relating to international labour standards required by Articles 2 and 5 of the Convention. The Committee refers to its observation regarding the obligation to submit established in article 19(5) and (6) of the ILO Constitution, in which it indicates that 28 instruments adopted by the International Labour Conference are awaiting submission. It requests the Government to report on the effective consultations held with the social partners on the proposals made to the National Congress in connection with the submission of instruments adopted by the Conference (Article 5(1)(b) of the Convention).***

*[The Government is asked to reply in detail to the present comments in 2014.]*

## China

### **Hong Kong Special Administrative Region**

### ***Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (notification: 1997)***

*Article 5 of the Convention. Tripartite consultations required by the Convention.* The Committee takes note of the information supplied in the report received for the period ending in May 2013. The Government indicates that the matters covered by *Article 5* are primarily the responsibilities of the Committee on the implementation of International Labour Standards (CIILS) under the auspices of the Labour Advisory Board (LAB). During the period covered by the Government's report, the CIILS was consulted on all reports submitted under article 22 of the ILO Constitution and on all replies to the comments made by the Committee. The Committee further notes that the CIILS also discussed the proposed legislative amendments for the application of the Maritime Labour Convention, 2006 (MLC, 2006). Furthermore, a tripartite team including representatives of the CIILS and the LAB was set up to attend the 100th and 101st Sessions of the Conference. Moreover, the Committee notes that the last report of the LAB covering the 2011–12 period refers to the consideration by the CIILS of 14 reports submitted pursuant to article 22 of the ILO Constitution. ***The Committee invites***

***the Government to continue to provide up-to-date information on the consultations held on the matters concerning international labour standards covered by Article 5(1) of the Convention.***

*Operation of the consultative procedures.* The Committee notes the observations made by the Hong Kong Confederation of Trade Unions (HKCTU) in September 2013. The HKCTU indicates that the manner in which workers' representatives are chosen cannot ensure effective consultations, as the HKCTU, the second largest union confederation, is excluded from tripartite consultations. The HKCTU explains that the choice of the workers' representatives to the LAB uses a specific mechanism. They are elected on a biannual basis by workers' trade unions in a secret ballot. Each registered union has five votes no matter how many members the union has. In such a mechanism, the largest union confederation can dominate the result. In the 2012 election, 362 unions voted. Most of the votes were from the affiliates of the Hong Kong Federation of Trade Unions (HKFTU), which has 184 affiliates in total. Although the HKCTU is the second largest union confederation in Hong Kong consisting of around 90 affiliates, it is impossible for the HKCTU's representatives to be elected without the agreement of the HKFTU. In the reply received in November 2013, the Government indicates that it adheres to the principle of tripartism through the operation of the LAB, by following closely the principle of free choice in the appointment of representatives of employers and workers. All registered trade unions, regardless of whether they are affiliated to any union groups, are free to choose their representatives to sit on the LAB. ***The Committee recalls its 2011 observation and invites the Government to consult with the social partners on the manner in which the effectiveness of the operation of the consultative procedures in place could be improved to ensure that the HKCTU will also take part in the consultative process.***

***[The Government is asked to reply in detail to the present comments in 2014.]***

## Costa Rica

### ***Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1981)***

*Article 5(1) of the Convention. Tripartite consultations required by the Convention.* With regard to the observation of 2012, the Committee notes the Government's report which indicates that each time documents have been received from the ILO, the requirements of *Article 5* of the Convention have been met. The Government has submitted a list of communications for the period 2011–13 sent to the social partners that relate to *Article 5(1)* of the Convention. In response to the request made in the 2012 observation, the Government states its readiness to discuss with the social partners the possibility of establishing a schedule for the preparation of reports. In a communication of 30 August 2013, the Confederation of Workers Rerum Novarum (CTRN) expresses concern that the government authorities have not presented their reports to the workers' organizations before transmitting them to the ILO, which prevents the organizations to submit relevant observations. The Committee recalls that the tripartite consultations required by *Article 5(1)(d)* of the Convention have to be held during the process of preparing the reports. When written consultations are held, the Government should transmit to the representative organizations a draft report in order to gather their opinions in advance, before preparing its definitive report (see General Survey of 2000 on tripartite consultation, paragraph 93). ***The Committee invites the Government to continue providing information on the consultations held on each of the matters listed in Article 5(1) of the Convention. It also invites the Government to consult with the social partners as to how implementation of the procedures required by the Convention could be improved, and to consider the possibility of establishing a schedule for the preparation of reports (Article 5(1)(d)).***

## Côte d'Ivoire

### ***Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1987)***

*Articles 5(1) and 6 of the Convention. Effective tripartite consultations required by the Convention.* The Committee notes the report sent by the Government in reply to its observation of 2012. The Government indicates that tripartite consultations are being held concerning the items on the agenda of the Conference. As regards the matters referred to in *Article 5(1)(d)*, the Government indicates that reports are submitted to the most representative employers' and workers' organizations before their transmission to the ILO. Moreover, the Committee notes that the order appointing new members of the tripartite committee on ILO matters has not yet been adopted and that the Government will seek technical assistance from the ILO with regard to training of the members of that committee, once the order has been adopted. ***The Committee refers to its previous observation and again requests the Government to supply up-to-date information in its next report on the effective consultations held on each of the matters set out in Article 5(1).*** The Committee also reminds the Government that technical assistance from the ILO regarding these matters is available to the Government and the social partners.

*Article 5(1)(b). Submission to the National Assembly of the instruments adopted by the Conference.* The Government indicates that the procedure for the submission of the instruments adopted by the Conference between 1996 and 2011 is still in progress. The Committee refers to its comments on the obligation of submission in which, like the Conference Committee, it asked the Government to complete the procedures for the submission to the National Assembly

of the instruments adopted by the Conference between 1996 and 2012. *The Committee trusts that the Government, in its next report, will be in a position to provide precise and detailed information on the proposals to be submitted to the National Assembly, as required by Article 5(1)(b) of the Convention.*

## Democratic Republic of the Congo

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2001)**

*Effective tripartite consultations.* The Committee notes the Government's report received in November 2013. In reply to the previous comments, the Government indicates that the trade union and employers' elections held between October 2008 and July 2009 enabled 12 occupational organizations of workers to be identified as being the most representative, with terms of office lasting until the next elections, scheduled for December 2013. The most representative occupational organizations of employers are determined on the basis of the number of enterprises affiliated. The Government also indicates that the Ministry of Employment, Labour and Social Welfare convenes sittings of the National Council on Labour (CNT) by an order that it issues to the social partners represented in the CNT, requesting them to submit the names of the titular and alternate representatives of their respective organizations (*Article 3 of the Convention*). The Committee notes that the Government's report contains no further information on the operation of the consultation procedures required by the Convention. *The Committee refers the Government to its previous observation, in which it points to a serious failure of the obligation to submit the instruments adopted by the Conference, laid down in article 19(5) and (6) of the ILO Constitution. It requests the Government to provide information on the consultations held with the social partners on the proposals made to Parliament upon the submission of instruments adopted by the Conference (Article 5(1)(b) of the Convention). It further requests the Government to provide detailed information on the content of the consultations and the recommendations made by the social partners on each of the matters listed in Article 5(1) of the Convention.*

*[The Government is asked to reply in detail to the present comments in 2015.]*

## Djibouti

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2005)**

*Articles 1 and 3(1) of the Convention. Participation of representative organizations.* The Committee notes the Government's report received in May 2013 in reply to the comments made between 2008 and 2012. The Government indicates in its report that section 215 of the Labour Code is the legal framework governing trade union representativeness, providing that "the representative nature of trade union organizations shall be determined by the outcome of workplace representation elections" and that "the ranking ... thus determined by the workplace elections shall be recorded in an order issued by the Minister in charge of labour". The Government adds that in order to fill the current institutional void, a draft order is in preparation, that the criteria to determine the representativeness of employers' and workers' organizations is still to be determined in this context, and that the draft will shortly be submitted to the National Council on Labour, Employment and Social Security. Moreover, the Government indicates that the General Union of Djibouti Workers (UGTD) organized a representational election on 8 August 2009 in the presence of observers from several international trade union organizations, whereas the Labour Union of Djibouti (UDT) has not yet organized such an election to legitimize its leader, and that it urges the UDT to do so promptly to avoid the risk of being excluded from all national and international tripartite bodies. As regards the employers, the Government indicates that the Federation of Employers of Djibouti (FED) and the National Confederation of Employers of Djibouti (CNED) represent employers on all tripartite bodies and that their leaders are up to date with their terms of office. *Referring again to issues concerning freedom of association examined by the Committee on Freedom of Association and to its comments on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee expresses the hope that the Government will be in a position to secure for all employers' and workers' organizations present in the country the right to free and transparent elections in an environment that fully respects their capacity to act with complete independence. It also hopes that the abovementioned order will be adopted by the Government following consultations with the employers' and workers' organizations and that it will establish objective and transparent criteria for appointing workers' representatives in national and international tripartite bodies, including the International Labour Conference.*

*Financing of training.* *Recalling its previous comments, the Committee again invites the Government to describe in its next report the appropriate arrangements made for the financing of any necessary training of participants in consultation procedures (Article 4(2)).*

*Tripartite consultations required by the Convention. Frequency of tripartite consultations.* In reply to the Committee's previous comments, the Government indicates that the National Council for Labour, Employment and Vocational Training (CTEFP) has been replaced by the National Council for Labour, Employment and Social Security (CONTESS), established on 30 December 2012. The Government further indicates that the consultations on international

labour standards, referred to in *Article 5(1)* of the Convention, will be held at a later date because CONTESS has a heavy workload. The Committee recalls that the consultations specified in *Article 5(1)* of the Convention are to be undertaken at appropriate intervals fixed by agreement, but at least once a year (*Article 5(2)*). ***The Committee invites the Government to provide in its next report detailed information on the consultations held on each of the matters listed in Article 5(1) of the Convention, indicating the content of the recommendations made by the social partners as a result of the consultations. It invites the Government to respect the frequency of the tripartite consultations required by Article 5(2) of the Convention prescribing appropriate intervals fixed by agreement, but at least once a year.***

*Article 5(1)(b). Tripartite consultations prior to submission to the National Assembly. The Committee refers to its observations on the constitutional obligation to submit instruments, in which it expresses deep concern at Djibouti's failure to submit 65 instruments adopted by the Conference between 1980 and 2012. It requests the Government to provide information on effective consultations held with the social partners on the proposals made to the National Assembly upon the submission of instruments adopted by the Conference.*

*[The Government is asked to reply in detail to the present comments in 2015.]*

## Dominican Republic

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1999)**

The Committee notes that the Government's report has not been received. It must therefore repeat its 2012 observation which read as follows:

*Tripartite consultations required by the Convention. Observations from trade union confederations.* The Committee notes the detailed report from the Government received in October 2012 and the new observations from the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD). In the observations sent to the Government in October 2012, the trade union confederations again express their concern at the fact that they did not receive the reports and questionnaires due from the Government. According to the trade union confederations, no institutional procedure was established for tripartite participation in the adoption, submission, ratification and application of international labour standards. The Government states in its report that it regrets that the trade union confederations have not received the reports by the deadline and in the form established by the Convention. The Committee notes that the Government undertakes to hold tripartite consultations with respect to the drafting of the reports called for under *Article 5* of the Convention. The Committee also observes that the consultations on international labour standards required by the Convention are not included in the information provided for by the Government on the consultations held in the Labour Advisory Council in 2010, 2011 and 2012. ***The Committee invites the Government to ensure full compliance with the tripartite consultations required when preparing draft reports on the application of ratified Conventions (Article 5(1)(d) of the Convention). It also invites the Government to provide detailed information, in the next report due in 2013, on the consultations held on the matters relating to international labour standards provided for in Article 5(1) of the Convention.***

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

## El Salvador

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)**

*Tripartite consultations required by the Convention.* The Committee notes that it has not received the report due in 2013. The Committee observes that 54 instruments adopted by the Conference are awaiting submission to the Congress of the Republic. ***The Committee invites the Government to intensify its efforts to hold the tripartite consultations required for the submission to the Congress of the Republic of the instruments adopted by the Conference. The Committee invites the Government to provide a report containing updated information on the tripartite consultations held on matters relating to international labour standards (Article 5(1) of the Convention).***

*Article 3(1). Election of representatives of the social partners to the Higher Labour Council.* In its 2012 direct request, the Committee noted the concern expressed by the National Business Association (ANEP) and the International Organisation of Employers (IOE) as a result of the presentation, without having consulted the Higher Labour Council, of 19 legislative reforms designed to amend the employers' participation in the management structures in certain tripartite institutions. In the communication received in August 2013, the ANEP again expressed concern at the fact that the Ministry of Labour and Social Welfare, in a resolution dated 2 July 2013, stated that it was not authorized to influence the selection process of workers' representatives on the Higher Labour Council. The Ministry of Labour and Social Welfare has urged legally registered union federations and confederations to reach an agreement as soon as possible and to present a single list of the persons designated as workers' representatives on the Higher Labour Council. The Committee notes that, in Case No. 2980, the Committee on Freedom of Association (368th Report, June 2013) requested the Government to, inter alia, ensure that representatives of workers' and employers' organizations in tripartite bodies are designated freely by these organizations and that full consultations are held urgently with workers' and employers' organizations within the framework of the Higher Labour Council. The Committee recalls the importance of the free choice of representatives of workers and employers, in accordance with *Article 3(1)* of the Convention, as "only by allowing the organizations

themselves to choose their representatives freely is it possible to guarantee that the participants in the consultation procedures are truly representative” (see 2000 General Survey on tripartite consultation, paragraph 42). *The Committee invites the Government and the social partners to promote and strengthen tripartism and social dialogue so as to facilitate the operation of the procedures which ensure effective tripartite consultations (Article 2(1) of the Convention). It also invites the Government to provide a report enabling the Committee to examine progress in the operation of the Higher Labour Council in relation to the tripartite consultations required by the Convention.*

*[The Government is asked to reply in detail to the present comments in 2014.]*

## **Fiji**

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1998)**

*Tripartite consultations required by the Convention.* The Committee notes the information provided by the Government in its report received in June 2013. The Government indicates that consultations were held with representatives of employers’ and workers’ organizations concerning the ratification of the Employment Policy Convention, 1964 (No. 122), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129). The Employment Relations Advisory Board (ERAB) convened meetings to discuss issues pertaining to Conventions Nos 122 and 129. The Government adds that the first reports on the application of these Conventions were also submitted to the social partners prior to the International Labour Conference in 2012. The Committee recalls that the ratification of Convention No. 122 and of Convention No. 129 was registered in January 2010. In addition, the instruments of ratification of the Private Employment Agencies Convention, 1997 (No. 181), and of the Maritime Labour Convention, 2006 (MLC, 2006), were received at the ILO in January 2013. Keeping in mind the concerns on trade union rights raised under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee refers to the resolution on tripartism and social dialogue adopted by the Conference at its 90th Session (2002), which emphasizes the fact that, for tripartite consultations to be successful, participants must demonstrate the necessary skills for social dialogue (capacity to be aware of the positions of the other parties, respect for each participant, abiding by commitments made, and a willingness to resolve differences). Furthermore, the Committee recalls that the 2008 ILO Declaration on Social Justice for a Fair Globalization identified the Convention as one of the most significant instruments from the viewpoint of governance. The Committee therefore expresses its firm hope that there are new grounds in Fiji for continuing to bring together the social partners and for further developing effective tripartite consultations. *The Committee invites the Government to include in its next report detailed information on the activities of the ERAB and on the tripartite consultations held on the matters relating to international labour standards covered by Article 5(1) of the Convention.*

## **Guatemala**

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1989)**

*Articles 2 and 5 of the Convention. Effective tripartite consultations.* In its observation of 2012, the Committee noted the concerns expressed by the Trade Union Confederation of Guatemala (UNSITRAGUA), together with the General Confederation of Workers of Guatemala (CGTG) and the Trade Unions’ Unity of Guatemala (CUSG), and also by the Indigenous and Rural Workers Trade Union Movement of Guatemala (MSICG), about the development of social dialogue and the effectiveness of the consultations held in the Tripartite Commission on International Labour Affairs. The MSICG reiterated its observations in a communication sent to the Government in September 2013. In a report received in August 2013, the Government refers to the establishment of the Economic and Social Council of Guatemala and the meetings of the Tripartite Commission on International Labour Affairs (including a joint subcommittee of the Economic and Social Council and the National Tripartite Commission). Moreover, the Government indicates that, in the context of the Memorandum of Understanding concerning Freedom of Association signed in March 2013, the activities of the National Tripartite Commission have been strengthened, giving some momentum to social dialogue. Among the new topics contained in a programme agreed upon by the social partners, discussions will be held on the social aspects of the trade agreements with the United States, the legislation on investment and employment, the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and social security. The Committee notes the tripartite meetings held in connection with the Domestic Workers Convention, 2011 (No. 189), and the corresponding Recommendation, 2011 (No. 201). *The Committee expresses the hope that new prospects will emerge to continue to bring the social partners closer together and further expanding the tripartite consultations required by the Convention. The Committee invites the Government to provide detailed information in its next report on the activities of the Tripartite Commission on International Labour Affairs and on the other initiatives taken to strengthen consultations on international labour standards, as required by the Convention.*

## Guinea

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)**

The Committee notes that the Government's report has not been received. It must therefore repeat its 2012 observation which read as follows:

*Effective tripartite consultations required by the Convention. Financing of training.* The Committee notes the Government's report received in July 2012. The Government indicates that the activities of the Labour and Social Legislation Advisory Committee (CCTLS) were suspended and only resumed in 2011. The Advisory Committee held its first session from 8 to 23 November 2011 on the rereading of the draft Labour Code. It proposes to conduct an exchange on the items placed on the agenda of the next session of the Conference. In reply to the Committee's latest comments, the Government indicates that the cost of CCTLS sessions are covered by the national development budget. The Government refers in its report to the activities conducted in the context of the regional programme for the promotion of social dialogue in francophone Africa, including the tripartite workshop on training in collective bargaining techniques and the training workshop for members of the steering committee of the National Forum on Social Dialogue held in 2010. **The Committee requests the Government to provide detailed information in its next report on the consultations held on the matters referred to in Article 5(1) of the Convention (reply to questionnaires, submissions to the National Assembly, re-examination of unratified Conventions and of Recommendations, reports to be made to the ILO) including information on the activities of the CCTLS in relation to the consultations required by the Convention (Articles 2 and 5). The Committee also requests the Government to describe, in its next report, the training activities which were conducted in relation to international labour standards (Article 4).**

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

## Guyana

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)**

The Committee notes that the Government's report has not been received. It must therefore repeat its 2012 observation which read as follows:

*Effective tripartite consultations.* The Committee notes the Government's very brief report received in May 2012 in reply to its previous comments. The Government indicates that the ILO Tripartite Committee is required to meet monthly but sometimes meetings are cancelled due to no quorum. The Government also reports that consultations on unratified Conventions have not been done seriously and this issue will be brought to the attention of the Subcommittee (*Article 5(1)(c) of the Convention*). The Committee refers to its 2012 direct request on the Unemployment Convention, 1919 (No. 2), in which it invited the Government and the social partners to contemplate ratifying more recent employment Conventions, that is, the Employment Service Convention, 1948 (No. 88), the Employment Policy Convention, 1964 (No. 122), and the Private Employment Agencies Convention, 1997 (No. 181). **The Committee invites the Government to include in its next report information on any development with regard to tripartite consultations on unratified Conventions (Article 5(1)(c) of the Convention).**

*Replies to questionnaires, submissions to the Assembly of Parliament and reports to be made to the ILO.* The Committee has been recalling for many years that certain subjects covered by *Article 5(1)* of the Convention (replies to questionnaires (a), submission of the instruments adopted by the Conference to the Assembly of the Parliament (b), and reports to be made to the ILO (d)) involve annual consultation. **The Committee hopes that the Government will be able to provide in its next report information on tripartite consultations held on the matters covered by Article 5(1)(a), (b) and (d).**

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

## Ireland

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1979)**

The Committee notes that the Government's report has not been received. It must therefore repeat its 2012 observation which read as follows:

*Tripartite consultations required by the Convention.* The Committee notes the information provided by the Government in its report received in October 2012, in which the Government states that it continues to comply with the Convention, as outlined in previous reports. The Committee notes that the previous report was received in October 2005. The Government indicates that the Department of Jobs, Enterprise and Innovation continues to consult the Irish Business and Employers Confederation and the Irish Congress of Trade Unions in relation to ILO matters. Department officials meet with the national social partners regularly throughout the year to discuss departmental business, which can include discussions on ILO Conventions. The Government adds that all reports submitted to the ILO concerning Conventions are sent to the national social partners for their observations. No decision is made with respect to the ratification or acceptance of Conventions and Recommendations prior to the receipt and consideration of the views of employers' and workers' representatives. **The Committee invites the Government to provide updated information on the effective tripartite consultations held on replies to questionnaires concerning items on the agenda of the Conference, proposals made on submission to Parliament of the instruments adopted by the Conference, re-examination of unratified Conventions and Recommendations, questions arising out of the report to be made on the application of Conventions, and denunciation of Conventions (Article 5(1) of the Convention).**

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

## Jordan

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2003)**

*Tripartite consultations required by the Convention.* The Committee notes the Government's brief report received in August 2013 which states that the Tripartite Committee has not issued any reports or recommendations on issues related to international labour standards. Moreover, it notes with *regret* the Government's indication that the Tripartite Committee has not been operational in this respect. **The Committee requests the Government to make a special effort when preparing its next report and to provide detailed information on the content and outcome of the tripartite consultations held on each of the matters set out in Article 5(1) of the Convention.** The Committee draws the Government's attention to the possibility of availing itself of ILO's technical assistance to fill the gaps in the implementation of the Convention.

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Malawi

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1986)**

*Tripartite consultations required by the Convention.* The Committee notes the Government's report received in June 2013 in which it indicates that the tripartite approach of the Convention is applied and utilized fully in the consultation process in Malawi. The Government further lists the various legislative texts and policies that were reviewed using this approach. **The Committee refers to its previous observations and invites the Government to submit a report containing detailed information on the tripartite consultations held on each of the matters related to international labour standards covered by Article 5(1) of the Convention. It also requests the Government to include information on the nature of any reports or recommendations made as a result of such consultations.**

*Article 5(1)(c) and (e) of the Convention. Prospects of ratification of Conventions and proposals for the denunciation of ratified Conventions.* In reply to the Committee's previous comments, the Government indicates that it will consult with the social partners regarding the denunciation of Conventions Nos 50, 64, 65, 86, 104 and 107. The Committee recalls that the ILO's Governing Body recommended the denunciation of Conventions Nos 50, 64, 65, 86, 104 and 107 concerning indigenous workers and the ratification of the most updated instrument, the Indigenous and Tribal Peoples Convention, 1989 (No. 169). In the Committee's 2010 direct request on the Underground Work (Women) Convention, 1935 (No. 45), the Committee noted that the Tripartite Labour Advisory Council approved the denunciation of Convention No. 45 and that the Government was consulting with the social partners on the possible ratification of the Safety and Health in Mines Convention, 1995 (No. 176). **The Committee invites the Government to include in its next report information on the progress achieved to re-examine unratified Conventions – such as Conventions Nos 169 and 176 – in order to promote, as appropriate, their implementation or ratification and to denounce outdated Conventions.**

## Nigeria

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)**

The Committee notes that the Government's report has not been received. It must therefore repeat its 2012 observation which read as follows:

*Consultations with representative organizations.* In reply to the comments formulated in 2006, the Committee notes the Government's brief report received in November 2012, in which it indicates that the National Labour Institutions Bill is still before the National Assembly. The Committee recalls that it is important for employers' and workers' organizations to enjoy the right to freedom of association, without which there could be no effective system of tripartite consultation. **The Committee asks the Government to report on the results of the legislative reform and its impact on the improvement of consultations with representative organizations that enjoy freedom of association, as required under this Convention.**

*Tripartite consultations required by the Convention.* The Government indicates in its report that its replies to questionnaires concerning items on the agenda of the International Labour Conference and comments on proposed texts are usually forwarded to the social partners for their input. It also states that social partners participate in the rendering of reports. The Committee recalls that the tripartite consultations covered by the Convention are essentially intended to promote the implementation of international labour standards and concern, in particular, the matters enumerated in *Article 5(1) of the Convention*. **The Committee therefore requests the Government to provide full and detailed information on the content and outcome of tripartite consultations dealing with:**

- (a) **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; and**
- (b) **questions arising out of reports to be made to the International Labour Office under article 22 of the ILO Constitution.**

*Prior tripartite consultations on proposals made to the National Assembly.* The Committee recalls that the instruments adopted at the 95th Session of the Conference were submitted to the National Assembly for noting on 21 August 2006. The Government stated that there was no tripartite consultation as there was no request for their ratification. The Committee points

out that, for those States which have already ratified the Convention, effective prior consultations have to be held on the proposals made to the competent authorities when submitting the instruments adopted by the Conference (*Article 5(1)(b)*). Even if the Government does not intend to propose the ratification of a Convention, the social partners must be consulted sufficiently in advance for them to reach their opinions before the Government finalizes its decision. *The Committee refers to the observation formulated again this year on the constitutional obligations under article 19 of the ILO Constitution and trusts that the Government and the social partners will examine the measures to be taken with a view to holding effective consultations on the proposals made to the National Assembly when submitting the instruments adopted by the Conference, as required by the Convention.*

*Operation of the consultative procedures. The Committee once again requests the Government to indicate whether, in accordance with Article 6, the representative organizations have been consulted in the preparation of an annual report on the working of the consultation procedures provided for in the Convention and, if so, to indicate the outcome of these consultations.*

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

## Sao Tome and Principe

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (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:

*Mechanisms for tripartite consultations and the consultations required by the Convention.* In a brief report received in March 2007, the Government refers to the tripartite consultations carried out through the National Council for Social Dialogue. The Government also indicates that the National Council meets regularly. *The Committee refers to its previous observations and once again invites the Government to indicate in its next report the manner in which the National Council is involved in the consultations required by the Convention and to provide particulars of the consultations held on each of the matters on international labour standards referred to in Article 5(1) of the Convention, including information on the reports or recommendations made on international labour standards as a result of such consultations.*

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

## Sierra Leone

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1985)**

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:

*Effective tripartite consultations.* The Committee notes the Government's report supplied in June 2004 indicating its commitment to promote tripartite consultation throughout the country as well as supporting the tripartite delegation to the International Labour Conference. *The Committee hopes that the Government and the social partners will examine how the Convention is applied and that the Government's next report will contain indications on any measures taken in order to implement effective tripartite consultation in the sense of the Convention (Articles 2 and 5 of the Convention).*

The Committee recalls that the Office has the technical capacity to help strengthen social dialogue and support the activities that governments and employers' and workers' organizations undertake for the consultations required by the Convention.

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

## Uganda

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)**

*Articles 2 and 5 of the Convention. Effective tripartite consultations required by the Convention.* In its 2012 observation, the Committee noted that the National Organisation of Trade Unions (NOTU) indicated that the level of tripartism was still very low, especially on issues of labour standards. The Committee notes with *interest* that the National Tripartite Charter on Labour Relations was signed by the Government, the Federation of Uganda Employers (FUE) and the NOTU on 23 May 2013. The Charter aims to, among other goals, strengthen the statutory bodies, such as the Labour Advisory Board and the National Tripartite Council. The Committee notes that, under the Charter, the Government is to provide mechanisms for dialogue, tripartite consultations and negotiations to enable the parties to implement the terms of the Charter. Furthermore, the Government indicates in its report that the National Taskforce on the review of the application of Conventions and reports on international labour standards has been constituted with the representation of the social partners and the line ministries. The National Tripartite Council will be established to further strengthen social dialogue between the social partners and ensure the implementation of the commitments made by the parties. *The Committee invites the Government to provide in its next report information on the consultations held within the National Tripartite Council and other tripartite bodies on the matters related to international labour standards covered by Article 5(1) of the Convention.*

The Committee is raising other points in a request addressed directly to the Government.

## Bolivarian Republic of Venezuela

### ***Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)***

*Communications from employers' and workers' organizations. Tripartite consultations required by the Convention.* The Independent Trade Union Alliance (ASI), in a communication received in August 2013, urges the Government to promote procedures for consultation and social dialogue. The Confederation of Workers of Venezuela (CTV) also indicates that, as at 29 August 2013, the reports required by *Article 5(1)(d) of the Convention* had not been received. Moreover, the National Union of Workers of Venezuela (UNETE) declares that there are no "procedures which ensure effective consultations", as provided for in the Convention. Furthermore, the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) and the International Organisation of Employers (IOE), are asking the Government to include FEDECAMARAS as the most representative employers' organization in the country with a view to preventing the adoption of decisions on economic, social and labour policy which, in the absence of social dialogue, are aggravating the economic crisis in the country. In the reports received in September and November 2013, the Government reiterates that it duly fulfils its obligation each year to send communications to the representative organizations of workers and employers. The copies of all reports requested from the Government are sent to six workers' organizations (including the CTV and UNETE) and five representative employers' organizations from various sectors of the country (including FEDECAMARAS). The Government observes that these organizations send observations to the ILO relating to the reports and that the Government examines and takes account of these comments and observations and then sends them to the ILO. The Government emphasizes its efforts to construct, promote and develop more extensive and inclusive social dialogue in which all representative employers' and workers' organizations participate. The Committee refers to its previous observations in which it expressed its conviction that the Government and the social partners should undertake to promote and strengthen tripartism and social dialogue and establish procedures which ensure effective tripartite consultations (*Article 2(1)* of the Convention). ***The Committee invites the Government to examine any changes in practice regarding the procedures established for holding consultations on any questions arising out of reports to be made to the Office (Article 5(1)(d)). The Committee requests the Government to include specific information in its next report on how account is taken of the opinions expressed by the representative organizations concerning the operation of the consultation procedures required by the Convention.***

## Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 144** (*Albania, Algeria, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Barbados, Belarus, Belize, Benin, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Canada, Central African Republic, China, China: Macau Special Administrative Region, Colombia, Congo, Cyprus, Czech Republic, Denmark, Dominica, Ecuador, Egypt, Estonia, Finland, France: French Polynesia, France: New Caledonia, Kazakhstan, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lesotho, Malaysia, Mali, Mauritius, Mexico, Mongolia, Mozambique, Nepal, Singapore*).

## Labour administration and inspection

### Bangladesh

#### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1972)**

The Committee notes the Government's reply, received by the Office on 9 February 2011, to the observations made by the Bangladesh Free Trade Union Congress (BFTUC), dated 26 August 2010, and the observations of the Bangladesh Employers' Federation (BEF) transmitted with the Government's report on 16 September 2012.

*Articles 2, 4 and 23 of the Convention. Legislative reforms, reform of the labour inspection system and scope of labour inspection.* 1. *Legislative reform.* The Committee notes that the Government, in reply to the observations made by the BFTUC concerning the absence of specific occupational safety and health (OSH) provisions for the various sectors now covered by the revised Bangladesh Labour Act (BLA), expresses the view that OSH issues are adequately addressed in Chapters 6, 7, 8 and 12 of the Act. In this regard, the Committee notes that the BEF emphasizes the progress already achieved through the adoption of additional provisions in several areas (OSH, social security, maternity benefits, etc.) and refers to continuing legislative reforms. The Committee notes that the Bangladesh Labour (Amendment) Act, 2013 (Act No. 30 of 2013) was adopted in July 2013 and establishes some additional requirements in the area of OSH (such as the creation of safety committees in factories with more than 50 workers, the mandatory use of personal protective equipment and the establishment of health centres in workplaces of more than 5,000 workers, etc.). **The Government is requested to keep the ILO informed of any further progress made in the process of reviewing the BLA and to supply a copy of the amended text and any implementing regulations, once they have been adopted.**

2. *Reform of the labour inspection system.* The Committee understands that the BEF emphasizes the need for the legislative amendments to be accompanied by effective labour inspection so as to ensure the effective implementation and enforcement of the new legislation. In this context, the Committee notes the Government's indications that, in view of the large number of factories and other establishments in the country, the restructuring of the labour inspection system is currently under active consideration (according to the data provided in the Government's report, the number of (registered) factories increased from 10,500 in 2006 to 26,463 in 2011). In this regard, the Committee notes the information provided by the Government that the Ministry of Labour and Employment (MOLE) is working on a project entitled "Modernization and Strengthening of the Department of Inspection for Factories and Establishments (DIFE)". The Committee notes that in this framework it is envisaged to: (i) restructure the organization of the DIFE, including through the establishment of additional field and regional offices throughout the country; (ii) increase the total manpower of the DIFE; (iii) improve the material means available to; and (iv) training for labour inspectors. The Committee also notes that an increase in the budget allocated to labour inspection is envisaged for this purpose. **The Committee asks the Government to keep the Office informed of any measures taken or envisaged within the proposed restructuring of the labour inspection system, with a view to strengthening it.**

3. *Labour inspection in export processing zones (EPZs).* The Committee recalls the comments previously made by the National Coordination Committee for Workers' Education (NCCWE), according to which EPZs are totally excluded from the scope application of national labour laws, and that there is a separate Act applicable to workers in EPZs providing for limitations of inspection.

The Committee notes the Government's indications that industrial relations in EPZs are governed by the 2010 EPZ Workers Welfare Association and Industrial Relations Act (EWWIRA) and the "1989 Bangladesh Export Processing Zones Authority (BEPZA) Instructions (1 and 2)". It further notes that, under section 40 of the EWWIRA, so-called counsellors are responsible for the enforcement of the EWWIRA and the BEPZA Instructions, and for ensuring the rights of workers and safe and healthy working conditions. Since June 2005, 60 counsellors have been working in the different EPZs in the country, reporting directly to the "managers for industrial relations" responsible for the respective EPZs. The Committee further notes the Government's indications that the BEPZA conducts training programmes for the members of the elected Workers Welfare Association (WWA) and for the human resources personnel of the respective enterprises, including on OSH, industrial relations, decent working conditions, grievance handling procedures and social dialogue. The Committee also notes that the BEPZA established two training institutes in Chittagong and Dhaka, among others, to raise awareness on workers' rights and duties.

The Committee notes from the discussions during the International Labour Conference in June 2013 on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), by Bangladesh, that the BLA is not applicable in EPZs and that, following the expiration of the EWWIRA on 31 December 2013, the Government plans to work with the ILO to find ways of bringing EPZ areas under the purview of national labour law. It also notes the actions that are being taken with assistance from the ILO and other international organizations, a broad range of countries and enterprises in the garment sector to improve safety and health, particularly following the recent events in this sector, which resulted in the deaths of more than 1,000 workers. **Noting that the EWWIRA will expire on 31 December 2013, the Committee asks the Government to provide any text governing the status and conditions of service of counsellors as well as the number of counsellors currently working in EPZs and to indicate how the Government assures them stability of employment and independence of changes of government and**

*improper external influences. Please provide further details on the reporting lines in EPZs (in particular, the body or person accountable for “managers for industrial relations”).*

*Furthermore, the Government is once again requested to provide information on the activities of the bodies responsible for inspections in EPZs, by submitting relevant statistical data on labour inspection activities, including on the number of inspection visits, violations reported, legal provisions concerned, types of sanctions imposed and measures adopted with immediate executory force in the event of an imminent danger to the health or safety of workers, as well as on the number of industrial accidents and cases of occupational diseases. Please also provide information on the total number of workplaces in EPZs and the number of workers employed therein.*

4. *Labour inspection in the construction sector.* The Committee previously noted the BFTUC’s comments that despite the high number of fatal casualties in the construction sector (106 registered deaths in 2009), a separate inspectorate or agency, as foreseen under the Bangladesh National Building Code (BNBC) of 1993, had not been established. In this regard, the Committee notes the Government’s indications that the DIFE assumes the function of inspection in the construction sector in practice, but only performs irregular inspections due to the lack of inspection staff. It further notes that only six cases of labour violations in this sector were recorded during the reporting period. *The Committee once again asks the Government to indicate the measures taken or envisaged to ensure that the construction sector is inspected effectively (including the establishment of a separate inspectorate or agency as foreseen under the BNBC, the increase in the number of inspections by the DIFE, the specific training of labour inspectors, etc.) and to provide relevant statistical data on the activities undertaken in this sector.*

*Articles 7, 10, 11 and 16. Human and material resources of the labour inspectorate. Training of labour inspectors.* The Committee notes from the data provided by the Government in its report that the number of labour inspectors has increased by approximately 20 per cent (from 155 in 2006 to 185 in 2011), the number of inspection visits has almost doubled (from 35,950 in 2006 to 61,184 in 2011), and the number of registered factories liable to inspection has more than doubled (from 10,500 in 2006 to 26,463 in 2011). The Committee also notes the general information provided by the Government on the training of labour inspectors.

The Committee further notes an upward trend in the budget allocated to the DIFE, from 36,530,000 Bangladeshi takas (BDT) in 2009–10 (approximately US\$468,754) to BDT50,343,000 (US\$646,002) in 2011–12, which the Government still considers to be insufficient for the effective performance of labour inspection functions (this amount makes up 7 per cent of the total budget allocated to the Ministry of Labour and Employment (MOLE)). However, the Committee notes that it is envisaged, in the framework of the proposed restructuring of the labour inspection services, to increase the budget allocated to labour inspection and to provide for improved human and material resources. *The Committee once again encourages the Government to do its utmost, in the framework of the restructuring of the labour inspection services, to furnish the labour inspectorate with the resources that it needs to operate effectively, in order to ensure that the number of labour inspectors is adequate in relation to the number of workplaces liable for inspection (Article 10 of the Convention), they are provided with the material means and transport facilities necessary for the performance of their duties (Article 11) and they receive adequate training for the performance of their duties (Article 7(3)).*

*In this regard, the Committee asks the Government to continue to provide information on the total number of labour inspectors and their distribution at headquarters and in the districts, in relation to the number of workplaces liable to inspection and the workers employed therein. Please also provide more specific information on the training that is provided during the period covered by the Government’s next report including on the frequency, subjects and duration of training, as well as on the number of participants.*

*Articles 9 and 14. Notification of industrial accidents and cases of occupational diseases.* The Committee notes that the Government has not provided any comments in relation to the functioning of the recording of industrial accidents in practice and the presumed discrepancy between the registered numbers and actual fatalities, as indicated by the BFTUC in 2008. The Committee further notes the Government’s indications that, while it is currently working on the rules for the procedure of notification of cases of occupational diseases, in application of section 82 of the BLA, no cases of occupational diseases have yet been recorded due to the lack of staff to determine such cases and the absence of the required recording devices for this purpose. *The Committee asks the Government to provide an appreciation of the functioning in practice of the reporting of industrial accidents and, where applicable, the measures taken for its improvement (awareness raising among employers concerning their obligations in this regard, sanctions imposed for non-compliance, etc.).*

*It asks the Government to report on progress made in the formulation of the procedural rules for the notification of cases of occupational diseases adopted pursuant to section 82 of the BLA and to provide the Office with a copy, once they are adopted. Please also provide information on any progress made in the development of a relevant system and its implementation in practice (including the recruitment of additional medical inspectors, and the conduct of, or referral for, medical exams by inspectors).* In this regard, the Committee would once again like to draw the Government’s attention to the ILO code of practice on the recording and notification of occupational accidents and diseases, published in 1996, which contains useful guidance intended for those responsible for the reporting, recording and notification of occupational accidents and diseases and which can be found on the ILO website.

*Articles 6, 12(1) and 15(c). Right of inspectors to enter workplaces freely. Status and conditions of service of labour inspectors and duty of confidentiality in relation to complaints.* The Committee previously noted the repeated indications by the BFTUC that employers are informed in advance of the date of intended inspection visits. In this regard, the Committee notes the Government's explanations that, while there is no requirement in the BLA to inform employers in advance about inspection visits, giving prior notice is in some cases necessary for the effective performance of inspections in practice (for instance, where the presence of the employer or his/her representative is required for access to registers and documents). It further notes the Government's indications that both inspections with advance notice and unannounced visits without prior notice are regularly carried out.

The Committee also recalls its previous comments in which it emphasized, in the context of the comments made by the BFTUC and the NCCWE concerning the fear of workers to report breaches of the law for fear of reprisals, that the granting of appropriate status and conditions of service to labour inspectors, including appropriate wages and career prospects, in accordance with *Article 6*, and the requirement for labour inspectors to comply with the duty of confidentiality, under *Article 15(c)*, are essential safeguards against improper behaviour.

In this regard, the Committee notes that the BLA, in its amended version of July 2013, still does not contain any legal requirement to refrain from disclosing the identity of the author of a complaint or from indicating that an inspection took place as a result of a complaint. Furthermore, the Government has not provided the Office with any text governing the conditions of service of labour inspectors, as requested. However, the Government states that labour inspectors are granted conditions similar to those of other Government employees, receive wages based on their length of service and have equal career prospects in accordance with the applicable rules, all of which ensures their stability of employment and their independence from improper external influences. In this regard, it notes the Government's explanations, according to which, as the Committee understands them, the lack of material resources, including transport facilities and the absence of proper training, is more likely to threaten the observance of confidentiality in practice than the other factors mentioned above.

Considering all of the above, the Committee refers to paragraph 263 of its 2006 General Survey on labour inspection and recalls that the performance of a sufficient number of unannounced inspection visits in relation to inspections with prior notice is indeed necessary to enable labour inspectors to discharge their obligation of confidentiality with regard to the source of any complaint and also to prevent the establishment of any link between the inspection and a complaint (*Article 15(c)*). ***The Committee once again requests the Government to take appropriate measures to ensure that the duty of confidentiality regarding the existence of a complaint and its source is duly reflected in law and to provide information on the operation and impact of these measures in practice. It also asks the Government once again to keep the ILO informed of the progress made and to provide any text governing the conditions of service of labour inspectors. It also requests the Government to indicate the number of unannounced visits in relation to the total number of inspection visits during the next reporting period and to provide information on the results secured from unannounced visits (violations identified, sanctions imposed, compliance actions taken) in comparison to announced visits.***

*Articles 17 and 18. Legal proceedings and effective enforcement of adequate penalties.* The Committee previously noted the BFTUC's suggestions for the prosecution of breaches of national labour law, which included: (i) the creation of more labour courts, in addition to the seven labour courts already existing, which might be too remote from the main labour inspection office; and (ii) the recruitment of lawyers to represent inspectors in the filing and prosecuting of cases, which according to the BFTUC, is a function that is extremely time consuming. In this regard, the Committee notes with ***interest*** the Government's information on the establishment of three additional labour courts in the three new administrative divisions Rangpur, Sylhet and Barisal.

The Committee also previously noted the observations made by the BFTUC according to which no cases involving a failure to comply with health and safety duties under the BLA 2006 have been filed in three of the seven labour courts. In this regard, the Government indicates that most cases lodged with the courts relate to OSH, and that the number of cases filed has increased (from 777 cases in 2009 to 1,096 cases in 2011). However, the Committee also notes the Government's indications that, due to the lack of personnel and relevant data management systems, the cases filed could not be disaggregated according to the legal provisions to which they relate.

Finally, the Committee notes the Government's indications that the increased level of penalties under the BLA 2006 has had a positive impact on industrial relations. In this regard, it notes that the number of inspection visits increased from 39,123 in 2008 to 61,184 in 2011; the number of violations detected increased from 52,423 in 2008 to 69,539 in 2011; the number of cases filed with the labour courts increased from 910 in 2008 to 1,558 in 2011; and the amount of the fines imposed increased from 1,214,000 Bangladeshi takas (BDT) in 2008 (approximately US\$15,578) to BDT1,520,000 (approximately US\$19,504) in 2011. ***The Committee requests the Government to continue to provide information on the number of violations detected (and the number of these violations relating to OSH), the corresponding fines issued and the number of cases filed with the labour courts and their outcome (number of convictions in relation to the infringements reported, amount of fines imposed, etc.).***

*Articles 20 and 21. Publication of an annual inspection report.* The Committee notes that no annual report on the activities of the labour inspection services has been received by the Office and that the last annual report within the meaning of the Convention was communicated in 2003. The Committee notes that the BEF, like the Government in its previous report, emphasizes the importance of keeping systematic records of inspection data (number of inspections,

violations detected, corrective measures ordered, outcomes of cases filed with the labour courts, statistics of occupational accidents and cases of occupational diseases, etc.) as a basis for evaluating the effectiveness of the activities of the labour inspection services. In this regard, it also notes that the Government's indications on the need for technical assistance for the development of improved data management systems. ***The Committee once again asks the Government to indicate the measures taken with a view to setting up a register of workplaces liable to inspection and the workers employed therein (particularly through inter-institutional cooperation, as recommended in its 2009 general observation), and to provide information on any measures taken for this purpose, with a view to the fulfilment by the central inspection authority of its obligation to publish and transmit to the ILO an annual report in accordance with Articles 20 and 21 of the Convention.***

***Technical assistance.*** The Committee notes the Government's indications on technical assistance needs in various areas, that is the restructuring of the labour inspectorate, the establishment of additional labour courts, the strengthening of the human and material resources, including measuring devices available to the labour inspectorate, training for labour inspectors and the development of improved data management systems. ***The Committee invites the Government to provide information on any action taken or envisaged related to labour inspection as a result of the technical assistance provided by the Office, particularly in the context of the programme to improve safety and health in the garment industry.***

The Committee is raising other points in a request addressed directly to the Government.

***[The Government is asked to supply full particulars to the Conference at its 103rd Session and to report in detail in 2014.]***

## Barbados

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)***

***Articles 2, 22 and 23 of the Convention. Scope of labour inspection.*** The Committee understands that the Safety and Health at Work Act (SHAW) 2005 entered into force in January 2013. It notes that its scope of application is wider than that of the repealed Factories Act (FA) Cap. 347 1987, and that the SHAW applies not only to factories, but also to agricultural enterprises, sea- and airports and the public service, etc. The Committee understands from the observations made by the Executive Council of the Barbados Workers' Union (BWU), in a communication dated 31 August 2011, that draft regulations under the provisions of the SHAW have been forwarded for comments to the representative employers' and workers' organizations. The Committee also notes the Government's indications that, following the entry into force of the SHAW, routine labour inspections will be conducted in commercial workplaces, which have not been covered by labour inspection in the past. ***The Committee asks the Government to provide information on the number of labour inspections conducted in the different sectors of economic activity and to include this information in the annual labour inspection reports.***

***Articles 3(1)(b) and 13. Preventive activities in the area of occupational safety and health (OSH).*** The Committee notes that under the SHAW employers are required to conduct risk assessments in the area of OSH and prepare and regularly revise a general policy statement with respect to workplace safety, health and welfare (sections 6 and 7 of the SHAW). In this regard, the Committee notes with ***interest***, from the website of the Labour Department, the recent launching of a voluntary OSH self-management systems programme. In the context of this programme, companies are being evaluated on the basis of the following criteria: the degree to which risk assessments are conducted; statistics of occupational accidents and diseases; the level of compliance with the SHAW; and the commitment of management, as well as the involvement of employees. Each company's OSH performance will be awarded a designation, ranging from bronze to platinum, with the latter awarded to those entities which demonstrate excellence in the management and promotion of OSH. The Labour Department is providing assistance for the implementation of the OSH self-management system. The Committee also notes from the observations made by the BWU that the OSH section of the Labour Department provides training in the area of OSH and undertakes public awareness-raising programmes.

The Committee further notes with ***interest*** that, under the SHAW, labour inspectors are now vested with the power to issue "improvement notices" requiring alterations to secure compliance with the provisions of the SHAW (section 112 of the SHAW) and "prohibition notices" requiring such alterations as to remedy risks to the safety and health of workers, which take immediate effect if the inspector is of the opinion that there is an imminent danger to the health or safety of workers (section 113 of the SHAW). ***The Committee asks the Government to provide detailed information on the preventive activities undertaken by inspection officers in the area of OSH, including: activities in relation to the voluntary OSH self-management systems programme; training provided to employers and workers; public awareness-raising programmes; and the adoption of measures with immediate executory force in the event of imminent danger to the health or safety of workers. Please indicate the impact of these activities on the number of occupational accidents and diseases.***

***Articles 20 and 21. Publication and communication of an annual report on the work of labour inspection services.*** The Committee notes with ***regret*** that the last annual report on the work of the Labour Department, containing useful information on most of the subjects enumerated in *Article 21*, was received by the Office in 1999. Referring to its 2010 general observation, the Committee recalls that the annual labour inspection report offers an indispensable basis for the

national authorities, the social partners and the ILO supervisory bodies to evaluate the results in practice of the activities of the labour inspection services and contribute to its improvement, particularly for the determination of the means necessary to improve their effectiveness. Noting the Government's reference to a weekly, monthly and quarterly reporting system, the Committee believes that relevant data for the establishment of the annual labour inspection reports should be available at the Labour Department. ***The Committee therefore urges the Government to make every effort to ensure that annual labour inspection reports are published and communicated to the ILO (Articles 20 and 21 of the Convention), to indicate the measures taken and to report on any difficulties encountered in this regard. The Committee reminds the Government that it can avail itself of the technical assistance from the Office, if it so wishes, in order to fulfil its obligations under these provisions.***

***It requests the Government in any event to provide with its next report statistical information that is as detailed as possible on the activities of the labour inspection services (industrial and commercial places liable to inspection, number of inspections, infringements detected and the legal provisions to which they relate, penalties applied, number of occupational accidents and diseases, etc.).***

The Committee is raising other points in a request addressed directly to the Government.

## Benin

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 2001)***

***Articles 20 and 21 of the Convention. Publication and communication of an annual labour inspection report.*** The Committee notes that no annual labour inspection report has been provided since the ratification of the Convention in 2001. ***The Committee requests the Government to ensure that measures are taken rapidly to ensure that the central inspection authority complies with the requirement to publish and communicate an annual inspection report in the form and within the time frame set out in Article 20, containing information on each of the subjects referred to in Article 21. The Committee recalls that the Government can have recourse to the technical assistance of the Office, if it so wishes.***

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

## Bosnia and Herzegovina

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1993)***

#### ***Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)***

***Articles 12(1)(a)–(b) and 15 of the Convention. Right of entry of labour inspectors. Confidentiality of the source of any complaint.*** The Committee recalls that a representation submitted to the ILO on 9 October 1998 pursuant to article 24 of the ILO Constitution by the Union of Autonomous Trade Unions (USIBH) and the Union of Metalworkers (SM) alleging violation of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), stated that the federal labour inspectorate and the cantonal labour inspectorate had never been able to obtain authorization from the cantonal minister responsible for labour to conduct an inspection visit in the factories concerned (Aluminij dd Mostar and Soko dd Mostar) in order to verify the allegations of the abovementioned trade unions. The tripartite committee of the ILO Governing Body responsible for examining the representation noted, in particular, that the fact that the cantonal labour inspector was obliged to request authorization from the cantonal Minister before conducting an inspection visit was not in conformity with *Article 12(1)* of the Convention and requested that the follow-up to the case be entrusted to the Committee of Experts. In the framework of the follow-up, the Committee had addressed an observation to the Government from 2000 to 2005 requesting that all appropriate steps be taken as soon as possible to remove the requirement in the legislation whereby labour inspectors must seek authorization from the supervisory authority to exercise their right of entry to workplaces and premises liable to inspection.

Following up on its previous comments in this regard, the Committee notes the Government's reiterated indications that the 2005 law on inspections in the *Federation of Bosnia and Herzegovina (the Federation)* does not contain any provisions obliging labour inspectors to obtain authorization for entry to an enterprise. However, the Committee notes that the Government has still not provided any information on whether, in practice, labour inspectors are required to seek authorization from the supervisory authority in order to be able to exercise their right of entry to workplaces and premises liable to inspection. It appears from the information contained in the 2012 labour inspection audit conducted at the request of the Government (the 2012 audit), some restrictions on the right of free access in practice persist, at least in the canton of Central Bosnia.

According to the 2012 audit, the right of free entrance is also limited by the requirement to give previous notice of inspection visits to workplaces in both entities. However, the Committee understands from the information in this audit, that in *the Federation*, previous notice of visits is not given if they are reactive and if there are indications that the employer might hide the true state of affairs. The balance of the different types of visits in *the Federation*

(routine/reactive) depends on available resources, whereas in the canton of Central Bosnia, most inspection visits are reactive.

The Committee would like to emphasize that a sufficient number of regular inspections is necessary to ensure that labour inspectors comply with the obligation to treat complaints as confidential with a view to preventing the employer or his representative from detecting any link whatsoever between the inspection and the likelihood of a complaint, identifying the person responsible for the complaint and taking reprisals against that person (*Article 15(c)*). In this regard, the Committee also notes the Government's reply to the request made under *Article 15(c)*. The Government partly reiterates its previous indications with regard to the provision of the 2005 law on inspections in *the Federation* preventing labour inspectors from revealing any manufacturing or commercial secret which came to their knowledge in the course of their duties, without mentioning the provisions which require labour inspectors to treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions.

***The Committee once again requests the Government to indicate whether labour inspectors are still required in practice to seek authorization from the supervisory authority to be able to exercise their right of entry to workplaces and premises liable to inspection in the Federation of Bosnia and Herzegovina and if so, the steps taken or envisaged to abandon this practice.***

***The Government is also requested to: (i) indicate the legal provisions which guarantee the right of labour inspectors, provided with proper credentials, to enter any workplace under their supervision without having to previously notify the responsible person for the workplace concerned of the inspection visits; and (ii) to provide any relevant administrative decision or circular containing instructions ensuring the exercise of inspectors' free right of entry to workplaces under their supervision. The Committee also requests the Government to specify the state of law and practice in this regard in the Republika Sprska and the Brcko District.***

***In addition, the Committee once again asks the Government to specify the provisions which require labour inspectors to treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions (Article 15(c)).***

The Committee is raising other points in a request addressed directly to the Government.

## Brazil

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1989)***

The Committee notes the Government's report received on 19 September 2012. It also notes the observations made by the National Union of Labour Inspectors (SINAIT) in a communication dated 1 September 2010 and the Government's reply thereto. The Committee further notes the observations from the Health, Labour and Social Welfare Workers' Union of the State of Rio de Janeiro (SINDSPREV/RJ) dated 5 March 2009, which were forwarded to the Government in a communication dated 14 April 2009.

***Article 6 of the Convention. Psychological harassment of occupational safety and health (OSH) officers.*** The Committee notes the claim made by SINDSPREV/RJ that OSH officers are subjected to psychological harassment from the Labour Inspection Secretariat (SIT), to which they are hierarchically and technically subordinate. According to the trade union, the psychological aggression against these officers is instigated by the Director for Federal Inspection at the Ministry of Labour and involves the complicity of a small and strategic number of labour inspectors (labour auditors) who also engage in this practice under the director's instructions and supervision. The union claims that the aim of discrimination at work and the abovementioned harassment of OSH officers is to make their work and position in the federal inspectorate untenable and superfluous. According to SINDSPREV/RJ, this practice takes the form of: (a) constant and systematic obstruction of the functional evaluation and remuneration of OSH officers specializing in labour inspection, which bars their entry to the grade of labour inspector (labour auditor), despite the fact that they have the same official credentials as doctors, engineers and social workers promoted to the grade of labour auditor in accordance with Act No. 10593/02; (b) the abolition of the main operational powers derived from the original Decree, which included the power of federal labour inspection officials to issue infringement notices; (c) discrimination by level of education, despite the fact that OSH officers have academic qualifications higher than those required for the post; (d) prevention of OSH officers from participating in national teams dealing with the prevention of forms of labour akin to slavery; (e) refusal to grant performance bonuses to OSH officers related to the collection of contributions and to inspections, despite favourable opinions from the Minister of Labour and Employment in this regard; (f) lack of recognition and constant denigration of the work done by OSH officers in other areas of labour inspection; (g) prohibition on including the special report on implementing measures, collection of contributions and suspension of activities in the federal labour inspection system; and (h) prohibition on including in the federal labour inspection system the inspection report on duties relating to the implementation by OSH officers of enforcement actions on the basis of a service order, even though these actions had received prior authorization. ***The Committee regrets that it must once again ask the Government to send without delay its comments regarding the observations of SINDSPREV/RJ.***

*Labour inspection and combating conditions of work akin to slavery.* The Committee notes that, as regards the formation of new teams in the special mobile inspection group (GEFM), which is tasked with taking action against forced labour, as called for by SINAIT, the Government declares that such action does not depend solely on an increase in the number of labour inspectors but also on the profile of inspectors and their availability and interest in participating in such action. The Labour Inspection Secretariat (SIT) periodically consults the labour inspectors but only a small proportion of them volunteer to join the GEFM.

The Committee notes with *interest* that according to section 7 of Normative Instruction No. 91, issued by the SIT on 5 October 2011, inspections aimed at the elimination of conditions of work akin to slavery are conducted by the SIT through teams belonging to the GEFM or by inspection groups or teams organized within the regional labour and employment authorities (SRTE). ***The Committee requests the Government to include disaggregated statistical information, on inspections conducted during the period covered by its next report, by GEFM teams and inspection teams organized within the SRTE alike, aimed at the elimination of conditions of work akin to slavery (Article 21(d)), as well as on violations reported by inspectors in the course of inspection visits (mentioning the relevant provisions) and penalties imposed (Article 21(e)).***

*Labour inspection and elimination of child labour.* The Committee notes the Government's indication that the elimination of child labour constitutes the priority objective of a raft of public policies focusing on the promotion of human rights, social inclusion and equitable development. According to the Government, the increase in the number of inspections since 2006 is in contrast to the drop in the total number of children and young persons withdrawn from work over the same period. This stems from the increase in coverage and effectiveness of the inspectorate, combined with other actions to promote social values, and from the trend towards a reduction in child labour. However, a significant proportion of young persons between 5 and 14 years of age who work do so in private households, and this situation restricts intervention by inspectors, on account of the principle of inviolability of the home, apart from the fact that the application of legal enforcement instruments is restricted to employment relationships. ***The Committee requests the Government to provide disaggregated statistics on inspection visits aimed at combating child labour during the period covered by its next report (Article 21(d)) and also on violations reported by labour inspectors (indicating the relevant provisions) and penalties imposed (Article 21(e)).***

*Article 7(3). Adequate training for labour inspectors.* The Committee notes that SINAIT is calling for an increase in the number of labour inspectors with specific training for actions designed to reduce the high accident rates and maintains that there is a need for ongoing training taking into account the specific features of the inspection function.

The Government refers to training activities for inspectors, including those relating to regulations concerning rural work, the health sector, the electricity sector, and confined spaces; OSH, the food programme for workers, analysis of occupational accidents; and recent regulations and labour inspection training in specific economic activities, such as the sugar and alcohol industry, the food and refrigeration industry and the transport sector. Information is also provided on subjects such as project management, public management applied to labour inspection, and the collation of inspection documents.

The Government also states that there are ongoing positive developments regarding inspection performance indicators in the field of OSH. In addition to direct results in inspected workplaces, an indirect effect of inspection is that workplaces that have not been inspected seek to improve working conditions and achieve conformity with the legislation, faced with the prospect of inspection. Furthermore, the analysis of serious and fatal accidents, which was introduced in 2001, makes it possible to identify the areas where priority action is required. The Government also mentions the setting up in 2008 of the "accident analysis and prevention reference system" (SIRENA), which provides for training for inspectors, collaboration between the public bodies involved and dissemination of information. It adds that the data must be analysed with caution and in the light of changes in standardization methods and the actual dynamics of the labour market. Rather than an exponential increase in the number of accidents, what is observable is an improvement in the system for the registration and identification of occupational accidents in the country. According to the Government, the number of accidents varies from one year to another, without any clear trend being visible, except for an increase that occurred in 2004. It also indicates that the growth in the economy and in employment in recent years may have an impact on occupational accident statistics.

The Committee notes with *interest* Ordinance No. 111 of 17 January 2011 of the Minister of State for Labour and Employment establishing the staff development policy for the Ministry of Labour and Employment and the extract from Normative Instruction No. 92 of 7 October 2011 issued by the SIT, which regulates the granting of training leave for labour inspection officials. It observes that the areas of knowledge which qualify for the granting of training leave, provided for by section 49 of Ordinance No. 111, include the elimination of labour akin to slavery, the elimination of child labour, and OSH. ***The Committee requests the Government to provide information on the number of labour inspectors who have received leave for training in these areas, the type of training (seminar, symposium, course, etc.) and its duration, and the training institution. It further requests the Government to continue to send information on the training activities organized specifically for labour inspectors in the area of OSH, and also on the impact of training on the performance of preventive duties, in accordance with Articles 3(1)(b) and 13 of the Convention.***

*Killing of labour inspectors and their driver in 2004; physical safety of inspectors.* The Committee notes that SINAIT deplors the fact that the persons responsible for the killing of three labour inspectors and a driver from the Ministry of Labour in January 2004 have not been brought to trial. According to the information provided by the Government, the Federal Police and the Federal Public Prosecutor's Office concluded the investigation in July 2004. Nine persons were charged with acting as sponsors, intermediaries or perpetrators. In December of that year, a judge ruled that eight of the nine accused should be brought before a public jury. It was decided that the remaining defendant was entitled, by virtue of his status of mayor, to be tried in a special tribunal. The countless appeals submitted to various bodies by the accused have been dismissed. In early November 2010, rulings were pending in relation to two appeals before the High Court of Justice in Brasilia. It was expected that once the case was returned to the court of origin a ruling would be handed down promptly. ***The Committee requests the Government to send information on the outcome of the proceedings instituted against the persons responsible for the killing of the three labour inspectors and driver from the Ministry of Labour.***

The Committee is raising other points in a request addressed directly to the Government.

## Bulgaria

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)***

*Article 3(2) of the Convention. Additional functions entrusted to labour inspectors.* The Committee notes the Government's indications that amendments to the legislation were made in 2011 to guarantee the working rights of foreign workers employed in an irregular situation. These amendments specifically provide that, when such cases are identified by the inspection authorities, the employer owes the worker the wage agreed upon, but not less than the minimum wage established for the country or for the economic activity concerned for a three-month period, unless the employer or employee can prove another duration of employment. The payment is due once the foreigner has returned to his/her usual country of residence, and includes the cost of transferring this payment (section 73(3) of the Employment Promotion Act (EPA)). If the employer fails to pay the benefits due, the foreign worker may take legal action against him or her within the time limit prescribed under the Contracts and Obligations Act and the Code of Civil Procedure. Foreigners who are employed illegally may themselves, or through a person authorized by them, report the violations committed by their employer (section 78(b) of the EPA) to the General Labour Inspectorate Executive Agency (GLIEA). In order to prevent and put an end to labour legislation infringements involving foreign workers and to address the negative consequences of these infringements, the supervisory authorities exercise powers provided for under the EPA (Chapter 9).

Following the amendments to the legislation, the amount of the fines and penalties imposed in the event of illegal employment are stipulated under section 48 of the Foreigners Act. Under this Act, a fine of 500–5,000 Bulgarian leva (BGN) is imposed on foreigners working without a work permit or who are not registered with the Employment Agency, on foreigners appointed in the country to provide services without a work permit and who are not registered with the said Agency, as well as on persons who accept foreigners to work without authorization or who fail to register them with the competent body. Fines ranging from BGN2,000 to BGN20,000 may be imposed on legal entities/employers who recruit foreigners with a labour contract, but without a work permit or registering them with the Employment Agency. When these offences are repeated, legal entities may be fined from BGN4,000 to BGN40,000. The efficiency and effectiveness of the supervisory activities are considerably enhanced by the cooperation between the following bodies: the GLIEA; the Employment Agency; the Migration Directorate under the Ministry of the Interior; the National Revenue Agency; and other institutions involved with inspections to ensure respect of the labour legislation for employing foreigners in Bulgarian enterprises. ***The Committee would be grateful if the Government would provide specific information on the means and mechanisms provided for under the legislation to ensure that foreign workers in an irregular situation might assert their rights to which they are entitled by virtue of the amendments made to the legislation in 2011, and particularly the Employment Act. The Committee particularly asks the Government to specify whether the labour inspectors inform these workers of the rights to which they are entitled, and provide them with information on the way in which they might obtain these rights; it is also asked to describe briefly the procedure (including its duration) instigated when such cases are identified by the labour inspectorate, which allows foreign workers in an irregular situation liable to expulsion from the country to obtain actual payment of wage arrears and other benefits due to them by virtue of their employment.***

***The Committee also asks the Government once again to provide data on the results of the activities carried out by the labour inspectorate in the area of controlling the illegal employment of foreign workers (including information on the detected violations and the illegal provisions concerned, the number of legal proceedings initiated, the number of penalties imposed and the number of decisions ordering employers to settle unpaid debts and other benefits).***

The Committee is raising other points in a request addressed directly to the Government.

## Burundi

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1971)**

The Committee notes the comments of the Trade Union Confederation of Burundi (COSYBU) dated 30 August 2013, stating that it upholds the comments it made last year and shares the Committee's opinion on the subject of this Convention.

The Committee refers to its comments made in this respect and 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 report sent by the Trade Union Confederation of Burundi (COSYBU), dated 30 August 2012, concerning the insufficient material means provided to labour inspectors in order to promote Occupational Safety and Health (OSH) in the workplace. **The Committee requests the Government to provide the relevant information in this respect.**

*Primary duties of labour inspectorates.* In its previous comments the Committee observed that labour inspectorates' activities focused mainly on dispute resolution issues, instead of activities aiming at the enforcement function provided for by *Article 3(1) of the Convention*. Its appreciation was based on the reports on 2000 and 2001 first-quarter labour inspection activities, showing also the performing of a huge amount of administrative tasks. The Committee notes that five out of the nine inspectors are entrusted with collective dispute resolution issues, only three others dealing with control of conditions of work, though all of them have participated in a seminar organized by the Programme for promoting social dialogue in African French-speaking countries (PRODIAF) on proceedings relating to labour dispute resolution, during the first quarter of 2006. The information confirms that labour inspection continues to be taken of its main role to be put on labour dispute resolution missions. According to the Government, the absence of a special status, the lack of means of transport, of qualifications and of technical equipment seem to have led to a lack of confidence from the employers towards labour inspectors.

The Committee once again stresses that it is necessary for labour inspectors to focus on the enforcement of legal provisions on labour conditions and protection of workers while engaged in their work (*Article 3(1)*) and that any further duties entrusted to them should not interfere with the effective discharge of their primary duties or prejudice in any way the authority and impartiality which are necessary in their relations with employers and workers (*paragraph 2*). It also recalls the Government's obligation of the competent authority to take measures to make available to labour inspectors the necessary means, such as transport facilities where no appropriate public transport facilities exist and reimbursement of any travelling and incidental expenses which may be necessary for the performance of their duties (*Article 11*). **The Committee would be grateful if the Government would indicate any steps taken and any progress achieved in this regard and communicate in the nearest future any available report on labour inspection activities in industrial and commercial workplaces, concerning the application of legal provisions on conditions of work and protection of workers.**

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

## Central African Republic

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1964)**

*Articles 3(1)(a) and (2), 10, 11 and 16 of the Convention.* *Enforcement duties of labour inspectors and human and budgetary resources of the labour inspection service.* The Committee takes note of the Government's report, which is virtually identical to the one sent in 2011 under this Convention. In its previous comments, the Committee noted with concern the persistent lack of material resources available to the labour inspection services, in particular suitably equipped premises and transport facilities, and the absence of any specific measures to remedy the situation. The Committee furthermore noted that, in practice, labour inspectors themselves bear the costs incurred in performing their duties. It also noted that out of 53 inspectors, only 18 were assigned to enforcement duties. Lastly, it noted that inspection visits were rare, that inspectors are far away from the workplaces within their remit and that their role remained restricted to the amicable resolution of disputes, a role nonetheless deemed a secondary one by the Government. In the absence of fresh information from the Government, it appears to the Committee that there has been no change in the situation described previously and that the application of the Convention continues to be undermined by the lack of material resources available to the inspection services. While the Government appears to regret the situation, it indicates that no significant steps have been taken. In the light of these observations, the Committee wishes to emphasize that the effective performance of labour inspection duties requires a sufficient number of labour inspectors, as prescribed in *Article 10* of the Convention, and the availability of the resources needed to accomplish their tasks and to ensure that their role and the importance of their work is recognized, as provided in *Article 11* of the Convention (see General Survey on Labour Inspection, 2006, paragraph 238). **Referring to its previous comments, the Committee again invites the Government to avail itself of ILO technical assistance in order to strengthen the resources, organization and functioning of the system of labour inspection, and asks the Government to indicate any measures taken or envisaged for the purpose of seeking the necessary funds, in the framework of bilateral or international financial cooperation, for the material improvement of the labour inspection system. The Committee expresses the firm hope that the Government will be in a position to give an account in its next report of specific measures taken in this regard.**

*Articles 20 and 21.* *Annual report on the work of the labour inspectorate.* The Committee notes with *regret* that almost 50 years after the ratification of the Convention, no annual inspection report as required by these Articles of the Convention has been communicated to the Office. It nonetheless notes the information that the Government intends to publish, within a reasonable amount of time, an annual report on the work of the inspection services, in accordance with

*Article 20* of the Convention, containing the information required under *Article 21* of the Convention. The Committee recalls in this regard that an ILO technical memorandum, produced in 2004 following a mission for the diagnosis and evaluation of labour administration services, included in its recommendations the need for company files to be set up using existing statistics files and made available to the services thus allowing the inspection staff to enter the requisite information. **Further to its previous requests, the Committee asks the Government to indicate whether measures have been taken, if appropriate with ILO support in the context of technical assistance, to encourage effective cooperation between the labour inspection services and other competent bodies, and to draw up a mapping of workplaces liable to inspection, with register entries indicating at least their geographical location, the branch of activity and the number and categories of workers they employ.**

**The Committee expresses the firm hope that the Government will do its utmost to ensure that annual inspection reports are published and sent to the ILO within the period set in Article 20 of the Convention, and that they will contain the information set forth in Article 21(a)–(g).**

**In any event, the Committee asks the Government to provide in its next report information that is as detailed as possible on the number of industrial and commercial establishments that are liable to labour inspection, the number of labour inspectors and controllers (including their specialization, grade and geographical distribution), and the number of inspections carried out and the results thereof (the number of breaches recorded, the legislative or regulatory provisions in question, the penalties applied, etc.).**

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

## Colombia

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)**

The Committee notes the Government's report received on 31 August 2013 and the attached documents. It also notes the observations of 27 August 2013 by the International Organisation of Employers (IOE) and the National Employers Association of Colombia (ANDI) and the Government's reply of 18 October 2013 to these comments. It further notes the observations of 29 August 2013 by the Single Confederation of Workers (CUT) and the Confederation of Workers of Colombia (CTC), which were forwarded to the Government on 16 September 2013. The comments refer for the most part to issues the Committee is already examining, and particularly: the conciliation function; the conditions of service of labour inspectors; the need for suitable continuous training for labour inspectors; the insufficient number of inspectors and the inadequacy of the resources available to inspectors for the performance of their duties; and the ratification of Part II of the Convention. The comments by the IOE and the ANDI focus on the efforts made by the Government to formalize employment in several sectors, particularly the sugar sector, the adoption of Act No. 1610 of 2 January 2013 regulating certain aspects of labour inspection and the employment formalization agreements, and the progress made in the technical cooperation project on international labour standards, in relation to the strengthening of labour inspection.

**Technical cooperation project on international labour standards.** The Government reports that four handbooks and other teaching material have been prepared on: (a) criteria for the graduation of penalties; (b) conduct of administrative sanction procedures; (c) the conduct of the administrative sanctioning procedure as it relates to breaches of the right to organize; (d) the conduct of an administrative sanction procedure for improper use of labour intermediation and other forms of intermediation that infringe the rights of workers. Furthermore, a training programme was implemented on administrative labour procedure, the formalization of employment and labour intermediation, with a focus on critical sectors such as mining, dock work and sugar, palm and flower production; collective rights and dispute settlement and the functions pertaining to inspection, supervision and control. **The Committee requests the Government to send information, with supporting figures, on the impact of the project's implementation on the performance of labour inspection duties, as provided for in Article 3(1)(a) and (b) of the Convention; the action taken on infringements of the labour legislation and the enforcement of adequate sanctions, in accordance with Articles 17 and 18 (indicating the provision of the law in question), including in respect of trade union rights.**

The Committee welcomes the information that a baseline is being devised for the development of a computerized system to record and analyse labour inspection data. **The Committee hopes that, thanks to progress made in implementing the computerized data entry and analysis system for information on labour inspection in the context of the abovementioned project the Government will soon be in a position to send an annual report on the work of the labour inspection services containing information on the subjects set forth in Article 21(a)–(g) and to ensure that a copy is sent regularly to the ILO within the time limits prescribed in Article 20.**

**Articles 3(1)(b), 17 and 18 of the Convention. Implementation of a preventive approach to labour inspection; prosecution and punishment of offences.** In its previous comments, the Committee noted that, according to the CUT and the CTC, the system of "preventive" inspections established by Decrees Nos 1293 and 1294 of 2009, and Resolution No. 2605/09, had in practice turned into a system of tolerance of violations of workers' rights.

As to the criteria for planning the different types of inspections, the Government states that in the territorial directorates, in some cases visits are triggered by a complaint from a worker, in which event the appropriate inquiry is launched, and in other cases, they are conducted automatically. Working conditions are analysed at the territorial level and

workplace inspections are carried out in critical sectors, such as transport, mining, flower growing and the sugar sector. The Government reiterates that, pursuant to section 91 of Decree No. 1295 of 1994, the territorial director may impose a fine and also order activities to be suspended for up to six months in the event of imminent risk, without the need for a specific risk prevention order from the Ministry's Occupational Risk Directorate. In reply to its previous comments, the Government indicated that the Ministry of Labour, although it does not have a system of information on judicial proceedings, addressed a memorandum to the territorial directorates pointing out that their officials are required to forward any complaints they receive for violation of the right of association. ***Noting that the Government has not provided the information requested in this regard, the Committee again requests the Government to provide information on the measures taken to ensure the deterrent effect of sanctions and to secure their enforcement. Furthermore, the Committee draws the Government's attention to its general observation of 2007, and encourages it to take measures to ensure effective cooperation between the labour inspection system and the justice system, and provide the labour inspectorate with access to a register of judicial decisions.***

***Furthermore, observing that the Government has not replied to its comments on this matter, the Committee again requests it to specify whether, in the case of "preventive" visits, inspectors have the discretion to give warning and advice instead of instituting or recommending procedures, in accordance with Article 17(2) of the Convention.***

***The Committee also requests the Government to supply disaggregated information on the number of "preventive" visits, namely inspections conducted primarily for prevention and to improve working conditions, without recourse to any enforcement mechanisms, compared with general inspections and those conducted in response to complaints, the findings of inspectors in "preventive" visits and other types of inspections; the period and manner in which inspectors monitor the implementation of "improvement agreements" and the action they take if the results are unsatisfactory. Lastly, the Committee asks the Government to state whether measures have been taken to evaluate, with the participation of the social partners, and particularly the Labour and Wage Policy Commission, the impact of the "preventive" inspection model on the effective application of the legislation relating to conditions of work and the protection of workers.***

*Articles 10, 16 and 21(b) and (c). Numbers and geographical distribution of labour inspectors. Statistics of workplaces liable to inspection and number of workers employed therein.* The Committee notes that the CUT and the CTC reiterate that the number of labour inspectors is too low for an economically active population of 20,696,000, according to the 2012 figures of the National Statistics Department (DANE), which is reflected in the fact that there have been only 165 enforceable decisions in four years.

The Committee notes the geographical distribution among the territorial directorates of the Ministry of Labour of the 624 labour inspectorate posts existing at the end of August 2012. It further notes that, according to the Government's report, in April 2013 there were 501 serving labour inspectors and that by the end of August 2013 there was a total of 530 inspectors and 94 labour inspector posts were vacant. ***The Committee requests the Government to provide statistics on the workplaces liable to inspection, and the number of workers employed therein. By virtue of Article 10 of the Convention, the number of labour inspectors shall be determined with due regard for, inter alia, the number, nature, size and situation of the workplaces liable to inspection and the number and classes of workers employed in such workplaces. The Committee would also be grateful if the Government would specify the current number of inspectors in the various categories in practice, indicating which of them conduct inspections of workplaces. It also once again asks the Government to provide information on the results of the diagnosis which was under way in August 2012, on the structure, human and technological resources and location of all the territorial directorates, indicating their offices and the inspections they carry out, as well as eventual recommendations made within this framework and any measures taken or envisaged in order to ensure monitoring.***

*Articles 11(1)(b) and (2), 12(1)(a) and 15(a). Transport facilities available to labour inspectors and the principle of inspectors' independence and impartiality.* Referring to the observations made in 2012 in this regard by the CGT, the CUT and the CTC, the Committee notes that according to section 3(2) of Act No. 1610 of 2 January 2013 regulating certain aspects of labour inspection and certain decisions on the formalization of employment, labour inspectors may, subject to authorization from the territorial directorate, seek logistical assistance from the employer, worker, trade union organization or applicant for trade union status, where conditions on the ground so require, to gain access to the site where the inspection, monitoring and control are to be carried out. The Committee points out that this provision is inconsistent with the provisions of the Convention, and particularly *Article 11(1)(b)*, which places an obligation on the competent authority to make arrangements to furnish labour inspectors with the transport facilities necessary to the performance of their duties where suitable public facilities do not exist. The Committee stresses that the abovementioned provision is contrary to the impartiality and authority that inspectors need in their relations with employers and workers. ***Consequently, the Committee requests the Government to take the necessary measures without delay to amend the legislation so as to align it with the Convention on this essential point, and to keep the Office informed in this regard.***

In its previous comments, the Committee also pointed out that labour inspectors' travel expenses were refunded only up to an amount of 4,000 Colombian pesos (COP), so any amounts in excess have to be borne by the labour inspectors themselves, and that according to the CUT and the CTC, in practice travel expenses are not refunded when inspections are carried out without prior authorization from the territorial directorate, and unforeseen expenses are not repaid either. The Committee notes in this connection the information from the Government to the effect that the Ministry, through its

administrative and financial subdirectorates, assigns annual budgets to each of the territorial directorates, which include appropriations for commissions and travel expenses. *The Committee would be grateful if the Government would take the necessary steps to ensure that resources assigned to labour inspectors are determined in accordance with the essentially mobile nature of their duties, so that labour inspectors are provided with transport facilities that are appropriate to the performance of their work, particularly in the territorial directorates and inspection offices which are the furthest removed from urban centres, and that they are refunded any unforeseen expenses, and any transport costs. Furthermore, the Committee again asks the Government to provide information on the application in practice of the right of labour inspectors to enter workplaces liable to inspection freely, without prior authorization (Article 12(1)(a)).*

*Article 12(1)(c) and 15(c). Principle of confidentiality regarding the source of complaints.* With reference to the comments that the Committee has been making for several years on the adoption of measures to establish a legal basis to ensure that labour inspectors respect the principle of the confidentiality of complaints so as to protect workers from any reprisals from the employer or his representative, the Government indicates that the Ministry of Labour issued an internal memorandum reminding officials of the obligation to keep complaints confidential in so far as the workers so request. Highlighting, once again, the importance of the principle of confidentiality regarding the source of complaints, prescribed by *Article 15(c)* of the Convention, the Committee emphasizes that labour inspectors must as a rule respect this principle, as provided in this provision of the Convention, and must refrain from intimating to the employer or his representative that an inspection was made pursuant to a complaint. In this regard, the Committee invites the Government to refer to paragraphs 236 and 237 of its 2006 General Survey on labour inspection, as well as to paragraph 275 of the same survey which indicates that labour inspectors should conduct interviews in the manner they deem most appropriate. *The Committee accordingly once again requests the Government to take appropriate measures to ensure, on a legal basis, the protection of workers against possible reprisals by employers and to ensure that fear of disclosure of their identity is not an obstacle to their cooperation with labour inspectors.*

The Committee is raising other points in a request addressed directly to the Government.

*[The Government is requested to reply in detail to the present comments in 2014.]*

## Comoros

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1978)**

The Committee notes the comments of the Confederation of Workers of Comoros (CTC), dated 30 August 2013. It notes its concerns about the lack of qualifications required by labour inspectors and the political pressures to which they are subjected. *The Committee asks the Government to reply to the CTC's comments on this matter.*

Furthermore, the Committee notes with *regret* that the Government's report has not been received. It therefore feels bound to repeat its previous observation, which read as follows:

According to the information sent by the Government, a special appropriation for labour inspection will not be introduced in the budget until after the meetings to prepare the budget for the 2009 financial year. The Committee nonetheless notes that the labour administration has embarked on a diagnosis of the labour inspection services with a view to determining their budget and its inclusion in the 2009 national budget. *It asks the Government to provide information on the results of this evaluation as soon as they are available.*

The Committee notes that the Government has submitted a request for the inclusion in the Decent Work Country Programme (DWCP), currently under preparation, of an application for technical assistance to gradually train enough labour inspectors to cover the entire territory. ILO support has also been sought to train two labour inspectors at the National School of Administration (ENA) of Madagascar. *The Committee requests the Government to keep the Office informed of results of these steps. It trusts that it will take all necessary steps to obtain, particularly in the context of the future DWCP, support and assistance from the ILO for the development of an efficient labour inspection service.*

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

## Congo

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1999)**

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:

*Absence of practical information to enable the Committee to assess the operation of the labour inspectorate in relation to the provisions of the Convention and relevant national laws.* The Committee notes that the report provided by the Government on the manner in which the Convention is given effect in law to a large extent reproduces the report received in 2008.

The Committee notes the updated information regarding the number and geographical distribution by category of labour inspection staff. It notes, by comparison with the data given in the report received from the Government in 2008, a substantial reduction in labour inspection staff, in particular labour inspectors (from 75 to 55) and principal controllers (from 96 to 72). The Committee recalls that, according to *Article 10*, in order to secure the effective discharge of the duties of the labour inspectorate, the number of labour inspectors must be determined with due regard to the importance of the duties which inspectors have to perform, in particular the number, nature, size and situation of the workplaces liable to inspection; the number and classes of

workers employed in such workplaces; the number and complexity of the legal provisions to be enforced; the material means placed at the disposal of the inspectors; and the practical conditions under which visits of inspection must be carried out.

While the laws and regulations concerning labour inspection and its mandate and prerogatives are available, it must be noted that there are no numerical data on other areas defined in *Article 10* and, as the Government admits, there are no specific measures for giving effect to the provisions of *Article 11* concerning the material conditions of work of labour inspectors, who do not have access to the transport facilities required for them to carry out their duties. The Committee notes, on the other hand, that according to the Government, inspectors' travel and related costs are reimbursed by the competent authority on presentation of invoices, which was not always the case, according to the report received in 2008.

With regard to the tools needed to assess the operation of the labour inspection system in practice, namely, the reports on inspection activities (*Article 19*) and the annual report of the central inspection authority, which under the terms of *Articles 20* and *21* has to be published and transmitted to the ILO, the Committee notes with *regret* that none of the regional labour inspection activity reports referred to by the Government as having been transmitted to the Office since the date of ratification of this Convention has actually been received to date. Furthermore, the Government has not communicated a copy of Decree No. 2009-469 of 24 December 2009 concerning the organization of the Ministry of Labour and Social Security.

The Committee notes, however, that the Government is preparing a memorandum with a view to improving the functioning of the labour inspection service and that the Labour Code is currently being revised, in particular with regard to the powers and prerogatives of the labour inspectors.

The Committee also notes that the Government refers for the first time to a draft text on the status and conditions of service of labour inspectors (*Article 6*), which was supposedly drawn up in 2000 and submitted to the ministry responsible for the civil service. According to the Government, the final examination of that draft will depend on the revision now under way of the general civil service statutes. The Committee notes that this document has not been received by the Office, although according to the Government it was transmitted.

*The Committee once again requests the Government to provide in its next report all the available information needed to assess the application of the Convention in law and in practice. This information should cover, among other matters: (i) the up-to-date geographical distribution of public officials responsible for labour inspection as defined in Article 3(1) of the Convention; (ii) the geographical distribution of workplaces liable to inspection or, at the least, those for which the Government considers that the conditions of work require specific protection from the labour inspection services; (iii) the frequency, content and number of participants at the training courses provided for labour inspectors during their career; (iv) the level of remuneration and conditions for career advancement in relation to other public officials with comparable responsibilities; (v) the proportion of the national budget allocated to the public labour inspection services; (vi) a description of the cases in which inspectors visit enterprises, the procedure followed and the transport facilities that they use for this purpose, the activities that they carry out and their outcome; and (vii) the proportion of supervisory activities carried out by inspectors in relation to their conciliation duties.*

*The Committee also requests the Government to communicate a copy of any inspection activity reports originating from regional directorates, including the reports cited in the Government's reports sent to the ILO in 2008 and 2011; a copy of the draft or final text of the regulations relating to the status and conditions of service of labour inspectors; copies of the proposed amendments to the Labour Code, and of the memorandum which was reportedly sent to the ILO and is intended to improve the functioning of the labour inspection service.*

*In order to establish a labour inspection system that will respond to the social and economic goals which are the object of the Convention, the Committee urges the Government to make every effort to adopt the measures needed to implement the measures described in the Committee's general observations made in 2007 (concerning the need for effective cooperation between the labour inspection service and the judicial system), in 2009 (concerning the need for statistics on industrial and commercial workplaces subject to labour inspection and the number of workers covered, and 2010 (concerning publication of the content of an annual report on the functioning of the labour inspection system). The Committee recalls once again the possibility of obtaining technical assistance from the ILO and of requesting, within the context of international financial cooperation, financial assistance in order to give the necessary impetus to the establishment and operation of the labour inspection system, and would be grateful for any information on progress made and difficulties encountered.*

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

## Côte d'Ivoire

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1987)**

The Committee notes the communication of the General Confederation of Enterprises of Côte d'Ivoire (CGECI), dated 22 November 2010 and the Government's report, dated 10 September 2013.

*Articles 10 and 11 of the Convention. Human and material resources of the labour inspection.* The Committee notes that, according to the Government, the total number of labour inspectors is 200. The Government adds that a public investment project has been prepared in the context of the National Development Programme with a view to rehabilitating and equipping the labour inspection services.

The Committee also notes the indication by the CGECI that the difficulties in the operation of the labour inspection services are related to the inadequacy of the resources made available to them by the Government. *The Committee requests the Government to provide updated information on the number of labour inspectors in the various regional directorates and on the material resources available (for example, premises, computers, printers, telephones, etc.), including means of transport. The Committee also requests the Government to provide a copy of the public investment project and to continue to keep the Office informed of any measures taken to increase the material resources of labour inspectors, and the results achieved.*

*Articles 16 and 21(c). Inspections and register of industrial and commercial workplaces liable to inspection.* The Committee notes the information provided by the Government on the number of enterprises, workers, violations committed and the sanctions applied. It also notes that, according to the CGECI's communication, the mission of inspectors is confined to receiving and dealing with any complaints lodged by workers or employers, and that inspectors appear to focus essentially on formal sector enterprises, which employ at least 10 per cent of the population. ***The Committee requests the Government to continue making efforts with a view to the progressive preparation of a mapping of workplaces liable to labour inspection. The Committee also invites the Government to keep the Office informed of any measures adopted or envisaged to maintain inter-institutional cooperation between all public and private bodies and institutions holding relevant data, with a view to the development and maintenance of a reliable register of workplaces liable to labour inspection. The Committee also requests the Government to provide relevant information on the number of inspections disaggregated by the type of inspection and the sectors concerned.***

*Articles 20 and 21. Publication and content of the annual report on the functioning of the labour inspection services.* ***Aware of the difficulties faced by the Government due to the military-political crisis experienced by the country, the Committee hopes that the Government will continue to make efforts to ensure that the central labour inspection authority publishes and communicates to the Office as soon as possible an annual report containing all the information available on the matters set out in Article 21 of the Convention.***

The Committee is raising other points in a request addressed directly to the Government.

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1987)**

The Committee refers to its comments under the Labour Inspection Convention, 1947 (No. 81), in so far as they concern the application of this Convention.

The Committee notes the communication from the General Confederation of Enterprises of Côte d'Ivoire (CGECI), dated 22 November 2010.

*Article 9 of the Convention. Training of labour inspection personnel for the agricultural sector.* The Committee notes the information provided by the Government and by the CGECI that there are no labour inspectors specialized in agriculture. It also notes that, according to the Government's report, there are labour inspection medical doctors who are trained in all aspects relating to occupational safety and health. The Committee reminds the Government once again that, in accordance with *Article 9(3)* of the Convention, labour inspectors shall be adequately trained for the performance of their duties. Indeed, the special characteristics of the agricultural sector, particularly due to the use of pesticides and other chemicals, require technical knowledge in the field. ***The Committee urges the Government to take the necessary measures to provide adequate training for labour inspectors in the agricultural sector for the discharge of their duties and to keep the Office informed of the measures adopted and their impact.*** In this respect, the Committee draws the Government's attention to the guidance provided in Paragraphs 4–7 of the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133), concerning the minimum competencies necessary for labour inspectors who are to be made responsible for the agricultural sector.

*Articles 14 and 15. Material resources essential to the performance of labour inspection duties.* The Committee notes with **regret** the indication in the Government's report that the system of labour inspection is still lacking adequate equipment, vehicles and suitable transport facilities that are indispensable for the discharge of its functions. It also notes that, according to CGECI, the human, financial and material resources allocated are inadequate and do not allow specific coverage of the needs of the agricultural sector in relation to the monitoring of the enforcement of laws and regulations, as well as the prevention of occupational risks. The Committee reminds the Government that, by ratifying the Convention, it undertook to take the necessary measures for its implementation in law and practice. As equipment and/or transport facilities are indispensable for the discharge of inspection functions in agricultural undertakings, it is the Government's responsibility to make every effort to provide such facilities to inspection services covering rural areas that are not served by public transport. ***The Committee urges the Government to take all the necessary measures (within the framework of the national budget and, if necessary, by seeking international financial cooperation) to ensure that the labour inspection services are provided with adequate means of action and to enable labour inspectors to discharge their functions effectively (including, for example, suitably equipped offices, facilities and means of transport, the technical equipment necessary for the analysis of products and substances that are handled and used, etc.).***

*Articles 21 and 27(c). Inspections and register of agricultural undertakings liable to inspection.* The Committee notes that one of the Government's objectives is to map all the enterprises active throughout the national territory, and that this project has been delayed due to the socio-political crisis which divided the country into two. The Committee also notes the information provided by the Government on the number of enterprises, workers, violations and sanctions. The Government indicates that this information has been gathered as a result of constant cooperation between institutions and public and para-public bodies possessing data relevant to labour inspection. ***The Committee requests the Government to continue making efforts with a view to the progressive mapping of agricultural undertakings liable to inspection. It invites the Government to provide the Office with information on any measures adopted or envisaged for the development and maintenance of a register of agricultural undertakings. It also requests the Government to provide detailed information on inspections of agricultural undertakings.***

Articles 26 and 27. *Publication and content of the annual report on the work of the labour inspection services in agriculture. The Committee requests the Government to continue making efforts to ensure that the central labour inspection authority publishes and transmits to the Office as rapidly as possible an annual report containing all the information available on the subjects covered by Article 27 of the Convention.*

## Croatia

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1991)

Article 3(2) of the Convention. *Additional functions entrusted to labour inspectors.* The Committee notes that the Government has not replied to its previous request concerning the enforcement of the Croatian Aliens Act, and the role of the labour inspectorate and the justice system in ensuring that employers fulfil their obligations with regard to the statutory rights of foreign workers found to be illegally employed.

The Committee notes, in this regard, that a new Foreigners Act (FA) (*Official Gazette* 130/11) was adopted and entered into force on 1 January 2012, with the exception of certain provisions which entered into force upon Croatia's accession to the European Union (EU). The Committee notes with *interest* that, according to section 107(5) of the FA, before a decision is taken on the expulsion of a foreign national who has lived and worked illegally in the country, the foreign national shall be informed of: (i) the possibility of receiving compensation; (ii) the possibility of appealing or filing a lawsuit against his or her employer; and (iii) the entitlement to free legal aid. The Committee also notes that, under section 207(4) of the FA, the labour inspection authorities are responsible for the enforcement of the provisions of this Act relating to the conditions of work and the rights of workers.

The Committee notes that a project entitled *Strengthening Policies and Capacities for Reducing Undeclared Work ("moonlighting")* was launched in November 2011 with a view to receiving pre-accession assistance from the EU. It notes that a budget of €1,500,000 was allocated to this project, including for the purchase of computers and vehicles. The Committee understands that the *moonlighting* project is carried out jointly by the Ministry of Labour, the Croatian Institute for Pension Insurance, the Ministry of the Interior, the Ministry of Finance (Tax Directorate) and the Croatian Employment Service. It further notes the Government's indication that the abovementioned project should significantly improve the efficiency of the labour inspectorate's work.

Referring to its General Survey of 2006 on labour inspection (paragraphs 75–78), the Committee recalls its observations made in its last comment, where it emphasized that the Convention does not contain any provision suggesting that any workers be excluded from the protection afforded by labour inspection on account of their irregular employment status, and that the primary duty of labour inspectors is to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers and not to enforce immigration law. To be compatible with the protective function of labour inspection, the verification of the legality of employment should have as its corollary the reinstatement of the statutory rights of all workers. Furthermore, since the human and other resources available to labour inspectorates are not unlimited, the major role sometimes assigned to labour inspectors in the area of illegal employment would appear to entail a proportionate decrease in inspection of conditions of work.

*The Committee requests the Government to describe in detail how labour inspectors assume their role to enforce the provisions of the new FA relating to the conditions of work and the rights of foreign workers in accordance with section 207(4) of the FA. It also asks the Government to describe the role of the justice system in ensuring the enforcement of employers' obligations with regard to the statutory rights of undocumented foreign workers (such as the payment of wages and any other benefits owed for the period of their effective employment relationship), especially in cases where they are liable to expulsion or after they have been expelled. In this regard, it requests the Government to provide a copy of any regulations issued under section 107 of the FA, as well as information on the number of cases where workers found in an irregular situation have been: (i) informed of the possibility of receiving compensation or filing a lawsuit against their employer; (ii) granted free legal aid; and (iii) granted their due rights. Please provide copies of relevant decisions.*

*Furthermore, the Committee asks the Government to provide information on whether labour inspectors responsible for labour relations have been discharged from the function of enforcing immigration law following the entry into force of the FA.*

*Finally, the Committee asks the Government to provide further information on any joint activities carried out by the labour inspectorate and the abovementioned government bodies in the framework of the project Strengthening Policies and Capacities for Reducing Undeclared Work ("moonlighting"), as well as on other joint activities aimed at combating undeclared work, including on the number, scope and nature of the controls carried out, violations, legal proceedings, remedies and sanctions imposed for undeclared work, and the impact of these activities on the enforcement of the legal provisions relating to conditions of work and the protection of workers.*

*Furthermore, noting that the Government has not replied to this question, the Committee asks it to provide the requested information on the following:*

Articles 5(a), 17 and 18. *Institution of legal proceedings and enforcement of adequate penalties.* In its previous comments, the Committee noted the high rate (58 per cent) of cases in which the legal proceedings initiated by labour inspectors were declared inadmissible by the misdemeanour courts due to the expiration of the statute of limitations. It notes that this rate has now decreased to 36.5 per cent, due primarily to the adoption of the Misdemeanours Act (OG107/07) which modified the statute of limitations as of 1 January 2008.

Furthermore, pursuant to its previous comments concerning the insufficient level of the penalties imposed, the Committee notes that, according to the Government's report, the decisions rendered by the Courts almost never order restitution for unjust enrichment and therefore are often not proportionate to the gravity of the offence.

*With reference to its 2007 general observation on the importance of cooperation between the labour inspection system and the justice system, the Committee requests the Government to indicate any additional measures taken or envisaged with a view to accelerating the examination of cases referred by labour inspectors to the courts and ensuring the effective enforcement of adequate and sufficiently dissuasive penalties. It would be grateful if the Government would continue to indicate the progress achieved or difficulties encountered in this regard.*

The Committee is raising other points in a request addressed directly to the Government.

## Democratic Republic of the Congo

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1968)**

The Committee notes the Government's report received on 19 June 2013 and the observations of 30 August 2013 by the Confederation of Trade Unions of Congo (CSC). *The Committee asks the Government to send any comments it deems fit in response to the CSC's observations.*

Articles 1, 4, 6 and 15(a) of the Convention. *Reform of the labour inspectorate. Status and conditions of service of labour inspectors. Integrity of labour inspectors.* Following up on its previous comments, the Committee welcomes the implementation of Decree No. 12/002 of 19 January 2012 on the establishment and organization of the "General Labour Inspectorate" (IGT) and the Government's indication that the labour inspectorate has become a public service with administrative and financial autonomy. The Government also indicates that a committee to revitalize the inspectorate has been set up by Ministerial Order No. 007/CAB/MIN/ETPS/MBL/pkg 2013 of 24 January 2013, and that the plan for the inspectorate's professional staff is under examination by the public service as part of the ongoing reform of the public administration.

The Committee notes that, according to section 28 of the above Decree, inspection staff are governed by special administrative regulations. The Committee further notes the CSC's allegations concerning the corruption of a labour inspector. *The Committee requests the Government to continue to provide detailed information on the implementation of the reform of the general labour inspectorate and to provide a copy of the new organizational chart and of the plan for the inspectorate's professional staff. It requests the Government to provide a copy of the special administrative regulations governing labour inspectors and specific information on their conditions of service (for example, remuneration, bonuses granted, etc.), both at central level and in the provinces, as compared to other categories of public servants performing similar duties.*

*With reference to its previous comments, the Committee asks the Government to provide specific information on the practical effect given to Act No. 81-003 of 17 July 1981 concerning inspectors engaged in parallel employment (for example, disciplinary proceedings brought, penalties applied, etc.).*

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

## Djibouti

### **Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63) (ratification: 1978)**

*Failure to fulfil reporting obligations. Technical assistance to help member States fulfil their reporting obligations and comply with the provisions of the Convention.* The Committee notes with *regret* that the Government has not submitted information since October 2005. It hopes that a report will be provided for examination at its next session and that it will contain information on the establishment of an observatory on employment and training. *The Committee invites the Government to submit a report containing full and detailed information on the measures taken to give effect to the Convention by replying to the questions in the report form under each of its provisions.* The Committee draws the Government's attention to the possibility of seeking technical assistance from the specialized units in the Office to fill the gaps in the implementation of the Convention.

*[The Government is asked to reply in detail to the present comments in 2014.]*

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1978)**

Articles 1 and 2 of the Convention. *Supervision of working conditions and protection of workers in industrial and commercial establishments in export processing zones.* The Committee noted in its previous comments that according to section 1 of the Labour Code, the Code applies throughout the national territory except in export processing zones (EPZs), which are governed by the EPZ Code. The Committee noted, however, that pursuant to section 31 of the EPZ Code,

issued by Act No. 53/AN/04/5<sup>e</sup> L of 17 May 2004, “the Djibouti Labour Code governs labour relations in the export processing zones”. In its report, the Government observes that the two provisions are contradictory and that the texts of both laws will be submitted to the National Council for Labour, Employment and Social Security (CONTESS) for an opinion, with a view to their amendment and clarification. **The Government is asked to keep the ILO informed of any developments in this area, including any steps taken to amend and clarify the legislation on EPZs, and to provide a copy of the relevant texts where applicable. The Committee also asks the Government to indicate whether the ports and EPZ authorities are still responsible for the supervision of enterprises operating in EPZs or, if this is no longer the case, to indicate the body in charge of such inspection and to give a brief account of its activities in practice (inspection visits, infringements reported, legal provisions mentioned, type of penalties imposed, etc.).**

*Article 3(2). Accumulation of tasks assigned to labour inspectors and its impact on the volume and quality of their inspection duties.* The Committee notes the information supplied by the Government to the effect that the work of the inspection services in the area of labour legislation continues to focus mostly on teaching (advice and information) and conciliation, with less emphasis on supervision and enforcement. As far as additional duties are concerned, the inspection services are involved in monitoring foreign workers without work permits and approving new interoccupational agreements and enterprise agreements, while ensuring that they are in conformity with the relevant legislation. According to the Government, it is impossible for the inspectorate to fulfil all the functions assigned to it, which include the prosecution of offenders, owing to inadequate human resources. The Government is nevertheless confident that with the recent strengthening of human and material resources, labour inspectors will be able to fully perform their duties. The Government states that it will take the necessary steps to establish the Arbitration Council to resolve collective labour disputes, provided for under section 181 of the Labour Code. The Committee notes, however, that this Council may intervene only after the labour inspector or director has attempted conciliation and referred the dispute to it within eight clear days (section 180 of the Labour Code).

The Committee reminds the Government of the primary functions of labour inspectors under *Article 3(1)* of the Convention (secure the enforcement of the legal provisions relating to conditions of work and the protection of workers and advice to employers and workers) and of the guidance provided in Paragraph 8 of the Labour Inspection Recommendation, 1947 (No. 81), according to which “the functions of labour inspectors should not include that of acting as conciliator or arbitrator in proceedings concerning labour disputes”. Furthermore, the Committee refers to paragraphs 76–78 of its 2006 General Survey on labour inspection, which states that the primary function of labour inspectors is to protect workers and not to enforce immigration law. **Consequently, the Committee requests the Government to provide an estimate of the time and resources spent by labour inspectors on their primary functions as defined under Article 3(1) in relation to any additional functions they might be called upon to undertake. The Committee hopes, especially in view of the limited human resources available to the labour inspection services, that the Government will take the necessary steps to ensure that, in accordance with Article 3(2), duties entrusted to labour inspectors other than their primary duties, do not interfere with the performance of the latter.**

*Articles 20 and 21. Publication, communication and content of the annual inspection report.* The Committee notes with **concern** that since the ratification of the Convention in 1978, the Government has sent no annual report to the ILO as required by *Articles 20* and *21* of the Convention. Referring in this connection to its general observation of 2010, the Committee again points out that the annual inspection report offers an indispensable basis for evaluating the effectiveness of the labour inspection services and identifying the means needed to improve their effectiveness, which include, inter alia, the determination of adequate budgetary appropriations. **The Committee therefore urges the Government to take all necessary steps to ensure that an annual inspection report is published and communicated to the ILO within the time limit set in Article 20 of the Convention, and that it contains the information required under Article 21(a)–(g).**

**In any event, the Committee requests the Government in its next report to provide information that is as detailed as possible on the number of industrial and commercial work places liable to inspection, the number of labour inspectors and controllers and the number of inspection visits carried out and the results thereof (number of infringements recorded, regulatory or legislative provisions concerned, penalties applied, etc.).** The Committee reminds the Government that it may seek ILO technical assistance to this end.

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

## Dominican Republic

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)**

The Committee notes the Government’s report, received by the Office on 29 October 2012. It also notes the observations of the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers’ Unions (CASC) and the National Confederation of Dominican Workers (CNTD), received by the Office on 8 October 2012. The Committee notes that the observations of the trade union confederations relate to issues that they raised in August 2010, and which are already under examination.

*Articles 3, 10, 16 and 23 of the Convention. Number of labour inspection staff for the effective discharge of labour inspection duties, and additional functions.* The Committee notes that, according to the information provided by the Government, as of August 2012 there were 199 inspectors in 40 offices, and three vacancies. However, the Committee notes that of these 199 public officials, 40 are local labour representatives and the remainder are supervisory inspectors and actual labour inspectors. From the information provided by the Government, the Committee concludes that only labour inspectors carry out inspections of workplaces, and that they also provide guidance to employers and workers. The Government nevertheless indicates that five of the local labour representatives carry out inspections themselves, due to the fact that there are no auxiliary inspection services. The Committee further notes that the functions entrusted to labour inspectors include calculating the benefits from the work performed and mediating in disputes between employers and workers. The Committee notes that the trade union confederations emphasize the inadequacy of the number of inspectors in relation to the economically active population. In this respect, the Committee emphasizes, as it did in paragraph 69 of its General Survey of 2006 on labour inspection, that the primary duties of labour inspectors are complex and require time, resources, training and considerable freedom of action and movement, and that any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. With specific regard to functions exercised in the context of labour disputes, the Committee refers the Government to the guidance contained in Paragraph 8 of the Labour Inspection Recommendation, 1947 (No. 81), according to which the functions of labour inspectors should not include that of acting as conciliator or arbitrator in proceedings concerning labour disputes. ***The Committee requests the Government to provide information on the measures taken to ensure that any additional duties entrusted to labour inspectors do not interfere with the effective discharge of their primary duties or prejudice in any way the authority and impartiality which are necessary in their relations with employers and workers, in accordance with Article 3(2) of the Convention.***

***The Committee would also be grateful if the Government would indicate the reasons for the imbalance between the number of 45 officials assigned to the National District, and the regional offices, which only have between one and four officials.***

Also observing that the Government has not provided the information requested on the number and geographical distribution of the industrial and commercial workplaces liable to inspection, or on the workers employed therein, the Committee emphasizes that in the absence of such data it is not possible to assess the adequacy of the number of labour inspectors in relation to inspection needs. In this respect, the Committee refers the Government to its 2009 general observation concerning the inter-institutional cooperation necessary for the establishment and updating of a register of workplaces liable to labour inspection. ***The Committee encourages the Government to ensure the adoption of measures to promote and develop cooperation with other governmental bodies or public and private institutions (tax authorities, social security institutions, chambers of commerce, etc.) which possess relevant data with a view to establishing and periodically updating a register of workplaces liable to inspection, and it requests the Government to provide information in its next report on the progress achieved in this respect.***

*Articles 6 and 15(a). Conditions of service and integrity, independence and impartiality of labour inspectors.* The Committee notes that the trade unions regret that the lack of integrity of labour inspectors continues to be common, although they recognize that in recent years there has been some improvement in the situation. They add that inspectors exert pressure on workers to lay aside their claims or to conclude agreements that are prejudicial to them so as to avoid disputes and maintain workers' jobs. ***Noting that the Committee has not made any comments on this subject in its report, the Committee asks the Government to respond to the concerns raised by the trade unions and indicate the measures adopted to end this practice.***

The Committee notes Resolution No. 23 of 19 April 2013, issued by the Ministry of Labour, creating the Department of Internal Affairs of the Ministry of Labour. The Department is responsible for collecting information and evidence of the performance of employees of the Ministry of Labour in the discharge of their functions and for providing them to the competent Minister. The Committee also notes the press article that was attached to the Government's report covering the arrest of two labour inspectors on grounds of extortion, and the documents relating to the investigation conducted against a labour inspector for an ethical fault in the discharge of her duties.

Furthermore, in relation to the measures that the Committee requested the Government to take to ensure that the remuneration and terms and conditions of service of labour inspectors are in conformity with the principles of stability of employment and independence of changes of government and of any improper external influences, as set out in *Article 6* of the Convention, the Government refers to the application of the Public Service Act (No. 41-08) to inspection personnel and the guarantee of stability of employment that it offers. The Government also refers to the provisions of this Act under which career public servants only lose their status in the cases explicitly envisaged in the Act and following an administrative procedure and the adoption of a formal administrative decision. ***Referring once again to paragraphs 204, 209, 214 et seq. of its General Survey, the Committee requests the Government to indicate the measures adopted to guarantee labour inspectors a level of remuneration and career prospects such that high-quality staff are attracted and retained and to ensure the independence necessary for the discharge of their duties. Observing moreover that the Government has not provided the information requested on this subject in its previous comments, the Committee once again requests it to provide a copy of any legislative provisions adopted pursuant to section 438 of the Labour Code***

*relating to the penalties applicable to any labour inspector who violates the prohibition on having any direct or indirect interest in the enterprises under their control. It also requests the Government to provide information on any investigation carried out concerning labour inspectors for conduct which might jeopardize their integrity, independence and impartiality, and their findings.*

*Articles 7 and 8. Training of labour inspectors and numbers of men and women in the inspection staff.* The Committee notes the Government's indication that for entry into the public service it is necessary, among other conditions, to demonstrate suitability for the proper discharge of the functions, through the established selection systems, in accordance with the position that is to be held, and its reference, to the specific qualifications required and the desirable competences for the position of labour inspector. The Government adds that the Public Service Act provides that it is compulsory for public servants to participate in the induction courses and training and skills programmes envisaged by the Secretariat of State for Public Administration, through the National Public Administration Institute (INAP), which develops training plans, programmes and events, according to needs. According to the Government, labour inspectors are trained on a permanent basis on labour legislation through workshops, seminars and meetings. The *Cumple y gana* project of the External Services Foundation for Peace and Democracy (FUNDAPEM) and the ILO project on the "verification of the implementation of the recommendations of the White Paper" have contributed to the training of labour inspectors. With reference to its previous comments, in which it noted the emphasis placed by the trade unions on the lack of skills and sensitivity of inspectors relating to matters concerning the rights of women workers, such as discrimination, sexual harassment, violence, as well as freedom of association, and their reluctance to report violations relating to dismissals or other acts of anti-union discrimination, on the grounds that the workers concerned were not covered by trade union protection, the Committee notes that the Government has not provided the information requested. *The Committee therefore once again requests the Government to provide information on the training organized for inspectors, particularly in areas such as non-discrimination and freedom of association, including details on the frequency of such courses, the number of participants, their subject matter and duration. Furthermore, recalling that, in accordance with Article 8 of the Convention, both men and women shall be equally eligible for appointment to the inspection staff and, where necessary, special duties may be assigned to men or women inspectors, the Committee once again requests it to indicate the proportion of women who perform labour inspection duties and to specify whether they are assigned special duties, such as the inspection of workplaces where the staff are predominantly women or young people. The Committee would also be grateful if the Government would provide a copy of the initial and further training programme designed by the INAP to cover the training needs of labour inspectors during the current year, as well as information on the number of inspectors participating in both initial and further training activities, the type of training (courses, seminars, workshops), their duration and the subjects covered.*

*Article 12(1)(a) and (b). Right of labour inspectors to enter workplaces freely.* The Committee recalls that it has been emphasizing since 1995 the need to adopt measures to explicitly authorize labour inspectors to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection, and to enter by day any premises which they may have reasonable cause to believe to be liable to inspection, in accordance with these provisions of the Convention. *The Committee requests the Government to ensure that the necessary measures are adopted without further ado to give legal effect to these provisions of the Convention and to provide information in its next report on the progress achieved in this respect and, where appropriate, to provide copies of any relevant legal text that has been adopted.*

*Articles 20 and 21. Publication and communication of an annual report.* The Committee emphasizes that, despite its reiterated requests for many years, no annual report, as required by the Convention, has been transmitted to the Office. The Committee emphasizes that annual reports on the activities of the labour inspection services are an important tool for assessing the manner in which the inspection system operates in practice and accordingly for determining the measures that have to be taken for its improvement. *The Committee therefore urges the Government to adopt measures as soon as possible to ensure the publication and transmission to the ILO, in accordance with Article 20 of the Convention, of annual reports on the activities of the inspection services, containing all the information required in clauses (a)–(g) of Article 21. The Committee once again reminds the Government of the possibility of having recourse, if necessary, to technical assistance from the Office for this purpose.*

The Committee is raising other points in a request addressed directly to the Government.

## Egypt

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1956)**

*Article 3(1) (a) and (b) of the Convention. Labour inspection and child labour.* The Committee notes the information provided by the Government on the activities of the labour inspectorate in the area of child labour, which corresponds to a large extent to the information previously provided in the Government's reports under the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182). In this regard, the Committee notes, for instance, the existence of a special department for child labour inspections under the Ministry of Manpower and Migration (MoMM), as well as child welfare units in all MoMM directorates. The Committee also welcomes the Government's indication that a number of awareness-raising activities on the rights of children have been

organized. Finally, the Committee notes that 70 violations of provisions relating to child labour were detected in 2011, and that the penalties provided for under the national legislation were applied in these cases. The Committee understands, from the information previously contained in the Government's report under Convention No. 138, that the number of violations detected in the area of child labour seems to have significantly decreased (from 436 in 2009 to 70 in 2011). ***Noting that the Government has not provided the information requested in this regard, the Committee once again asks the Government to provide information on measures adopted to reinforce the role of the labour inspectorate in the area of child labour. It asks the Government to provide the Office with information on the educational activities carried out by the labour inspectorate, as well as on the number of inspection visits conducted in the area of child labour, the number of violations detected and the legal provisions to which they relate, as well as specific information on the penalties imposed (the amount of fines imposed and other measures ordered, such as the suspension of operations, imprisonment or other administrative or judicial measures taken in relation to users of child labour), during the period covered by the next report.***

*Please also provide an explanation of the reasons for the decrease in the number of violations of child labour detected.*

***Noting that the annual reports on the work of the labour inspection services for 2010 and 2011 do not contain any information on the work of the labour inspectorate in the area of child labour, the Committee requests the Government to ensure that relevant information will be included in future annual inspection reports.***

The Committee is raising other points in a request addressed directly to the Government.

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2003)**

The Committee refers to its comments under the Labour Inspection Convention, 1947 (No. 81), in so far as they concern the application of the Convention.

*Article 6(1)(a) and (b). Labour inspection activities directed at child labour in agricultural enterprises.* The Committee previously noted, in its comments under the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), the concluding observations of the United Nations Committee on the Rights of the Child in 2001, according to which the main part of child labour is reportedly concentrated in the agricultural sector and that "many of these children work long hours in dusty environments, without masks or respirators, receiving little or no training on safety precautions for work with toxic pesticides and herbicides" (CRC/C/15/Add.145, 21 February 2001, paragraph 29). It further noted the information in the Survey of Young People in Egypt (Preliminary Report) of February 2010 (produced by the Egyptian Cabinet Information and Decision Support Centre and the Population Council), according to which 53 per cent of working children are estimated to work in the agricultural sector. In this regard, the Committee also noted the information by UNICEF that over 1 million children are hired each season to bring in the Egyptian cotton crop, and that these children routinely work 11 hours a day, seven days a week, in 40-degree summer heat.

The Committee also noted, under Conventions Nos 138 and 182, among others: (i) the information that although the Labour Code does not apply to children and women working in small family enterprises which produce for local consumption, inspections are still carried out in the agricultural sector to ensure that the working conditions conform to those prescribed under Orders Nos 188 of 2003 and 1454 of 2011, specifying that children under the age of 18 years may not be employed in certain agricultural occupations, such as cotton harvesting and the spraying of pesticides; (ii) the establishment of a separate unit within the Ministry of Manpower and Migration (MoMM) for child labour investigations in the agricultural sector; (iii) the organization of 50 national workshops in the field of agricultural labour inspections; (iv) the collaboration between the MoMM and the Ministry of Agriculture; (v) the detection of six violations, in the first quarter of 2010 by the labour inspectorate involving children in agriculture, in addition to 68 violations of Order No. 188; and (vi) the establishment of a monitoring and follow-up system for working children, within which inspections are conducted on large agricultural plantations.

While noting the information provided in the Government's report under Convention No. 81 that, among the 70 violations recorded in the area of child labour in 2011, some were detected in the agricultural sector, and the general information on the sanctions in the Labour Code for violations in the area of child labour and on enforcement procedures for the violation of labour law provisions, the Committee observes that the annual report on the work of the labour inspectorate contains no information on the work of the labour inspection services in child labour in any sector, let alone in the agricultural sector, and that no other information in this regard has been provided by the Government in its report. ***The Committee asks the Government to provide the Office with information on the number of inspection visits conducted in the area of child labour in agriculture, the number of violations detected and the legal provisions to which they relate, as well as concrete information on the sanctions applied (the amount of fines imposed and other measures ordered, such as the suspension of operations, or other administrative or judicial measures taken), during the period covered by the next report. Please also continue to provide information on any educational activities carried out by the labour inspectorate in this regard.***

***Noting that the annual reports on the work of the labour inspection services for 2010 and 2011 do not contain any information on the work of the labour inspectorate in the area of child labour, the Committee also requests the Government to ensure that relevant information will be included in future annual inspection reports.***

The Committee is raising other points in a request addressed directly to the Government.

## Finland

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1950)**

*Article 3(2) of the Convention. Additional functions entrusted to labour inspectors.* The Committee notes that the number of inspectors specializing in the supervision of foreign workers has increased from nine to 14, and that inspections focus on whether foreign nationals have the required work permit and compliance with minimum working conditions in certain sectors. The Committee had previously noted that labour inspectors reported the unauthorized employment of foreign workers to the police, and that joint inspections targeted at undeclared work were also carried out jointly with the police, tax authorities and the Finnish Pension Fund. *Referring to its previous direct request and paragraphs 75–78 of the 2006 General Survey on labour inspection, the Committee asks the Government to indicate the proportion of inspections devoted to verifying the legality of employment in relation to the total number of inspections carried out.*

*In this respect, the Committee would be grateful if the Government would provide disaggregated data on undeclared work and specify the number of cases involving foreign workers in an irregular situation. It also asks the Government to supply other relevant information, such as statistics on the violations found following inspections and the legal provisions to which they relate, the legal proceedings instituted and the nature of the penalties imposed. Please also provide information on any joint controls undertaken with the police and the tax authorities, and their results.*

*Since the Government has not replied to a request for information in this regard, the Committee once again asks the Government to indicate the manner in which the labour inspection services ensure the enforcement of employers' obligations with regard to the statutory rights of undocumented foreign workers for the period of their effective employment relationship, including in cases where the unauthorized employment of foreign workers is reported to the police and where such workers are expelled from the country. Please explain in detail the applicable procedures and indicate the relevant provisions in national law, where possible, in one of the working languages of the ILO. Please also provide information on the number of cases in which foreign nationals in an irregular situation have been granted their rights resulting from their past employment relationship (wages, social security benefits, etc.).*

The Committee is raising other points in a request addressed directly to the Government.

## France

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1950)**

The Committee notes the Government's communication received on 7 March 2011 in reply to the matters raised by the trade union coalition (SNU TEFE FSU–CGT–SUD–UNSA) (communication of 29 June 2010), the additional observations from the SNU TEFE FSU–CGT–SUD–UNSA sent to the Office on 9 March 2011, and the Government's report of June 2012 concerning the application of the Convention.

*Articles 3(1) and (2), 5(a), 15(c) and 17 of the Convention. Further duties entrusted to labour inspectors.* The Committee notes the statement in the Government's report to the effect that the circulars of 20 December 2006 and 7 July 2008 task the heads of territorial units at the Regional Directorates pertaining to enterprises, competition, consumer matters, employment and occupation (DIRECCTE) with ensuring that inspectors placed under their responsibility only intervene in joint inspection operations once their terms of intervention have been specifically determined, which guarantee their professional identity and their prerogatives, and once a report of the infringements has been drawn up, imposing the applicable administrative fines. According to the Government, these instructions find further legitimacy with the adoption of a bill concerning immigration, integration and nationality, title 4 of which will transpose Directive 2009/52/EC of the European Parliament and of the European Council of 18 June 2009 and will institutionalize the process for restoring the rights of foreign employees who have been in an irregular employment situation, irrespective of the supervisory procedures and authorities involved in identifying the nature of the employment relationship. *The Committee trusts that the bill concerning immigration, integration and nationality transposing the abovementioned European Union Directive will be adopted in the very near future and requests the Government to send a copy of the text of the law once it has been adopted.*

*Incompatibility of joint inspection methods with the objectives of the Convention.* The Committee notes the Government's statement that there has been a steady increase in the number of joint inspections carried out by the labour inspectorate and the police, but that these do not constitute a primary inspection activity; this is due to the fact that, under the French legal system, the police have to be involved since they have overall competence. It also indicates that involving the police in labour inspection makes for a greater level of safety for inspection staff during the performance of their duties. The Committee further notes that, according to the Government, the labour inspection information system (CAP SITERE) does not enable the precise identification of legal acts in relation to the nationality of employees concerned and that, in 2010, there were about 100 references to section L.8252-1 of the Labour Code under this system, laying down the principle of equality of status of undocumented foreign employees and employees in a situation of conformity as regards the various obligations of the employer.

The Committee reminds the Government once again that the purpose of the cooperation provided for in *Article 5(a)* of the Convention is to strengthen the means of enforcing the legal provisions relating to conditions of work and the protection of workers (*Articles 2 and 3(1)*). With reference to paragraph 157 of the 2006 General Survey on labour inspection, the Committee also reminds the Government that effective support from the police can be useful in carrying out certain inspection missions and in particular to ensure the physical safety of the inspector and allow the planned inspections to take place smoothly. However, it notes that the current collaboration, as part of combating unofficial employment of foreigners, between the police and the labour inspectorate, is not conducive to creating the climate of trust that is essential to ensure good cooperation by employers and workers with labour inspectors. The latter must command respect on account of their power to penalize infringements but must also be approachable in their role of giving warnings or advice. With reference to paragraphs 75–78 of the 2006 General Survey on labour inspection, the Committee re-emphasizes that the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection. This objective can only be met if the workers covered are convinced that the primary task of the inspectorate is to enforce the legal provisions relating to conditions of work and protection of workers. ***The Committee requests the Government to take all the necessary measures, in law and in practice, to re-establish labour inspectors in their functions as defined by the Convention and to limit their involvement in joint inspection operations to an extent that is compatible with the objectives of the Convention. The Committee requests the Government to continue to supply information, where possible, enabling it to assess the manner in which it is ensured that foreign workers in an irregular situation benefit from the protection afforded by labour inspection in the same way as other workers.***

*Additional duties assigned to labour inspectors in French Guiana.* The Committee notes with **concern** that, according to the Government's report, responsibility for combating illegal work in French Guiana lies solely with the labour inspectorate. The Government also states that the labour inspectorate within the Directorate pertaining to enterprises, competition, consumer matters, employment and occupation (DIECCTE) French Guiana comprises three general inspection units which have territorial competence for all sectors of activity and that a mission created on 1 January 2011, at the time DIECCTE was established, now has responsibility for organizing inspections, their follow-up and the relevant legal and administrative support. The Committee further notes that, according to the Government, the work of the eight inspection officials in 2011 led to increased activity relating to safety and health, fundamental rights and freedoms, and representative staff institutions (IRP). However, despite the decrease observed by comparison with 2010, most actions in the context of "Programme 111" are still concerned with combating illegal work, which accounts for the majority of cases referred to the courts in the overseas departments.

The Committee draws the Government's attention to the fact that, according to *Articles 2(1) and 3(1)*, one of the main functions of the labour inspection system is to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work. Verifying the legality of employment can therefore only be considered a further duty which, in accordance with the terms of *Article 3(2)*, must not be such as to interfere with the effective discharge of labour inspectors' primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. ***The Committee therefore requests the Government to indicate how the duties of labour inspectors are discharged in the context of actions under "Programme 111" against illegal work and to continue to take the necessary measures to ensure that the whole labour inspection staff in French Guiana can perform its task of enforcing the legal provisions relating to conditions of work and the protection of workers while engaged in their work. The Government is also requested to supply detailed statistics regarding labour inspection activities on the territory of the department.***

*Articles 6, 11 and 15(c). Independence of labour inspectors, accessibility of premises to all concerned and confidentiality of complaints.* The Committee notes the Government's statement that, at a meeting on 9 December 2010 of representatives of the Ministry, DIRECCTE and the trade unions concerned, a consensus emerged from discussions between representatives of the administration and the trade unions that the establishment of the labour inspection section at Porto Vecchio (Corsica) did not appear to be problematic in terms of the principles of independence of the labour inspectorate, as defined in *Article 6* of the Convention, or the freedom of decision-making established in *Article 17*, and that the most sensitive issue was the confidential nature of complaints prescribed by *Article 15(c)*. It also notes that, according to the Government, all parties at the meeting agreed that, for want of a more operational solution, the labour inspectorate in Porto Vecchio should stay for the immediate future in its current premises and that, since early 2012, this solution does not appear to be a source of concern for the labour inspector any more than for the workers or departmental unions. ***The Committee trusts that the Government will soon be in a position to take the necessary operational measures to ensure that labour inspectors are independent of any improper external influences (Article 6), that workers are able to enter the Porto Vecchio section freely (Article 11) and that complaints are treated confidentially (Article 15(c)).***

The Committee is raising other points in a request addressed directly to the Government.

## **Labour Inspection (Agriculture) Convention, 1969 (No. 129)** (ratification: 1972)

The Committee refers to its comments relating to the Labour Inspection Convention, 1947 (No. 81), in so far as they also concern the application of the present Convention.

*Articles 6(3) and 22 of the Convention. Additional duties assigned to labour inspectors in the context of combating the illegal employment of foreign workers.* The Committee notes the information supplied by the Government that is common to the reports on this Convention and Convention No. 81. It also notes that, in 2011, according to the annual report, out of a total of 250 reports of infringements recorded in agricultural undertakings, 113 related to illegal work, 73 were concerned with safety and health, 40 with employment contracts and 14 with the work of the labour inspectorate (obstacles, abuse, prerogatives and resources). **The Committee requests the Government to refer to its observation under the Labour Inspection Convention, 1947 (No. 81), and again asks it to take the measures requested with a view to limiting inspectors' involvement in joint inspection operations with the police to an extent that is compatible with the objectives of the Convention.**

*Article 7(3). Integration of the system of labour inspection in agriculture into a common labour inspection system.* The Committee notes the statement that, although the downward trend in the number of inspections in agricultural undertakings recorded in 2010 and 2011 following the merger of the departments remains a source of concern, the trend has reversed slightly, with a small increase in activity in 2011 following the measures taken. It further notes that the labour inspectorate in the overseas departments (DOM) has not been affected by the merger of departments and that the number of inspections increased over the 2010–11 period. The Committee further notes the Government's statement that the drop in activity was not primarily attributable to the departments where an agricultural section of the inspectorate was not maintained or set up but rather to an under-evaluation of recorded activity relating to agriculture and the fact that dealing with the new sectors inspected took more time for the officials concerned than had been saved through the reduction in workload.

The Committee also notes that, according to the record of the meeting of the agriculture social partners attached to the Government's report, the latter wish to have an up-to-date list of agricultural sections, and that the Labour Directorate-General (DGT) undertakes to update the list of contact officials for agriculture. **The Committee would be grateful if the Government would continue to provide information on the measures taken to ensure that the labour inspection services remain visible and accessible to employers and workers in the agriculture sector, particularly in departments where an agricultural section of the inspectorate has not been maintained or set up (including Alpes-de-Haute Provence, Hautes-Alpes, Ariège, Corse-du-Sud, Creuse, Haute-Loire, Lozère, Nièvre, Hautes-Pyrénées, Territoire de Belfort and Val-d'Oise). The Government is also requested to provide statistical information on labour inspection in agriculture for the period covered by the next report.**

The Committee is raising other points in a request addressed directly to the Government.

## **French Polynesia**

### **Labour Inspection Convention, 1947 (No. 81)**

*Articles 3(2) and 5(a) of the Convention. Additional duties entrusted to controllers, and cooperation between the inspection services and other governmental services and public or private institutions.* 1. *Efforts to curb illegal employment.* The Committee notes that, according to the Government, efforts to combat illegal employment are undertaken by a committee made up of the Deputy Public Prosecutor, the Labour Directorate, the Social Welfare Fund, the gendarmerie, the Public Safety Directorate, the border police and the tax authorities. The Government states that in 2011, attention was focused on the building and public works sector, hotels, cafes and restaurants, as well as on cleaning and security enterprises, and that out of 17 infraction reports on clandestine work, 12 were issued by the labour inspectorate and five by the gendarmerie.

The Committee reminds the Government that the cooperation referred to in *Article 5(a)* of the Convention is intended to strengthen measures to enforce the legal provisions relating to conditions of work and the protection of workers (*Articles 2 and 3(1)*). Referring to paragraphs 75 to 78 of its 2006 General Survey on labour inspection, the Committee points out that the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers concerned if it is to be compatible with the objective of protection afforded by the Labour Inspection. This objective can only be met if the workers covered are convinced that the primary task of the inspectorate is to enforce the legal provisions relating to conditions of work and protection of workers. **The Committee requests the Government to take all the necessary measures, in law and in practice, to re-establish labour inspectors in their functions as defined by the Convention and to limit their involvement in joint inspection operations to an extent that is compatible with the objectives of the Convention. The Committee also requests the Government to supply information enabling it to assess the way in which foreign workers in an irregular situation are guaranteed the same protection provided by the labour inspectorate as other workers.**

2. *Additional functions entrusted to the labour inspectors. Settlement of labour disputes.* The Committee notes that, in accordance with section 3 of Order No. 2385 CM of 23 December 2010, the Labour Directorate's role includes promoting social dialogue and participating in the settlement of collective labour disputes. It also notes the information that territorial inspection units now take it in turn to settle individual labour disputes.

The Committee reminds the Government that, in accordance with *Article 3(1)* of the Convention, the main functions of labour inspectors are to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers, and to supply technical information and advice to employers and workers. It also recalls the guidelines contained in Paragraph 8 of the Labour Inspection Recommendation, 1947 (No. 81), to the effect that "the functions of labour inspectors should not include that of acting as conciliator or arbitrator in proceedings concerning labour disputes". ***The Committee asks the Government to provide information on the time and resources of inspection services spent on conciliation in relation to their primary duties as defined in Article 3(1) of the Convention. The Committee hopes that the Government will take the necessary steps to ensure that, in accordance with Article 3(2) of the Convention, any duties entrusted to labour inspectors, outside their main duties, do not interfere with the effective discharge of these primary duties or prejudice in any way the authority necessary to inspectors in their relations with employers and workers. It asks the Government to provide any information concerning measures taken or envisaged in this respect in its next report.***

The Committee is raising other points in a request addressed directly to the Government.

## Ghana

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1959)**

*Articles 1, 4, 9, 10, 11 and 16 of the Convention. Organization and functioning of the labour inspection system.* In its comments to the Government since 2009, the Committee noted the Government's commitment to establishing the necessary systems and infrastructure to enable the effective inspection of workplaces liable to inspection and the fact that the computerization of the inspection services was under way. It also noted, according to the information provided in the report on the Worst Forms of Child Labour Convention, 1999 (No. 182), the lack of capacity and logistical deficiencies for labour inspection, but also the fact that the Government has helped the Labour Department and the Factories and Inspectorate Department with capacity building through human resources development and the provision of logistics and equipment. These departments are undergoing needs assessment and organizational restructuring to meet their requirements for labour inspection. The Government has enhanced its commitment to enable the staff of these departments to follow some of the training courses run by ILO–African Regional Labour Administration Centre (ARLAC) to strengthen their capacities aimed at providing effective labour inspection.

In its present report, the Government refers to the shortage of logistical resources faced by the inspectorate, particularly the insufficient number of labour inspectors and vehicles. The Committee notes that no information has been supplied by the Government in reply to its previous comments concerning the application of these provisions. ***The Committee therefore urges the Government to reply to its previous comments, which read as follows:***

***The Committee would be grateful if the Government would provide detailed information on the structure of the existing labour inspection system, the results of the assessment undertaken and any measures taken or envisaged to reorganize the labour inspectorate.***

***Noting with concern the small number of visits carried out (106 to 147 according to the statistics provided by the Government) and of workers covered by such visits (1,647) in 2007, the Committee requests the Government to describe, in particular, any measures taken, in terms of strengthening staff numbers, training of staff, allocation of transport facilities and logistical means, with a view to ensuring that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the legal provisions covered by the Convention, in accordance with Article 16.***

***The Committee requests once again the Government to describe the procedure applicable for the reimbursement to labour inspectors of their occupational transport and travel expenses, and to communicate a copy of any relevant legal provisions.***

*Article 12(1)(a). Right of labour inspectors to enter freely workplaces liable to inspection.* In its comments since 2005, the Committee has asked the Government to take the necessary measures to ensure that the relevant legislation is supplemented to extend labour inspectors' right of free entry to workplaces to periods outside working hours and to keep the ILO informed in this regard. The Government indicates that all the necessary steps will be taken to respond to the Committee's concern in this regard and that information will be communicated should any amendments be made. ***The Committee hopes that measures will actually be taken to give effect to this provision of the Convention and requests the Government to keep the ILO informed of any developments in this regard.***

*Articles 3(1), 17, 18 and 21(e). Enforcement of legal provisions relating to the conditions of work and the protection of workers, prosecutions and enforcement of penalties.* With reference to its comments since 2009, in which it asked the Government to take appropriate measures to ensure that legal provisions relating to the conditions of work and the protection of workers are effectively enforced through legal proceedings where necessary, the Committee notes that the Government reiterates its commitment to the enforcement of legal provisions as provided for by *Articles 3(1), 17 and 18* of the Convention, through social dialogue, persuasion and diplomacy. It also declares that its wish to encourage mutual respect for conditions of work and protection of workers lies behind the setting up of the National Labour

Commission (NLC) for dealing with labour-related complaints. A wages commission was also established in 2006 to resolve issues of insufficient payments and pay negotiations with public sector workers, with enterprise-level unions having a say in the resolution of any abuses. Moreover, even though section 38 of the 2007 Labour Regulations provides for fines and penalties for violations reported by labour inspectors, in practice these violations are settled at enterprise level or in the NLC. The Committee further notes that in 2010 one “penalty unit” was the equivalent of 20 Ghanaian cedis (GHS) and that the judiciary is responsible for revising this value every year. However, the Committee notes that no information has been supplied either on violations reported by labour inspectors or on fines imposed under section 38 of the 2007 Labour Regulations, or on measures taken to ensure that the latter are enforced. ***The Committee therefore requests the Government to indicate whether labour inspectors are free to decide to give warning and advice instead of instituting or recommending proceedings, in accordance with Article 17(2) of the Convention. The Committee also requests the Government to indicate the criteria for revising the value of the “penalty unit”, to send a copy of the last two revision decisions handed down by the judiciary, and also statistical information relating to violations of the labour legislation (indicating the relevant provisions) and penalties imposed.***

*Articles 19, 20 and 21. Periodical reports and annual inspection report.* In its comments since 2009, the Committee has asked the Government to take measures rapidly to establish the conditions in which the central labour inspection authority can collect data on the activities of the services under its control with a view to publishing an annual report on the work of the inspection system containing information on the subjects specified in *Article 21(a)–(g)*. The Government indicates that measures to this end are being adopted and that copies of the annual report will be sent once it has been drawn up. The Committee notes with **concern** that the last Labour Department report received at the ILO dates back to 2000. ***The Committee hopes that the measures adopted will facilitate the production of periodic reports by local inspection offices on the results of their activities, as required by Article 19, and that these reports will serve as the basis for the central inspection authority to publish and communicate an annual report to the ILO in the time limits laid down by Article 20 and containing the information required by Article 21(a)–(g). The Committee requests the Government to keep the ILO informed of any further developments. It reminds the Government that it may avail itself of ILO technical assistance in this regard if necessary.***

## Greece

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1955)***

The Committee notes the Government’s report, received by the Office on 27 November 2013, as well as the observations made by the Union of Occupational Safety and Health Inspectors received on 8 February 2013 and 18 October 2013 and the observations made by the Greek Association of Labour Inspectors (GALI) received on 22 October 2013, which were forwarded to the Government on 22 November 2013.

*Articles 1, 3, 4, 5, 6, 7, 10 and 11 of the Convention. Reinforcement and restructuring of the labour inspection system with ILO technical assistance.* In its previous comments, the Committee emphasized the crucial role of labour inspection in times of crisis in ensuring that workers’ rights are respected, so that the crisis does not serve as a pretext for lowering labour standards, and it noted with interest that the Government had availed itself of ILO technical assistance. In this context, the Committee notes with **interest** the Government’s indications that a Special Action Plan (SPA) for the strengthening of the Greek Labour Inspectorate (SEPE) has been established based on the recommendations made in the ILO audit submitted to the Ministry of Labour, Social Security and Welfare (MLSSW) in December 2012 (the 2012 needs assessment), which correspond to a large extent to the Committee’s previous comments on the application of the Convention. The Committee also notes the Government’s reference to the establishment of five working groups in the SEPE for the implementation of the 17 actions in the SPA (including the organization and functions of the SEPE, the development of a human resources policy for labour inspectors, the management of data through information systems and records, etc.), as well as to certain activities for their implementation in 2013.

However, the Committee also notes the observations made by the Union of Occupational Safety and Health Inspectors and the GALI in October 2013 that the activities of these working groups have been discontinued since July 2013. The Union of Occupational Safety and Health Inspectors therefore expresses doubts as to the Government’s intention to follow the general recommendations of the 2012 audit and indicates that the content of ministerial decisions and internal instructions for the staff of the MLSSW tend to show instead the Government’s intention to downgrade the labour inspectorate. In this regard, the Committee also notes the GALI’s reference to the alleged Government plans to abolish the independent Executive Secretariat of the MLSSW as the central authority of the SEPE and to replace the labour inspection system with an inferior body (such as a general directorate) under the MLSSW, which the trade union fears would deprive the labour inspection system of its autonomy and independence. The GALI indicates that these assumptions are also confirmed by the fact that the position of special secretary of the SEPE has not been filled for several months. The Committee further notes the Union of Occupational Safety and Health Inspectors’ reference, in its observations in February 2013, to several options for the restructuring of the SEPE, two of which suggested a reduction in the total number of occupational safety and health (OSH) inspectorates throughout the regional structures of the SEPE by 39 per cent. The Committee also notes, with reference to its observation made under the Labour Administration Convention, 1978 (No. 150), that a letter of intent was signed by the MLSSW, the ILO and the European Commission

(EC) Task Force for Greece through which an invitation was extended to the ILO to provide technical assistance, including in the area of labour inspection. *The Committee requests the Government to make any comments it deems appropriate on the observations of the Union of Occupational Safety and Health Inspectors and the GALI and to keep the ILO informed of the measures taken on the basis of the recommendations of the ILO audit and the 17 actions in the SPA (improvement of the human resources and material means of the SEPE, capacity building and improved conditions of service of labour inspectors, improved cooperation throughout the structures of the SEPE, collaboration with the social partners, etc.) and their impact on the labour inspection system. Please also provide information on any formal steps taken by the Government to avail itself of renewed ILO technical assistance for this purpose.*

*In this context, the Committee also asks the Government to provide information on any measures taken or envisaged for the restructuring of the SEPE, to communicate an updated organizational chart of the SEPE to the ILO, and to indicate whether a new special secretary of the SEPE has been appointed.*

Articles 3(1)(a) and (b), 5(a), 17 and 18. 1. *Increased activity of the labour inspectorate in the area of undeclared work and illegal employment, including the enforcement of increased sanctions.* The Committee notes the Government's indications that in recent years significant activities have been undertaken by the SEPE to combat undeclared work and illegal employment. In this regard, the Committee notes the statistical information provided by the Government and its reference to: (i) the restructuring of the SEPE; (ii) the establishment of the Financial and Economic Crime Unit (FECU) for the control of serious cases of undeclared work; (iii) the establishment of joint inspections teams of the SEPE, the Social Insurance Institute (IKA), the newly created FECU and the police; (iv) the imposition of more severe sanctions; (v) the creation of joint electronic platforms to facilitate data exchange between SEPE offices, the Manpower Employment Organization (OAED) and the IKA; (vi) intensified inspections and improved inspection methods, including cooperation and the exchange of data, know-how, methods and inspection tools between these bodies; and (vii) the carrying out of targeted inspections in sectors with high rates of undeclared employment.

In this context, the Committee also notes the information provided by the Government on the creation of the "ERGANI" Information System at the MLSSW, which requires employers registered with the IKA to submit the required information online (forms E3–E10) to the SEPE and the OAED, which according to the Government allows for the electronic recording of salaried employment movement and contributes to the fight against undeclared work and contribution evasion. The Committee further notes the Government's indications that Ministerial Decision No. 27397/122 of August 2013 on combating undeclared work introduces severe administrative sanctions for undeclared work that can be imposed on the spot by labour inspectors. In case of recurrence, a temporary or permanent closure of the business may be imposed. The Committee notes the observations made by the GALI and the Union of Occupational Safety and Health Inspectors that Ministerial Decision No. 27397/122 obliges labour inspectors to impose sanctions in certain cases and denies them the discretionary power called for by *Article 17(2)* of the Convention. In this respect, the GALI also refers to a progressive transformation of the inspection system into a "police of the labour market, limited to tax collection and suppression".

The Committee notes that the Government reiterates that the primary objective of labour inspectors is to protect labour rights, including those of foreign workers, and adds that section 86 of Act No. 4052/2012 enables foreign workers to have recourse to the competent courts and authorities to claim any rights resulting from their past employment relationship including outstanding wages. However, the Committee notes that the Government does not specify the role of labour inspectors in this regard or provide information on cases in which foreign workers have been granted their due rights following the above procedures as the Committee requested it to do.

The Committee also notes from the 2012 needs assessment that, as a result of the crisis, there is a clear imbalance between inspections in the area of OSH and of general working conditions. Moreover, OSH inspections, in addition to inspection of general working conditions, are used to combat illegal work, which may have a negative impact on the safety and health of workers. The Committee also notes the observations made by the Union of Occupational Safety and Health Inspectors in this regard.

Referring to paragraph 78 of its 2006 General Survey on labour inspection, the Committee reminds the Government that efforts to control the use of migrant workers in an irregular situation require the mobilization of considerable resources in terms of staff, time and material resources, which inspectorates can only provide to the detriment of their primary duties. It also underlines that, in accordance with *Article 3(2)* of the Convention, any further duties that are not aimed at securing enforcement of the legal provisions relating to conditions of work and the protection of workers should be assigned to labour inspectors only in so far as they do not interfere with their primary functions or prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. In these circumstances, as recalled in the General Survey, the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all workers if it is to be compatible with the objective of labour inspection. *The Committee requests the Government to continue to provide information in its next report on the number of activities carried out by the SEPE in the area of undeclared work in relation to the number of activities in other areas, in particular in the area of OSH. It asks the Government to provide information on the impact of these activities, not only on reducing undeclared work, but also on regularizing the situation of the workers concerned.*

*The Committee requests the Government to continue to provide information on the activities carried out by the SEPE in the area of the control of the legality of employment of foreign workers and to furnish data on the impact of these activities on the payment of outstanding wages and benefits due to foreign workers who are in an undocumented situation, including where they are liable to expulsion or after they have been expelled.*

*The Committee once again requests the Government to specify the role of labour inspectors in recommending or facilitating the filing of complaints and the institution of proceedings vis-à-vis employers so as to extend further the protection of the statutory rights of workers in an undocumented situation and to ensure that foreign workers have effective access to the justice system, and to provide statistical information on relevant cases and examples of decisions rendered in this regard.*

2. *Measures to ensure the payment of wages and benefits.* The Committee recalls its previous comments on the introduction of certain measures by Acts Nos 3996/2011 and 3863/2010 to guarantee the payment of wages and social security contributions. It notes the Government's indications that: (i) the labour stamp was fully implemented as of 2012; (ii) the scope of the workers covered has been further extended in 2013; and (iii) promotional measures for its use have been taken (publication of circulars, guidelines and other documents by the IKA, etc.). While noting this information, the Committee observes that the focus of the measures taken appears to be on the payment of social security contributions rather than the payment of wages in full. It observes moreover from the annual labour inspection report for 2012 that 84 per cent of complaints from workers brought to the SEPE related to the non-payment of wages. *The Committee asks the Government to provide information on the steps taken to evaluate the extent of the problem of the payment of wages and the measures taken to address it comprehensively. In this regard, the Committee asks the Government to provide information on the results of the labour stamp following its full implementation in 2012 on the payment of wages.*

*Noting that the Government has not provided the requested information on the electronic payment of wages, the Committee also once again asks the Government to provide information on the progress made with the implementation of the electronic system for the payment of wages (including the issuance of a ministerial decision for the entry into force of the relevant provisions of Act No. 3863/2010), in relation to the payment of outstanding wages and the regularization of the situation of undeclared workers.*

3. *Conciliation functions entrusted to labour inspectors.* The Committee notes the information provided in the Government's report that in 2012 labour inspectors dealt with 21,520 labour disputes, 10,125 of which were resolved resulting in the payment of €20,259,925 to workers. The Committee notes that the Government reiterates that, through this function, the payment of accrued wages and the protection of labour rights are ensured. *Referring once again to paragraphs 72–74 of its 2006 General Survey on labour inspection, as well as to the recommendations made in the 2012 audit, the Committee asks the Government whether it is considering, in view of the potentially large proportion of work dedicated by labour inspectors to this function, the separation of the functions of conciliation from those of inspection. In the meantime, it once again asks the Government to indicate the number of labour inspectors who carry out the enforcement and advisory functions provided for under Article 3(1)(a) and (b) of the Convention, and those who carry out conciliation functions.*

4. *Implementation of the principle of equality of opportunity and treatment for men and women at work. Activities on matters relating to disabled workers.* Following up on its previous comments on the need to improve the practical aspects of the institutionalized cooperation between the SEPE and the Ombudsman established by Act No. 3488/2006, the Committee notes with *interest* that during 2012 a specialized training programme was designed, in cooperation with the General Secretariat for Gender Equality and the Ombudsman, with the aim of training all industrial relations inspectors on issues concerning gender equality that will be implemented by the Training Institute of Public Servants from December 2013 to June 2014. *The Committee asks the Government to provide detailed information on the above training (subjects covered, number of participants, frequency, etc.) as well as on its impact on the level of compliance with legal provisions in the area of non-discrimination. Please also provide information on the impact of this training on the cooperation with the Ombudsman and continue to indicate other measures taken or envisaged by the SEPE in order to strengthen this cooperation (the issuance of circulars delineating roles and responsibilities and enhancing cooperation, etc.). The Committee once again requests the Government to indicate any steps taken to strengthen protection against sexual harassment.*

*In addition, noting that the Government has not provided a reply in this regard, the Committee once again asks the Government to provide further information on the activities of the SEPE on matters relating to workers with disabilities, including cooperation with experts and training, and to indicate their impact on ensuring equality of opportunity and treatment for this category of workers.*

### **Labour Administration Convention, 1978 (No. 150) (ratification: 1985)**

*Recent developments. Technical assistance.* The Committee notes with *interest* from the Government's report under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), that a High-level Seminar "Tackling the job crisis in Greece: Which ways forward?" and a "Workshop on promoting sound industrial relations and social dialogue in times of crisis" were organized by the ILO with support from the European Union (EU) in Athens on 25 and 26 June 2013, respectively; that a letter of intent was co-signed by the Minister of Labour, Social Security and Welfare,

the ILO Director-General and the Head of the European Commission (EC) Task Force for Greece, whereby the Greek Government invites the ILO to provide technical assistance for the design, implementation and monitoring of reforms in the area of social dialogue and labour inspection; and that a cooperation agreement, including social dialogue as one of the thematic areas, between the ILO and the Greek Government with the assistance of the EC Task Force is currently under negotiation. Furthermore, the Committee welcomes the appointment by the ILO Director-General of an ILO Senior Liaison Officer in order to ensure effective delivery of the promised support to the Government and social partners. ***The Committee requests the Government to provide detailed information on the type of support provided by the ILO, the areas of focus and the impact produced with regard to the effective application of the Convention in law and in practice.***

*Articles 1 and 2 of the Convention. Abolition of the “Workers’ Housing Organization” (OEK) and the “Workers’ Social Fund Home” (OEE). Continuation of their activities.* The Committee notes from the Government’s report that the Manpower Employment Organization (OAED) became the full successor of the OEK and OEE and will ensure the continuation of their activities, as well as the information provided on the distribution of the revenues of the “Special Account for the implementation of social policies” (ELEKP) and on the structure of the committee established for the operation of the ELEKP. The Committee also refers to its comments under Convention No. 98 on this question. ***The Committee requests the Government to keep the Office informed of the OAED activities and of their impact on the application of the Convention.***

*Articles 4, 5, 6, 9 and 10. Coordination of the system of labour administration in consultation with the employers’ and workers’ organizations and resources at the disposal of the labour administration staff.* The Committee notes from the Government’s report that the Government is in the process of implementing the restructuring of administrative units and services, which includes, inter alia, a complete design of the new organizational chart with a detailed description of new posts, missions, powers and responsibilities of each directorate, section and post. Furthermore, the Committee notes with *interest* the information provided on the pilot information system “Ergani” which is aimed at ensuring the online registration of information on the employment relationship and the terms and conditions of employment. ***The Committee once again requests the Government to provide information on the number, status and conditions of service of the staff of the labour administration system, and on any steps taken to ensure that this restructuring is carried out in consultation with the organizations representing the workers in the labour administration so as to mitigate any adverse consequences of austerity measures on their employment and working conditions and to plan, to the extent possible, their occupational future in the light of the country’s opportunities.***

***Furthermore, the Committee once again requests the Government to provide information on any steps taken or envisaged to ensure that the policies pursued in the areas of collective bargaining, wages, social security and employment are closely coordinated with a view to addressing as effectively as possible the grave circumstances with which the country is currently faced.***

*Article 10(1). Qualification and training of the staff of the labour administration system.* ***The Committee once again requests the Government to communicate the results obtained through the design and implementation of operational programmes under the European Social Fund (ESF) in the areas of human resource development and education and life-long learning.***

## Guinea-Bissau

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1977)***

*Articles 3(1), 7(3), 10, 11, 14 and 16 of the Convention. Functioning of the labour inspection system.* The Committee notes that the application of the Convention faces significant and persistent challenges of a financial and material nature. It notes, for instance, that there are too few inspectors and that the General Labour and Social Security Inspectorate has inadequate means of transport. The Committee is also led to believe that the Government is not in a position to provide labour inspectors with adequate training for the performance of their duties, in accordance with *Article 7(3)* of the Convention. It notes, however, that the inspectors benefited from a number of training activities under the subregion’s technical cooperation framework pertaining to labour inspection structures and under the Community of Portuguese-speaking countries (CPLP). The Government also refers to difficulties inherent in gathering reliable data on industrial accidents and cases of occupational diseases, which may be attributed to the under-reporting of workers themselves. The Government is also trying to create conditions that will enable it to send on a regular basis the information available on each of the questions listed under *Article 21* and in the format stipulated under *Article 20*, but it is encountering difficulties of various kinds and would therefore require the ILO’s technical assistance for this purpose. ***The Committee asks the Government to submit a formal request to the ILO for technical assistance with a view to drafting and publishing an annual inspection report, as provided for under Articles 20 and 21 of the Convention, and to envisage extending this request to the collection and recording of statistical information on industrial accidents and cases of occupational diseases, and to the establishment of a system to assess the labour inspection services, with a view to determining the measures to be introduced to improve its efficiency. The Committee requests the Government to submit in its next report information on any developments in this area.***

The Committee is raising other points in a request addressed directly to the Government.

## 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 must therefore repeat its previous observation, which read as follows:

*Obligation to report pursuant to article 22 of the ILO Constitution.* The Committee notes the communication by the Government, in reply to its previous request, of the circulars (notices) of 18 March 2005 designating the authorities which must be notified of occupational accidents and cases of occupational disease, in relation to *Article 19 of the Convention*. It also notes the communication of the annual report for 2004 from the Industrial Relations Department of the Ministry of Labour, containing brief information on labour inspection activities in the agricultural sector. However, the Committee notes that no detailed report on the application of the Convention has been sent for more than ten years. **The Committee therefore requests the Government to supply, in its next report under article 22 of the ILO Constitution, all the information required by each part of the Convention report form.**

*Articles 26 and 27 of the Convention. Objectives and content of the annual report on the work of the labour inspectorate.* The Committee notes that, despite the high number of strikes in sugar plantations and agriculture in 2004 and their socio-economic impact (227 strikes resulting in the loss of 82,880 workdays and wages amounting to 129,061,000 dollars) the labour inspectorate only performed six inspections for the whole sector. The Committee considers that these figures testify both to poor conditions of work and lack of vigilance on the part of the inspection authorities responsible for monitoring conditions of work in agricultural undertakings. In any event, they call for the adoption of measures to curb the deterioration of the social climate, particularly by means of inspection activities and initiatives to provide employers and workers with information. However, the Committee notes that the Government has not supplied any information indicating that such measures have been taken or are envisaged. It also notes that the content of the report does not allow any assessment to be made of the level of coverage of the labour inspection system in relation to worker protection requirements in the sector, these needs not being defined, particularly with regard to occupational safety and health. The significant lack of statistics relating to inspection visits (*Article 27(d)*) and violations (*clause (e)*) and the total lack of information regarding the laws and regulations giving effect to the provisions of the Convention (*clause (a)*), the number of staff of the labour inspection service (*clause (b)*), the number of agricultural undertakings liable to inspection and the number of persons working therein (*clause (c)*), and also the lack of statistics with respect to penalties imposed (*clause (e)*), occupational accidents, including their causes (*clause (f)*) and occupational diseases, including their causes (*clause (g)*), make it impossible for the Committee to perform its role of monitoring the practical application of the Convention. The Committee reminds the Government that the requirement to publish an annual report on inspection activities and send it to the ILO serves an important purpose at both the national and international level. It is an essential tool for evaluating the operation of the labour inspection system and for making improvements to it, with the participation of employers and workers and their respective organizations (*Articles 26 and 27*). **The Committee invites the Government to refer to paragraphs 320–328 of its 2006 General Survey on labour inspection and requests it to take the necessary measures, if need be with technical assistance from the Office, to enable the central labour inspection authority to include all the information required by each of clauses (a)–(g) of Article 27 in the annual report on its work.**

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

## Japan

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)**

The Committee notes the observations made by the Japanese Trade Union Confederation (JTUC–RENGO) dated 23 August 2013 and attached to the Government's report, which was received on 30 September 2013.

*Articles 3(1)(b) and 13 of the Convention. Preventive measures for workers engaged in decontamination work with radioactive materials ("emergency workers") at the Fukushima Daiichi Nuclear Power Plant.* In response to its previous request on mid- and long-term measures by the labour inspectorate in relation to workers engaged in emergency operations, the Committee notes the Government's indications that the Ministry of Health, Labour and Welfare (MHLW) provides guidance to employers on the appropriate monitoring by employers of exposure to radiation. The *Guidelines on Maintaining and Improving Health of Emergency Workers at the TEPCO Fukushima Daiichi Nuclear Power Plant*, available on the website of the MHLW recommend, for example, medical examinations based on the level of radiation exposure of workers. The Government reiterates that a database has been set up at the MHLW, which includes information on exposure doses and the results of medical examinations of emergency workers, and should provide a basis for long-term health-care measures, including after workers have ceased to be engaged in decontamination work. The Committee also notes that the Government refers to "corrective recommendations" and the imposition of sanctions by the labour standards inspection offices (LSIO) where employers fail to comply with their monthly reporting obligation on the radiation exposure of emergency workers. The Committee further notes that the copy of the Ordinance on the Prevention of Ionizing Radiation Hazards pertaining to Work for the Decontamination of Soil Contaminated by Radioactivity as a result of the Great East Japan Earthquake attached to the Government's report, provides for the obligation of employers to take certain protective measures (the obligation not to exceed the exposure of workers to certain doses of radiation, regular medical examinations, the provision of specific training and protective clothing to workers, etc.).

The Committee notes that the JTUC–RENGO follows up on its previous comments and expresses growing concern at the increased risks of medium- to long-term health problems of workers caused by exposure to radiation. In this regard, the trade union recalls that the radiation exposure doses for 452 workers were recorded incorrectly in the past, with the

actual exposure exceeding that recorded (in relation to six workers, the exposure to radiation was even higher than the maximum permitted dose of 100 millisieverts (mSv)).

While the JTUC–RENGO refers to a relevant report by the Government in relation to the above events, which found that “guidance on measures to provide for adequate exposure doses was repeatedly provided”, the trade union calls for the implementation of more thorough measures, including for the period after workers cease to be engaged in decontamination work. It emphasizes that it is essential to ensure the effective supervision and monitoring of measures for the protection of workers by the nuclear operator, which should include: training on radiation risks prior to the engagement of workers in decontamination work; arrangements for a safe work environment and the management of radiation exposure doses and the prevention of mental health problems of workers. ***The Committee asks the Government to make any comments it deems appropriate in relation to the observations made by the JTUC–RENGO.***

***The Committee would be grateful if the Government would provide detailed information on the supervision of the application of occupational safety and health laws, including the “Ordinance on the Prevention of Ionizing Radiation Hazards pertaining to Work for the Decontamination of Soil Contaminated by Radioactivity as a result of the Great East Japan Earthquake”, and provide relevant statistics (number and frequency of on-site inspections, number of cases of non-observance of the relevant laws and legal provisions to which they relate, sanctions imposed, etc.).***

***The Committee also asks the Government to provide more detailed information in relation to the mid- to long-term measures taken by the labour inspection in order to monitor the exposure to radiation of the workers involved in the emergency operations at the Fukushima Daiichi Nuclear Power Plant as well as any action taken by the operator as a result of advice and instructions given by the labour inspectors.***

Articles 5(b), 6, 10, 11 and 16. *Reorganization of the LSIO and reduction in the number of newly recruited labour inspectors. Status and conditions of service of labour inspectors.* 1. *Reorganization of inspection offices.* The Committee notes the Government’s reply to its previous comments on the reduction in the number of LSIOs throughout the country following a reorganization, to which the JTUC–RENGO and National Confederation of Trade Unions (ZENROREN) expressed their opposition. The Committee understands from the Government’s explanations that criteria for the selection of offices subject to reorganization include “changing demands on administrative bodies”, that is an increase or decrease in the number of workers covered by inspection and transport needs, and that the opinions of the management and staff of the LSIO in the regions are carefully being taken into account in the framework of these reforms. The Committee also notes that the Government does not provide any information on the outcome of the consultations held with the social partners on the reorganization, which the Government referred to in its previous report. ***The Committee therefore once again requests the Government to provide details on the outcome of the consultations held with the social partners on the reorganization of inspection offices. It also requests the Government to indicate the changes in the organization of the labour inspection system following the reform, including information on the number and accessibility of labour offices throughout the territorial structures and their equipment (Article 11 of the Convention), as well as more generally on the effective functioning of the labour inspection system.***

2. *Reduction in the number of newly recruited labour inspectors.* Following the previous comments by the JTUC–RENGO and ZENROREN on the inadequate number of labour inspectors in relation to the high number of workplaces covered by the labour inspection system, the Committee notes the recent observations made by the JTUC–RENGO according to which, in the context of the increased number of industrial accidents between 2009 (105,718 cases) and 2012 (117,958 cases), it is essential for the effectiveness of enforcement of labour standards to maintain an adequate number of labour inspectors, in so far as possible, even in a situation of tight financial conditions.

The Committee notes the Government’s explanations concerning the cabinet decisions noted in its previous observation, which concerned government staffing in the light of budgetary constraints. The Committee notes that the Government indicates that to reduce labour costs, decisions have been taken to raise the retirement age of public employees and to reduce the number of new recruits. Recalling the Government’s indications that the decisions included a reduction in the number of newly employed labour inspectors to around half of those recruited in 2009, the Committee notes that the number of new recruits was 216 in 2009, 177 in 2010, 76 in 2011 and 101 in 2012. In relation to the reappointment of retired public officials to mitigate the adverse effects of this reduction, the Committee notes the Government’s indications that such reappointments will further increase until the changes in the pensionable age take full effect. The Committee also notes that measures to reduce labour costs include the termination of the so-called “ceiling system”.

The Committee notes that the Government reiterates that efforts are being made to maintain a sufficient number of labour inspectors to ensure the effectiveness of labour inspection. In this regard, it notes the Government’s indications that the number of labour inspectors was 3,979 in 2011 and 3,961 in 2012; that the number of labour inspections was 100,535 in 2009, 128,959 in 2010 and 132,829 in 2011; and that the number of cases submitted to the public prosecutor’s office was 1,110 in 2009, 1,157 in 2010 and 1,064 in 2011. ***The Committee requests the Government to continue to provide information on the impact of the recent reduction in the number of newly recruited inspectors, both from the viewpoint of budgetary resources and the effectiveness of the labour inspection functions.***

*The Committee once again requests the Government to specify whether the reform has had or will have any impact on the status and conditions of service (such as wage levels) of labour inspectors and where applicable, to provide relevant legislative texts or extracts thereof, if possible, in one of the working languages of the Office. In this regard, it asks the Government to provide further explanations of the “ceiling system” and the reasons for its abolition, as referred to in the Government’s report.*

The Committee is raising other points in a request addressed directly to the Government.

## Malawi

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)**

*Article 4(1) of the Convention. Need to re-establish a central authority entrusted with control and supervisory powers in the labour inspection system.* The Committee notes the Government’s indications according to which the recommendations following an ILO technical assistance mission in 2006 in a corresponding audit (labour inspection audit 2006) remain yet to be implemented due to the delay in the functional review of the Ministry of Labour (MoL). The Government reiterates its commitment for the implementation of the recommendations in the labour inspection audit 2006 (in a phased manner) and refers to the recent appointment of a Chief Labour Officer, who will head and coordinate the inspectorate department of the MoL, as part of the recommendations for the re-establishment of a central labour inspection authority. However, the Government does not provide any further details with regard to the abovementioned implementation phases, nor does it provide any information with regard to the measures it announced in its report communicated to the ILO in 2007.

The Committee recalls that one of the central recommendations of the technical assistance mission concerned the creation of a special unit for labour inspections or the strengthening of the existing ones at the MoL (currently, there is one department in charge of occupational safety and health (OSH) inspections, and one in charge of general labour conditions) in order to allow it to play a more important role in the setting of annual targets, the monitoring of performance by both the field and headquarters and the evaluation of the quality of inspections. In this regard, the Committee recalls from its previous observations that the budgeting and funding of labour inspection in the country is decentralized in such a manner that each office is allocated funds directly by the Treasury according to the latter’s priorities. Consequently, offices with motorcycles or motor vehicles cover fuel and maintenance, while the Ministry only receives reports on the activities performed. Based on this information, the Committee observed that the very notion of a central labour inspection authority seems to have become devoid of all substance, as the Ministry’s only residual role consists of receiving activity reports from labour inspection offices, without any power to determine the needs of the labour inspection services in terms of financial and material resources with a view to their proper operation.

The Committee further recalls the findings of the labour inspection audit 2006, which indicated that there were no inherent or structural barriers for the operation of an effective and efficient labour inspection service; and that there was considerable room for improvement, in particular in policy, planning, management procedures, communications, equipment and training, and that this could be done by rationalizing, streamlining and consolidating the inspection functions in the field structure with minimal added financial resources. The Committee finally recalls that the labour inspection audit 2006 recommended that a high-level Departmental Working Group (DWG) comprising all relevant units at the MoL be entrusted with the follow-up of these recommendations.

*Referring to its reiterated requests in this regard, the Committee urges the Government, once again, to provide details of the announced measures and steps as a follow-up to the recommendations in the labour inspection audit 2006.*

*Please indicate whether a committee or working group has been entrusted with the follow-up to these recommendations and provide information on the association of the social partners in this process.*

*The Committee once again urges the Government to adopt all the necessary measures to secure an inspection system operating under the supervision and control of a central authority (Article 4) that is provided with adequate human resources in terms of both numbers and skills (Articles 6, 7 and 10) and the material conditions necessary for the exercise of its functions in relation to labour inspections (Article 11), and to keep the ILO informed of any developments in law and in practice in this respect.*

*In view of the delay in the implementation of the 2006 recommendations and to overcome any difficulties encountered in this regard, the Committee suggests that the Government avails itself of renewed ILO technical assistance, with a view to the progressive establishment of a labour inspection system which meets the requirements of the Convention. It requests the Government to provide information on any formal step taken to this end.*

*Articles 20 and 21. Annual report on labour inspection activities.* The Committee notes that, once again, no annual report has been received (the last annual report concerned the years 2000–02) and that the Government’s report does not contain any statistical information, which renders impossible an assessment of the current level of application of the Convention. However, the Committee notes the Government’s indications that the MoL will publish its annual report soon and that a copy will be sent to the Office. Recalling that one of the recommendations made in the labour inspection audit 2006 concerned the establishment of a register of enterprises, the Committee would like to indicate that technical

assistance might also be sought for the conduct of a census of enterprises liable to inspection with a view to establish a register of workplaces, which as the Committee has emphasized in paragraph 326 of its 2006 General Survey on labour inspection and its 2009 general observation, is essential for preparing the annual report, and can be an important tool for assessing the effectiveness of external services and their personnel. *The Committee requests the Government to make every effort to allow the central labour authority to publish and communicate to the ILO an annual labour inspection report (Articles 20 and 21 of the Convention), and to indicate the measures taken in this regard. It requests the Government, in any event, to provide with its next report statistical information that is as detailed as possible (industrial and commercial workplaces liable to inspection, number of inspections, infringements detected and the legal provisions to which they relate, etc.).*

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)**

The Committee refers to its comments under the Labour Inspection Convention, 1947 (No. 81), in so far as they concern the application of the present Convention.

*Article 7 of the Convention. Need to re-establish a central authority entrusted with control and supervisory powers over the labour inspection system in agriculture.* The Committee notes the information already provided by the Government in its report under Convention No. 81, according to which a Chief Labour Officer has recently been appointed to head and coordinate the Inspectorate Department at the Ministry of Labour. According to the Government, this appointment has been made in response to the recommendations made following an ILO technical assistance mission in 2006 (labour inspection audit 2006). The Committee refers to its previous observations made under Convention Nos 81 and 129, particularly the need to re-establish a central labour inspection authority entrusted with the setting of annual targets and the monitoring of performance throughout the structures of the labour inspectorate, as well as the determination of the needs in terms of financial and material resources with a view to their proper operation. It further recalls that the recommendations in the labour inspection audit 2006 included the need to strengthen the labour inspection system in agricultural undertakings with a view to securing decent work in the most attractive sector in the country for foreign investments.

*Referring to its reiterated requests in this regard and its comments under Convention No. 81, the Committee asks the Government, once again, to provide details of the measures announced as a follow-up to the recommendations in the labour inspection audit 2006, and to keep the ILO informed of any measures envisaged or taken for their implementation, in so far as they relate to labour inspection in agriculture.*

*The Committee also once again asks the Government to adopt all measures that are essential to securing a labour inspection system in agriculture under the supervision and control of the central authority that is provided with human resources and material conditions of work adapted to the specific needs of the agricultural sector; and to keep the ILO informed of any developments in this regard.*

*Articles 26 and 27. Annual report on labour inspection activities.* While observing that the Government has again not communicated an annual report or any statistics on the activities of the labour inspectorate in agriculture, the Committee notes that, according to the Government, the annual labour inspection report will soon be published and communicated to the ILO, and that this will contain information on the work of the labour inspectorate in agriculture. *The Committee requests the Government to make every effort to enable the central labour authority to publish and communicate to the ILO an annual labour inspection report covering labour inspection in agriculture and to indicate the measures taken in this regard. It requests the Government in any event to provide with its next report statistical information that is as detailed as possible (agricultural workplaces liable to inspection, number of inspections therein, infringements detected and the legal provisions to which they relate, etc.).*

*Labour inspection activities targeting child labour.* The Committee notes that, according to the Child Labour National Action Plan of the Ministry of Labour for 2009–16 and communicated with the Government's report under the Minimum Age Convention, 1973 (No. 138), an estimated 1.4 million children were involved in child labour in Malawi, with 52 per cent working in the agricultural sector. *The Committee asks the Government, once again, to provide information on inspection activities in the area of combating child labour.*

## **Mauritania**

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

*Functioning of the labour inspection system.* The Committee notes that, in the conclusions, the Conference Committee deeply regretted the lack of progress on issues concerning the insufficient wages and benefits of inspectors, the lack of independence and stability of employment of labour inspectors, as well as the failure to communicate to the ILO annual reports on the work of the labour inspection services. Emphasizing that these matters had been pending for decades, the Conference Committee expressed the firm hope that the Government would soon take the necessary action, in

keeping with *Article 6 of the Convention*, to take the announced measures that offered labour inspectors stability of employment and independence as regards changes of government and improper external influences. The Committee further stressed that the publication of annual inspection reports containing the statistical information required under *Article 21* of the Convention was important to enable an objective evaluation of the progress referred to by the Government. It emphasized the importance of the functioning of an effective labour inspection system in the country and the need to strengthen the human, financial and material means available to the labour inspection services to enable them to cover all workplaces liable to inspection. It expressed the firm hope that labour inspectors would have suitably equipped offices and be able to carry out effective inspections and to prepare and send annual inspection reports to the ILO. The Conference Committee also requested the Government to provide a detailed report to the Committee of Experts addressing all the issues raised by this Committee and the Committee of Experts for examination at its next meeting. The Conference Committee asked the ILO to provide technical assistance to the Government as requested by it, to strengthen the labour inspectorate. Finally, it requested the Government to put in place a national mechanism to follow-up on the application of the Convention in the country. The Committee welcomes the formal request made by the Government in December 2013 for ILO technical assistance further to the conclusion of the Conference Committee on the Application of Standards. ***The Committee urges the Government to provide information on the measures taken to implement the conclusions of the Conference Committee including with the technical assistance of the ILO.***

The Committee notes that in its observations dated 30 August 2013 the General Confederation of Workers of Mauritania (CGTM) expressed its concerns about job stability and the independence of inspectors. The Confederation cites various reasons for their concerns: the decree establishing the status of labour inspectors has not yet been adopted; there is no collaboration between the inspection services and experts and skilled technicians; recruitment is not based on the candidate's aptitude to perform his or her functions; and the lack of an appropriate training programme. ***The Committee asks the Government to reply to the observations made by the CGTM on these points.***

In this context, 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 communication made by the Government delegation within the Committee on the Application of Standards at the 101st Session of the International Labour Conference in June 2012, and the Government's report received at the Office on 12 September 2012. It also notes the observations from the General Confederation of Workers of Mauritania (CGTM) dated 30 August 2012.

*Articles 3, 6, 10, 11, 14, 16, 20 and 21 of the Convention. Status, recruitment, training, powers, activities and material means of the labour inspectorate. Annual inspection report.* The Committee notes the information contained in the Government's report to the effect that 40 labour inspectors and labour controllers were recruited in 2009 and received a two-year period of training at the National School of Administration (ENA) before being subsequently appointed to the ten regional inspectorates in the country. In addition, about ten training workshops have been organized by the ILO since 2008 in the context of the ADMITRA and PAMODEC projects, in addition to the training given at the Tunis and CRADAT centres; the labour inspectorate has been equipped with a methodological guide which has enabled an increased number of inspections in the field; and a "toolkit" for labour inspectors has been devised by the Dakar office and will be distributed to inspectors in the course of this year. The Government also refers to improvements in the equipment of the regional labour inspectorates through a World Bank project (the PRECASP project) but does not state whether this equipment has already been distributed to the regional services.

However, the Committee notes with *regret* that once again no annual report has been received which would enable the Committee to evaluate the application of the Convention in practice, despite the undertaking made by the Government representative in the Committee on the Application of Standards to send to the ILO all annual reports of the labour inspectorate in addition to an evaluation of the impact of the strengthening of human and material resources on the application of the laws and regulations in Mauritania. It also notes with *regret* that the Government merely reiterates, for the third time, its intention to put a stop, in conjunction with the Ministry of Finance, to the unequal treatment received by labour inspectors, who have been the only public servants who have not received an allowance granted by a decree of 2007 to all other branches of the administration.

Despite the adoption in 2007, after several years of preparation, of special regulations for the labour administration establishing the status of labour inspectors and controllers, the Committee notes that, according to the CGTM, labour inspectorates do not have the independence necessary for the performance of their duties, since they depend on a Directorate of Labour which can "use" labour inspectors, transfer them or lay them off. According to the CGTM, no cases have ever been seen in which labour inspectorates of their own initiative, as provided for by law, have dealt with a violation, infringement or reprimand concerning an employer as part of establishing better labour relations within enterprises. The CGTM refers to cases of occupational disease such as silicosis, which, it claims, is taking a serious toll in the National Industrial and Mining Company (SNIM), and cyanide and lead poisoning which are allegedly decimating the workforce of the Mining and Copper Company (MCM), and also refers to apparatus used at the autonomous port of Nouakchott, which allegedly causes frequent fatalities among dockers. Moreover, according to the CGTM, labour inspection staff do not have satisfactory conditions of work, and even less motivation, to enable them to perform their duties. Rather, they are simply seeking a means of subsistence and are not feared by any employer. The CGTM notes the dire lack of financial and material resources necessary for the labour inspectorate to do its work effectively, to the extent that labour inspectors are obliged to make use of the services of private individuals for the drafting and printing of their reports, including infringement reports. Lastly, the CGTM emphasizes that the level of qualifications of inspectors is low owing to the fact that recruitment is carried out under conditions which lack transparency and impartiality.

***The Committee requests the Government to send any comments which it considers appropriate in response to the observations from the CGTM. It also requests the Government to supply further details of the progress of the World Bank project for improving the equipment of the regional directorates, and on the impact of the methodological guide to inspections drawn up with ILO support, sending copies, where applicable, of any relevant documents or reports.***

*The Committee requests the Government once again to take steps as soon as possible to ensure that allowances are paid to labour inspectors that take account of the specific nature of their duties, and to keep the Office informed of any further developments in this respect.*

*Noting the Government's indication that a Decent Work Country Programme (DWCP) for Mauritania is due to be signed in the coming months, the Committee again requests the Government to make use of this programme to take all necessary steps to reinforce the labour inspectorate, with technical support from the ILO, with a view to establishing a labour inspection system that operates on the basis of the provisions of the Convention as regards scope (Articles 1 and 2); duties (Article 3); organization under the supervision of a central authority (Article 4); cooperation with other bodies and with employers and workers or their organizations (Article 5); status and conditions of service of labour inspectors (Article 6); requisite qualifications for recruitment and training (Article 7); criteria for determining the number of inspectors (Article 10); material and logistical resources needed for the performance of their duties (Article 11); inspectors' prerogatives (Article 12); their powers (Articles 13 and 17); and their obligations (Articles 15, 16 and 19); and also in terms of the central authority's obligation to publish and to communicate to the ILO an annual report on the work of the inspection services under its control (Article 21).*

*In order to establish a labour inspection system which meets the social and economic objectives pursued by the Convention, the Committee requests the Government also to ensure, as far as possible, the implementation of the measures described in the general observations made by the Committee in 2007 (on the need for effective cooperation between the labour inspectorate and judicial bodies), in 2009 (on the availability of statistics concerning industrial and commercial workplaces liable to labour inspection and the number of workers covered, as basic information for an evaluation of the application of the Convention in practice), and in 2010 (on the publication and content of an annual report on the operation of the labour inspection services).*

*The Committee hopes that the Government will do its utmost to take the necessary steps in the near future.*

## Niger

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1979)**

*Articles 10 and 11 of the Convention. Resources of the labour inspection services.* The Committee notes with **interest** that, according to the Government, seven out of nine inspection have been provided with vehicles, thus facilitating field visits. It notes however that, according to the Government, the difficulties relating to the application of the Convention are attributable to the low level of human, material and logistical resources. **The Committee requests the Government to continue to take the necessary measures to ensure that the inspection services have the necessary resources to discharge their functions effectively. Please keep the Office informed of any progress made or difficulties encountered in this respect.**

*Articles 20 and 21. Annual report on the work of the inspection services.* The Committee notes that no annual inspection report has been provided and that the Government's report does not provide statistical information on labour inspection activities and their results, the geographical distribution of industrial and commercial establishments covered under the Convention and the workers employed therein. With reference to its general observations of 2009 and 2010, the Committee once again reminds the Government of the importance of the basic information requested in *Articles 10(a)(i)* and *(ii)* and *21* of the Convention for the evaluation of the operation of the labour inspection services and to establish useful means for improving its effectiveness. **The Committee requests the Government to ensure that measures are taken to enable the main inspection authorities to fulfil the requirement to publish and communicate an annual inspection report in the format and within the time frame stipulated in Article 20, and containing information on each of the subjects set out in Article 21. Please keep the Office informed of any progress made or difficulties encountered in this regard.**

The Committee is raising other points in a request addressed directly to the Government.

## Pakistan

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013)**

The Committee notes the conclusions of the Conference Committee on the Application of Standards on the application of this Convention, the comments made by the International Trade Union Confederation (ITUC), dated 21 August 2013, and communicated to the Government on 29 August 2013, as well as the Government's report received by the Office on 30 August 2013 and its various annexes.

The Committee notes the discussion on: (1) the effectiveness of labour inspection and the enforcement of legal provisions in the context of the delegation to the provinces of legislative powers and jurisdiction in the area of labour; (2) labour inspection and occupational safety and health (OSH) in the context of the recent fire in the garment factory in Karachi, in which nearly 300 workers lost their lives; (3) the human and material resources of the labour inspectorate; (4) restrictive policies for labour inspection; and (5) the regular publication and communication to the ILO of annual labour inspection reports.

In its conclusions, the Conference Committee requested the Government to include in its report to the Committee of Experts, due in 2013, complete information on all the issues raised, as well as detailed data in an annual report on the work of the labour inspection services in each province on all the items listed in *Article 21 of the Convention*, including information on workplaces liable to inspection and the number of workers employed therein, statistics of inspection visits, violations and the penalties imposed, industrial accidents and cases of occupational diseases. It expressed the hope that the steps taken concerning the application of this governance Convention would be reflected in the Government's next report to the Committee of Experts. The Committee welcomed the request by the Government for technical assistance and hoped that this assistance would enable the Government to effectively apply the Convention.

**1. Effectiveness of labour inspection and the enforcement of legal provisions in the context of the delegation to the provinces of legislative powers and jurisdiction in the area of labour. Legislative process in the provinces**

The Committee notes the indications by the Government during the discussions that took place in the Conference Committee that through the delegation of powers to the provincial governments, the inspection regime would be strengthened. The Committee further notes the Government's indications in its report that, following this delegation of legislative powers, the provinces are currently in the process of adopting their own labour laws. In this regard, it notes the copies of various legislative texts provided by the Government adopted by the provinces of *Punjab* and *Khyber Pakhtunkhwa* in 2012 and 2013. It also notes the observations made by the ITUC, according to which the lack of coordination between the provinces in this process has led to a patchwork of labour laws and regulations that does not meet international labour standards. The trade union further emphasizes the need for laws and regulations on labour inspection to be promulgated immediately, which has not been done in any of the provinces. **The Committee asks the Government to keep the Office informed of any further progress made by the provinces in the process of adopting labour laws, in particular in the area of labour inspection and OSH, and to supply copies of these texts once they have been adopted with an indication of the specific provisions that give effect to the Articles of the Convention.**

*Articles 4 and 5(b). Supervision and control by a central labour inspection authority. Determination of inspection priorities in collaboration with the social partners.* The Committee recalls that the conclusions of the Conference Committee emphasized the importance of an effective system of labour inspection in all provinces, the need to agree on the priorities of labour inspection and to adopt a strategic and flexible approach in consultation with the social partners. The Committee recalls in this regard the Government's indications in its previous report concerning plans to introduce a coordination mechanism at the federal level to replace the national inspection authority that had previously been planned. It notes the Government's indications that the Ministry of Overseas Pakistanis and Human Resources Development (MOPHRD) is responsible for the coordination and supervision of labour legislation in the provinces and that the coordination mechanism at the federal level includes a coordination committee (composed of the provincial labour secretaries and headed by the Federal Secretary of the MOPHRD) and a technical committee (composed of representatives of the federal Government and the ILO). While the Committee notes the observations made by the ITUC, according to which the 2006 inspection policy adopted by the federal Government is not binding on the provinces, it also notes the Government's indications that the federal labour inspection policy of 2006 and the labour policy of 2010 provide orientations for the provinces and that many of them have implemented various aspects of these policies, including the rationalization and consolidation of labour laws, the computerization of labour inspection records, etc. **The Committee asks the Government to provide information on the measures taken for the determination of the priorities of labour inspection with a view to improving its effectiveness and to making best use of the rare human and material resources available, and to specify the role of the social partners in this process. Please also provide specifications on the implementation measures that have been adopted in the provinces in relation to the subjects and points raised by the Committee previously concerning the 2006 inspection policy and 2010 labour policy documents. In this regard, the Committee also asks the Government to provide further information on the mandate, composition and activities of the coordination committee and the technical committee and copies of any applicable texts.**

*Articles 3(1)(b), 17, 18, 20 and 21. Effective enforcement of sufficiently dissuasive penalties.* The Committee notes the indications by the Government during the discussions that took place in the Conference Committee that through the delegation of powers to the provincial governments, the inspection regime would be strengthened and would enable inspectors to work more efficiently adopting a preventive approach. The Committee also notes the Government's indications in its report that labour inspectors are instructed to focus on persuasion, guidance and warning and that prosecutions are only initiated as a last resort. The Committee further notes the information provided by the Government and annexed to its report on the number of prosecutions initiated by labour inspectors, the pending cases before the labour courts, decisions rendered and the amount of fines imposed. In this regard, the Committee notes the ITUC's indications that there are no adequate penalties for violations of labour laws and the obstruction of labour inspectors in their duties, and that the fines that may be imposed for the violation of labour legislation are extremely low and are not such as to deter employers from violating the law. Furthermore, the ITUC alleges that employers often refuse access by labour inspectors to company records, and even though labour inspectors can apply to the courts for access to these records, the relevant proceedings can take several months and only lead to insignificant fines. The Committee reminds the Government, in terms of the 2006 General Survey on labour inspection, paragraphs 279 and 282, that the advice and information provided for in *Article 3(1)(b)* of the Convention can only encourage compliance with legal provisions but should nonetheless be

accompanied by an enforcement mechanism enabling those guilty of violations reported by labour inspectors to be prosecuted. The functions of enforcement and advice are inseparable in practice. **Recalling the request by the Conference Committee to provide detailed data in the annual reports on the work of the labour inspection services on all the items listed in Article 21 of the Convention, including on the violations and penalties imposed, the Committee asks the Government to continue to provide relevant information as well as particulars of the classification of such infringements according to the legal provisions to which they relate, and to ensure that this information is included in the annual labour inspection reports. The Committee also asks the Government to indicate the number of instances in which inspectors are refused access to company records by employers and the number of cases initiated in cases of obstruction of labour inspectors and their outcome.**

**The Committee further asks the Government to provide information on the measures taken or envisaged to increase the fines and penal provisions in the current legislative reforms, and to provide the relevant legal texts once they have been adopted.**

## **2. Labour inspection and OSH in the context of the recent fire in the garment factory in Karachi, in which nearly 300 workers lost their lives**

*Articles 3(1)(a)–(b), 5(b), 9 and 13. Labour inspection activities in the area of OSH, including in industrial undertakings in the province of Sindh. Supervision of private auditing and certification systems for labour standards by the labour inspection services.* The Committee notes that the Government announced measures during the discussions that took place in the Conference Committee to compensate the victims and their families affected by the factory fire in Karachi and to avoid the recurrence of such incidents in the future. In this regard, the Committee also notes the reference made by the Government during these discussions to the signature of a joint statement of commitment in the province of Sindh by the ILO and the social partners for the establishment of a plan of action to address the issues of labour inspection and OSH in view of the serious accidents that have taken place in the country, in particular the factory fire in Karachi in September 2012. The Committee further notes the information provided in the Government's report that efforts are made at the provincial level to secure compliance of legal provisions in the area of OSH, including the provision of free training and technical services by labour inspectors in workplaces. It further notes the Government's indications that the labour inspection services at the provincial level are backed up by teams of technical experts providing advisory services and expertise in the areas of industrial hygiene, occupational safety and other technical areas.

The Committee also notes the observations made by the ITUC, according to which the abovementioned factory in Karachi had previously received a deeply flawed certificate by a private auditing firm attesting compliance with international standards, amongst others, in the area of OSH. It further notes the indications by the ITUC that the province of Sindh, in which Karachi is located, has no functioning labour inspection system, that there are no regular inspections of industrial workplaces and that measures to eliminate or minimize workplace hazards are completely absent, since employers are aware that they will not be held accountable for their failure in this regard. **The Committee asks the Government to provide information on the progress made in the establishment of the above plan of action to improve labour inspection and the level of compliance with OSH in the province of Sindh, and to communicate a copy to the Office, once it has been adopted, as well as any measures taken for its implementation.**

**The Committee requests the Government to provide detailed information on the labour inspection activities in the area of OSH, in particular in the province of Sindh (number of inspection visits, violations reported, legal provisions concerned, types of sanctions imposed and measures adopted with immediate executory force in the event of an imminent danger to the health or safety of workers), as well as on the number of industrial accidents and cases of occupational diseases reported.**

**The Committee further asks the Government to make any comments it deems appropriate in relation to the observations made by the ITUC and to provide detailed information on the manner in which private auditing firms are supervised by the labour inspectorate.**

**Please also provide information on the number, qualification, status and geographical distribution of the technical experts providing advisory services and expertise in the areas of industrial hygiene, occupational safety and other technical areas, and indicate any collaboration with the social partners to ensure compliance with OSH legislation.**

*Articles 3(1)(a)–(b), 13, 17, 18, 20 and 21. Labour inspection and OSH in the mining sector in the province of Balochistan.* The Committee recalls the Government's indications during the discussions in the Conference Committee that the delegation of powers to the provincial governments would enable inspectors to work more efficiently. Following up on the discussions on labour inspection and OSH in industrial undertakings in the province of Sindh, the Committee notes that the ITUC also reports a high number of deaths and injuries in the coal mines operating in the province of Balochistan, where workers are reported to work with virtually no protective equipment and where mine owners take very few safety precautions. In this regard, the trade union refers to a series of methane explosions at a coal mine near Quetta leading to the deaths of 43 workers in 2011. **Recalling that the Conference Committee requested the Government to include detailed data in the annual reports on the work of the labour inspection services in each province, including on industrial accidents and cases of occupational diseases, the Committee asks the Government to provide separate statistical information on the labour inspection activities carried out in the area of OSH in the province of Balochistan,**

*in particular in the coal mines operating in this province, and to ensure that such information is included in the annual labour inspection reports.*

### 3. Human and material resources of the labour inspectorate

*Articles 7, 10 and 11. Human and material resources of the labour inspectorate and training of labour inspectors.* The Committee notes that the conclusions of the Conference Committee emphasized the importance of providing adequate human and material resources and appropriate training to labour inspectors.

In this regard, it notes the observation made by the ITUC that there is a critical shortage of labour inspectors in the country. It further notes that, although the Government indicates that transport facilities are limited in number, shared by several inspectors and that there is a possibility for labour inspectors to be reimbursed when using their private vehicles for inspections, the ITUC indicates that, in most cases, inspectors are required to use their own vehicles to carry out inspections and are rarely, if ever, reimbursed for their travelling expenses. The Committee further notes that, while the Government refers to adequate training of labour inspectors, the trade union indicates that labour inspectors only receive very rudimentary training and that little training is provided to develop the capacities required for inspections in specific sectors. ***The Committee asks the Government to take the necessary measures to ensure that sufficient human and material resources are allocated to the labour inspection services to secure the effective discharge of their duties. It asks the Government to provide up-to-date information on the number of labour inspectors in each province and details of the material means available to the labour inspection services in each province, such as office facilities and means of transport for inspection. Please also describe the applicable reimbursement rules (travelling allowance per kilometre, procedure to be followed, etc.) and the number of cases in which travel expenses have been reimbursed. The Committee further asks the Government to provide information on the training provided to labour inspectors in each province (subjects covered, number of participants, duration, etc.) during the period covered by the Government's next report.***

### 4. Restrictive policies for labour inspection

*Article 12(1). Restrictive policies for labour inspection.* The Committee notes the Government's assurance during the discussions that took place in the Conference Committee that there are no bans on inspections in any province. In this regard, the Committee notes the ITUC's observations that, while it is true that the long-standing restrictive policy barring labour inspectors from entering factory premises as a consequence of pressure from the industry lobby and previously referred to by the Pakistan Workers Confederation (PWC) has been overturned in *Punjab* province, inspectors are still required to provide prior notice to employers concerned well in advance of inspections in the province of *Sindh*. In this regard, the Committee notes that the Government reiterates in its report that labour inspections are not banned in any province and that regular inspections have been reinstated in the province of *Punjab*, as explained in the Government's previous report. ***The Committee asks the Government to provide any observations it deems appropriate in relation to the comments by the ITUC and, where appropriate, to indicate the measures taken in law and practice to ensure that labour inspectors are empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection, so that labour inspectors can perform their duties in all provinces of the country in accordance with the provisions of the Convention.***

### 5. Regular publication and communication to the ILO of annual labour inspection reports

*Articles 20 and 21. Publication of an annual inspection report.* The Committee notes that the conclusions of the Conference Committee emphasized the importance of complete information on all of the subjects covered by *Article 21* of the Convention for the evaluation of the extent to which the legal provisions relating to conditions of work and the protection of workers while engaged in their work are being respected in each province. The Committee notes that the report of the province of *Sindh*, annexed to the Government's report, contains some information on the number of inspections conducted, the number of prosecutions, pending cases before the labour courts, decisions rendered and the amount of fines imposed for the period from 2011 to 2013. It also notes the statistics on the number of inspections, prosecutions and fines imposed between 2008 and 2012 in the report for the province of *Khyber Pakhtunkhwa* (relating to child labour, wages, maternity benefit, OSH, etc.) and the statistics on the number of inspections, prosecutions, pending cases before the labour court, decisions rendered and amount of fines imposed for the province of *Balochistan*. However, the scarce information provided and the absence of information on the number of workplaces covered by labour inspection does not provide a basis for a thorough appreciation of the application of the Convention. While the Committee notes the information that labour inspection documentation is currently being computerized in the province of *Punjab*, it observes that no information on the activities of the labour inspection services in this province has been provided.

In this regard, it also notes the information provided by the ITUC that the last report on the activities of the labour inspection services relates to 2007, and that there is no central authority to collect the information and establish an annual report for the whole country. The trade union indicates in this regard that the Ministry for Inter Provincial Coordination is supposed to oversee this matter, but has not done so to date. ***The Committee requests the Government to make every effort to ensure that the central labour authority publishes and communicates to the ILO an annual labour inspection report (Articles 20 and 21 of the Convention), and to indicate the measures taken in this regard. It also requests the Government to provide with its next report statistical information on labour inspection in the provinces and in different***

sectors, including in export processing zones that is as detailed as possible (industrial and commercial workplaces liable to inspection, number of inspections, infringements detected and the legal provisions to which they relate, etc.) in each of the provinces.

*Technical assistance.* Recalling that the Conference Committee welcomed the request by the Government for technical assistance and hoped that this assistance would enable the Government to apply the Convention effectively, the Committee invites the Government to provide information on any follow-up in this respect.

[The Committee is asked to reply in detail to the present comments in 2014.]

## Paraguay

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

*Articles 3, 5(a), 20 and 21 of the Convention.* Absence of information on the application of the Convention, including continuous failure to submit an annual report on the labour inspection activities. The Committee notes that the Government's report submitted to the Office is almost identical to the report submitted by the Government in 2011 and that it does not provide any reply to the questions raised in the Committee's previous comments. In its previous observation in 2012, the Committee noted with regret that since the ratification of the Convention in 1967, the Government had never sent a complete annual labour inspection report to the Office as required by *Articles 20 and 21* of the Convention. It observes that this year, again no annual labour inspection report has been received by the Office. While some relevant information is contained in the annexes provided with the Government's report, the Committee considers that this information is not sufficient to allow for a thorough assessment of the application of the Convention.

The Committee notes, however, from the documentation attached to the Government's report, that labour inspection campaigns have been carried out in specific economic sectors and geographical zones (for example, in el Chaco following complaints of forced labour) and that some relevant statistics are provided, that is information on the percentage of compliance with certain legal obligations in the commerce, transport and supermarket sector. The Committee notes in this regard, that the compliance level with Decree No. 580/08 (which requires all employers to register employment relationship in the Unified System of Business Registration (SUAE), a database which is to be shared by several governmental institutions), is about 80 per cent in these sectors. *The Committee urges the Government, once again, to ensure that the necessary measures are taken by the labour inspection authority with a view to the preparation, publication and communication to the ILO of an annual labour inspection report under Article 20 of the Convention containing information on all the subjects covered by Article 21(a)–(g). In this regard, and with reference to its general observations of 2009 and 2010, the Committee once again asks the Government to provide information on the progress made in the implementation of Decree No. 580/08 and on the establishment of the SUAE.*

*Articles 6, 7, 10, 11, 15 and 16.* Effectiveness of the labour inspection system. From the information provided in the Government's report, the Committee notes that the percentage of labour inspectors who are permanent officials has now increased from 93.5 to 100 per cent. However, it notes from the Annual Labour Inspection Plan for 2013 of the Ministry of Justice and Labour communicated with the Government's report that the following points have been identified as critical for the effective functioning of the labour inspectorate: (i) the insufficient number of labour inspectors; (ii) the lack of initial and continuous training of labour inspectors and the absence of a profile determining the requirements for their posts; (iii) the low level of remuneration (salary close to the minimum wage), no payment of travel allowances for inspections in workplaces located in the capital of the country and no payments of travel allowances prior to inspections in workplaces located in the interior of the country; and (iv) frequent reports of misconduct of labour inspectors, which are however not made in a formal manner so as to allow for their prosecution. In this regard, the Committee also notes, from the same source, that it is envisaged to: (i) establish the profile of labour inspectors; (ii) institute a Code of Ethics for Labour Inspectors; (iii) provide improved capacity building for labour inspectors; and (iv) equip the labour inspection services with computers and an Internet connection to enable the exchange of data in the SUAE with other institutions. In this regard, the Committee also notes the copy of Decree No. 607 of May 2013 on "Administrative measures for a better organization and management of the labour inspection services".

The Committee recalls in this regard that the granting of the appropriate status and conditions of service to labour inspectors, including appropriate wages and career prospects, in accordance with *Article 6*, and the obligation for labour inspectors to comply with the duty of confidentiality, under *Article 15(c)*, are essential safeguards against improper behaviour.

*The Committee asks the Government to provide information on the progress made with the implementation of the measures referred to in the Annual Labour Inspection Plan for 2013, as well as with the implementation of Decree No. 607 of May 2013 and its impact on the effectiveness of the work of the labour inspection services.*

*In this context, it once again asks the Government to indicate the measures taken or envisaged to: (i) improve the conditions of service of labour inspectors (increased remuneration, or at least adaptation to the level of other inspectors discharging similar functions, and improved career prospects, including variations in remuneration based on education, training, merit or length of service) (Article 6); (ii) increase the number of labour inspectors, with a view to ensuring that workplaces are inspected as often and as thoroughly as necessary (Article 10); and (iii) improve the*

*initial training provided to labour inspectors to enable them to carry out their duties as effectively as possible and to offer them subsequent training in the course of employment (Article 7); and (iv) improve the material and logistical resources available to labour inspectors (Article 11).*

*Referring to its previous comments in this regard, the Committee also once again asks the Government to provide information on the impact of international cooperation within the framework of the Common Market of the Southern Cone (MERCOSUR) in relation to the discharge of the labour inspectors' preventive and enforcement duties in the area of conditions of work and the protection of workers.*

*Articles 12(1)(a) and (2)(c), and 15. Restrictions on the initiative of inspectors to enter freely workplaces liable to inspection. Referring to its previous observation in this regard, the Committee once again asks the Government to take the necessary measures, including the amendment of Resolution No. 1278 of September 2011, to ensure that inspectors are empowered both in law and in practice to enter freely at any hour of the day or night any workplace liable to inspection, as provided in Article 12(1)(a) of the Convention and that the requirement of prior authorization of inspection visits is brought to an end.*

The Committee is raising other points in a request addressed directly to the Government.

## Poland

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1995)**

The Committee notes the observations made by the Independent and Self-governing Trade Union "Solidarnosc" dated 30 August 2012 and transmitted to the Government on 14 September 2012, and the reports of the Government with the replies to the observations of Solidarnosc attached, respectively received on 28 August 2012 and 29 August 2013.

*Article 3(2) of the Convention. Additional functions entrusted to labour inspectors.* The Committee previously noted that since 2007 the National Labour Inspectorate (NLI) has been entrusted with controlling the legality of employment of Polish citizens, as well as foreign nationals and that specialized divisions on legality of employment (DLE) have been set up in all district labour inspectorates. It notes from the information provided by the Government that, in addition to the inspectors working in the DLE, all 1,573 labour inspectors working at the NLI are authorized to carry out tasks in the area of legality of employment. In addition, the Committee had noted in its previous observation that labour inspectors are required to notify border guards immediately of cases of infringements of legal provisions concerning foreign nationals. In reply to the Committee's previous request to specify the nature of the cooperation between the NLI and the border guards, the Government indicates that cooperation between these two entities includes joint inspections, the exchange of information on non-compliance with legal provisions, joint training and the exchange of experience, in particular regarding the improvement of control methods, etc. According to the Government, while both the NLI and the border guards are entrusted with controls in the area of legality of employment, there are some differences in the functions of both entities, as labour inspectors are entrusted with inspections for the protection of labour rights and occupational safety and health (OSH) and, in contrast with the border guards, are not empowered to use direct coercion and retain foreign nationals, oblige them to leave the country or initiate deportation proceedings.

According to the information provided by the Government, in 2011, 26,000 of the 90,600 inspections carried out by the NLI related to legality of employment (23,800 of these inspections related to nationals and 2,200 to foreign nationals). The most common irregularities in the area of legality of employment of foreign nationals concerned the absence of a required work permit, the granting of less favourable conditions than those indicated in work permits (including lower salaries) and the non-declaration of foreign workers to the social security authorities. The Committee notes the Government's indications that the Act on the effects of employing foreign nationals who are illegally resident in the territory of the Republic of Poland of 6 July 2012, aimed at transposing Directive No. 2009/52/EC of 18 June 2009 of the European Parliament and of the Council, introduces new regulations which, de facto, protect the rights of foreign workers, but does not contain regulations – beyond the procedures already established – relating to claims by workers illegally in the country asserting their rights, including in procedures for their expulsion. The Committee notes from information in the mass media that the Government has launched three campaigns in recent years to regularize workers who are illegally in the country. It further notes that the Government has not provided any information on cases, in which workers in an illegal situation have been regularized or granted their rights arising out of their past employment. The Committee also notes that, as it appears from information available on the website of the NLI, a foreign national working in violation of the legal provisions may incur a financial penalty ranging from 1,000 to 5,000 Polish zloty (PLN).

The Committee notes the Government's indications that, in light of the current legislation, and due to the anticipated entry into force of regulations for the implementation of Directive No. 2009/52/EC, there is no possibility for the separate treatment of issues related to immigration law, and rights of foreign workers and the legality of their employment in Poland.

However, the Committee recalls once again, with reference to paragraph 78 of its 2006 General Survey on labour inspection, that the primary duty of labour inspectors is to protect workers and not to enforce immigration law. Given the potentially large proportion of inspection activities spent on verifying the legality of immigration status, the Committee has emphasized that additional duties that are not aimed at securing the enforcement of the legal provisions relating to

conditions of work and the protection of workers, should be assigned to labour inspectors only in so far as they do not interfere with their primary duties and do not prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. The Committee has also emphasized that the association of the police and border guards in labour inspection is not conducive to the relationship of trust that is essential to enlisting the cooperation of employers and workers with labour inspectors. It must be possible for inspectors to be respected for their authority to report offences, and at the same time to be approachable as preventers and advisers. The Committee has therefore emphasized that the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection. This objective can only be met if the workers covered are convinced that the primary task of the inspectorate is to enforce the legal provisions relating to conditions of work and the protection of workers. The Committee had also observed in its 2006 General Survey that, with the exception of a few countries, only the employer was held accountable for illegal employment as such, with the workers involved in principle being seen as victims. ***The Committee therefore requests the Government to indicate the measures taken or envisaged to ensure that the functions of verifying the legality of employment does not interfere with the effective discharge of the primary duties of the labour inspectors relating to the control of the observance of workers' rights, and does not prejudice the relationship of trust with employers and workers necessary to inspectors.***

***The Committee asks the Government to continue to indicate the proportion of inspections devoted to verifying the legality of employment in relation to the observance of legal provisions relating to conditions of work and the protection of workers. The Committee would be grateful if the Government would disaggregate the information on inspections and their results by providing specific information relating to undeclared work, that is statistics on the violations found following inspections and the legal provisions to which they relate, the legal proceedings instituted and sanctions imposed.***

***The Committee once again asks the Government to indicate the manner in which the labour inspection services ensure the enforcement of employers' obligations with regard to the statutory rights of undocumented foreign workers for the period of their effective employment relationship, especially in cases where such workers are expelled from the country. Please explain in detail the applicable procedures and indicate the relevant provisions in national law, if possible, in one of the working languages of the ILO. Please also indicate whether any foreign workers in an irregular situation have been sanctioned for the violation of legal provisions relating to the legality of their employment and provide information on the number of cases in which foreign nationals in an illegal situation have been granted their rights resulting from their past employment relationship (wages, social security benefits, etc.).***

***Articles 5(a), 17 and 18. Sanctions and effective enforcement. Cooperation between the inspection services and the judiciary.*** The Committee notes with ***interest*** the information provided in the Government's report that, following the recent amendments to section 325(e) of the 1997 Code of Criminal Procedure, public prosecutors have the obligation – at the request of labour inspectors – to justify their decision not to initiate an investigation or to discontinue investigations in cases submitted by the NLI. According to the Government, these amendments should contribute to the effectiveness of labour inspection, since labour inspectors are now informed of the specific reasons for these decisions. The Committee further notes that, following amendments to the Act of the National Labour Inspectorate, labour inspectors now have free access to the national court register and the national penal registers. The Committee also notes the information in the annual reports on the number and nature of violations and sanctions imposed, although it observes that no information has been provided on the legal provisions to which they relate. ***The Committee asks the Government to provide information on the impact of the above changes, such as the number of cases reported to the Office of the Public Prosecutor and the initiation of the respective criminal proceedings, as well as their outcome (fines, prison sentences or acquittals).***

***Articles 5(b) and 12(1). Collaboration between labour inspection officials and the social partners and restrictions on inspectors entering workplaces freely.*** Following the previous observations made by the Independent and Self-governing Trade Union “Solidarnosc” on the lack of collaboration between the labour inspection services and representatives of trade unions in the course of inspections, the Committee notes the Government's general explanations on the forms of such collaboration, for example, the requirement for labour inspectors to inform representatives of trade unions and social inspectors (where they exist) of inspections. It also notes the information on the number of inspections conducted in 2011 as a result of complaints submitted by social inspectors.

However, the Government indicates that problems in collaboration with the social partners (including social inspectors) may result from the restrictions set forth in Chapter 5 of the Act on Freedom of Economic Activity (AFEA), since inspections require an authorization indicating the subject of the control, and that the scope of the control cannot be exceeded during inspections. Moreover, there is an obligation not to violate any provisions of the Act on the Protection of Personal Data (APD), which requires professional secrecy concerning specific information relating to business activities and the persons guilty of or punished for labour law violations.

The Committee notes that the AFEA, which the Government has submitted to the Office in its amended version, appears to still require prior authorization for labour inspectors to carry out inspections. The Committee noted previously that administrative courts have issued contradictory decisions on whether labour inspection has to be considered as a supervisory body of economic activities falling within the scope of the AFEA. ***The Committee asks the Government to indicate the relevant provisions in the AFEA and the APD, if possible, in one of the working languages of the ILO,***

*establishing restrictions on the conduct of any examination or inquiry which labour inspectors consider necessary in order to satisfy themselves that legal provisions are being strictly observed, and to provide further explanations on the scope and nature of the restrictions that labour inspectors face in practice.*

*The Committee also once again asks the Government to indicate the measures taken or envisaged to remove any requirement of labour inspectors to obtain prior authorization in order to exercise their right of entry into workplaces liable to inspection to carry out inspections.*

*Articles 20 and 21. Content of annual reports on the work of the labour inspection services.* The Committee notes the detailed information provided in the annual reports on the work of the labour inspection services for 2009, 2010, 2011 and 2012. However, the Committee also notes the observations made by Solidarnosc that these reports do not contain complete information on inspections with regard to the legal provisions to which they relate, that is provisions on working time, wages, OSH, child labour and related issues. *The Committee would be grateful if the Government would publish annual reports containing information on the activities of the labour inspection services, disaggregated by the various subjects of inspection (such as OSH, working hours, wages, child labour and legality of employment), including particulars on the classification of the infringements detected according to the legal provisions to which they relate.*

The Committee is raising other points in a request addressed directly to the Government.

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1995)**

The Committee refers to its comments under the Labour Inspection Convention, 1947 (No. 81), in so far as they concern the application of the present Convention.

*Article 16(1) of the Convention. Right of inspectors to enter agricultural undertakings freely.* The Committee notes the information provided by the Government that, according to section 3 of the Act on Freedom of Economic Activity (AFEA), agricultural enterprises carrying out activities in the area of crop farming and animal husbandry, horticulture, market gardening, forestry and inland water fisheries are excluded from the scope of the AFEA. Therefore, prior authorization by labour inspectors to carry out inspections is not as a rule required. However, the Committee understands from the Government's indications that, in practice, these undertakings are sometimes considered to exercise economic activities and to fall within the scope of the AFEA, despite the stipulations in section 3 of the AFEA. Furthermore, the Government once again indicates that as a result of contradictory decisions by administrative courts in recent years, there are doubts as to whether labour inspection is to be considered as a supervisory body for economic activities falling within the scope of the AFEA. *The Committee would like to refer the Government to its related comments under Articles 5(b) and 12(1) of Convention No. 81 regarding the free access of labour inspectors to workplaces liable to inspection, and requests it to indicate the measures taken or envisaged to remove any obligation on labour inspectors to obtain prior authorization in order to exercise their right of entry into workplaces liable to inspection to carry out inspections.*

*Articles 26 and 27.* The Committee notes with *interest* the detailed information on the work of the labour inspection services in agriculture in a separate annual report for the period of 2011–12. It further notes the Government's indication that a report on the activities of the National Labour Inspectorate (NLI) will be communicated as a separate chapter of the report on the activities of the labour inspection services from 2013 and will be made available in mid-2014. *The Committee welcomes the progress made in this regard and hopes that these annual reports will contain information on all the subjects covered by Article 27(a)–(g).*

The Committee is raising other points in a request addressed directly to the Government.

## **Portugal**

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)**

The Committee notes the Government's report in reply to its previous comments.

It notes that a representation made under article 24 of the Constitution of the ILO was presented to the Governing Body by the Union of Labour Inspectors (SIT) (document GB.319/INS/15/6) alleging non-observance by Portugal of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Occupational Safety and Health Convention, 1981 (No. 155). At its 319th Session (October 2013), the Governing Body decided that the representation was receivable and appointed a tripartite committee to examine it.

In accordance with its usual practice, the Committee has decided to postpone its examination of the application of this Convention pending the decision of the Governing Body in respect of the representation. The Committee will therefore examine the information supplied by the Government in its report in the light of the decisions adopted in due course by the Governing Body in the framework of the representation.

## **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1983)**

The Committee notes the Government's report in reply to its previous comments.

It notes that a representation made under article 24 of the Constitution of the ILO was presented to the Governing Body by the Union of Labour Inspectors (SIT) (document GB.319/INS/15/6) alleging non-observance by Portugal of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Occupational Safety and Health Convention, 1981 (No. 155). At its 319th Session (October 2013), the Governing Body decided that the representation was receivable, and appointed a tripartite committee to examine it.

In accordance with its usual practice, the Committee has decided to postpone its examination of the application of this Convention pending the decision of the Governing Body in respect of the representation. The Committee will therefore examine the information supplied by the Government in its report in the light of the decisions adopted in due course by the Governing Body in the framework of the representation.

## **Qatar**

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)**

*Articles 8, 10, 20 and 21 of the Convention. Functioning of the labour inspection system and information contained in the annual labour inspection report.* The Committee notes the statistical information contained in the annual reports for 2011, 2012 and the first half of 2013. It notes from this source that the staff of the labour inspectorate now includes 150 labour inspectors (117 in the area of general labour conditions and 33 in the area of occupational safety and health), of which six are women. The statistical data provided since 2007 reveal that the number of workplaces liable to inspection has at least doubled (now calculated to be 44,912), and the number of workers has at least quadrupled (the number of migrant workers, which make up to 95 per cent of the labour force of Qatar, is now calculated by the Government to be 1,359,715). The Committee notes that 46,624 labour inspections were carried out in 2012, and recalls that the annual labour inspection report for 2004 referred to 2,240 inspection visits. ***The Committee asks the Government to provide an explanation for the exponential increase of the number of labour inspections and the manner in which these inspection are carried out by the number of inspectors identified above.***

***While it notes the progress made concerning the subjects covered by the annual labour inspection report for 2012 (now also including information on the staff of the labour inspection service, statistics of occupational diseases, etc.), it once again draws the Government's attention to Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81), on the level of detail that is desirable (for instance, in relation to the statistics of violations and penalties) in the required information so that the annual report can serve as a basis for the determination of the advisory and enforcement activities of the inspection services needed to improve conditions of work at workplaces.***

***The Committee asks the Government to explain the reasons for the low number of women in the labour inspection staff and to provide information on any efforts undertaken to stimulate the interest of potential female candidates for the labour inspection service. Please also continue to indicate the distribution of the inspection staff by gender in the various positions and grades.***

*Labour inspection activities in the construction sector.* The Committee notes from the statistical information in the annual labour inspection report for the first half of 2013 that 522,022 of the 1,359,715 migrant workers of the country are working in the construction sector. The Committee also notes from the information available in the media that several hundred thousand migrant workers are expected to be recruited for the 2022 World Cup and that a high number of fatal accidents have occurred on the relevant construction sites. In this regard, it also notes that the Government announced the recruitment of additional labour inspection staff, and that the Building Wood Workers' International (BWI) sent a mission to Qatar on 7 October 2013 to inspect the working conditions on construction sites and elaborate a relevant report. ***The Committee asks the Government to indicate the measures taken or envisaged to ensure that the construction sector is effectively inspected, including the recruitment and training of additional labour inspectors, and to provide relevant statistical data on inspection visits in this sector and their outcomes, as well as on industrial accidents and cases of occupational diseases in this sector.***

The Committee is raising other points in a request addressed directly to the Government.

***[The Government is requested to reply in detail to the present comments in 2014.]***

## **Romania**

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1973)**

*Article 3(2) of the Convention. Additional functions entrusted to labour inspectors. 1. Conciliation and mediation.* The Committee understands that, according to the Government's indications, while the primary responsibility for arbitration and mediation lies with the Office for Mediation and Arbitration of Collective Labour Disputes at the Ministry of Labour, Family and Social Protection (MLFS), labour inspectors also participate (pursuant to Act No. 62/2011

on Social Dialogue and Act No. 108/1999 on the establishment and organization of the labour inspection, in its amended version) in the conciliation of collective labour disputes at the enterprise level. The Committee once again reminds the Government of the primary functions of labour inspectors under *Article 3(1)* of the Convention, and of the guidelines of Paragraph 8 of the Labour Inspection Recommendation, 1947 (No. 81), establishing that “the functions of labour inspectors should not include that of acting as conciliator or arbitrator in proceedings concerning labour disputes”. ***The Committee asks the Government to provide information on the number of labour inspectors appointed to participate in the conciliation of labour disputes during the period covered by Government’s next report and the time spent on these duties in relation to their primary duties as defined in Article 3(1) of the Convention. It hopes that the Government will take the necessary measures to ensure that, in accordance with Article 3(2) of the Convention, these duties shall not be such as to interfere with the effective discharge of the primary duties of labour inspectors.***

2. *Undeclared work.* The Committee notes the detailed information provided by the Government on the large-scale activities carried out by the labour inspectorate in the framework of the National Strategy to reduce the incidence of undeclared work for the period 2010–12, including information on the various inspection campaigns, awareness-raising activities and the collaboration of the labour inspectorate with the National Agency for Fiscal Administration, the Financial Guard, the Gendarmerie, the Police (Fraud Investigation Directorate), and the Romanian Immigration Office (RIO). The data on the number of inspections, the violations found, and fines imposed for undeclared work confirm the Government’s indications on the intensification of controls in the area of undeclared work. The Committee further notes the Government’s indications that the level of sanctions for employers employing workers without an employment contract has been raised through amendments of the National Labour Code, and it understands that the powers of labour inspectors in this regard have been strengthened through amendments to Act No. 108/1999 (the Government has not provided the Committee with a copy of this Act in its amended version).

3. *Enforcement of immigration law.* The Committee notes the information on the collaboration of the labour inspectorate with the RIO in the framework of the National Strategy on Immigration for 2011–13 for detecting “illegal” foreign workers and combating undeclared work of foreign nationals, including the number of joint inspections and fines imposed for the employment of foreign workers working without a valid work permit. The Committee notes that, according to the Government, labour inspectors are entrusted with the function of identifying foreigners working without a valid work or residence permit and entitled to issue sanctions in this regard. However, it notes its indications that applying immigration law is the responsibility of the RIO. It further notes from the annual labour inspection report for 2012, that the new organizational structure of the labour inspectorate includes a unit for the control of labour migration. Finally, it notes that while, according to the Government, the application of the legal rights of foreign workers falls within the competence of the labour inspectorate, the Government has not provided any statistics on the statutory rights granted to foreign workers in an irregular situation, such as the payment of wages and other benefits resulting from their employment relationship, including in cases where these workers are expelled from the country.

The Committee recalls that, as it has indicated in paragraph 69 of its 2006 General Survey on labour inspection that the primary duties of labour inspectors are complex and require time, resources and training. As mentioned above, in accordance with *Article 3(2)* of the Convention, any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of the primary duties of labour inspectors. Furthermore, referring to paragraphs 78 and 161 of its 2006 General Survey and to its previous observation of 2011, the Committee once again reminds the Government that cooperation with immigration authorities should be carried out cautiously, keeping in mind that the primary duty of labour inspectors is to protect the rights and interests of all workers and not to enforce immigration law. It also reminds the Government that the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all workers. ***The Committee asks the Government to provide information on the time and resources of the labour inspectorate spent on activities in the area of undeclared work in relation to activities spent on securing the enforcement of legal provisions relating to other areas (provisions relating to hours, wages, safety and health, child labour, etc.) and to provide relevant data (number of inspections, the violations found and legal provisions to which they relate, sanctions imposed, etc.). The Committee also asks the Government to provide further information on the nature of the new powers of labour inspectors under the amended Act No. 108/1999.***

***Furthermore, the Committee requests the Government to provide detailed information on the manner in which the labour inspectorate ensures the enforcement of employers’ obligations with regard to the rights of foreign workers in an irregular situation, such as the payment of wages, social security and other benefits for the period of their effective employment relationship, especially in cases where such workers are liable to expulsion from the country. It also asks the Government to provide information on the number of cases where undocumented workers have been granted their due rights. The Committee also requests the Government to elaborate on the responsibilities of the unit for the control of labour migration, and to indicate if labour inspectors are specifically charged with the activities of this unit.***

*Article 5(b). Collaboration with employers and workers and their organizations.* The Committee notes with **interest** the information provided by the Government that tripartite consultative councils have been set up at the central and regional levels of the labour inspectorate in accordance with the provisions of Act No. 108/1999, as amended. Regulations on their organization and functioning are pending approval by the MLFS. The Committee further notes the

Government's reference to cooperation agreements with employers' organizations, as well as its indications that the labour inspectorate and the National Confederation of Free Trade Unions of Romania (CNSRL Frăția) have launched negotiations in 2013 with a view to concluding a cooperation protocol. ***The Committee asks the Government to provide information on the number, geographical location and composition of the tripartite consultative councils at the central and territorial levels of the labour inspectorate, as well as a copy of the regulations on their organization and functioning, once they have been approved. Please also provide information on the activities undertaken by the councils and supply a copy of any relevant report or document. The Committee further asks the Government to provide a copy of the cooperation protocol with the CNSRL Frăția, as well as copies of any other cooperation protocols concluded between the labour inspectorate and employers' and workers' representatives.***

The Committee is raising other points in a request addressed directly to the Government.

## Russian Federation

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1998)***

*Organization of the Federal Labour and Employment Service (Rostrud) and the relevant legislation.* The Committee notes the Government's explanations concerning the organizational structure of the Federal Labour and Employment Service (Rostrud), that is, its federal, regional and municipal structures and managerial positions. It notes the Government's indications that almost all of the legislative instruments required for the effective functioning of the labour inspection have now been adopted and that they are currently under examination to assess whether they give full effect to the Articles of the Convention. In this regard, the Committee notes the copies in Russian of the various laws and regulations governing the work of the Rostrud, which were attached to the Government's report. ***The Committee asks the Government to provide information on the outcome of the assessment of the conformity of national laws and regulations with the Convention and to indicate the specific provisions of the relevant national legislation that give effect to the Articles of the Convention, if possible in one of the working languages of the ILO.***

*Articles 2(1), 3(1), 16, 17 and 23 of the Convention.* *Labour inspection activities relating to the protection of workers.* In its previous observation, the Committee noted the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2758 (365th Report, November 2012) relating to the investigation of anti-union persecution in the Russian Federation by the competent authorities, including the labour inspectorate. The Committee further recalls its previous observations under the Forced Labour Convention, 1930 (No. 29), in which it noted that, according to the International Trade Union Confederation (ITUC), thousands of persons are trafficked from the Russian Federation to other countries and internal trafficking within the Russian Federation also reportedly takes place. The Committee notes the information provided by the Government in relation to the activities of the Rostrud in the area of child labour, as well as its indications that no cases of discrimination or infringements of freedom of association have been detected. ***The Committee once again requests the Government to indicate the measures taken during the period covered by the next report, for the enforcement of the legal provisions pertaining to fundamental rights at work, including equality and non-discrimination, freedom of association and the eradication of forced labour, as well as the results achieved.***

*Articles 3(1), 10, 11 and 16.* *Number and functions of labour inspectors, material resources at their disposal and impact of the labour inspection system.* The Committee recalls that it previously noted the positive impact of the work of the Rostrud on the overall situation of compliance with labour law. The Committee also noted, however, that the number of labour inspectors (which was 2,852 as at 31 December 2010) appears to have decreased by 14 per cent since 2003, and by 31 per cent since 1995.

The Committee notes the Government's reference to a decrease in the number of staff of the Rostrud by 9 per cent between 2011 and 2012, in application of Presidential Decree No. 165 of December 2012 on "optimizing the numbers of federal civil servants and employees in federal state bodies". The Government indicates that the limited number of staff continues to affect significantly the results and quality of the work of the Rostrud, with the average number of workplaces per inspector being 3,000 (as at the end of 2012). According to the Government, the lack of labour inspectors does not allow regular inspection to be conducted (not even at a rate of one inspection per enterprise every ten years), nor unplanned inspections to be carried out.

In light of the Committee's previous observations on the insufficiency of the transport facilities available for the effective discharge of the functions of labour inspection and the long distances labour inspectors have to travel to cover workplaces in the country, including in remote regions, the Committee notes with ***interest*** that 211 new vehicles have been purchased, thereby increasing the number available from 324 in 2010 to 535 in 2012. It further notes the Government's indications that the expenses of inspectors while on duty are reimbursed in accordance with Presidential Decree No. 813 of 18 July 2005 on "The procedure and conditions for duty travel by federal civil servants". Labour inspectors receive an advance payment covering most of their travel expenses, and the remaining expenses are reimbursed after submission of a report on the expenses incurred. ***The Committee once again asks the Government to provide information on any steps taken or envisaged to meet the needs of the labour inspection system in terms of human resources in light of the number of workplaces liable to inspection and the number of workers employed therein, and to provide further information on the categories, geographical distribution and fields of specialization of labour***

*inspectors in service. The Committee welcomes the improvement in the transport facilities available to labour inspectors and requests the Government to indicate whether it envisages any further measures to improve the material resources at the disposal of labour inspectors.*

*Article 3(2). Additional functions entrusted to labour inspectors.* The Committee notes that the Government lists in detail the multiple functions that are entrusted to labour inspectors (including controlling the restrictions laid down annually by the Government on the use of foreign labour, the legal status of foreign workers, etc.), but that it does not provide any explanation of the functions entrusted to labour inspectors in the areas of employment promotion, protection from unemployment and “internal migration”, as well as the settlement of collective labour disputes. The Committee refers to paragraph 69 of its 2006 General Survey on labour inspection, in which it emphasizes that the primary duties of inspectors are complex and require time and resources. In this respect, *Article 3(2)* provides that any further duties entrusted to labour inspectors should not be such as to interfere with the effective discharge of their primary duties (that is, to secure the enforcement of legislation on conditions of work and the protection of workers and to provide advice to employers and workers). ***The Committee once again asks the Government to provide clarifications on the functions carried out by labour inspectors relating to “internal migration”, protection from unemployment and the settlement of collective labour disputes. Where appropriate, the Committee requests the Government to indicate any steps taken or envisaged to ensure that these functions do not interfere with the effective discharge of the primary duties of labour inspectors.***

*Articles 5(a), 17 and 18. Cooperation with the judicial system and enforcement of penalties for violation of the legal provisions enforceable by labour inspectors.* The Committee notes the Government’s detailed explanations concerning the procedures to be followed by labour inspectors in cases of non-compliance with the law, including the requirement to submit cases to the investigatory authorities and the relevant procedure to be followed if a case is considered a violation to certain provisions of the national Criminal Code. It notes the Government’s indications – with regard to its previous observation on the discrepancy between the cases reported, the criminal investigations initiated and the number of convictions – that the underlying causes of this discrepancy have to be assessed and appropriate steps taken, such as improving the capacities of labour inspectors or introducing amendments to the law.

The Committee further notes that, despite its repeated requests in this regard, the Government has still not indicated the legal provisions adopted for the implementation of sections 362 (responsibility for infringements of labour legislation), 363 (responsibility for obstructing the activities of state labour inspectors) and 419 (types of responsibility for infringement of the labour legislation) of the Labour Code. ***Referring once again to its general observation of 2007, the Committee asks the Government to report on the outcome of the above assessment concerning the discrepancy between the cases reported, the criminal investigations initiated and the number of convictions, and to indicate any measures taken or envisaged to reinforce cooperation between the labour inspection services and the justice system, for instance through the creation of a system for the recording of judicial decisions that is accessible to the labour inspectorate, joint training sessions with representatives of the judiciary, etc.***

***The Committee requests the Government to indicate the legal provisions adopted for the implementation of sections 362, 363 and 419 of the Labour Code, to specify the sanctions applicable for violations of labour law provisions and to provide the Office with a copy of the relevant legislative texts, if possible in one of the working languages of the ILO.***

*Article 12(1)(c)(i). Powers of investigation.* The Committee previously noted that according to section 357 of the Labour Code, labour inspectors have the right to interrogate, alone or in the presence of witnesses, the employer or his/her representative on any matter related to the labour inspector’s visit and that, under section 229 of the Labour Code, staff may be interrogated only in cases of the investigation of accidents at the workplace. Following the repeated comments of the Committee, which indicated that *Article 12(1)(c)(i)* does not confine the labour inspectors’ right to interrogate staff to cases of accidents, the Committee notes the Government’s indications, according to which it is considering reviewing the above provisions with a view to extending the power of labour inspectors to interrogate the employer and staff on any matters concerning the application of labour legislation. ***The Committee hopes that the Government will not fail to take the necessary measures in the near future to bring the legislation into compliance with Article 12 of the Convention and that it will keep the ILO informed of progress achieved to this end.***

*Article 14. Notification of cases of occupational diseases to the labour inspectorate.* The Committee previously noted that the annual labour inspection reports of the Rostrud did not seem to contain any statistics on cases of occupational diseases and that the Labour Code does not seem to contain any provision requiring the notification of cases of occupational disease to the labour inspection services. In this regard, the Committee notes the Government’s indications that information on cases of occupational diseases is not notified to the Rostrud, but to the Federal Service responsible for the protection of consumer and welfare rights, which does not appear to inform the Rostrud systematically, but only upon request. The Committee would once again like to draw the Government’s attention to paragraph 118 of the 2006 General Survey on labour inspection, in which it emphasized the importance of establishing a systematic information mechanism to enable the labour inspectorate to have access to the data necessary to determine which activities present a risk and the categories of workers most at risk, and to investigate the causes of industrial accidents and cases of occupational diseases in enterprises under its control. ***The Committee once again requests the Government to take steps to ensure that the national legislation establishes the conditions and the manner in which cases of occupational disease should be***

**notified to the labour inspectorate.** In this regard, it recalls that the ILO code of practice on the recording and notification of occupational accidents and cases of occupational disease offers guidance on the collection, recording and notification of reliable data and the effective use of such data for preventive action.

The Committee is raising other points in a request addressed directly to the Government.

## Rwanda

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1980)**

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

*Articles 1, 4, 6, 7, 10, 11, 16, 19, 20 and 21 of the Convention. Application of the Convention in the context of the decentralization of labour inspection.* In its previous comments, the Committee expressed concerns in relation to the decentralization of the labour inspection system, as it appeared to be accompanied by a weakening of human and budgetary resources. The Committee noted that a decentralization of the labour inspection system may only be acceptable under *Article 4* if the units at the decentralized level have the resources necessary for the implementation of the labour inspectorate functions within their jurisdiction (General Survey on labour inspection, 2006, paragraph 140). It emphasized that decentralization characterized by a general and chronic inadequacy of resources, bears the intrinsic risk of both the volume and quality of inspection, being negatively affected, in addition to the ability of inspectors to fulfil their reporting obligations to the central authority, as envisaged in *Article 19*, so as to allow for a general assessment of the labour inspection system through the establishment of annual reports pursuant to *Articles 20* and *21*. In particular, the budget allocation appears to be managed at the prefectural level, with the result that decisions on resource allocation at the decentralized level are taken by the local authority, which results in the absence of a single policy in labour inspection throughout the territory in terms of the planning of inspections and communication, recruitment and training, and the allocation of material resources, such as transport and office facilities. The management of resources at the local level in this manner appears to result in the recruitment of labour inspectors at the local level, and in inspectors being placed under the supervision of the prefect or the mayor at the district level, as indicated by the Government in its previous reports. The Committee noted previously that any instruction or policy of a technical nature by the Ministry of Labour with a view to ensuring a single policy throughout the provinces, is likely to remain a dead letter, as the budget allocated to labour inspection depends on the local prefect or mayor. It also noted that the provision of adequate budgetary resources is essential to ensure that labour inspection staff are independent from improper external influences, as required by *Article 6*.

In this context, the Committee notes the indications made by the Government in response to its comments that an adequate budget is allocated to labour inspectors in the districts, and that budget allocation is coordinated by the central authority in cooperation with local governments. The Government adds that district labour inspectors are required to report to the central authority, namely the Ministry in charge of labour, and that the latter assumes a technical coordination role, providing supervision on ethical questions, giving policy guidance and providing technical support. It also notes from the website of the Ministry of the Public Service and Labour a number of policy documents relating to the Public Administration Reform in Rwanda, such as the Policy Framework for Rwanda's Civil Service Reform.

*The Committee requests the Government to provide more details on the criteria for budget allocation for labour inspection among local governments. It also asks the Government to clarify whether a particular budget line is dedicated to labour inspection only at the district and/or state level. It further asks the Government to specify the manner in which disagreements are resolved on the use of budgetary resources between local governments and the central authority in the field of labour inspection, and whether the central authority is vested with final powers of decision in such cases.*

*It asks the Government to provide any legal text which serves as a basis and which it deems useful in this regard in order to enlighten the Office on the nature of the cooperation described in budget allocation.*

*The Committee also requests the Government to provide information on the resource situation within the labour inspection system, including the number of staff by district and at the central level, the means of transport and office space available for labour inspectors in each of the districts.*

*Finally the Committee asks the Government to keep the Office informed of any development in the public administration reform, and to describe its possible impact on the status and conditions of service of labour inspectors, and on the organization of the labour inspection system.*

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 near future.**

## Saint Vincent and the Grenadines

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1998)**

*Legislation.* The Committee notes with *interest* that an Occupational Safety and Health (OSH) Bill has been developed in cooperation with the ILO, which addresses several of the previous points raised by the Committee (such as the powers of labour inspectors provided for under *Article 13 of the Convention*, the notification of the labour inspectorate of industrial accidents and cases of occupational diseases provided for under *Article 14*, etc.), and that relevant national consultations with various stakeholders, including employers' and workers' representatives, are currently being held. **The Committee asks the Government to continue to keep the ILO informed of any progress made in the adoption of this Bill and to communicate a copy of the relevant OSH Act, once adopted. It expresses the hope that this OSH Act will give full effect to the Convention.**

*Articles 20 and 21 of the Convention. Annual report on the work of the labour inspection services.* The Committee notes that, once again, no annual labour inspection report has been received by the Office, nor has any statistical information been communicated by the Government. It notes the Government's indication according to which ongoing technical assistance is provided by the Office for the implementation of the Labour Market Information System (LMIS) which, as the Committee had previously noted, contains statistics on labour inspection and is intended to be used to record and generate reports on labour inspections. It also notes the Government's indications that comprehensive statistical labour inspection reports are expected to be published separately as from 2014, provided that inspection data are correctly and regularly entered in the LMIS database. **The Committee requests the Government to make every effort, including the training of staff in the use and operation of the LMIS, to allow the central labour authority to publish and communicate to the ILO, together with its next report due in 2016, an annual labour inspection report containing full information as required under Article 21(a)–(g) of the Convention.** The Committee recalls also that the Government could make use of the guidance provided in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81), concerning the type of information that should be included in a labour inspection report.

The Committee is raising other points in a request addressed directly to the Government.

## San Marino

### **Labour Statistics Convention, 1985 (No. 160) (ratification: 1988)**

The Committee notes with *regret* that the Government's report has not been received. It must therefore repeat its 2012 observation, which read as follows:

The Committee notes that the Government provided its last report for the period ending in 2006. 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:

*Part I of the report form. Legislation. The Committee would be grateful if the Government would indicate any new legal provision relating to matters covered by the Convention and international standards used in designing or revising the concepts, definitions and methods used in the collection, compilation and publication of the statistics required thereby.*

*Article 2 of the Convention. The Committee asks the Government to provide information on the application of the latest international standards and to specify, for each Article of the Convention for which the obligations were accepted (that is, Articles 7, 8, 9, 10, 11, 12, 13, 14 and 15), which standards and guidelines are followed.*

*Article 7. The Committee requests the Government to indicate the concepts, definitions and methodology used to produce the official estimates of labour force, employment and unemployment in San Marino.*

*Article 8. The Committee invites the Government to provide methodological information on the concepts and definitions relating to the register-based labour force statistics in pursuance of Article 6 of this Convention be provided to the ILO.*

*Article 9(1). Noting that the annual statistics of average earnings and hours actually worked are not yet broken down by sex, the Committee asks the Government to take necessary steps to this end and to keep the ILO informed of any future developments in this field.*

*Article 9(2). The Committee asks the Government to ensure that statistics covered by these provisions are regularly transmitted to the ILO.*

*Article 10. The Committee asks the Government to take necessary steps to give effect to this provision and to keep the ILO informed of any developments in this field.*

*Article 11. The Committee notes that no information is available on the structure of compensation of employees by major components. It therefore asks the Government whether it is possible to compile such statistics for more than four groups in manufacturing, and to communicate these to the ILO as soon as practicable, in accordance with Article 5 of this Convention.*

*The Committee also asks the Government to indicate the measures taken to produce, publish and communicate to the ILO specific methodological information on the concepts, definitions and methods adopted to compile statistics of average compensation of employees in pursuance of Article 6.*

*Article 12. The Committee invites the Government to provide the methodological information on the new consumer price indices (CPI) (base December 2002=100) in pursuance of Article 6 of this Convention.*

*Article 13. The Committee notes that detailed statistics on household expenditures are regularly published by the Office of Economic Planning, Data Processing and Statistics in the annual publication, Survey on the consumption and the San Marino families life style. However, no information is available in this publication about the sources, concepts, definition and methodology used in collecting and compiling household income and expenditure statistics. The Committee invites the Government to:*

- (i) indicate whether the representative organizations of employers and workers that were consulted when the concepts, definitions and methodology used were designed (in accordance with Article 3); and*
- (ii) communicate a detailed description of the sources, concepts, definition and methodology used in collecting and compiling household income and expenditure statistics as required under Article 6.*

*Article 14. The Committee requests the Government to provide more comprehensive information about the statistical system, with particular reference to the concepts and definitions used for statistics on occupational injuries.*

*Article 15. As no data on strike and lockout (rates of days not worked, by economic activity) were provided, the Committee invites the Government to communicate data in accordance with Article 5 of this Convention.*

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

## Sao Tome and Principe

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1982)**

*Article 6 of the Convention. Conditions of service of labour inspectors.* The Committee notes that the Government has not provided in its last report further information on the plans to revise wages and reform professional careers, which the Government had announced in its 2007 report. Noting that the Committee has been raising the issue of improving salaries of labour inspectors since 2002, it would like to refer to paragraph 209 of its 2006 General Survey on labour inspection, where it is indicated that, although the Committee is aware of the severe budgetary restrictions governments often face, it is bound to emphasize the importance it places on the treatment of labour inspectors in a way that reflects the importance and specificities of their duties and that takes account of personal merit. ***The Committee once again expresses the hope that the Government will put in place measures to increase the wages paid to labour inspectors so as to attract and retain qualified personnel and safeguard such personnel from any undue influence. The Committee asks the Government to report on any measures taken or envisaged in this regard in its next report.***

*Article 14. Information on industrial accidents and cases of occupational disease.* The Committee notes that the Government has not provided the requested information concerning the measures taken to ensure that the labour inspectorate is informed of industrial accidents and cases of occupational diseases, following the commitment made by the Government in its 2007 report to undertake every possible effort in this regard. ***The Committee once again asks the Government to provide in its next report information on the procedures introduced and the specific measures taken to ensure that the labour inspectorate is informed of industrial accidents and cases of occupational diseases.***

*Articles 19, 20 and 21. Reports on labour inspection activities.* The Committee notes that no annual report on the work of the labour inspection services has been received by the Office. It further notes that the last statistical information on labour inspection visits (including information on recurrent violations) relates to the periods of 1985–87 and 1988–89, respectively, and that no annual report on the work of the labour inspection services within the meaning of the Convention containing information on all the subjects listed under *Article 21* has ever been received by the Office. The Committee emphasized, in its general observation made in 2010 that, when well prepared, the annual report offers an indispensable basis for the evaluation of the results in practice of the activities of the labour inspection services and, subsequently, the determination of the means necessary to improve their effectiveness. ***The Committee hopes that the Government will make every effort to ensure that an annual inspection report is published and sent to the ILO, within the time limits set out in Article 20 containing the information required by Article 21(a)–(g).***

***The Committee asks the Government in any event to provide with its next report statistical information that is as detailed as possible (industrial and commercial places liable to inspection, number of inspections, violations detected and penalties imposed, statistics of industrial accidents and cases of occupational diseases, etc.). Noting the information provided by the Government, that inspection reports are drawn up following every inspection visit, the Committee believes that the central authority should be in a position to provide the majority of this information, and at least information on the number of inspection visits, the violations detected and legal provisions to which they relate, as well as on any follow-up measures taken.***

***The Committee reminds the Government that it may avail itself of ILO assistance in order to ensure that the central inspection authority fulfils its obligations under Articles 20 and 21.***

The Committee is raising other points in a request addressed directly to the Government.

## Saudi Arabia

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1978)**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 100th Session, June 2011)**

*Articles 3(2) and 21 of the Convention. Additional functions entrusted to labour inspectors. Content of the annual inspection report.* The Committee notes with *interest* that the annual labour inspection report includes statistics on (i) inspection visits; and (ii) infringements and penalties imposed, classified according to the provisions of the Labour Code.

The Committee notes the Government's indication that it has taken into account the Committee's observation recalling that the primary duty of labour inspectors is to protect workers and not to enforce immigration law. The Committee notes from the Labour Inspection Audit conducted in the country by the ILO in December 2011, that most of the labour inspection visits are targeted at verifying the legality of the employment status of migrant workers. ***Referring to its previous comment, the Committee asks the Government to provide information on the time and resources of the labour inspectorate spent on activities in the area of illegal employment compared to activities spent on securing the enforcement of legal provisions relating to other areas (provisions relating to working hours, wages, safety and health, child labour, forced labour, etc.), and to continue to provide relevant information on the number of inspections, violations found and penalties imposed, classified according to the legal provisions to which they relate, with reference, in particular, to migrant workers.***

Furthermore, the Committee requests the Government to provide detailed information on the manner in which the labour inspectorate ensures the enforcement of employers' obligations with regard to the rights of foreign workers in an irregular situation, such as the payment of wages and social security and other benefits, including compensation for industrial accidents, for the period of their effective employment relationship, especially in cases where such workers are liable to be expelled from the country. It also asks the Government to provide information on the number of cases, in which undocumented workers have been granted their due rights.

The Committee requests the Government to continue to take the necessary measures to ensure the publication of an annual inspection report containing all the information required under Article 21(a)–(g) of the Convention. It draws the Government's attention to the guidance provided in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81), concerning the type of information that should be included in the labour inspection report.

The Committee is raising other points in a request addressed directly to the Government.

## Senegal

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)

*Article 12(1)(a) and (2) of the Convention. Powers of investigation of labour inspectors.* The Committee notes the Government's reaffirmation that section L.197 of the Labour Code applies Article 12 of the Convention. The Committee notes that, under section L.197(1) and (2) of the Labour Code, "labour and social security inspectors shall be empowered to enter freely, at any hour of the day, any workplace liable to inspection (...)" and "at night, in premises where collective work is carried out". The Committee reminds the Government that under Article 12(1)(a), inspectors shall be empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection, irrespective of the type of work carried out there. *Referring to its previous comments, the Committee once again requests the Government to take the necessary measures, in law and practice, to ensure that inspectors can enter freely any workplace liable to inspection, regardless of the type of work carried out there, not only by day, but also at night.*

*Article 13(2)(b). Measures with immediate executory force in the event of imminent danger to the health or safety of the workers.* The Committee notes the Government's reaffirmation that section 4 of Decree No. 2006-1255 of 15 November 2006 gives effect to Article 13(2)(b). The Committee notes that under this text, labour inspectors may: (i) apply to the court for an injunction "in the event of a serious or imminent danger that might seriously jeopardize a worker's safety, resulting from a failure to comply with occupational safety and health laws or regulations" (section 18); (ii) order a cessation of work "in the case of establishments in which the staff are involved in construction work, public works or any other work on buildings", "in the event of serious or imminent danger resulting from a defect or absence of protection" (sections 19 and 20). The Committee reminds the Government that under Article 13(2)(b), labour inspectors shall be empowered to make or have made orders requiring measures with immediate executory force in the event of imminent danger to the health or safety of the workers. With reference to paragraph 107 of its 2006 General Survey on labour inspection, the Committee also emphasizes that, if the safety and health of workers is under imminent threat, it serves no purpose to investigate the existence of a contravention, the priority being to eliminate the hazard. *With reference to its previous comments, the Committee requests the Government to take the necessary measures in law and practice to ensure that, in accordance with Article 13(2)(b), inspectors may order immediate executory measures in the event of imminent danger to the safety and health of the workers, without necessarily establishing the existence of a violation of laws or regulations; in the case of any industrial and commercial establishment, irrespective of the sector concerned.*

The Committee is raising other points in a request addressed directly to the Government.

## Serbia

### Labour Inspection Convention, 1947 (No. 81) (ratification: 2000)

The Committee notes the Government's report received on 18 September 2013, and the observations made by the Confederation of the Autonomous Trade Unions of Serbia (CATUS), dated 28 August 2013, as well as the observations made by the Union of Employers of Serbia, dated 26 August 2013, annexed to the Government's report. It further notes the observations made by the Trade Union Confederation "Nezavisnost" received by the Office on 29 October 2013 and forwarded to the Government on 11 November 2013. The Committee also notes that the Government has not yet provided any comments in relation to the observations made by the Nezavisnost, dated 31 August 2011.

*Article 3(1)(a) and (b) and (2) of the Convention. Action against undeclared employment, and monitoring of legislation relating to conditions of work and the protection of workers.* In its previous comments, the Committee noted that the labour inspectorate's priority for a number of years has been to combat undeclared work and emphasized that the exercise of such a function by the labour inspectorate should have as its corollary the reinstatement of the statutory rights of all the workers in order to be compatible with the objective of labour inspection. Recalling the Government's statement in its previous report that the fight against illegal employment aims among other things at the "formalization" of

employment relations so as to prevent a deterioration of conditions of work, the Committee notes that the Government reiterates in its report that the activity of the labour inspectorate has led to an increase of the number of signed employment contracts and workers reported for compulsory social security coverage. In this regard, the Committee notes the Government's indications that between July 2011 and July 2013, labour inspectors conducted 43,528 inspection visits regarding employment issues concerning 459,352 workers, of which 4,389 were found to be engaged in informal or "shadow" employment, and it notes with *interest* that, as a result of the orders issued by labour inspectors, employers entered into formal employment contracts with 3,951 of these workers. ***The Committee asks the Government to continue to provide statistical data illustrating the improvements made in the enforcement of the legal provisions relating to conditions of work and the protection of workers through the activities of the labour inspectorate in the framework of the action against undeclared employment. Please provide data that is as detailed as possible (number of cases in which formal employment contracts have been concluded, registration of workers with the social security authorities, number of cases in which workers have been paid outstanding salaries resulting from their past employment relationship, etc.).***

*Articles 3(1)(a) and (b), 5(a), 20 and 21. Efficiency of the work of the labour inspection services and communication and content of the annual report.* The Committee notes the observations made by the Nezavisnost in its communication dated 31 August 2011, in which the trade union expresses concern with regard to the absence of labour inspections in the area of general employment conditions, in comparison with the number of inspections in the field of occupational safety and health. In this regard, the trade union refers to problems in various sectors (catering, construction, industry, tourism, banking, etc.) where a large number of employees work without formal employment contracts. According to the trade union, labour inspections in the area of employment conditions are necessary to address the great number of collective lay-offs, wage arrears, abuse of fixed-term employment contracts, and the avoidance of overtime pay in recent years.

The Committee notes that the annual labour inspection reports for 2011 and 2012 have not been received by the Office, but that the Government has provided statistical information in a number of tables annexed to its report on the Labour Inspection (Agriculture) Convention, 1969 (No. 129). While it notes that the annual reports on the labour inspection activities for 2008, 2009 and 2010 (received by the ILO in 2011) contain useful information, the Committee observes that they still do not include information on the total number of industrial and commercial establishments under the supervision of the labour inspectorate and the number of workers employed therein, as previously requested. However, it notes that these tables contain information on the total number of workers (including information on the number of workers in the informal economy). The Committee also notes that the Nezavisnost deplores the fact that the annual labour inspection reports do not contain full information on all the subjects listed in *Article 21* of the Convention. While noting the observations made by the CATUS and the Nezavisnost in a communication dated 31 August 2011, in which the trade unions emphasized the need for annual labour inspection reports to be communicated to the social partners with the aim to enable cooperation for the improvement of the effectiveness of labour inspection, the Committee notes the Government's indications that annual labour inspection reports are regularly communicated to the representative organizations of employers and trade unions, including the CATUS and the Nezavisnost.

Drawing the Government's attention once again to its 2009 general observation on the importance of statistics on workplaces liable to inspection and the number of workers covered as a basis for assessing the effectiveness of the labour inspection system and its needs, the Committee hopes that, as previously indicated by the Government, in future annual reports, the labour inspectorate will provide statistical data on the number of registered companies engaged in industrial and commercial activities, and on the number of workers employed therein. ***The Committee once again requests the Government to ensure that the annual report on the labour inspection activities is forwarded to the ILO on an ongoing basis in accordance with Article 20 and that it contains information on the items listed in Article 21. In particular, the Committee would be grateful if the Government would also indicate in its next report, in addition to the information usually provided in the annual report, the total number of industrial and commercial establishments under the supervision of the labour inspectorate and the number of workers employed therein (clause (c)), and statistics on cases of occupational diseases (clause (g)).***

The Committee is raising other points in a request addressed directly to the Government.

## Singapore

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)***

*Article 3(2) of the Convention. Additional functions entrusted to labour inspectors.* The Committee notes that, according to the Government, labour inspections are carried out irrespective of nationality and that employers engaging workers covered under the Employment Act are required to discharge their obligations with regard to the statutory rights of foreign workers. The Government also indicates that foreign workers "who are not complicit" in their illegal employment may seek recourse for salary arrears and other benefits. The Committee reminds the Government that, in accordance with *Article 3(2)* of the Convention, any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties, or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. Furthermore, the Committee refers to paragraphs 75–78 of its 2006 General Survey on labour inspection, in which it emphasized, in relation to the

assignment to labour inspectors of the task of supervising the legality of employment and prosecuting violations, including migrant workers in an irregular situation, that the primary duty of labour inspectors is to secure the enforcement of the legal provisions relating to conditions of work and the protection of all workers and not to enforce immigration law, and that the Convention does not contain any provision suggesting that any worker be excluded from the protection afforded on account of their irregular employment status. The Committee reminds the Government that the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions. ***The Committee requests the Government to provide information on how it ensures the discharge of employers' obligations with regard to the statutory rights of foreign workers illegally employed, regardless of whether or not they are aware of their employment status, such as the payment of wages and any other benefits owed for the work performed in the framework of their employment relationship, including where the workers in question are liable to expulsion or after they have left the country.***

***Furthermore, the Committee asks the Government to provide information on the time and resources the labour inspectorate spends on activities in the area of irregular work in relation to activities spends on securing the enforcement of legal provisions relating to other areas (such as provisions relating to working hours, wages, safety and health, child labour, etc.), and to continue providing relevant information on the number of inspections, violations found and penalties imposed, categorized according to the legal provisions to which they relate.***

The Committee is raising other points in a request addressed directly to the Government.

## Solomon Islands

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1985)***

The Committee previously noted the joint observations of the representative employers' and workers' organizations (the Solomon Islands Chamber of Commerce and Industry (SICCI), the Solomon Islands Chinese Association (SICA), the Solomon Islands Indigenous Business Association (SIIBA), the Solomon Islands Women in Business Association (SIWIBA), the Association of Solomon Islands Manufacturers (ASIM), the Solomon Forestry Association (SFA), the Solomon Islands Council of Trade Unions (SICTU), the Solomon Islands Public Employees' Union (SIPEU), the Solomon Islands National Union of Workers (SINUW) and the Solomon Islands National Teachers' Association (SINTA)). According to these observations, there was a need for capacity building of the Labour Department and the social partners on the content and application of international labour standards. The Committee invited the Government to take formal steps so as to avail itself of further ILO technical assistance aimed at capacity building in the area of labour inspection. The Committee notes that the Government does not provide any reply in relation to its comments. ***Accordingly, the Committee invites the Government to inform it of any measures taken aimed at capacity building in the area of labour inspection, in light of the comments of the social partners.***

The Committee is raising other points in a request addressed directly to the Government.

## Spain

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)***

***Articles 3(1)(a) and (2), and 5(a) of the Convention. Additional duties of labour inspectors. Effective cooperation with other government services.*** The Committee notes that, according to information sent by the Government, in recent years a major effort has been made to increase the number of vacant positions in order to match the strength of the Labour and Social Security Inspectorate with current needs in the light of the high rate of industrial accidents, the growth of immigration and the "irregular economy" which have made it necessary to plan campaigns, particularly for the prevention of occupational risks and the supervision of foreigners and the irregular economy. The Committee notes that, according to data in the Annual Report of the Inspectorate for Labour and Social Security (ITSS) (2011) available on the website: [http://www.empleo.gob.es/itss/web/que\\_hacemos/Estadisticas/index.html](http://www.empleo.gob.es/itss/web/que_hacemos/Estadisticas/index.html), the Labour Inspectorate conducted a total of 356,535 visits in that year. Of these, 79,276 (22.24 per cent) concerned the prevention of occupational risks and 29,629 (8.31 per cent) concerned employment and labour relations. The Committee also notes from information in the same report that the greatest number of infringements in 2011 were related to conditions of safety in workplaces (2,199); working time (1,572) and wages, wageslips and wage settlement (1,089). The total number of workers in the enterprises visited in the same period was 451,861, of whom 123,598 work in establishments visited in connection with risk prevention and 194,118 in establishments visited in connection with labour relations. The Committee understands from this information that the activities of the ITSS to supervise foreigners and the irregular economy are on the increase.

The Committee also notes from information in the Annual Report of the ITSS, 2011, and from information in the Government's report, that the ITSS has signed several cooperation agreements to improve the supervision of social security and the irregular economy and of the work of foreigners with: the General Social Security Treasury (TGSS), the National Social Security Institute (INSS), the Social Institute of the Navy (ISM) and the Public State Employment Service (SPEE), the Ministry of Development, the Ministry of the Interior and the State Agency for Tax Administration (AEAT). Furthermore, on the basis of these agreements several joint action plans have been developed to implement measures

against social security fraud and obtain support for implementation, such as the ITSS–TGSS, ITSS–INSS, and ITSS–ISM joint objective plans; the ITSS–SPEE joint action plan; the plan to prevent and remedy tax, labour and social security fraud (PIF) of 5 March 2010, produced by the AEAT, the ITSS and the TGSS. This plan includes not only the measures and actions undertaken jointly by the three bodies, but also those that they undertake individually within their own remit. Furthermore, most of the measures established in the PIF that are specific to the ITSS were incorporated in the ITSS plan for 2011. The Committee also notes that the instruction issued jointly on 15 February 1994 by the subsecretariats of the Ministry of the Interior, Ministry of Labour and Social Security and Ministry of Social Affairs on cooperation between the ITSS and the law enforcement bodies of 15 February 1994, which aims to achieve maximum coordination between these bodies and obtain administrative support for supervision of the grey economy and unlawful immigration, has been taken as a basis for joint action in the sectors, areas and periods with the highest concentration of situations associated with the irregular economy, and particularly the unlawful employment of foreigners. This cooperation extends to instances of offences against freedom and safety at work, and in these cases it includes the Public Prosecutor as well. The Government also indicates that a cooperation agreement was signed on 30 April 2013 by the Ministry of Labour and Social Security and the Ministry of the Interior, the purpose of which is to secure coordination between the inspectorate of labour and social security and the state law enforcement bodies in tackling irregular employment and social security fraud.

The Committee also notes that on 27 April 2012, the Council of Ministers approved a plan to combat irregular employment and social security fraud for the period 2012–13, in order to step up action to deal with certain types of behaviour that cause a reduction in the inputs to the economic resources of the social security system, a deterioration of the rights of workers and unfair competition vis-à-vis enterprises, employers and self-employed workers who meet their obligations. The plan aims to: eradicate unlawful employment; eliminate the fraudulent obtention and enjoyment of unemployment benefits; overcome other fraudulent situations and tackle the improper use of bonuses or the improper reduction of social security contributions for enterprises.

The Committee refers the Government to paragraphs 75–78 of its General Survey of 2006 on labour inspection, and points out that according to *Article 3(2)* of the Convention, additional duties that do not seek to ensure the enforcement of the legal provisions on working conditions and the protection of workers may be assigned to labour inspectors only in so far as they do not interfere with their primary duties and do not in any way affect the authority and impartiality necessary to inspectors in their relations with employers and workers. In these circumstances, the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all workers if it is to be compatible with the objective of labour inspection, an objective that can only be met if the workers covered are convinced that the primary task of inspection is to enforce the legal provisions relating to conditions of work and the protection of workers. ***The Committee requests the Government to indicate what percentage of all inspections carried out is accounted for by visits for the control of foreigners and the irregular economy. It would be grateful if the Government would provide disaggregated information on unlawful employment, specifying the number of cases in which migrant workers were found to be in an unlawful situation vis-à-vis immigration law. It also asks the Government to provide statistics of the number of infringements recorded, indicating the provisions to which they relate, the proceedings initiated and the nature of the penalties imposed.***

***The Committee would be grateful if the Government would specify how the labour inspectorate ensures compliance with employers' obligations (such as payment of wages and other benefits for work actually done) towards foreign workers in an irregular situation, including in cases where such workers are subject to deportation or expulsion under immigration law.***

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

## Sri Lanka

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1956)***

The Committee notes the observations made by the National Trade Union Federation (NTUF), dated 24 August 2013 and transmitted to the Government on 9 September 2013, and the Government's report received by the Office on 27 September 2013.

***Labour inspection needs assessment (ILO technical assistance) and continuing restructuring of the labour inspection system.*** The Committee notes with *interest* that the Government received ILO technical assistance in the form of a labour inspection audit in March 2012 (the 2012 audit), and that the recommendations made correspond to a large extent to the Committee's previous comments on the application of the Convention. The Committee also notes the Government's indications on the continuing restructuring of the labour inspection system and the technical assistance provided by the Office, including for the drafting of the national labour inspection policy, the harmonization of labour statistics and the computerization of the labour inspection system (launching of the Labour Inspection System Application (LISA)), as well as on capacity building for labour inspectors. ***The Committee invites the Government to indicate the steps taken or envisaged with a view to improving the labour inspection system in accordance with the requirements of the Convention, in light of the recommendations made in the 2012 audit, and to provide a copy of any texts adopted in this regard. The Committee asks the Government to continue to supply detailed information on the technical assistance provided by the Office and the impact of the restructuring of the labour inspection system on the effective discharge of***

**labour inspection functions. It also asks the Government to provide a copy of the national labour inspection policy, if possible in one of the ILO's working languages, once it is adopted.**

*Articles 2, 3, 12(1)(a) and 23 of the Convention. Labour inspection in export processing zones (EPZs) and right of inspectors to freely enter any workplace liable to inspection.* The Committee notes that the Government strongly rejects the observations made previously by the Lanka Jathika Estate Workers' Union (LJEWU), according to which labour inspections in export processing zones (EPZs) are restricted and require prior approval due to unwritten and undeclared concessions granted to investors by the Government. It notes that the Government reiterates that labour inspectors have the right to enter workplaces in EPZs freely and without prior approval and emphasizes that labour inspectors not only have this right in law, but also in practice. In this regard, the Committee also notes the statistical information provided by the Government for 2011, 2012 and 2013 on the number of routine inspections and inspections following complaints (the garment and other sectors) within the 13 EPZs in the country.

The Committee notes, however, that the NTUF reiterates that even now, labour inspectors cannot enter workplaces in EPZs without prior approval and that while, in theory, the national labour laws apply to all establishments within EPZs, the situation in practice is entirely different. The Committee also notes that the 2012 audit recommends the removal of any obstacles that in practice may prevent labour inspectors from carrying out their duties and making use of their powers, including the right to enter EPZs, on the sole condition that they hold appropriate credentials. **The Committee asks the Government to make any observations it deems appropriate in relation to the comments made by the NTUF and to indicate whether there are any practical obstacles for labour inspections in EPZs and, where applicable, to indicate the steps taken or envisaged to overcome these obstacles. Please specify whether the routine inspections and inspections following a complaint in EPZs are announced, or unannounced, and also continue to provide relevant statistical data.**

**Please also provide detailed information on the total number of workers employed in the enterprises in EPZs, the number of violations reported, the legal provisions concerned, the number and nature of sanctions imposed (including the corresponding amount of fines) and the measures adopted with immediate executory force in the event of an imminent danger to the health or safety of workers, as well as on the number of industrial accidents and cases of occupational disease.**

*Articles 3(1)(a) and (b), 9, 13, 14 and 17. Role of the labour inspectorate in the field of occupational safety and health (OSH). Notification of industrial accidents and cases of occupational disease to the labour inspectorate.* The Committee notes the Government's explanations that the enforcement of legislation in the area of OSH is carried out by the Factories Division of the Department of Labour, whereas promotional and preventive activities are mostly carried out by the National Institute of Occupational Safety and Health (NIOSH). In this regard, the Committee also notes the activities of the NIOSH, as described in its activity report for 2012.

Following up on its previous comments on the shortage of factory inspection engineers, medical officers and occupational hygienists to carry out routine inspections in industrial enterprises, the Committee notes that it appears from the statistical information provided in a table included in the Government's annual report of the labour inspection service that labour inspectors in the area of OSH has further increased in 2013. Furthermore, it might appear from the statistics provided with the Government's report (Enforcement of the Factories Ordinance from 2003–12) that the number of inspections in the area of OSH has significantly increased in recent years. The Committee also notes the observations made by the NTUF, according to which factory inspection engineers and occupational hygienists do not conduct inspections in plantations, despite the fact that the vulnerability of workers to occupational diseases is very high, due to the use of chemicals, pesticides and other substances. The Committee previously noted the Government's statement that both fatal and non-fatal accidents are likely to be much higher than the numbers recorded due to deficiencies in reporting, as well as the lack of coverage of the informal sector. While it notes the information on fatal and non-fatal accidents reported in the annual labour inspection report for 2011–13, it also notes that once again no information has been provided on the number of cases of occupational disease. The Committee also notes in this regard the findings of the 2012 audit concerning: the need for improved data on industrial accidents and cases of occupational diseases; the recommendation to thoroughly review the reporting system to increase its reliability and to address its apparent deficiencies; the need to conduct awareness-raising activities in consultation with the social partners; and the use of targeted inspection and prosecution in serious cases.

Noting that the Government indicates that a draft OSH policy has been prepared and will be formally drafted very soon, the Committee would like to draw the Government's attention to the fact that the establishment of a system that ensures the access of the labour inspectorate to information on industrial accidents and cases of occupational disease (*Article 14*) is essential to the development of the prevention policy to which the Government has committed itself in the framework of the restructuring of the labour inspection system. **The Committee requests the Government to continue providing information that is as detailed as possible on the number of inspections conducted in the area of OSH. Please also provide information on the progress made in the adoption and implementation of a national policy on OSH, and a copy of any relevant documents.**

**Furthermore, the Committee requests the Government to indicate the measures taken or envisaged to ensure that the labour inspectorate is duly informed of industrial accidents and cases of occupational disease and that relevant statistics are included in the annual labour inspection report, in accordance with Article 21(f) and (g), and to point out how this information is used for the development of the national policy on OSH. Please also indicate any measures**

taken, as recommended in the 2012 audit, to improve the current system for the reporting of industrial accidents and cases of occupational diseases.

*The Committee finally once again requests the Government, to provide information on any arrangement to associate technical experts and specialists from the NIOSH in the work of the labour inspectorate for the purpose of securing the enforcement of the legal provisions relating to the protection of the health and safety of workers and investigating the effects of processes, materials and methods of work on the health and safety of workers.*

*Articles 17 and 18. Amendments to legislative acts relating to enforcement procedures and dissuasive sanctions.* The Committee previously noted that steps had been taken to update the fines and penal provisions in all legislative acts relating to conditions of work and asked the Government to keep the ILO informed of the progress made in the adoption of the relevant bills. In this regard, it notes with *interest* the Government's indications that the proposed amendments to the Industrial Disputes Act (IDA) have been adopted. The Government has however not provided information on the progress made in this regard concerning other laws. *The Committee asks the Government to continue to keep the ILO informed of any progress made in the adoption of the relevant bills, including with regard to the Wages Boards Ordinance, the Shop and Office Employees' Act, the Maternity Benefits Ordinance, and the Termination of Employment of Workmen (Special Provisions) Act.*

*Articles 3, 4, 5(a) and (b), 10, 11, 16, 20 and 21. Effective functioning of the labour inspection system and reliable statistics to evaluate its effectiveness.* The Committee notes from the 2012 audit that the structures of the labour inspectorate encompass a General Inspectorate and a Factories Inspectorate, which is responsible for labour inspection in the area of OSH. It notes that the 2012 audit recommends, among others: (i) the appointment of a Chief Inspector/Director of the labour inspection services to enable effective planning, better monitoring and evaluation of labour inspection at the central level; and (ii) the collaboration and information sharing between the General Inspectorate and the Factory Inspectorate.

The Committee notes that, according to the statistical information provided by the Government, including in the annual report on the activities of the labour inspection services for 2011–13, the total number of labour inspectors seems to have slightly decreased between 2011 and 2013, and the number of inspections seems to have increased in recent years. However, the Committee notes that the NTUF expresses doubts with regard to the statistical information provided by the Government, in particular with regard to the number of workers subject to inspection. The Committee also notes the Government's indications that statistical data are not properly recorded. In this regard, the Committee notes that, in conformity with the relevant recommendations made in the 2012 audit, the Government indicates that the implementation of the LISA application system has been launched, which should enable the collection of the required data for the preparation of the annual labour inspection reports. According to the Government, its application has been implemented in four districts and is planned to be completed by the middle of 2014. It notes that, according to the Government, the existing hardware for this purpose is still considered to be insufficient and that, for the purpose of the implementation of the LISA project, 50 computers were donated by the United States' Government. The Committee also notes that efforts have been undertaken, in the framework of the "harmonization of labour statistics project" with ILO technical assistance, to determine the criteria for the collection of labour statistics and that a relevant report is awaiting tripartite approval. According to the Government, the collection of harmonized labour statistics will be possible once the LISA system is fully implemented. *The Committee requests the Government to keep the ILO informed of the progress made in the implementation of the "harmonization of labour statistics project" and the implementation of the LISA application system for the collection of data. It requests the Government once again to ensure the publication of an annual inspection report by the central labour inspection authority as required under Articles 20 and 21 of the Convention, containing information and data on the number of inspection visits in different sectors, including in EPZs, the violations detected and the penalties imposed with reference to the legal provisions concerned, cases brought to the courts and outcomes of the proceedings, etc.*

The Committee is raising other points in a request addressed directly to the Government.

## Suriname

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)**

*Articles 3(1)(a) and (b), 5(b) and 11 of the Convention. Labour inspection activities in the area of occupational safety and health (OSH).* The Committee notes with *interest* the information on the various preventive activities by the labour inspectorate in the area of OSH. In this regard, the Committee notes: (i) the development of tailor-made and in-company trainings in cooperation with three private training institutes, including for businesses working with hoisting cranes; (ii) the preparation and envisaged implementation of the safety project "System for Measurement and Improvement of Productivity" (SYMAPRO) in the enterprise with the highest incidence of occupational accidents in the gold-mining sector; and (iii) the envisaged development of an OSH training manual and a quick-reference book for the small-scale and informal gold-mining sector in the context of a roadmap for the improvement of OSH in this sector, in cooperation with the ILO Decent Work Team and Country Office for the Caribbean. The Committee also notes the Government's announcement of other envisaged measures in this regard, including: (i) courses for OSH training at the

senior level of enterprises, for which applications have already been made by businesses operating in the industrial, mining and construction sector; (ii) the development of an OSH logbook; and (iii) the setting up of an OSH institute.

According to the Government, following the provision of OSH courses, some small and medium-sized enterprises, including in the construction, agricultural and industrial sector, are now able to identify and analyse risks, and the number of trained OSH officers at the medium level of enterprises has increased. Furthermore, the implementation of the SYMAPRO project should lead to a reduction of 50 per cent of the total number of industrial accidents in the gold-mining sector. The Committee notes from the statistical information on industrial accidents provided by the Government with its report, that there seems to be a downward trend in the total number of occupational accidents (from 1,301 cases in 2010 to 1,176 cases in 2012), as well as in the number of occupational accidents in agriculture (from 460 cases in 2010 to 352 cases in 2012). However, there seems to be no significant change in the number of occupational accidents in the construction sector (169 cases in 2010 and 168 cases in 2012), in relation to which the Committee had noted, in its last comment under the Safety Provisions (Building) Convention, 1937 (No. 62), a high increase of deaths and workplace accidents between 2007 and 2008. Moreover, the number of industrial accidents in the mining sector seems to have further increased (from 44 cases in 2010 to 57 cases in 2012).

Finally, the Committee welcomes inspection programmes concerning the use by companies of hazardous substances, as well as the use of hoisting equipment. **The Committee asks the Government to continue providing information on the training programmes carried out (including on the number of workplaces and employers who have benefited from such training in the various sectors), as well as on the other measures envisaged with a view to reducing the number of occupational accidents and diseases.**

**Please provide any relevant documents in this regard and continue to provide statistical data that might serve to assess the situation, including information on the number of cases of occupational diseases and fatal accidents, which the Government has not communicated with its current report.**

*Article 14. Notification to the labour inspectorate of cases of occupational diseases.* The Committee notes the Government's indications in its report under the present Convention that the modernization of the labour legislation includes plans to reform the Occupational Safety and Health Act (OSH Act) and that the revision of the Decree on Labour Inspection has already been approved by the tripartite Labour Advisory Board. The Committee notes the Government's indications that, in the framework of these legislative reforms, the issues previously raised by the Committee under *Article 14* (notification to the labour inspectorate of cases of occupational diseases) and *Article 15(b)* (professional secrecy of labour inspectors after leaving the inspection services) of the Convention will be taken into account. **Recalling that for many years the Government has announced legislative amendments to address the above issues, the Committee expresses the firm hope that the Government will provide information on any concrete steps taken in this respect in its next report due in 2016, and provide copies of any draft provisions or any adopted texts, together with all relevant documents (administrative orders, circulars, etc.).**

The Committee is raising other points in a request directly addressed to the Government.

## Swaziland

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1981)**

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous observation, which read as follows:

*Articles 2, 3(1) and (2), 10, 11, 16 and 17 of the Convention. Functioning and resources of the labour inspection system.* The Committee notes from the limited information provided in the Government's report that the total number of inspections increased from 2,866 in 2009 to 3,548 in 2010, thus contributing, according to the Government, to a better awareness of national labour standards among employers. The Government refers to a single targeted inspection campaign conducted in the apparel industry during the reporting period and specifies that labour inspectors only carry out inspections pursuant to complaints due to the lack of transport facilities. According to the Government, despite the purchase of new cars, all the vehicles have been grounded due to cash flow problems. The Government also indicates that despite the fact that it has managed to fill all vacancies in the labour inspectorate, there is still need to establish new posts as the number of workplaces liable to inspection is increasing.

The Committee notes with *regret* that the Government's report does not provide the information previously requested by the Committee on the steps taken or envisaged for the amendment or abrogation of the provisions of section 82 of the Industrial Relations Act and sections 1, 2, 4, and 5 of the Guidelines for intervention by the Commissioner of Labour, so that the Commissioner of Labour may be exempted from carrying out functions of conciliation and resolution of industrial disputes. The Committee refers to *Article 3(1)* and *(2)* of the Convention and notes that these functions are likely to interfere with the effective discharge of the primary enforcement and advisory duties of labour inspectors as identified in *Article 3(1)*, or prejudice the authority and impartiality which are necessary to inspectors in their relations with employers and workers. In this respect, the Committee recalls the orientation provided by the *Labour Inspection Recommendation, 1947 (No. 81)*, according to which the labour inspectors' functions should not include that of acting as conciliator or arbitrator in labour disputes. **The Committee therefore once again urges the Government to take the necessary measures so as to bring the Industrial Relations Act and the Guidelines for intervention by the Commissioner of Labour into conformity with Article 3(2) of the Convention by clearly dissociating the inspection and conciliation functions, so that labour inspectors can focus on their primary duties under Article 3(1), and to keep the ILO informed of all progress made in this regard.**

*Articles 20 and 21 of the Convention. Annual report.* The Committee notes that no annual report of the Department of Labour has been received in the ILO since 2005 under *Article 20* of the Convention. **The Committee requests the Government to indicate the measures taken or envisaged in order to recommence the publication and regular communication to the ILO of annual reports of the Department of Labour which should contain the information listed in Article 21 of the Convention, including detailed information on the part of the activities of the Commissioner of Labour which concern the enforcement of legal provisions relating to conditions of work and the protection of workers as provided for in Article 3(1)(a) and (b). In the absence of an annual report, the Committee requests the Government to provide detailed information on the number of workplaces liable to inspection and the number of workers employed therein, the staff of the labour inspection service, statistics of inspection visits, violations detected and penalties imposed, as well as data on industrial accidents and cases of occupational disease.**

The Committee recalls moreover that recommendations towards strengthening the labour inspection system of Swaziland were made by the ILO as early as 2005 in the framework of the “Improving Labour Systems in Southern Africa” (ILSSA) project. **The Committee requests the Government to provide information on any steps taken or envisaged as a follow-up to these recommendations, and encourages the Government to continue to avail itself of ILO technical assistance, including in order to obtaining support in its research for the necessary funds in the framework of international cooperation, with a view to the progressive establishment of a labour inspection system which meets the requirements 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 near future.**

## Sweden

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)**

The Committee notes the Government’s report received on 3 October 2013 and the observations made by the Swedish Confederation for Professional Employees (TCO) dated 18 November 2013, as well as those made by the Swedish Trade Union Confederation (LO) dated 20 November 2013. **The Committee requests the Government to provide its comments in response to the TCO’s and the LO’s observations.**

*Articles 3(2) and 5(a) of the Convention. Functions entrusted to labour inspectors and cooperation between the labour inspection services and other government services.* The Committee notes that, according to the Government, the Swedish Work Environment Authority introduced stronger cooperation with the Swedish Migration Board on issues concerning work permits, with the Swedish Police on issues concerning human trafficking and with the Swedish Tax Agency on tax issues and joint supervision. The Committee reminds the Government that, in accordance with *Article 3(2)* of the Convention, any further duties that are not aimed at securing enforcement of the legal provisions relating to conditions of the work and the protection of workers should be assigned to labour inspectors, only insofar as they do not interfere with their primary functions, and shall not prejudice in any way the authority and impartiality that are necessary in their relations with employers and workers. Furthermore, referring to paragraph 78 of its 2006 General Survey on labour inspection, the Committee recalls that the primary duty of labour inspectors is to protect the rights and interests of all workers and not to enforce immigration law. It also reminds the Government that the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all workers. **The Committee would be grateful if the Government would provide more information on the manner in which the Swedish Work Environment Authority cooperates with the abovementioned government services, and if it would indicate the impact of this cooperation on the application of the Convention, in particular as regards the application of provisions relating to conditions of work and workers. Furthermore, it would be grateful if the Government would provide information on the manner in which the labour inspectorate ensures the enforcement of employers’ obligations with regard to the rights of foreign workers in an irregular situation, such as the payment of wages and social security and other benefits for the period of their effective employment relationship, especially in cases where such workers are liable to expulsion from the country, as well as on the number of cases where undocumented workers have been granted their due rights.**

*Articles 20 and 21. Publication and content of an annual report.* The Committee notes that no annual report on the activities of the labour inspection services has been transmitted to the Office. **Referring to its previous comment, the Committee once again requests the Government to take the necessary measures to ensure that the Work Environment Authority publishes and transmits to the ILO an annual report within the time limits prescribed by Article 20 and containing the information required in Article 21(a)–(g) of the Convention.**

## Switzerland

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)**

The Committee notes the Government’s report and the comments made by the Swiss Federation of Trade Unions (USS) received on 30 October 2013.

*Articles 3(1)(a), 10 and 11 of the Convention. Functions and resources of the labour inspection system.* The Committee notes the comments made by the USS concerning the inadequacy of the supervision of the working time requirements set out in the Labour Act (ArG) and its implementing decrees, and particularly the requirement to record hours of work, which is only complied with for 16.7 per cent of workers in Switzerland, according to a study carried out in 2013, to which the trade union refers. The USS raises in particular the issue of the absence of statistical data concerning

supervision of working time requirements (for example, the number of inspections, the number of violations, statistics of psycho-social diseases, etc.) in the report of the Secretariat of State for the Economy (SECO). According to the USS, the cantonal labour inspection services (KAI) are not allocated sufficient financial and human resources to carry out such supervision and the number of violations reported in this area appears to be fairly low in comparison with the number of inspections conducted. The USS refers to the need for such supervision to prevent psycho-social risks and psychological illnesses (such as depression and burn-out) resulting from overtime hours and stress, which have increased significantly. The violations appear to be particularly frequent in the services sector (for example, the health sector, banking, insurance, etc.) and, according to the trade union, working time records have not been monitored in certain banks since 2009. **The Committee invites the Government to provide any comments that it considers useful in its next report in reply to the observations of the USS.**

*Article 3(2). Functions entrusted to labour inspectors in the context of measures to combat undeclared work.* The Committee notes that, according to the report on the implementation of the Act on undeclared work (LTN) of 2012, the cantonal supervisory bodies responsible for the enforcement of the LTN verify whether employers and workers are complying with their notification and permit requirements in accordance with the legislation on social insurance, foreign nationals and taxation at source, and that the LTN provides that such cantonal bodies shall collaborate, inter alia, with the labour inspectorate and the police. The Committee notes that in certain cantons the labour inspectorate is the competent body to combat undeclared work. With reference to paragraphs 75–78 of its 2006 General Survey on labour inspection, the Committee reminds the Government that, in accordance with *Article 3(2)* of the Convention, additional duties that are not aimed at securing enforcement of the legal provisions relating to conditions of work and the protection of workers may only be assigned to labour inspectors in so far as they do not interfere with their primary duties and do not prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. The function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all workers if it is to be compatible with the protective objective of labour inspection. **The Committee would be grateful if the Government would indicate, for the cantons concerned, the percentage of labour inspections which have the objective of combating undeclared work in relation to the total number of inspections conducted. It also requests statistics on the violations detected by labour inspectors, the action taken as a result and the nature of the penalties imposed. The Committee would also be grateful if the Government would indicate the manner in which the labour inspection services ensure that employers comply with their obligations (particularly the payment of wages and other benefits due for the work performed during the actual period of the employment relationship) in the case of irregular foreign workers, including migrant workers who are liable to expulsion or have already been expelled by the immigration services.**

*Article 17 and 18. Appropriate sanctions.* The Committee notes that, according to the Government, the Act on posted workers (LDét823.20) provides for penalties to be imposed on Swiss employers which are not in compliance with the compulsory minimum wages set out in model labour contracts. **The Committee would be grateful if the Government would indicate the types of penalties ordered for employers in breach of the legislation on conditions of work and the protection of workers.**

## Syrian Arab Republic

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)**

The Committee notes the general human rights situation in the country as referred to in its comments under the Abolition of Forced Labour Convention, 1957 (No. 105). It also 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 favourable reception to the labour inspection audit carried out by the ILO in the context of the Decent Work Country Programme. Furthermore, it notes, according to information available to the ILO, that the Government has expressed its firm intention to continue the cooperation with a view to following up on the audit's recommendations, particularly the one concerning the establishment of a structure responsible for developing the training and human resources of the labour inspectorate.

The Committee notes that some of the audit's recommendations were already taken into account with the adoption of the new Labour Code under Act No. 17/2010, inasmuch as the labour inspection services were strengthened by provisions ensuring that inspectors have the authority and credibility they need in the exercise of their functions, and guaranteeing that they will not be vested with any responsibilities liable to prejudice their mandate or prevent the exercise of this mandate (section 250). It particularly notes in this respect that labour inspectors will henceforth be recruited on the basis of skills criteria related to the functions they will have to assume: candidates for the post of labour inspectors dealing with general working conditions will be required to have a degree in law or economy, whereas those making a career as occupational safety and health inspectors will be obliged to have a degree in natural sciences, chemistry, pharmacy or engineering (section 245). The number of each category of inspectors will be determined by decree issued at the recommendation of the Minister of Labour. According to sections 253 and 254, labour inspectors will have legal protection from their ministry against anyone inflicting any physical or moral injuries on them in the course of their missions.

Subsequent implementing texts will determine the inspectors' remuneration scheme (issued in coordination with the Ministry of Finance (section 247(b)), the extent of their right of entry into establishments liable to inspection, as well as their supervisory prerogatives and powers to prosecute those having committed a violation (sections 247(a), 250(b) and 251).

The Committee also notes that the principle of absolute confidentiality as to the source of complaints has finally been set forth in the legislation (section 249(g)) and hopes that measures will be taken to ensure that this obligation of confidentiality extends to the existence of any link between the inspection visit and a complaint, as this is a prerequisite for the protection of employees against any risk of reprisals on the part of the employer.

The Committee trusts that this active cooperation between the Government and the ILO with a view to implementing the recommendations of the labour inspection audit will continue with due regard for the principles contained in the Convention, and taking into account the relevant guidelines of the *Labour Inspection Recommendation, 1947 (No. 81)*, as well as those contained in the general observations made by the Committee in 2007, on the need for effective cooperation between the labour inspection services and the justice system; in 2009 on the importance of having and updating a register of workplaces; and, in 2010, on the usefulness of publishing an annual report of the activities of the labour inspection services enabling them to evaluate the results of the work they have been assigned and subsequently, to determine the means necessary to improve their effectiveness.

*The Committee requests the Government to inform the ILO of the progress made, as well as of any possible difficulties encountered in the implementation of the audit's recommendations, and to send it a copy of any relevant texts, in particular the implementing texts provided for under sections 245, 247, 250 and 251 of the new Labour Code.*

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

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1972)**

The Committee notes the general human rights situation in the country as referred to in its comments under the Abolition of Forced Labour Convention, 1957 (No. 105). It also 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 observation on the application of the *Labour Inspection Convention, 1947 (No. 81)*, concerning the follow-up given to the ILO technical assistance in the context of the Decent Work Country Programme, the recommendations of the labour inspection audit and the adoption of the new Labour Code.

The Committee trusts that the active cooperation between the Government and the ILO for the implementation of the recommendations of the labour inspection audit will continue, with due regard for the provisions of this Convention and taking into account the relevant guidelines contained in the *Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)*, as well as those contained in the general observations that the Committee addressed to the governments: in 2007, on the need for effective cooperation between the labour inspection services and the justice system; in 2009 on the importance of having and updating a register of establishments; and, in 2010, on the usefulness of publishing an annual report containing information on labour inspection activities in agriculture, enabling them to evaluate the results of the work they have been assigned and, subsequently, to determine the means necessary to improve their effectiveness.

*The Committee requests the Government to inform the ILO of any progress achieved as well as of any difficulties it might have encountered in the implementation of the audit's recommendations concerning the organization and running of the labour inspection services in agriculture, and to send a copy of any relevant text, in particular the implementing texts provided for under sections 245, 247, 250 and 251 of the new Labour Code.*

*Articles 14 and 21 of the Convention. Establishing a register of agricultural enterprises and strengthening the labour inspection staff.* The Committee notes with interest that, thanks to the cooperation between the Ministry of Agriculture and the provincial directorates of social and labour affairs, the plan to set up a database on agricultural enterprises has advanced to such an extent that it has been possible to establish a list of definitely approved establishments. These enterprises are mainly involved in cattle farming, chicken farming, fish farming and bee-keeping. The Committee notes with interest that other data, on the geographical distribution and type of workers employed in these enterprises, will soon be available. *The Committee would be grateful if the Government would indicate in its next report the progress made in this area and to send the ILO a copy of any documents or relevant reports.*

The Committee also notes with interest, according to information provided by the Government, that several officials have been recruited and are at present undergoing training, and that they will fill the posts of labour inspectors in agriculture. Furthermore, the provincial directorates of social and labour affairs are being asked to state their needs in terms of inspectors, with a view to the budgetary planning for 2012. *The Committee would be grateful if the Government would indicate the number of inspectors recruited and to provide details on the type and duration of their training before being assigned to their post of labour inspector in agriculture.*

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

## **United Republic of Tanzania**

### **Tanganyika**

#### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)**

The Committee notes with *interest* that the Government received ILO technical assistance in the form of a labour administration and inspection needs assessment (2009 needs assessment, which was conducted in 2009 and subsequently discussed with the Government in 2010), and that the recommendations contained therein correspond to a large extent to the Committee's previous comments made on the application of the Convention. It also notes that, following this audit, ILO assistance was provided, which focused, inter alia, on the training of labour inspectors and the establishment of annual labour inspection reports.

*Articles 12(1)(a) and 15 of the Convention. Right of inspectors to enter workplaces freely. Timing of inspections. Confidentiality of complaints.* The Committee previously requested the Government to inform how it is ensured that labour inspectors who, pursuant to section 45(1)(a) of the Labour Institutions Act, No. 7 of 2004, may enter any premises

“at any reasonable time”, are clearly entitled to decide whether the timing of a visit is reasonable. In this context, the Committee previously noted that the Government had given examples which suggested that inspection generally took place only during working hours. The Committee notes that the Government reaffirms its commitment to ensure that labour officers are free to decide on the timing of their visits, taking into account the nature of the work and the conditions in which it is done. The Government adds that guidelines on labour inspection have been drafted to this end, which are awaiting tripartite consultation before being submitted to the Minister for approval, and that labour inspectors have received training in this respect in the framework of ILO projects, devoted to modern ways of organizing and conducting labour inspection visits.

In addition, the Committee notes from the 2009 audit that section 5 of the Occupational Health and Safety Act of 2003 appears to be interpreted in practice as to require a special delegation by the Chief OSH inspector for all OSH inspections. Moreover, it observes from the audit that even if the relevant national legislation is in conformity with the Convention, routine inspections are usually announced in advance to employers. The Committee recalls that *Article 12(1)(a)* of the Convention provides that labour inspectors shall be empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection. The Committee also indicates that it has emphasized, in paragraph 263 of its 2006 General Survey on labour inspection, that conducting unannounced visits on a regular basis is especially useful as it enables inspectors to observe the confidentiality required by *Article 15(c)* of the Convention. ***The Committee requests the Government to provide further examples of how effect is given in practice to labour inspectors’ rights set out in Article 12(1)(a) of the Convention, and to clarify the nature of the involvement of the hierarchical superiors of labour inspectors in the different stages of inspections. The Committee would be grateful if the Government would provide the Office with a copy of the abovementioned guidelines on labour inspection, once they have been approved. The Committee asks the Government to provide information on the proportion of unannounced and announced inspection visits and to provide information on any measures taken or envisaged to discontinue the practice of regularly informing employers in advance about inspections visits, in accordance with the recommendations made in the 2009 audit.***

***It also wishes to receive more information on the content and frequency of the training on inspection procedures, including on conducting labour inspection visits, and to provide a general appreciation of the impact of this training on the manner in which inspection visits are conducted, thereby giving effect to the principles set out in Article 12 of the Convention.***

*Articles 20 and 21. Annual labour inspection reports.* The Committee notes the Government’s indications that the US Department of Labor (USDOL)–ILO project on improving labour law compliance paved the way for an annual inspection report, and that the annual inspection report for the financial year 2011–12 is available on the Ministry of Labour and Employment’s (MLE) website. However, the Committee is unable to locate this report on the MLE’s website. It further notes from the report that it has not been possible to determine the exact number of workplaces liable to inspection yet, but that relevant measures are being taken in the framework of the United Nations Development Assistance Programme (UNDAP). It also observes from the 2009 audit that the compilation of an annual report seems to be conditioned by the availability of external funds, that tools for the systematic compilation of statistics do not seem to be in place, and that an updated register of workplaces is not yet available at central level. It therefore expresses the firm hope that, with the help of further technical assistance, the Government will be able to make available a report that contains the information and statistics requested under *Article 21(a)–(g)* of the Convention so as to provide the national authorities with the data to assess and improve the effectiveness of the labour inspection services.

***Recalling that copies of annual reports have not been received by the Office for more than 20 years, the Committee requests the Government to make every effort to allow the central labour authority to publish and communicate to the ILO annual labour inspection reports on a regular basis (Articles 20 and 21 of the Convention), and to indicate the measures taken for this purpose, including the steps taken to obtain further technical assistance for the establishment and regular updating of a register of workplaces that would allow for the determination of the exact number of workers employed in workplaces liable to inspection.***

The Committee is raising other points in a request addressed directly to the Government.

## **The former Yugoslav Republic of Macedonia**

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1991)***

*Article 3(1)(a) and (2) of the Convention. Functions entrusted to labour inspectors. Undeclared work.* The Committee notes that, according to the Government, when inspectors detect the presence of workers in an irregular working relationship, they take administrative measures against the employers and transmit information on the workers to the Employment Service Agency and to the social security authorities, which then initiates procedures to remove them from the list of persons entitled to unemployment benefits and to cancel their social compensation. The Government indicates that, in 2012, 28,745 regular inspections were carried out. During the controls, inspectors detected 1,033 undeclared workers and submitted 941 requests for initiating a misdemeanour procedure against employers. The Government also indicates that irregularities were detected in 1,405 cases in relation to the payment of salaries, compensation and contributions and that, while a large number of irregularities were corrected after the inspectors

intervened, the inspectors submitted requests for the initiation of misdemeanour procedures in 131 cases. The Committee refers to paragraphs 75–78 of its 2006 General Survey on labour inspection. It recalls that, in accordance with *Article 3(2)* of the Convention, additional duties that are not aimed at securing enforcement of the legal provisions relating to conditions of work and the protection of workers should be assigned to labour inspectors, only in so far as they do not interfere with their primary duties, and shall not prejudice in any way the authority and impartiality that are necessary in their relations with employers and workers. The function of verifying the legality of employment should therefore have as its corollary the reinstatement of the statutory rights of all workers.

*The Committee asks the Government to provide information on the time and resources of the labour inspectorate spent on activities in the area of undeclared work in relation to activities spent on securing the enforcement of legal provisions relating to other areas (such as provisions relating to working hours, wages, safety and health, child labour, etc.) and to continue to provide relevant information on the number of inspections, violations found and legal provisions to which they relate, and penalties imposed.*

*Furthermore, the Committee requests the Government to provide detailed information on the manner in which the labour inspectorate ensures the enforcement of employers' obligations with regard to the rights of foreign workers in an irregular situation, such as the payment of wages and social security and other benefits for the period of their effective employment relationship, especially in cases where such workers are liable to expulsion from the country. It also asks the Government to provide information on the number of cases where undocumented workers have been granted their due rights.*

The Committee is raising other points in a request addressed directly to the Government.

## Turkey

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1951)**

The Committee notes that the Government's report on the application of the Convention has not been received. It notes the detailed information provided in the annual labour inspection report for 2012, received by the Office on 19 August 2013. The Committee will examine the information in the annual report together with the Government's report, once it has been received. The Committee 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 observation, which read as follows:

The Committee notes the comments made by the Confederation of Turkish Trade Unions (TÜRK-İŞ) dated 17 May 2011 which were received with the Government's report on 8 November 2011.

*Articles 2, 3(1) and (2), 10, 11 and 16 of the Convention. Labour inspection activities in the informal economy.* 1. The Committee notes that the brief data provided by the Government do not include the information previously requested by the Committee on the content and results of the Action Plan for the Strategy to Combat the Informal Economy nor the text of the Social Insurance and General Health Insurance (SIGHI) Act, section 59 of which requires inspection officers to determine whether or not employees are insured, and submit to the social security institution within a maximum of one month the names, citizen ID numbers and wages of those who are employed without insurance. Moreover, no data is provided on the number of unregistered workplaces and uninsured workers, as previously requested. *The Committee requests the Government once again to provide a copy of the SIGHI Act in its amended version as well as information on the content and results of the action plan to combat the informal economy. It further requests updated statistics on the number of cases notified to the social security institutions and the kind of follow-up given by the labour inspectors and the social security institutions including any positive incentives to ensure the regularization of undeclared workers.*

2. The Committee notes from the brief data communicated by the Government that despite the existence of the Action Plan for the Strategy to Combat the Informal Economy, the overall number of inspections decreased from 56,095 in 2009 to 46,969 in 2010, while the most important decrease concerns the social inspections (from 36,386 in 2009 to 29,685 in 2010). It also notes that, according to TÜRK-İŞ, labour inspectors generally carry out inspections following complaints. *The Committee requests the Government to identify the reasons for the decrease in the number of inspections and the proportion of complaints-based inspections in relation to the total number of visits.*

The Committee notes moreover from the Government's report the introduction of a new inspection approach in 2010–11, which consists in planning inspections in function of risk, sector or area, and which is also based on the negotiation of inspection priorities with other public bodies, social partners and relevant professional interest groups. *The Committee requests the Government to describe the impact of the new inspection approach in planning targeted labour inspection visits, explain how the negotiation of inspection priorities works in practice, identify these priorities and the bodies involved in the negotiations and communicate the relevant legal texts.*

3. The Committee notes that Act No. 6111 creates 1,000 new posts for labour inspectors which are in the process of being filled. In addition, the current number of labour inspectors was 840 at the time of the report, while an additional 137 labour inspectors were under training and 32 were to be appointed in 2011. According to TÜRK-İŞ, even though this increase is a positive development, a further increase of labour inspectors is indispensable in order to combat irregular employment effectively. *The Committee requests the Government to indicate the progress made in appointing assistant labour inspectors to fill in the newly created posts, and to specify the number of existing labour inspectors and senior labour inspectors broken down by province.*

4. The Committee also notes that the Government has not made any observation on the previous comments of the TISK which criticized the expanded powers of labour inspectors in verifying subcontracting employment relationships and authorizing short-term employment relationships due to the general economic crisis. *The Committee requests the Government to communicate data on the activities of the labour inspectorate in relation to subcontracting and short-term work as well as the results obtained in terms of fighting collusion and protecting workers' rights in this context.*

*Articles 3(1)(b), 5(b), 13, 14, 16, 17 and 18. Preventive and enforcement activities in the area of OSH.* The Committee takes note of the information provided by the Government in reply to an observation by the TISK concerning the balance between proactive measures and sanctions. The Government indicates that the improvement of information and awareness levels by employers and workers is one of its priorities and therefore a total of 10,534 representatives of workers, employers and the social partners were trained in seminars, symposia and information meetings and handbooks were prepared for them on several subject matters in the field of occupational safety and health and general working conditions. The labour inspection also carried out campaigns targeting better compliance with employment legislation in the apparel sector, in the tourism sector, health care and retail stores. The Committee takes note of this information.

The Committee notes the information provided by TÜRK-İŞ, according to which fatal occupational accidents and diseases reported to social insurance institutions increased by 35 per cent, from 866 in 2008 to 1,171 in 2009 while the total number of industrial fatal accidents must be much higher. TÜRK-İŞ suggests that due to globalization, OSH is among the first areas to be subject to expenditure cuts by employers leading to large-scale industrial accidents in several provinces during the last couple of years. The Government refers to various inspection campaigns and trainings conducted from 2009 to 2010, targeting the improvement of OSH in the construction and mining sectors, and in relation to explosives. **The Committee requests the Government to indicate whether the new inspection approach mentioned earlier on, has facilitated the identification of high risk sectors and the planning of visits leading to preventive and enforcement activities by the labour inspection. It requests the Government to communicate data on the number of visits, the preventive measures ordered such as injunctions with immediate effect in case of imminent danger to the health and safety of the workers, violations found and sanctions and penalties imposed in the area of OSH broken down by sector and province, as well as the evolution of industrial accidents and cases of occupational disease.**

*Articles 4 and 5(a). Placement of labour inspection under the supervision and control of a central authority and effective cooperation between the various services entrusted with labour inspection.* The Committee notes that the Government has once again not provided any information on the comments made by the TISK in 2007 concerning the transfer of inspection duties from the Ministry of Labour and Social Security to other ministries (Ministry of Health, Ministry of Defence, Ministry of Energy and Natural Resources) and to municipalities, thereby raising obstacles to the coordination of labour inspection activities by a central body. The TISK adds that, although section 95(2) of the Labour Law establishes the requirement to inform the responsible regional authorities of the results of inspections, this requirement is often not met, with the result that neither inspection records nor the relevant statistics are up to date.

The Committee notes that Act No. 6111 of 13 February 2011 amended the Labour Law by adding a provision according to which grievances arising from termination of contracts are to be examined by Regional Directorates of the Ministry of Labour and Social Security while complaints of workers with ongoing employment contracts are to be examined by the labour inspectors. **The Committee requests the Government to provide clarifications on the aim and effect of this provision, and supply detailed information on any measures adopted or envisaged to improve the exchange of information between inspection services and regional directorates as well as their impact on the compilation of statistics by the Labour Inspection Board.**

**Moreover, with reference to its 2007 general observation, the Committee requests the Government to provide information on any measures adopted or envisaged to promote effective cooperation between the labour inspection services and the judiciary with a view to the achievement of the economic and social objectives of the labour inspection services.**

*Article 6. Status and conditions of service of labour inspectors.* The Committee notes the repeated statements by TÜRK-İŞ, according to which labour inspectors should work with total independence, to which the Government has not responded. **The Committee requests the Government to provide information on the status and conditions of service of labour inspectors which guarantee their independence of changes of government and undue external influences as required by Article 6.**

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 near future.**

## Uganda

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)**

*Recent developments. Follow-up to the findings of the need assessment.* The Committee notes with *interest* that the Government adopted the findings of the 2011 labour administration and inspection audit, which identified, inter alia, the following priority areas for short-term measures: (a) training for labour officers in various areas; and (b) support for the compilation and production of the annual inspection report. **The Committee requests the Government to keep the Office informed of the measures taken in the framework of the follow-up to the findings of the audit, with a view to giving effect to the Convention and addressing the Committee's previous comments.**

*Article 4 of the Convention. Re-establishment of the inspection system under the supervision and control of a central authority.* The Committee welcomes the information from the Government's report that a more effective implementation and enforcement of the labour laws will be achieved, inter alia, through the attainment of a stand-alone ministry. Referring to its previous comments, the Committee once again reminds the Government of the need for the labour inspection system to be under the supervision and control of a central authority, within the meaning of *Article 4 of the Convention*, so as to ensure equal protection for workers in industrial and commercial establishments throughout the country. **The Committee requests the Government to continue to take measures to give effect, in law and in practice, to Article 4 of the Convention and to keep the Office informed of any progress achieved and where applicable, the difficulties encountered in this respect.**

*Article 5(a). Cooperation between the inspection services and public institutions.* Concerning the implementation of the Employment Act No. 6 of 2006, and the Occupational Safety and Health Act No. 9 of 2006, the Committee notes the information from the Government's report that the Government is developing a comprehensive programme on integrated inspection involving other public service sector agencies that share the inspection function. **The Committee requests the Government to provide information on the conditions and modalities under which the referenced public**

*service sector agencies collaborate within the framework of the comprehensive programme, and on the impact of the programme on the application of the Convention.*

*Articles 10, 11 and 16. Resources of the labour inspection system and inspection visits.* The Committee notes the information from the Government's report that inspection procedures have been reorganized, that inspectors have been assigned to selected sectors, and that the occupational safety and health department cooperates with the Labour Inspectorate. It also notes that, according to the Government, due to limited resources, inspections focus more on workplaces at higher risk, such as roadworks, construction sites and horticulture. ***The Committee requests the Government to continue to take all the necessary measures, including having recourse to international financial cooperation, to ensure that human and material resources are allocated to the labour inspection system for its effective operation.***

*Articles 19, 20 and 21. Publication and communication of an annual report on labour inspection.* The Committee notes the Government's commitment to publish and submit to the ILO an annual inspection report on the work of the labour inspection services with its next report. ***Referring to its previous comments and to its general observations of 2009 and 2010, the Committee once again requests the Government to ensure that an annual inspection report containing all the information required by Article 21 (a)–(g) will be published and that a copy will be sent to the Office in the very near future.***

## Ukraine

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)**

*Articles 12(1)(a), (2) and 15(c) of the Convention. Restrictions on labour inspectors' powers.* The Committee notes that the Government, in relation to the issues raised in the Committee's previous comments concerning restrictions of labour inspectors' powers in national law that were recognized by the Government to be in violation of *Articles 12(1)(a), (2) and 15(c)* of the Convention, refers to a bill that provides for the amendment of those provisions of Act No. 877-V of 2007 concerning the fundamental principles of state supervision in the area of economic activity, which are not in conformity with the Convention; in addition, the State Labour Inspectorate (SLI) has made proposals on this bill. The Committee further notes that the Government indicates that Order No. 502 of May 2009 concerning temporary restrictions on state supervision activities in the area of economic activity was only applicable until 31 December 2010 and that it did not affect the activities of the SLI. ***The Committee requests the Government to keep the Office informed of the progress made with the amendment of Act No. 877-V of 2007 with a view to bringing it into conformity with the Convention, and to provide a copy of this law in its amended version once these amendments have been adopted, if possible in one of the working languages of the Office.***

The Committee is raising other points in a request addressed directly to the Government.

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2004)**

***Referring to its observation under the Labour Inspection Convention, 1947 (No. 81), and noting that the issues raised relate also to Articles 16(1)(a) and (3), and 20(c) of the present Convention concerning restrictions on labour inspectors' powers, the Committee requests the Government to provide the information requested under Convention No. 81 in so far as it also concerns the rights, powers and means of action of the staff of the labour inspectorate responsible for agricultural enterprises.***

The Committee is raising other points in a request addressed directly to the Government.

## United Kingdom

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)**

The Committee notes the report submitted by the Government, dated 28 August 2013, and the observations made by the Trade Union Congress (TUC) dated 29 August 2013.

*Articles 2, 3, 5, 10, 11, 13, 16, 17, 18, 22 and 23 of the Convention. Reform of the occupational safety and health (OSH) and labour inspection system.* The Committee notes the Government's indications on the plans to reform the national OSH system, which is described in more detail in the report "Good health and safety, good for everyone", referenced by the Government and available on the website of the Health and Safety Executive (HSE).

The Committee notes that according to this information, while the system of labour inspection continues to apply to all workplaces, it is envisaged, in the context of the Government's objective to ease the burden of bureaucracy on businesses and to make inspections more effective, to: (i) target inspections in higher-risk sectors (such as the construction industry or high-risk manufacturing areas); (ii) reduce inspections in areas of concern but where inspections are unlikely to be effective and are therefore not proposed (such as agriculture, quarries, health and social care); and (iii) discontinue inspections in low-risk sectors (such as low-risk manufacturing and transport). However, in the case of underperformance in the area of OSH, workplaces are still subject to inspection. The Committee further notes that the identification of non-

major hazard industries is made on the basis of a new targeting and intelligence system and that it was planned to reduce the number of inspections, from 2010–11 onwards, by one third every year (that is, around 11,000 inspections).

The Committee also notes the initiatives in the envisaged reform, which are aimed to assist employers, particularly in lower-risk small and medium-sized businesses, in meeting their legal obligations in the area of OSH. These include: (i) a review for simplified and modernized OSH regulation and legislation; (ii) the establishment of a register for properly accredited OSH consultants to provide employers with easy access to accurate advice on OSH, which can be removed from the register if they fail to maintain the required standards; and (iii) the development of a new “Health and Safety Made Simple” guidance, in addition to the online risk assessment tools already provided by the HSE for offices, shops, charity shops and classrooms.

Finally, the Committee notes the Government’s indications that, in the framework of these reforms, it is envisaged to extend the cost recovery scheme “Fee for Intervention”, which came into effect in October 2012, and obliges employers in breach of OSH requirements to cover the costs of the HSE to identify, investigate, rectify or enforce such violations.

The Committee further notes, from the information provided in the Government’s previous report (for 2009–11) and the current report (2011–13), that the number of labour inspectors has decreased from 1,455 to 1,367, and that it is envisaged to reduce office accommodation with a view to becoming more efficient and less office dependent (provision of updated communication equipment, out-of-office connection to HSE’s electronic systems and more innovative ways for staff to maintain contact with their line managers and colleagues).

In this regard, the Committee notes that the TUC objects to the Government’s statement that “the system of labour inspection continues to apply to all workplaces”, given that the Government’s report admits that “inspection no longer takes place in lower-risk sectors where it is not effective in terms of outcomes”. The TUC further contests that these workplaces are low risk, given their high level of cases of occupational diseases, even if this statement might be correct as far as their safety record is concerned. Finally, the trade union indicates that there is no evidence that inspections in these workplaces are not effective in terms of outcomes. ***The Committee asks the Government to provide any comments it deems appropriate with regard to the observations made by the TUC.***

***The Committee requests the Government to provide more detailed information on the abovementioned plans to reform the OSH and labour inspection system, particularly with regard to: (i) the functioning of the new targeting and intelligence system and the selection process of workplaces liable to inspection, including the involvement of the social partners in this process; (ii) the voluntary or mandatory nature of self-assessments and the use of OSH consultants in workplaces not liable to inspection in the new system; and (iii) any means used by the labour inspectorate to detect underperformance in the area of OSH in these workplaces.***

***Please also provide information on the impact of these reforms (including the Fee for Intervention scheme) on the compliance with OSH requirements (number of infractions detected and legal provisions to which they relate, development in the number of industrial accidents and cases of occupational diseases, etc.), as well as information on the development in terms of the numbers of inspection visits and the human and material resources available to the labour inspectorate.***

## Gibraltar

### **Labour Inspection Convention, 1947 (No. 81)**

*Articles 20 and 21 of the Convention. Failure to submit an annual report on the work of the labour inspection services.* In its last comment, the Committee noted with regret that the Government had never sent an annual labour inspection report to the Office containing full information on all the subjects as required under *Article 21* of the Convention. The Committee notes that, yet again, no annual report on the work of the labour inspection services has been received this year, nor have any relevant statistics been provided which, according to the Government’s indications in its previous comments, could be provided by the labour inspectorate and the health and safety inspectorate. Neither has the Government provided any information, as requested, on the difficulties encountered in preparing, publishing and communicating an annual labour inspection report under *Article 20* of the Convention. The Committee recalls that the annual labour inspection report offers an indispensable basis for the national authorities, the social partners and the ILO supervisory bodies to evaluate the results in practice of the activities of the labour inspection services and contribute to their improvement, particularly for the determination of the means necessary to improve their effectiveness. ***The Committee once again urges the Government to ensure that the necessary measures are taken by the labour inspection authority to prepare, publish and communicate to the ILO an annual labour inspection report under Article 20 of the Convention containing information on all the subjects covered by Article 21(a)–(g), and to describe such measures or any difficulties encountered in this regard.***

***It requests the Government in any event to provide with its next report statistical information that is as detailed as possible on the number of labour inspectors and industrial and commercial places liable to inspection, as well as on the activities of the labour inspection services (number of inspections, infringements detected and the legal provisions to which they relate, penalties applied, number of occupational accidents and diseases reported, etc.).***

## Uruguay

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1973)**

The Committee notes the Government's report and the comments of 14 November 2012 by the Latin American Confederation of Labour Inspectors (CIIT), and of the Government's reply of 15 March 2013 to the points raised by the CIIT. The Committee observes that for the most part the CIIT's observations address issues on which the Committee has already commented.

*Article 6 of the Convention. Conditions of service of labour inspectors.* The CIIT reiterates that the status of exclusive assignment conferred on labour inspectors by Act No. 18.172 and Ministry of Labour Resolutions Nos 129 and 139 of 2007 have led to a system in which labour inspectors are required to be available at all times but receive no financial compensation in return; overtime worked in the interior of the country is not remunerated and the maximum working day of eight hours established by Act No. 5350 of 1915 is not observed. The Inspector General of Labour recently issued a resolution establishing night duty and weekend duty in the event of occupational accidents or situations presenting an imminent threat to life. Inspectors are paid for such duties only if they have to visit a workplace. The CIIT points out that inspectors' remuneration includes a loan for the replacement of clothing and shoes, whereas for more than ten years they received a biannual, and subsequently an annual, allowance. The CIIT again deplores that the ministerial authorities have not observed the agreements concluded before the draft legislation was submitted to Parliament and that, on the contrary, they have endorsed the proposed amendments. It again refers to the matter of the disparity between tax inspectors' wages (between 25 per cent and 40 per cent higher) and the wages of labour inspectors, to the latter's detriment. It also points out that the improvement in the wages of inspectors due to the status of exclusive assignment is not in line with the increase in working time, which has risen from six to eight hours a day, while the net wage has been significantly reduced with the introduction of the new tax legislation. The CIIT questions the Government's will to review some aspects of labour inspectors' remuneration.

The Government, for its part, reiterates that the mechanism for payment of overtime is the one established in the 2007 resolution. It goes on to explain that the resolution for the establishment of night and weekend duties seeks to ensure that the duties are fairly distributed and properly planned. The reason for these stand-by duties is that commercial establishments – and, to a lesser extent, industrial establishments and services – also operate on non-working days and outside working hours, and that inspectors are bound by law to visit work places in the event of occupational accident or serious or imminent danger. The Government indicates that although by law inspectors' remuneration includes a loan for the replacement of clothing and shoes, the Ministry also provides all labour inspectors with safety footwear. According to the Government, the CIIT's assertion that maximum daily working hours are not observed is unfounded. As regards the disparity between the pay of tax inspectors and that of labour inspectors to the latter's detriment, the Government stresses that labour inspectors are better paid than the other ministry employees and that the reasons for the disparity have already been given. ***The Committee requests the Government to provide the copies of decisions ordering the payment of any overtime worked by labour inspectors during the period covered by the next report, or any other document showing that this entitlement is recognized in practice. It would also be grateful if the Government would supply information on any measures taken or envisaged to review the various aspects of labour inspectors' remuneration referred to by the CIIT, in accordance with the Government's statement in its previous report that such a review was to be undertaken by the authorities of the Ministry.***

*Article 7. Training of labour inspectors.* The CIIT stresses the need for ongoing training and retraining enabling labour inspectors to keep pace with technological and administrative changes, and asserts that the training provided was planned without any involvement of the labour inspectors.

The Government submits that, on the contrary, particular attention was paid to the proposals made by inspectors, without any disregard for the prerogatives and statutory obligations that pertain to management. The Committee notes with *interest* in this connection that, according to the examples given by the Government, training in matters related to social contributions and benefits and to harassment at work was provided following proposals made by labour inspectors. It notes that labour inspectors likewise participated, among others, in: technical workshops on hazards linked to aluminium phosphide and procedures for intervening on the ground; a day course on human trafficking and forced labour; awareness-raising and training days on gender issues; and training in the use of the electronic file. ***The Committee would be grateful if the Government would provide information on how these activities have affected labour inspectors' performance of their duties, as defined under Article 3(1) of the Convention. It also asks the Government to specify the frequency of the training sessions organized for labour inspectors and to provide a copy of the training programme scheduled for the period covering the next report, specifying the type of activity (seminar, workshop, etc), the length of the training courses, the training entity and the subjects covered.***

*Article 11. Conditions of work of labour inspectors.* According to the CIIT, despite the fact that the introduction of the status of exclusive assignment has led to an increase in labour inspectors' hours of work and attendance at inspectorate premises, there has been no improvement in the space available to labour inspectors, which was already cramped. Furthermore, the space has not been so appointed as to enable labour inspectors to perform their tasks with a measure of comfort and in an atmosphere conducive to concentration and confidentiality. Overcrowding, the lack of a suitable place for a midday meal, inadequate and insufficient toilets, sparse furniture – to the point where there is not even

one desk and one chair per inspector – have caused situations of stress resulting in high blood pressure problems and psychosomatic disorders. These, together with poor posture caused by ill-designed chairs, which are in all likelihood the cause of muscular and bone disorders, have led to an increase in sick leave. In the view of the CIIT, labour inspectors should have permanent access to the legislation, archives and records, through a library and internet access, but there is no method by which to attain these objectives as things now stand. The CIIT believes that implementation of the electronic file will involve extensive and prolonged use of the computer systems, and that given the current scarcity (21 computers for a total of 128 inspectors), this will slow down the pace of work and cause tension among the inspectorate staff. According to the CIIT, the regime established by Decree No. 280/06 has been tacitly repealed by Decree No. 279/12. The latter provides for the granting of a reduced amount of labour inspectors' travel allowances, resulting in accommodation costs not being covered in certain cases. Furthermore, Decree No. 279/12 has abolished some of the monetary allowances formerly granted to inspectors. The reduction in the amount of the travel allowance, along with other factors, has meant that labour inspectors are no longer able to participate in training committees and tripartite occupational safety and health committees where supervision is not the main task.

The Committee notes with *satisfaction* the information supplied by the Government to the effect that the plan to redesign and improve the premises of the inspection services is now in its final stage. Implementation of the plan has involved the rehousing of two divisions of the inspectorate and the entire administrative department, construction work, and the purchase of furniture and equipment. The process has taken some time because the procedures and controls for tendering in the public sector are strict. According to the Government, the inspection divisions now have almost twice as much space as before (510 square metres as compared to 275 square metres formerly), and more furniture has now been made available. As to computer hardware, the Government states that 90 notebooks and 20 PCs will be made available to labour inspectors. The Government also indicates that the Ministry of Labour and Social Security has a large library, which is available to inspection staff, and that the legal division of the labour inspectorate also has material that is of use to the inspection services. Furthermore, inspectors have direct and unrestricted online access to the register of enterprise data. With regard to vehicles, the Government again states that four 4x4 vehicles were purchased in 2010 and that a call for bids has been launched to acquire two more such vehicles, which will make a total of ten vehicles for the labour inspectorate. Furthermore, inspectors have access to ministry vehicles should they so need. According to the Government, using the "Apia" application, the electronic file is being implemented gradually to avoid any distortions in the process, but all aspects of the supervisory function are expected to be incorporated by April 2013.

The Government indicates that the system of travel allowances for labour inspectors is the same as the one applying to all employees of the central administration. Although the allowance has been cut by an amount equivalent to US\$5, it remains sufficient to cover food and accommodation costs anywhere in the country when inspectors are required to undertake duty travel. Under the old system, the outstanding part of the accommodation allowance was refunded. Under the present system, inspectors are not required to give back any surpluses. *The Committee would be grateful if the Government would provide information on how the improvements in the office premises and the material resources available to labour inspectors have affected their health and the performance of their duties.*

The Committee is raising other points in a request addressed directly to the Government.

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1973)**

The Committee refers to its comments relating to the Labour Inspection Convention, 1947 (No. 81), in so far as they also concern the application of the present Convention.

The Committee notes the Government's report, the observations from the Latin American Confederation of Labour Inspectors (CIIT), dated 14 November 2012, and the Government's reply thereto, dated 15 March 2013.

*Articles 3 and 6 of the Convention. Functions of the labour inspection system in agriculture.* According to the CIIT, the Government has announced in the media and through a press conference the setting up of a rural unit to deal with the specific issues of rural workers with regard to labour, employment and social security, with a view to ensuring observance of the rights and obligations deriving from the legislation in force. The first task of the unit will be to organize an awareness-raising campaign on the rights and obligations of rural workers. The CIIT considers that the duties to be performed by this unit will overlap with, or replace, those to be performed by labour inspectors.

The Government expresses surprise at the CIIT's comments since it claims that issues relating to this unit have been the subject of discussions with the Uruguayan Association of Labour Inspectors (AITU). It explains that the duties of this unit will not overlap with, or replace, the areas of competence and work of the various operational units of the Ministry of Labour but, on the contrary, will be incorporated into the labour inspectorate. No decision has been taken and no measure has been implemented implying any replacement of, or operation alongside, labour inspection duties. According to the Government, this is a sphere of coordination aimed at achieving institutional synergies to ensure observance of the rights of workers. *The Committee requests the Government to send detailed information on this project, including, if applicable, any document relating to the new rural unit, its tasks and its mode of operation in relation to the various units within the structure of the Ministry of Labour. The Government is also requested to supply information on the impact of these activities on achieving the objectives of the Convention.*

*Articles 6(1)(a) and (b), 17, 18 and 19. Role of labour inspection in agriculture with regard to safety and health.* In reply to the Committee's previous comments on occupational accidents in agriculture, the Government states that dissemination of the legislation, particularly Decree No. 321/2009, and awareness raising for workers in the sector, are implemented through periodic visits during which leaflets and copies of the legal provisions are distributed, and also through the promotion of social dialogue. The Government also explains that daily inspections take place in the sector with a view to reducing the number of accidents and enforcing the legislation. ***While duly noting this information, the Committee again requests the Government to ensure that measures are taken quickly by the competent authority to determine the cases and conditions in which the labour inspection services in agriculture should be associated in the preventive control of new plant, new materials or substances and new methods of handling or processing products which appear likely to constitute a threat to health or safety. The Committee also requests the Government to keep the ILO informed of any new developments in this regard and to send copies of any relevant legislative text, once it has been adopted.***

***The Committee further requests the Government to include statistical information in its next report on any measures taken in accordance with Article 18 of the Convention, and on any infringements reported by labour inspectors in agriculture (specifying the relevant legislative provisions) and the penalties imposed.***

The Committee is raising other points in a request addressed directly to the Government.

## **Bolivarian Republic of Venezuela**

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)***

The Committee notes the Government's report received on 1 September 2013. It also notes the comments of the Confederation of Workers of Venezuela (CTV), dated 30 August 2013, and of the National Union of Workers of Venezuela (UNETE), dated 31 August 2013, and the Government's responses in communications dated 14 November 2013.

*Articles 3(1)(a) and (b), 5(a) and (b), 13 and 16 of the Convention. Labour inspection in the field of occupational safety and health (OSH).* 1. *Preventive activities undertaken by the labour inspectorate.* Further to the earlier comments of the Independent Trade Union Alliance (ASI) and CTV which alleged, inter alia, chronic shortcomings in the monitoring of OSH conditions and the rise in the number of work-related accidents, particularly in the oil industry, the Committee notes the information provided by the Government to the effect that, in addition to the National Occupational Health and Safety Prevention Institute (INPSASEL), the specialized institution in this field, the supervisory units responsible for labour inspection are competent to monitor and supervise labour legislation in the field of OSH. It notes that "integrated inspections" (covering, among other fields, OSH) were undertaken by supervisory units, including 121 in the oil and hydrocarbon sectors and 28 in the construction sector, between May 2012 and May 2013. The Committee nevertheless notes that no information has been provided on the activities undertaken by INPSASEL inspectors, nor on the measures adopted with immediate effect in case of imminent danger to the health or safety of workers, in accordance with *Article 13(2)(a)* of the Convention, or on the penalties imposed following inspections by the labour inspection services. In this respect, the Committee notes that, under the terms of the Basic Act on prevention and working conditions and environment (LOPCYMAT), only INPSASEL inspectors appear to be empowered to take measures with immediate effect to eliminate defects in plant, layout or working methods that may constitute a threat to the health and safety of the workers.

UNETE indicates that the gravity of the failings of control in the field of OSH and the worrying increase in industrial accidents and cases of occupational disease are notorious. Industrial accidents are particularly numerous in the oil industry. Moreover, the situation has become alarming in public enterprises and the administration. The trade union criticizes the fact that neither the INPSASEL nor the enterprises concerned have taken appropriate measures since 2008 to prevent the reoccurrence of accidents in oil companies. It cites by way of illustration the explosion that occurred in August 2012 in the refinery located in the state of Falcón, which caused the death of 42 persons and injured over 100, the causes of which are still not known. The trade union adds that, in the cement industry, there has also been a deterioration in OSH conditions, and particularly an increase in the risk of ambient contamination. It considers that the labour inspectorate is totally deficient in relation to OSH and that the INPSASEL is complicit in this situation. The trade union alleges that the Government is concealing problems instead of remedying them and, moreover, that the delegates responsible for prevention and trade union leaders who call for improvements in working conditions and OSH are persecuted.

The Government affirms that there are no figures showing that there has been an increase in industrial accidents and cases of occupational diseases, and that it does not have any information indicating that the situation in public enterprises has deteriorated in comparison with the situation that existed when they were owned by private employers. With reference to the explosion at the Amuay refinery, the investigations found that it was a case of sabotage and that it had nothing to do with failings in OSH conditions. With regard to the cement industry, the Government expresses surprise, as the union has based its allegations on INPSASEL reports (concerning these enterprises). It observes that, although the union alleges persecution of trade union leaders by the police, the Government sees them constantly at meetings and other events without noting any pressure or persecution.

*The Committee once again requests the Government to provide full information on the number of inspections carried out in the field of OSH during the period covered by the Government's next report by inspectors from supervisory units and from the INPSASEL, particularly in the oil and construction sectors. The Government is also requested to specify the various measures taken by the two labour inspection services as a result of inspections, the legal provisions on which these measures are based and the nature of the penalties imposed.*

*The Committee particularly requests the Government to provide full information on the measures ordered with immediate effect by INPSASEL inspectors and to specify the action taken by inspectors from supervisory units when they identify, during inspections, a defect in plant, layout and working methods which they may have reasonable cause to believe constitutes a threat to the safety or health of the workers. It once again requests the Government to provide information on the other prevention activities undertaken by the labour inspection services through the provision of information and technical advice, as envisaged under Article 3(1)(b) of the Convention.*

2. *Notification of industrial accidents and cases of occupational diseases.* The Committee notes the explanations provided by the Government concerning the procedure for the notification of industrial accidents and cases of occupational diseases, as required by the LOPCYMAT. It notes that under the terms of the provisions indicated by the Government, OSH committees and trade unions, in addition to the INPSASEL, have to be informed of such occurrences. It also notes that notification to the INPSASEL can also be made by the worker concerned, her or his family, the OSH committee, the prevention delegate, another worker or a trade union.

The Committee recalls the earlier comments by the CTV and the ASI according to which: (i) industrial accident statistics are not reliable and accidents are not reported in most cases; (ii) workers are being denied the right to register an industrial accident with the INPSASEL in certain cases; and (iii) there are two separate regulations governing the declaration of industrial accidents and cases of occupational diseases, which makes their management difficult in practice. The Committee also notes the comments of the UNETE indicating that, although the INPSASEL has to certify the occupational nature of a disease, the absence of a provision determining the time frame within which certification has to be issued gives rise to indefinite delays, which runs counter to the interests of the workers, as this document is indispensable to obtain the respective compensation.

*With reference to its previous comments, the Committee once again requests the Government to provide its observations on the issues relating to the under-declaration of industrial accidents and cases of occupational diseases referred to by the ASI and CTV. It also invites it to reply to the comments of the UNETE. The Committee also once again asks the Government to take the necessary measures to ensure that statistics of the industrial accidents and cases of occupational diseases that have occurred since 2007 are included in annual inspection reports.*

*The Committee once again requests the Government to describe the procedure for the investigation of industrial accidents and cases of occupational diseases and to provide a copy of any relevant legal texts.*

*Article 3(2). Duties in relation to undeclared work.* Noting that the Government has not provided a reply on this matter, the Committee once again requests it to reply to its comments on this issue, which read as follows:

Furthermore, the Committee understands, from the information in the Government's report, that the National Economic and Social Development Plan for 2007–13 targets, amongst others, undeclared work, and that joint inspection visits are regularly being carried out together with the People's Ministry of the Interior and Justice (MPPRIJ), the Tax and Customs Administration Service (SENIAT) and the People's Ministry of Defence (MPPD). *The Committee requests the Government to provide information on the purpose and scope of the abovementioned inspections and the impact of these activities by the labour inspection services on the enforcement of the legal provisions relating to conditions of work and the protection of workers. Please also provide information on the number of infringements detected, the legal provisions concerned, the remedial measures taken and the sanctions imposed.*

*Articles 6, 7(1) and 15(a). Independence and competencies of labour inspectors.* The Committee notes the Government's indications that labour and social security "supervisors", which it identifies as the only category engaged in labour inspection functions in accordance with the terms of the Convention, enjoy absolute stability in their employment. They are appointed after successful public competitions, and receive adequate wages in relation to their training and travel allowances. They are also encouraged to continue studies at the highest level (through the granting of paid leave) to obtain higher grades and higher salaries, as envisaged in the collective agreement for employees of the People's Ministry of Labour and Social Security (MINPPTRASS).

On the other hand, the Committee notes the reiterated statement by the CTV that the prerogatives of labour inspectors are used as an instrument of political pressure and to promote parallel organizations that have links with the Government. It deplores the fact that labour inspectors enjoy significant discretionary power, used in many situations for the purposes of extortion at the workplace and in relation to trade unions, as they have to supervise the national register of trade unions, under the terms of the new Basic Labour Act (LOTTT). It also deplores the fact that the selection and promotion of inspectors is carried out in accordance with political and not technical criteria.

The Government refutes the observations of the CTV and indicates that the union's communication clearly reflects the fact that there are no specific comments to be made concerning the application of this Convention.

*The Committee would be grateful if the Government would provide more detailed information on the conditions of service of labour “supervisors” (remuneration scale, etc.) and provide a copy of a text governing their conditions of service. Please also indicate whether complaints have been received concerning any conduct contrary to the ethical rules that have to be observed by labour “supervisors” in the performance of their duties. Where appropriate, the Government is asked to provide a copy of any procedure or decision adopted in this respect.*

*It once again requests the Government to describe the criteria and procedures followed for the recruitment and promotion of labour inspection staff and to provide a copy of the collective agreement of the employees of the MINPPTRASS or any other relevant document (vacancy notices, regulations respecting admission to the various grades for supervisors containing information on the level of training required, etc.).*

*Articles 3(1)(a) and (b), 17, 18 and 21. Sanctions and the implementation of other penalties for the violation of labour legislation. Balance between preventive and enforcement activities of the labour inspectorate.* The Committee previously noted the comments made by the ASI concerning the granting of so-called “labour compliance labels”, which are a prerequisite, among other requirements, for obtaining import or export licences. According to the trade union, this requirement was conceived as a means of exerting pressure and control principally on employers who had shown themselves to be politically opposed to the Government, as the system for granting or withdrawing “labour compliance labels” was largely discretionary, with no guarantee of due process in law. The Committee noted in this respect that under the terms of section 4 of Decree No. 4248 of 30 January 2006, labour inspectors are required to deny the granting of this label or revoke it in certain cases, including where the employer refuses to comply with an administrative order or a decision by the labour inspectorate. It also noted that section 512 of the LOTTT introduces the function of “an enforcement inspector” in each inspectorate for the enforcement of administrative instructions with special effects, and that these inspectors are empowered to request the withdrawal of the “labour compliance label” for as long as employers do not comply with such instructions.

With reference to its previous comments concerning the necessary balance between preventive action and enforcement by the labour inspectorate, the Committee notes the Government’s indications that “supervisors”, under the terms of section 515 of the LOTTT, initiate sanction procedures only in cases where a violation of the legislation reported during an inspection (and accompanied by an order requiring compliance within a specified period) is found to persist during a follow-up inspection. The Government indicates that the right of defence of the concerned employer is respected in this procedure (section 547 of the LOTTT). It adds that labour “supervisors” do not have the power to suspend or revoke “labour compliance labels”. The Committee however notes that, under the terms of section 515 of the LOTTT, labour “supervisors” are also empowered to initiate, “where appropriate” the revocation of “labour compliance labels”. *The Committee once again requests the Government to reply to the ASI’s allegations concerning the impact of “labour compliance labels” in practice and the absence of appeal procedures in this field. It would also be grateful if the Government would provide data on cases in which the “labour compliance label” has been refused and/or revoked, with an indication of the violations which caused such refusal and/or revocation.*

*The Committee also once again requests the Government to provide information on the nature, frequency and content of the “administrative instructions with special effects” addressed to employers, with an indication of the legal provisions on which they are based, and to provide examples of such instructions. It asks it to provide data on cases in which labour inspectors have requested the assistance of the public security forces to give effect to these administrative instructions, and cases in which employers have been arrested in this context.*

*Finally, the Committee requests the Government to provide statistics on the violations reported (specifying the legal provisions to which they relate) and the sanctions imposed (with an indication of their nature: fines, the withdrawal of “labour compliance labels”, sentences of imprisonment) as a result of inspections, with the requirement that such statistics are included in the annual report on the activities of the labour inspectorate.*

*Articles 12(2) and 15(c). Requirement of confidentiality.* In the comments that it has been making for many years, the Committee has requested the Government to take the necessary measures to amend the LOTTT to remove the requirement for labour inspectors to notify employers of the reason for the inspection, in accordance with the above provisions of the Convention. The Government indicates that complaints or requests for inspections are confidential and are not included in the file on the establishment, as it can be consulted by any person concerned at any time, but that they are classified in the records of the inspection services. According to the Government, the notification of the employer is restricted to the information that it is an inspection within the framework of the national legislation and the present Convention. Furthermore, irrespective of their origin, inspections cover many aspects (relating to general conditions of labour and OSH), which makes it impossible for an individual outside the supervisory unit to be aware precisely of the reasons that gave rise to the inspection. While taking into account the explanations provided by the Government, the Committee notes that the fact that section 514 of the LOTTT (adopted in 2012) maintains the requirement for “supervisors” to indicate upon their arrival the reason for the inspection is contrary to *Article 12(2)* of the Convention, under the terms of which inspectors should be able to judge whether it is appropriate to notify the employer of their presence. *The Committee therefore requests the Government to ensure that the national legislation is finally brought into conformity with Convention on this point. It hopes that the Government will soon be able to report the progress achieved in this respect.*

*Articles 20 and 21. Annual report.* The Committee notes with *regret* that no complete annual inspection report has been communicated to the ILO since 1998. **The Committee urges the Government to indicate the measures adopted or envisaged to ensure that an annual report on the work of the labour inspection services, containing information on the matters set out in clauses (a)–(g) of Article 21, is prepared by the central inspection authority and communicated to the ILO.**

The Committee is raising other points in a request addressed directly to the Government.

## Viet Nam

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1994)**

*Follow-up to the labour inspection needs assessment of 2012.* The Committee notes with *interest* that, in reply to its comment concerning the follow-up to the labour inspection audit conducted by the ILO in 2012, the Government indicates that, to set up an advanced labour inspection system which fully meets the requirements of the Convention, the Ministry of Labour, War Invalids and Social Affairs (in collaboration with the ministries concerned) has developed the plan “Strengthening the inspection capacity in the field of labour, invalids and social affairs until 2020” (the MOLISA plan), which has been submitted to the Prime Minister for consideration and approval. **The Committee requests the Government to provide a copy of this plan once approved, if possible in one of the ILO’s working languages, and to keep the Office informed of progress made or any difficulties encountered in its implementation.**

*Articles 10 and 11 of the Convention. Resources available to the labour inspectorate.* The Committee notes that, according to the Government, human resources and material means and facilities of the labour inspectorate are inadequate, and that the inadequacy of material means particularly affects occupational safety and health inspection. The Committee notes that the Government indicates that the MOLISA plan contains important measures to improve facilities for labour inspection across the country. In addition, the Government indicates that the use of self-inspection questionnaires is a solution to address the shortage of human and financial resources. In this respect, the Committee once again reminds the Government that self-inspection and self-assessment should be complementary to, and not replace labour inspections. **The Committee requests the Government to continue to take the necessary measures, if necessary with financial assistance to be sought in the context of international cooperation, to ensure that the labour inspectorate is provided with the necessary resources for the effective discharge of its duties, and to keep the Office informed of any development in this respect.**

*Articles 5(a), 20 and 21. Publication of an annual inspection report.* The Committee notes that no annual report on the activities of the labour inspection services has been transmitted to the Office. **Referring to its previous comments and to its general observations of 2009 and 2010, the Committee once again asks the Government to indicate the measures taken to promote inter-institutional cooperation for the establishment of a register of workplaces liable to inspection and the workers employed therein, with a view to ensuring the fulfilment by the central inspection authority of its obligation to publish and transmit to the ILO an annual report in accordance with Articles 20 and 21 of the Convention. It also once again requests the Government to indicate the formal steps taken in order to obtain ILO technical assistance in this respect.**

The Committee is raising other points in a request addressed directly to the Government.

## Zimbabwe

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1993)**

*Articles 3(1)(a) and (b), 4 and 5(b) of the Convention. Delegation of inspection duties and supervision of the labour inspection system by a central authority.* The Committee notes that in reply to its previous comments the Government indicates that the Ministry of Labour, which is the central labour inspection authority, is vested with administrative powers to inspect the operations of all labour market institutions including the employment councils, which have “designated agents”. The “designated agents” exercise delegated authority pursuant to section 63 of the Labour Act, as amended. The Employment Councils submit quarterly reports to the Ministry of Labour for purposes of supervision. Ministry officials and employment councils’ “designated agents” have authority to discharge both enforcement and advisory functions. In the case of the National Social Security Authority (NSSA), these functions are nonetheless differentiated. There are 31 NSSA occupational safety and health (OSH) inspectors with enforcement powers, and they are located in all the NSSA regional centres in Harare, Bulawayo, Gweru, Mutare, Masvingo and Chinhoyi. There are 25 NSSA OSH promotion officers performing advisory functions, who are also located in all the NSSA regional centres. Joint inspection visits are organized between OSH officers, “designated agents” and Ministry of Labour officials. Furthermore, where one inspector comes across apparent violations that require the intervention of competencies of other inspectors, information is shared accordingly, resulting in follow-up inspections. **The Committee requests the Government to specify the criteria used in distributing enforcement and advisory functions between labour inspectors and “designated agents”, and to provide figures showing such distribution.**

*Articles 3(1)(b) and 13. Prevention functions of labour inspection.* The Committee notes that in reply to its comments, the Government indicates that through its OSH division, the NSSA carries out a number of preventive activities, namely: inspection activities where OSH legislation is enforced; OSH promotion and training; provision of technical guidance at workplaces on the establishment of occupational health services; and targeted OSH research in high-risk sectors, etc. Furthermore, an in-house journal on OSH is published about three times a year and distributed to industry. The Government undertakes to supply statistics relating to the number of measures with immediate executory force in due course. The Government indicates that in 2012 the NSSA carried out 4,285 inspections, mainly in factories, and that 652 boiler inspections were conducted, including in the agricultural sector. In addition, 2,120 workplace assessments were carried out in the form of audits, and 774 surveys, 202 seminars and 35 training programmes were conducted in an effort to promote OSH in all industrial sectors. ***The Committee requests the Government to specify the measures with immediate executory force that inspectors are empowered to take or to order if necessary, through the competent authority in the event of imminent danger to the health or safety of the workers, in accordance with Article 13(2)(b) of the Convention, and to provide the ILO with a copy of any relevant legal texts. The Committee also hopes that the Government will not fail to provide figures pertaining to the measures taken during the period covered by its next report.***

*Article 3(2). Role of labour inspectors in labour disputes.* With reference to its previous comments, the Committee notes that, according to the Government, the legislative process necessary for the separation of the roles of labour inspectors and conciliators and arbitrators is still ongoing, and that the principles to govern the labour law reform process are being discussed. ***The Committee would be grateful if the Government would keep the Office informed of progress made in separating the functions of labour inspection from those of conciliation and arbitration.***

*Articles 5(a), 17 and 18. Effective cooperation between the labour inspection system and the justice system, legal proceedings and enforcement of adequate penalties.* In reply to the Committee's comments, the Government indicates that the training seminars provided for labour practitioners under the ILO Technical Assistance Package since 2011 have included labour inspectors, labour court presidents and high court judges. The training includes awareness raising on the way in which labour inspectors can use the existing legal framework to facilitate the prosecution of offenders through the justice system, over and above the usual remedial mechanisms of conciliation and arbitration. The Government mentions that in 2011, there were 51 prosecutions in the area of OSH, 20 of which involved fatalities, while in 2012 there were 48 such prosecutions, 25 of which involved fatalities. The applicable penalties range from level 3 to level 9 and offenders can face penalties of imprisonment ranging from one month to two years pursuant to the Factories Act (Chapter 14:08). It is felt that these penalties are not sufficiently dissuasive and the Government states that the new OSH law is expected to remedy this. Since there are no statistical data on the enforcement of sanctions at the moment, the Government expects that the recently adopted project on labour administration, with its section on labour inspection, will be able to contribute to the collection of such statistics. ***The Committee requests the Government to send detailed information on any other measures taken, in accordance with Articles 17 and 18 of the Convention, to improve the machinery for preventing and punishing breaches of labour law. The Committee further asks the Government to provide information on any measures taken or envisaged to ensure that adequate penalties for violations of the legal provisions on OSH are included in the relevant legislation and enforced, and to provide, when applicable, copies of any new legal provisions adopted in this area.***

*Articles 20 and 21. Preparation of and transmission to the ILO of an annual report on the work of the labour inspection services.* In reply to the Committee's comments, the Government reiterates that it is unable to supply comprehensive statistical information on the activities undertaken, due to the non-existence of a labour market information system. The Committee notes, however, from information available at the office that the Zimbabwe National Statistics Agency (ZIMSTATS) has received ILO technical assistance for the preparation of the 2014 labour force survey, and that the Ministry of Labour likewise receives assistance for the printing of its annual labour market bulletin. The Government furthermore indicates that the currently available registers are compiled at sectoral level by the employment councils, while the NSSA keeps a separate register for purposes of OSH as required by the Factories Act. Consultations are under way with a view to consolidating the separate registers, and progress in this regard will be reported. The Government states that reported occupational accidents and diseases are collated into various economic sectors and published yearly in a statistical booklet by the NSSA. The Government nonetheless indicates that the major challenge in this area is the limited information on occupational diseases due to limited awareness, which is an obstacle to the recognition of such diseases. The Government nonetheless hopes that the new OSH laws will provide guidance and strengthen the national capacity to collect occupational disease data in all economic sectors. The Committee draws the Government's attention to the practical guidelines published by the ILO in 1996, *Recording and notification of occupational accidents and diseases*, to which it referred in its general observation of the same year. ***The Committee would be grateful if the Government would in any event provide in its next report the information available through the registers compiled by the employment councils and the NSSA, on the number, activities and geographical distribution of industrial and commercial workplaces subject to supervision by the labour inspectorate; and the number and categories of workers employed in them (for example, men, women, young persons). Please also provide any other information required by the competent authority to evaluate the labour inspectorate's needs for human and material resources, facilities and means of transport, necessary for determining priorities for action, taking into account the country's economic circumstances. It also reminds the Government that it may, should it so wish, seek technical assistance from the ILO in***

*collecting and compiling data for the preparation, drafting and publication of an annual report on the work of the labour inspection services, in accordance with Articles 20 and 21 of the Convention.*

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

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129)** **(ratification: 1993)**

The Committee refers to its comments under the Labour Inspection Convention, 1947 (No. 81), to the extent that they also relate to the application of this Convention.

*Articles 6(1)(a) and (b), 14 and 21 of the Convention. Number of labour inspectors in agriculture.* In reply to the previous comments of the Committee, the Government states that it does not have disaggregated data making it possible to compare the share of labour inspection activities in the agricultural sector with that of other sectors. According to the Government, the labour inspectors and designated officials of the Employment Council work together by means of joint inspections. In the event of an inspector identifying alleged violations requiring the intervention or skills of other inspectors, the information is shared, giving rise to follow-up inspections.

The Committee notes that, according to the Government, the major challenge to an efficient labour inspection service in the agricultural sector is the limited number of inspectors allocated to this sector, and the designated officials, especially during the seasonal peak periods. The Government nevertheless points out that it will continue its negotiations with the Employment Council concerned, with a view to increasing the number of inspectors it employs. ***The Committee asks the Government to communicate information on any measures taken to increase the number of labour inspectors carrying out functions in agriculture so that agricultural undertakings can be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, in accordance with Article 21 of the Convention.***

*Articles 6(1)(a) and (b), 17, 18 and 19(2). Labour inspection functions in the area of occupational safety and health (OSH).* In its previous comments, the Committee requested the Government to keep the ILO informed of progress made in amending OSH legislation so as to extend its application to agriculture and formally extend the functions of the labour inspectorate in this area. According to the Government, the principles for harmonizing all legislation on OSH were approved by the Council of Ministers in February 2013. Furthermore, the Government organized a workshop designed to establish a consensus on OSH legislation in April 2013, in collaboration with the social partners and with ILO support, which included the presentation of the abovementioned principles, a review of the legislation in force and a discussion on ratified OSH Conventions, with a view to ensuring that the main provisions of these Conventions are incorporated into the new legislation. Work is under way on a preliminary draft which will be submitted to the Attorney-General's Office in September 2013. According to the Government, OSH legislation will apply to all sectors of the economy, which will extend labour inspection functions to the agricultural sector. ***The Committee requests the Government to send a copy of the new Act as soon as it has been adopted. It hopes that the Government will soon be in a position to report on the activities of prevention and enforcement of OSH legislation carried out by the labour inspectors in agriculture, in accordance with Articles 6(1)(a) and (b), 17, 18 and 19(2) of the Convention.***

*Articles 6(1)(a), 22 and 24. Enforcement of legislation on freedom of association rights and wage payments.* In its previous comments, the Committee requested the Government to provide detailed information and data on the activities of the labour inspectorate in agriculture aimed at the enforcement of legislation on freedom of association rights and wage payment, indicating in particular the number of visits carried out, the violations found and the penalties imposed. The Government points out that monitoring the enforcement of legislation on freedom of association rights and wage payment is among the inspection activities of the Employment Council for the agricultural sector. The labour inspectors guarantee the payment of wages by inspecting the payroll and issuing of payslips; they also check the existence of workers' committees, works councils, the presence of trade unions in the enterprise and the existence of collective agreements. Between 1 January and 30 August 2013, the inspectors from the Employment Council for the agricultural sector carried out 853 inspections and recorded 153 incidents that had given rise to complaints. ***The Committee requests the Government to send, for the period covered by its next report, specific and detailed information on the number of inspection visits carried out in agricultural undertakings, the cases that have been investigated following complaints, the number of violations detected (referring to the specific legislation infringed), including with respect to freedom of association and the payment of wages, and on the penalties imposed.***

*Article 15. Transport facilities made available for labour inspection in agriculture.* The Government states that no motor vehicle is specifically assigned to the agricultural sector. However, the number of vehicles available to labour inspectors, such as those of the Employment Council of the agricultural sector, is as follows: one in Chinhoyi, one in Harare, one in Gweru, one in Mutare and one in Bulawayo. The Government is planning to acquire more vehicles in the future. ***The Committee requests the Government to provide information on any improvements in the number and/or characteristics of motor vehicles made available to labour inspectors in agriculture to enable them to travel to enterprises, including those that are difficult to reach.***

***Noting, moreover, the Government's wish to obtain further technical assistance from the ILO to support the labour inspection project under way, the Committee invites it to address a formal request to the Office and communicate in its next report information on any developments in this respect.***

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. 81** (*Albania, Algeria, Azerbaijan, Bahamas, Bangladesh, Barbados, Belarus, Belize, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Central African Republic, Chad, Colombia, Côte d'Ivoire, Croatia, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Finland, France, France: French Polynesia, France: New Caledonia, Grenada, Guinea-Bissau, Japan, Kyrgyzstan, Libya, Niger, Paraguay, Poland, Qatar, Romania, Russian Federation, Rwanda, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Solomon Islands, Spain, Sri Lanka, Suriname, Swaziland, Tajikistan, United Republic of Tanzania: Tanganyika, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom: Guernsey, United Kingdom: Isle of Man, Uruguay, Bolivarian Republic of Venezuela, Viet Nam, Zimbabwe*); **Convention No. 129** (*Albania, Azerbaijan, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Egypt, France, France: French Polynesia, France: New Caledonia, Luxembourg, Poland, Romania, Saint Vincent and the Grenadines, Serbia, Slovakia, Spain, the former Yugoslav Republic of Macedonia, Ukraine, Uruguay, Zimbabwe*); **Convention No. 150** (*Belgium, Cambodia, Democratic Republic of the Congo, Kyrgyzstan, Liberia, Malawi, Russian Federation, San Marino*); **Convention No. 160** (*Hungary, Ireland, Israel, Kyrgyzstan*).

## Employment policy and promotion

### Angola

#### **Employment Service Convention, 1948 (No. 88) (ratification: 1976)**

The Committee notes that the Government's report has not been received. It must therefore repeat its 2012 observation, which read as follows:

*Contribution of the employment service to employment promotion.* The Committee notes the brief report provided by the Government in May 2010 and in 2012. In its 2008 observation, the Committee had noted that, in the context of its policy to combat unemployment and poverty, public policies were established with a view to stimulating employment. Furthermore, employment and vocational training were one of the ten priorities of the Poverty Reduction Strategy, which was to channel the resources obtained from oil to create favourable opportunities for productive employment for young persons and to reduce the informal economy. The Committee observed that the social indicators were a source of great concern – 70 per cent of the population survive on less than US\$2 a day and enrolment in primary schools is increasing very slowly (from 50 per cent in 1990 to 53 per cent in 2000). The Committee therefore emphasized the need to guarantee the essential function of employment services to promote employment in the country. *The Committee once again asks Government to provide a report containing the available information on the number of public employment offices established, the number of applications for employment received, vacancies notified and persons placed in employment by such offices (Part IV of the report form). Please also provide information in the next report on the following matters:*

- *the consultations held with representatives of employers and workers on the organization and operation of the employment service, and on the development of employment policy (Articles 4 and 5 of the Convention);*
- *the manner in which the employment service is organized and the activities which it performs to effectively carry out the functions set out in Article 6;*
- *the activities of the public employment service in relation to socially vulnerable categories of jobseekers, with particular reference to workers with reduced mobility or with disabilities (Article 7);*
- *the results of the measures adopted to give effect to Act No. 1 of 2006 to encourage young persons seeking their first job (Article 8);*
- *the measures proposed by the Training Centre for Trainers (CENFOR) and other institutions to provide training or further training for employment service staff (Article 9(4));*
- *the measures proposed by the employment service in collaboration with the social partners to encourage the full use of employment service facilities (Article 10); and*
- *the measures adopted or envisaged by the employment service to secure cooperation between the public employment service and private employment agencies (Article 11).*

The Committee recalls that the Office is in a position to provide the Government with technical advice and assistance for the establishment of a public employment service, as required by the Convention.

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

### Costa Rica

#### **Employment Policy Convention, 1964 (No. 122) (ratification: 1966)**

*Adoption and implementation of an active employment policy. Participation of the social partners.* Referring to its observation of 2011, the Committee notes the information supplied by the Government in February 2012 and in the reports received in May 2012 and September 2013. It also notes the observations sent in August 2013 by the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP), which were endorsed by the International Organisation of Employers (IOE). The Government confirms that there was no consensus in the National Labour Council on adopting a national employment policy. The UCCAEP reports that discussion of the policy is on the standing agenda of the National Labour Council; furthermore, statistics militating in favour of the policy have been reviewed and the policy has been updated, with a view to launching discussion of the National Employment Plan. In the report on the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), the Government indicates that between 2010 and 2012, the average household income increased and job quality improved. Between 1990 and 2012, the percentage of households living in poverty and extreme poverty fell. Rural poverty declined between 2010 and 2012. The Government refers to the adoption of the National Development Plan 2011–14, which incorporates the Millennium Development Goals. The Committee notes the information contained in the report on this Convention concerning the statistics sources used in compiling and analysing labour market information, the establishment and consolidation of the Labour Market Observatory and the publication of a statistical yearbook. *The Committee requests the Government to supply, in its next report on this Convention, information on progress made in the formulation and application of an active employment policy (Article 1 of the Convention). It invites the Government to include up-to-date statistical information on the size and distribution of the work force, and the nature and extent of unemployment, such information being essential to the implementation of an active employment policy (Article 2). In this connection, the Committee reiterates its request that full account be taken of the experience and views of the persons affected by the employment policy measures, particularly those working in the rural sector and the informal economy (Article 3).*

*Youth employment.* The Committee notes with *interest* the implementation of the *Empléate* strategy to facilitate the entry of persons between 17 and 24 years of age in the labour market. According to the information provided by the Government, *Empléate* has a platform of information, guidance and labour intermediation services for its beneficiaries. In joint activities with the municipalities, 11 “one-stop-shops” and a web page ([www.emplate.cr](http://www.emplate.cr)) have been set up. The strategy, launched in 2011, has delivered positive results: more than 4,000 young people received grants and some 6,000 were involved in the so-called “*Empléate* challenges”. In 2012, in coordination with the Ministry of Foreign Trade (COMEX), and the Costa Rican Development Initiatives Coalition (CINDE), a labour market survey was conducted that included content on the formative careers most in demand. ***The Committee invites the Government to provide in its next report information allowing it to ascertain whether the young persons benefiting from the “Empléate” strategy have found and retained employment. The Committee also invites the Government to provide information on the measures taken to promote youth employment and to continue to report on the discussion and adoption of a national youth employment plan.***

The Committee is raising other points, including the impact on the labour market of the activities of the National Institute for Learning, the status of women’s employment and the manner in which microenterprises, cooperatives and export processing zones have contributed to the creation of productive employment, in a request addressed directly to the Government.

## Czech Republic

### ***Employment Service Convention, 1948 (No. 88) (ratification: 1993)***

The Committee notes the Government’s detailed report received in September 2013, which includes observations made by the Czech-Moravian Confederation of Trade Unions (CM KOS). It notes that changes were made to the organisational structure and management of labour offices which have been merged into a single organisational unit of the state administration, the Labour Office, in order to improve the efficiency in the spheres of employment and state social support and to reduce operating costs of the network of public employment services. The CM KOS indicates that the reform negatively affected the employment services in terms of their scope and quality and, hence, the implementation of certain provisions of the Convention, in particular *Articles 6, 7, 8 and 11 of the Convention*. The CM KOS believes that the reform reduced the quality and availability of employment services, which is evidenced by the fact that the number of people involved in active employment policy programmes fell from 99,682 in 2011 to 54,450 in 2012. The CM KOS also criticizes the establishment of the shared recruitment scheme that essentially allows funding of private employment agencies through the public active labour market policy. It considers this to be an effort to reduce the role of the state and to privatize public services, which may lead to a further weakening of the functionality of public employment services. The Government indicates in its report that it takes note of the CM KOS position and approaches the issue with full respect to the current situation; it will therefore prepare and adopt measures aimed at improving the situation from the point of view of both jobseekers and employers. The Committee notes in this regard that the Government Resolution No. 581 of 31 July 2013 will increase the number of employees of the Labour Office by 319 additional workers, particularly in regions showing the highest unemployment rates. Another increase of 381 employees is planned after 1 January 2014. The Government indicates that changes in internal management have been undertaken with the Labour Office with a view to strengthen the delivery of service at all levels. Active labour market policies will thus be administered with greater efficiency by an increased number of staff in all regions. In its 2011 direct request on the application of the Private Employment Agencies Convention, 1997 (No. 181), the Committee invited the Government to provide information on the formulation, establishment, and periodical review of conditions to promote cooperation between the public employment service and private employment agencies. ***The Committee invites the Government to provide in its next report on the Convention an evaluation of the changes made to the organisation of the public employment service in view of carrying out effectively the functions listed in Article 6 of the Convention. Please also provide information on the impact of the reforms introduced in 2013 with respect to the measures taken concerning the various occupations and industries, as well as particular categories of jobseekers, such as workers with disabilities (Article 7).***

*Articles 4 and 5. Cooperation of the social partners.* The Government indicates that changes made to the organization of labour offices also triggered changes in the network of labour office advisory committees, which are now constituted at regional bureaus of the Labour Office. Sessions of the advisory committees, held approximately three times per year, are devoted mostly to the local implementation of national policies, use of active employment policy measures and their efficiency in practice, information on legislative changes and the situation of the labour market in the relevant region. ***The Committee invites the Government to continue to provide information on the involvement of the social partners in the organization and development of the employment service and in the development of an employment service policy.***

*Article 8. Special arrangements for young persons.* The Government indicates that the Ministry of Labour and Social Affairs, in cooperation with all interested parties, is preparing a conceptual solution to establish a Youth Guarantee in the Czech Republic, in accordance with the recommendation of the European Council. The Labour Office and its bureaus at the district and regional level have their active employment policy measures to support the transition of young

people to the labour market, a group representing one of the key target groups of the employment policy. The Committee notes that the Ministry of Labour and Social Affairs is also preparing new innovative employment policy measures, including: shared jobs, supporting employment with state companies and their contractors, cooperation with private employment agencies, and activation through volunteering. Moreover, the Committee notes the various types of internship programmes available for young people described in the report. The Government indicates that a significant problem for young people in the Czech Republic seems to result not only from their insufficient experience, but also from the inadequate structure of education branches. In order to match the qualifications offered with the labour market demand and to enhance professional mobility, the National Register of Vocational Qualifications (NSK) is being elaborated, linked to the National Occupations System. **The Committee invites the Government to provide in its next report information on the impact of the measures taken to meet the needs of young persons within the framework of the employment and vocational guidance services, allowing them to integrate the labour market.**

## France

### **Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1953)**

The Committee notes that the Government's report has not been received. It must therefore repeat its 2011 observation, which read as follows:

*Part II of the Convention. Progressive abolition of fee-charging employment agencies conducted with a view to profit.* The Committee notes the Government's report received in November 2011. The Government indicates that a meeting was held with the social partners in May 2011 to establish an assessment of the activities of *Pôle Emploi*. The Government reiterates that Act No. 2008-126 of February 2008 opened up the employment placement market to private employment agencies by bringing an end to the legal monopoly of the National Employment Agency (ANPE). The activity of private employment placement, either in a primary or secondary role, is henceforth provided by sections L.312-1 to L.312-8 of the Labour Code. The Government also reiterates that the French legislation was drawn up based on the Private Employment Agencies Convention, 1997 (No. 181). According to the Government, the new legislation provides a similar framework with regard to the conditions governing the performance of private employment placement activities by private employment agencies and workers benefit from the protection provided under Convention No. 181, if not a higher level of protection, in terms of a free placement service, the prevention of discriminatory practices with regard to employment placement and protection of privacy in the processing of personal data. In its previous comments, the Committee drew the Government's attention to the fact that, like other member States which have ratified the Convention, France has accepted *Part II* of the Convention, which obliges it to abolish fee-charging employment agencies conducted with a view to profit. The measures introduced in January 2005 and February 2008 opening up the employment placement market to private employment agencies do not give effect to the obligations contained in *Part II* of the Convention accepted by France at the time of its ratification in 1956. **The Committee therefore hopes that the Government will soon be in a position to adhere to the obligations of Convention No. 181, the ratification of which involves the immediate denunciation of Convention No. 96.**

The Committee notes the information contained in the Government's report received in September 2011 regarding the application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The Government indicates that the social partners have been consulted on the ratification of Convention No. 181. **The Committee therefore invites the Government to provide information on the progress made in relation to the ratification of Convention No. 181.**

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

## Ghana

### **Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1973)**

The Committee notes that the Government's report has not been received. It must therefore repeat its 2010 observation, which read as follows:

*Part II of the Convention. Progressive abolition of fee-charging employment agencies.* The Committee notes the statement contained in a report received in November 2010 indicating that the Government is mindful of the fact that the provisions of the Convention remain in force until the ratification of the Private Employment Agencies Convention, 1997 (No. 181), becomes effective. The Committee further notes that the Government would wish to request ILO technical assistance for the full application of the provisions of the Convention both in law and practice and for the ratification of Convention No. 181. In its previous observations, the Committee drew the Government's attention to the fact that the provisions regarding private employment agencies contained in the Labour Act 2003, and in the Labour Regulations 2007, did not give effect to the obligations set out in the parts of the Convention that have been accepted by Ghana. **The Committee notes that technical assistance by the ILO would be particularly useful in helping the Government to address gaps in law and practice in the implementation of Convention No. 96 and might contribute to facilitate ratifying Convention No. 181. It therefore hopes that the Government will soon be in a position to adhere to the obligations of Convention No. 181, the ratification of which involves the immediate denunciation of Convention No. 96. It invites the Government to report on steps taken in consultation with the social partners, to ratify Convention No. 181.**

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

## Guinea

### **Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1995)**

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

*Articles 2 and 3 of the Convention.* The Committee recalls that the Community-Based National Rehabilitation Programme (PNRBC), initiated by the Ministry for Social Affairs and the Advancement of Women and Children, provides for vocational rehabilitation measures, including the integration of children with disabilities in schools, vocational training and promotion of the employment of persons with disabilities. ***The Committee requests the Government to provide information on the application in practice of the measures adopted in the context of the PNRBC and a copy of the annual report referred to in its previous reports. Please also provide any other document containing statistics, studies or surveys on the matters covered by the Convention (Part V of the report form).***

*Article 4.* The Committee notes that rules are applied to guarantee equality of opportunity and that a bill has been prepared on the protection and advancement of persons with disabilities. ***Please provide information on the content of the acts and to send a copy of the abovementioned text when it has been adopted.***

*Article 7.* The Committee notes the existence of a department responsible for the occupational integration of persons with disabilities in the National Directorate of Technical Education and Vocational Training and that the National Office for Vocational Training and Further Training has established a special section responsible for the training of young persons with disabilities. ***The Committee requests the Government to provide information on the action taken in practice by these services for securing, retaining and advancing persons with disabilities in employment.***

*Article 8.* The Committee notes that vocational rehabilitation and employment of persons with disabilities at their place of origin (rural areas and remote communities) is an essential objective of the PNRBC in collaboration with the Guinea Federation of Disabled Persons (FE.GUI.PAH). Furthermore, some measures have been taken, such as the establishment of branches of the National Orthopaedic Centre in the interior of the country (Mamou and N'Zérékoré) and the granting of tax and duty exemptions for any enterprise of persons with disabilities. ***The Committee requests the Government to continue providing information on the development of services for persons with disabilities in rural areas and remote communities.***

*Article 9.* The Government indicated previously that a National Orthopaedic Centre has existed since 1973 for the rehabilitation and apprenticeship of persons with disabilities of all ages. ***The Committee requests the Government to indicate the number of persons trained and made available to persons with disabilities.***

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

## Ireland

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1967)**

*Employment policy measures implemented under the adjustment measures. Participation of the social partners.* The Committee notes the Government's report received in August 2013 which includes detailed information in reply to the 2012 observation and an update of Ireland's National Reform Programme (NRP). The Government indicates that the unemployment rate was 14 per cent in March 2013 and, while it has fallen from 15 per cent in February 2012 after several years of increases, the rate still remains unacceptably high. It adds that it is of additional concern that long-term unemployment accounted for 60 per cent of total unemployment in the fourth quarter of 2012, and for 46 per cent of the unemployed under the age of 25. The Committee notes that the Government is tackling unemployment and the stabilization of the employment rate through the twin strategies of the Action Plan for Jobs and Pathways to Work. The former is a multi-annual process aiming to have 100,000 more people in work by 2016 and 2 million people in work by 2020 through the introduction of additional employment supporting measures. It includes landmark projects which have been selected because of their potentially significant impact on job creation. The latter, which was launched in February 2012, introduced a new integrated employment and support service involving the transformation of local social welfare offices into a "one-stop-shop" (called INTREO) allowing jobseekers to access their entitlements and get help with planning their return to work. The Government indicates that in 2013 a renewed focus will be given to targeting activation places to the long-term unemployed. It further indicates, in reply to the Committee's previous observation, that the abovementioned twin strategies provide a wide range of specific measures which are complementary to ongoing efforts to address labour market bottlenecks. Moreover, the Committee notes that the social partners were invited to contribute to the preparation of an update on progress of the employment target, which was prepared for the European Commission. The Government also indicates that extensive consultations were held with employers during the preparation of the Action Plan for Jobs and that six industry partners were nominated to partner with government to implement reforms contained in the 2013 Action Plan for Jobs. ***Noting the high level of long-term unemployment, the Committee invites the Government to indicate in its next report the manner in which Article 2 of the Convention is applied, by providing information on the manner in which employment policy measures are decided on and kept under review within the framework of a coordinated economic and social policy. It also invites the Government to provide updated information on the impact of its active labour market measures adopted in order to address long-term unemployment and youth unemployment. Please also continue to provide information on the consultations held with the social partners concerning employment policy measures (Article 3).***

## Japan

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1986)**

*Articles 1 and 2 of the Convention. Implementation of an active employment policy.* The Committee notes the Government's report received in September 2013, which includes detailed employment data, information in reply to its 2012 observation, and observations made by the Japanese Trade Union Confederation (JTUC-RENGO). It also notes the observations made by the National Confederation of Trade Unions (ZENROREN), received on 25 September 2013, and by the Liaison Council of Labor Unions in Public Corporations (TOKUSHUHOJIN-ROREN), received on 24 August 2012 concerning dismissals and legislative changes relating to administrative agencies. The Government provided a reply to the observations of the TOKUSHUHOJIN-ROREN in its report. The Committee notes that the unemployment rates remained stable in 2011 and 2012, at 5.4 per cent for men and 4.6 per cent for women for both years. The rates decreased to 4.3 per cent for men and to 3.8 per cent for women in April 2013. In reply to the Committee's previous comments regarding the workers affected by the postal privatization, the Government indicates that the employment situation of non-regular workers in the Japan Post Group companies, which are privatized, is determined by their business management in accordance with the regulations of labour laws in general, on the same level with other private companies. It adds that it does not have knowledge on the situation of improvement of the working conditions due to the promotion of non-regular workers to regular workers, as working conditions are matters of employment contracts between the individual workers and employers. **The Committee invites the Government to continue to provide information on the employment measures adopted to promote full employment within a framework of a coordinated economic and social policy and on the measures taken to reduce employment precariousness.**

The Government indicates that the number of job openings and new hires nationwide, including in the three disaster-affected prefectures (Fukushima, Iwate and Miyagi) have increased from 2011 to 2012 due to various measures that have been implemented. The Committee notes the employment measures described in the Government's report including the "Japan as One" Work Project. ZENROREN indicates that the number of workers who lost their jobs following the East Japan Great Earthquake of March 2011 amounted to 210,000 in the three prefectures most affected by the disaster. It adds that, of these people, 125,000 have found new jobs but 55 per cent of them (69,000 people) are in precarious employment. **The Committee invites the Government to provide updated information on the employment measures taken in the three disaster-affected prefectures.**

*Article 3. Participation of the social partners in the formulation of employment policies.* The Government indicates that important matters regarding the enactment, amendment and enforcement of laws and regulations relating to employment policy have been formulated following the consensus of workers, employers and government at the Labour Policy Council. The Committee notes the observations of ZENROREN indicating that, following the change of Government at the end of 2012, a total removal of the ban on worker dispatch and easing of the preventive regulations against the replacement of regular workers with dispatched workers are now being discussed. It adds that this policy change was discussed and decided in a governmental council which included many corporate representatives, without the participation of worker representatives. The Committee notes that JTUC-RENGO raised similar concerns in this regard in its observations. The Committee refers to its 2012 observation on the Private Employment Agencies Convention, 1997 (No. 181), in which it referred to the revision of the Worker Dispatch Law and the importance of consulting the social partners on the legislative provisions in question. **The Committee invites the Government to provide in its next report on the Convention detailed information demonstrating the manner in which the experience and views of the social partners have been taken into account in the formulation, implementation and evaluation of employment policy measures.**

The Committee is raising other points, including matters related to non-regular workers and employment measures targeting women, young persons and older workers, in a request addressed directly to the Government.

### **Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1992)**

*Employment promotion for persons with disabilities. Consultation with representative organizations of employers and workers.* The Committee notes the Government's report received in September 2013, which includes information in reply to its 2011 comments. It also notes the observations made by the Japanese Trade Union Confederation (JTUC-RENGO), included in the Government's report, and the observations made by the National Union of Welfare and Childcare Workers (NUWCW) received on 3 December 2012 and on 26 August 2013. The Committee notes that the Government's reply to the 2012 observations of the NUWCW is included in its report. It also notes that the Bill to amend the Act on employment promotion of persons with disabilities was submitted to the Diet in April 2013 and enacted in June 2013. The Government indicates that the Labour Policy Council's Subcommittee on Employment of Persons with Disabilities, which includes representatives of government, employers, workers and representatives of persons with disabilities, discussed the amendment of the legislation. The Government also indicates that the number of employed persons with disabilities has been increasing every year and June 2012 marked the highest, with 382,363 persons with disabilities employed in the private sector. The actual employment rate in private companies is 1.69 per cent which is the highest in history. Nevertheless, the JTUC-RENGO indicates that the rate of persons with disabilities in relation to the

total number of employed persons stipulated in the Act on employment promotion of persons with disabilities is 2 per cent and that companies that meet the statutory requirement are around only half the total number. The JTUC–RENGO calls for further promotion to encourage greater policy enforcement. The NUWCW indicated in December 2012 that it had expected the repeal of the Services and Support for Persons with Disabilities Act (SSPDA) and the adoption of a new law that would reflect the voices of persons with disabilities. It added that despite the strong opposition from many persons with disabilities and relevant stakeholders, the Act on comprehensive support for persons with disabilities was adopted and is based on the conventional SSPDA. The NUWCW indicates that the new law remains significantly far from the philosophy of ILO Conventions and Recommendations and the UN Convention on the Rights of Persons with Disabilities. Moreover, the Committee notes from the observations made by the NUWCW that persons with disabilities and labour organizations have been participating in study groups to deliberate on employment policies for persons with disabilities; however, the NUWCW was not chosen to participate in discussions. ***The Committee invites the Government to provide an evaluation of the employment measures for persons with disabilities in terms of increasing the employment opportunities of these persons in the open labour market. It also invites the Government to include in the evaluation process representatives of organizations of and for persons with disabilities as well as of the social partners. Please also provide examples of how the views and concerns of representatives of the relevant stakeholders are taken into account in the formulation and implementation of the policy on vocational rehabilitation and employment of persons with disabilities.***

### ***Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)***

The Committee recalls that it was entrusted to follow up on the application of the Convention with regard to the questions raised in the representation made under article 24 of the ILO Constitution alleging non-observance by Japan of the Convention. The report of the tripartite committee established to examine the representation was approved by the ILO Governing Body at its 304th Session, in March 2009 (document GB.304/14/6). In reply to the Committee's previous comments, the Government provides in its report received in September 2013 information on the implementation and results of employment measures for persons with disabilities. The Committee notes the observations formulated by the NUWCW on 26 August 2013 and transmitted to the Government on 29 August 2013, which describe unresolved issues raised in the article 24 representation. ***The Committee invites the Government to provide its own observations on the issues raised by the NUWCW. The Committee intends to examine the Government's report, including the observations made by the NUWCW, at its next session in 2014.***

*[The Government is asked to reply in detail to the present comments in 2014.]*

## **Republic of Korea**

### ***Employment Policy Convention, 1964 (No. 122) (ratification: 1992)***

*Articles 1 and 2 of the Convention. Overall labour market trends.* The Committee takes note of the Government's report received in September 2013 which includes detailed information in reply to the 2011 observation. The Committee notes that the unemployment rate experienced a slight decrease of 0.5 percentage points, between 2009 and 2012, from 3.7 to 3.2 per cent. The data provided also reflects a decrease in the unemployment rates for youth and women during that same period, respectively of 0.5 and 0.3 percentage points (from 8 to 7.5 per cent and from 3.3 to 3 per cent). The Government indicates that, the number of newly employed people is continuously increasing, despite the economic slowdown. The Committee notes the observations made by the Federation of Korean Trade Unions (FKTU) submitted with the Government's report, as well as the observations made by the Korean Confederation of Trade Unions (KCTU). The FKTU indicates that the employment rate has been improving but is still below the OECD average and that the gap stands out in the employment of women, youth, and the elderly. Both workers' organizations indicate that, despite the increase in the employment rate, the quality of employment is not improving. The FKTU believes that the Government, when implementing measures for job creation, should focus on increasing not only the employment rate but also the number of quality jobs. The KCTU indicates that the aforementioned increase results from the expansion of industries with higher levels of precarious employment and from the growth of non-waged workers (for example, self-employed persons). The Government recognizes that efforts should be made not only to achieve the set goal of 70 per cent employment rate by 2017, but also to enhance the quality of employment. It adds that the steady increase in the total number of employed people is a result of that of waged workers; rather, the share of non-waged workers has been declining. ***The Committee invites the Government to continue to provide an analysis of the labour market trends, taking into account the concerns of the social partners regarding the effectiveness of the employment policy measures implemented.***

*Job creation measures.* In August 2011, the Government set up a National Employment Strategy aimed at achieving an employment rate of 70 per cent by 2017. The Government also announced four grand national employment strategies, namely, pursuing employment-friendly economic and industrial policies; fostering of dynamic and fair work environment; utilizing marginalized work force and strengthening their vocational skills; and, reorganizing the social safety net to encourage work ethic. The KCTU indicates that, far from alleviating the dual structure of the labour market,

the National Employment Strategy has contributed to its deterioration. ***The Committee invites the Government to continue to supply information on the impact of the measures taken under the National Employment Strategy.***

***Employment generation and deregulation.*** The Committee notes that, while policies to improve labour market regulations were implemented as a part of the 2011 National Employment Strategy, the Government deems it premature to expect their results in terms of impact on the overall job creation. According to the FKTU, the quality of employment is not improving, as the number of non-regular workers is not decreasing. The Government indicates that it is striving to entrench the practice of employing regular workers for permanent and continuous work, to improve the working conditions of non-regular workers, and to ease discrimination against them. Moreover, it reports that a Guideline for In-House Subcontracted Work was established in July 2011 in order to protect employment stability and to enhance the working conditions of in-house subcontracted workers; 295 workplaces hiring many in-house subcontracted workers were targeted for priority control. ***The Committee invites the Government to provide in its next report information on the measures implemented in consultation with the social partners to reduce labour market dualism. Please also include information on the results of these measures, indicating whether they have translated into productive and lasting employment opportunities for non-regular workers.***

***Youth employment.*** The Government indicates that, as a result of the measures implemented during the 2010–11 period, 73,000 decent jobs were created for young people between 2011 and 2012. The Committee notes that a special committee for the improvement of youth employment was created in cooperation with the public and private sectors. In addition, job creation and career guidance measures have been adopted, namely, the “Youth Employment Academy Business” and the “Yes Programme for Youth.” The Government also indicates that efforts are being made to find businesses for the purposes of job placement. Furthermore, job centres for the youth are being established in colleges for the purposes of job placement; 43 colleges received governmental support in 2012. The KCTU indicates that, despite the various measures adopted by the Government in order to tackle the youth employment issue, the numbers are still declining. It attributes those results to the fact that the measures are short-term and performance orientated. The KCTU believes that a long-term intervention to provide decent jobs to young people and to expand companies’ labour demand is necessary, and that active labour market policies based on unemployment assistance and various measures to advance the level of training of young people and to promote their entrance to the labour market should be actively considered. In its reply, the Government indicates that youth employment issues are caused by both cyclical and structural factors in the labour market, changes in the structure of the population of young persons should also be taken into account. The Committee notes that the Government is committed to move towards policies aiming to improve the quality of jobs, to address structural problems in the labour market, and to address the mismatch between labour supply and demand. ***The Committee invites the Government to provide in its next report an evaluation of the various measures implemented to promote the long-term integration of young persons in the labour market, especially with regards to educated young unemployed persons, as well as other categories of young people having difficulties in finding employment. Furthermore, the Committee invites the Government to provide information on the measures taken in order to address the issue of the inclusion of youth who are not in employment, education or training.***

***Employment promotion for women.*** The Government reports that women’s participation rate has experienced a slight increase of 0.4 percentage points, between 2009 and 2012, from 49.4 to 49.9 per cent; whereas, women’s employment rate has increased by 1.2 percentage points, from 34 to 35.2 per cent, during that same period. The FKTU and the KCTU expressed that, while the number of women workers has increased, the quality of their jobs has not improved. The KCTU indicates that, in terms of demand, most of the jobs for women are limited to precarious jobs, and re-entrance in the labour market for those who have interrupted their careers is limited. The ratio of non-regular workers among women is increased, as a result of post career-break jobs; it goes from 47.3, when they are in their twenties, to 61.6 per cent, once they reach their forties. Moreover, the KCTU indicates that, while the ratio of part-timers among women increased from 12.3 to 14.4 per cent between 2006 and 2012, it only increased from 3.9 to 5 per cent among men. The KCTU considers that the most serious problem is the Government’s active promotion of part-time orientated job creation policy to increase the women’s low employment rate. ***The Committee encourages the Government to seek cooperation with employers’ and workers’ organizations in its efforts to increase women’s participation in the labour market and to evaluate the impact of the various measures implemented.***

***Employment promotion of older workers.*** According to the data provided in the Government’s report, the proportion of workers aged 50 and above increased from 24.79 to 34.28 per cent between 2004 and 2012. The Government is implementing measures in order to extend the employment of older workers. The Committee notes that, as a result, the employment rate of middle and old-aged workers (55–64 years of age) increased from 60.4 in 2009 to 63.1 per cent in 2013. ***The Committee invites the Government to continue to provide data allowing it to assess the effectiveness of the various measures implemented to promote productive employment opportunities for older workers.***

***Article 3. Participation of the social partners.*** The Government indicates that, since 2007, the Economic and Social Development of Korea has had various successful discussions and agreements, including, among others, the employment promotion of middle and old-aged workers. In addition, the Government has been promoting a regional partnership consultative group in order to discuss issues, such as job creation and the stabilization of labour since 2008. The Government also indicates that it supports the promotion of labour management councils as a core institution for the

establishment of productive partnerships. Furthermore, the Committee takes note of the information provided, in the report submitted on the application of the Human Resources Development Convention, 1975 (No. 142), with regard to the subscription of a Tripartite Jobs Pact in May 2013. ***The Committee invites the Government to include information, in its next report, on the implementation of the Tripartite Jobs Pact and on any other measures taken with the social partners on the matters covered by the Convention.***

## **Madagascar**

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1966)**

*Articles 1 and 2 of the Convention. Implementation of an active employment policy.* The Committee notes the Government's report received in October 2013, in reply to certain points raised in its previous observation. The Government indicates that the main economic, social and development policies are not effective in terms of their application, particularly because of the crisis that the country is undergoing. Moreover, the national employment policy and its support programme continue to be the reference framework for employment promotion. The Committee also notes the observations made by the General Confederation of Workers' Unions of Madagascar (FISEMA) in a communication transmitted to the Government in September 2013. FISEMA reiterates the observations formulated jointly in August 2012 with the other trade union federations belonging to the International Trade Union Confederation (ITUC). Moreover, FISEMA points out that the adoption of a new national employment policy is an urgent priority in view of the seriousness of the situation of youth unemployment, since one out of two young persons is unemployed and eight out of ten who are in work are underemployed. ***The Committee once again expresses its concern about the effective pursuit of "an active policy designed to promote full, productive and freely chosen employment", "as a major goal" "within the framework of a co-ordinated economic and social policy" (Articles 1 and 2 of the Convention). It hopes that the Government will be in a position to send a report in 2015 containing information that will allow an assessment of how the main components of economic policy, in areas such as monetary, budget, trade or regional development policies, contribute "within the framework of a coordinated economic and social policy" to the pursuit of the employment objectives laid down in the Convention. The Committee hopes that the Government will provide information on the measures taken to create lasting employment, reduce underemployment and combat poverty, specifying the measures taken to promote employment among the most vulnerable categories (women, young people and rural workers).***

*Coordinating education and training policy with employment policy.* The Government indicates that a number of employment projects and programmes have been suspended since the onset of the crisis. The Committee notes that the programmes for capacity building geared to "Education for All" (EPT) in the field of technical and vocational education and training (EFTP) and for the promotion of training and education for young people in rural areas who have dropped out of school (Cap. EPT/EFTP) are being implemented. ***The Committee invites the Government once again to include information in its next report on the action taken to ensure the coordination of education and vocational training policies with employment policies and on the results of the latter, especially regarding the implementation of the Cap. EPT/EFTP. It also requests the Government to give an account of the results achieved, through the implementation of these programmes, in terms of access for young graduates to lasting employment.***

*Collection and use of employment data.* In its previous comment the Committee invited the Government to send the results of the household surveys conducted by the Malagasy National Statistics Institute (INSTAT). The Government indicates that the surveys have been conducted but the results have not yet been published. ***The Committee again invites the Government to send the results of the household surveys conducted by INSTAT, once these have been published. It also invites the Government to give an account in its next report of the progress made in obtaining reliable data, so as to formulate and implement an employment policy within the meaning of the Convention.***

*Article 3. Participation of the social partners in the formulation and implementation of policies.* In its previous comment the Committee noted the observations of four Malagasy trade union federations affiliated to the ITUC (FISEMA, FMM, SEKRIMA and USAM), submitted to the Government in September 2012, in which reference was made to the lack of dialogue before decisions are taken. The four trade union federations expressed their concern about the Government's unilateral conduct and said that dialogue between the Government and the social partners on employment had almost broken down. The Government indicates that, as regards the formulation and implementation of employment programmes and policy measures, it continues to consult the social partners, especially within the National Labour Council. The Government also points out that it has consulted the representatives of the most vulnerable workers of the population, namely the SEKRIMA-FISEMARE-SVS unions, with a view to finding solutions to the case of expatriate workers. ***The Committee once again recalls the importance of giving full effect to Article 3 of the Convention, particularly in a context of massive and persistent underemployment. It therefore invites the Government to supply detailed information on the consultations held with representatives of the social partners on the subjects covered by the Convention. Furthermore, it requests the Government to provide information on the consultations held with the most vulnerable categories of the population, particularly with the representatives of workers in rural areas and in the informal economy.***

***[The Government is asked to reply in detail to the present comments in 2015.]***

## Mauritania

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1971)**

The Committee notes the observations made by the General Confederation of Workers of Mauritania (CGTM) in a communication transmitted to the Government in September 2013 concerning, on the one hand, the absence of a national employment policy, and on the other hand, the lack of consultations with trade unions so that they cooperate fully in the formulation of employment policies. *The Committee requests the Government to provide any comments it may wish to make in response to the observations of the CGTM.*

Moreover, the Committee notes that the Government 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, which read as follows:

*Employment promotion.* The Committee takes note of a new observation from the General Confederation of Workers of Mauritania (CGTM) forwarded to the Government in September 2012. The CGTM once again deplors the absence of a defined national employment policy. At the public service level, recruitment has become episodic and occurs to fill positions due to retirement. At the private sector level, employment and placement offices have ceased to exist. The CGTM again expressed concern with respect to the actions of multinational companies operating in the mining sector. These companies recruit employees without complying with the minimum standards required of professional qualifications. In its 2011 observation, the Committee had already noted the concern of the CGTM for the State to fulfil its obligation to define and promote employment policy in the country, which would be the best means of combating poverty in the current crisis and also of ensuring the best possible distribution of natural resources. In this regard, the CGTM had noted the systematic recourse to multinational companies, which exploit the principal mining, fishing and agricultural resources of the country without adopting genuine policies to promote employment. Furthermore, according to the CGTM, the multinational companies make use of expatriate staff to fill high-level positions. The CGTM considers that it is incorrect to say that there is a lack of skills among the national workforce. The CGTM also indicates that the major sectors which are the sources of employment, such as agriculture and stock breeding, are seriously dysfunctional. The Committee refers once again to its direct request of 2010 concerning the application of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), where it noted that, in response to a crucial problem of unemployment, the Government established the National Youth Employment Promotion Agency (ANAPEJ) and had once again authorized labour inspectorates to open employment offices. The Committee refers to its 2010 General Survey concerning employment instruments, in which it emphasized that one of the fundamental steps contributing towards the achievement of full employment is to build or strive to build institutions that ensure an efficient public employment service and to regulate the operation of private employment agencies (paragraph 786). *The Committee invites the Government to provide, in its next report, information on the measures taken to reinforce the institutions necessary for the achievement of full employment. It hopes that the report will contain precise information on the contribution of existing employment offices in the country towards ensuring the adequate placement of available workers in the labour market. It recalls that assistance is available from the ILO to promote the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.*

*Articles 1 and 2 of the Convention. Coordination of employment policy with poverty reduction.* In its previous comments the Committee noted the “National Employment Strategy and Plan of Action 2008–12”. The Government indicated that the objectives pursued by the National Employment Strategy were geared to those laid down by the Strategic Framework for Poverty Reduction 2006–10 (CSLP 2), namely reducing the unemployment rate to less than 25 per cent and increasing the rate of persons completing technical or vocational training to 55 per cent in 2010. According to the latest estimates, even though the poverty index in 2008 was 42 per cent, compared to 46.7 per cent in 2004, this figure is still far removed from the 25 per cent target fixed for 2015. The National Employment Strategy had enabled the main gaps in employment policy to be identified, namely a very high unemployment rate, a national economy dominated by the informal sector and a mismatch between training and the needs of the national labour market. Issues and structures related to employment would now be grouped together within the Ministry of Employment, Integration and Vocational Training (MEIFP). *The Committee asks the Government to provide detailed information on the results achieved under the National Employment Strategy in terms of the creation of lasting employment and the reduction of underemployment and poverty. In particular, the Committee would be grateful if the Government would supply information on the steps taken to improve the vocational and technical training available for young persons and women, to promote small and micro-enterprises, and to create productive and lasting employment in conditions which are socially satisfactory for workers in the informal economy.*

*Employment promotion and labour-intensive programmes.* In its National Employment Strategy, the Government indicated that its economic choices had concerned industrial and commercial projects and labour-intensive programmes. The labour-intensive approach (HIMO) aimed at integrating persons with few or no skills in working life had been tried out in numerous programmes, such as the stone masonry programme, the urban development programme and the integrated national programme to support small and micro-enterprises. *The Committee invites the Government to provide information on the number of jobs created by the labour-intensive programmes and on their impact on the creation of productive employment.*

*Compilation and use of employment data.* The Committee previously noted that the sixth component of the employment strategy underlined the need to establish a national information system on the employment market and a mechanism for technical and vocational training. This system would cover three main areas: (a) creation and operation of the network of producers and users of employment and training data, with the joint involvement of the Ministry of Employment, the National Office for Statistics, sectoral departments and the private sector; (b) monitoring of employment and the technical and vocational training mechanism; and (c) focusing on studies and analysis to improve the system and share information. *The Committee invites the Government to provide information on the progress made in the compilation of employment data, stating the employment policy measures further adopted thanks to the establishment of a new national employment information system.*

*Article 3. Participation of the social partners in policy formulation and implementation.* The Committee previously noted that, in the context of the National Employment Strategy, two institutional mechanisms would be established, namely an Inter-Ministerial Committee on Employment and a Higher Council for Employment, Training and Labour (CSEFT), chaired by the Ministry of Employment, and that within these two bodies the social partners would be represented. *The Committee invites the Government to supply detailed information on the operation of these two bodies, and also on the participation of the social partners in the implementation of the National Employment Strategy. It also requests the Government to indicate the steps*

*taken or contemplated to involve representatives of persons living in rural areas and those operating in the informal economy in the consultations provided for by the Convention.*

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

## Morocco

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1979)**

*Implementation of an active employment policy. Participation of the social partners.* The Committee takes note of the information sent by the Government in September 2013 in response to the comments made in 2011. The Government indicates that sustained economic growth with improved job content is a top priority. The Committee notes with *interest* that, in 2012, with technical assistance from the ILO, the Ministry of Employment and Vocational Training launched a process to devise the National Employment Strategy (SNE). The first stage of the process includes carrying out a study on the employment situation in Morocco, which will be a reliable and up-to-date source of labour market information to enrich the social partners' discussions. The Government also provides information on the job promotion activities undertaken by the National Agency for the Promotion of Small and Medium-sized Enterprises. It reports on the opening of an extended dialogue to gather the views of all stakeholders, and the establishment of a national advisory committee, which will facilitate a common understanding of the development context and the employment situation. The Committee also notes that in 2011, discussions with the social partners led to the implementation of arrangements to promote decent work and explore measures for youth employment. *The Committee invites the Government to provide in its next report detailed information on progress made in the adoption and application of the National Employment Strategy (Articles 1 and 2 of the Convention). In this connection, it requests the Government to provide examples of how full account has been taken of the experience and views of the social partners, particularly in the rural sector and the informal economy, that are affected by the employment policy measures (Article 3). Please also include relevant extracts of studies conducted to collect and analyse statistical information on the labour market and disseminate recent data on the volume and distribution of the workforce, and on the nature, extent and trends of unemployment and underemployment.*

*Labour market programmes.* The Committee notes the detailed information on the implementation of several programmes: the Idmaj programme for the development of human resources in enterprises and the improvement of human resource management through the recruitment of young graduates (thanks to which 55,399 persons joined the labour market in 2012). At the time of its evaluation, 75 per cent of the beneficiaries had gained access to the labour market (63 per cent under indefinite contracts). The Taehil programme to improve the acquisition of vocational skills, from which 18,313 persons benefited in 2012. A sample of some 1,400 beneficiaries bears witness, in retrospect, to the effectiveness of the employment-oriented training received under the Taehil programme. The Moukawalati programme to promote very small enterprises and encourage self-employment among project initiators. In 2012, 749 small enterprises were established, and they have generated some 2,000 jobs. The Committee also notes the substantial participation of women in the three programmes mentioned. *The Committee invites the Government to provide in its next report detailed information on labour market entry among the beneficiaries of the three programmes, and particularly on sustainable employment among young people and its impact in terms of reducing unemployment. The Committee also invites the Government to continue to provide information allowing an assessment of the extent to which the initiatives undertaken have ensured freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his or her skills and endowments in, a job for which he/she is well suited, in accordance with Article 1(2)(c) of the Convention.*

## Netherlands

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1967)**

*Articles 1 and 2 of the Convention. Implementation of an active employment policy.* The Committee notes the Government's report received in August 2013 containing information in connection with its previous comments and notes the observations made by the Netherlands Trade Union Confederation (FNV). The Government indicates that even though the Dutch economy is in recession for the third time since the outbreak of the financial and economic crisis in 2008, mainly as a result of low spending, the Netherlands remains a prosperous country with solid foundations. In 2012, a simultaneous decline in demand for labour and growth of the labour force resulted in a rise in unemployment to 5.3 per cent. The Government indicates that weak economic growth will slow demand for labour in the private sector in 2013. In addition, as a result of shrinking production, unemployment is expected to rise to 6.25 per cent in 2013. The Government stresses that even though it will be the highest unemployment rate since 1996, in European terms it remains relatively low. The Committee notes that in April 2013 the Government entered into a new Social Agreement with representatives of employers and workers in which they all agreed on the way and the pace in which important labour market reforms are to be implemented. Important measures include the reform of the unemployment benefit insurance, on the employment protection legislation, on security of flexi-workers and the implementation of the Participation Act wherein employers commit themselves to the creation of jobs for workers with disabilities. Moreover, the Government aims to simplify and introduce savings to child-related schemes. While the FNV has no objection to the simplification of these schemes, it

highlights the negative impact of austerity measures on single parent households. Furthermore, the Committee notes that, in response to its previous observation, the Government indicates that in the long term and with regard to the country's competitive position it would be in the Government's interest that wages are in line with productivity. ***The Committee invites the Government to continue providing information on the measures taken on employment generation and, in particular, to indicate how such measures are decided and kept under periodical review within the framework of a coordinated economic and social policy. The Committee also invites the Government to continue to report on the implementation of the Social Agreement and on other consultations held with the social partners involved in the formulation and implementation of active employment policies (Article 3).***

***Older workers.*** The Government indicates that it has implemented various measures to stimulate the labour market position of older people, including reforming the General Old-Age Pensions Act, supplementary pensions and limiting early retirement. The Committee notes that the employment rate of older workers has increased from 53.7 per cent in 2010 to 58.6 per cent in 2012 and that the average effective pension age has also gone up from 61 in 2006 to 63.6 in 2013. At the same time, unemployment among workers in the age group of 45–65 has increased. Employment mobility of this group is relatively low, which is partly caused by the strong employment protection that older workers may benefit from. The Government indicates that the fact that the severance pay in case of dismissal is higher for older workers than for younger workers forms an important part thereof. The Committee notes that lowering the severance pay is part of the reform on employment protection of the abovementioned Social Agreement. In the FNV's view, the extra protection of older workers against dismissal is very necessary as opportunities for them to find new employment are very limited. The FNV stresses that the reduction of severance pay would have to be accompanied by means and measures to strengthen the position of older workers on the labour market. The FNV adds that personal coaching is essential for helping them find their way back to the labour market. ***The Committee invites the Government to continue to provide detailed information on the situation, level and trends of employment for older workers, and to indicate the effectiveness of the measures implemented to stimulate the labour market position and increase employment opportunities for these workers.***

***Youth employment.*** Despite its efforts to stimulate youth employment, the Government reports that unemployment figures for people below the age of 25 have increased from 4.6 per cent in 2011 to 9.5 per cent in 2012, primarily due to the economic crisis. The Government is investing in improvement of the transition from education to the labour market and in cooperation with regional employers. The Committee also notes that structural funding of €150 million has been made available for measures adopted in 2012 to reinforce efforts to reduce the drop-out rate at the secondary vocational education level. ***The Committee invites the Government to report on the effectiveness of the labour market measures implemented to meet the employment needs of young persons.***

***Ethnic minorities.*** The Government indicates that it pays attention to the labour position of migrants who face the negative effects of the crisis and that it is expected that migrant youth will benefit from the extra focus that it puts on education and employment of youngsters in general. ***The Committee invites the Government to provide in its next report more specific information on the employment situation of ethnic minorities as well as on the measures taken to improve their participation in the labour market.***

### ***Private Employment Agencies Convention, 1997 (No. 181) (ratification: 1999)***

The Committee notes the Government's report received in August 2013 which includes information in reply to its 2011 observation and to the concerns raised by the Netherlands Trade Union Confederation (FNV) in 2010. It also notes the most recent observations made by the FNV in August and September 2013. The Committee notes that a concern to the FNV is the rise of the so-called "contracting companies" that provide workers to a third party (user enterprise), but do not fall within the scope of the Collective Labour Agreement for Temporary Agency Workers. The FNV indicates that work is being done on the basis of a fixed price and supervision take place by the contracting company, and not by the hiring company (user enterprise). Still, the workers are employed by the contracting company and are sent to user companies to work. The Committee notes that another concern to the FNV is the so-called "payrolling", a situation in which an employee is hired by a company but is given an employment contract with the payrolling company that pays the wages. Furthermore, the Committee noted in its 2011 observation the remarks made by the FNV indicating that the Placement of Personnel by Intermediaries Act (WAADI) prohibits a company confronted with a strike from hiring workers from a temporary employment agency. The FNV added, however, that the Act does not prohibit a company affected by a strike in a contracted company from making its own personnel perform the duties of the striking workers, and the FNV was of the opinion that the Act should be revised. In its 2013 observations, the FNV indicates that companies affected by a strike do not only make their own personnel perform the duties of the striking workers but also hire personnel employed to a third party, not part of the affected company and not a temporary employment agency according to the WAADI. The FNV adds that the WAADI does not cover this situation and that there is no supervision by public organizations. ***The Committee invites the Government to provide in its next report information with regards to the concerns raised by the FNV.***

***Supervision of the operation of private employment agencies.*** The Government indicates in its report that the estimated number of temporary agency workers is about 200,000 daily, and that public and private laws are applicable to all temporary agency workers. Enforcement of legislation is in the hands of public and private organizations: the Labour Inspectorate is responsible for the enforcement of public laws and the Labour Standards Foundation, a private enterprise, is responsible for the control of the certification system. Enforcement by the private sector is executed by the Foundation for monitoring compliance with the Collective Labour Agreement for Temporary Agency Workers (SNCU). The

Government adds that public and private organizations are working together in the monitoring of the so-called system of self-regulation. Moreover, the Government indicates that in 2012 a special project was launched with the aim of reducing the number of fraudulent and illegal temporary employment agencies and to eliminate human trafficking. Tax authorities, the SNCU, the Labour Standards Foundation, the Chamber of Commerce, the Ministry of Economic Affairs and the Ministry of Social Affairs and Employment are working together in this project. The FNV reiterates its concerns about the system of self-regulation, stating that it does not eliminate fraudulent and illegal temporary work agencies. It adds that it supports the monitoring efforts of private organizations but maintains that the Government has its own responsibility in implementing and fulfilling the obligations of the Convention. ***The Committee invites once again the Government to report on the application of Article 14 of the Convention to all temporary work agencies and to provide extracts from reports of the inspection services, as well as information on the measures taken to eliminate fraudulent and illegal temporary work agencies (Part V of the report form). It also requests the Government to indicate how it ensures that the system of self-regulation of temporary work agencies is monitored and supervised by the labour inspectorate or other competent public authorities (Article 14(2)).***

*Article 6 of the Convention. Protection of personal data.* The Government indicates that temporary work agencies do not have full access to the data files of the registered unemployed persons at the public employment service (UWV). Unemployed persons must give their consent before personal data can be viewed by the temporary work agencies. The FNV indicates that the Government is not clear about the measures taken to protect personal data. ***The Committee invites the Government to provide in its next report further information on the manner in which workers' personal data is protected.***

*Articles 11 and 12. Protections for workers and responsibilities of private employment agencies and user enterprises.* The Government indicates that temporary agency workers have a right to vocational training according to collective agreements, such as the Collective Labour Agreement for Temporary Agency Workers. Moreover, the Government indicates that if a temporary agency is certified, the user enterprise is relieved from liability for the continued payment of wages. In the event of bankruptcy, the temporary worker may apply to the UWV who will continue to make the payment of wages for several months. ***The Committee invites the Government to continue to provide information on the practical application of Articles 11 and 12 of the Convention.***

*Article 13. Cooperation between the public authorities and private employment agencies.* The Government indicates that the UWV and the municipalities work together on labour market policies in the 35 labour market regions. It adds that, in order to develop these policies, the UWV works with private employment agencies. ***The Committee invites the Government to report on the manner in which efficient cooperation between the public employment service and private employment agencies is promoted and reviewed periodically. Please also provide information on the measures taken to ensure that the competent authority receives relevant information on the activities of the private employment agencies.***

## New Zealand

### ***Employment Policy Convention, 1964 (No. 122) (ratification: 1965)***

The Committee notes the Government's report received in October 2013 containing detailed information in connection with its 2010 observation, and highlights the observations from the Business New Zealand and the New Zealand Council of Trade Unions (NZCTU). The Committee notes that in March 2012 the Government introduced the Business Growth Agenda, an ambitious programme of work that aims to support New Zealand businesses to grow, in order to create jobs and improve New Zealanders' standard of living. In particular, the "Building Skilled and Safe Workplaces" work stream of the Business Growth Agenda aims to raise skills and qualifications, reduce long-term unemployment and improve workplace health and safety. In its submission, the NZCTU points out that while the "Building Skilled and Safe Workplaces" contains some laudable advances in workplace health and safety, it also includes significant changes in employment law which further reduce employment protection. ***The Committee reiterates its appreciation for the comprehensive assessment provided with regard to the application of the Convention.***

*Articles 1 and 2 of the Convention. Employment trends and active labour market measures.* The Committee notes that while the unemployment rate increased from 6 per cent in March 2010 to 6.2 per cent in March 2013, it had fallen from 6.8 per cent in the December 2012 quarter. The Committee observes that youth (those aged 15–24 years) continue to be the most affected group during labour market downturns. The Government makes reference to four time-limited employment schemes agreed at a Summit on Employment hosted by the New Zealand Prime Minister in February 2009 in response to the recession. The Government indicates in its report that, overall, these schemes combined with other initiatives to a certain degree alleviated the impact of the recession. For example, the Job Support Scheme is estimated to have saved 699 jobs, and more than 19,000 young people participated in a Youth Opportunities programme. The NZCTU is concerned that the Government has not done enough in terms of policy setting to promote and sustain employment and should do more in terms of active labour market policies. Furthermore, in the NZCTU's view, employment issues are not being adequately considered in the negotiation of free trade agreements. ***The Committee invites the Government to include in its next report information on the results of measures implemented under the Business Growth Agenda and on other active labour market measures undertaken under the current employment situation.***

*Education and training policies.* The Government's report contains information on the results achieved by vocational education and training programmes implemented under the Tertiary Education Strategy 2010–15, as well as other training programmes that aim to help under-represented groups achieve equality in employment and vocational training. The Committee notes that Industry Training Organizations that participate in these programmes are required to pay particular attention to the needs of the Maori, the Pacific peoples of New Zealand, persons with disabilities and women. In this context, the Committee observes that during 2012 under the Apprenticeship scheme, a total of 14,864 apprentices, 2,055 (13 per cent) were Maori, and 354 (2.4 per cent) were Pacific peoples. ***The Committee invites the Government to include in its next report further information on the results achieved by the Tertiary Education Strategy and other measures implemented to coordinate education and training policies with prospective employment opportunities.***

*Workplace productivity and entrepreneurship.* The Committee takes note that the Productivity Commission is currently examining productivity in the services sector. It also notes that four measures have been taken to create employment through the promotion of small and medium enterprises. The first measure, implemented in April 2011, concerns the extension of the policy regarding 90-day trial periods for new workers to all employers, not just those with fewer than 20 employees. The latest figures show that just over one quarter of employers who had used the 90-day trial (27 per cent) had dismissed an employee who was on a trial period. The NZCTU observes that the 90-day trial period is not achieving its objectives and points out that trial periods are more likely to be used on lower wages and those who enter individual employment agreements, as opposed to collective agreements. Business New Zealand makes reference to preliminary analysis of the New Zealand Institute of Economic Research that suggests that this extension is likely to have a positive impact on employment. The second measure, implemented in May 2013, identifies groups of young people that are eligible for the starting out wage. The NZCTU does not believe this to be an effective policy to address the issue of youth employment since there is no evidence that this policy will effectively provide job creation for youths. The third measure comprises a reduction in the corporate tax rate from 30 to 28 per cent on the New Zealand dollar. The Government explains that this was intended to allow businesses more funds to invest and create jobs. The fourth measure entails changes to the Employment Relations Act. The Employment Relations Amendment Bill 2013 includes proposals relating to vulnerable workers, collective bargaining, good faith and flexible employment arrangements as well as other changes. ***The Committee invites the Government to include in its next report information on the results obtained in increasing workplace productivity in terms of employment generation. The Government is also invited to continue to provide information on the measures taken to create employment through the promotion of small and medium enterprises.***

## Nigeria

### ***Employment Service Convention, 1948 (No. 88) (ratification: 1961)***

*Contribution of the employment service to employment promotion.* The Committee notes the Government's report received in November 2012 which includes brief replies to the previous comments. The Government indicates that services rendered by the Employment Exchanges and the Professional and Executive Registries are free of charge. It further reports that there are 42 employment exchange offices and 17 Professional and Executive Registries spread over 36 states and the Federal Capital Territory. In 2011, a total of 5,896 applicants were registered with the Employment Exchanges, the Professional and Executive Registries, the National Labour Electronic Exchange (NELEX), and the National Directorate of Employment Job Centres. Of these, 329 applicants were placed in employment out of 383 vacancies notified. According to the Government's report, sections 23–25 of the Labour Act regulate the activities of private employment agencies. The Government also refers to its National Employment Policy which is a product of tripartite consultation. The Committee recalls that the public employment service is one of the necessary institutions for the achievement of full employment. In conjunction with the Employment Policy Convention, 1964 (No. 122), and the Private Employment Agencies Convention, 1997 (No. 181), the Convention forms a necessary building block for employment growth (General Survey concerning employment instruments, 2010, paragraphs 785–790). ***The Committee invites the Government to include, in its next report, additional information on the impact of the measures taken to ensure that sufficient employment offices are established to meet the specific needs of employers and jobseekers in each of the geographical areas of the country. The Committee also invites the Government to include information on the National Employment Policy and other measures taken to build institutions for the realization of full employment and encourages the social partners to consider the possibility of ratifying Convention No. 122, a significant instrument from the viewpoint of governance. The Government is asked to continue to include statistical information published in annual or periodical reports on the number of Employment Exchanges and Professional and Executive Registries established, applications for employment received, vacancies notified and persons placed in employment by such offices (Part IV of the report form).***

*Articles 4 and 5. Consultations with the social partners.* ***The Committee invites the Government to provide further details of the consultations held in the National Labour Advisory Board on the organization and operation of the Employment Exchanges and the Professional and Executive Registries and the development of employment service policy.***

*Article 6. Organization of the employment service.* The Government indicates that jobseekers and private employment agencies make use of the instruments and tools available at NELEX for job advertisements and placements. ***The Committee invites the Government to further describe the manner in which the Employment Exchanges and the Professional and Executive Registries are organized and the activities which they perform in order to carry out effectively the functions listed in the Convention.***

*Article 7. Activities of the employment service.* The Government indicates that the Employment Exchanges and the Professional and Executive Registries are open to all applicants of all occupations and industries. It further reports that the public employment service is influenced by the policy on persons with disabilities. For example, in the Presidential Budget Address of 1986, it was mentioned that every employer was expected to employ a minimum of two persons with disabilities for every hundred employees. Furthermore, in the Guidelines for Appointment, Promotion and Discipline of the Federal Civil Servants, there is a Presidential Order which grants persons with disabilities special concessions with respect to job appointments in the public service. ***The Committee invites the Government to provide information on the results of the measures taken by the employment service concerning the various occupations and industries, as well as particular categories of jobseekers, such as workers with disabilities.***

*Article 8. Measures to assist young persons.* In addition to the measures implemented by NELEX, the Employment Exchanges and the Professional and Executive Registries, the Government indicates that it has established the National Directorate of Employment (NDE) and the National Poverty Eradication Programme (NAPEP) to assist young persons in finding suitable jobs. ***The Committee invites the Government to provide in its next report further information on the measures adopted by the employment service to assist young persons in finding suitable employment.***

*Article 10. Measures to encourage full use of employment service facilities.* The Government indicates that a workshop on NELEX was organized in 2009 with the social partners and it resulted in an endorsement as an employment service facility. ***The Committee invites the Government to continue to provide information on the measures proposed by the employment service, with the cooperation of the social partners, to encourage the full use of employment service facilities.***

*Article 11. Cooperation between public and private employment agencies.* The Government indicates that training of key officials of private employment agencies has been organized in 2007 and 2010. ***The Committee invites the Government to indicate in its next report the specific measures taken to ensure effective cooperation between the public employment service and private employment agencies.***

## Pakistan

### **Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1952)**

*Progressive abolition of fee-charging employment agencies conducted with a view to profit.* The Committee has noted for many years in relation to the abolition of fee-charging employment agencies, as required by Part II of the Convention, the Government's indication that draft rules have been framed to regulate the operation of fee-charging employment agencies. The Committee notes that the Fee-Charging Employment Agencies (Regulation) Act, 1976, came into force on 1 January 2003, as stated in the Government's report received in October 2012. The Government also indicates that licences for overseas employment promoters are renewed on a yearly basis and that their conduct is strictly supervised (*Article 5(2)(b) and (d) of the Convention*). The Committee recalls the observations made by the Pakistan Workers' Federation (PWF) indicating that recruiting agencies have been exploiting prospective migrant workers. The Government states that the situation with respect to fee-charging agencies is not as grave as portrayed by the PWF. It also refers to Emigration Rule 15 and 15(A) which allows overseas employment operators to charge certain fees, including actual expenses incurred on air travel, medical expenses, work permit levies, visa fees and other documentation (*Article 5(2)(c)*). The Government further reports that the competent authorities are being requested to conduct a survey and report on the number of fee-charging agencies that have been abolished, penalized or found working in their respective areas of jurisdiction. ***The Committee invites the Government to provide in its next report detailed information on the following issues already raised in its previous comments:***

- ***the measures taken to progressively abolish fee-charging employment agencies (Part II of the Convention);***
- ***the numbers of public employment offices and the geographical areas they serve (Article 3(1) and (2)); and***
- ***the consultations of employers' and workers' organizations on the supervision of all fee-charging employment agencies (Article 4(1)(a), (2) and (3)).***

*Revision of Convention No. 96. Possibility of ratifying Convention No. 181.* The Government indicates in its report received in October 2012 that consultation with the employers' and workers' organizations will be held on the basis of the results of the abovementioned survey on fee-charging employment agencies and that the social partners will consider whether there is a need to ratify the Private Employment Agencies Convention, 1997 (No. 181). In its previous comments on the application of the Convention, the Committee highlighted the role that Convention No. 181, and the Private Employment Agencies Recommendation, 1997 (No. 188), play in the licensing and supervision of placement

services for migrant workers and the role that Convention No. 181 attributes to private employment agencies for the functioning of the labour market (see General Survey concerning employment instruments, 2010, paragraph 730). The Committee recalls the importance for member States to build or strive to build institutions necessary to ensure the realization of full employment (see General Survey, 2010, paragraph 786). ***The Committee hopes that the Government and the social partners will contemplate adhering to the obligations of Convention No. 181, the ratification of which involves the immediate denunciation of the Convention. It invites the Government to continue to report on steps taken, in consultation with the social partners, to ratify Convention No. 181.***

### **Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1994)**

*Promotion of employment opportunities for persons with disabilities.* The Committee notes the report submitted by the Government in December 2012, including replies to the points raised in previous comments and information collected by the National Council for Rehabilitation of Disabled Persons (NCRDP). The Committee recalls the remarks made by the Pakistan Workers' Federation (PWF) in 2010 indicating that the vocational education and training facilities provided by the State to the rehabilitation of workers with disabilities are insufficient. The PWF also suggested that the Government should increase the quotas for the employment of persons with disabilities in the public and private sectors so that they can be rehabilitated and obtain gainful employment after receiving vocational education and training. The Government indicates that it is focusing its efforts on education and training of persons with disabilities within its available resources. A 2 per cent quota is fixed for the employment of persons with disabilities in all state-related employment. It further reports that provincial labour departments are responsible to ensure a 2 per cent quota in commercial and industrial establishments. A separate department for special education is working in all the provinces which are responsible for the provision of education to children with disabilities in various educational institutions. Information collected by the NCRDP provides that the number of persons with disabilities employed in relation to the 2 per cent quota in the province of Punjab was 1,507 in 2010 and 1,726 in 2011. The Government indicates that relevant data is also being collected at the federal level and that, once the information is compiled, it will be forwarded to the ILO. ***The Committee invites the Government to provide in its next report further information on the measures taken in the context of its policy on vocational rehabilitation and employment of persons with disabilities at the federal and provincial levels (Articles 3 and 7 of the Convention). It also invites the Government to continue to include relevant information supported by statistics, disaggregated by gender, on the implementation of the Convention at the federal and provincial levels (Part V of the report form). Please also supply further information on the activities of the NCRDP.***

## **Panama**

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1970)**

*Articles 1 and 2 of the Convention. Coordination of employment policy with social and economic policy objectives.* The Committee notes the Government's report received in December 2012 containing detailed information in connection with its earlier comments. The Government describes the impact that the National Strategic Plan 2010–14 is having on the country, whose economy grew steadily between 2010 and the first half of 2012. The Committee draws attention also to a dramatic increase in investment. The Government believes that this growth was largely attributable to broad bank financing and fiscal discipline and to the infrastructural megaprojects currently under way, such as the extension of the Canal and the construction of Linea 1 of Panama's metro system. The Government adds that, reflecting the high economic growth rate, employment increased significantly by 82,416 additional jobs in the two years 2010 and 2011. According to the 2011 household survey, the participation rate rose from the previous year to 61.8 per cent, with a participation rate of 45.6 per cent for women and 79.2 per cent for men. Unemployment, which dropped from 6.5 per cent in 2010 to 4.5 per cent in 2011, stood at 4.6 per cent in March 2012. The Committee takes note with *interest* that open unemployment fell from 4.7 per cent in 2010, to 2.9 per cent in 2011, close to full employment. According to a multi-purpose survey conducted in March 2012, some 1,553,187 people were employed in the first quarter of that year. The Government considers the country's labour market prospects to be conducive to a further decline in unemployment in 2012 and 2013 due to new foreign and domestic investment and to the public and private projects that are to be undertaken in Panama over the next few years. ***The Committee invites the Government to continue to provide in its next report details of the policies and measures adopted in order to achieve the Convention's objectives. The Committee also requests the Government in its next report to continue including statistical data on the situation, level and trend of employment, unemployment and underemployment.***

*Article 3. Participation of the social partners.* The Committee takes note of the decision to reactivate the Tripartite National Committee on Decent Work in Panama. The Government also notes that, with the support of the ILO Office for Central America, Haiti, Panama and Dominican Republic in the first half of 2012, the Ministry of Labour (MITRADEL) held a meeting with the social partners to agree on a draft decent work programme for 2012–15 and that the tripartite Memorandum of Understanding on the implementation of the programme is awaiting signature. ***The Committee requests the Government in its next report to include elements that might allow it to evaluate the activities of the Tripartite National Committee on Decent Work and the participation of the social partners in the formulation and implementation of employment policies.***

The Committee is raising other points, including the impact on the labour market of the infrastructure projects and free trade treaties, the steps taken to promote youth employment and facilitate the insertion in the labour market of vulnerable categories of workers and the coordination of Panama's training policies with its employment policies, in a request addressed directly to the Government.

## Paraguay

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1969)**

*Implementation of an active employment policy. Participation of the social partners.* The Committee takes note of the Government's detailed report and of the replies it received in September 2012 to the 2011 direct request. With its report, the Government attached an executive summary of the national employment plan that the Ministry of Justice and Labour had submitted to the Technical Planning Secretariat of the Office of the President of the Republic for analysis and approval. Data in the report shows that around 60 per cent of the population of working age made up the economically active population (EAP) and that there was a considerable difference between the rate of activity for men (72.8 per cent) and for women (48.9 per cent). From 2010 to 2011, the EAP increased by 121,203 workers. Unemployment in 2011 stood at 5.6 per cent, compared to 5.7 per cent in 2010 and 6.4 per cent in 2009. Women suffered more from unemployment than men and children between the ages of ten and 14 years tended to enter the labour market early. These children accounted for 12.4 per cent of the economic activity in the country and included some very young children, there being a notable difference between boys (almost 17 per cent) and girls (7.8 per cent). Some 22 per cent of the manpower employed in 2011 suffered from underemployment, most of them being salaried workers engaged for fewer than 30 hours a week and earning less than the legal minimum wage in force. Almost five out of every ten people employed earned an income by selling their goods and services. Most of the workers were engaged in small businesses. Domestic employment accounted for 6.6 per cent of the employed population. The Government indicates that the decline of the employment rate since 2010 could be attributable to the gradual formalization of the labour market. The Committee understands that, in addition to the extent of informal and precarious employment, the main trend that needs to be reversed to improve the labour market situation is that of the number of people employed in the services sector. ***The Committee again requests the Government in its next report to indicate whether a national employment policy has been adopted and how the experience and views of the social partners were taken into account in the formulation and implementation of the employment policy measures (Articles 1 and 3 of the Convention). The Committee also invites the Government to include information on the progress made in improving the quality of job placement and vocational guidance services and in extending the network of employment offices to the whole country. The Committee invites the Government to include up-to-date data on the situation, level and trend of employment, unemployment and underemployment in both the urban and the rural areas of the country. Please also include specific information on the employment measures taken to address the issue of entry into the labour market of very young children.***

*Coordination of employment policy with economic and social policy.* In response to an earlier request on the results of the Economic and Social Strategic Plan (PEES) 2008–13, the Government states that it has established bases for designing its employment policies, plans and projects. The establishment has also been proposed of a General Directorate of Employment to facilitate the adoption of the state policy on the employment of young people, the Ñamba'apo Paraguay temporary employment programme and the programme for young entrepreneurs. The Committee takes note of the Government's intention for the future is to maintain progress in strengthening the institutions that already exist and create a Ministry of Labour, Employment and Social Security. ***The Committee invites the Government to include in its next report information that would allow it to examine the manner in which the Government has succeeded in extending and enhancing the scope of the plans and programmes that have been drawn up and whether it has duly taken into account the objectives of full and productive employment called for in the Convention.***

*Youth employment.* Following on from its earlier comments, the Government provides information on the initiatives taken by the National Round Table for the Generation of Youth Employment under whose auspices the national youth employment policy and plan were adopted. The Committee notes that Presidential Decree No. 8620 of 19 March 2012 approved the youth employment policy and authorized the implementation of the National Youth Employment Plan 2011–20, whose objective is to adopt measures to enable young people to build themselves a future in decent work. The Committee takes note of the observations of the National Confederation of Workers (CNT) and the Central Confederation of Workers–Authentic (CUT–A), which were transmitted to the Government in May 2013, voicing the trade unions' concern with the bill's contents. The Committee also notes that the Youth Employment Act No. 4951 was adopted on 20 June 2013. ***The Committee invites the Government to include in its next report information on the projects' impact on the long-term insertion in the labour market of the young people who took part in them. Specifically, the Committee would like to examine up-to-date information on the impact that the Programme for Young Entrepreneurs and the Ventanilla Única have had in enabling young people to find decent and productive work. The Committee also invites the Government to include in its next report information on the application of the Youth Employment Act in practice and on the extent to which the new contractual arrangements have contributed to creating productive employment for their beneficiaries.***

*Promotion of small and medium-sized enterprises and promotion of employment.* The Committee notes the observations of the CNT and CUT–A expressing their concerns about Act No. 4457, promulgated on 16 May 2012, which established a set of regulations to promote the creation, development and competitiveness of micro-, small and medium-sized enterprises and to integrate them into the formal goods and services production structure. According to the two confederations, Act No. 4457 leaves around 60 per cent of the employed population without any kind of protection in their jobs and in some instances allows the guarantees conferred by the general labour legislation not to be applied. In its examination of the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189), the Committee has expressed that any measure to promote full employment and the creation of productive and sustainable jobs, notably in small and medium-sized enterprises, should be adopted only after consultation with the social partners, in circumstances that are socially acceptable to all the interested parties and in full compliance with ratified international instruments. The Committee has also referred to the conclusions concerning the promotion of sustainable enterprises adopted in June 1997 in which the Conference urged all enterprises, irrespective of size, to apply workplace practices based on full respect for fundamental principles and rights at work and international labour standards (General Survey concerning employment instruments, 2010, paragraphs 398–399). ***The Committee requests the Government in its next report to include detailed information on the impact that Act No. 4457 has had on the creation of productive and sustainable jobs. The Committee invites the Government to indicate how the legislation in force ensures adequate labour protection for workers in micro-, small and medium-sized enterprises and permits the gradual integration of informal economy workers into the formal labour market.***

*Coordination of training policy with employment opportunities.* The Government reiterates that it is pursuing its efforts to facilitate social dialogue and coordination of the institutions responsible for formal education and for vocational training. The Committee takes note of the proposal to create a General Training and Employment Council and that a proposed legislation to regulate technical and vocational education is being examined. In its previous comments the Committee took note of the Government's intention to combine the National Vocational Promotion Service (SNPP) with the National Vocational Training System (SINAFOCAL) so as to avoid duplication and ensure coordination with the Ministry of Education and Culture. ***The Committee once again invites the Government in its report to include up-to-date information on the coordination of education and vocational training policies with employment policies, and especially on how the supply of training is coordinated with the demand for knowledge and skills and the needs of the labour market.***

## Peru

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1967)**

*Formulation of an active employment policy. Participation of the social partners.* With regard to the adoption of a national employment plan, referred to in previous comments, the Government indicates in the report for the period ending August 2012 that, in June 2011, through Supreme Decree No. 052-2011-PCM new orientations were approved for the national employment policy intended to promote the creation of decent employment with the characteristics and needs being differentiated of men and women, and particularly of vulnerable categories of the population. The Committee notes with ***interest*** that Supreme Decree No. 052-2011 refers to *Article 1(1) of the Convention* and to the Millennium Development Goals, in accordance with the provisions of the Political Constitution and the State Policy of the National Agreement on “Access to full, decent and productive employment”. The Government indicates that the national employment policies were submitted for review and analysis to the Plenary of the National Council for Labour and Employment Promotion (CNTPE) and received tripartite approval and consensus. The Government adds that, when formulating the national employment policies, it requested comments and suggestions from the various organizations of workers and employers concerning the proposal and that the contributions of the social partners were included in the final version. Three information sessions were held in the Technical Commission on Employment of the CNTPE. The Autonomous Workers' Confederation of Peru (CATP) considers that the Government's positions were pushed vertically through the CNTPE without social dialogue. The CATP adds that neither the necessary budget, nor qualified personnel have been envisaged for the implementation of the policies approved, and that it is difficult for the beneficiaries of the policies adopted to participate at the regional level. According to the CATP, it is very difficult to achieve the active participation of informal economy workers in the preparation of employment policies. ***The Committee invites the Government to continue providing information on the participation of the social partners in the review and evaluation of national employment policies and their effectiveness in achieving full employment (Articles 1 and 2 of the Convention). The Committee hopes that the information contained in the report will make it possible to identify the manner in which it is ensured that the views of the representatives of the social partners (including the representatives of workers in the rural sector and the informal economy) are taken fully into account when formulating employment policies and in securing the necessary support for their implementation (Article 3).***

*Labour market trends. Active measures to promote employment.* The Committee notes the statistical data on the labour market provided by the Government in its report. According to the data published in *Panorama Laboral 2012*, it is expected that the Peruvian economy would grow by 6.2 per cent in 2012, achieving one of the most vigorous growth rates in the region. Unemployment rates fell for both men and women. Between January and September 2012, the average annual unemployment rate was 7.2 per cent in Metropolitan Lima (7.7 per cent in 2011). The Committee also notes the

active labour market measures implemented by the National Employment Service. The One-Stop Shop for Employment Promotion, established by Supreme Decree No. 001-2012-TR in February 2012, is intended to articulate the various employment services at the national, regional and local levels. The Government also refers to the national programme for the generation of inclusive social employment *Trabaja Peru*, which provided temporary jobs to 227,372 persons between 2010 and 2012. The national programme for the promotion of employment opportunities *Vamos Peru*, benefited around 45,000 people during the same period. Furthermore, the Committee takes note of the comments in which the General Confederation of Workers of Peru (CGTP) voices the concern of the Single Trade Union of Workers of the National Food Aid Programme (PRONAA) at the termination of the programme on 31 December 2012 and the consequent dismissal of workers. The CGTP maintains that, when the PRONAA programme was closed down, the State should have guaranteed the workers continued employment in other programmes. The Committee takes note of the Government's reply detailing the background to the decision to close the PRONAA programme down and stating that the workers concerned were paid all their entitlements. ***The Committee invites the Government to indicate in its next report the impact that the national programmes and other measures to create productive and sustainable employment have had, particularly for workers affected by administrative restructuring. The Committee also asks the Government to include data broken-down at the national, regional and local level on the situation, level and trend of employment, unemployment and underemployment in both urban and rural areas in Peru (Article 1).***

The Committee is raising other points, including precarious employment and the informal sector, the employment situation of persons with disabilities and of other vulnerable categories of workers, youth unemployment, the coordination of training and employment policies and cooperatives, in a request addressed directly to the Government.

## Philippines

### ***Employment Policy Convention, 1964 (No. 122) (ratification: 1976)***

*Articles 1 and 2 of the Convention. Implementation of an active employment policy.* In reply to the 2011 observation, the Government reported in August 2012 that the Worktrep Entrepreneurial Program benefited 100,206 workers in the informal economy in 2008 to establish sustainable businesses, 98,379 in 2009, 76,025 in 2010 and 94,597 in 2011. A Community-Based Employment Program (CBEP) was launched in 2011 which targeted the generation of jobs for infrastructure and non-infrastructure government projects. The CBEP covered 29 implementing agencies and generated 573,445 jobs. The Government reports that the Department of Labor and Employment of the Philippines made representations to participate in the planning process of the Philippine Development Plan (PDP) 2011–16 in order to ensure that employment concerns are mainstreamed as priorities in major government strategies. The Committee notes with *interest* that the result was an integration of employment concerns and priorities in almost all parts of the plan, primarily macroeconomic policy, industry and service competitiveness strategy, infrastructure development and social development. The PDP estimates the creation of 6 million jobs from 2011 to 2016. ***The Committee invites the Government to provide in its next report detailed information regarding the progress made with respect to the implementation of the Philippine Labor and Employment Plan 2011–16 and the other programmes designed to generate employment. Please also provide information on the efforts made to improve the employment situation for workers in the informal economy and the results achieved in terms of designing targeted programmes and incentives for the promotion of sustainable job creation for those working in the informal economy.***

*Article 3. Participation of social partners in the formulation and application of policies.* The Government reports that Administrative Order No. 21 of October 2011 provides for the election of 14 basic sector representatives to partner with government agencies in drafting policies affecting them. The basic sectors include workers in the formal sector and migrant workers, workers in the informal economy, farmers and landless rural workers, indigenous peoples, women, youth and students, and persons with disabilities. It further reports that the Department of Labor and Employment initiated the formulation of the Philippine Labor and Employment Plan 2011–16 to complement the PDP with more specific strategies, through a consultative process that involved workers, employers, non-government organizations, migrant associations, women's associations, youth groups and social and economic development lecturers and professors. The Committee previously noted that the task force on the Private Employment Agencies Convention, 1997 (No. 181), was created to benchmark areas for improving regulatory measures affecting private employment agencies. The Government indicated that one of the objectives of this task force is to identify the potential areas of partnership between private recruitment and placement agencies and public employment services and establish mutual cooperation, assistance and collaboration between them in facilitating local employment opportunities. In its General Survey of 2010, the Committee highlighted that the employment services are part of the necessary institutions for the achievement of full employment. In conjunction with the Convention and the Employment Service Convention, 1948 (No. 88), Convention No. 181 forms a necessary building block for employment growth (see General Survey concerning employment instruments, 2010, paragraphs 785–790). ***The Committee invites the Government to provide examples of questions addressed and decisions reached on employment policy through tripartite bodies. It also invites the Government to include in its next report information on the involvement of the social partners concerning the measures taken to build institutions for the realization of full employment.***

The Committee is raising other points, including employment trends, youth employment and skills, in a request addressed directly to the Government.

## Portugal

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1981)**

*Measures to alleviate the impact of the crisis.* The Committee notes the report provided by the Government for the period ending in May 2012, including observations from the General Workers' Union (UGT) and the General Confederation of Portuguese Workers–National Trade Unions (CGTP–IN). In reply to the previous comments, the Government indicates that the four most representative employers' organizations and one of the two most representative trade union confederations accepted the changes to the Labour Code. Agreements between the Government and the social partners include the Tripartite Agreement for Competitiveness and Employment (2011) and the Commitment to Growth, Competitiveness and Employment (2012). In its previous observation, the Committee invited the Government to provide information allowing an assessment of the manner in which the reduction of labour costs has permitted the creation of productive and quality jobs. The Government indicates that the reduction of some labour costs due to the changes introduced by the revision of the Labour Code, and in particular as a result of the revision in 2012, are the result of legislation subsequent to the reporting period and it will only be possible to evaluate the respective effects later. The Government indicates that, in the reporting period, the principal component of the framework of government policies is the Economic Adjustment Programme, following an agreement with the European Commission (EC), the European Central Bank (ECB) and the International Monetary Fund (IMF). The Committee notes that a joint EC, ECB and IMF mission met with the Government in the first half of 2013 to assess compliance with the terms and conditions set out in the Memorandum of Understanding. The mission concluded that the programme implementation is broadly on track, against the background of difficult economic conditions. According to the data of the Employment and Vocational Training Institute (IEFP), the number of unemployed persons registered with the employment centres at the end of the first quarter of 2012 rose to roughly 661,400 persons (51.2 per cent of whom were women). This number reflects an increase of 9.3 per cent compared to the fourth quarter of 2011 and 19.8 per cent compared to the first quarter of 2011. With respect to active employment measures (employment, vocational training, professional rehabilitation), the Government reports that 466,172 people were covered by measures implemented by the IEFP in 2010, 455,119 in 2011, and 146,561 from January to March 2012. The majority of individuals covered by the active employment measures implemented by the IEFP during the reporting period were women (roughly 60 per cent), and the largest percentage of individuals covered by these measures was from 25 to 34 years old (over 25 per cent of all individuals covered), followed by individuals from 35 to 44 years (roughly 23 per cent) and individuals up to 24 years old (also roughly 23 per cent). The Committee notes that the unemployment rate worsened significantly, rising from 12.4 per cent in the first quarter of 2011 to 15.2 per cent in the first quarter of 2012. The Committee notes that the unemployment rate continued to rise after the reporting period. In June 2013, unemployment was higher than 17 per cent. The UGT states that it is important for employment policies to aim to promote jobs, but quality jobs, with new and improved working conditions. In this context, the UGT indicates that it has advocated that the Government and the social partners should pay more attention to active employment policies and reorient them so that they are able to more effectively and more efficiently address existing issues and weaknesses. The Committee further notes the observations of the CGTP–IN stating its view that the Government is not implementing the necessary measures to meet the objectives of the employment policy to which the Convention refers, especially with respect to full and freely chosen employment. The CGTP–IN indicates that the revision of the Labour Code will not solve the employment problem. Instead, the problem will worsen in that it contains measures that, besides cutting workers' pay and hours, may cause unemployment to rise. The CGTP–IN further indicates that offers for available jobs are increasingly insecure even for permanent and poorly paid jobs, including for highly qualified individuals and the public employment services do not perform any quality analyses. In a context of austerity policies, in which joblessness is on the rise and social protection is on the decline, unemployed workers are increasingly forced to accept undignified and insecure jobs with low wages that are not on par with their qualifications. The Committee considers that the outcome of the Ninth European Regional Meeting (Oslo, 8–11 April 2013) is relevant to the application of the Convention in Portugal. It notes that the Oslo Declaration "Restoring confidence in jobs and growth" stated that fiscal consolidation, structural reform and competitiveness, on the one hand, and stimulus packages, investment in the real economy, quality jobs, increased credit for enterprises, on the other, should not be competing paradigms. The Committee expresses its concern at the deterioration of the employment situation since its previous observation made in 2011. ***The Committee therefore invites the Government to indicate in its next report the measures taken to review, with the participation of the social partners, the impact of the employment measures adopted to address the jobs crisis (Articles 2 and 3 of the Convention). The Committee wishes to draw the Government's attention to the fact that the Office could contribute, through technical assistance, to address the employment situation in the context of the Convention.***

*Measures to promote employment among vulnerable categories of workers.* The Committee notes the high unemployment figures for young persons. The Government reports that the annual average youth unemployment rate in 2011 was 30.1 per cent (28.7 per cent for women and 31.7 per cent for men). In the first quarter of 2012, the rate increased to 36.2 per cent (36.6 per cent for women and 35.8 per cent for men). The Government indicates that the measures intended for the most vulnerable workers covered 156,911 individuals from January 2010 to April 2012. ***The Committee asks the Government to include in its next report indications that will enable it to examine the quality of employment provided for young people and the measures taken to reduce youth unemployment. Please also include up-to-date***

**information on the impact of the measures taken to facilitate the return to the labour market of those categories of workers most affected by the crisis.**

*Creation of jobs in small and medium-sized enterprises (SMEs).* The Government reports that the Programme to Support Entrepreneurship and the Creation of Self-Employment (PAECPE) includes measures to support the creation of businesses. Support for the creation of self-employment by beneficiaries of unemployment benefits, which involves paying unemployment benefits in advance for the purpose of creating self-employment, covered 2,588 people in 2010 and 2,819 in 2011. **The Committee invites the Government to continue to provide information on the impact of the measures taken to improve the business environment in order to promote the development of SMEs and create employment opportunities for the unemployed.**

*Education and training policies.* The Government indicates that it has adopted several measures for linking programmes between the New Opportunity Centres, a network run by the National Agency for Qualification and Vocational Education Training (ANQEP), and the Employment and Vocational Training Institute (IEFP). Moreover, mechanisms were also defined to ensure the coordination of training policies with employment policies as follows: (i) implement mechanisms to adequately link the vocational training centres, the employment centres, companies and corporate associations and other economic development agents for the purpose of better matching the supply of vocational training with present and future job market requirements; and (ii) introduce indicators on the requirements of the labour market and the employability of trainees using the weighting criteria for financing the participating management centres. **The Committee asks the Government to include in its next report up-to-date information on the measures taken to improve qualification standards and coordinate education and training policies with potential employment opportunities. The Committee hopes that the information sent by the Government will enable it to examine the manner in which efforts have been intensified, with the cooperation of the social partners, to ensure that vocational guidance and training systems meet the learning and vocational training needs of the most vulnerable groups in the country.**

## Russian Federation

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1967)**

*Articles 1 and 2 of the Convention. Implementation of an active employment policy.* The Committee notes the Government's report received in September 2012 containing an outline of the coordinated approach taken by the federal Government and the constituent entities of the Russian Federation to promote employment. The Government indicates that 87.1 billion roubles (RUB) were earmarked in 2010–11 for state programmes aimed at reducing tensions in the labour market and that 5.2 million persons participated in such programmes, creating 4.3 million permanent or temporary jobs. An additional 1.5 billion roubles were earmarked in 2012 towards the implementation of regional employment programmes. To further address labour market tensions, the Government utilizes annual workforce balance forecasting to assess the balance of labour supply and demand in the long term, assess the effectiveness of workforce training and increase the effectiveness of the State employment promotion policy. Occupational guidance and psychological support are provided to help unemployed persons choose the type of employment that best corresponds to their needs and capabilities. The unemployment benefits provided by the Government include stipends for vocational training, retraining and skills development, financial assistance and pensions. The Committee notes the State Programme on Employment Promotion for 2013–20, which aims to create legal, economic and institutional conditions to foster the development of an effectively functioning labour market and ensure social stability. It further notes the measures taken to improve employment generation which include paid social work programmes to provide temporary employment, job placement centres for institutions offering vocational training, and temporary employment programmes for minors aged 14–18, first-time jobseekers and unemployed persons. The Government also provides social adaptation programmes, relocation and moving assistance and self-employment support to the unemployed. The Committee notes that the unemployment rate dropped significantly from 7.5 per cent in 2010 to 5.5 per cent in the second quarter of 2012, with the number of registered unemployed persons dropping from 1.9 million to 1.2 million, and the economically active population increasing from 75.4 million to 75.9 million in that same period. In June 2012, the employment rate for people aged 15–72 was 65.1 per cent, with an employment rate of 70.5 per cent for men and 60.4 per cent for women. The Committee further notes that women accounted for an estimated share of 46.1 per cent of the unemployed, with young people aged 15–24 accounting for 13.1 per cent in 2012. **The Committee invites the Government to provide in its next report information on how an active policy designed to promote full, productive and freely chosen employment has been implemented in the country and the impact of the measures taken to generate employment in low income areas. Please also include information on the measures taken to increase the participation of young people and older workers in the labour market, and on the results obtained by the measures adopted to remedy unemployment and underemployment among vulnerable categories of workers.**

*ILO technical assistance.* The Committee notes with *interest* that the Government hosted and participated in the International High-Level Conference on Decent Work, held in Moscow in December 2012, signing three key agreements to expand cooperation with the ILO. It notes that the Programme of Cooperation for 2013–16 aims to promote further development of labour relations with the Government to achieve decent work. The key objectives of this programme include increasing employment opportunities and creating better jobs, ensuring safe working conditions and enhancing

social protection, promoting international labour standards and strengthening social dialogue. ***The Committee invites the Government to include in its next report information on the measures taken as a result of the activities held with the ILO with respect to the matters covered by the Convention.***

*Coordination of education and training programmes with employment policy.* The Committee notes the information provided by the Government in its report on the organization of vocational training, retraining and skills upgrading aimed at increasing unemployed persons' occupational mobility and competitiveness in the labour market. The Government indicates that the State employment service provides vocational training, retraining and skills upgrading for women on maternity leave. Programmes being developed to improve the quality of vocational training and education (both higher and continuing) include training up to 30 per cent of university students in applied baccalaureate programmes, establishing multifunctional applied skill centres to provide training to people who finish secondary school, forming an independent vocational training evaluation system, expanding the participation of businesses in managing and funding higher education institutions, and developing 800 professional standards in 2013–14 for popular occupations to meet modern labour market standards. ***The Committee invites the Government to provide in its next report further information on the action taken to ensure the coordination of education and vocational policies with employment policies. Please also provide an account of the results obtained in terms of access to lasting employment for the beneficiaries of the different programmes and measures implemented by the federal Government and the constituent entities of the Russian Federation.***

*Article 3. Participation of the social partners in the formulation of employment policy.* In its previous observations, the Committee expressed its hope that the Government would provide information which will enable an examination of the manner in which the experience and views of the social partners have been taken into account in the formulation and implementation of an active employment policy. The Government indicates in its report that the employment promotion policy aims to coordinate the activities of public agencies, trade unions and other bodies representing workers and employers in developing and implementing measures to promote employment. One important objective referred to in the Programme of Cooperation for 2013–16 is improving the representativeness and developing the institutional and technical capacities, competencies and skills of the social partners to engage with governments and with each other in social dialogue. ***The Committee invites the Government to provide in its next report more specific information on the manner in which the representatives of employers' and workers' organizations are consulted, by the federal Government and the constituent entities of the Russian Federation, on the matters covered by the Convention.***

## Sao Tome and Principe

### **Employment Service Convention, 1948 (No. 88) (ratification: 1982)**

*Articles 1 and 3 of the Convention. Contribution of the employment service to employment promotion.* The Committee notes the Government's report received in April 2013. In response to the comments made by the Committee over the previous years, the Government refers to the absence of employment offices, stating that employment is directly solicited with the institutions, and, in many cases, at the employment department of the Labour Ministry. According to the data provided for 2003, the employed population had risen to 43,846 workers, representing around 84 per cent of the active population. The Government also mentions a tendency toward equilibrium between the participation rates of men and women as a result of the increase in the number of working women and the policies launched to promote equality of opportunity. The Government indicates that jobseekers already employed but looking for a second job due to low wages, represented 45 per cent of all jobseekers. The Committee once again underlines the need to ensure the essential function of the employment service, in order to arrive at the best possible organization of the labour market and its adaptation to new requirements of the economy and the active population. ***The Committee invites the Government to specify in its next report which are the public and private bodies and institutions involved in the organization of a public and free employment service. The Committee also invites the Government to provide information on the number of jobseekers registered with the employment department of the Labour Ministry and on the number of placements secured by the department. It invites the Government to include existing data on the Agua Grande district and the rural areas of the country with respect to employment applications received, vacancies notified and persons placed in employment (Part IV of the report form).***

*Articles 4 and 5. Cooperation of the social partners.* In response to previous comments, the Government indicates that the Centre for Vocational Training carries out various training activities in favour of managers and to respond to the needs of different areas of the country. The Government also mentions the existence of partnerships with institutions and associations in training activities and supervision. The Committee recalls the importance of social partners' participation in the development of an employment service policy. The Committee observes once again that the 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. ***It invites the Government to include in its next report detailed information on the way in which representatives of the social partners have been associated with the operation of the public employment service, in conformity with the provisions of Articles 4 and 5 of the Convention.***

*ILO technical assistance.* The Government indicates that the development of the national employment policy is still in an embryonic phase. In its 2010 General Survey concerning employment instruments, the Committee underlines that public employment services are part of the necessary institutions for the achievement of full employment. The Convention forms with the Employment Policy Convention, 1964 (No. 122), and the Private Employment Agencies Convention, 1997 (No. 181), a structure that is necessary for employment growth (General Survey concerning employment instruments, 2010, paragraphs 785–790). In view of the difficulties noted since the ratification of the Convention, the Committee notes that technical assistance would be particularly useful in order for the Government and the social partners to examine the importance of the public employment service thus facilitating the adoption of a national employment policy aiming to achieve full employment. In that regard, the Government may avail itself of the technical assistance that can be offered by the competent units of the Office in order to fill the Convention's implementation gaps.

### **Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1992)**

*Articles 2, 3 and 5 of the Convention. Implementation of a national policy. Consultation of the social partners and other organizations concerned.* The Committee notes the Government's report received in April 2013 which, in reply to the comments which the Committee has been making for a number of years, states that there is no policy for recruiting persons with disabilities. The Government refers to the provisions of Act No. 6/92 of 20 March 1992 establishing the system of individual conditions of work for persons with disabilities. ***The Committee invites the Government to indicate in its next report the measures taken to formulate and implement a national policy on vocational rehabilitation and employment of persons with disabilities. The Committee also invites the Government to provide detailed information on the consultations held with the social partners and organizations concerned, as required by Article 5 of the Convention.***

*ILO technical assistance.* The Government indicates that a large number of persons with disabilities are unemployed, many because they are demotivated and others because they lack opportunities. In this regard, the Committee refers to its comments on the application of the Employment Service Convention, 1948 (No. 88). In view of the difficulties observed since the ratification of the Convention, the Committee notes that technical assistance would be particularly useful to bridge the gaps that exist in law and in practice and to create employment opportunities in the open labour market for persons with disabilities within the meaning of the Convention. In this regard, the Government may wish to avail itself of technical assistance from the Office in order to bridge the gaps in the implementation of the Convention.

## **Serbia**

### **Employment Policy Convention, 1964 (No. 122) (ratification: 2000)**

*Formulation and implementation of an active employment policy. Participation of the social partners.* The Committee notes the Government's comprehensive report for the period ending in August 2012 and notes the observations of the Trade Union Confederation "Nezavisnost" and the Confederation of Autonomous Trade Unions of Serbia (CATUS). The Government indicates that since the global economic crisis in 2008, unemployment figures have been rising. The Committee observes that the unemployment rate increased from 20 per cent in October 2010 to 24.4 per cent in November 2011. In October 2012, unemployment was measured at 22.4 per cent. The Government indicates that the main objectives of the National Employment Strategy 2011–20 are to increase employment, improve labour market institutions, and reduce duality in the labour market. The specific objectives for 2012, as defined in the National Employment Action Plan, were to promote employment and job creation, improve the quality of the workforce and better match supply and demand on the labour market. Nezavisnost indicates that the Government's report should have included a more critical position of the adopted measures and programmes and should have included an objective assessment of the formulation, adoption and implementation of the employment policy. It further indicates that meetings of a significant number of local employment councils were not convened following their initial constitutional meeting or once the action plan was adopted. Moreover, the CATUS mentions that, despite the activities undertaken by the state bodies in which representatives from the social partners were involved, social dialogue is lacking at the local level. The CATUS also adds that the Government must devise new measures and amend legislation to accelerate development of social dialogue at all levels in order to maintain existing jobs as increased unemployment will unavoidably result in social conflicts. ***The Committee therefore invites the Government to provide in its next report information on the issues raised by the workers' organizations and on the consultations held with the social partners, both at the national and local level, in the development of an active employment policy as required by Article 3 of the Convention. The Committee also invites the Government to provide information on the impact of employment policies implemented to promote decent and productive jobs.***

*Monitoring and evaluating employment policy.* The Government reports that a study was undertaken on the implementation of the Poverty Reduction Strategy and on the impact of public policies from 2003 to 2007 in order to determine the effectiveness of measures, including active labour market policies. One conclusion of this study points to the fact that employment policy needs to be given an important position and be fully integrated in the strategy and policy of general economic development. In reply to the previous comments, the Government makes reference to the methods of coordination between government ministries and the social partners to review and assess employment policy measures.

The Government indicates that the Employment Sector of the Ministry of Economy and Regional Development is responsible to collect the information obtained through the monitoring system and provided by other ministries, local authorities, the social partners and other stakeholders. Furthermore, the National Employment Service submits quarterly reports and annual reports on the implementation of employment programmes and measures included in the National Action Plan for Employment. The Committee notes that there will be a two phase evaluation process of the National Employment Strategy 2011–20: a control assessment will take place five years after its implementation; and a final assessment will provide the overall evaluation of the Strategy once its full implementation is complete. ***The Committee also refers to its comments on the Human Resources Development Convention, 1975 (No. 142), and invites the Government to include in its next report on the Convention information on the methods of coordination envisaged between the economic and social ministries and the social partners, to review and assess the results of employment policy (Article 2 of the Convention).***

***Employment policy measures within the framework of a coordinated economic and social policy.*** The Committee notes that programmes and measures implemented by the National Employment Service include job search training, education and training, self-employment and employment, and public works. The Committee observes that 127,966 unemployed persons (which represented 17 per cent of the average number of registered unemployed persons in 2011) participated in these programmes and measures in 2011. The National Employment Service also provided training to over 600 counsellors on the collection and analysis of labour market data. The Committee further notes that Nezavisnost points to the need to adopt strategic, legislative and other solutions that are conducive to the achievement of economic development priorities and that ensure coherent labour market policies in coordination with all competent institutions. ***The Committee invites the Government to include in its next report information on the effectiveness of active labour market measures implemented by the National Employment Service.***

***Youth employment.*** The Committee notes that youth unemployment reached a staggering rate of 51.9 per cent in November 2011. It also notes that a Youth Employment Fund (YEF) was established in 2009 within the National Employment Service. Measures offered within the YEF framework often entail a combination of training and subsidized employment. The Government indicates that the National Employment Strategy for 2011–20 provides active measures to promote youth employment. It further reports that a particular challenge observed with respect to youth unemployment consists of young school leavers and those with low skill levels. The Government indicates that additional education, such as training courses aimed at modernizing and improving the level of knowledge and qualifications, should be further developed. ***The Committee refers to its comments on Convention No. 142 and requests the Government to provide in its next report on the Convention information on the impact of the various programmes and measures taken to address the issue of youth unemployment, including the school-to-work transition.***

***Roma population and other vulnerable groups.*** The Government indicates that the promotion of employment of the Roma population was among its employment policy priorities for a fourth consecutive year since 2009. It adds that an increase in the number of Roma people registered as unemployed over the years points to a positive change of attitude towards this vulnerable group in the labour market. The Committee notes the information on the number of unemployed members of the Roma population registered with the National Employment Service: 15,867 persons registered on 31 December 2010 (women accounting for 7,637), and 19,398 persons registered on 31 December 2011 (women accounting for 9,180). In 2011, the National Employment Service directed 2,760 unemployed members of the Roma population to prospective employers and 1,935 of them obtained employment. The Committee notes that other employment measures described in the Government's report and directed at the Roma population in 2011 include education, training and self-employment programmes. ***The Committee invites the Government to continue to provide information on the measures taken to encourage and support labour market participation and social inclusion of the Roma population and other vulnerable groups.***

***Part V of the report form. ILO technical assistance.*** The Committee notes the information contained in the Government's report concerning technical assistance received from the ILO on matters such as labour statistics, labour force surveys, and the promotion of youth employment. ***The Committee invites the Government to continue to provide information on the measures taken as a result of technical assistance received from the ILO with a view to ensuring the implementation of an active employment policy within the meaning of the Convention.***

## Sierra Leone

### ***Employment Service Convention, 1948 (No. 88) (ratification: 1961)***

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 comments.

***Contribution of the employment service to employment promotion. ILO technical assistance.*** The Committee previously noted the Government's statement, contained in a report received in June 2004, indicating that the legislation on employment services has been included on the agenda of the Joint Advisory Commission for discussion. It was the Government's intention to provide a new mandate to employment services so that they are transformed into dynamic labour market information centres. The new employment services will have to cover not only urban centres but also rural areas and ensure the provision of information, planning and the application of employment policies throughout the country. The Government also stated that ILO technical

assistance is required to achieve its objectives. The Committee welcomed the fact that the Government was proposing to strengthen employment services. It also recalled that the Office provided support for programmes for the generation of employment opportunities by strengthening employment services for young persons. *The Committee hopes that the Government will be in a position to describe in its next report the manner in which the employment service reforms have contributed to securing their essential duty, which is to ensure “the best possible organization of the employment market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources” (Article 1 of the Convention), in cooperation with the social partners (Articles 4 and 5). In this respect, the Committee would be grateful if the Government would provide the statistical information that has been compiled 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).*

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

## Slovakia

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1993)**

*Articles 1 and 2 of the Convention. Active labour market measures. Youth unemployment. Older workers.* The Committee notes the Government’s report received in April 2013 in reply to the comments formulated in 2009. The Government indicates in its report that the registered unemployment rate increased from 13.69 per cent in January 2012 to 14.8 per cent in January 2013. The region with the highest unemployment rate was the Prešov region at 20.92 per cent in January 2013, and the Banská Bystrica and Košice regions also reported a registered unemployment rate above the national average. At the district level, 50 districts experienced a rise in registered unemployment, while 29 districts experienced a fall in registered unemployment. The Committee notes two projects for 2012–15 to address youth unemployment by covering part of the payroll and labour costs of hiring unemployed persons up to the age of 29. In 2012–13, these projects created 594 jobs and are expected to create 14,000 jobs through 2015. The Government also refers to the graduate work experience programme aimed at helping jobseekers aged up to 26 to acquire vocational skills and practical experience with an employer, which resulted in 2,694 jobseekers obtaining employment in the 2010–12 period. The Government’s Youth Action Plan further implements seven measures to improve the quality and purpose of education through the inclusion of vocational education and training. Priority activities of the plan include in-company training, identification of the skill requirements of different sectors of the labour market, and their incorporation into the curricula of vocational education and training. The Committee further notes the Active Ageing Strategy 2012–13 aimed at reducing the unemployment rate for persons over the age of 50, with a particular focus on persons aged 55–64. The strategy will examine demographic trends and forecast the labour market needs until 2020, review the legal situation of older workers entering and remaining in employment, analyse the factors affecting older people’s participation in the labour market, and develop a strategy based on examples of good practices. *The Committee invites the Government to provide in its next report information on the manner in which the employment objectives, such as tackling regional disparities, addressing high youth unemployment and long-term unemployment, have been reached. Please also include information on the measures taken to ensure the coordination of education and vocational policies with employment policies, providing an account of the results obtained in terms of access to lasting employment for the beneficiaries of the different programmes and measures implemented in the country.*

*Roma minority.* The Committee notes the Government’s Strategy for the Integration of Roma up to 2020. The three objectives of the strategy are to improve the socio-economic status of the Roma population by expanding employment opportunities in the labour market, build human capital through better education and health care, and strengthen social capital and community development through increased empowerment and participation of the Roma population in social and civic activities. The strategy also aims to improve the educational opportunities for the Roma minority by supporting “second chance education”, harmonize secondary education with the labour market demands, and improve access to education in the Romani language. As regards social and civic integration, the Government reports on its plan to improve relations between the Roma community and the labour offices and other institutions. The Committee recalls that, in its 2011 observation on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Government was urged to increase its effort to address the continuing discrimination faced by the Roma population in employment and occupation. *In view of the progress still to be made in achieving the inclusion of the Roma minority in the labour market, the Committee invites the Government to provide detailed information in its next report on the impact of the measures adopted in consultation with the representatives of the Roma minority and in the framework of its strategy to support labour market participation of the Roma.*

*Participation of the social partners.* The Government refers again to the 2007 Tripartite Act, which establishes the Economic and Social Council as the consultative body of the Government and the social partners at the national level for the economic and social development of employment policy. *As required by Article 3 of the Convention, the Committee once again asks the Government to indicate in its next report the specific measures taken to ensure the participation of workers’ and employers’ organizations in the formulation and implementation of employment policies and the results thereof. Please also provide examples of employment policies and measures addressed and decisions reached through tripartite consultations, including consultations with the representatives of the Roma minority.*

## Slovenia

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1992)**

*Articles 1 and 2 of the Convention. Active labour market measures and employment policy.* The Committee notes the Government's report for the period ending May 2012, which includes detailed replies to the 2011 direct request and observations of the Association of Employers of Slovenia (ZDS). It notes that the provisions of the Labour Market Regulation Act (ZUTD) concerning the active employment policy entered into force on 1 January 2012. The primary aims of the ZUTD are to increase social security of jobseekers, establish a network of providers enabling a quick response to dynamic changes in the labour market, increase the efficiency of active employment policy measures, and reduce administrative burdens for companies and persons in the labour market. In addition, the ZUTD introduces the active employment policy (AEP) guidelines, the basis for a strategic document that the Government will adopt for a four-year period after consultation with the social partners. Furthermore, the Government describes in its report the modifications introduced to unemployment benefits in reply to the observations of the ZDS. With respect to unemployment trends, the Government indicates that the average duration of unemployment has grown continuously since February 2011. The registered unemployment level was 10.5 per cent in July 2010, 11.8 per cent at the end of 2010, and 11.5 per cent in July 2011. The Committee notes that the unemployment rate continued to rise and reached 12.2 per cent in November 2012; 11.6 per cent for men and 12.9 per cent for women. The Government reports that the scope of the AEP measures in 2012 are to be similar as in 2011, which is necessary in view of the unemployment trends. Funds earmarked for the implementation were largely allocated for direct employment measures and measures that increase the employability of the unemployed most efficiently. The number of people to be included in AEP measures in 2012 is 58,255 persons, and 14,400 persons are to be employed in June 2013 as a direct result of these measures. Furthermore, two comprehensive evaluations of the programmes and projects of the active employment policy are being prepared. One evaluation is targeted at the efficiency of active employment policy programmes co-financed by the European Social Fund, while the other was initiated in the framework of the Target Research Programmes of the Slovenian Research Agency and includes a systematic analysis of implementation. ***The Committee invites the Government to provide information in its next report on the impact of the employment policies and measures implemented to promote full and productive employment, in collaboration with the social partners. It also invites the Government to include in its next report information on the implementation of specific measures promoting the return of long-term unemployed persons to the labour market.***

*Young persons.* The Government reports that the unemployment rate of persons under the age of 25 remains relatively low in the country. The share of unemployed persons under 25 years of age in the entire structure of unemployed persons decreased from 9.3 per cent at the end of 2011 to 7.9 per cent in May 2012. The Government indicates that the Ministry of Labour, Family and Social Affairs implemented several programmes, co-financed by the European Social Fund, that include young persons as the key target group. The programmes included training, education and employment promotion. It also indicates that a new programme for young persons is in its final phase of development, a programme with similar contents as its previous in-service training programme. ***The Committee invites the Government to provide in its next report information on the impact of the measures taken to increase opportunities for young persons to find lasting employment.***

*Older workers.* The Government reports that unemployment of older workers increased due to the pension system reform, as a higher number of persons have registered as unemployed 24 months before they fulfilled formal retirement conditions. The Committee notes that several active employment policy measures include older unemployed persons as a target group. The Government indicates that there is a general increase in the integration of older unemployed persons in active employment policy programmes, such as programmes promoting labour and social inclusion and social entrepreneurship programmes. Key research findings provided by the Government indicate that the total number of all unemployed persons participating in active employment policy measures at the monthly level has halved in the first months of 2012 when compared to the same period in 2011. ***The Committee invites the Government to continue to include information on the results of the measures implemented to increase the participation of older workers in the labour market.***

*Education and training.* The Committee notes that section 30(1) of the ZUTD provides that education shall be carried out as informal and formal education. It also notes the education and training programmes provided in the Government's report. In the framework of the Education and Training Programme for the Unemployed, two public invitations for the promotion of education and training of employees of companies were published in 2011. The goal of the programme is to stimulate employers to invest in their employees in order to improve qualifications, increase mobility and employability. The project will be implemented until the end of 2013 and a total of 30,000 persons are expected to participate. ***The Committee invites the Government to supply information on the measures taken within the framework of education and training policies and on their impact on the employability and competitiveness of the labour force, as well as the involvement of the social partners in this process.***

*Article 3. Participation of the social partners.* The Government indicates that it has developed a culture of dialogue in the form of round table discussions. The Committee notes with ***interest*** that one such discussion held in July 2012 between the Government and social partners focused on the efficiency and potential improvements of the existing

employment programmes targeting young persons. The Government further indicates that the activity level of trade unions, especially trade unions of young persons, has noticeably increased in designing active employment policy programmes. Trade unions monitor the implementation, actively participate in discussions and provide proposals for changes in programmes and necessary future steps. *The Committee invites the Government to indicate in its next report the measures taken to ensure the participation of workers' and employers' organizations in the formulation and implementation of employment policies and the results thereof. Please provide examples of employment policies and measures addressed and decisions reached through tripartite consultations.*

## Sudan

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1970)**

*Articles 1 and 2 of the Convention. Policies to promote employment and coordination with poverty reduction.* The Committee notes the Government's brief report received in May 2013 which refers to the launch of the National Rural Women's Development Project (2012–16) and the establishment of the Department of Women, Children and Persons with Disabilities. The Government listed the following measures taken under the Tripartite Recovery Programme for the period 2011–13: (i) an increase in education funding benefiting the poor resulting from tax increases; (ii) an increase in microfinance funding from 12 per cent in 2011 to 13 per cent in 2012; (iii) an increase in funding devoted to the productive sectors (agriculture and industry) from 30 per cent in 2011 to 40 per cent in 2012; (iv) the promotion of youth employment and the reduction of the flow of unemployed from abroad; and (v) the reduction of the number of workers in the informal economy while integrating them in the national economy. *The Committee refers to its previous comments and invites the Government to indicate in its next report the progress made in formulating an active employment policy, as required by the Convention. It also invites the Government to include information on the implementation and results of the measures taken under the National Rural Women's Development Project, the Tripartite Recovery Programme or other plans and programmes designed to promote full, productive and freely chosen employment.*

*Collection and use of labour market data.* The Government indicates in its report that a Labour Force Survey (LFS) was conducted in 2012 with the assistance of the ILO. The Committee notes that the preliminary results of the LFS suggest a total population of about 29.95 million, of which 19.2 million (64.1 per cent) reside in rural areas and 10.74 million (35.9 per cent) in urban areas. It further notes that the total labour force was 8.97 million persons, of which 1.66 million were unemployed (8.5 per cent unemployment in rural areas and 10.7 per cent in urban areas). *The Committee invites the Government to indicate in its next report the manner in which the employment data collected by the LFS was used for deciding on and reviewing employment measures, in cooperation with the social partners and representatives of the stakeholders in the rural sector and the informal economy (Articles 2 and 3). Please also include relevant statistical data, disaggregated as much as possible, on the situation and trends of employment, unemployment and underemployment in both the formal and informal economy.*

*Article 3. Participation of the social partners in policy formulation and implementation.* *The Committee refers to its previous comments and once again expresses its firm hope that the Government will supply detailed information in its next report on the consultations held with the social partners on the formulation and implementation of an active employment policy. It also requests the Government to supply information on the consultations held with the representatives of the persons affected by the employment measures taken, such as those working in the rural sector and the informal economy.*

*ILO technical assistance programme.* The Committee notes that the ILO provided technical assistance to the Government of Sudan through the organization of a tripartite workshop in August 2013, which included training on how to better meet the reporting obligations required by the Convention. *The Committee hopes that in its next regular report, due in 2015, the Government will be in a position to provide detailed information on the effectiveness of the active employment policies implemented to achieve the objectives set out in the Convention.*

## Thailand

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1969)**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 99th Session, June 2010)**

The Committee notes with *regret* that the Government's reports due in 2012 and 2013 have 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 2011 observation.

The Committee notes the replies provided by the Government in January 2011 containing information on the measures taken to promote employment for persons with disabilities, women in remote areas and workers in the informal economy. According to the data from the National Statistical Office, 24,300,000 workers, representing nearly half of the entire active labour force, were in the informal economy. The Committee notes that studies performed by two academic institutions have concluded that Thai workers in the informal economy definitively need benefits from the Social Security Fund. The Government refers

again to the second SMEs Promotion Plan for 2007–11 among other measures to enhance the capacity of business and enterprises to tackle the global economic crisis. **The Committee invites the Government to provide in its next report updated information on the impact of the measures taken to promote full, productive, freely chosen and decent employment for vulnerable categories of workers, in particular for workers in the informal economy. Please also include information on the extent, trends and coverage of social security benefits for workers in the informal economy, as well as on the steps taken to coordinate active labour market measures with social security benefits.**

*Articles 1, 2 and 3 of the Convention. Coordination of employment policy with poverty reduction. Involvement of the social partners.* The Government recalls the three strategic objectives of the Tenth National Economic and Social Development Plan for 2007–11: development of human potential and social protection, sustainable restructuring of rural and urban development, and upgrading national competitiveness. Between October 2009 and September 2010, the Government provided some assistance to workers that were unemployed as a consequence of the global economic crisis. The Committee also notes that a Code of Practice to Promote the Labour Relations in the Economic Crisis was adopted by the social partners in 2008. In its contribution, received in February 2011, the National Congress of Thai Labour (NCTL) recalls that most Thai people have lived in poverty, and indicates that the disparity of income generation is rather high. NCTL asks the Government to formulate concrete policies and measures to alleviate income disparities. **The Committee asks the Government to include in its next report information on the results obtained in terms of employment generation concerning the Tenth National Economic and Social Development Plan and to provide details on the employment objectives formulated following the 2007–11 Plan. In this regard, the Committee stresses the importance of promoting and engaging in genuine tripartite consultations on the matters covered by the Convention. The Committee therefore asks the Government to include in its next report detailed information on the consultations held with the social partners to formulate and implement an active employment policy as required by Article 3 of the Convention.**

*Labour market and training policies.* The Government indicates that the National Committee on Skills Development Coordination and Labour Development was set up under the authority of the Prime Minister. In 2010, the Department of Skills Development formulated a new strategy to take into account the impact of the global economic crisis. Furthermore, the Committee notes that the Government provides online labour market information. The NCTL expressed the view that the Skills Development Scheme does not respond to the needs of the labour market. The cooperation between skills development institutes and enterprises in implementing the measures should be taken into account. In its 2010 General Survey concerning employment instruments, the Committee emphasized the increasingly important role of the social partners and training institutions in defining human resources development strategies. **The Committee requests the Government to indicate in its next report the manner in which the representatives of workers and employers have contributed to developing vocational training mechanisms, as well as how the coordination between training institutions has been strengthened. Please also indicate how skills development measures are coordinated with active labour market measures.**

*Women. Prevention of discrimination.* The Government indicates that there is no discrimination towards women and that women have equal opportunities and market access. The Committee notes the statistical data disaggregated by gender provided by the Government in its report on the number of jobseekers registered with the Department of Employment who obtained jobs, as well as on the training courses provided. **Referring to its 2011 comments on the Equal Remuneration Convention, 1951 (No. 100), the Committee requests the Government to clarify to what extent the data provided in its report on the Convention shows that the principle of non-discrimination is being implemented effectively in practice. It also invites the Government to continue to provide information on initiatives taken to promote increased participation of women in the labour market. Please provide further information, including statistics, on the effects of such initiatives in ensuring that there is freedom of choice of employment, and that each worker shall have the fullest possible opportunity to qualify for, and to use his or her skills in a job for which he or she is well suited in the conditions set out in Article 1(2)(c) of the Convention.**

*Migrant workers.* The Government recognized in its report that it faces a challenge concerning migrant workers related to political, social, economic, health-care and national security issues. Having realized the difficulties that migrant workers face in terms of harassment from employers and employment agencies, including the threat of human trafficking, the Ministry of Labour carried out various measures to register migrant workers, especially illegal migrant workers, and to enhance the labour inspectorate for these workers. The Government mentions the Declaration of 3 August 2010 for dignity and work aimed to protect Thai workers working overseas and migrant workers working in Thailand and to prevent human trafficking, to reduce service fees and expenses on employment services and to take care of the families of the workers concerned. The Committee notes that NCTL expressed concerns about the practices and measures taken by the Government to tackle the difficulties concerning migrant workers. NCTL further indicates that an extensive number of unregistered alien workers, who do not possess any national identity certificates, are still remaining. Unregistered alien workers are unable to enjoy their rights with regard to access to labour protection and social security coverage, as required by Thai law and regulations. **The Committee requests the Government to act expeditiously and to report in detail on the effective measures taken to address and resolve issues relating to migrant workers. It also requests the Government to provide information on the results obtained in the framework of an active employment policy to prevent abuse in the recruitment of foreign workers and the exploitation of migrant workers in Thailand, with due regard to their fundamental rights.**

*Older workers.* The NCTL indicated that priority should be given to extend medical coverage, retirement savings and employment opportunities for older workers. **The Committee invites the Government to include in its next report information concerning the measures taken or envisaged in order to better integrate older workers into the labour market.**

*Workers in the rural sector and the informal economy.* The Government reports on the project for emergency employment and skills development to mitigate the suffering of people from economic crisis and natural disasters. Emergency employment includes hiring workers for public interest work like dredging canals and ditches and building dams. **The Committee invites the Government to indicate how the emergency schemes implemented gave the opportunity for its beneficiaries to qualify for and use their skills in decent jobs for which they are well suited, as required by Article 1(2) of the Convention. In this respect, the Committee invites the Government to report on the quantity and quality of job opportunities for homeworkers, with special attention to the situation of women, and on the impact of the measures taken to reduce the decent work deficit for male and female workers in the informal economy and to facilitate their transition into the labour market.**

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

## Uruguay

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1977)**

*Articles 1 and 2 of the Convention. Implementation of the employment policy within the framework of a coordinated economic and social policy. Participation of the social partners.* The Committee notes the Government's report for the period ending May 2012 showing the positive developments in the economy (GDP grew by 5.7 per cent in 2011 and by 2 per cent in the first quarter of 2012). The Government also recalls that in 2011 the unemployment rate was at a historical low level and the employment rate at historically high levels, as a result of which enterprises encountered difficulties in the recruitment of the necessary personnel. Although employment remained stable in 2010 (with a growth of 0.5 per cent), in 2011 approximately 70,000 jobs were created. The Committee notes that the strategic directives to promote economic activity and employment adopted between 2010 and 2012 remain in force. The Committee notes with **interest** that since January 2012 a new Decree issued under the Investment Promotion Act has given greater importance to the quality of the employment generated, the promotion of labour market integration for vulnerable groups and training activities in enterprises. The Government adds that in Public Job Centres (CePEs), a total of 15,269 persons were interviewed in 2011 and that the number of CePEs in operation continued to increase (five in Montevideo and 21 centres in the rest of the country). The Government refers to the implementation of various programmes to promote employment and the launching of the National Dialogue on Employment. Within the framework of the dialogue on employment, various important subjects were discussed (training for young persons, policies to address the insufficiency of labour supply, adaptation of training structures to labour demand and supply, the situation of rural employed persons). **The Committee invites the Government to include information in its next report on the impact of the measures implemented to improve the quality of the employment generated and to reduce unemployment and underemployment (Articles 1 and 2 of the Convention). The Committee also invites the Government to describe the policies and programmes adopted in the field of employment policy and to provide information on the participation of the social partners in the process of their formulation, implementation and evaluation (Article 3). Please continue providing disaggregated statistical data on the labour market situation and trends.**

*Strengthening and coordinating institutions.* The Committee notes the information provided on the activities of the National Employment and Vocational Training Institute (INEFOP). The Government indicates that the decentralization of the INEFOP at the departmental level continued and that INEFOP committees were operating in 17 departments. Tripartite sectoral committees have been established for sectors such as shipbuilding, cargo transport, bio- and nanotechnology, forestry, etc. The Committee notes that the social partners are members of the Governing Board of the INEFOP and play an advisory role at the departmental level. **The Committee invites the Government to provide updated information in its next report on the activities undertaken by the tripartite commissions of INEFOP on employment and vocational training at the departmental and sectoral levels. The Committee hopes that information will also be provided on the impact of the measures adopted during the period covered by the next report and on other initiatives for the training of active workers, those who have recently become unemployed and the long-term unemployed. Please also indicate the mechanisms that have been established to facilitate the necessary coordination between employment and education policies and economic and social development policies adopted at the ministerial level.**

*Youth employment.* The Government has provided a review of youth policies and programmes in Uruguay, drawn up in 2012 in the context of the Labour Market Observatory of MERCOSUR. The overall review identifies the existence of growing inequality in terms of the knowledge acquired when leaving secondary school. It found that secondary school no longer fulfils the role of levelling inequalities and of a mechanism of social improvement and integration. The study provided figures for falling behind and repetition rates, which are directly associated with the high levels of disassociation among many young persons with the formal education system. Labour supply is concentrated among the poor, and young persons enter the informal labour market early and then experience great difficulty in improving their employment conditions. According to the study's conclusions, the programmes implemented have little coverage and there is a lack of specific programmes for the categories with the highest levels of inactivity. **The Committee invites the Government to provide data with its next report showing the positive impact of the active policy measures taken to promote the long-term integration of young persons into the labour market, particularly for the most vulnerable categories of young persons.**

*Workers in the informal economy.* In its 2011 observation, the Committee observed that a negotiating group for the domestic service sector had been established in the Wage Council and that the Social Security Bank had adopted initiatives to reduce the lack of social security registrations, which had resulted in an increase in the number of contributors. Information was also provided on the activities of the smallest enterprises, the tax system and exports of products manufactured by micro-enterprises. **The Committee invites the Government to provide updated information in its next report on the integration of informal economy workers into the formal labour market and on the impact of the support measures for the creation and consolidation of micro- and small enterprises.**

*Cooperatives.* **The Committee invites the Government to provide information in its next report on the activities of the National Cooperative Institute (INACOOP) for the promotion of labour cooperatives and social cooperatives.**

## Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 88** (*Albania, Central African Republic, Costa Rica, Djibouti, Georgia, Guinea-Bissau, Ireland, Panama, Tunisia*); **Convention No. 96** (*Argentina, Djibouti, Malta*); **Convention No. 122** (*Albania, Antigua and Barbuda, Armenia, Burkina Faso, Costa Rica, Denmark: Greenland, Fiji, Gabon, Georgia, Guinea, Honduras, India, Islamic Republic of Iran, Israel, Jamaica, Japan, Jordan, Kazakhstan, Kyrgyzstan, Lebanon, Mongolia, Montenegro, Mozambique, Netherlands: Caribbean Part of the Netherlands, Netherlands: Curaçao, Netherlands: Sint Maarten, Nicaragua, Norway, Panama, Peru, Philippines, Rwanda, Tajikistan, the former Yugoslav Republic of Macedonia, Turkey, Zambia*); **Convention No. 159** (*Brazil, Côte d'Ivoire, Ecuador, Ireland, Kyrgyzstan, Luxembourg, Malawi, Nigeria, San Marino, Slovakia, Zambia*); **Convention No. 181** (*Albania, Algeria, Bosnia and Herzegovina, Bulgaria, Georgia*).



## 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. 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 2006 direct request, which read as follows:

*Policy for the promotion of paid educational leave and its application in practice. The Committee asks the Government to provide detailed information to demonstrate that it has formulated and that it applies, in accordance with Article 2 of the Convention, a policy designed to promote the granting of paid educational leave for the various purposes of training and education specified. The Committee also asks the Government to describe the manner in which public authorities, employers' and workers' organizations, and institutions providing education and training are associated with the formulation of the policy for the promotion of paid educational leave (Article 6). Lastly, the Committee invites the Government to communicate all reports, studies, inquiries and statistics which will allow it to assess the extent of the application of the Convention in practice (Part V of the report form).*

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

#### **Human Resources Development Convention, 1975 (No. 142) (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:

*Formulation and implementation of education and training policies. In reply to its previous comments, the Government indicates that there are no coordination structures linking the three ministries responsible for the implementation of vocational guidance and training policies and programmes. The Government's report received in June 2004 enumerates the technical and vocational training institutions that exist. It also provides information concerning the implementation of the "employment" component of the Poverty Reduction Strategy approved in 2002. The Committee refers, in this respect, to the comments on the Employment Policy Convention, 1964 (No. 122), and asks the Government to indicate the manner in which the measures adopted or envisaged in the context of the Poverty Reduction Strategy reinforce the links between education, training and employment, particularly through the employment services. It asks the Government to provide information in its next report on the efforts being made to secure coordination among the various institutions responsible for developing comprehensive and coordinated policies and programmes of vocational guidance and vocational training. It draws attention once more to the importance of social dialogue in preparing, implementing and reviewing a national human resources development, education and training policy. It would be grateful if the Government would also provide practical information on levels of instruction, qualifications and training activities so that it can assess the application of all the provisions of the Convention in practice.*

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

### Guyana

#### **Paid Educational Leave Convention, 1974 (No. 140) (ratification: 1983)**

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 2003 direct request:

*The Committee requests the Government to provide detailed information on the manner in which the various training programmes and plans implement paid educational leave, as provided for by the Convention. It also hopes that the Government will be in a position to provide statistics on the number of workers in both the public and private sectors who have benefited from paid educational leave during the period covered by the next report (Part V of the report form).*

*The Committee requests the Government to indicate the arrangements for the participation of employers' and workers' organizations in the formulation and application of the policy for the promotion of paid education leave (Article 6 of the Convention).*

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

### Japan

#### **Human Resources Development Convention, 1975 (No. 142) (ratification: 1986)**

*Article 1 of the Convention. Formulation and implementation of policies and programmes of vocational guidance and vocational training. The Committee notes the Government's report, received in September 2013, which includes information in reply to the 2009 observation. In its previous comments, the Committee noted that the Japanese Trade Union Confederation (JTUC-RENGO) expressed its concern over discussions on the continued existence of the Employment and Human Resources Development Organization, a core agency which implements measures for the development of occupational skills. In its report, the Government indicates that it dissolved the Organization in October 2011 due to serious criticism from the public concerning the operations of its facilities. The Committee notes from the*

Government's report on the application of the Employment Policy Convention, 1964 (No. 122), also received in September 2013, that tripartite discussions were held at the Labour Policy Council with respect to the dissolution of the Employment and Human Resources Development Organization. Views expressed from employers and workers stated that every effort should be made so that employment problems would not arise and the motivation of employees should be maintained and strengthened. The Government believes that there is no impact on the vocational training measures due to the fact that vocational training continues to be provided as a responsibility of the Government even after operations concerning vocational skills development were transferred to the Japan Organization for Employment of the Elderly, Persons with Disabilities and Jobseekers. Moreover, the Committee notes the "Emergency Human Resources Development Project" which is aimed at temporary workers. ***The Committee invites the Government to provide in its next report information on the operation of the machinery in place for the implementation of vocational guidance and vocational training policies and programmes and on their results. It also invites the Government to provide further details on the "Emergency Human Resources Development Project".***

***Article 3. Vocational guidance policy.*** In its previous comments, the Committee noted the introduction of a "job card scheme" in April 2008. The Government indicates that the job card system makes career plans for jobseekers through career consultations by career consultants. The system also enhances the vocational ability of jobseekers by providing opportunities to receive pragmatic vocational training which combines on-the-job training at companies and classroom lectures at educational training institutions. As of March 2013, the number of people having received career consultations using job cards was 858,000 and, among those, 655,000 people received vocational training. Furthermore, 49,000 participants received on-the-job training and 87.7 per cent of them were employed. The Committee notes that career consultations using job cards and encouraging participation in pragmatic vocational training, such as on-the-job training, will be promoted for more jobseekers. ***The Committee would welcome continuing to receive information on the implementation of the "job card scheme" and other vocational guidance measures.***

***Article 4. Vocational training systems for women.*** In reply to the previous comments, the Government indicates that the "Mothers' Hello Work" project provides access to vocational training for those seeking jobs while raising children, and 69,000 mothers found jobs in 2012 as a result of employment consultations provided by consultants and information provided by the "Mothers' Hello Work" project. The Committee notes that this project is intended to provide information on a variety of vocational training in the course of employment consultations. ***The Committee invites the Government to provide in its next report information, including statistical data, on the impact of the measures promoting access of women to education, training and lifelong learning. Please also include information on the measures adopted targeting other specific groups, such as young persons and the long-term unemployed.***

***Article 5. Cooperation with social partners.*** The Government indicates that the "Basic Plan for Human Resources Development", which is the main policy on human resources development, has been formulated based on the views of the human resources development subcommittee of the Labour Policy Council, a tripartite committee. ***The Committee invites the Government to continue to provide information on the cooperation of employers' and workers' organizations, including through the human resources development subcommittee of the Labour Policy Council, in the formulation and implementation of vocational guidance and vocational training policies and programmes.***

## Netherlands

### **Human Resources Development Convention, 1975 (No. 142) (ratification: 1979)**

***Articles 1–5 of the Convention. Formulation and implementation of education and training policies and cooperation with social partners.*** The Committee notes the Government's report received in August 2013 containing information in connection with its previous comments and notes the observations made by the Netherlands Trade Union Confederation (FNV). The Government indicates that the Working and Learning Project, established in 2005 to provide training for employees and jobseekers, ended in 2011. The Committee observes that from 2005–11 more than 125,000 working and learning trajectories were established with a special focus on young people with no basic qualifications and jobseekers who were difficult to place. In its contribution, the FNV stresses that the end of the Working and Learning Project in 2011 also entailed the end of subsidies to the regional activities and learning projects. The FNV indicates that the Government is steadily withdrawing from lifelong learning measures and leaving the responsibility with the social partners. While it acknowledges the important role of the social partners in lifelong learning, it insists on the responsibility of the Government in this area. The FNV further indicates that the Government has announced substantial austerity measures and budget reductions to be implemented in respect of the knowledge centres for occupational training where educational institutes cooperate with social partners to improve the link between education and labour. The Committee recalls that the Trade Union Confederation of Middle and Higher Level Employees' Unions (MHP) indicated in 2008 that training consultations took place on several occasions between the Government and the social partners and that the basis for these discussions was a training manifesto. The Government indicates in its last report that the training manifesto emphasized the importance of education, training and accreditation of prior learning (APL) to boost the levels of education and the rate of labour market participation and underlined the goals and policy instruments of the Working and Learning Project. The Government also indicates that the cooperation of employers' and workers' organizations is

ensured not only through the Social and Economic Council but also, for instance, through the agreement on APL signed in 2012 between the Government, employers and workers. *The Committee invites the Government to provide in its next report information on the activities undertaken for the development of comprehensive and coordinated policies and programmes of vocational guidance and training, indicating, in particular, the way in which effective coordination is assured and the manner in which the policies and programmes are linked with employment and the public employment service. The Committee also invites the Government to include more specific information on the agreement on APL signed in 2012, as well as on other means by which the cooperation of employers' and workers' organizations is ensured, including through the Social and Economic Council, in the formulation and implementation of vocational training policies and programmes.*

## Poland

### **Paid Educational Leave Convention, 1974 (No. 140) (ratification: 1979)**

*Granting paid educational leave.* The Committee notes the Government's reports received in August and October 2013 including replies to the remarks made by the Independent and Self-Governing Trade Union (NSZZ) "Solidarność". The Committee takes note of the concerns raised by the NSZZ "Solidarność" in relation to the amendments introduced in 2010 to the Labour Code with regard to paid educational leave for employees upgrading their vocational qualifications. The concerns of NSZZ "Solidarność" include the fact that Polish law does not contain specific regulations concerning paid educational leave for trade union training and education, that access to paid educational leave or paid time off depends on the employer's initiative or agreement, that the number of training funds established by employers is scarce and that social partners have no impact on the development of training policy and disbursements of the labour fund resources. The Government highlights that the Labour Code cannot be regarded as the only legal act implementing the Convention and the Paid Educational Leave Recommendation, 1974 (No. 148). The question of paid educational leave for employees upgrading their vocational qualifications is regulated in the Labour Code. In relation to other aspects relating to education, special acts regulate the right to paid educational leave. The Government does not disagree that general, social and civic education as well as trade union education exist outside of the substantive scope of regulations of the Labour Code. Due to its substantive scope, the Labour Code cannot regulate these issues in detail. The Government emphasizes that there are other mechanisms in the Polish labour law which indicate that the Convention is implemented by Poland. The Government makes reference to the creation of a national training fund and indicates that to increase the role of the social partners in the management of the labour fund resources and programming and monitoring of labour market policy, it is planned to establish labour market boards that will be created in place of employment boards. *The Committee invites the Government to describe, in its next report, how the right to paid educational leave for trade union education is ensured in practice (Article 2(c) of the Convention). Please also include documentation such as reports, studies and statistics that would allow an appreciation of the application of the Convention in practice (Part V of the report form) and describe the manner in which employers' and workers' organizations are involved in the formulation and application of the policy for the promotion of paid educational leave, including information on the establishment of the labour market boards (Article 6).*

### **Human Resources Development Convention, 1975 (No. 142) (ratification: 1979)**

*Implementation of policies and programmes of vocational guidance and vocational training.* The Committee notes the Government's report received in August 2013 containing detailed information in connection with its 2009 direct request. The Government indicates that the 2004 Act on employment promotion and labour market institutions, the main document enabling the implementation of the Convention, was amended several times. Two amendments, in 2009 and 2010, are relevant to vocational guidance. The first amendment facilitates the improvement of vocational qualifications by the unemployed, jobseekers and employees aged 45 years and older. Such persons, whose situation in the labour market is relatively difficult, may use free training services offered by labour offices on preferential terms. The second amendment improved the chances of employment by directing unemployed individuals to a number of courses; introduced the possibility to choose the best financial benefit (scholarship or allowance); increased the minimum value of the training scholarship; and enabled the unemployed to claim a refund of the transportation costs in connection to examinations. Various measures aimed at promoting and improving the system of vocational guidance and information services were implemented between 2008 and 2013, including training, internships and vocational preparation of adults and training for career counsellors (the number of counsellors has increased by 100 per cent compared to 2007). The Committee notes the statistical data submitted by the Government and notes with *interest* that the number of unemployed using individual vocational guidance services between 2008 and 2012 has been steadily increasing. This trend can also be observed among persons using individual and group vocational information services. The Government draws attention to the fact that following the amendment of the Act on the education system in August 2011, essential changes have been implemented to the system of vocational training in order to reinforce its relevance with the economy and labour market. The Committee notes that these changes were implemented in September 2012 and include modifications of the classification of occupations covered by vocational training, a new curriculum for vocational training, a new approach to examinations and a uniform system of certification of vocational qualification. Data gathered in the Educational Information System of the

Ministry of National Education shows that the interest in technical, secondary and vocational schools has been growing in the last few years. The Committee observes that at present, over 50 per cent of lower secondary school graduates decide to continue their education at schools that offer vocational training. *The Committee invites the Government to include in its next report information on the results of the measures taken to develop comprehensive and coordinated policies and programmes of vocational guidance and vocational training closely linked with employment and public employment services (Article 1(1)–(2) of the Convention). The Committee also invites the Government to continue to provide information on the manner in which the Convention is applied in practice, including statistics on the number of persons that participate in vocational guidance and vocational training programmes.*

### Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 140** (Afghanistan, Azerbaijan, Bosnia and Herzegovina, Chile, Czech Republic, Finland, Germany, Kenya, Montenegro, Nicaragua, San Marino, Serbia, Slovakia, United Republic of Tanzania, the former Yugoslav Republic of Macedonia, United Kingdom, United Kingdom: Anguilla, United Kingdom: Jersey, Bolivarian Republic of Venezuela, Zimbabwe); **Convention No. 142** (Afghanistan, Algeria, Antigua and Barbuda, Argentina, Azerbaijan, Belarus, Bosnia and Herzegovina, Burkina Faso, Central African Republic, Czech Republic, Ecuador, El Salvador, France, France: French Polynesia, France: New Caledonia, Georgia, Guyana, India, Islamic Republic of Iran, Ireland, Kenya, Republic of Korea, Kyrgyzstan, Lebanon, Luxembourg, Mexico, Montenegro, Nicaragua, Norway, Serbia, Tajikistan, United Republic of Tanzania, the former Yugoslav Republic of Macedonia, Turkey, United Kingdom: Gibraltar, Bolivarian Republic of Venezuela).

## Employment security

### Democratic Republic of the Congo

#### **Termination of Employment Convention, 1982 (No. 158) (ratification: 1987)**

*Observations by the Labour Confederation of Congo (CCT). Abusive dismissals.* The Committee notes the comments made by the CCT, which were forwarded to the Government in February 2013. The CCT expresses concern at a collective labour dispute which involved the massive, abusive and unlawful dismissal of around 40 employees of a private multinational enterprise governed by French law, in which the public authorities are reported to have let the situation deteriorate, disregarding the provisions of the Convention. The CCT also refers in this context to the wilful violation by the employer of the OECD Guidelines for Multinational Enterprises, and particularly those on employment and industrial relations. The Committee notes that the CCT called on the authorities to ensure the reinstatement of workers subjected to abusive and unlawful dismissal and the application of the provisions of the Convention respecting severance allowances and collective dismissals. **The Committee invites the Government to provide its own comments on the observations of the CCT. It hopes that the Government will be in a position to indicate whether the dismissals referred to were based on valid reasons (Article 4 of the Convention) and whether the dismissed workers were entitled to severance allowances (Article 12). It also requests the Government to provide information on the measures adopted to mitigate the effects of the dismissals, such as those envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166).** It recalls that the ILO can provide assistance to promote the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

The Committee notes the Government's report, received in November 2013. In reply to the previous comments, the Government has provided the relevant provisions of Act No. 13/005 of 15 January 2013 issuing the conditions of service of military members of the armed forces of the Democratic Republic of the Congo (*Article 2(4) of the Convention*). **The Committee once again invites the Government to provide a report containing information on the practice of the labour inspectorate and the decision of the courts on matters of principle relating to the application of Articles 4, 5 and 7 of the Convention. Please indicate the number of appeals against termination, their outcome, the nature of the remedy awarded and the average time taken for an appeal to be decided (Parts IV and V of the report form).**

*Article 7. Procedure prior to, or at the time of, termination.* The Government has provided the text of the national interoccupational collective agreement of December 2005, which does not appear to envisage the possibility of a specific procedure to be followed prior to, or at the time of, termination, as required by the Convention. **The Committee once again invites the Government to provide copies of collective agreements which have provided for this possibility and to indicate in its next report the manner in which this provision of the Convention is given effect for workers not covered by collective agreements.**

*Article 12. Severance allowance and other income protection.* The Government indicates in its report that section 63 of the Labour Code of 2002 protects employment and recommends reinstatement in the event of the abusive termination of the employment contract. In the absence of reinstatement, damages are set by the labour tribunal. The Committee emphasizes that this method of compensating unjustified termination, namely through the granting of damages by the court, is covered more by *Article 10* of the Convention, which envisages the payment of adequate compensation or such other relief as may be deemed appropriate. The severance allowance, which is one form of income protection, needs to be distinguished from damages paid in the event of unjustified termination. Under the terms of *Article 12* of the Convention, a worker whose employment has been terminated shall be entitled, in accordance with national law and practice, to either a severance allowance or other separation benefits; or to benefits from unemployment insurance or assistance or other forms of social security; or a combination of such allowance and benefits. The Committee recalls its previous comments and notes that the Labour Code does not specify the severance allowance which is to be paid to workers, in accordance with *Article 12* of the Convention. **The Committee once again invites the Government to indicate the manner in which effect is given to Article 12 of the Convention.**

*Articles 13 and 14. Terminations for economic or similar reasons.* The Government indicates that the Ministry of Employment, Labour and Social Welfare signed 15 orders authorizing collective terminations for economic or similar reasons, covering 701 workers in 2012–13. **The Committee invites the Government to indicate whether the dismissed workers were entitled to severance allowances (Article 12). It hopes that the Government will also be in a position to provide information on the measures taken to mitigate the effects of these terminations, as envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166).**

## Bolivarian Republic of Venezuela

### **Termination of Employment Convention, 1982 (No. 158) (ratification: 1985)**

*Legislative reforms. Observations by employers' organizations.* The Committee notes the observations made by the International Organisation of Employers (IOE) and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) relating to the impact of the Basic Act on labour and men and women workers (LOTTT), which entered into force in May 2012, on the termination of the employment relationship at the initiative of the employer. In the observations forwarded to the Government in September 2013, the IOE and FEDECAMARAS referred to long delays in the processing of justified dismissals, which have serious consequences on the operation and efficiency of enterprises. The two employers' organizations state that the legal and practical restrictions on dismissal, including the justified dismissal of inefficient workers, have a negative impact on decent employment levels in the formal economy. In response to the observations made by the employers' organizations, the Government indicates that the LOTTT guarantees absolute employment security for the working class. It further indicates that if an employer terminates the employment relationship without providing a valid reason, the worker may submit a claim to the labour inspectorate which may order that the worker be reinstated immediately. Once the labour inspectorate orders the reinstatement, the worker is free to choose between reinstatement or payment of adequate compensation. *The Committee invites the Government to submit a report in which it provides illustrative examples of decisions taken by the labour inspectorate and the competent tribunals in relation to cases in which employment has been terminated by the employer. The Committee refers to its 2011 observation and requests the Government to provide information on the activities of appeal bodies in relation to appeals against justified dismissals, the outcome of such appeals and the average time taken to issue rulings on appeals against justified dismissals (Part V of the report form).*

*[The Government is asked to reply in detail to the present comments in 2015.]*

### **Direct requests**

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 158** (Morocco, Papua New Guinea, Serbia).

## Wages

### Brazil

#### **Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1983)**

*Articles 3 and 4 of the Convention. Machinery for fixing and adjusting minimum wages.* The Committee notes the comments made by the International Organisation of Employers (IOE) and the National Confederation of Industry (CNI), received on 4 July 2013 and forwarded to the Government on 9 September 2013. The IOE and the CNI list the effects and major difficulties of determining the minimum wage in the private sector, particularly the removal of the criterion of productivity by Act No. 12.328 of 25 February 2011 setting out the criteria for determining the minimum wage in 2011–15; the generation of strong pressure on the balance of the social security system, which has been in deficit, thereby intensifying the debate on the share of contributions to be paid by enterprises; the impact on public finances in small towns, as the minimum wage is the basic wage in thousands of towns; and the impact on industrial costs, with the rise in manufacturing costs essentially being due to labour costs. The IOE and the CNI add that over 40,000 collective agreements have been concluded containing clauses on the readjustment of wages for nearly all workers in the private sector. However, they say, by fixing the thresholds for economic categories in the private sector, which are determined by a political act of the governors and approved by the legislative assembly but without the participation of the social partners, the Government is indirectly obstructing collective bargaining by creating inequalities. The Committee also notes the additional comments of the IOE of 17 July 2013, in which the IOE affirms that there is a lack of participation by employers' organizations in determining the criteria to be considered for the adjustment of the minimum wage. The IOE adds that the minimum wage has an important impact on micro- and small enterprises, which represented in 2011, 98.5 per cent of enterprises and 45.8 per cent of employment.

In its reply to the comments of the IOE and the CNI, the Government indicates that issues related to the minimum wage and collective bargaining are addressed on a tripartite basis in the framework of several bodies, such as the Labour Relations Council. The Government also specifies that representatives of employers' organizations have participated in many tripartite forums in which the minimum wage was discussed, and that the gradual adjustment of the minimum wage promotes the creation of decent jobs. The Committee wishes to recall that one of the essential obligations of the Convention is that the minimum wage fixing machinery must be set up and operated in consultation with organizations of employers and workers who must participate on an equal footing. ***The Committee accordingly asks the Government to provide further information on the mechanism and content of the consultations held with employers' and workers' organizations to set the wages thresholds for the economic categories in the private sector to which the IOE and the CNI refer.***

### Burundi

#### **Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1963)**

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. Minimum wage fixing machinery.* The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), dated 30 August 2012, concerning the application of the Convention. COSYBU considers that the Convention is a dead letter as the interoccupational guaranteed minimum wage (SMIG) has not been revised since the 1980s. COSYBU indicates that it is regrettable and scandalous to continue to have the SMIG officially fixed at 160 Burundian francs (approximately US\$0.10) per day in urban centres and at 105 Burundian francs (approximately US\$0.07) per day in rural areas, and asks the Government to readjust the SMIG level as a matter of urgency. In this connection, the Committee recalls the Government's indications in earlier reports that the readjustment of the national minimum wage is part of the broader revision process of the Labour Code and also conditional on the preparation of a preliminary study in this matter. Under these circumstances, the Committee is obliged to conclude that the minimum wage fixing process provided for in sections 74 (Ministerial ordinances fixing minimum wages ensuring fair remuneration to workers) and 249 (annual revision of the minimum wages by the tripartite National Labour Council) of the Labour Code is no longer implemented in practice. ***The Committee requests the Government to transmit any comments it may wish to make in response to the observations of COSYBU. The Committee also asks the Government to take all necessary measures in order to reactivate the minimum wage fixing process in full consultation with the social partners and proceed to the long overdue readjustment of the interoccupational guaranteed minimum wage.***

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

### **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. Insertion of labour clauses in public contracts.* Further to its previous observation, the Committee notes the adoption of Act No. 1/01 of 4 February 2008 concerning the Code on Public Procurement. The public procurement legislation regulates the award, execution and supervision of all public contracts on the basis of equality of treatment and transparency. It also establishes two organs, the National Directorate for oversight of public procurement (DNCMP) and the Regulatory Authority of public procurement (ARMP) which are responsible for ensuring compliance with laws and regulations in respect of public contracting. The Committee notes, however, that the Code on Public Procurement does not provide for the insertion of labour clauses as prescribed by this Article of the Convention. In fact, the only provision which appears to address labour matters in relation to the public procurement process is section 55(1)(a) of the Code which excludes from public tendering persons who have not been regular in the payment of taxes, contributions and other dues of all kinds and who cannot produce a certificate of the administrative authority concerned showing compliance with those obligations. The Committee refers, in this respect, to paragraphs 117–118 of the General Survey of 2008 on labour clauses in public contracts in which it pointed out that the Convention does not relate to some general eligibility criteria of individuals or enterprises bidding for public contracts but requires a labour clause to be expressly included in the actual contract that is finally signed by the procuring entity and the selected contractor. Similarly, certification may offer some proof about tenderers' past performance including respect for social obligations but carries no binding commitment with regard to prospective operations as labour clauses do. ***Noting that the Government in its last report had announced its intention to take appropriate action in order to bring its legislation into full conformity with the Convention, the Committee hopes that the necessary steps will be taken without further delay. Noting also that Decree No. 100/120 of 18 August 1990 on general conditions of contract will cease to apply upon the entry into force of the new Code on Public Procurement, the Committee requests the Government to transmit the text of the new general conditions of contract once they have been adopted. Moreover, the Committee requests the Government to clarify whether Presidential Decree No. 100/49 of 11 July 1986 on specific measures to guarantee minimum conditions to workers employed by a public contractor – which reproduces in essence the provisions of Article 2 of the Convention without, however, referring expressly to labour clauses – is still in force and, if so, how the application of section 2 of that Decree is ensured in practice.***

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

## **Cameroon**

### **Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1962)**

*Article 2 of the Convention. Insertion of labour clauses in public contracts.* Further to its previous comments, the Committee notes the Government's indication that while the revision of the Public Contracts Code is still ongoing, new texts have been adopted to improve the efficiency of public procurement operations, including Decree No. 2012/075 of 8 March 2012 on the organization of the Ministry of Public Procurement; Decree No. 2012/074 of 8 March 2012 on the establishment and functioning of Public Procurement Committees; Decree No. 2012/076 of 8 March 2012 amending Decree No. 2001/048 of 23 February 2001 on the establishment and functioning of the Public Procurement Regulation Agency (ARMP); and Circular No. 001/CAB/PR of 19 June 2012 concerning the award and control of execution of public contracts. The Committee observes, however, that none of these documents contains any provision concerning the labour conditions applicable to persons engaged in the execution of public contracts.

In addition, the Committee notes the Government's reference to the provisions of the Labour Code relating to wages and safety and health at the workplace as being the relevant provisions to be referenced in public contracts. In this connection, the Committee recalls paragraph 45 of its General Survey of 2008 on labour clauses in public contracts, in which it pointed out that the mere fact that the general labour legislation is applicable to public contractors does not release the Government from its obligation to draft and include appropriate labour clauses of the type provided for in *Article 2(1)* of the Convention in all public contracts, whether for construction works, manufacture of goods or supply of services. This is because the general labour legislation only establishes minimum standards, which are often improved by means of collective bargaining or arbitration awards. If this is the case, under the Convention, the workers concerned must enjoy working conditions which are at least aligned to most advantageous conditions set through collective agreement or arbitral award. The terms of the labour clauses must be determined after consultation with the employers' and workers' organizations concerned (*Article 2(3)*), must be brought to the knowledge of tenderers in advance of the selection process (*Article 2(4)*) and notices informing the workers of their conditions of work must be posted at the workplace (*Article 4(a)(iii)*). ***The Committee therefore asks again the Government to take the necessary measures – legislative, administrative or others – for the insertion in all public contracts covered by this Convention of labour clauses consistent with the requirements of Article 2 of the Convention and for the enforcement of such clauses in the manner prescribed by Articles 4 and 5 of the Convention.***

## Comoros

### **Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)** (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:

*Article 1(1) of the Convention. Minimum wage fixing machinery.* Further to its previous observation, the Committee notes the Government's explanations that confirm that no progress has been made either with respect to the promulgation of the Decree fixing the guaranteed interoccupational minimum wage (SMIG) at 35,000 Comoros francs (approximately US\$110) per month or as regards the reactivation of the Higher Council of Labour and Employment (CSTE). The Government indicates that the draft Decree establishing the SMIG rate for the entire private sector, including agriculture, has not yet received the final approval of the President and that the Ministry of Labour is currently taking steps to successfully complete this process. The Government also indicates that tripartite consultations within the CSTE are expected to resume after the adoption of the revised Labour Code which, in turn, is scheduled to be discussed at the next ordinary session of the National Assembly. Regrettably, the Committee is once again obliged to observe that the Convention is presently not applied in either law or practice. **The Committee urges the Government to take the necessary action without further delay with a view to: (i) establishing and implementing the guaranteed interoccupational minimum wage rate; and (ii) initiating tripartite consultations within the CSTE on its periodic review and adjustment. It also asks the Government to transmit a copy of the revised Labour Code as soon as it is adopted.**

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

## Costa Rica

### **Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)**

*Article 3 of the Convention. Payment of wages in legal tender.* The Committee has been drawing the Government's attention for years to the need to modify section 165 of the Labour Code, which provides that coffee plantations may provide workers, in place of cash, with representative token of the currency provided that its conversion into cash is verified within a week of it being issued. Based on information contained in the Government's latest report, the Committee understands that steps are being taken to build up support for and initiate the legislative changes required to bring the provisions of the Labour Code into full conformity with *Article 3* of the Convention. **The Committee accordingly asks the Government to keep the Office informed of any new initiative to amend section 165 of the Labour Code and any concrete results achieved.**

*Article 4(2)(b). Fair and reasonable value attributed to allowances in kind.* The Committee recalls its previous comment in which it requested the Government to take the necessary measures to amend section 166 of the Labour Code, which establishes as a rule that the cash value of any allowances in kind will be fixed at a flat rate of 50 per cent of the money wages if no other amount has been determined by agreement between the parties. The Committee notes the Government's statement in its latest report that it will consider the possibility of requesting technical assistance from the ILO Office for Central America in order to receive recommendations that take into account national realities. The Committee draws the Government's attention, in this connection, to paragraphs 154–158 of the 2003 General Survey on the protection of wages which highlight possible ways for ensuring national conformity with the requirements of the Convention (for example, benefits in kind to be valued at cost price, or not to exceed ordinary market value, the value of certain goods or services to be fixed by law). **The Committee accordingly asks the Government, once again, to take all necessary measures without further delay to amend section 166 of the Labour Code and to provide information on any progress made in this respect.**

## Djibouti

### **Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)** (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:

*Article 1 of the Convention. Establishment of minimum wage fixing machinery.* Further to its previous comments on the abolition of the system of the guaranteed interoccupational minimum wage (SMIG), the Committee notes the Government's explanations to the effect that this decision was taken under pressure from the International Monetary Fund (IMF), which required the Government to adopt a raft of measures, including liberalization of the labour market, to be the beneficiary of a Structural Adjustment Programme (SAP). The Government adds that it made the choice of deregulation rather than leave the SMIG in place, since the balance of public finances would have been seriously jeopardized and wages would not have been guaranteed, thereby threatening the social peace and stability of the country. In this regard, the Committee recalls that the establishment of minimum wage fixing machinery outside the system of collective bargaining is essential for ensuring effective social protection for workers who are not covered by the rules of collective agreements, and that the Government must take the necessary steps to ensure that collectively agreed minimum wage rates are binding and the application thereof is linked to a system of supervision and effective penalties. The Committee therefore concludes that the situation remains unchanged. Apart from the Government's indication that the matter would be studied by the new National Council for Labour, Employment and Vocational Training (CNT), the Convention is no longer applied either in law or in practice. The CNT was set up pursuant to Decree No. 2008-0023/PR/MESN of 20 January 2008 as a tripartite structure to enable the Government and the social partners to

exchange ideas in a free and open manner. In this regard, the Government points out that there is increasing talk of the possibility of reintroducing the SMIG for each branch of economic activity. *The Committee requests the Government to supply detailed information on the planned meeting of the CNT and any decisions regarding the reintroduction of the national minimum wage rate.*

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

### **Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (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:

*Article 2 of the Convention. Insertion of labour clauses in public contracts. The Committee asks the Government to submit a detailed report on the state of national law and practice regarding labour clauses in public contracts in the light of the public procurement legislation, including Act No. 53/AN/09/6ème L of 1 July 2009 establishing the Public Procurement Code and Decrees No. 2010-0083/PRE, No. 2010-349/PRE and No. 2010-0085/PRE, all dated 8 May 2010.*

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

## **Ecuador**

### **Protection of Wages Convention, 1949 (No. 95) (ratification: 1954)**

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

*Articles 4(2), 10 and 14(b) of the Convention. Partial payment of wages in kind – Limits to attachment of wages – Wage statements. The Committee has been requesting the Government for several years to indicate the legal provisions, if any, implementing these Articles of the Convention. In the absence of the Government's reply on these points, the Committee is obliged to draw the Government's attention once again to the fact that the general labour legislation does not contain express provisions: (i) regulating the partial payment of wages in kind; (ii) fixing an overall limit to the proportion of wages that may be subject to attachment; and (iii) providing for the issuance of a wage statement at the time of each payment of wages. The Committee, therefore, asks the Government to take all necessary measures to ensure that full effect is given to these requirements of the Convention.*

*Article 12(1). Payment of wages on time and in full. The Committee recalls its previous comment in which it noted the observations of the National Union of Workers of the telephone services body of the Ecuadorian Telecommunications Institute (IETEL) – "17 de mayo" which had been received on 27 September 2005. According to the allegations of that union, more than 5,000 employees of three telecommunication companies had not been paid overtime for work performed on weekly rest days and public holidays during the period 1989–2005, the overall amount due totalling US\$88 million. Noting that the Government has still not provided any specific explanations on the merits of the claims put forward by the union or on any action taken to follow up on these claims, the Committee hopes that the Government will provide together with its next report full particulars on the manner in which this dispute has been settled.*

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

## **Ghana**

### **Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1961)**

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 it has been commenting on the application of the Convention since its ratification by Ghana and notes that the Government is still 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 118 of the Labour Act 2003 even though the Committee has already noted that this provision is not strictly relevant to the subject matter of the Convention and does not give effect to *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. In fact, the general principles set out in the Labour Act 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.

Moreover, the Government refers once more to the fact that individuals or firms are required to obtain labour clearance certificates before they are allowed to tender for public contracts. In this regard, the Committee is bound to recall that the essential purpose of the insertion of labour clauses in public contracts goes beyond the aims of simple certification, as its purpose is to eliminate the negative effects of competitive bidding on the workers' labour conditions. The Convention seeks to ensure the contractor's commitment to apply high standards of social responsibility in the execution of a public contract which is in the process of being awarded and therefore a mere indication that the contractor concerned has no record of labour law violation in

previously completed works is not sufficient to meet its requirements. *As regards the adoption of the Public Procurement Act 2003, the Committee asks the Government to specify the provisions referring to the labour clearance certificate and also forward a copy of the standard tender document used for this purpose.*

*In the interest of maintaining a constructive dialogue, the Committee therefore requests the Government to indicate 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.*

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

## Grenada

### **Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)** (ratification: 1979)

*Article 3 of the Convention. Differentiated wage rates on the basis of sex.* The Committee notes with *satisfaction* the adoption of the Minimum Wage Order of 2011 which replaces the Minimum Wage Order of 2002 and which removes the differentiated minimum wage rates for male and female workers in agriculture – a point on which the Committee had been commenting for a number of years also under the Equal Remuneration Convention, 1951 (No. 100).

## Guinea

### **Labour Clauses (Public Contracts) Convention, 1949 (No. 94)** (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:

*Article 2 of the Convention. Insertion of labour clauses in public contracts.* The Committee notes that the Government's last report contained no reply to its previous comments, but essentially reproduced information already submitted in earlier reports which the Committee had considered to be strictly irrelevant to the scope and content of the Convention. The Committee is once again led to conclude that for the last 40 years there has been practically no progress in implementing the provisions of the Convention in either law or practice. The Committee expresses its deep disappointment about the Government's continued failure to apply the Convention despite the technical assistance provided by the Office in 1981 and the numerous commitments made by the Government ever since as regards the drafting and adoption of specific regulations or legislation concerning public contracts. *Under the circumstances, the Committee hopes that the Government will make a sincere effort to maintain a meaningful dialogue with the ILO supervisory bodies and once more urges the Government to take all necessary measures without further delay in order to bring its national law and practice into conformity with the clear terms and objectives of the Convention.*

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

## Sierra Leone

### **Labour Clauses (Public Contracts) Convention, 1949 (No. 94)** (ratification: 1961)

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. Insertion of labour clauses in public contracts.* *The Committee asks the Government to submit a detailed report on the state of national law and practice regarding labour clauses in public contracts in the light of recently introduced public procurement reforms, including the adoption of the Public Procurement Act, 2004.*

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

### **Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)**

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 16 of the Convention. Full information on legislative amendments.* *While recalling that the Government has been referring for the last ten years to the imminent adoption of new labour legislation and also recalling that draft amendments had been prepared with the assistance of the Office more than 20 years ago in order to bring the national legislation into conformity with the requirements of the Convention, the Committee urges the Government to take all the necessary steps without further delay to enact the new law and reminds the Government of the availability of further ILO technical assistance in this regard.*

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

## Spain

### **Labour Clauses (Public Contracts) Convention, 1949 (No. 94)** (ratification: 1971)

*Article 2 of the Convention. Insertion of labour clauses in public contracts.* The Committee notes the Government's explanations that the national public procurement legislation is in substantial conformity with the Convention since, first, workers engaged in the execution of public contracts are, in any event, guaranteed, wages and other working conditions not less favourable than those established by the general labour legislation, and secondly, section 60 of Royal Decree No. 3/2011 regarding the consolidated text of the Public Contracts Act ensures the screening of tenderers so that persons who may have been previously fined or sanctioned for violations of workers' rights cannot be awarded public contracts. As the Committee has pointed out in its previous comment, the Government's view is based on two incorrect premises, namely that the Convention offers an option to select among three different ways (collective agreement, arbitral award, law) of regulating the working conditions for its implementation, and that "certification" of tenderers has the same effect with labour clauses. The Committee is therefore obliged to reiterate that: (i) through the labour clauses the Convention seeks to guarantee that the workers concerned enjoy working conditions which are at least as advantageous as the best conditions among those established locally by collective agreement, or arbitral award or laws and regulations; and (ii) any "filtering" mechanism, such as certification of tenderers, at the pre-selection stage may be a useful tool but it is not sufficient to meet the core requirement of the Convention which is the insertion of labour clauses of the type prescribed in *Article 2*. Moreover, the Committee wishes to recall that with the exception of sections 118 and 119 which deal in general terms with the conditions of work relating to the performance of a public contract, Royal Decree No. 3/2011 does not contain any provisions expressly requiring the inclusion of labour clauses in public contracts and therefore gives no effect to the Convention. ***The Committee hopes that the Government will take timely action to ensure that the Convention is fully implemented in law and in practice.***

## Sudan

### **Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)** (ratification: 1957)

*Article 3 of the Convention. Minimum wage-fixing machinery. Method of operation and consultations with the social partners.* The Committee has been drawing the Government's attention for years to the need to modify section 4 of the Wages and Conditions of Employment Tribunals Act of 1976, which does not provide for equal representation of employers' and workers' organizations in the composition of wages tribunals. The Committee notes, in this respect, that the legislation which is referenced in the Government's latest report does not, in fact, appear to provide for any such guarantees of equal representation. Thus, the Government states that section 5 of the Minimum Standard of Wages Act of 1974 mandates the formation of a committee comprising employers' and workers' representatives and the Government. However, the Committee notes that there is no such mention of a tripartite committee in the Minimum Standard of Wages Act, which actually authorizes the Commissioner of Labour, or anyone acting on his behalf, to solely decide any disputes concerning the minimum wage. The Government also refers to the 1997 Labour Code, in particular section 106, which purports to ensure the participation of the social partners on an equal basis in the minimum wage-fixing process. The Committee observes, however, that no such provision appears under section 106, which regulates conciliation procedures for labour disputes and merely permits the two parties to a dispute to submit, by themselves or through their representatives, an application to the competent authority to settle the dispute amicably. In addition, the Committee notes the Government's indication that the High Council for Wages reviews minimum wage levels on an annual basis and formulates recommendations for the increase of the minimum wage rate in the public and the private sectors according to the cost of living. ***The Committee accordingly asks the Government to take all appropriate measures to ensure in law and in practice that employers' and workers' organizations are associated with the operation of the minimum wage-fixing process in equal numbers and on equal terms, as prescribed by the Convention. The Committee also asks the Government to provide full particulars on the composition, mandate, and effective operation of the High Council for Wages, and to transmit a copy of the legal instrument(s) establishing the minimum wage rate(s) currently in force.***

## United Republic of Tanzania

### **Labour Clauses (Public Contracts) Convention, 1949 (No. 94)** (ratification: 1962)

*Article 2 of the Convention. Insertion of labour clauses in public contracts.* Further to its previous comments, the Committee notes the adoption of the new Public Procurement Act, 2011 which repeals the Public Procurement Act, 2004. The Committee observes, however, that the new Act does not contain any provisions dealing with labour conditions applicable to persons engaged in the execution of public contracts. In its latest report, the Government explains that employment standards provided for under the Employment and Labour Relations Act and the minimum wage rates

specified in the Wage Order No. 196 of 2013 are applicable to all employees including those employed for the execution of public contracts.

In this connection, the Committee recalls paragraph 45 of its General Survey of 2008 on labour clauses in public contracts, in which it pointed out that the mere fact that the general labour legislation is applicable to public contractors does not release the Government from its obligation to draft and include appropriate labour clauses of the type provided for in *Article 2(1)* of the Convention in all public contracts, whether for construction works, manufacture of goods or supply of services. This is because the general labour legislation only establishes minimum standards, which are often improved by means of collective bargaining or arbitration awards. If this is the case, under the Convention, the workers concerned must enjoy working conditions which are at least aligned to the most advantageous conditions set through collective agreement or arbitral award. The terms of the labour clauses must be determined after consultation with the employers' and workers' organizations concerned (*Article 2(3)*), must be brought to the knowledge of tenderers in advance of the selection process (*Article 2(4)*) and notices informing the workers of their conditions of work must be posted at the workplace (*Article 4(a)(iii)*).

Moreover, the Committee wishes to point out that the Convention does not necessarily call for legislative action but may also be given effect through regulations and administrative circulars or instructions, for instance ministerial regulations issued under section 105(2) of the Public Procurement Act or standardized tendering documents and forms approved by the Public Procurement Regulatory Authority pursuant to section 9(1) of the same Act. ***The Committee accordingly asks the Government to take the necessary measures – legislative, administrative or others – for the insertion in all public contracts covered by this Convention of labour clauses consistent with the requirements of Article 2 of the Convention and for the enforcement of such clauses in the manner prescribed by Articles 4 and 5 of the Convention.***

## Uganda

### **Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)** (ratification: 1963)

*Articles 1–4 of the Convention. Establishment and operation of minimum wage fixing machinery.* With reference to its previous observation, the Committee notes with **regret** that, to date, no concrete progress has been made with regard to the reactivation and proper functioning of the Minimum Wages Board despite the Committee's repeated requests over several years to readjust the minimum wage rate, which was last set in 1984. In its latest report, the Government merely indicates that it has initiated a process of identification of the persons to be appointed to the Board, including the social partners, and also that a draft Cabinet paper has been prepared for submission to the competent authority for consideration. In addition, the Government requests the Office to provide technical and financial support with a view to carrying out a study on the wage trends in different sectors of the economy. ***In view of the ongoing stalemate, the Committee again urges the Government to undertake the long-overdue readjustment of the minimum wage, and, to this end, take prompt action – with the technical assistance of the Office – to enable the Minimum Wages Board to discharge its responsibilities under the Minimum Wages Advisory Boards and Wages Councils Act.***

## Bolivarian Republic of Venezuela

### **Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)** (ratification: 1944)

*Articles 1 and 3 of the Convention. Minimum wage fixing methods. Consultation of employers' and workers' organizations.* The Committee notes the comments by the International Organisation of Employers (IOE) and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), received on 15 July 2013 and forwarded to the Government on 9 September 2013. The IOE and FEDECAMARAS report that the new Basic Act of 30 April 2012 on work and men and women workers assigns to the Government a primary role in minimum wage fixing thus displacing the social partners, consultation of whom was mandatory under the former Act. The process of consultation with the National Tripartite Committee has been eliminated from the new Act. Henceforth, the Government, following broad consultations with various social organizations and socio-economic institutions of its choosing, is to fix the minimum wage yearly by presidential decree. The IOE and FEDECAMARAS further state that, since 2002, the Government has fixed the minimum wage unilaterally each year, without any real social dialogue on the matter, in breach of the Convention and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The Committee also takes note of the IOE's further comments of 17 July 2013, in which the IOE states that the involvement of the social partners in fixing, adjusting and implementing the minimum wage is vital, and notes with concern that economic factors such as the productivity rate are not taken into account in determining the minimum wage.

In its reply received on 15 November 2013, the Government explains that only twice between 1991 and 1999 did the members of the National Tripartite Committee reach agreement on adjusting the minimum wage – both times to the detriment of other worker entitlements, such as social benefits. The Government indicates that, as a consequence, one of the most frequent requests of workers' assemblies during the 1999 constitutional process was for a minimum wage fixing

mechanism that is immune to individual political interests. Since 2000, the Government has therefore reviewed and fixed the minimum wage annually on the basis of the recommendations made by social, economic, and employers' and workers' organizations and without affecting the other rights of workers. The Committee nevertheless points out that *Article 3* of the Convention prescribes, as a fundamental principle of any minimum wage-fixing system, real and effective consultations with employers' and workers' organizations and their participation in equal numbers and on an equal footing in wage fixing machinery. ***The Committee accordingly asks the Government to specify how it intends to secure full observance of the obligation to consult employers' and workers' organizations, on an equal footing, in decision-making on minimum wages.***

## Yemen

### ***Labour Clauses (Public Contracts) Convention, 1949 (No. 94)*** ***(ratification: 1969)***

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. Insertion of labour clauses in public contracts.* Further to its previous comments, the Committee notes the adoption of Act No. 23 of 14 August 2007 on bidding, outbidding and government warehouses which replaces Act No. 3 of 1997 on the same. The Act regulates, in particular, the award, execution and supervision by the Supreme Commission for Tenders of all public tenders on the basis of equality of treatment and transparency. However, the Committee notes that, contrary to the indications of the Government, Act No. 23 does not provide for the insertion of labour clauses as prescribed by this Article of the Convention. In this connection, the Committee wishes to refer to paragraphs 176–177 of its General Survey of 2008 on labour clauses in public contracts in which it pointed out that “the Convention has a very simple structure, all its provisions being articulated around and directly linked to the core requirement of *Article 2(1)*, that is the insertion of labour clauses ensuring favourable wages and other working conditions to the workers concerned. As a result, in case the national legislation makes no provision for the specific type of labour clause and in the specific terms set out in *Article 2(1)* of the Convention, the application of the remaining *Articles 3, 4* and *5* becomes without object and thus cannot be considered separately.” The Committee went on to observe that “by aligning contract standards to the highest prevailing standards, by excluding the lowering of those standards through subcontracting, and by incorporating those principles into the standard clauses of each and every public contract falling within its scope, the Convention guarantees that public procurement is not a terrain for socially unhealthy competition and can never be associated with poor working and wage conditions”. ***The Committee hopes that the Government will take the necessary steps without further delay in order to ensure the application of the basic requirement of the Convention and recalls that it may draw on the expert advice of the Office to this effect.***

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

### ***Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1976)***

*Article 4 of the Convention. Minimum wage fixing machinery. Full consultation and direct participation of employers' and workers' organizations.* With further reference to its previous observations, the Committee *regrets* to note that no steps have been taken for the effective implementation of the Convention in either law or practice. Even though the minimum wage for public employees (20,000 Yemeni rials (YER) or approximately US\$93 per month) is, in principle, also applicable to the private sector, no minimum wage fixing machinery exists and no provision is made for tripartite consultations on these matters. As regards the reactivation of the tripartite Labour Council, on which the Committee has been commenting for a number of years, the Government indicates that it has not been possible to advance for technical reasons. The Government further indicates that it intends to revive the process for the amendment of the Labour Code in the near future. While noting these explanations, the Committee is bound to recall that by ratifying the Convention the Government committed itself to establishing a system of minimum wages covering all groups of wage earners through procedures or practices guaranteeing the full consultation with, and the direct participation of, representative organizations of employers and workers and ensuring the review and adjustment of the level of minimum wages from time to time having regard to the social and economic conditions prevailing in the country. ***The Committee therefore asks the Government to take all necessary action without further delay with a view to setting up and operating a minimum wage fixing machinery based on genuine tripartite consultations, as required under the Convention.***

## Zambia

### ***Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1972)***

*Articles 3 and 4 of the Convention. Minimum wage fixing machinery. Consultations with the social partners.* The Committee notes that the Minimum Wages and Conditions of Employment (Amendment) Orders of 2012, Statutory Instruments Nos 45, 46 and 47, increased the minimum wage rates for different categories of workers, including shop workers and domestic workers. The Committee wishes to recall, however, that under section 3(1) of the Minimum Wages and Conditions of Employment Act (Cap. 276), the Minister of Labour and Social Security prescribes wage rates after consultation with the relevant trade unions only, while no provision is made for consultations with employers' organizations. In this connection, the Committee notes the comments made by the Zambia Federation of Employers (ZFE) and the International Organisation of Employers (IOE), which were received on 4 July 2013 and transmitted to the

Government on 11 September 2013. The ZFE and the IOE expressed their deep concern about the fact that the Government increased the minimum wage for general workers and domestic workers by over 50 per cent without consulting the stakeholders. They also indicated that the business community through the ZFE took the Government to court, which ruled that the Government needed to consult stakeholders and in particular employers before implementing the minimum wage. In its latest report, the Government indicates that the minimum wage legislation is under review and that, in order to set up a more inclusive and sustainable wage-fixing mechanism, the establishment of a sector-based minimum wage system is currently being considered. The Committee wishes to emphasize that holding genuine and effective consultations with both social partners at all stages of the minimum wage fixing process is a fundamental requirement of this Convention and goes to the very heart of its scope and purpose. *The Committee accordingly asks the Government to ensure that representative organizations of employers and workers are fully consulted on the ongoing law reform process and that, once adopted, the new minimum wage legislation will make clear provision for full consultations with and the direct participation of, employers' and workers' organizations in the process of determination and periodical adjustment of minimum wage rates. The Committee also requests the Government to transmit any comments it may wish to make in reply to the observations of the ZFE and the IOE.*

## Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 26** (Barbados, Chad, Democratic Republic of the Congo, Grenada, Ireland, Lesotho, Malawi, Mali, Mauritius, Nigeria, Rwanda, Sierra Leone, Solomon Islands, Tunisia, Turkey); **Convention No. 94** (Brazil, Costa Rica, Dominica, Grenada, Guyana, Malaysia: Sarawak, Netherlands, Netherlands: Aruba, Netherlands: Caribbean Part of the Netherlands, Nigeria, Panama, Saint Vincent and the Grenadines, Singapore, Solomon Islands, Syrian Arab Republic, Turkey, Uganda); **Convention No. 95** (Barbados, Bulgaria, Cameroon, Chad, Democratic Republic of the Congo, Djibouti, Guatemala, Guyana, Kyrgyzstan, Lebanon, Libya, Malaysia, Mali, Malta, Mauritius, Republic of Moldova, Netherlands: Aruba, Niger, Nigeria, Poland, Romania, Russian Federation, Saint Vincent and the Grenadines, Solomon Islands, Sudan, Syrian Arab Republic, Tajikistan, Tunisia, Turkey, Uganda, Ukraine); **Convention No. 99** (Malawi, Mauritius, Tunisia, Turkey); **Convention No. 131** (Armenia, Plurinational State of Bolivia, Costa Rica, Kenya, Kyrgyzstan, Lebanon, Libya, Malta, Niger, Portugal, Spain, Sri Lanka, Syrian Arab Republic, Uruguay); **Convention No. 173** (Slovenia).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 94** (Barbados); **Convention No. 95** (Grenada).



## Working time

### General observation

Since the adoption of the Hours of Work (Industry) Convention, 1919 (No. 1), the limitation of hours of work, and more broadly, working-time regulation has been a central concern of the ILO, with a total of 34 Conventions, 25 Recommendations and one Protocol having been adopted on this subject. This body of instruments contain the necessary flexibility to achieve the desired balance between the requirements of work and the protection of workers' health and private lives. They have also inspired governments to regulate working time and employers' and workers' organizations to put in place appropriate arrangements on hours of work and entitlement to leave.

In reviewing the action taken by member States to give effect to these instruments, the Committee has identified many gaps some of which, in certain countries, have continued for many years while in others they are the result of recent reforms. Some governments have justified the non-conformity of certain provisions of national law and practice with the applicable international standards by referring to the rigidity of these standards, work-related constraints in many sectors, the support of the social partners for collectively agreed arrangements, and the freedom of choice that is left to workers.

In the conclusions of its 2005 General Survey on Convention No. 1 and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), the Committee recognized, following its examination of the reports provided by member States, that the content of these Conventions does not fully reflect modern realities and that they do not allow sufficient flexibility for the distribution of working time and rest periods through innovative arrangements adapted to changing occupational needs (for instance, annual averaging of hours of work, compressed working week, etc.). These shortcomings are even more significant in relation to the Conventions concerning the night work of women in industry. The Committee noted at the same time that this assessment in no way undermines the pertinence and importance of minimum standards to limit the maximum authorized hours of work and to regulate compulsory rest periods, distributed over the day, week, month or year, so as to ensure that modern working-time arrangements are not prejudicial to the health of workers or to the necessary work–life balance.

It is important to recall, in this regard, the conclusions of the ILO Tripartite Meeting of Experts on Working-time Arrangements, held in October 2011, which stated that the provisions of existing ILO standards relating to daily and weekly hours of work, weekly rest, paid annual leave, part-time and night work, remain relevant in the twenty-first century and should be promoted in order to facilitate decent work (see TMEWTA/2011/6, page 29). It is also important to recall that instruments specifically addressing the policy of progressively reducing hours of work, such as the Forty-Hour Week Convention, 1935 (No. 47), and the Reduction of Hours of Work Recommendation, 1962 (No. 116), may be particularly relevant with a view to promoting employment creation, especially in periods of crisis and rising unemployment.

The Committee is concerned about the proliferation of standards and practices which tend to generalize the suppression or unconditional postponement of leave, as well as cases of exaggeratedly long hours of work, without consideration being given to the necessary compensation or to implications for health and well-being. Such situations contribute to maintaining high unemployment. The most frequently observed gaps between international standards and national laws and practice include:

- compensation of overtime hours by rest periods excluding the higher rate of pay envisaged in Conventions Nos 1 and 30;
- authorization of overtime hours in imprecise terms, resulting in confusion between normal and additional hours of work leading in many cases to excessively long hours of work;
- denial of compensatory rest for workers employed on the weekly rest day and replacement by extra pay; and
- the fixing of the weekly rest day and of annual leave in an unpredictable manner, and the arbitrary division of the annual leave into parts.

The Committee notes that while agreements concluded with workers' representatives and individual arrangements covering hours of work are essential to achieve solutions which reconcile as much as possible the requirements of work and worker protection, their content should reflect the minimum standards established with a view to ensuring compliance in cases of imbalance in individual or collective negotiations between the parties.

The Committee wishes to recall that, in the interest of preserving the coherence and relevance of international labour standards on working time, member States that are parties to revised Conventions could consider ratifying the most up-to-date instruments as approved by the ILO Governing Body. This is, for instance, the case of the Holidays with Pay Convention (Revised), 1970 (No. 132), which revises the standards set out in the Holidays with Pay Convention, 1936 (No. 52), and the Holidays with Pay (Agriculture) Convention, 1952 (No. 101), both of which have been classified as obsolete by the Governing Body.

Taking into account the decisions of the International Labour Conference and the Governing Body concerning the Night Work (Women) Convention (Revised), 1948 (No. 89), the Committee wishes to encourage member States which have ratified that Convention to ratify the Night Work Convention, 1990 (No. 171), which focuses on the protection of all night workers, without distinction on the basis of gender. Over the past decade, only two countries (Luxembourg and Madagascar) have ratified this Convention, and during the last period during which Convention No. 89 could be denounced (2011–12), only two countries (Philippines and Slovenia) did so, with 44 countries still being bound by Convention No. 89.

The Committee also regrets that many countries are still bound by the Night Work (Women) Convention, 1919 (No. 4), and the Night Work (Women) Convention (Revised), 1934 (No. 41), which have been declared obsolete by the ILO Governing Body. The Committee notes that there were no denunciations of Convention No. 41 during the last period that it was open to denunciation (2006–07), leaving 15 member States which are still bound by its provisions, while 27 countries are still parties to Convention No. 4, for which the most recent denunciations were received from Peru in 1997 and Lithuania in 2003.

Finally, the Committee recalls that Conventions Nos 41 and 89 will next be open to denunciation for a period of 12 months as from 22 November 2016 and 27 February 2021, respectively, whereas Convention No 4 may be denounced at any time. The Committee also recalls that Convention No. 171 does not formally revise Convention No. 89 and, therefore, the ratification of Convention No. 171 does not involve the automatic denunciation of Convention No. 89. The Committee wishes to draw this matter to the attention of the Governing Body with a view to examining the possibility of initiating an information and sensitization campaign to ensure that before 2020 all member States parties to Conventions Nos 4, 41 and 89 bring their national laws and practice up to date and align them with the standards prescribed by Convention No. 171.

## Plurinational State of Bolivia

### **Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1973)**

*Articles 3 and 6(1)(a) and (b) of the Convention. Permanent exceptions, intermittent work. Overtime. The Committee requests the Government to refer to the comments made under Article 7(1)(a) and (2) of the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30).*

### **Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1954)**

*Article 5 of the Convention. Compensatory rest. The Committee requests the Government to refer to the comments made under Article 8(3) of the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106).*

### **Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1973)**

*Article 7(1)(a) of the Convention. Permanent exceptions. Intermittent work. The Committee recalls that, under the terms of section 46 of the General Labour Act, the limits of maximum hours of work of 48 hours in the week and eight hours in the day do not apply to persons engaged in discontinuous work, who may work for up to 12 hours a day. The Committee notes, however, the Government's indications that no text specifies the types of work covered by this exception. In this respect, the Committee recalls that, under Article 7(1)(a) of the Convention, regulations made by the public authority shall determine the permanent exceptions which may be allowed for classes of persons whose work is intermittent. The Committee asks the Government to take the necessary measures to determine the types of work covered by this exception.*

*Article 7(2). Additional hours of work. Further to its previous comments, the Committee recalls that the possibility of working additional hours under section 37 of Decree No. 224 of 1943 is covered by the temporary exceptions allowed under Article 7(2)(a) of the Convention. However, under the terms of section 50 of the General Labour Act, the possibility of working additional hours up to a maximum of two hours per day does not appear to be limited to the cases provided for in section 37 of Decree No. 224, a point on which the Committee has been commenting for more than 30 years. The Committee hopes that, in the context of drafting the new General Labour Act, the Government will take the necessary legislative measures to limit temporary exceptions to the rules on working hours to the cases provided for in Article 7(2) of the Convention.*

### **Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1973)**

*Article 8(3) of the Convention. Compensatory rest. The Committee recalls that it has been commenting since 1976 on the need to amend section 31 of Regulatory Decree No. 244 of 1943 which allows the employer, in the event of work being carried out on the Sunday rest day, to grant the worker either compensatory rest on another day of the week or extra pay at double the worker's basic wage rate. The Committee once again stresses that, in accordance with Article 8(3) of the Convention, where temporary exceptions are made in respect of the weekly rest day, compensatory rest of a total duration of at least 24 consecutive hours must be granted, irrespective of the payment of any financial compensation. While noting the Government's indication that the tripartite commission responsible for reviewing the General Labour Act*

will examine section 31 as soon as it resumes its work, the Committee observes that no significant progress appears to have been made with regard to the revision of the General Labour Act despite the technical assistance offered by the Office in 1988, 1990 and 2004. *Recalling the basic principles of the Convention, which are intended to ensure a minimum period of rest and leisure to workers, which is essential for their health and well-being, the Committee expresses the hope that the Government will take the necessary steps to finally bring section 31 of Regulatory Decree No. 244 of 1943 into line with the requirements of the Convention.*

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Chile

### **Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1925)**

*Article 2 of the Convention. Maximum daily hours of work.* Further to its numerous previous comments, the Committee recalls that, under section 28 of the Labour Code, working hours can be set at ten hours a day, provided that they do not exceed 45 hours in a week. The Committee nevertheless wishes to recall that, in accordance with *Article 2(b)* of the Convention, in industrial undertakings, when the hours of work on one or more days of the week are less than eight, the limit of eight hours may be exceeded but in no case shall the daily hours of work ever exceed nine hours in a day. *The Committee therefore hopes that the Government will take the necessary measures, in the near future, to bring the national legislation into full conformity with Article 2(b) of the Convention.*

In addition, the Committee notes the comments by the General Confederation of Workers (CGT) received on 22 May 2013 and forwarded to the Government on 8 October 2013. The CGT indicates that the draft Act of 7 January 2013 to adapt labour standards in the tourism sector, and which was approved on first reading by the Chamber of Deputies on 19 June 2013, is not in conformity with the standards on hours of work. The CGT indicates, in particular, that the right to an eight-hour working day and a 48-hour working week is not guaranteed to workers in the tourism sector and that some workers already work up to 60 hours in a week. According to the CGT, the draft Act would provide for a 13-hour working day and would have a serious impact on work–life balance. The CGT further states that the catering sector alone comprises 270,000 workers, 75 per cent of whom live far from their workplace. The Committee wishes to recall, however, that the Convention covers only industrial undertakings, while the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), does not apply, in accordance with Article 1(2)(b), to hotels, restaurants, boarding houses, clubs, cafes and other refreshment houses. *The Committee nevertheless invites the Government to forward any comments it may wish to make in response to the observations of the CGT.*

*Article 6. Temporary exceptions. Additional hours.* *The Committee requests the Government to refer to the comments made under Article 7(2) and (3) of the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30).*

### **Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1935)**

*Article 7(2) and (3) of the Convention. Temporary exceptions. Additional hours.* The Committee recalls that, under sections 31 and 32 of the Labour Code, where there is a need to deal with temporary needs or situations prevailing in an enterprise, workers and their employer may agree on a maximum of two hours' overtime per day to be performed in jobs which, by their nature, are not harmful to the health of workers. However, the Committee wishes to recall its previous comments in which it pointed out that *Article 7(2)* of the Convention only allows temporary exceptions to normal hours of work in specific cases, particularly those involving abnormal pressure of work. The Committee also recalls that the Convention calls for imposing a reasonable limit on overtime thus authorized, not only in the day but also in the year. *The Committee therefore hopes that the Government will take the necessary steps in the very near future in order to bring the national legislation into full conformity with Article 7(2) and (3) of the Convention.*

## Czech Republic

### **Holidays with Pay Convention (Revised), 1970 (No. 132) (ratification: 1996)**

*Article 9 of the Convention. Postponement or accumulation of annual holidays.* Further to its previous comments, the Committee notes with *satisfaction* that by Act No. 365/2011 Coll., sections 218 and 222 of the Labour Code have been amended and now provide that where leave cannot be taken until the end of the subsequent calendar year because the employee has been recognized as temporarily unfit for work, the employer shall grant such leave after the termination of the employee's incapacity to work. The Committee notes the Government's explanations that Act No. 365/2011 Coll. was adopted with a view to improving the position of employees in cases where paid leave cannot be taken in the calendar year in which it falls due, and guarantees that the right to leave does not expire by the mere lapse of time.

## Dominican Republic

### **Night Work Convention, 1990 (No. 171) (ratification: 1993)**

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. Protective measures for night workers.* For the last 18 years, the Committee has been drawing the Government's attention to the need to adopt measures – legislative or others – implementing the specific requirements set out in *Articles 4* (free medical assessment), *6* (workers certified as unfit for night work), *7* (maternity protection), *9* (social services) and *10* (consultation of workers' representatives) of the Convention. The Committee recalls once more that these provisions of the Convention call for concrete protective measures in view of the inherent risks of night work. For instance, *Article 4* provides that night workers are entitled to request a free health assessment before they take up an assignment, at regular intervals during such assignment and whenever they experience health problems during the assignment, and also to receive advice on how to reduce or avoid health problems associated with night work. *Article 6* provides that workers who are medically certified as unfit to work at night – but may not necessarily be unfit for day work – have to be either transferred to a similar job for which they are fit, or, if their transfer to an alternative position proves impracticable, granted the same benefits (for instance, unemployment, sickness or disability benefits) as those day workers who are generally unfit for work. *Article 7* requires that an alternative to night work (e.g. similar or equivalent day work) be available to women workers for a period of at least 16 weeks, of which at least eight weeks before the expected date of childbirth, or for longer periods if this is medically necessary for the health of the mother or child. **Recalling that the provisions of the Convention may be implemented by laws or regulations, collective agreements, arbitration awards or court decisions, a combination of these measures or in any other manner appropriate to national conditions and practice, the Committee urges the Government to take prompt action in order to give full effect to the abovementioned requirements of the Convention.**

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

## Ecuador

### **Holidays with Pay (Agriculture) Convention, 1952 (No. 101) (ratification: 1969)**

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

*Articles 1 and 8 of the Convention. Postponement by the worker of paid annual holiday.* The Committee notes that section 75 of the Labour Code still allows workers to relinquish their paid annual holidays for three consecutive years so that they can take it cumulatively in the fourth year. It draws the Government's attention to paragraph 177 of its General Survey of 1964 on annual holidays with pay in which it pointed out that the fact that the Convention provides for the obligation to grant workers "annual" holidays (*Article 1*) and prohibits 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 accordingly urges the Government to take the necessary steps without delay to ensure that should the postponement of annual holiday continue to be permitted, this will not affect a certain minimum part of the holiday, which must be granted every year.**

The Committee raises other matters 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 near future.*

### **Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153) (ratification: 1988)**

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

*Articles 5–9 of the Convention. Hours of work and rest.* The Committee notes that the Government merely refers in its report to the provisions of the Labour Code concerning conditions of work in public and private transport enterprises, the non-conformity of which with the Convention it has been emphasizing for 20 years. It also notes the new Organic Act on land transport, traffic and road safety, adopted on 24 July 2008, a copy of which has been attached by the Government to its report, but which does not contain any relevant provision regarding the implementation of the Convention. Finally, the Committee notes that the Government refers to the overall reform of the country's legal system which is currently in progress, without, however, supplying any details regarding the possible preparation of a draft act intended to bring the legislation into conformity with the Convention. It recalls that, at the June 2003 session of the International Labour Conference, the Conference Committee on the Application of Standards urged the Government to "adopt the necessary administrative and legal measures, in consultation with the interested representative organizations of workers and employers with a view to bringing the national legislation and practice into conformity with the requirements of the Convention". **The Committee can only reiterate this request once again. It trusts that the Government, 20 years after ratification of the Convention, will finally take all the necessary steps to implement its provisions and proceed with the necessary amendments to the Labour Code. It requests the Government to supply all relevant information on progress made in the application of the Convention.**

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

## Equatorial Guinea

### **Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1985)**

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 of the Convention. Permanent and temporary exceptions.* In reply to the comments the Committee has been making since 1994, the Government indicated in its 2004 report that the regulations applying section 49 of Act No. 2/1990 were still being examined with the parties concerned, particularly in the oil sector. *The Committee asks the Government to provide information on the progress made in this matter. The Government is also invited to communicate information on the organizations of employers and workers consulted in the preparation of the abovementioned regulations. Furthermore, the Committee urges the Government to provide information on the manner in which effect is given, in practice, to the provisions of section 49 of Act No. 2/1990 on overtime.*

The Committee is raising other matters 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 near future.*

### **Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1985)**

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 7 of the Convention. Permanent and temporary exceptions.* In reply to comments that the Committee has been making since 1994, the Government indicated in its 2004 report that the regulations to implement section 49 of Act No. 2/1990 are still being examined with the parties concerned, particularly in the oil sector. *The Committee requests the Government to report on progress in this process. The Government is also asked to provide information on the employers' and workers' organizations consulted in the preparation of these regulations. Furthermore, the Committee urges the Government to provide information on the way in which the provisions of section 49 of Act No. 2/1990 on overtime are applied in practice.*

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

## Guatemala

### **Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1988)**

*Articles 2 and 6 of the Convention. Work in excess of normal hours of work. Overtime hours.* The Committee notes the Government's explanations in response to the comments made previously by the Indigenous and Rural Workers' Trade Union Movement of Guatemala (MSICG) concerning excessive hours of work in the *maquila* (export processing) sector. The Government indicates that, under sections 59 and 60 of the Labour Code, the internal work rules of every enterprise must include, amongst others, detailed particulars on working time. The Government adds that all internal work rules need to be previously approved by the labour inspectorate and such approval is denied when regulations are not in conformity with article 102(g) of the Constitution establishing limits to hours of work. The Committee notes that, according to information supplied by the Government, there have been very few cases of non-compliance with working time legislation in the *maquila* industry confirmed by court decisions in 2012–13, while a number of cases are still pending. The Committee notes, in this connection, the communication of the General Confederation of Workers of Guatemala (CGTG), received on 30 August 2013 and transmitted to the Government on 18 September 2013, which lists more than a dozen *maquila* enterprises which allegedly require their employees to work more than eight hours per day without overtime pay. The CGTG also refers to similar problems observed in the transport sector and in private security enterprises. *Given the seriousness and extent of the alleged infringements, which are similar to those on which the Committee has been commenting under the Forced Labour Convention, 1930 (No. 29), the Committee asks the Government to continue to provide information on the manner in which the application of the Convention is enforced in the maquila sector, including labour inspection results, copies of relevant court decisions and a list of cases still pending identifying the number of workers involved for each pending case. The Committee also requests the Government to provide any comments it may wish to make in response to the observations of the CGTG.*

In addition, the Committee notes the information provided by the Government concerning the latest developments in the case brought before the courts by the Trade Union of Workers of Operators of Plants, Wells and Guards of the Municipal Water Company (SITOPGEMA) with respect to the failure of the Municipal Water Company of Guatemala City (EMPAGUA) to pay its employees for long overtime hours. The Government confirms that both the Supreme Court, in its decision of 18 September 2009, and the Constitutional Court in its decision of 28 July 2011 have upheld the decision of the Court of Appeal in favour of the SITOPGEMA and therefore the decision for the retroactive payment of overtime hours worked should now be properly executed. *The Committee accordingly requests the Government to provide in its next report detailed information on the final settlement of all the amounts due to the workers of EMPAGUA.*

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Indonesia

### **Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)** (ratification: 1972)

*Article 8(3) of the Convention. Temporary exemptions. Compensatory rest.* Following up on the comments that it has been formulating for over 30 years, the Committee notes with **regret** that, as indicated in the Government's report, workers are not granted compensatory rest for working on their weekly rest day and are only compensated with overtime pay in accordance with section 11(b) of the Decree of the Minister of Manpower and Transmigration No. KEP-102/MEN/VI/2004 on Overtime Work and Overtime Pay. Although the Government has repeatedly declared in the past its intention to bring the national legislation into conformity with the Convention, no concrete measures have been taken to this effect. In earlier reports, the Government had also indicated that employers are encouraged to include a compensatory rest provision in their company regulation or collective labour agreement but no copies of any such company regulations or collective agreements have been transmitted to the Office. The Committee is obliged to recall that, under *Article 8(3)* of the Convention, granting compensatory rest of a total duration equivalent to the period provided for under *Article 6* is an absolute requirement and must be granted in all cases of authorized exceptions to the basic 24-hour weekly rest rule, irrespective of monetary compensation. **The Committee once more urges the Government to take appropriate action without further delay in order to ensure that the national legislation gives full effect to this Article of the Convention.**

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Jordan

### **Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)** (ratification: 1979)

*Articles 6, 7(2) and 8(3) of the Convention. Accumulation of weekly rest. Permanent and temporary exemptions. Compensatory rest.* The Committee has been drawing the Government's attention for several years to the need to amend sections 60(2) and 59(2) of the Labour Code of 1996 as these provisions run counter to basic principles including by reference to: (i) the requirement to specify the conditions under which special weekly rest schemes (and thus the accumulation or postponement of weekly rest days) may be authorized; (ii) the obligation to provide compensatory rest (irrespective of any monetary compensation) for work performed on a weekly rest day; and (iii) the need to ensure that compensatory rest periods are granted within reasonably short intervals so that workers are not required to work for more than three weeks without enjoying the weekly rest to which they are entitled. In its latest report, the Government indicates that no new or amended legislation has been promulgated concerning this Convention and reiterates information communicated in earlier reports. The Committee is, therefore, obliged once again to point out that the entitlement to weekly rest may not be deferred at the worker's or the employer's unlimited discretion, or replaced by monetary compensation, as it is commonly accepted that a minimum of rest and leisure every week is essential for the workers' health and well-being. The Committee also recalls that granting compensatory rest of at least 24 hours in cases where a worker is required for whatever reason to perform work on the weekly rest day is an absolute requirement under *Articles 7(2) and 8(3)* of the Convention. **The Committee therefore asks the Government to take all necessary action without further delay to ensure that the national legislation gives full effect to the specific requirements of the Convention referred to above.**

## Mali

### **Weekly Rest (Industry) Convention, 1921 (No. 14) (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 5 of the Convention. Compensatory rest.* The Committee notes that in reply to its previous observation, the Government merely sends copies of an internal memo and an application form for leave or compensatory rest, from two non-governmental organizations. The Committee points out that these documents do not constitute local agreements within the meaning of *Article 5* of the Convention. **In view of the importance of compensatory rest to the protection of the health of the workers concerned, the Committee trusts that the Government will take the necessary steps without delay to ensure that, as far as possible, such rest is granted to workers who work on their weekly day of rest. It requests the Government to provide information on all progress made in this regard.**

*Article 7. Posting of notices and record-keeping.* The Committee notes that the documents sent by the Government are not such as to ensure application of this provision of the Convention. It reminds the Government that, according to *Article 7* of the Convention, employers must be required either to make known to the whole of the staff the days and hours of collective weekly rest or to draw up a roster indicating any special system of weekly rest. **The Committee once again requests the Government to provide information on the measures taken or envisaged to give effect to this provision of the Convention.**

The Committee is raising other matters 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 near future.**

## Myanmar

### **Holidays with Pay Convention, 1936 (No. 52) (ratification: 1954)**

*Article 2 of the Convention. Annual holidays with pay.* The Committee notes that the Government's report again refers to the provisions of the Leave and Holidays Act, 1951, as last amended by Act No. 6/2006, without providing any specific replies to the Committee's previous comments. **The Committee is therefore bound to once more ask the Government: (i) to take measures for the timely revision of section 4(3) of the Leave and Holidays Act, which allows for the accumulation of holidays over a period of three years (Article 2(1) and (4)); and (ii) to bring in line with the Convention, section 4(1) of the Leave and Holidays Act, which provides for ten consecutive days of paid leave for those workers who have completed 12 years of service but still does not provide for at least 12 working days of leave for young workers under 16 years of age (Article 2(2)). In addition, noting the Government's statement that the Leave and Holidays Act is being reviewed and amended in line with the Convention, the Committee asks the Government to provide concrete information regarding the legislative reform currently in progress and the manner in which the above comments have been taken into account.**

## Panama

### **Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1959)**

*Article 7 of the Convention. Temporary exceptions. Annual limit on the number of additional hours and overtime pay.* The Committee notes with **regret** that the Government is still not in a position to report any progress concerning the amendment of section 36(4) of the Labour Code to establish an annual limit to the number of overtime hours that workers may be required to perform in the case of temporary exceptions – a point on which the Committee has been commenting for more than 30 years. In its latest report, the Government refers once again to the lack of consensus among the social partners justifying the lack of progress on this matter. **Recalling that the Government is ultimately responsible for ensuring the conformity of the national legislation with the requirements of the Convention, the Committee urges the Government to take without further delay the necessary measures in order to introduce a reasonable annual limit to the number of additional hours authorized in the context of temporary exceptions, as required under Article 7(3) of the Convention.**

In addition, with respect to the overtime limits applicable in the public sector, the Committee notes the Government's indication that a tripartite Working Subcommittee on Administrative Careers has been set up within the Tripartite Accord Committee and is expected to examine all aspects of the labour legislation applicable to civil service, including overtime work, and its conformity with ratified ILO Conventions. The Committee trusts that the tripartite working group will take due consideration of the Committee's previous comments and will recommend appropriate action, particularly with a view to setting an annual limit on the number of authorized overtime hours, as required under *Article 7(3)* of the Convention, and fixing the rate of overtime pay in conformity with *Article 7(4)* of the Convention. **The Committee requests the Government to keep the Office informed of further developments in this regard and to transmit a copy of any new text once it has been adopted.**

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Peru

### **Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1945)**

*Articles 2 and 5 of the Convention. Averaging of hours of work.* In its previous comment the Committee noted that section 2(1)(b) and (c) of Legislative Decree No. 854 on hours of work (consolidated by Supreme Decree No. 007-2002-TR), that allows the uneven distribution of working hours in the same week, or the reduction or increase of the number of working days during the week, on condition that weekly hours of work do not exceed an average of 48 hours, is not consistent with the requirements of *Articles 2(b)* and *5* of the Convention. Noting that the Government's report does not provide new information on this point, the Committee is bound to recall that the Convention permits the variable distribution of working hours within a week on condition that the daily limit of eight hours is not exceeded by more than one hour (*Article 2(b)*) and also permits the averaging of hours of work over a period longer than a week only in exceptional cases where it is recognized that the limits on normal daily and weekly hours of work cannot be applied (*Article 5*). **The Committee accordingly asks the Government to consider the possibility of revising the relevant provisions of the Legislative Decree No. 854 to ensure that they are brought fully into line with these Articles of the Convention and inform the Office of any revision.**

*Article 6. Circumstances in which temporary exceptions may be permitted. Overtime pay.* The Committee has been commenting on sections 9 and 10 of Legislative Decree No. 854 which do not define the circumstances in which overtime work may be carried out and also allow for overtime pay to be replaced by compensatory rest. In this connection, the Committee notes the comments of the Single Confederation of Workers of Peru (CUT), which were received on 25 June 2013 and transmitted to the Government on 9 July 2013. The CUT indicates that the legislation on overtime work

is not complied with, especially in the case of small enterprises where workers are often assigned specific tasks that need to be completed irrespective of the number of hours of work involved. In addition, the CUT denounces cases where employers alone establish that work is urgent and necessary, and therefore overtime work becomes compulsory. The CUT also refers to cases in which only time off, instead of extra pay, is offered in compensation of overtime. In its reply, the Government states that the allegations regarding lack of effective supervision are not corroborated by any facts and refers to labour inspection data that show that the number of overtime-related infringements recorded in the period between 2010 and 2012 has been on the increase. The Committee once again recalls that under the Convention overtime work may only be authorized in exceptional cases of pressure of work and overtime pay at a rate at least 25 per cent higher than the normal wage rate must be paid in all cases. ***The Committee accordingly asks the Government to take the necessary measures to ensure compliance with the Convention on these points.***

## Romania

### **Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1921)**

*Articles 2–5 and 6(1) of the Convention. Daily hours of work. Uneven distribution of weekly hours of work. Cases in which overtime is authorized.* The Committee recalls its previous comments relating in particular to section 115 of the Labour Code, which allows daily hours of work to be increased to 12 hours and regarding which the Committee emphasized that the daily limit of eight hours established by the Convention may only be exceeded in the specific cases referred to in *Articles 3–6* of the Convention. The Committee also referred to section 113(2) of the Labour Code which, combined with the national collective agreement, allows the uneven distribution of weekly hours of work, increasing daily working time to a maximum of ten hours on certain days. The Committee drew the Government's attention to the fact that *Article 2(b)* of the Convention only authorizes the uneven distribution of weekly hours of work if daily working time does not exceed nine hours. Finally, the Committee referred to section 120(2) of the Labour Code, which does not provide a restrictive list of the situations in which overtime may be authorized, except for cases of force majeure or where the work needs to be done urgently. The Committee recalls once again that, except for the two abovementioned cases, *Article 6(1)(b)* of the Convention only authorizes overtime work to enable the employer to deal with exceptional cases of pressure of work. ***In view of the lack of new information on these points in the Government's report, the Committee again asks the Government to take the necessary steps as soon as possible in order to give full effect to the provisions of the Convention and to inform the Office of any developments in this regard.***

*Article 6(2). Overtime pay.* The Committee notes that the Government's report does not contain any new information on measures taken or contemplated to ensure that overtime is paid at a rate at least 25 per cent higher than the normal rate, whether or not compensatory rest is granted, as required by *Article 6(2)* of the Convention. In fact, section 123(2) of the Labour Code only provides for a higher rate of pay when compensation in the form of paid time off is not possible within 60 days following the period of overtime. ***Recalling the December 2010 conclusions of the European Committee of Social Rights that went along similar lines, the Committee asks the Government once again to take the necessary measures as soon as possible to give full effect to this Article of the Convention.***

## Spain

### **Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1929)**

*Article 5 of the Convention. Averaging of hours of work.* The Committee previously noted that the Workers' Statute establishes no overall limit to weekly hours of work and allows exceeding the nine-hour daily limit through collective or enterprise agreements. In its latest report, the Government indicates that, in 2011, only 18 per cent of the workforce was concerned by a system of annualized hours of work while the remaining 82 per cent were subject to the normal nine-hour working day and 40-hour working week established under the Workers' Statute. The Government points out that, under section 34(2) of the Workers' Statute as amended by Act No. 3/2012, the uneven distribution of hours of work over a period of one year requires the conclusion of a collective agreement and, only in absence of such an agreement, an employer may apply a system of annualized hours to 10 per cent of working time to promote flexibility. The Government adds that such distribution has to conform in any case to the minimum daily and weekly rest periods and be notified to the worker at least five days before the new working time arrangement becomes effective. The Committee notes, in this respect, the new comments of the General Union of Workers (UGT) dated 4 September 2013, according to which in practice the only effective limit to the duration of working hours is the minimum 12-hour period of daily rest. The Committee further notes the Government's reply to these comments, in which it states that, in addition to the benefits previously identified, such as ensuring internal flexibility for companies while respecting national regulations concerning weekly rest hours and collective agreements, section 34(8) of the Workers' Statute entitles workers to adjust the duration and distribution of daily work hours to effectively balance work and family. The Committee is bound to recall that the Convention allows the uneven distribution of hours of work over a period longer than a week (averaging) only in *exceptional cases* where it is recognized that the normal hours of work cannot be applied, and therefore offering the possibility of introducing annualized systems of working time in such general terms as those set out in the Workers' Statute goes beyond the letter and the spirit of the relevant provisions of the Convention. ***The Committee hopes that the***

**Government will take appropriate action to bring the national legislation into full conformity with the Convention in these matters.**

*Article 6. Limits to overtime hours. Overtime pay.* The Committee previously observed that section 35(4) of the Workers' Statute permits the performance of overtime hours under much broader conditions than those prescribed by the Convention, i.e. cases of accident, urgent repair work, force majeure, and exceptional pressure of work. The Committee further noted that section 35(2) of the Workers' Statute provides for an annual limit of 80 overtime hours but leaves open the possibility of exceeding that limit under certain circumstances without fixing an overtime cap. Moreover, the Committee noted that section 35(1) of the Workers' Statute provides that additional hours may be compensated in the form of either extra pay or equivalent periods of rest, and recalled that under *Article 6* of the Convention an overtime premium of at least 25 per cent must be paid in all cases. In this connection, the Committee notes the comments of the UGT according to which the current legislation on overtime that no longer provides for overtime pay, in practice, facilitates employers' requests for additional hours of work. According to the UGT, overtime is very frequent in sectors such as hotel and catering, as well as in private security enterprises, and the media have regularly drawn attention to problems of non-payment of overtime work and the effects of excessive overtime on the workers' safety and health. The Committee further notes the Government's response to the comments of the UGT, in which it indicates that the Labour and Social Security Inspectorate is charged with monitoring compliance with the working hours and rest periods as well as its effects on the security and health of workers. **While noting the Government's statistical information regarding compliance with overtime regulations and pay, the Committee hopes that the Government will take the necessary measures to ensure that the provisions of the Convention regarding overtime are fully implemented both in law and in practice.**

### **Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1924)**

*Article 2(1) of the Convention. Minimum weekly rest period.* **The Committee requests the Government to refer to the comments made under Article 6(1) of the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106).**

### **Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1932)**

*Articles 6 and 7 of the Convention. Averaging of hours of work. Overtime.* The Committee notes the comments of the General Union of Workers (UGT), which were received on 4 September 2013 and transmitted to the Government on 23 September 2013. It also notes the communication of the Trade Union Confederation of Workers' Commissions (CC.OO.) dated 30 August 2013 which was transmitted to the Government on 16 September 2013. The UGT indicates that hours of work in the commerce sector are essentially regulated through collective agreements providing for the averaging of working hours over a period of one year subject to a 40-hour weekly limit. The UGT points out that, whereas normal hours of work are eight per day, following the crisis and new legislation on working time, the ten-hour working day tends to become general practice. Finally, the UGT indicates that, notwithstanding the normal 12-hour period of daily rest, Royal Decree No. 2001/1983 provides for the possibility of reducing daily rest to only eight hours in the sectors of commerce, catering and transport, thus seriously worsening the working conditions in these sectors. For its part, the CC.OO. refers to section 34(2) of the Workers' Statute, as amended by Act No. 3/2012, according to which, in the absence of a collective or enterprise agreement allowing the uneven distribution of working hours throughout the year, an enterprise may still apply the averaging to 10 per cent of the working hours. The CC.OO. indicates that this possibility, together with the employers' discretionary power to unilaterally modify working conditions (section 41(1) of the Workers' Statute) and the modification of working-time arrangements in the commerce sector pursuant to Royal Decree No. 20/2012, has a significant impact on workers in the commerce sector and may give rise to practices that are inconsistent with the provisions of the Convention. The Committee notes, in this respect, the Government's response to the comments of the UGT in which it indicates that section 2 of Royal Decree No. 1561/1995 requires any reduction in daily or weekly rest to be compensated with alternative rest of the same duration, which may be accumulated and taken together with annual holiday. **The Committee asks the Government once more to take the appropriate steps to ensure that the national legislation only allows the limits determined by the Convention in relation to daily and weekly hours of work to be exceeded occasionally, in the context of the averaging of working time, in the circumstances envisaged by the Convention. The Committee also requests the Government to refer to the comments made under Articles 5 and 6 of the Hours of Work (Industry) Convention, 1919 (No. 1).**

### **Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1971)**

*Article 6(1) of the Convention. Minimum weekly rest period.* In its previous comments, the Committee noted that the unrestricted possibility of accumulating weekly rest over a period of two weeks pursuant to section 37(1) of the Workers' Statute is not fully consistent with the letter and the spirit of the Convention. The Committee also noted that the fact that section 37(1) of the Worker's Statute may reflect a similar permissive provision contained in Directive 2003/88/EC of the European Parliament and of the Council concerning certain aspects of the organization of working time, is not in itself sufficient to ensure compliance with the requirements of this Convention. In its latest report, the Government indicates that, in any event, the need to consult the workers' representatives before introducing exceptions

to the general 36 hours' rest per week rule offers adequate protection against any unjustified decision taken unilaterally by the employer. The Government refers, in this respect, to certain collective agreements that continue to provide for between 36 and 48 hours of rest to be taken in each seven-day period. The Committee wishes to reiterate that by authorizing in general terms and without specific conditions the accumulation of weekly rest over a 14-day period, section 37(1) of the Workers' Statute fails to give effect to the basic principle of *Article 6* of the Convention which requires a minimum uninterrupted rest of 24 hours in the course of each period of seven days. The Convention permits, of course, temporary and permanent exemptions but only under limited circumstances specified in *Articles 7* and *8*. ***The Committee accordingly asks the Government to consider appropriate action in order to ensure that any exceptions to the workers' standard entitlement to weekly rest are limited to those provided for in the Convention. The Committee also requests the Government to communicate more detailed information on the extent to which use is made in practice of the possibility to accumulate weekly rest over a 14-day period.***

In addition, the Committee notes the comments of the Trade Union Confederation of Workers' Commissions (CC.OO.), which were received on 30 August 2013 and communicated to the Government on 16 September 2013, as well as the comments of the General Union of Workers (UGT), which were received on 4 September 2013 and transmitted to the Government on 23 September 2013. The UGT indicates that in the commercial sector, enterprises do not comply with legislation on weekly rest so that workers often enjoy only one day of rest instead of the statutory one-and-a-half days. The UGT alleges that such practice is particularly frequent in department stores, even though the Supreme Court has established on three occasions the obligation of enterprises to grant weekly rest in a manner that does not overlap with daily rest. Moreover, the UGT and the CC.OO. maintain that the regulations of the central Government and autonomous regions allowing shops to open on a seven-day basis weaken the possibility of workers to fully enjoy their right to weekly rest. In reply to the comments of the UGT, the Government indicates that the Labour and Social Security Inspectorate is charged with monitoring compliance with the working hours and rest periods. ***While noting the Government's statistical information provided in its report regarding compliance with working time, the Committee requests the Government to take the necessary measures to ensure that the principle of at least 24-hours rest per week is effectively implemented in practice.***

## Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 1** (Angola, Argentina, Bangladesh, Belgium, Bulgaria, Canada, Colombia, Comoros, Costa Rica, Cuba, Czech Republic, Djibouti, Equatorial Guinea, Ghana, Haiti, India, Kuwait, Lebanon, Libya, Lithuania, Luxembourg, Malta, Myanmar, Nicaragua, Pakistan, Paraguay, Saudi Arabia, Slovakia, Syrian Arab Republic, United Arab Emirates, Uruguay, Bolivarian Republic of Venezuela); **Convention No. 4** (Cambodia, Colombia, Lao People's Democratic Republic, Morocco, Nicaragua, Spain); **Convention No. 14** (Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Belgium, Belize, Benin, Bosnia and Herzegovina, Botswana, Bulgaria, Burundi, Cameroon, Central African Republic, Chad, China, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Czech Republic, Democratic Republic of the Congo, Denmark, Denmark: Faeroe Islands, Denmark: Greenland, Djibouti, Dominica, Egypt, Estonia, Ethiopia, Finland, France: French Polynesia, France: New Caledonia, Gabon, Ghana, Grenada, Haiti, Honduras, Hungary, India, Islamic Republic of Iran, Iraq, Ireland, Israel, Kenya, Kyrgyzstan, Lebanon, Lesotho, Libya, Lithuania, Luxembourg, Madagascar, Malaysia: Sarawak, Mali, Malta, Mauritania, Mauritius, Montenegro, Myanmar, Nepal, Netherlands: Aruba, Netherlands: Caribbean Part of the Netherlands, Netherlands: Curaçao, Netherlands: Sint Maarten, New Zealand, Niger, Norway, Pakistan, Paraguay, Peru, Romania, Russian Federation, Rwanda, Saint Lucia, Saudi Arabia, Senegal, Serbia, Slovakia, Slovenia, Solomon Islands, Swaziland, Sweden, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Togo, Turkey, Ukraine, United Kingdom: Anguilla, United Kingdom: British Virgin Islands, United Kingdom: Falkland Islands (Malvinas), United Kingdom: Montserrat, United Kingdom: St Helena, Uruguay, Viet Nam, Zimbabwe); **Convention No. 30** (Argentina, Bulgaria, Colombia, Cuba, Equatorial Guinea, Ghana, Guatemala, Haiti, Kuwait, Lebanon, Luxembourg, Morocco, Norway, Paraguay, Saudi Arabia, Syrian Arab Republic, Uruguay); **Convention No. 41** (Afghanistan, Benin, Central African Republic, Chad, Côte d'Ivoire, Gabon, Suriname, Bolivarian Republic of Venezuela); **Convention No. 47** (Azerbaijan, Republic of Korea, Kyrgyzstan, Lithuania, Republic of Moldova, Sweden, Tajikistan, Ukraine, Uzbekistan); **Convention No. 52** (Albania, Azerbaijan, Bulgaria, Burundi, Central African Republic, Colombia, Comoros, Cuba, Denmark, Denmark: Faeroe Islands, Djibouti, France: New Caledonia, Gabon, Georgia, Lebanon, Libya, Mali, Mauritania, New Zealand, Paraguay, Peru, Slovakia); **Convention No. 89** (Algeria, Angola, Bahrain, Bangladesh, Belize, Plurinational State of Bolivia, Bosnia and Herzegovina, Burundi, Cameroon, Congo, Democratic Republic of the Congo, Djibouti, France: French Polynesia, France: New Caledonia, Ghana, Guatemala, Guinea, India, Iraq, Kenya, Kuwait, Lebanon, Libya, Madagascar, Malawi, Mauritania, Montenegro, Pakistan, Panama, Paraguay, Romania, Rwanda, Serbia, Swaziland, Syrian Arab Republic, the former Yugoslav Republic of Macedonia, Tunisia); **Convention No. 101** (Algeria, Antigua and Barbuda, Barbados, Belize, Burundi, Central African Republic, Colombia, Comoros, Cuba, Djibouti, Ecuador, France: New Caledonia, Gabon, Guatemala, Netherlands: Caribbean Part of the Netherlands, Netherlands: Sint Maarten, New Zealand, Peru, Saint Lucia, Saint Vincent and the Grenadines, Sierra Leone, Swaziland, United Republic of Tanzania:

*Tanganyika, United Kingdom: Anguilla*); **Convention No. 106** (*Afghanistan, Angola, Azerbaijan, Bangladesh, Bosnia and Herzegovina, Bulgaria, Cameroon, China: Macau Special Administrative Region, Colombia, Costa Rica, Croatia, Cyprus, Denmark, Denmark: Faeroe Islands, Denmark: Greenland, Djibouti, Dominican Republic, Ecuador, Egypt, Ethiopia, France, France: French Polynesia, France: New Caledonia, Gabon, Ghana, Haiti, Honduras, Islamic Republic of Iran, Israel, Kuwait, Kyrgyzstan, Latvia, Lebanon, Malta, Montenegro, Netherlands: Aruba, Netherlands: Caribbean Part of the Netherlands, Netherlands: Curaçao, Netherlands: Sint Maarten, Pakistan, Paraguay, Peru, Russian Federation, Saudi Arabia, Serbia, Slovenia, Sri Lanka, Syrian Arab Republic, Tajikistan, the former Yugoslav Republic of Macedonia, Ukraine, Uruguay*); **Convention No. 132** (*Armenia, Belgium, Bosnia and Herzegovina, Brazil, Cameroon, Chad, Croatia, Finland, Germany, Guinea, Hungary, Iraq, Kenya, Latvia, Madagascar, Malta, Republic of Moldova, Montenegro, Norway, Portugal, Russian Federation, Rwanda, Serbia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, Uruguay*); **Convention No. 153** (*Iraq, Turkey*); **Convention No. 171** (*Albania, Cyprus, Luxembourg, Madagascar, Slovakia*); **Convention No. 175** (*Albania, Australia, Bosnia and Herzegovina, Finland, Guyana, Hungary, Italy, Mauritius, Portugal, Sweden*).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 14** (*Canada, France, Italy, Morocco, Netherlands, Switzerland*); **Convention No. 52** (*Côte d'Ivoire, Morocco, Senegal*); **Convention No. 101** (*China: Hong Kong Special Administrative Region, Poland, Spain, United Kingdom: Isle of Man*); **Convention No. 106** (*Morocco, Netherlands*); **Convention No. 132** (*Switzerland*); **Convention No. 171** (*Lithuania*); **Convention No. 175** (*Cyprus, Netherlands*).



## Occupational safety and health

### Algeria

#### **Hygiene (Commerce and Offices) Convention, 1964 (No. 120)** (ratification: 1969)

*Article 14 of the Convention. Suitable seats for workers.* With reference to its previous comments, the Committee notes that the Government's report is confined to reiterating that it is planned to introduce into the occupational safety and health legislation a provision requiring employers to provide workers with a sufficient number of seats and to allow their reasonable use, in accordance with *Article 14* of the Convention. In this respect, the Committee draws the Government's attention to the guidance contained in Paragraphs 42 to 44 of the Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120). **The Committee hopes that the Government will be in a position in the very near future to report progress in the preparation of national provisions giving effect to Article 14 of the Convention.**

*Article 18. Protection against noise and vibrations.* In reply to the Committee's previous comments, in which it requested the Government to take all the necessary measures to give effect to this Article of the Convention with regard to vibrations, the Government indicates that vibrations are a direct consequence of high-intensity noise and that the protection of workers employed in commerce and offices against vibrations is accordingly covered by sections 15 and 16 of Executive Decree No. 91-05 of 19 January 1991, issuing requirements respecting noise. The Government adds that these provisions will be reviewed in the context of the revision of the labour legislation. The Committee understands that the Government is referring to acoustic vibrations. It emphasizes that, in addition to acoustic vibrations, the Convention refers to vibrations transmitted throughout the body by solid structures, which constitute a specific risk and require specific measures for their reduction when they are likely to cause harmful effects to workers. **The Committee requests the Government, in the context of the revision of the labour legislation, to take appropriate measures to reduce the harmful effects of vibrations, in accordance with Article 18 of the Convention.**

*Part IV of the report form. Application in practice.* The Committee notes the Government's affirmation that it is constantly attentive, through the work of its prevention and supervisory bodies, to ensuring compliance with labour standards and guaranteeing optimal occupational safety and health conditions. **To enable the Committee to assess the manner in which the Convention is applied in practice, the Government is requested to provide a general appreciation of the application of the Convention in practice, including for example extracts from the reports of the inspection services and, where such statistics are available, information concerning the number of workers covered by the legislation, the number and nature of the contraventions reported, etc.**

### Argentina

#### **Safety and Health in Agriculture Convention, 2001 (No. 184)** (ratification: 2006)

*Article 4(1) of the Convention. Formulation, implementation and periodical review of a coherent national policy on safety and health in agriculture after consulting the representative organizations of employers and workers concerned.* The Committee notes that on 21 November 2012 the National Policy on Occupational Safety and Health and the Working Environment was approved by the Standing Advisory Committee on the Occupational Risks Act, which is a tripartite body, as set out in the Argentinian Occupational Safety and Health Strategy 2011–15, which also provides that the national policy is to be implemented and periodically reviewed, in consultation with the representative organizations of employers and workers and the other state bodies with competence for the matters addressed. It also notes with *interest* that, with respect to the scope of application of the Convention, the National Agricultural Labour Committee (CNTA), which is tripartite in composition, has extensive powers and periodically reviews the occupational safety and health (OSH) situation. **The Committee requests the Government to provide more information on the principles and priorities of its national OSH policy in relation to the issues covered by the Convention and on the consultations held during the period covered by the next report.**

*Article 4(2)(b). National policy. Specification in national laws and regulations of the rights and duties of employers and workers with respect to occupational safety and health in agriculture.* The Committee notes with *interest* Act No. 26727, of 21 December 2011, on the agrarian labour system, Title VII of which on safety and health establishes the rights and duties of workers and employers in relation to OSH. It notes in particular that section 45 of the Act establishes the right of workers to refuse to work in the event of imminent danger of injury or, if the competent body has declared the workplace unsafe, the employer fails to implement the measures indicated by the authority. This section also contains provisions on the obligation of the employer to provide safety materials and equipment, to be responsible for cleaning the worker's clothes in the case of work that involves the processing or handling of toxic, irritant or aggressive substances and the treatment of hazardous wastes. The Committee also notes that section 17 of Act No. 26727 refers to temporary employment contracts and that the CNTA issued Resolution No. 11, of 5 April 2011, on working and housing conditions for all workers carrying out periodic or occasional work or specific assignments, and that it is supplemented by

Resolution No. 46 of 28 July 2011 and Resolution No. 76 of 2 December 2011. It further notes that section 18 of Act No. 26727 provides that, when temporary workers are hired by the same employer on more than one occasion consecutively, they shall be considered as intermittent permanent workers and have equal rights to permanent workers. ***The Committee requests the Government to continue providing information on any legislative changes relating to the Convention.***

The Committee is raising other points in a request addressed directly to the Government.

## Barbados

### ***Radiation Protection Convention, 1960 (No. 115) (ratification: 1967)***

The Committee notes with ***regret*** that the brief report submitted by the Government does not reply to its previous comments. It must therefore repeat its previous observation which read as follows:

*Comments by the Barbados Workers Union (BWU).* The Committee notes the comments transmitted by the BWU on 1 September 2011 which were communicated to the Government on 19 September 2011 and that no response thereto has been received from the Government. The Committee notes that the BWU reiterates its call to institute its previously suggested measures so as to mitigate the probability and severity of any incidents relative to radiation exposure, that the BWU on several occasions has requested that the Advisory Committee be reactivated, maximum admissible radiation exposure doses be fixed and a compulsory annual examination be instituted, among other measures and that according to the BWU workers in a number of establishments have, of late, made calls for the aforementioned measures relating to radiation protection to be implemented without delay. ***In the light of these comments, the Committee requests the Government to take all appropriate measures to ensure full application of the Convention. It also reiterates its request to the Government to respond to its previous observations which read as follows:***

The Committee notes the information contained in the Government's report and the reply to its direct request. It notes that, despite comments it has reiterated for several years, the Government's report contains no new information and that, according to the Government's replies, no follow-up has been given to the Committee's comments. The Committee also notes that the Government's report refers to observations submitted by the "Barbados Workers' Union" which requests the Government to reactivate the Advisory Committee on Radiation Protection (ACRP); to establish legislative measures to afford protection to workers exposed to ionizing radiation, particularly by fixing the maximum admissible radiation exposure doses; to take appropriate measures to prescribe a compulsory medical examination – not merely optional – for workers exposed to radiation; and to provide alternative employment allowing them to maintain their income for persons who can no longer work in zones exposed to radiation. ***In view of the above, the Committee is bound to reiterate its observations on the following matters.***

*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(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(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(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(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 16–27 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 near future.**

## Belize

### **Radiation Protection Convention, 1960 (No. 115) (ratification: 1983)**

In its previous comments, the Committee requested the Government to report in detail on the application of the provisions of the Convention and to provide a copy of the National Occupational Safety and Health (NOSH) Bill. The Committee notes the information in the Government's current report that the NOSH Bill does take into consideration all the Committee's observations as it ensures the effective protection of workers exposed to ionizing radiation in the course of their work. The Committee also notes from the Government's report that provisions have been made in the NOSH Bill for maximum permissible doses of ionizing radiation, alternative employment (especially for pregnant women) and the prevention of occupational exposure during an emergency. Furthermore, according to available information, the NOSH Bill has not yet been adopted due to concerns that it may be burdensome to employers. The Committee notes that, in spite of its previous request, the Government has not provided a detailed report as requested by the Committee. The Committee wishes to emphasize that the indication that the new legislation is in the process of adoption does not free the Government from the obligation to ensure the application of the provisions of the Convention during the transition period and to provide such information in its report. **The Committee requests the Government to supply detailed information on the application of the Convention, including new legislation, if adopted, and where it has not been adopted, the manner in**

**which the Government ensures the application of the provisions of the Convention in practice. It also reiterates its request to the Government to respond in detail to its previous observation which reads as follows:**

*Articles 3(1) and 6(2) of the Convention. Maximum permissible doses of ionizing radiation.* With reference to its previous comments, the Committee notes the Government's response indicating that on 13 March 2009, the Labour Advisory Board was re-activated and that its main duty is the revision of national labour legislation. The Committee notes that the Ministry is currently in the process of identifying a consultant that will work with the Labour Advisory Board to conduct the revision of the legislation, and that comments made by the Committee will be submitted to the Board. **The Committee hopes that in the course of the ongoing revision of national labour legislation due account will be taken on the exposure limits adopted by the International Commission on Radiological Protection in its 1990 Recommendations, to which the Committee referred to in its 1992 general observation under the Convention, in order to ensure the effective protection of workers exposed to ionizing radiation in the course of their work.**

*Article 14. Provision of alternative employment.* The Committee notes the Government's response indicating that there is no provision in the Labour Act for the transfer of pregnant women from their work involving exposure to ionizing radiation to another job. The Committee notes, however, the Government's statement that the National Occupational Safety and Health Policy, adopted by Cabinet on 9 November 2004, can provide a suitable framework for drafting legislation that could make provision for such transfer and that legislation is drafted in consultation with the Labour Advisory Board. **The Committee hopes that in the course of the ongoing revision of the national labour legislation due account will be taken of the need to ensure that suitable alternative employment opportunities, not involving exposure to ionizing radiations, be provided for workers having accumulated an effective dose beyond which detriment to their health considered unacceptable is to arise, as well as for pregnant women, who may be faced with the dilemma that protecting their health means losing their employment.**

*Occupational exposure during an emergency.* The Committee notes that there is currently no provision within the Labour Act laying out the circumstances in which exceptional exposure is authorized. **With reference to paragraphs 16–27 and 35(c) of its 1992 general observation under the Convention, and paragraphs V.27 and V.30 of the International Basic Safety Standards issued in 1994, the Committee requests the Government, in the course of the ongoing revision of the national labour legislation, to take due account of the need to determine circumstances in which exceptional exposure is authorized, and to make protection as effective as possible against accidents and during emergency operations, in particular with regard to the design and protective features of the workplace and the equipment, and the development of emergency intervention techniques, the use of which in emergency situations would enable the exposure of individuals to ionizing radiations to be avoided.**

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

## Plurinational State of Bolivia

### **Benzene Convention, 1971 (No. 136) (ratification: 1977)**

*Legislation.* The Committee notes the Government's detailed report on the measures adopted to ensure the application of the Convention in practice, the obstacles and difficulties encountered and a preliminary draft Occupational Safety and Health Bill, which it already noted in 2011. The Government indicates that the Bill will lay down directives for immediate action to give effect to the Convention. The Committee also notes that, in its report, the Government requests technical assistance and cooperation for the effective application of the Convention and key instruments on occupational safety and health, as well as the development of regulations, technical guides and training. **In this respect, the Committee requests the Government to adopt all the necessary measures to give legislative effect to the Convention, to make a formal request for technical assistance from the Office in the near future and to provide information on the progress made.**

*Article 6(2) of the Convention. Concentration of benzene in the air of places of employment.* The Committee notes that, according to the report, section 20 of Supreme Decree No. 2348 of 18 January 1951, issuing basic industrial safety and health regulations, determines that the maximum permitted concentration of benzene is 100 parts per million. The Committee draws the Government's attention to *Article 6(2)* of the Convention, under which the employer shall ensure that the concentration of benzene in the air in places of employment does not exceed a maximum which shall be fixed by the competent authority at a level not exceeding a ceiling value of 25 parts per million (80mg/m<sup>3</sup>). The Committee also draws the Government's attention to the fact that the concentration of 100 parts per million, as set out in Supreme Decree No. 2349, significantly exceeds the maximum permitted level provided for in the Convention, and is thus not in conformity with the Convention. **The Committee therefore urges the Government to adopt the necessary measures as soon as possible to set the concentration of benzene at a level not exceeding a ceiling value of 25 parts per million, as established in this Article of the Convention, and to provide information in this respect.**

*Article 11(1). Pregnant women, nursing mothers and young persons under 18 years of age.* The Committee notes the Government's indication that, under section 8 of the General Occupational Safety, Health and Welfare Act of 2 August 1979, women and young persons under 18 years of age shall not be employed in work that is hazardous, arduous or harmful to their health or morals. The Committee notes that the report does not indicate whether this covers work involving exposure to benzene. **The Committee requests the Government to take the necessary steps to ensure that the legislation provides that: (a) women medically certified as pregnant, and nursing mothers, shall not be employed in work processes involving exposure to benzene or products containing benzene; and (b) young persons under 18 years of age shall not be employed in work processes involving exposure to benzene or products containing benzene, unless they are young persons undergoing education or training who are under adequate technical and medical supervision. The Committee requests the Government to provide information in this respect.**

## **Asbestos Convention, 1986 (No. 162) (ratification: 1990)**

*Legislation.* The Committee notes the information provided in the Government's report on the application of the Convention in practice, and notes that the Government once again refers to the Bill on occupational safety and health, which has still not been adopted. It also refers to preliminary draft regulations on the safe use of asbestos, which the Committee has been noting for several years. The Committee notes that the effect given to the Convention is very limited as there are no specific legislative or administrative provisions, as required by the Convention. The Committee also emphasizes that *Article 15 of the Convention* requires the competent authority to prescribe limits for the exposure of workers to asbestos or other exposure criteria for the evaluation of the working environment, which has still not been done. The Committee notes with **concern** that, over 20 years after its ratification, adequate legislative or administrative provisions have still not been adopted to give effect to the Convention, and the limits referred to in *Article 15* of the Convention have still not been established. **The Committee urges the Government to adopt all the necessary measures to give legislative effect to the Convention and to provide information in this regard. The Committee recalls that the Government may seek the technical assistance of the Office if necessary, and requests it to provide information on any developments in this respect.**

*Article 4. Consultation of the most representative organizations of employers and workers concerned on the measures to be taken to give effect to the provisions of the Convention.* In its previous comments, the Committee requested the Government to provide information on the activities undertaken by the National Council for Occupational Safety, Health and Welfare, with respect to the application of this Convention. The Committee notes that the Government confines itself to indicating the functions of the Council, as set out in the 1979 General Health Act, but has not provided the information requested. **The Committee urges the Government to make efforts, as soon as possible, to consult the most representative organizations of employers and workers concerned on the measures to be taken to give effect to the provisions of the Convention, and to provide detailed information on the outcome of these consultations.**

## **Brazil**

### **Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1992)**

*Occupational safety and health (OSH) conditions in the extraction, forestry, silviculture and coal-based industries in the State of Minas Gerais.* The Committee notes a communication from the Federation of Workers in the Extraction Industries in the State of Minas Gerais (FTIEMG), received on 2 January 2013 and forwarded to the Government on 20 March 2013. It also notes that the Government has still not provided its comments on this communication. The FTIEMG refers to the poor safety and health conditions of workers providing services in, or in relation with, the firm Celulosa Nipo-Brasilera SA (the company), which operates in the State of Minas Gerais. The union also refers to the action that it has taken to combat precarious working conditions in reforestation, silviculture and vegetation extraction industries, which particularly affect the OSH of workers in the company's outsourced firms. The FTIEMG indicates that illegal outsourcing is linked to situations of serious risks for the safety and health of the workers and that the precarious OSH conditions, especially in the outsourced enterprise working in the reforestation sector, led to a rise in occupational accidents in 2012. The union adds that it is taking public action against the firm together with the Public Ministry of Labour, the Regional Labour Directorate, the Human Rights Commission of the Legislative Assembly of Minas Gerais and the Regional Labour Prosecutor's Office and that, faced with the likelihood of a ruling against the firm, 2,000 dismissals were carried out before December 2012, and it was expected that by September 2013 this would rise to 4,500 on the alleged grounds of a modernization plan. It also indicates that the first workers dismissed were those affected by occupational diseases and accidents. It states that, in this context, threats were issued to the secretariat of the FTIEMG which, on the date the communication was sent, was under police protection. The Committee understands that this communication focuses on the deteriorating safety and health conditions in the outsourced firms and that, faced with efforts to improve OSH conditions in the firms in question, mass dismissals took place, with no dialogue with either the union or the authorities. The Committee also notes that the 16 annexes sent by the union reveal that the labour administration and labour courts took numerous measures in support of the workers. The Committee will examine the communication in greater detail, together with any reply the Government wishes to make in this regard. **The Committee invites the Government to provide comments in relation to the communication from the FTIEMG on the abovementioned situation of the workers and on OSH conditions in the extraction, forestry silviculture and coal-based industries in the State of Minas Gerais. The Committee also invites the Government to reply to its comments of 2011.**

*[The Government is asked to report in detail in 2014.]*

## **Burundi**

### **Safety Provisions (Building) Convention, 1937 (No. 62) (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:

The Committee notes the comments made by the Trade Union Confederation of Burundi (COSYBU) in a communication received on 31 August 2012, which was forwarded to the Government on 18 September 2012, indicating that many public services, in the private sector, do not have occupational safety and health services.

The Committee notes the information contained in the Government's report and the statistical data. It notes with regret that, despite the comments it has been making for a number of years, the legislation to apply the Convention has not been changed.

*Article 4 of the Convention. Inspection system.* Further to its previous comments, the Committee notes from the information provided that the Government will explore possibilities for training labour inspectors to monitor safety prescriptions in the building sector. The Government nevertheless points out in its report that managers in charge of occupational risk prevention at the National Social Security Institute (INSS) are qualified to carry out inspections in the building sector and that they give useful instructions to the employers concerned. **The Committee requests the Government to provide information in its next report on the practical application of this provision of the Convention.**

*Articles 6–15.* With reference to its previous comments, the Committee notes that, according to the Government, the legislation governing occupational safety has not been repealed and that Rwanda-Urundi (ORU) Ordinance No. 21/94 of 24 July 1953 establishing the legal framework for occupational safety in the building industry has not been revoked, and that the Government is envisaging its re-dissemination. **The Committee requests the Government to provide clarification on the legislation in force to enable it to assess how the Convention is applied in Burundi.**

*Part V of the report form.* Further to its previous comments, the Committee notes the statistical data in the Government's report showing trends in the number of active workers and the numbers receiving occupational risk benefits between 2000 and 2004, and the distribution of enterprises according to size and branch of economic activity at 31 December 2004. **The Committee requests the Government to provide further information in its next report regarding trends in accidents in the building industry, together with any other relevant information allowing the Committee to assess how the safety standards established in the Convention are applied in practice.**

*Revision of the Convention.* The Committee draws the Government's attention to the Safety and Health in Construction Convention, 1988 (No. 167), which revises the Convention and could well be better adapted to the current situation in the building sector. It again points out that the ILO Governing Body invited States parties to the Convention to envisage the ratification of Convention No. 167, which entails, ipso jure, immediate denunciation of the Convention (GB.268/8/2). **The Committee requests the Government to provide information on any action taken on this suggestion.**

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

## Cameroon

### **Asbestos Convention, 1986 (No. 162) (ratification: 1989)**

The Committee notes the Government's reports received on 1 September 2012 and 11 September 2013, and the observations of 20 September 2013 by the General Union of Workers of Cameroon (UGTC).

*Legislation. Technical assistance.* The Committee notes the lists of laws, regulations, collective agreements and other documents supplied in the Government's report. It observes, however, that the legislation does not appear to give effect to the provisions of the Convention and that, according to the Government, there are no texts relating specifically to asbestos. It also notes that, according to the 2012 report, following the amendment of the Labour Code, occupational safety and health measures will incorporate asbestos-related hazards and that a text issued by the Ministry of Labour and Social Security will establish procedures for implementation, following consultation with the social partners. Lastly, the Committee notes the information that various forms of support from the Office will be essential to enable the Government to set up a specific framework to give effect to the provisions of the Convention. The request for technical assistance has the support of the UGTC. **The Committee urges the Government to take the necessary steps to adopt laws and regulations that give full effect to the Convention. It accordingly invites the Government to submit an official request for technical assistance to the Office. It asks the Government to provide information on progress made in this regard.**

*Article 5. Labour inspection.* The Committee notes that, according to the Government, labour inspectors receive basic training which is general in nature and they have not as yet received specific training on asbestos. It further notes that, according to the UGTC, labour inspectors are neither trained nor equipped in this regard. **The Committee requests the Government to take the necessary steps to ensure that inspectors receive suitable training to enable them to conduct effective inspections in this area.**

*Part V of the report form. Application in practice.* In response to the communications of the UGTC in 2005 emphasizing that, although asbestos is not produced in the country, it has been used in the construction of firewalls in certain buildings and that there is a general lack of awareness among workers of the related dangers, the Government refers to the lack of training of labour inspectors, the lack of relevant statistics and the fact that the National Labour Observatory has not as yet been equipped to manage information of this kind. The union indicates that, for all these reasons, a problem of this kind could well have escaped the Government's notice. The report adds that the Government has focused on the establishment of safety and health committees in all high-risk enterprises, so that they have in-house bodies responsible for safety in general and for the safety of workers. **The Committee hopes that the Government will shortly be in a position to provide up-to-date information on the application of the Convention in practice, including relevant statistical information. It also asks the Government to supply further information on the role of the safety and health committees in relation to application of the Convention.**

## Chile

### **Radiation Protection Convention, 1960 (No. 115) (ratification: 1994)**

*Article 1 of the Convention. Legislation. Consultations with representatives of employers and workers.* In its previous comments, the Committee asked the Government to provide information on consultations actually held with employers' and workers' representatives on the measures referred to in *Article 1* of the Convention, including on the draft legislation to amend the dose limits referred to by the Government. The Committee notes that the Government repeats the information it supplied in its previous report, but does not provide the information requested by the Committee regarding this Article of the Convention. In earlier comments the Committee noted that, according to the Government, since 2008 a process has been under way to update the rules on radiological safety and protection and it is hoped that they will enter into force at the end of 2010 or 2011. It notes that, according to the report, the new regulations on radiological protection will shortly enter into force and that their purpose is to change the dose limits for occupationally exposed workers, to bring them into line with the standards in force internationally. The Government also refers to draft regulations on authorizations, which include authorizations pertaining to persons who are occupationally exposed to ionizing radiations. ***The Committee requests the Government to take the necessary steps to consult the representatives of employers and workers about the measures referred to in Article 1 of the Convention, including the abovementioned regulations, and again asks the Government to provide information on these consultations, specifying the employers' and workers' representatives consulted, the issues discussed, and the results of the consultations. It also asks the Government, in drafting the regulations, to take account of the Committee's comments, including those on the dose limits for workers who are not occupationally exposed, and to provide information on this subject.***

*Article 3(1), (2) and (3)(a) and (b), and Article 6(1) and (2).* ***Appropriate measures to ensure effective protection of workers against ionizing radiations; revision of the maximum permissible doses of ionizing radiations.*** For several years, the Committee has been pointing out to the Government that the maximum doses indicated in the relevant legislation are significantly higher than those recommended in its general observation of 1992, which recommends for workers who are occupationally exposed a maximum annual dose of 20 mSv for the body and 15 mSv for the eyes. According to section 98 of Decree No. 745 of 23 July 1992, read in conjunction with section 12 of Decree No. 3 of 3 January 1985, the annual maximum dose currently in force for workers exposed to ionizing radiations is 5 rem (=50 mSv) for the body and 30 rem (=300 mSv) for the eyes. In its previous comments, the Committee noted that the dose limits indicated previously are still in force but that, according to the Government, the system for monitoring workers who are occupationally exposed is governed by the limits that are currently recommended internationally. The Committee notes that the Government indicates that the competent authority, the Chilean Nuclear Energy Commission, endorses the rules set in this Article of the Convention and has the discretion to fix a series of limits and conditions, which are constantly updated. The Committee notes, however, that the Government has not provided the limits or the information requested by the Committee. ***The Committee once again urges the Government to adopt standards without delay establishing the dose limits that are recommended internationally and are set out in its general observation of 1992; and in so doing, to take account of the Committee's general observation and comments and to provide a copy of the legislation adopted. Furthermore, the Committee requests the Government to ensure, once the legislation is adopted, that the dose limits referred to by the Committee are observed in practice, and to provide information on this subject.***

*Article 7(1)(a), read in conjunction with Article 3(3).* ***Measures to fix appropriate levels for certain categories of workers.*** In its previous comments, the Committee noted that, according to the Government, pregnant women may not receive radiation of occupational origin of above 0.5 rem (=5 mSv) until their pregnancy has come to term. The Committee referred to the recommendations of the International Commission for Radiological Protection (ICRP), mentioned in paragraph 13 of its 1992 general observation, according to which the unborn child should be protected from ionizing radiation by applying an equivalent dose limit of 2 mSv to the surface of the woman's abdomen from the declaration of the pregnancy until its term. The Committee notes the Government's statement that, since these limits are established in a decree, which is not easily amended given its rank as a legal instrument, it has been established that in cases where employers establish in their radiological protection manuals a dose limit lower than the one established in the Decree, those limits shall be enforced. The Committee is of the view that voluntary alignment of this nature will not ensure the enforcement of the dose limits the Committee has been referring to for years. The Committee again expresses its ***concern*** at the delay in amending the maximum permissible doses given the serious repercussions it may have for the unborn child. ***The Committee urges the Government to ensure that an equivalent dose limit of 2 mSv to the surface of the woman's abdomen shall not be exceeded throughout the pregnancy, from the declaration of the pregnancy until its term, and to provide information on this subject.***

*Article 8 read in conjunction with Article 3.* ***Maximum permissible doses of ionizing radiations for workers who are not directly engaged in radiation work.*** In its previous comments, the Committee noted that, according to the Government, these doses would be reflected in the rules undergoing amendment. The Committee notes that, in its report, the Government indicates that Chilean legislation draws no distinction between workers who are directly exposed and those who are not directly exposed in the course of their work. The Committee again draws the Government's attention to paragraph 5.4.5 of the ILO code of practice *Radiation protection of workers (ionizing radiations)*, and to paragraph 14 of its 1992 general observation on the Convention, which fix the annual dose limit for ionizing radiation at 1 mSv for

workers not engaged in radiation work, which is the same as that for members of the public. ***The Committee again urges the Government to fix the annual dose limit of ionizing radiations at 1 mSv for workers who are not directly engaged in radiation work, and to provide information on this subject.***

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

## Colombia

### ***Asbestos Convention, 1986 (No. 162) (ratification: 2001)***

The Committee notes the Government's report, received on 31 August 2013, in response to its observation of 2012, as well as the joint communication of the International Organisation of Employers (IOE) and the National Employers Association of Colombia (ANDI), dated 27 August 2013, a communication of the Single Workers' Union of Materials for the Construction Industry (SUTIMAC), dated 4 June 2013, and a joint communication of the Single Confederation of Workers (CUT) and the Confederation of Workers of Colombia (CTC) referring to the Government's report, dated 29 August 2013. The Committee also notes the Government's comments dated 18 October 2013 regarding the observations made by IOE and ANDI.

*Background.* The Committee has examined the joint communications that it has received from the CUT and CTC and a communication from SUTIMAC. The Committee notes that the fundamental point made by the IOE-ANDI and SUTIMAC in the communications received in 2013 is that Decision No. 007 of 4 November 2011 issued by the Ministry of Health and Social Security, adopting the safety and health regulations for chrysotile and other fibres of similar use, constitute substantial progress in the application of the Convention. The IOE-ANDI indicate that the regulations are designed to reduce exposure to chrysotile dust in the working environment and to establish feasible and reasonable monitoring procedures and practices so as to bring such exposure below the permitted threshold limit values and to prevent its harmful effects on health. In its comments on these observations, the Government indicates that it is very grateful to receive acknowledgement from the IOE and ANDI that correct and timely effect is being given to various Conventions, including this Convention. The Government adds that Colombia is making great efforts to fulfil the international commitments it has made, with the participation of employers' and workers' organizations in the various tripartite forums that exist. SUTIMAC considers that the representativeness of the most representative organizations concerned is guaranteed by the presence of SUTIMAC on the National Occupational Health Commission on Chrysotile Asbestos and Other Fibres (hereinafter National Commission on Chrysotile Asbestos). For several years, the CUT and the CTC have claimed that the most representative organizations are not consulted and have called for a policy aimed at replacing/prohibiting the use of asbestos.

*Article 3 of the Convention. Requirement that national laws and regulations prescribe measures for the prevention and control of health hazards due to occupational exposure to asbestos and for their protection against such hazards.* In its previous comments, the Committee urged the Government to ensure the rapid adoption of legislation giving effect to the provisions of the Convention. In its comments in 2013, the Committee noted the adoption of Decision No. 007 of 4 November 2011 by the Ministry of Health and Social Security issuing safety and health regulations on chrysotile and other fibres of similar use, marking a significant advance in the application of the Convention. The Committee notes with **interest** that, according to the Government's report, the Decision came into force on 4 May 2013 and that its provisions are binding. SUTIMAC states that it was actively involved in convening a group of experts to draft the regulations and that they are an important step forward in protecting workers' health. A similar view is expressed by the IOE-ANDI.

*Article 4. Consultation of the most representative organizations of employers and workers concerned on the measures to be taken to give effect to the provisions of the Convention.* In its previous comments, the Committee, while observing that the Government holds consultations in the National Commission on Chrysotile Asbestos, also noted that the CUT and the CTC were calling for real and effective dialogue and that they considered other forms of consultation to be more appropriate. The Committee noted that section 3(7) of Decision No. 1458 of 2008 includes a trade union delegate or workers' representative from each fibro-cement enterprise in the National Commission on Chrysotile Asbestos, while section 3(9) includes a trade union delegate or workers' representative from each friction materials enterprise; and it noted that the CUT and the CTC did not appear to be represented on the National Commission on Chrysotile Asbestos. The Committee notes the indication this year by SUTIMAC that the representative organizations concerned are those that are involved in the productive sectors where the fibre is handled; it also notes that the CUT and CTC repeat their claim that workers' participation is very limited. The Committee further notes that the Government reiterates the information it provided in its previous report, to the effect that it plans to include a delegate from each of the most representative workers' organizations in the National Commission on Chrysotile Asbestos. ***The Committee notes that the view of SUTIMAC on the one hand and of the CUT and CTC on the other differ as to the way in which consultation should be conducted, as well as on matters of substance and it again asks the Government to take the necessary measures rapidly for the inclusion of the most representative employers' and workers' organizations concerned in the consultations, as the Government indicated in its two previous reports, and to provide information on this subject. Please also provide information on the matters discussed in the consultations and their outcome.***

*Article 9(a). Making work in which exposure to asbestos may occur subject to regulations prescribing adequate engineering controls and work practices, including workplace hygiene. Antioquia mine.* In its previous comments, the Committee referred to the observations of the CUT and CTC that over 10,000 tonnes of asbestos per year are extracted from the mine located in Antioquia and that the mining involves the use of artisanal techniques, without technology, which is absolutely hazardous for the miners. SUTIMAC observed previously that the mine extracting the chrysotile belongs to the workers, who extract and market the fibre. The Committee notes that, according to the Government's report, labour inspectors inspected the Las Brisas mine, located in the Solita de Campamento settlement in Antioquia, in June 2013, and found that no mining or mineral extraction was going on; and so assumed that the mine was no longer in operation. The Committee also notes that, in their latest communication, the CUT and CTC indicate that the mine was turned over to the workers as part of their claims, that it was put up for private auction on 22 June 2012 with a licence to exploit 5,500 hectares and to produce 2,000 tonnes of asbestos a month and that the concentration of airborne asbestos dust in the Campamento mine in Antioquia had not been measured at that time, which made the opening of the quarry a matter of concern. SUTIMAC, for its part, states that the mine is in the process of being reopened and that, according to the information at its disposal, the best techniques are being used to ensure compliance with Decision No. 007. SUTIMAC claims that there has been no case of disease connected with the exploitation of the mine. The Committee observes that, in light of the reopening of the mine, the Government has not provided any information on the steps to be taken, but confines itself to indicating that the labour inspectorate established that the mine was not in operation. It also notes that the points of view of SUTIMAC, on the one hand, and of the CUT and CTC, on the other, differ, but that according to SUTIMAC there has been no incidence of disease connected with the mine. **Noting that asbestos-related diseases take a long time to manifest themselves, the Committee requests the Government to provide detailed information on the adequate preventive measures and work practices that are being adopted for the reopening of the asbestos mine, including the measurement of the concentration of airborne asbestos dust.**

*Article 10 (Replacement of asbestos by other materials or prohibition of the use of asbestos), in conjunction with Article 3(2) (Periodic review of national laws and regulations in the light of technical progress and advances in scientific knowledge) and Article 4 (Consultation of the most representative organizations of employers and workers concerned).* The Committee notes the information provided by the Government that the technical schedule to Decision No. 007 prohibits the use of amosite, thereby giving effect to *Article 10* of the Convention, and that the National Commission on Chrysotile Asbestos has investigated possible substitutes, the safety of which for health has not been proved. It also notes SUTIMAC's indication that it does not agree with the need to prohibit all types of asbestos, while the CUT and CTC repeat that it is necessary to continue examining the issue of prohibition/replacement. The Committee once again notes that the positions of the CUT and CTC, on the one hand, and SUTIMAC, on the other, differ. The Committee refers to the comments it has been making for some years regarding the observation by the CUT and the CTC that they have not been involved in consultations on the subject, including on the possibility of replacement/prohibition. It also notes that, in addition to their disagreement with the measures adopted, they indicate that they are not represented. The Committee considers that consultations which include all of the most representative employers' and workers' organizations concerned would contribute to a more effective application of the Convention. **The Committee again requests the Government, in accordance with Article 3(2) of the Convention and in the context of consultations with the most representative employers' and workers' organizations concerned, including the CUT and the CTC, as required by Article 4, to examine at regular intervals the possibility of the replacement/prohibition of asbestos, as set out in Article 10 of the Convention, and to provide information on such periodic review, including the consultations held and their outcome.**

*Article 15(2) (Fixing, periodic review and updating of exposure limits or other exposure criteria in light of technical progress and advances in technological and scientific knowledge) and Article 20(1) (Measurement of the concentration of airborne asbestos dust in workplaces).* In its previous comments, the Committee noted the Government's reiterated statement that the threshold limit value for asbestos is fixed by the American Conference of Industrial Hygienists (ACGIH) of the United States and that Decision 2400 of 1979 (section 154) sets a threshold limit of 0.1 fibre per cubic centimetre of air. The Government states that the National Commission on Chrysotile Asbestos was informed of this threshold limit value, as were labour inspectors during a recent training course. **The Committee requests the Government to indicate the steps that have been taken to ensure that enterprises and workers are aware of the threshold limit value and that it is respected. It also requests the Government to provide information on the measures adopted to ensure that employers carry out measurements to guarantee compliance with exposure limits or other exposure criteria, as well as on the application of paragraph 4 of this Article of the Convention (adequate respiratory protective equipment and special protective clothing).**

*Article 17. Demolition work. Authorization for demolition work and elimination to be undertaken only by employers or contractors who are recognized by the competent authority as qualified to carry out such work. Requirement to establish a workplan and consultation of the workers or their representatives.* In its previous comments the Committee again invited the Government to establish a system of authorization under which only employers or contractors recognized by the competent authority as qualified to do so may carry out the work referred to in this Article of the Convention, and to provide information on this subject. It also invited the Government to ensure that regulations are drawn up to comply with the requirement to establish a workplan as set out in *paragraph 2* of this Article of the Convention, and to provide information in this respect. **The Committee notes that the Government has not supplied the information requested and once again requests it to do so.**

*Technical assistance.* The Committee also notes that, according to the Government's report, it is very important for it to be able to count on ILO technical assistance so as to continue making progress towards the full implementation of the Convention. ***The Committee hopes that the Government will avail itself of the technical assistance of the Office.***

The Committee is raising other points in a request addressed directly to the Government.

### ***Prevention of Major Industrial Accidents Convention, 1993 (No. 174) (ratification: 1997)***

The Committee notes the Government's detailed report of 31 August 2013 and the joint communication of 29 August 2013 of the Single Confederation of Workers (CUT) and the Confederation of Workers of Colombia (CTC), forwarded to the Government on 16 September 2013. The communication of the CUT and the CTC contains detailed comments on the Government's report. The salient points of their comments are that the report brings to light a lack of clarity in the Government's understanding of the concept of major industrial accidents, as it sometimes provides information on industrial accidents, and on other occasions it refers to disasters of various kinds. In their view, such ambiguity is alarming and has repercussions in terms of failure to apply the Convention. They give detailed allegations of non-compliance with *Articles 4, 5, 6, 8, 9, 12, 13, 14, 15, 18, 19, 20 and 21 of the Convention*. ***The Committee requests the Government to make any comments it deems fit so that they can be examined together with the communication from the CUT and the CTC.***

*Article 4 of the Convention. Formulation, adoption, implementation and review of a coherent national policy concerning the protection of workers, the public and the environment against the risk of major accidents.* The Committee notes the information in the Government's report that the formulation, adaptation and review of occupational risk policies as they concern national circumstances and practice regarding the prevention of major accidents are carried out by the National Committee and sectional occupational health committees, the National Council on Occupational Hazards and the national occupational health committees. The Government also indicates that the Ministry of Labour implements activities, programmes and policies for the prevention of major accidents, in accordance with sections 9, 10 and 11 of Act No. 1562 of 2012. The Committee notes that section 9 provides that the occupational risk management bodies and the Ministry of Labour shall supervise high-risk enterprises as a matter of priority or through suitable third parties, in particular with regard to the implementation of the Occupational Health Programme, occupational risk monitoring systems and the special promotion and prevention measures; and that section 10 refers to micro and small enterprises and section 11 to occupational risk protection and promotion services. The Committee observes, however, that the information supplied by the Government is not relevant to the content of this Article of the Convention. As the Committee has pointed out before, one of the main objectives of the Convention is to ensure that governments take the requisite measures to prevent major industrial accidents so that their effects can be minimized in so far as is reasonably possible. The focus of this Convention is not only on the management of accidents in such installations, nor on environmental law, but on the management of major industrial accidents to which not only *workers*, but also the *environment* and the *public* are exposed. Although national policy issues are closely related to the matters covered by the national occupational safety and health policy, the national policy issues that are specific to this Convention differ in terms of their objective and focus. Neither labour legislation, nor environmental legislation, is sufficient to give effect to the present Convention. Indeed, as indicated in *paragraph 1 of Article 4*, the policy has to be a coherent national policy concerning the protection of *workers*, the *public* and the *environment* against the risk of major accidents, and consultations have to be held with the representatives of employers and workers, and also with other interested parties that may be affected. ***The Committee requests the Government to indicate the most representative organizations of employers and workers consulted and to specify the other parties concerned who may be affected and who must therefore be consulted in accordance with this Article of the Convention. It would also be grateful if the Government would provide information on the content of its national policy specifically concerning the risk of major accidents for the protection of workers, the public and the environment.***

*Article 5. System for the identification of major hazard installations, as defined in Article 3(c) of the Convention.* The Committee notes the Government's indication that major hazard installations are identified in occupational health programmes or occupational safety and health management systems, and, as part of state policy, the Ministries of Health and Social Welfare, the Interior, and Justice, and municipalities, town planners, fire brigades and law enforcement authorities keep registers of hazardous installations and substances. The Government adds that those responsible for determining whether work centres are high risk are first and foremost the employers, followed by the health and works authorities and the Ministry of Labour, which keep registers. The Committee notes that it is not clear from this information that a system for the identification of major hazard installations or a competent authority exists within the meaning of this Article of the Convention. ***The Committee reminds the Government that Article 5 of the Convention provides that the competent authority or a body approved or recognized by the competent authority shall, after consulting the most representative organizations of employers and workers and other interested parties who may be affected, establish a system for the identification of major hazard installations as defined in Article 3(c), and it requests the Government to take the necessary measures to give full effect to this Article and to provide detailed information on these matters, including on consultations, the competent authority and the system of identification referred to in this Article of the Convention.***

*Articles 10, 11 and 12. Safety report. Review, updating and amending the safety report. Transmission to the competent authority.* The Committee notes that, according to the Government, enterprises have occupational preventive medicine programmes and industrial safety and health programmes and that the subprogrammes establish that enterprises must have a complete overview of risk factors for the purposes of prevention and information. Furthermore, employers are required to make available the occupational health programme, signed by the employer and the official responsible. The Committee points out that not all documents concerning occupational safety and health conditions constitute a *safety report* within the meaning of *Article 10* of the Convention, and notes that it is not clear from the information sent by the Government that a safety report is produced. In so far as there is no evidence that such a report exists, effect cannot be given to *Articles 11* (updating) and *12* (transmission) of the Convention. ***The Committee observes that the safety report referred to in these Articles of the Convention is a specific document to be prepared by employers in accordance with the provisions of Article 9 of the Convention, and requests the Government to take the necessary steps to give effect to this Article of the Convention and to provide information on this point.***

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

## Comoros

### **White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1978)**

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

The Committee notes the information contained in the Government's report and the attached information. It notes that the Government intends to better control the use of chemical products, which would be harmful for the health of workers, and to establish statistics on the subject of lead poisoning in working painters. The Committee also notes that the national action plan "Development of a national policy on occupational safety and health" was adopted in 2005 to evaluate occupational safety and health at workplaces and has also taken note of the Government's request for technical assistance from the Office to help it establish a department of statistics and medical surveillance for occupational safety and health.

*Part V of the report form.* ***The Committee asks the Government to submit a general appreciation of the manner in which the Convention is applied in the country including, for example, extracts from the reports of the inspection services, as well as any available information on the number of workers covered by the relevant legislation, the number and nature of the contraventions reported, etc.***

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

## Croatia

### **Asbestos Convention, 1986 (No. 162) (ratification: 1991)**

The Committee notes the information provided by the Government in its latest report, but notes that the Government has not submitted a detailed report, as requested by the Committee, indicating the specific measures which give effect to each Article of the Convention. ***The Committee therefore reiterates its request to the Government to submit a detailed report, indicating the measures taken or envisaged, in law and in practice, to give effect to each Article of the Convention, in order to allow the Committee to properly examine the current application of the Convention in the country.***

*Effective compensation of workers of the Salonit factory.* The Committee previously noted the comments submitted by the Croatian Trade Union Association (HUS) in 2009 alleging that the workers of the Salonit factory had not been compensated, and that they had had significant problems in defining their working status as the ex-owner still controlled the bankruptcy process. The Committee requested the Government to provide information on whether it had succeeded in mitigating the negative impact on the individual workers concerned and on the legal stalemate caused by the bankruptcy process against the ex-owner of the Salonit factory. In this regard, the Committee notes the adoption of the "Law on compensation of workers employed with Salonit d.d. which is under bankruptcy procedure" (Law No. 84/11), which provides for the compensation of workers of the factory, whether or not they suffer from any disease caused by asbestos. The Committee notes that section 2 of Law No. 84/11 provides that workers employed in the Salonit factory when it declared bankruptcy in 2006 may apply for compensation within 60 days from the date of entry into force of the Law. Moreover, section 3 provides that such workers will receive compensation amounting to 219,000 Croatian kunas (HRK) over a period of two years. ***The Committee requests the Government to provide information on the application of Law No. 84/11 in practice, particularly the number of workers who have applied for compensation under this Law, as well as the number who have received compensation to date.***

*General compensation: the Commission for Settling Claims for Compensation by Workers Suffering from Occupational Diseases Due to Exposure to Asbestos (the Commission).* The Committee notes the Government's statement that the Commission has received 1,230 claims since its establishment in 2007, pursuant to the Act on compensating workers occupationally exposed to asbestos. Of these claims, 492 have been completely resolved, 86 are in the courts, and 652 have yet to be resolved. The Government indicates that the average compensation per claim is approximately HRK85,000. ***The Committee requests the Government to continue to ensure that all claims and requests for compensation by workers suffering from an occupational disease due to exposure to asbestos during the course of***

*their employment are handled as expeditiously as possible. It requests the Government to provide information on progress in this respect, as well as on the measures taken to raise the awareness of such workers regarding the possibilities for seeking redress.*

*Measures taken at the institutional level.* The Committee notes the Government's indication that the Croatian Institute for Health Protection and Safety at Work is legally obligated to keep a register of occupational diseases caused by asbestos, and that this is published each year on the Institute's website. It also welcomes the register of occupational diseases and the statistical analysis thereof submitted with the Government's report. ***The Committee requests the Government to continue to provide information on the activities undertaken by the Croatian Institute for Health Protection and Safety at Work, in particular concerning the application of the Convention. Moreover, recalling the adoption of the National Occupational Health and Safety Programme 2009–13, the Committee requests the Government to provide information on any measures taken within the framework of this programme related to the application of this Convention.***

*Article 19 of the Convention. Disposal of waste containing asbestos.* The Committee previously noted that the remediation of asbestos cement waste was being undertaken in several locations in the country. It noted the requirement for all work related to remediation to be carried out under expert supervision by an authorized company, and that the Government had published a list of the companies holding a waste management license that are authorized to collect, transport and dispose of waste that contains asbestos. ***The Committee once again requests the Government to provide further information on the application throughout the country of legislative measures requiring all work related to remediation to be carried out under expert supervision by an authorized company.***

*Parts III and V of the report form. Decisions by courts of law and application of the Convention in practice.* The Committee notes the Government's statement that there is a trend for the total number of occupational diseases to rise due to the growing number of occupational diseases caused by exposure to asbestos at the workplace. The Government indicates that occupational diseases caused by exposure to asbestos constitute 89 per cent of the total number of occupational diseases recorded (435 out of the 488 recorded cases in 2011). The Government indicates in this regard that it has undertaken a detailed analysis of the occupational diseases caused by asbestos, including the geographical distribution of the reported cases. ***The Committee asks the Government to give a general appreciation of the manner in which the Convention is applied in the country, and to continue to provide, where such statistics exist, information on the number of workers covered by the legislation, the number and nature of the contraventions reported, and the number, nature and cause of occupational accidents and diseases reported. In addition, noting the Government's indication that 86 claims to the Commission for Settling Claims for Compensation by Workers Suffering from Occupational Diseases Due to Exposure to Asbestos are before the courts, the Committee asks the Government to provide further information on the outcomes of these lawsuits, and to provide copies of the texts of the decisions.***

## Djibouti

### **Radiation Protection Convention, 1960 (No. 115) (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:

The Committee notes that, for the fourth consecutive year, the Government's report has not been received and that, prior thereto and since 2000, the Government has submitted the same report which does not provide any new information in reply to the Committee's previous comments. While noting the efforts made in the country through the adoption of a new Labour Code in 2006 and the development and adoption of a Decent Work Country Programme 2008–12, the Committee must underscore that the reporting obligations undertaken by the Government are important and that a regular review of the situation in the country in relation to the matters covered in this Convention can be helpful for the Government in its further improvements, not only in relation to the application of the present Convention but in the area of occupational safety and health in general.

*Plan of action (2010–16).* The Committee would also like to take this opportunity to inform the Government that, in March 2010, the Governing Body adopted a plan of action to achieve widespread ratification and effective implementation of the key instruments in the area of occupational safety and health (OSH), the Occupational Safety and Health Convention, 1981 (No. 155), its 2002 Protocol, and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (document GB.307/10/2(Rev.)). The Committee would like to bring to the Government's attention that, under this plan of action, the Office is available to provide assistance to governments, as appropriate, to bring their national law and practice into conformity with these key OSH Conventions in order to promote their ratification and effective implementation. ***The Committee invites the Government to provide information on any needs it may have in this respect.***

In the meantime, the Committee must repeat its previous observation which reads as follows:

The Committee understands, however, that a new Labour Code has recently been adopted (Act No. 133/AN/05 of 28 January 2006) and notes with interest that it contains provisions concerning occupational safety and health that constitutes a general framework for the protection of workers against risks related to work. According to previously submitted information the relevant legislation would also include 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. ***With reference to article 125(a) of the newly adopted law providing for the adoption of implementing legislation to regulate measures for the protection of safety and health in all establishments and companies covered by the Labour Code, on a series of different issues including radiation protection, the Committee requests the Government to clarify whether the abovementioned Orders remain in force and, as appropriate, to transmit to it copies of any revised or complementing legislation once it has been adopted.***

The Committee also notes the observations submitted by the General Union of Djibouti Workers (UGTD) on 23 November 2007, raising concerns regarding insufficient protection against ionizing radiation for employees at health-care centres. These observations were transmitted to the Government for comment on 21 September 2007, but no comments have been received to date.

*Article 3(1). Protection of workers against ionizing radiations; Article 6(2). Maximum permissible doses; and Article 9(2) of the Convention. Instruction of the workers assigned to work under radiations.* With reference to the foregoing and its previous comments, the Committee recalls that 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. In this context, the Committee notes that the UGDT seems to indicate that, in practice, industrial undertakings using procedures involving ionizing radiation do not seem to apply uniform rules for the protection of workers against exposure thereto and that the workers engaged in, for example, health-care centres are not sufficiently informed of the dangers related to their activity and are not protected in an adequate way. The Committee again draws 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 Committee requests the Government to respond to the observations made by the UGDT and urges the Government to take all appropriate measures, in the near future, and with due account of the 1990 Recommendations of the ICRP, to give full effect, in law and in practice, to these provisions of the Convention.**

*Article 7(1)(b) and (2). Exposure limits for young persons between 16 and 18 years of age. Prohibition against employing young persons under 16 in work involving exposure to radiation.* In its previous comments, the Committee had noted that there were no provisions in relevant legislation 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. **The Committee urges the Government to take all appropriate measures to ensure the application of this Article in the near future.**

*Exceptional exposure of workers in situations of emergency.* With reference to its previous comments, the Committee again draws the Government's attention to paragraphs 16–17 of its 1992 general observation under this Convention which concern 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.**

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

### **Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (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:

The Committee understands that a new Labour Code has recently been adopted (Act No. 133/AN/05 of 28 January 2006) and notes that it contains provisions concerning occupational safety and health that constitute a general framework for the protection of workers against risks related to work. **The Committee nevertheless requests the Government to provide additional information concerning the following points.**

*Articles 10, 13–16 and 18 of the Convention.* With reference to the comments that it has formulated for several years, the Committee notes that article 125(a) of the Labour Code provides for the adoption of implementing legislation to regulate measures for the protection of safety and health in all establishments and companies covered by the Labour Code, in particular with regard to lighting, ventilation or aeration, drinking water, sanitary facilities, evacuation of dust and fumes, precautions to be taken against fire, installation of emergency exits, radiation, noise and vibrations. **The Committee trusts that the Government will adopt the abovementioned legislation in the very near future and that it will give full effect to Articles 10, 13–16 and 18 of the Convention. The Committee requests the Government to provide a copy of this legislation as soon as it has been adopted.**

*With reference to the advances that hopefully will be made through the Decent Work Country Programme 2008–12, including, inter alia, further cooperation with the social partners, the Committee urges the Government to make every effort to take the necessary action in the very near future.*

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

## **Ecuador**

### **Radiation Protection Convention, 1960 (No. 115) (ratification: 1970)**

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

In 2010, the Committee asked the Government to reply in detail in 2011 to the questions raised in its observation of 2005. The Committee notes that the Government states in this connection that it will make the necessary amendments to update the law. The Government also refers to a handbook of normal and emergency procedures and a directory for care of radiological emergencies. The Government report being brief, the Committee finds that it is unable to proceed further with its examination of how the Convention is applied. **The Committee requests the Government to provide information on the legislative proposals referred to. The Committee again asks the Government to consider the possibility of requesting technical assistance from the Office in the drafting of reports and for a number of issues raised in connection with the occupational safety and health Conventions, and requests it to provide information on any needs that may arise in this regard. It also asks the Government to reply to the questions raised and to indicate the manner in which it ensures, in practice, the effective application of the Articles indicated by the Committee in its comments of 2005, which read as follows:**

*Articles 3(1) and 6(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 (CEEAA) 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.**

*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.**

*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.**

*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.**

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

### **Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1969)**

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

In 2010, the Committee noted once again that the Government had not provided the information requested and once again invited it to provide detailed information in reply to its direct request of 2006. The Committee notes that the Government’s report indicates that the content of the direct request has been sent to the respective bodies, but that the detailed information requested has not been provided. The 2006 direct request read as follows:

*Article 2(3) and (4) and Article 4 of the Convention. Dangerous parts of machinery requiring guards and the persons responsible.* The Committee notes the study done by the Coordinator of the Occupational Safety and Health Unit, which in turn refers to the provisions of the Occupational Safety and Health Regulations, adopted by Decree No. 2393 of 13 November 1986. In its comments in 1995, the Committee noted that this text establishes liability and certain sanctions for failure to apply the prescriptions set forth in its provisions, but does not specify the persons on whom the obligation to ensure compliance with the provisions of Article 2 of the Convention shall rest. The Committee once again recalls that, in accordance with the provisions of the Convention, measures have to be taken to ensure that the categories of persons referred to in Article 4, namely vendors, persons letting out on hire or transferring machinery in any other manner and exhibitors and, where appropriate, their respective agents, and the manufacturer when she or he sells machinery, lets it out on hire, transfers it in any other manner or exhibits it, are explicitly covered by the provisions of the national legislation establishing the obligation to prohibit by national laws or regulations or to prevent by other equally effective measures, the sale and hire of machinery of which the dangerous parts, specified in paragraphs 3 and 4 of Article 2, are without appropriate guards. **The Committee urges the Government to take the necessary measures in the near future to bring the national legislation into conformity with the above provisions of the Convention and requests it to provide information on the progress achieved in this respect.**

**The Committee once again invites the Government to consider the possibility of requesting ILO technical assistance for the drafting of reports and on certain questions raised in relation to the occupational safety and health Conventions, and to provide information on any need which may arise in this respect.**

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

### **Benzene Convention, 1971 (No. 136) (ratification: 1975)**

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

In 2010, the Committee noted that the Government had not provided the information requested and again asked it to provide detailed information in response to the direct request of 2006. The Committee notes that the Government’s report indicates once again that there has been a delay in the adoption of regulations on the use of benzene and that the technical standards are about to be updated. The Government also states that since benzene is not used in industries, no violations or results of any kind have been reported in the inspection visits carried out. The Government refers to the information it provided previously. The Committee points out that, having noted the information reiterated by the Government, it raised questions designed to seek clarification of some aspects of the application of certain Articles of the Convention for which further information is needed. Since the report supplied by the Government does not respond in detail to the Committee’s questions, it is bound to repeat its previous comments, which read as follows:

*Article 5 of the Convention. Occupational hygiene and technical measures to ensure effective protection of workers exposed to benzene.* The Committee notes that, in 2005, the Ministry of Labour and Employment approved the Occupational Safety and Health Institutional Policy and the Safety and Health Management System of the Ministry of Labour by means of Ministerial Order No. 000213 of 23 October 2002, which sets out the principles and objectives of the policy, as well as strategies and measures for the development of national law and practice to ensure effective implementation of its terms of reference. **The Committee hopes that these strategies will be implemented in the very near future and requests the Government to provide information on progress in this matter.**

The Committee notes that adoption of the draft regulations on the use of benzene has been delayed and that, as a consequence of this, the technical standards are now to be updated by the Inter-Institutional Committee and then sent to the tripartite National Labour Council so that it can acquaint itself with this vitally important matter and speed up adoption. **The Committee hopes that the abovementioned draft regulations will be adopted in the near future and will give full effect to the provisions of the Convention, and especially:**

- *Article 2(1).* Use of substitute products, where they are available, instead of benzene or products containing benzene;
- *Article 4(1) and (2).* Prohibition of the use of benzene or products containing benzene in certain processes, at least as a solvent or diluent, except where the process is carried out in an enclosed system or where there are other equally safe methods of work;
- *Article 5.* Occupational hygiene and technical measures to ensure effective protection of workers exposed to benzene;
- *Article 6(1)–(3).* Measures to prevent the escape of benzene vapour into the air of places of employment; measures to ensure that the concentration of benzene in the air of places of employment does not exceed a ceiling which shall be fixed by the competent authority at a level not exceeding 25 parts per million, and the establishment of appropriate standards for measuring the concentration of benzene in the air;
- *Article 7(1) and (2).* Work processes involving the use of benzene or of products containing benzene to be carried out, as far as possible, in an enclosed system or, where this is not practicable, places of work to be equipped with effective means to ensure the removal of benzene vapour;
- *Article 8(1) and (2).* Adequate means of personal protection against the risk of absorbing benzene through the skin or of inhaling benzene vapour, where its concentration in the air of the place of employment exceeds the ceiling of 25 parts per million; and the obligation to limit exposure as far as possible;
- *Articles 9 and 10.* Pre-employment medical examinations and periodical re-examinations at no cost to the workers to be undergone by all workers who are employed in work processes involving exposure to benzene or to products containing benzene; medical examinations to include blood tests and biological tests carried out under the supervision or with the assistance, as appropriate, of a competent laboratory; appropriate certification;
- *Article 11(1) and (2).* Prohibition on the employment of pregnant women, nursing mothers and young persons under 18 years of age in work processes involving exposure to benzene or products containing benzene;
- *Article 12.* Clearly visible danger symbols on any container holding benzene or products containing benzene;
- *Article 13.* Appropriate measures to provide that any worker exposed to benzene or products containing benzene receives proper instructions on measures to safeguard health and prevent accidents, and on the appropriate action in the event of poisoning; and
- *Article 14.* Procedures for the prevention of occupational risks and appropriate inspection.

*Part IV of the report form. Application of the Convention in practice.* **The Committee requests the Government to provide general information on the manner in which the Convention is applied, including extracts of inspection reports and data on the number of workers covered by the Convention, if possible, disaggregated by gender and the number and nature of the infringements recorded.**

**The Committee again invites the Government to envisage the possibility of requesting technical assistance from the Office in drafting reports and addressing some of the matters raised in the occupational safety and health Conventions, and asks it to provide information on any needs that may arise in this regard.**

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

## **Occupational Cancer Convention, 1974 (No. 139) (ratification: 1975)**

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

*Article 1(1) and (3) of the Convention. Determination of the carcinogenic substances and agents to be prohibited or made subject to authorization.* Referring to its previous comments, the Committee notes the Government's statement that the Inter-Institutional Committee has not fixed maximum permissible levels of exposure as required by section 64 of the Regulations concerning the safety and health of workers, but that the limit values laid down in international standards are used as a reference point in the country. **The Committee requests the Government to supply information on the legislation referring to or prescribing the limit values laid down in international standards and on the manner in which their application is ensured in practice.**

*Article 2(2). Reduction to the minimum compatible with safety of the number of workers exposed to carcinogenic substances or agents and the length of such exposure.* **Having referred to this matter for a number of years, the Committee again requests the Government to supply information on the application of this Article, including on the establishment of the list of enterprises for the purposes of checking the length of workers' exposure to carcinogenic substances or agents.**

*Article 5. Medical examinations after the period of employment.* Referring to its previous comments, the Committee notes the Government's indication that it has drafted an instrument which specifies that the type and frequency of medical examinations shall depend on the assessment of exposure levels in the workplace and that the internal occupational safety and health (OSH) regulations presented to the Ministry of Labour for approval shall contain a chapter on this subject. **The Committee notes that this information is of a general nature and requests the Government to supply more detailed information on the legislation governing medical examinations after employment, with an indication of the areas of work concerned, and especially on the application of these provisions in practice.**

In 2010 the Committee asked the Government to reply in detail to its comments of 2006. The Committee pointed out to the Government that its concise report contained little information in relation to progress made on the application of the Convention. ***The Committee therefore again requests the Government to contemplate the possibility of requesting technical assistance from the Office with regard to the drafting of reports and issues raised in connection with the OSH Conventions and to supply information on any needs that may arise in this regard.***

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

### **Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (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:

*Article 4 of the Convention. Measures for the prevention and control of occupational hazards due to air pollution, noise and vibration. Article 5. Cooperation between employers and workers. Article 11. Periodical medical examinations. Workers in the telephony sector.* In its previous comments, the Committee asked the Government to consult employers and workers as provided for in Article 5 of the Convention with regard to the measures for prevention and protection referred to in Article 4 which apply in the telephony sector, and to provide information on such consultations as well as on measures taken or contemplated. The Committee also asked the Government to provide information on the medical examinations conducted for workers in the sector, indicating their frequency and providing information on their results. The Committee notes the Government's statement that, in accordance with the report of the Directorate for Occupational Safety and Health and with regard to reducing the length of the working day in the telephony sector, the sectoral committees were assisted by a safety and health team in defining a working day of seven hours, with the option of reviewing the situation. The Committee draws the Government's attention to the fact that this is a case which it has been dealing with for many years and that, in order to assess whether effect is being given to these Articles in the sector concerned, it is essential that it receives information on the manner in which the application of the abovementioned Articles is ensured in practice. ***The Committee again requests the Government to supply information on the application of the abovementioned Articles, indicating the action taken by the labour inspectorate in the telephony sector in relation to these Articles of the Convention and the results achieved, so that it can assess whether the measures taken have resulted in improvements for the workers in this sector.***

In its observation of 2010, the Committee once again noted with regret that, despite asking the Government to reply in detail to the comments made, the Government's report was a general summary and, in the absence of further information from the Government, the Committee was unable to assess the importance of the additional information from various sources which was attached to the Government's report. It pointed out that, in some cases, the information requested did not come within the competence of the unit concerned. The Committee indicated that coordination is necessary both to apply the occupational safety and health (OSH) Conventions and to prepare the respective reports and that, regardless of the internal distribution of competencies, the responsibility for submitting the reports lies with the Government. As a result of the various issues mentioned, the information available did not enable the Committee to assess whether the national law and practice give effect to the obligations deriving from the Convention. However, the Committee noted that certain efforts were being made with regard to OSH in the country. The Committee asked the Government to compile the information requested by the Committee in its previous comments and to reply in detail to the questions posed in 2009. The Committee also asked the Government to contemplate the possibility of requesting technical assistance from the Office with a view to preparing reports and replying to the questions raised in relation to the OSH Conventions. The Committee notes that the Government once again has submitted a brief report which does not reply to the questions raised by the Committee. The Committee is therefore bound to repeat its comments of 2009, which read as follows:

*Article 6(2). Requirement for employers to cooperate in applying prescribed measures.* The Committee notes that the Government merely refers to its previous report without answering the question raised by the Committee. It reminds the Government that under this Article, whenever two or more employers undertake activities simultaneously at one workplace, they shall have the duty to collaborate in order to comply with the prescribed measures and that, in appropriate circumstances, the competent authorities shall prescribe general procedures for this collaboration. ***The Committee asks the Government to provide information on the manner in which it ensures compliance in law and in practice with the duty to collaborate laid down in this Article and, if necessary, to prescribe the procedures for such collaboration.***

*Article 8(1) and (3). Air pollution and vibration.* For several years the Committee has been asking the Government provide information on the establishment, by the Inter-Institutional Committee on Occupational Safety and Health, of exposure limits for corrosive, irritating and toxic substances, by adopting the standards established for such substances by the American Conference of Governmental Industrial Hygienists. The Committee notes that according to the Government, Ecuador has regulated maximum permissible limits of exposure only for asbestos and for all other cases, they apply international standards. ***The Committee requests the Government to indicate which international standards it applies, and submit a copy of the legal provisions providing for the application of these standards. Please also provide documentation on the criteria currently used to define the risks of exposure to air pollution and vibration in the workplace, and the exposure limits, as well as on the manner in which these criteria and limits are supplemented and revised in practice, together with relevant documentation.***

*Article 10. Exceeding exposure limits and protective equipment.* The Committee once again notes that the Government has not sent the information requested. ***It invites the Government to indicate the methods prescribed for determining whether the limits specified in pursuance of Article 8 are exceeded and to specify the guidelines or instructions on the type of personal protective equipment to be provided to the workers exposed should these limits be exceeded.***

*Article 11. Medical examinations (pre-assignment and periodical).* ***Please provide information on measures taken, in law and in practice, to regulate how these examinations are carried out and that periodicity.***

*Article 12. Notification to the competent authority of processes, substances, machinery and equipment which involve exposure.* ***The Committee repeats its request to the Government for information on the measures taken or envisaged to ensure that the use of processes, substances, machinery and equipment involving exposure to air pollution, noise or vibration are notified to the competent authorities.***

*Part IV of the report form. Application in practice.* ***Please provide general information on the manner in which the Convention is applied, together with extracts from inspection reports with an indication of the number and nature of infringements detected in connection with the Convention, including in the telephone sector. Please also provide reports***

*prepared pursuant to the Andean Occupational Safety and Health Instrument that may be relevant, to enable the Committee to ascertain more fully the extent to which the Convention is applied.*

In general, the Committee notes that although it has asked the Government to reply in detail to its comments of 2006, the information sent by the Government is summary and general in nature. The Committee also notes that the type of reply sent by the Government does now allow it to resolve the application of the issues that it has been raising for several years. **The Committee requests the Government to reply in detail to the present comments attaching copies of the legislative provisions, and to provide examples that illustrate the assertions it makes in its report. The Committee draws the Government's attention to the fact that it may seek technical assistance from the Office should it deem this necessary.**

**The Committee again requests the Government to contemplate the possibility of requesting technical assistance from the Office with a view to preparing reports and replying to questions raised in relation to the OSH Conventions, and to supply information on any needs that may arise in this regard.**

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

### **Asbestos Convention, 1986 (No. 162) (ratification: 1990)**

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

*Articles 11 and 12 of the Convention. Use of crocidolite and the spraying of asbestos.* In its previous comments, the Committee noted that sections 5.1 and 5.2 of the Safety Regulations for the Use of Asbestos of 9 August 2000 prohibit the use of crocidolite and the spraying of all forms of asbestos and provide for possible waivers by the competent authority where there is no alternative and on condition that the health of workers is not endangered, and asked the Government to provide information in this regard. The Committee notes that according to the Government, there have been no cases of any waivers being issued under these provisions of the Regulations.

*Article 17(1) and (2). Demolition of plants containing friable asbestos insulation materials.* In its previous comments, the Committee noted that the Safety Regulation for the Use of Asbestos contain no specific requirement that the demolition of plants containing friable asbestos insulation materials is to be undertaken only by employers or contractors recognized by the competent authority as qualified to carry out such work, or any provision on the workplan which has to be drawn up before such work is started. The Committee requested the Government to take the necessary steps to ensure application of this Article of the Convention. The Committee notes with *regret* that the Government refers to the abovementioned Regulations without indicating the relevant provisions that give effect to these Articles of the Convention and which would respond to the questions raised by the Committee. **The Committee again asks the Government to indicate clearly the provisions of the relevant legislation that give effect to these Articles, and to provide information on their application in practice in the construction industry.**

*Article 21(4). Alternative employment and maintenance of workers' income when continued assignment to work involving exposure is found to be medically inadvisable.* Further to its previous comments, the Committee notes that the Government refers to section 5 of the 1993 Recommendations on Occupational Safety and Health in the Use of Asbestos. The Committee notes that section 5 refers to a programme of medical supervision, providing that "the medical service of the enterprise shall determine and apply medical contraindications when assigning or rotating a post". Although this Recommendation may contribute in part to assignment to alternative employment, it would not appear sufficient for effectively ensuring alternative employment or other means of maintaining income in the case at hand. **The Committee accordingly asks the Government once again to continue to provide information on the manner in which it ensures alternative employment or other measures such as social benefits so as to secure maintenance of the worker's income where the worker's assignment to or maintenance in a job involving exposure is medically inadvisable. Please provide, in particular, practical information on the manner in which maintenance of income is guaranteed, including through social benefits.**

*Part V of the report form. Application in practice. Article 5. Labour inspection services.* With reference to its previous comments, the Committee notes that the Government does not provide the information requested on the application of the Convention in practice. The Government again states that the Occupational Safety and Health Unit is undergoing restructuring with the assistance of the Government of Spain and that the relevant regulations are being disseminated, but provides no further information. The Committee points out to the Government that information on the manner in which effect is given to the Convention is essential to the Committee's examination of how far the Convention is applied. **The Committee again asks the Government to make every effort to provide information on the effect given in practice to the Convention, including reports of the labour inspection services or other bodies responsible for the enforcement of the Convention and supervision of the application of the abovementioned Regulations, so the Committee may gain a fuller picture of the manner in which the Convention is applied in practice. Please provide, for example, general information on the manner in which the Convention is applied, including in the construction sector as far as possible.**

**The Committee again asks the Government to envisage the possibility of requesting technical assistance from the Office in drafting reports and addressing some of the questions raised regarding the occupational safety and health Conventions, and requests it to provide information on any needs that may arise in this regard.**

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

## **EI Salvador**

### **Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2000)**

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. Formulation, implementation and periodic review of national policy in consultation with the social partners.* The Committee notes Agreement No. 93 of 2006 whereby the National Occupational Safety And Health (OSH) policy was adopted. It notes from the preamble that the Higher Labour Council is the tripartite body for social dialogue which, via the National Occupational Safety and Health Commission, is the forum for analysis, definition, consultation and promotion of policies, programmes, projects and actions in the field of occupational hazard prevention. However, it notes that this document

does not show the mechanisms for the implementation and periodic review of this national policy. Also with reference to the 2009 General Survey on occupational safety and health, paragraphs 54–59, the Committee emphasizes that, under the terms of this Article, the State must, in consultation with the most representative employers' and workers' organizations, formulate, implement and periodically review a coherent national policy in this field. This implies a dynamic of implementation and periodic review in consultation with the social partners, with a view to ensuring an evaluation of its application in practice and determination of the spheres of action for achieving future improvements. **The Committee requests the Government to provide information on the manner in which the national policy is reviewed and at what intervals, indicating the results of the evaluation of the areas of action for achieving future improvements.**

*Articles 4 and 8. Laws and regulations relating to the national policy.* The Committee notes the adoption, by means of Legislative Decree No. 254 of 2010, of the General Act concerning occupational hazard prevention, published on 5 May 2010. It notes with interest that the preamble to the new Act expresses the Government's will to give effect to the present Convention and that it provides for the formulation of programmes to manage occupational hazard prevention at the enterprise level and for the establishment of OSH committees that will participate in the formulation, implementation and evaluation of the policy and programme for the management of occupational hazards. However, it notes that the Act does not appear to give effect to certain articles of the Convention, such as Article 13, according to which any worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences. The Government previously indicated that section 106 of the Labour Code identifies the activities that present an imminent and serious danger. However, Article 13 of the Convention does not refer to activities but to a work situation that may arise, without specifying a particular type of activity, and to the need to protect the worker from undue consequences, and this is not covered by section 106 of the Labour Code or by the new legislation. The Committee informs the Government that further clarification can be found in the 2009 General Survey, paragraphs 145–152. **In view of the legislative changes that have occurred, particularly, the new Act and the national policy, the Committee considers it necessary to undertake a full analysis of the effect given to the Convention in law and in practice and requests the Government to send a detailed report according to the terms of the report form.**

*Article 14. Promoting the inclusion of questions of occupational safety and health and the working environment at all levels of education and training.* The Committee notes with interest the activities undertaken by the Government to promote OSH matters. It notes the indication that the Ministry of Labour has concluded agreements with Matías Delgado University in El Salvador and the Polytechnic University of Madrid. It also notes the information relating to technical diploma courses given and persons trained, including 300 OSH technicians at the Ministry of Labour and in the private sector. Furthermore, coordination was increased with the Social Security Institute of El Salvador and with the Association of Agricultural Suppliers for the purpose of training, including in relation to the safe use and storage of pesticides. Work has been ongoing since February 2008 on the formulation of a "local strategic alliance", which continues to pool efforts in the health, labour, environment and education sectors through the implementation of coordinated strategic lines of action, on the basis of the Plan of Action of the 4th Summit of the Americas in 2005. It also notes the different actions designed to reinforce labour inspection with support from the social partners and technical assistance from the Office in the context of the "civil service reinforcement project". Another key task which has been assigned to the labour inspectorate is promotion, training, advice and guidance for workers and employers in the context of the new General Act concerning occupational hazard prevention. **The Committee requests the Government to continue to supply information on the application of this Article of the Convention.**

*Part V of the report form. Application of the Convention in practice.* The Committee notes the detailed information supplied by the Government including extracts from labour inspection reports and the number of workers covered, disaggregated by sex, including statistics on occupational accidents by branch of activity. The Committee notes that, for both men and women, the highest number of recorded accidents is in the manufacturing industry. **The Committee requests the Government to specify in which manufacturing activities the highest number of accidents is recorded, and to continue to supply information on the application of the Convention in practice, including with regard to workers in agriculture.**

*Protocol of 2002 to the present Convention.* The Committee notes with interest that the Government has ratified the Protocol of 2002 to the present Convention. **The Committee requests the Government to send a detailed report on the application of the Protocol of 2002 in the terms indicated in the corresponding report form, together with the detailed report on the application of the present Convention.**

*Plan of Action (2010–16).* The Committee wishes to take this opportunity to inform the Government that in March 2010 the ILO Governing Body adopted a Plan of Action to achieve widespread ratification and effective implementation of the key instruments in OSH, namely: the Occupational Safety and Health Convention, 1981 (No. 155), its Protocol of 2002, and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (GB.307/10/2(Rev.)). Noting that the Government has already ratified two of the key instruments in the Plan of Action and that it is making intense efforts to give effect to them in law and in practice, the Committee wishes to draw the Government's attention to the fact that, under the terms of the Plan, the Office is available to provide assistance to facilitate the application of the present Convention and its Protocol of 2002 and, if the Government so desires, to clarify the scope and additional aspects of Convention No. 187. **The Committee requests the Government to supply information on any need for technical assistance that it may have in this respect.**

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

## France

### French Polynesia

#### **Radiation Protection Convention, 1960 (No. 115)**

*Article 1 of the Convention. Legislation. Articles 6, 7 and 8. Maximum permissible doses of exposure to radiation.* The Committee notes that, according to the Government's report, two territorial Acts called *lois du pays* (legislation of French Polynesia, distinct from French legislation) are being drafted, one in the area of health and the other in the area of labour, and that these are being assessed by the French Nuclear Safety Authority (ASN). The Government, stressing the need to upgrade the applicable laws and regulations in French Polynesia, states that these two bills are due to

be adopted before the end of 2013. The Committee notes that the bill concerning the Department of Labour will replace the existing provisions of the Labour Code. It notes with *interest* that, according to information contained in the Government's report, the new legislation will pave the way for the application of a number of provisions of the Convention, especially with respect to *Articles 6, 7 and 8* on the maximum exposure of various categories of persons to radiations, which have been revised in line with the 1990 Recommendations of the International Commission on Radiological Protection (ICRP). ***The Committee requests the Government to indicate in its next report the progress made in this respect and to send a copy of the legislation once it has been adopted. It would also be grateful if the Government could specify the bill or law to which it is referring in relation to the application of the provisions of the Convention.***

*Article 11. Appropriate monitoring of workers and places of work.* The Committee notes the Government's indication that a medical inspector has been recruited and was due to take up duties in July 2013. The Committee notes that, according to the Government's report, the bill provides for monitoring of the workplace through technical radiation protection monitoring and technical monitoring of the environment, as well as the surveillance of workers' health by means of reference dosimetric monitoring, operational dosimetric monitoring and medical supervision. It notes, however, that no information has been provided by the Government on the controls prescribed under sections Lp.4431-1 and A.4432-7 of the Labour Code, which have been entrusted to the "Bureau Veritas" pursuant to Decree No. 19 PR of 9 January 2012. ***The Committee welcomes the recruitment of a medical inspector and the measures taken to ensure the monitoring of workers and places of work. However, it asks the Government once again to provide copies of any relevant reports produced by the "Bureau Veritas" as well as to provide information on measures it has taken to follow up on any recommendations made, violations identified and the action taken in relation to such violations.***

*Articles 12 and 13. Medical examinations.* The Committee notes the information provided by the Government on the provisions of the territorial bill, especially with respect to the increased monitoring of workers classified in categories A and B. It also notes that, following any internal or external exposure occurring in "defined situations", the occupational physician shall carry out a dosimetric assessment of this exposure and an assessment of its effects on each exposed worker. ***The Committee asks the Government to define what is meant by the categories of workers A and B mentioned above, and to provide information on the existence of any other categories and differences in treatment between them, especially with respect to "appropriate medical examinations" prior to or shortly after being exposed and subsequently "at appropriate intervals", as required by Article 12 of the Convention. It also asks the Government to provide further details on the "defined situations" in which an occupational physician shall carry out a dosimetric assessment and assessment of the effects of the exposure.***

*Article 13. Emergency situations.* The Committee notes the provisions contained in the new bill concerning emergency situations. It recalls that the Government shall take, in accordance with *Article 13(d)* of the Convention, any necessary remedial action on the basis of the technical findings and the medical advice. The Committee also notes that the report is silent on workers' exposure limits during an emergency operation. It recalls that, irrespective of the exposure resulting directly from an accident, the rescue teams may be exposed to radiation when intervening in a critical situation. The Committee asks the Government to refer in this respect to paragraph 20 of its general observation of 1992 and the 1990 Recommendations of the ICRP which provide: that the limit of occupational exposure in critical situations is established at 0.5 Sv, except for life-saving actions; that the strict definition of the circumstances in which workers may exceptionally be exposed to limits in excess of normally authorized doses correspond to circumstances in which there is a need for "immediate and urgent remedial work"; that exceptional exposure of workers is neither justified for the purpose of rescuing "items of high material value", nor, more generally, because alternative techniques of intervention "would involve an excessive expense". ***The Committee invites the Government to take the necessary steps to ensure that the exposure limits defined by the ICRP for workers in critical situations are not exceeded. Finally, it requests the Government to provide information on the measures taken or envisaged concerning necessary remedial action with a view to giving effect to Article 13 of the Convention.***

*Part V of the report form. Application in practice.* ***The Committee requests the Government to provide a general assessment of the manner in which the Convention is applied in practice, in French Polynesia, including any difficulties, as the case may be, and to provide any document useful on this subject, such as extracts from official reports.***

## New Caledonia

### Radiation Protection Convention, 1960 (No. 115)

*Article 1 of the Convention. Application of the Convention by means of laws or regulations, codes of practice or other appropriate means in consultation with representatives of employers and workers.* With reference to its previous comments, the Committee notes that the Government again refers to territorial Act called *loi du pays* (legislation of New Caledonia, distinct from French legislation) No. 2009-7 of 19 October 2009 on occupational safety and health amending the Labour Code of New Caledonia, and reports that the Act was submitted to representatives of workers and employers for their opinion at a tripartite consultation held on 30 April 2008. The Committee notes, however, that the Government provides no information on the efforts made to adopt the necessary legislative amendments to ensure conformity with the

Convention. *Referring to its previous comments, the Committee again urges the Government to pursue its efforts to adopt the necessary legislative amendments to ensure conformity with the Convention, to appoint a medical inspector and to inform the Committee of the results of these efforts, and to report any progress.*

The Committee notes with *concern* that, according to the Government's report, no measures have been taken to give effect to *Article 3(1) and (2), Article 6, Article 9(2) and Article 14* of the Convention. Consequently, the Committee is bound to repeat its previous comments, which read as follows:

*Article 3(1) and (2) and Article 6. Appropriate measures for ensuring the effective protection of workers against ionizing radiations and for the review, in the light of knowledge available at the time, of the maximum permissible doses of ionizing radiations.* In its report, the Government refers to the exposure limits set forth in sections 5 to 8 of Decision No. 547/CP of 25 January 1995. The Committee notes that these exposure limits reflect those set forth by the International Commission on Radiological Protection (ICRP) in 1977. In this regard, the Committee brings the attention of the Government to the fact that under the terms of *Article 3(1) and (2), and Article 6*, of the Convention, all appropriate steps shall be taken to ensure effective protection of workers, as regards their health and safety, against ionizing radiations and that, for this purpose, maximum permissible doses of ionizing radiations shall be kept under constant review in the light of "knowledge available at the time" and "new knowledge". The Committee recalls that, following a recommendation of 1977, these maximum doses have been revised by the ICRP and that new exposure limits were set forth in its recommendations, adopted in 1990. The Committee refers to its recommendations in its 1992 general observation and emphasizes, in paragraph 11, that the ICRP set, inter alia, a maximum admissible dose limit of 20 mSv per year, averaged over five years (100 mSv in five years), but not exceeding 50 mSv in any single year. The Committee also invites the Government to refer to paragraph 13 of its general observation concerning the maximum admissible dose for pregnant women. The Committee notes that the legislation to which the Government refers is not in conformity with the latest recommendations of the ICRP according to which women who may be pregnant shall be ensured a level of protection broadly comparable with that provided for members of the general public (i.e. effective dose not to exceed 1 mSv per year). The recommendations also envisage that, once the pregnancy is declared, the equivalent dose limit to the surface of the woman's abdomen should not exceed 2 mSv for the remainder of the pregnancy. Finally, the Committee notes that the legislation giving effect to the Convention does not seem to contain provisions ensuring the protection of the public in general against exposure to radiations. *The Government is requested to indicate the measures taken or envisaged with regard to these points, thus ensuring the effective protection of the workers, in the light of the knowledge available at the time, according to the recommendations issued in 1990 by the ICRP.*

*Article 9(2). Instruction for workers.* The Committee notes that section 10, paragraph 3, of Decision No. 547/CP of 25 January 1995, provides that any handling of industrial radiography or radioscopy apparatus shall be carried out by an employee having received special training. The Committee also notes that the second subparagraph of this section provides that an exemption to this measure may be granted by the Director of Labour in the case of electrical generators for fixed X-ray machines. *The Committee requests the Government to indicate the measures taken or envisaged to ensure that all workers directly engaged in radiation work are duly trained as well as to indicate the criteria according to which the exemptions provided for in section 10, paragraph 3, subparagraph 2, of Decision No. 547/CP of 25 January 1995, are granted.*

*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 the legislation envisaged for the application of the Convention does not seem to contain provisions ensuring that no worker shall be employed or shall continue to be employed in work by reason of which the worker could be subject to exposure to ionizing radiations contrary to qualified medical advice. In this context, the Committee wishes to draw the Government's attention 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 indication, 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 radiations 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.*

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

## Guatemala

### Asbestos Convention, 1986 (No. 162) (ratification: 1989)

*Article 3 of the Convention. Laws and regulations concerning the prevention and control of, and protection of workers against, health hazards due to occupational exposure to asbestos.* Since its first comments in 1994, the Committee has repeatedly requested the Government to adopt the necessary legislative measures to give effect to the Convention. In its previous observation, it noted with regret that, according to the Government's brief report, no law had been adopted in Guatemala on asbestos-related issues. It reminded the Government that, under article 19(5)(d) of the ILO Constitution, any member State which ratifies a Convention undertakes to "take such action as may be necessary to make effective the provisions of such Convention". This obligation not only consists in incorporating the Convention into national law, but also entails the need to give effect to it in legislative terms or by means of any other measures that are consistent with national practice, such as those provided for by the Convention (for example, court decisions, arbitration awards or collective agreements), and to enforce it in practice. Furthermore, the Convention requires national law to regulate certain matters in particular, in addition to those covered by the present Article: *Article 9* (prevention and control measures); *Article 11* (prohibition of the use of crocidolite); *Article 12* (prohibition of spraying of all forms of asbestos); and *Article 13* (employers' obligation to notify to the competent authority types of work involving exposure to asbestos).

In the case of *Article 13*, the Government has not provided any information. The Committee notes with *concern* that, 20 years after ratification, no progress has been made in implementing the Convention in either law or practice. Furthermore, noting the information supplied by the Government in its report that the Ministry of Environment and Natural Resources issues recommendations against the spraying of asbestos and other mineral fibres, the Committee observes that this is not enough to give effect to the Articles that the Committee has been referring to, including the provisions on spraying, since *Article 12* of the Convention refers not to recommendations but to the prohibition of the spraying of all forms of asbestos. The Committee furthermore notes with *regret* that, according to the Government's report, no limits have been prescribed for the exposure of workers to asbestos or other exposure criteria for the evaluation of the working environment, as required by *Article 15* of the Convention. ***The Committee once again urges the Government to adopt the necessary measures rapidly to give effect to the Convention in law and practice. It again invites the Government to avail itself of the technical assistance of the Office and to provide detailed information on the matters referred to above.***

*Article 4. Consultation of the most representative organizations of employers and workers concerned on the measures to be taken to give effect to the provisions of this Convention.* Further to its previous comments, in which the Committee urged the Government to give effect to this Article and to provide information in this regard, the Committee notes with *regret* that, in its report, the Government merely indicates that it is exploring efforts for the examination of the Convention by the Tripartite Committee of the Ministry of Labour and Social Welfare. It also notes that, according to a report of 14 July 2013 of the National Council on Occupational Health, Hygiene and Safety, in the Council's archives "no record was found of any technical or administrative steps being taken or planned to draft provisions regulating the handling of asbestos". The report reiterates that Guatemala lacks legal and technical standards that regulate, prohibit or sanction the use of asbestos. It also indicates that the Council agreed to include on its ordinary programme of work for its 2014–16 mandate the examination of all ILO occupational safety and health Conventions. ***The Committee once again urges the Government to take immediate steps to consult the most representative organizations of employers and workers concerned on the measures to be taken to give effect to the provisions of this Convention and to provide detailed information on the most representative organizations consulted and on the results of the consultations.***

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Guinea

### **Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1966)**

The Committee notes with *regret* that the Government's report has not been received. It therefore feels bound to repeat its previous comment, which read as follows:

*Article 6 of the Convention. Statistics.* The Committee notes with interest that, according to the statistics provided by the Government, the number of accidents in the building and public work sector appears to have decreased in 2004 and 2005, although the number on the whole appears to have increased when considering all occupational categories together. ***The Committee asks the Government to continue to provide statistical data on the application of the Convention in practice.***

*Revision of the Convention.* The Committee draws the Government's attention to the Safety and Health in Construction Convention, 1988 (No. 167), which revises the Convention, and which might be more adapted to the current situation of the building industry. The Committee recalls that the Governing Body of the International Labour Office invited the States' parties to the Convention, to contemplate ratifying Convention No. 167, the ratification of which will, ipso jure, imply the immediate denunciation of the Convention (document GB.268/8/2). ***The Committee requests the Government to keep it informed on any developments in this regard.***

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

### **Radiation Protection Convention, 1960 (No. 115) (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:

The Committee notes that the Government indicates, in its last report, 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.*

*Articles 2, 3(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 occupational exposure in emergencies and 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 paragraph 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 near future.***

### **Benzene Convention, 1971 (No. 136) (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 that the Government does not presently intend to amend Order No. 2265/MT of 9 April 1982, but envisages formulating, in consultation with the social partners, technical guidelines on harmful, hazardous and carcinogenic products, particularly benzene. The Committee also notes that the guidelines envisaged will be made available to all users. ***It hopes that the guidelines will be formulated and adopted without delay and requests the Government to provide information on any progress made in this matter.***

*Article 4(2) of the Convention.* The Committee notes the Government's information on processes which use methods of work that are as safe as those carried out in an enclosed system. It notes in particular that the increase in labour and health inspections in enterprises and the involvement of Workers' Committees for Health, Safety and Working Conditions (CHSCT) ensure that the processes are carried out under the safest possible conditions. ***The Committee requests the Government to provide an indication of the frequency of the inspections carried out in enterprises that use benzene. It also requests the Government to provide copies of the statistics collected during inspections, to enable the Committee to assess the extent to which this provision of the Convention is applied in practice.***

*Article 6(2) and (3).* With regard to the concentration of benzene vapour in the air of workplaces, the Committee notes that a draft Order concerning data files on the safety of chemical substances establishes a level not exceeding 10 ppm or 32 mg/m<sup>3</sup> over an eight-hour time-weighted average. The Committee accordingly concludes that the ceiling established in the draft Order is lower than the one established in the Convention when it was adopted in 1971. It nevertheless wishes to point out to the Government that the threshold limit value recommended by the American Conference of Government Industrial Hygienists (ACGIH) is 0.5 ppm over an eight-hour time-weighted average. ***It therefore invites the Government to take measures to bring the ceiling value established by the draft Order into line with the value recommended by the ACGIH. The Committee also requests the Government to specify the guidelines issued by the competent authority on the procedure for determining the concentration of benzene in places of employment. It also requests the Government to provide a copy of the abovementioned Order as soon as it is adopted.***

*Article 8(2).* With regard to limiting the duration of exposure of workers who, for special reasons, may be exposed to concentrations of benzene in the air of places of employment which exceed the maximum established, the Committee notes that, according to the Government, a study is under way on this matter. ***It requests the Government to provide information on any progress made in this regard.***

***The Committee also requests the Government to provide relevant extracts of the inspection reports and the statistics available on the number of employees covered by the legislation as well as the number and nature of violations reported, as requested under Part IV of the report form.***

In its previous comments, the Committee noted the Government's statement that a draft Order on occupational cancer giving full effect to the provisions of the Convention had been formulated with ILO technical assistance. ***The Committee requests the Government to indicate whether this Order is still under consideration for enactment.***

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

### **Occupational Cancer Convention, 1974 (No. 139) (ratification: 1976)**

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:

Referring to the comments the Committee has been making for several years concerning *Article 2(1) of the Convention*, the Government has explained in several of its reports that, under section 4 of Order No. 93/4794/MARAFDPT/DNTLS of 4 June 1993, an employer is required to replace a carcinogenic substance or agent by a non-carcinogenic or less carcinogenic substance or agent provided that one exists, each time that such replacement can be envisaged in view of the given circumstances. The Committee notes that, in its last report, the Government indicates briefly that measures will be taken as soon as the new Labour Code is adopted to align the provisions of section 4 of the abovementioned Order. ***The Committee asks the Government to send a copy of the new Labour Code as soon as it is adopted and to indicate any progress made in this matter.***

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

## **Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1982)**

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 1(1) of the Convention.* The Committee notes that the draft conditions of service of the public service, which is being discussed within the Government, should contain the necessary measures to give full effect to the provisions of this Article of the Convention through their application in practice in all branches of economic activity. *The Committee requests the Government to keep the International Labour Office informed of developments relating to these conditions of service and to provide a copy of them when they have been adopted.*

*Articles 4, 8 and 10.* The Committee notes the information concerning a draft Order, prepared by the Government, which was due to be examined by the Advisory Committee on Labour and Social Legislation. This draft text would cover cesspits, drinking water, noise, vibration, air pollution, etc. *The Committee requests the Government to indicate whether this text is issued under section 171(1) of the Labour Code.* It reminds the Government that, under the terms of *Article 4*, the provisions adopted must prescribe the specific measures to be taken both for the prevention of occupational hazards due to air pollution, noise and vibration, and to control and protect workers against these hazards. The Committee also reminds the Government that, under the terms of *Article 8* of the Convention, the above draft text should provide for the establishment of criteria for determining the hazards of exposure to air pollution, noise and vibration and should specify exposure limits. The Committee notes that the Government's report does not indicate whether the above draft text provides, as required by *Article 10*, for the provision of personal protective equipment where the measures taken to eliminate hazards do not bring air pollution, noise and vibration within the limits specified by the competent authority. *The Committee requests the Government to keep the Office informed of the adoption of this draft text, to provide a copy when it has been adopted and to inform it of any other specific measures taken for the application of the provisions of Articles 4, 8 and 10 of the Convention.*

*Article 9.* *The Committee requests the Government to indicate the technical measures and supplementary work organizational measures intended to eliminate the above hazards.*

*Article 14.* The Committee notes that the National Occupational Medicine Service is equipped with a laboratory which is inadequately provided with appropriate instruments for its needs, but that the Government plans within a relatively short period to provide the above Service with modern and appropriate equipment. *It requests the Government to keep the Office informed of the progress made in equipping the National Occupational Medicine Service and to inform it of any other measures taken to promote such research.*

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

## **Guyana**

### **Radiation Protection Convention, 1960 (No. 115) (ratification: 1966)**

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comment, which read as follows:

The Committee notes the information contained in the Government's report and the attached documentation. It notes that section 75(1)(b) of the Occupational Safety and Health Act (Act No. 32 of 1997) provides that the Ministry may adopt regulations to further regulate occupational safety and health issues. It notes the detailed draft regulations on the safe use of chemicals at work of 31 January 2003, which was attached to the Government's report, but also notes that this draft text does not contain any rules with respect to ionizing radiation. *The Committee asks the Government to provide information in its next report on measures taken or envisaged to ensure that workers are protected against ionizing radiation at work, particularly through issuing regulations under section 75 of the Occupational Safety and Health Act.*

*Article 3(1) of the Convention.* *Effective protection of workers in the light of knowledge available at the time.* With respect to exposure limits to chemical substances and agents, the Committee notes that Annex 2 in the proposed regulations refers to the international standard established by the American Conference of Governmental Industrial Hygienists. The Committee takes this opportunity to refer the Government to its general observation of 1992 under this Convention, in which the Committee refers to the exposure limits on ionizing radiation recommended by the International Commission on Radiological Protection (ICRP), No. 60 (1990), according to which the permissible level of exposure to ionizing radiation for workers engaged in radiation work is recommended to be 20 mSv per year, averaged over five years, but not exceeding 50 mSv in any single year. *The Committee requests the Government to provide further information on measures taken or envisaged to give effect to the Convention, taking due account of the recommendations of the ICRP referred to in the Committee's general observation of 1992 under this Convention.*

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

### **Occupational Cancer Convention, 1974 (No. 139) (ratification: 1983)**

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comment, which read as follows:

The Committee notes the information contained in the Government's report. It notes that draft Regulations on the safe use of chemicals at work of 31 January 2003 are currently being discussed. It notes the Government's statement that these draft Regulations provide protection against occupational cancer and also that it refers to the international exposure limits standard established by the American Conference of Governmental Industrial Hygienists. The Committee further notes that Chapter 3.6 of Annex 2 of the draft Regulations contains rules applicable to carcinogenicity and also notes the Government's statement that these draft Regulations will attempt to provide for medical examinations. The Committee hopes that these Regulations will be adopted in the near future, ensuring the application of the Convention, and that they will also ensure that medical examinations or biological or other tests or investigations are carried out during the period of employment and thereafter, in accordance with *Article 5 of the Convention*. *The Committee requests the Government to provide information in its next report on measures taken to ensure the application of the Convention and to provide a copy of the Regulations, once they are adopted.*

*The Committee hopes that the Government will do its utmost to take the necessary measures in the near future.*

## Republic of Korea

### **Radiation Protection Convention, 1960 (No. 115) (ratification: 2011)**

The Committee notes the detailed information provided by the Government in its first report on the application of the Convention, received on 2 September 2013, as well as the observations of the Federation of Korean Trade Unions (FKTU) and the Government's reply thereto, annexed to the Government's report. It also notes the observations of the Korean Confederation of Trade Unions (KCTU) received on 31 August 2013 and the Government's reply dated 25 October 2013.

*Article I and Part II of the Convention. Legislation. Consultation with employers' and workers' representatives concerning the application of the Convention. Monitoring mechanism of radiation in workplaces. Protective measures.* The Committee notes that, in its observations, the KCTU underlines a number of problems regarding the legislation and the government monitoring mechanism of radiation in workplaces. In particular, the KCTU indicates that: the various radiation-related laws are not integrated; many ministries are responsible for this issue; safety measures, such as providing dosimeters in accordance with the Act on Nuclear Power, are applied only in approved workplaces and there are no provisions in the Occupational Safety and Health Act (OSH Act) which covers every workplace; and safety standards, such as maintaining a safe distance, preventive measures in case of radiation leakage, the provision of a dosimeter, etc. are not adequate. The KCTU adds that workers are inadequately informed of the harmful effects of radiation and that legislative provisions on health check-ups are inadequately applied in most workplaces. Furthermore, the KCTU indicates that the Nuclear Safety and Security Commission, responsible for all matters relating to radiation, does not deal with the health and safety of workers handling radiation and only inspects workplaces which have obtained permission to handle radiation. According to the KCTU, this represents only 1,000 of the 5,000 such workplaces reported to the Commission. Finally, the KCTU observes that, while the Act on Nuclear Power provides that only workers with a licence or national technical qualification can handle radioactive materials, many non-qualified workers handle radiation. Consequently, the KCTU seeks the unification of radiation-related laws and the strengthening of management and supervision, in addition to the tightening of safety measures related to radiation.

The Committee notes the Government's indication in its reply that the Nuclear Safety Act, applied by the Nuclear Safety and Security Commission, provides for many measures protecting the health of workers engaged in various types of radiation work, notably by providing for health examinations and the measurement of radiation doses. The Government also indicates that the Occupational Safety and Health Act was recently amended to make it mandatory for workplaces handling radiation to provide their workers with special safety and health education relating to the harmful effects of radiation. With regard to health check-ups for workers, the Government specifies that it provides guidance and conducts inspections to ensure that workplaces conduct such check-ups for workers engaged in radiation work. The Government also points out that workplaces intending to handle radioactive isotopes should obtain permission from, or make a report to the Nuclear Safety and Security Commission, which then selects from among the high-risk workplaces and makes occasional or regular inspections of them. Finally, the Government adds that the Nuclear Safety Act permits only those who have obtained a license from the Nuclear Safety and Security Commission, are radiation management engineers, or have completed the required training and are under the direction of a qualified person, to perform radiation work. ***The Committee requests the Government to take the necessary measures to hold consultations with representatives of employers and workers on the issues raised by the KCTU, and to provide information on the outcome of such consultations. The Committee also asks the Government to continue to provide information on the measures taken or envisaged to ensure that the protective measures provided for in Part II of the Convention are implemented in practice.***

*Article 9. Appropriate warnings and adequate instruction for workers.* The Committee notes that the Government's report does not provide information on the measures taken to give effect to this Article of the Convention. With regard to the adequate instruction of workers directly engaged in radiation work, the Committee draws the Government's attention to section 2.4 of the 1986 ILO code of practice on the radiation protection of workers, which contains general principles for informing, instructing and training workers. ***The Government is requested to indicate the measures taken or envisaged to give effect to this Article and to ensure that workers are adequately instructed in the precautions to be taken for their protection in conformity with Article 9(2) of the Convention.***

*Article 10. Notification of work involving exposure of workers to ionizing radiations.* The Committee notes that the Government's report does not provide information on laws or regulations requiring the notification of work involving exposure of workers to ionizing radiation and radioactive substances in the course of their work. ***The Committee asks the Government to indicate if any laws or regulations require notification and to indicate the measures taken or envisaged to give effect to this Article of the Convention.***

*Article 14. Continued employment of exposed workers and the provision of alternative employment.* The Committee notes that the report does not contain information on the application of this provision. It invites the Government to take into account the terms of paragraphs 28–34 and 35(d) of its 1992 general observation on the Convention which, inter alia, refer to the need to find appropriate alternative employment for workers whose continued employment in a particular job is contraindicated for health reasons. ***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 and to provide***

*information on the account taken of the needs of workers whose continued employment in a particular job is contraindicated for health reasons.*

*Article 15. Inspection services.* The Committee notes that, in its observations, the FKTU indicates that while the local employment and labour offices of the Ministry of Employment and Labour should conduct frequent inspections to determine whether employers are fulfilling their obligation to take measures to prevent health hazards caused by radiation to workers, the reality is that there is insufficient guidance and inspection, as labour inspectors focus on punishment rather than prevention. The Committee notes that, in its response, the Government indicates that in the case of workplaces exposed to radiation, labour inspectors focus on prevention activities, such as conducting inspections and providing education and technical materials. ***The Committee asks the Government to provide further details on the prevention activities carried out by labour inspectors in relation to the application of the Convention.***

*Part V of the report form. Application in practice.* ***The Committee asks the Government to provide a general appreciation of the manner in which the Convention is applied in the country, including information on any practical difficulties in the application of the Convention.***

### **Occupational Cancer Convention, 1974 (No. 139) (ratification: 2011)**

The Committee notes the information supplied by the Government in its detailed first report on the application of the Convention, received on 2 September 2013, as well as the observations of the Federation of Korean Trade Unions (FKTU) and the Government's reply, annexed to the Government's report. The Committee also notes the observations of the Korean Confederation of Trade Unions (KCTU), received on 31 August 2013, and the Government's reply received on 25 October 2013.

*Legislation.* The Committee notes with *interest* the Occupational Safety and Health Act (Act No. 3532), which gives effect to many provisions of the Convention. The Committee also notes that in its report, the Government refers to the Regulations on Occupational Safety and Health Standards and to the Ordinance of the Ministry of Employment and Labor as giving effect to the Convention. ***The Committee asks the Government to transmit a copy of the Regulations and Ordinance, in one of the ILO's official languages if possible.***

*Article 1(1). Periodic updating of the carcinogenic substances and agents that are either prohibited or subject to authorization or control.* The Committee notes that in its observations the KCTU questions the periodical determination of carcinogenic substances and agents, indicating that the Ministry of Employment and Labor has not taken an active role in the determination of carcinogenic substances that are prohibited or subject to control or authorization. The KCTU indicates that while the list published by the Ministry includes 187 substances and agents, a group of civilian experts identified 495 carcinogenic substances and agents in 2010. The KCTU adds that the Ministry of Employment and Labor holds a meeting twice a year to review the list of carcinogenic substances and agents. The KCTU states that during these meetings, only 20 substances and agents are reviewed and that the "social and economic dimension" (employers' financial burden) is considered when the Ministry determines whether a substance is carcinogenic.

The Committee notes the Government's indication in its response that, while the Ministry of Employment and Labor does not set a separate list of carcinogenic substances, it provides information on the carcinogenicity of 188 kinds of chemicals by publicizing their exposure limits, based on the classification standards adopted by the International Agency for Research on Cancer (IARC), the American Conference of Governmental Industrial Hygienists (ACGIH) and the European Union Classification, Labelling and Packaging Regulations (EU CLP). The Government adds that, while the Ministry of Employment and Labor does not hold a meeting where the list of carcinogenic substances is reviewed, it frequently holds meetings to adjust the level of legal control over chemicals with harmful properties, such as carcinogenicity. Finally, the Government specifies that the evaluation of the "social and economic dimension" conducted when the level of legal control of chemicals is adjusted, not only considers the financial burden to employers but also analyzes and assesses the feasibility and suitability of the regulations. The Committee reminds the Government that the aim of a list of carcinogenic substances is to determine periodically the carcinogenic substances and agents to which occupational exposure shall be prohibited or subject to authorization or control. ***The Committee asks the Government to indicate the measures taken or envisaged to establish and ensure the periodic updating of a list of carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorization or control.***

*Article 2(1). Replacement of carcinogenic substances and agents.* The Committee notes that in its report the Government refers to section 51(6) of the Occupational Safety and Health Act (OSH Act) in relation to the application of *Article 2* of the Convention. The Committee also notes that, in its observations, the FKTU indicates that no legal obligation to replace carcinogenic substances and agents exists under this provision of the OSH Act, which cannot be seen as explicitly requiring employers to replace such substances or agents, since the issuing of such an order depends on the results of guidance and inspection by labour inspectors, and so the FKTU considers that the law should be amended to strengthen the duty of employers to replace carcinogenic substances and agents. The Committee notes that the KCTU made a similar observation, adding that in many workplaces carcinogenic substances are used even when substitute substances are available and that there are few cases where employers have been ordered by labour inspectors to use substitute substances. The Committee notes that the Government responded to the FKTU and KCTU observations by indicating that the Regulations on Occupational Safety and Health Standards would be revised to include provisions imposing the obligation for employers to examine the possibility of replacing controlled carcinogenic substances with less

harmful ones and the obligation to actually replace these substances if possible. *The Committee requests the Government to indicate the measures adopted with a view 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 and agents, and to keep the ILO informed of any changes made to the Regulations on Occupational Safety and Health Standards following the review process.*

*Article 5. Medical examinations of workers during the period of employment and thereafter.* The Committee notes that, in its observations, the KCTU indicates that a very low percentage of construction workers undergo health check-ups and special medical examinations, despite the fact that they are highly exposed to carcinogenic substances and agents. The Committee also notes that, in its response, the Government states that while the obligation to conduct health examinations is imposed on the construction industry, it is not easy for health examinations to be conducted in construction because the proportion of daily workers is high in this industry. The Government indicates that it is implementing programmes, notably the subsidization of the costs of health examinations for daily construction workers, to boost the proportion of workplaces conducting health examinations. A health management pocketbook programme is in place for construction workers who have engaged in the manufacturing or handling any of the 14 harmful substances that remain dormant for a certain period, and makes workers who possess the pocketbook eligible to receive Government support for special health examinations, even when they have been assigned to different work, retired or left their employment. The Government acknowledges that daily workers in the construction industry have difficulty obtaining a health management pocketbook because it is hard to prove their past work experience. Given this, the Government suggests it has improved the procedures and the requirements for the issuing of the pocketbooks, thus increasing the proportion of workplaces conducting special health examinations for construction workers. *The Committee asks the Government to provide information on the frequency and scope of medical examinations of workers, particularly workers in the construction industry, and to give further details on the requirements to be met by workers to obtain a health management pocketbook.*

*Part IV of the report form. Application in practice.* The Committee notes of the practical information provided by the Government, notably the number of workers involved in handling carcinogenic substances in 2009 (83,460 workers) and the number of workers with work-related diseases, classified according to the carcinogenic substance causing the disease. *The Committee asks the Government to indicate what measures it has envisaged or taken to address the number of work-related diseases caused by carcinogenic substances. The Committee also requests the Government to provide a general appreciation of the manner in which the Convention is applied in the country, including relevant extracts from labour inspection reports, information on the number and nature of contraventions reported and the resulting action taken.*

## Nigeria

### **Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1994)**

*Article 4 of the Convention. Formulation, implementation and periodic review of national policy, in consultation with the social partners.* The Committee notes with *satisfaction* the adoption of a National Policy on Occupational Safety and Health on 22 November 2006, attached to the Government's report which, according to the indications provided, was developed in close consultation with all relevant stakeholders and with the technical and financial assistance of the ILO, and which gives partial effect to *Article 4(1)* of the Convention.

The Committee is raising other points in a request addressed directly to the Government.

## San Marino

### **Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1988)**

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comment, which read as follows:

*Article 4. Prevention and control of, and protection against, occupational hazards; Article 8. Establishing criteria for determining hazards due to exposure to air pollution, noise and vibration and exposure limits; Article 9. Technical measures to ensure that the working environment is free from any hazard due to air pollution, noise and vibration; and Article 10 of the Convention. Personal protective equipment.* The Committee notes the adoption of Decree No. 74 of 17 May 2005, amending article 15, paragraph 1, of Decree No. 25 of 26 February 2002, which provides for the applicability of internationally recognized exposure levels including as regards noise. The Committee also notes the reference to Law No. 94 of 28 June 2005 on the use, processing and disposal of asbestos prescribing, inter alia, the use of personal protective equipment made to the specifications of the European Committee for Standardization (CEN/TC 79). The Committee notes that according to the Government's report the definition of the relevant benchmark technical standards with regard to air pollution more generally and vibration, is still pending and that the criteria determining when personal protective equipment is to be provided is directly related to these benchmark technical standards. *The Committee reiterates its hopes that the technical standards that are reportedly in preparation will be adopted in the near future and asks the Government to provide information on the progress made and copies of them once they have been adopted.*

*Article 5. Consultations between the competent authority and the most representative organizations of employers and workers.* The Committee welcomes the information provided concerning the extensive consultations held between the Department of Public Health and the most representative organizations of employers and workers on measures to be taken to improve occupational safety and health conditions in small enterprises resulting in the adoption of Decree No. 4 of 14 January 2008 revising Annex 1 of Decree No. 123/2001. **The Committee requests the Government to provide information on the practical application of this decree.**

*Article 11(3). Alternative employment or other measures to maintain the income of transferred workers.* The Committee notes with interest the detailed guidelines on the application of the medical supervision based on Law No. 31/98 and subsequent legislation issued on 20 December 2002 following a thorough process of consultation. This guideline expressly refers to the Occupational Health Services Convention, 1985 (No. 161), and sets out detailed instructions on the way medical examinations have to be done as well as on the legal and medical obligations resulting from this examination. It also notes that workers who show reduced capacity for work in relation to the work performed have the possibility to be employed in protected activities in the state integrating sites (*Cantieri Integrativi dello Stato*). It also notes that according to article 9 of Decree No. 15/2006, the workers included in the Decree could be employed by the public administration in the terms fixed in the agreement between the State and the union. **The Committee asks the Government to indicate if the alternative employment referred to is only for workers with disabilities or if it also covers the situation in which exposure to air pollution, noise or vibration is found to be medically inadvisable, even in cases where there is no disability. The Committee also asks the Government to provide information on cases where alternative employment or other measures to maintain the income of transferred workers have been provided in relation to this Article of the Convention.**

*Part V of the report form. Article 16. Penalties and inspection service.* The Committee notes the statistical information provided by the Government containing information on the inspections carried out and the following findings: 21 infringements in large enterprises; four in medium enterprises; and one in small enterprises. **The Committee requests the Government to provide information regarding the measures taken to address these trends and continue to provide detailed information on the application of the Convention in practice, including statistical information disaggregated by sex, if possible; on the number of workers covered by relevant legislation; and the number and nature of contraventions reported.**

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

## Sierra Leone

### **Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)**

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 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.**

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

## Bolivarian Republic of Venezuela

### **Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1984)**

*Article 11(c) and (d) of the Convention. Establishment and application of procedures for the notification of occupational accidents and diseases. The holding of inquiries where an occupational accident appears to reflect a situation which is serious.* The Committee notes a communication from the National Union of Workers of Venezuela (UNETE) of 31 August 2013, forwarded to the Government on 19 September 2013. In its communication, the UNETE refers to the deteriorating conditions of occupational safety and health (OSH), with a very high rise in occupational accidents in the oil sector. It makes particular reference to an accident that occurred on 25 August 2012, when there was a major explosion at the Amuay refinery, Falcón state, under the ownership of the Venezuelan petroleum enterprise (PDVSA). It indicates that the accident resulted in 42 deaths and over 100 persons injured, and left hundreds of families homeless, as well as causing huge environmental damage. The union states that a year after the accident the causes are still unknown, and no measures have been taken to prevent it from happening again. A deterioration of OSH conditions is also reported in the cement industry. Lastly, the UNETE indicates that the National Institute for Occupational Prevention, Health and Safety (INPSASEL) is legally empowered to issue certificates for occupational diseases, but that the absence of regulations setting a time limit for issuing the certificate means that INPSASEL delays the process indefinitely, leaving

the worker in a vulnerable situation, since the certificate is needed to claim compensation. *The Committee invites the Government to provide the comments it considers appropriate with its reply to its 2012 comments.*

## Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 13** (Chad); **Convention No. 45** (Sierra Leone, Uganda); **Convention No. 115** (Chile, Ghana, Kyrgyzstan, Tajikistan); **Convention No. 119** (Algeria, Ghana, Kyrgyzstan, Russian Federation, Tajikistan); **Convention No. 120** (Azerbaijan, Democratic Republic of the Congo, France: New Caledonia, Iraq, Kyrgyzstan, Tajikistan); **Convention No. 127** (Algeria); **Convention No. 136** (Zambia); **Convention No. 139** (Slovakia, Ukraine); **Convention No. 148** (Kyrgyzstan, Niger, Seychelles, Slovakia, Zambia); **Convention No. 155** (Algeria, Belgium, Belize, Cabo Verde, Niger, Nigeria, Seychelles, Syrian Arab Republic); **Convention No. 161** (Belgium, Niger, Seychelles, Ukraine); **Convention No. 162** (Australia, Colombia, Morocco, Russian Federation, Uganda); **Convention No. 167** (Dominican Republic); **Convention No. 170** (Syrian Arab Republic); **Convention No. 174** (Albania, Armenia, Colombia, Slovenia, Ukraine); **Convention No. 176** (Albania, Armenia, Peru, Ukraine, Zambia); **Convention No. 184** (Argentina, Kyrgyzstan); **Convention No. 187** (Austria, Canada, Chile, Republic of Moldova, Niger, Russian Federation).

## Social security

### Algeria

#### **Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (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 that the Government has sent information showing that the national legislation gives substantial effect to the Convention but without replying to the questions which have been posed by the Committee for many years. *The Committee therefore requests the Government, in accordance with section 4 of the Inter-Ministerial Order of 10 April 1995, to include in the work programme of the Commission on Occupational Diseases, the question of bringing the schedules of occupational diseases into conformity with the Convention with respect to the following points:*

- *the activities in which there is a risk of exposure to anthrax infection should also include the loading, unloading or transport of merchandise in general so as to cover workers (such as dockworkers) who have unknowingly transported merchandise that has been contaminated by anthrax spores;*
- *the wording of the items pertaining to poisoning by arsenic (Schedules Nos 20 and 21), manifestations caused by the halogen derivatives of hydrocarbons of the aliphatic series (Schedules Nos 3, 11, 12, 26 and 27), and poisoning by phosphorus and certain of its compounds (Schedules Nos 5 and 34) must, pursuant to the schedule annexed to the Convention, cover in general terms all the manifestations that may be caused by the above substances (such a wording would also make it possible to cover diseases which may be caused by the use of new products); and*
- *the need for the wording of the various pathological manifestations enumerated in the left-hand column of the schedules of occupational diseases entitled "designation of diseases" to be of an indicative nature, in the same way as the wording for the corresponding types of work in the right-hand column of the schedules.*

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

### Armenia

#### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 2004)**

*Article 11 of the Convention. Functioning of the mechanism for compensation of industrial accidents in the event of the insolvency of the employer or insurer.* In a communication dated 14 June 2013, the Confederation of Trade Unions of Armenia (CTUA) indicates that, since the adoption of a 2004 Governmental Decision (No. 1094-N), payments out of the state budget to victims of occupational diseases were suspended without another source of financing being envisaged. Furthermore, the capitalization and other mechanisms foreseen by section 1086(2) of the Civil Code have not yet been defined and the body responsible for paying compensation in case of non-capitalization and lack of legal successor of the employer has also not been designated. It is estimated that around 800 workers employed by companies liquidated after 2004 have yet to be reimbursed. In its report, the Government indicates in this respect that, as of 1 January 2013, the total number of persons receiving compensation from the state budget for damages, occupational diseases and other health problems caused by the performance of occupational duties was 586. In case of bankruptcy of the legal persons recognized as responsible for the damage caused to health or life, Governmental Decision No. 914 of July 2009 established the rules for the capitalization of payments to victims based on the principle of lump-sum payments with a possibility to convert the latter into periodical payments upon a request made by the beneficiary. *The Committee notes that the Government does not respond to these serious allegations made by the CTUA regarding the lack of compensation for victims of occupational accidents which occurred between 2004 and 2009, following the adoption of Governmental Decision No. 1094-N of 2004, and invites the Government to communicate its response in this respect.*

The Committee is raising other points in a request addressed directly to the Government.

*[The Government is asked to reply in detail to the present comments in 2014.]*

### Australia

#### **Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (ratification: 1959)**

*Harmonization of workers' compensation rules across jurisdictions.* With reference to its previous comments, the Committee notes the Government's commitment to work with state and territory governments through the forum of Safe Work Australia, and in particular the Strategic Issues Group for Workers' Compensation (SIG-WC), to encourage and ensure that these jurisdictions are aware of the benefits of working towards conformity with the Convention. In December 2010, the Group developed the National Workers' Compensation Action Plan 2010–13 which includes the development of model legislation and seeks to achieve a reasonable balance between the interests of employers and workers. Seven temporary advisory groups (TAGs), consisting of representatives from the jurisdictions, unions and employers have been

tasked with exploring policy options for improving national consistency regarding, inter alia, return to work matters, definitions for the purposes of workers' compensation, death entitlements as well as approaches to multi-state employers, self-insurance and compensation of dust-related diseases. In addition, in a communication received in August 2012, the Australian Council of Trade Unions (ACTU) states that it is fully supportive of the above approach and understands that, in undertaking this analysis, Safe Work Australia will take into account Australia's obligations with respect to the Convention. *Taking note of the above and considering that the Action Plan's time span expires in 2013, the Committee would be grateful if the Government would supply information on the results achieved and on any follow-up measures envisaged, particularly with regard to ensuring consistency of workers' compensation in case of occupational diseases. The Committee wishes the Government to refer in this respect to its request directly addressed to the Government.*

## Brazil

### **Equality of Treatment (Social Security) Convention, 1962 (No. 118)** (ratification: 1969)

*Article 5 of the Convention. Payment of benefits abroad.* The Government's report received in September 2012, states that, in accordance with the rules established under the General Social Security Regime, insured persons are guaranteed payment of benefits irrespective of their country of residence; these benefits are paid through the banking network; in case the insured person lives in a country to which Brazil does not transfer payments of benefits, a legal representative must be nominated in Brazil. *The Committee invites the Government to further clarify these statements by providing detailed reply to its previous observation of 2009, which found that rules for payment of benefits abroad under section 312 of the Social Security Regulations of 1999 have not yet been established; a bank to transfer benefits abroad also has not yet been established due to a tender process launched in 2000; and no payments were transferred to beneficiaries residing abroad, with the exception of Spain, Greece and Portugal.*

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Central African Republic

### **Workmen's Compensation (Occupational Diseases) Convention, 1925** (No. 18) (ratification: 1964)

*Articles 1 and 2 of the Convention. List of recognized occupational diseases.* With reference to its previous comments, the Committee notes with **concern** the Government's indication in its 2013 report that the occupational diseases branch is still not operational in the country, as the implementing regulations determining the new list of occupational diseases, in accordance with section 91 of the Social Security Code, have not yet been adopted. In this regard, section 81 of Decree No. 09-116 of 27 April 2009, on the application of the Social Security Code, specifies that the list of occupational diseases, morbid manifestations and acute and chronic poisoning, as well as schedules listing the corresponding jobs, has to be approved by joint decision of the Minister of Social Security and the Minister of Public Health. *The Committee therefore hopes that the Ministries concerned will be in a position to adopt the regulations provided for in the 2006 Social Security Code and Decree No. 09-116 of 2009 in the near future and that, in so doing, they will duly take into consideration the Schedule annexed to the Convention.*

### **Equality of Treatment (Social Security) Convention, 1962 (No. 118)** (ratification: 1964)

The Committee notes the adoption of Act No. 06-035 of 28 December 2006 issuing the Social Security Code, Decree No. 09-116 of 27 April 2009 implementing that Act and Decree No. 09-115 of 27 April 2009 determining the legal and institutional status of the National Social Security Fund, which together establish the new legal framework for social security at the national level. The Committee notes with **regret** that, as was the case of the legislation previously in force, the new legislation is based on the principle that equality of treatment is subject, contrary to *Article 4(1) of the Convention*, to the condition of the residence of foreign nationals in the national territory. The grant of benefits abroad is only possible if it is provided for in bilateral or multilateral social security agreements, which is contrary to the provisions of *Article 5(1) of the Convention*. In the Central African Republic, this provision of the Convention requires that old-age benefit and employment injury pensions be granted, without other conditions, to its own nationals and to nationals of any other Member which has accepted the obligations of the Convention with regard to these benefits. In light of the information available, the Committee concludes that the national legislation continues not to give full effect to the essential provisions of the Convention. *The Committee trusts that the Government will take the necessary measures to make appropriate amendments to the legislation so as to give full effect to the Convention on the above points, which are examined in greater detail in a request addressed directly to the Government.*

## Colombia

### **Sickness Insurance (Industry) Convention, 1927 (No. 24) (ratification: 1933)**

Regarding the points raised in its earlier comments, the Committee takes note with *satisfaction* of the adoption of Act No. 1438 of 19 January 2011 reforming the General Social Security Health System (SGSSS), and specifically that:

- section 32 establishes the principle of universality of sickness insurance, in accordance with *Article 2 of the Convention*;
- there is no qualifying period under the SGSSS for access to health services or to the treatment of high-cost illnesses, and the imposition of any restriction on access to such services by a health-care provider is prohibited, in accordance with *Article 3(2)* of the Convention; and
- the qualifying periods for access to sickness benefits have been modified by Act No. 1122 of 2007 – for example, 26 weeks of contributions – and contributions already paid are not forfeited on account of the non-payment of contributions to the system for six or more successive months, in accordance with *Article 4(1)* of the Convention.

The Committee is raising other points in a request addressed directly to the Government.

## Comoros

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1978)**

The Committee notes with *regret* that the Government's report has not been received. The Committee notes the information sent by the Workers Confederation of Comoros (CTC) on 27 August 2013, further to the information already sent in 2011, also reporting serious shortcomings in the implementation of the Convention in practice, the lack of an administrative board responsible for managing the Social Insurance Fund, provisions not yet adopted to implement laws, the failure to comply with the requirement to register workers with a social security institution and the lack of statistics. However, in 2000, the Federation of Autonomous Comoran Workers' Organizations (USATC) also provided information concerning the absence of a service for the registration of workers in the National Social Insurance Fund. The Committee notes that these are allegations of significant dysfunctioning. *While awaiting a detailed reply from the Government, the Committee requests it to indicate the manner in which the application is ensured, in practice, of the Convention to workers who are not declared to the National Social Insurance Fund, particularly regarding their compensation and the coverage of the medical expenses incurred by such workers. Please also indicate the penalties incurred and imposed by the labour inspection services in the event of failure to comply with the obligation to register workers for occupational accident insurance.*

*Moreover, the Government is asked to provide copies of the Act respecting the National Social Insurance Fund, the Decree issuing its statutes and the Order establishing the organization, operating rules and the financing system of the National Social Insurance Fund.*

### **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (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:

The Committee notes that ever since Comoros ratified the Convention in 1978, it has had to draw the Government's attention to the need to amend the content of section 29 of Decree No. 57-245 of 24 February 1957 on the compensation and prevention of occupational accidents and diseases. Pursuant to this provision, foreign victims of occupational accidents who have moved abroad receive as compensation only a lump sum equal to three times the amount of the periodical payment granted to them, whereas nationals continue to receive their periodical payments. Foreign dependants no longer residing in Comoros only receive a lump sum not exceeding the value of the periodical payment established by order. Finally, the dependants of a foreign worker employed in Comoros are not entitled to any periodical payments if they did not reside in the country at the time of the worker's accident.

In its latest report, as in those sent since 1997, the Government states that in practice, no distinction is made between national and foreign workers in respect of their treatment in terms of occupational accident compensation. It states that foreign workers continue to receive their cash benefits abroad provided that they give their new address. The Government's report does not however indicate the progress made in respect of the draft text which, according to the information sent by the Government in its previous reports, should repeal the provisions of Decree No. 57-245 which are inconsistent with the Convention.

*Consequently, the Committee trusts that the Government will take adequate measures, without delay, to bring the national legislation fully into line with the Convention, which provides that foreign nationals of States which have ratified the Convention, and their dependants, shall receive the same treatment as that guaranteed to nationals in respect of compensation for occupational accidents.*

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

### **Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (ratification: 1978)**

The Committee notes with *regret* that the Government's report has not been received. However, it notes the new information sent by the Workers Confederation of Comoros (CTC) on 27 August 2013 reporting the absence of progress in the recognition and compensation of occupational diseases and absence of doctors in the country specializing in occupational health. According to the CTC, no institution takes responsibility for issues relating to occupational diseases, and the courts are not aware of the existence of the Convention and annexed Schedule of occupational diseases. The Committee recalls that, in its previous comments in 2011, the CTC reported, as the Federation of Autonomous Comoran Workers' Organizations (USATC) already had in 2000, the absence of a technical structure for the recognition of occupational diseases and national supervisory machinery. The Committee also recalls that in 2007 the Government indicated that it was aware of the need to establish an occupational health service and indicated that a study was being prepared on the basis of adopting a national occupational safety and health policy. In its observations of 2007 and 2012, the Committee drew the Government's attention to the need to repeal Order No. 59-73 of 25 April 1959, which has fallen into abeyance, and to replace it with a new legislative text recognizing the occupational origin of the diseases set out in the Schedule appended to *Article 2 of the Convention*. ***The Committee requests the Government to provide a detailed report for examination at its next session and to inform it of measures taken since 2007 to guarantee the proper application of the Convention in law and practice.***

*[The Government is asked to reply in detail to the present comments in 2014.]*

## **Costa Rica**

### **Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1972)**

The Committee notes the information provided by the Government with regard to the principle of administration with the participation of representatives of the insured persons under the compulsory scheme for supplementary pensions (*Article 72 of the Convention*). Furthermore, the Committee notes the Government's reply to the observations of the Confederation of Workers Rerum Novarum (CTRN) received in September 2012.

*Part VI (Employment injury benefit), Articles 34, 36 and 38 of the Convention. Duration of benefit.* In its report, the Government states that benefits are paid throughout the contingency. However, pursuant to sections 238 and 239 of the Labour Code – relating to permanent minor disability and permanent partial disability, respectively – payments are limited to five to ten years. As regards the degree of loss of earning capacity considered minimal by the national legislation (section 223 of the Labour Code – 0.5 to 50 per cent), the Committee points out that a degree of loss of earning capacity ranging from 25 to 50 per cent is not considered “minimal” under Paragraph 10(1) of the Employment Injury Benefits Recommendation, 1964 (No. 121). ***The Committee hopes that the Government will reconsider the situation and take the necessary measures to ensure the payment of periodical benefits throughout the duration of the contingency in case of permanent partial disability in excess of 25 per cent.***

*Part VII. Family benefit. Article 44.* The Committee notes the amounts allocated in social assistance programmes directly addressed to the needs of children. ***The Committee hopes that the Government will be able to calculate the total value of benefits granted in accordance with what is laid down in Article 44 of the Convention.***

## **Democratic Republic of the Congo**

### **Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1987)**

*Reform of the social security system.* Further to its previous comments, the Committee notes with *interest* the Government's indication that in November 2012 it held the 30th ordinary session of the National Labour Council, which dealt with social security reform and culminated in the validation of two Bills by the tripartite constituents, namely the Bill issuing the Social Security Code and the Bill governing the fundamental principles of the mutual insurance system. The Bills were adopted by the Council of Ministers and are now before Parliament for discussion. The draft Code, which has been examined by the Office, appears to give effect to most of the provisions accepted by the Government. The Committee also notes the Government's request for technical assistance to be provided by the Office to the Ministry of Social Welfare and the National Social Security Institute with a view to improving the application of the Convention, and it hopes that such assistance will be provided in the context of implementation of the new Social Security Code. ***The Committee hopes that the abovementioned Bills will be adopted in the near future and requests the Government to supply a copy of the Social Security Code, once it has been adopted.***

## **Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1967)**

In response to the Committee's previous observation, the Government indicates that the Social Security Reform Commission has reviewed the current schedule of occupational diseases and that the revised draft text has been transmitted to the competent authorities for approval following consideration by the National Labour Council. *The Committee hopes that the revised schedule of occupational diseases will be adopted in the near future and will include diseases caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series, as well as those caused by benzene or its toxic homologues (Article 8 of the Convention).*

The Committee is raising other points in a request addressed directly to the Government.

## **Djibouti**

### **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (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:

Ever since the Convention was ratified in 1978, the Committee 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 in order to bring the national regulations into conformity with *Article 1(2) of the Convention*. According to this provision, the nationals of States that have ratified the Convention and their dependants must receive the same treatment as Djibouti grants to its own nationals in respect of workers' compensation. Under the terms of this section of the Decree, unlike nationals, foreign workers injured in industrial accidents who transfer their residence abroad no longer receive a periodical payment but a lump-sum payment equal to three times the periodical payment they received previously. The Government previously referred to a draft reform of the labour legislation aimed at the full application of the principle of equal treatment and the formal repeal of the residence requirement laid down by the Decree of 1957. The Government also stated that this residence requirement has only been applied occasionally to foreigners. In its last report, the Government indicates that the Committee's observations will be studied by the National Council for Labour, Employment and Vocational Training with a view to bringing the national legislation into conformity with the Convention. It hopes that the conditions allowing for this process to resume will be met as soon as possible. Nevertheless, the Government points out that the Djiboutian system does not apply any reduction to the amount of the periodical payment transferred abroad. *The Committee trusts that, in view of the situation which prevails in practice, the Government will seize the opportunity represented by the reform of the system of social protection currently under way and will formally repeal section 29 of Decree No. 57-245 so as to bring both the letter and spirit of the national legislation into full conformity with Article 1(2) of the Convention.*

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

### **Sickness Insurance (Industry) Convention, 1927 (No. 24) (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:

The Committee notes that the system of social protection in force in Djibouti is currently undergoing major restructuring involving the amalgamation of various existing insurance funds. The aim is to rationalize the management thereof, while extending the scope of sickness insurance with a view to the gradual affiliation of the whole population, including persons working in the informal sector. To this end, Act No. 212/AN/07/5e L establishing the National Social Security Fund (CNSS) provides that new complementary social instruments such as sickness insurance, funded supplementary pension plans and voluntary insurance will be instituted by means of regulations. The Committee also welcomes the recent formulation of the programme to promote decent work in Djibouti and the initiative to include a component on social protection. *The Committee encourages the Government to take all possible steps to complete the reforms under way and to keep it informed of the progress made with a view to establishing an operational sickness insurance system in the context of the principles guaranteed by the Convention. The Government is also invited to continue its efforts towards integrated management of the social security system providing protection for the greatest possible number of people, if necessary, with technical support from the Office.*

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

### **Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37) (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:

The Committee notes that the social protection system in Djibouti is undergoing major restructuring involving the merger of various insurance funds, each of which has its own invalidity branch in the interest of efficient management. *The Committee requests the Government to keep it informed of progress in implementing the abovementioned reform and to indicate in its next report the manner in which national law and practice give effect to the provisions of the Convention.*

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

## Dominican Republic

### **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)** (ratification: 1956)

#### **Follow-up to the recommendations of the tripartite committee (representation made article 24 of the Constitution of the ILO)**

Further to its previous comments, the Committee notes the representation submitted in October 2010 by the National Confederation of Dominican Workers (CNTD) alleging non-observance of the Convention, and also notes that the final report of the Committee set up to examine the representation was approved by the Governing Body at its 319th Session (October 2013) meeting. The Committee observes this final report concluded that: (a) Act No. 87/01, which limits membership in the social security system, including particularly the occupational risks insurance scheme, to foreign workers who have resident status violates the principle established by *Article 1(2) of the Convention*, and should be amended to remove this general condition of residence imposed on foreign workers; (b) enhancing inclusion and protection for mobile and casual workers under the occupational risks insurance scheme is necessary to achieve effective, and not only formal, compliance with the Convention; (c) the Government, as part of its policy of strengthening labour inspection, should prioritize the sectors with the highest occupational accident rate and the greatest presence of foreign workers, especially construction and agriculture; and (d) because a significant number of Haitian workers in the Dominican Republic do not possess an identity document from their own country, which creates additional practical obstacles to their membership in the social security system, there is a need for continuing dialogue between the Governments of the Dominican Republic and Haiti, including participation of the social partners in both countries, with a view towards establishing a lasting partnership between the two Governments to address the challenges posed with regard to the application of the Convention. Finally, the Committee notes that the Governing Body: (a) approved the report contained in document GB.319/INS/14/5, drawing the attention of the Government in particular to the action requested in paragraphs 42–45; (b) invited the Government to request technical assistance from the ILO in order to take the requested action; (c) invited the Government to fully include the social partners in the implementation of the requested actions; (d) invited the Government to provide, in a report to be submitted for examination by the Committee of Experts on the Application of Conventions and Recommendations at its next session, detailed information on the measures adopted to give effect to the above recommendations so that the Committee of Experts could proceed with its examination of the issues raised in connection with the application of the Convention; and (e) made the report publicly available and closed the procedure initiated by the representation of the CNTD alleging non-observance by the Dominican Republic of the Convention. *The Committee expects that the Government will follow these recommendations and will provide information on the progress made in its next report.*

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Ecuador

### **Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980]** (No. 121) (ratification: 1978)

With reference to its previous observation, the Committee notes with *satisfaction* the adoption of Decision No. C.D.390 of 10 November 2011 which contains the general regulations on occupational risk insurance (R-SGRT) and repeals Decision No. 741, and also section 177 of the Codified Statute of the Ecuadorean Social Security Institute (IESS). The aforementioned general regulations incorporate in Annex I, the revised list of occupational diseases adopted by the ILO in 2010 (List of Occupational Diseases Recommendation, 2002 (No. 194)), and a presumption of occupational origin of the diseases included in the list and the demonstration of proof in the cause-effect investigation (sections 12 and 13), in conformity with *Article 8 of the Convention*. The Committee also notes with *satisfaction* that section 7 of Decision No. C.D.390 covers chronic diseases, in conformity with *Article 9* of the Convention.

The Committee is raising other points in a request addressed directly to the Government.

### **Medical Care and Sickness Benefits Convention, 1969 (No. 130)** (ratification: 1978)

With reference to its direct request on the application of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), the Committee notes the information provided by the Government in relation to the scope of application of the Convention (*Part I – Article 2, in conjunction with Articles 11(a) and 20(a) of the Convention*), the coverage of small-scale farmers and of agricultural workers (*Article 3*).

*Part II (Medical care). Articles 11(a) and 12, in conjunction with Article 14 (Coverage of the spouses and children of insured persons).* Further to its previous comment, the Committee notes the adoption of Resolution No. C.D.332 of the Ecuadorean Social Security Institute (IESS) issuing the regulations for the granting of benefits under the general individual and family health insurance scheme. The Committee notes with *satisfaction* the amendment of sections 102, 105 and 117 of the Social Security Act which has the effect of extending coverage of social protection for health and sickness to dependent spouses and partners and children up to 18 years of age.

## France

### French Polynesia

#### **Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)**

*Article 9(1)(a) of the Convention. Disqualification from entitlement to benefits.* The Committee recalls that for many years it has been indicating to the Government that section 34(1) of Resolution No. 74-22 of 14 February 1974, as amended by section 1 of Resolution No. 83-47 of 28 March 1983, which provides for the possibility of disqualification of an insured person from such entitlement to benefits in the case of inexcusable misconduct, exceeds the cases for disqualification set out in *Article 9(1)(a)* of the Convention.

In this regard, the Committee notes that Chapter 1 of territorial Act No. 2011-18 of 11 July 2011, entitled “Invalidity and Sickness Insurance”, amends several sections of Resolution No. 74-22 of 14 February 1974, but not section 34(1) on which the Committee has been commenting since 1981. The Committee also notes the Government’s reiterated indication in its report that the possibility of disqualifying an insured person in the case of inexcusable misconduct will be removed during a future amendment of these texts. The Committee notes with *regret* that, notwithstanding the commitments made, as set out in its 2007 report, the Government did not use the occasion of the adoption of territorial Act No. 2011-18 of 11 July to make the amendment that has been requested for over 30 years. Under these conditions, the Committee is bound to remind the Government that by ratifying the Convention it undertook to give effect to its provisions in good faith. *The Committee therefore hopes that the Government will take the necessary measures without further delay to adopt the amendments referred to above.*

#### **Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)**

Please refer to the comment made under Convention No. 37.

#### **Workmen’s Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)**

The Committee notes with *regret* that the Government’s report received in November 2012 does not indicate any specific measure taken for over 20 years to: (a) ensure that the pathological manifestations enumerated under each of the diseases indicated in the schedules of the national legislation are of a non-restrictive nature; (b) remedy the absence in the schedules of an item covering, in general terms, as in the Convention, poisoning by the halogen derivatives of hydrocarbons of the aliphatic series and by all of the compounds of phosphorous; and (c) include among the types of work likely to give rise to primary epitheliomatous cancer of the skin, any process involving the handling of the products indicated in the Convention.

The Committee is raising other points in a request addressed directly to the Government.

#### **Unemployment Provision Convention, 1934 (No. 44)**

*Article 1(1) of the Convention. Establishment and implementation of a system of unemployment protection.* The Committee recalls that for many years (and most recently in 2007) it has been drawing the Government’s attention to the need to establish a system of protection against involuntary unemployment.

In this respect, the Government indicates that, following a study on the establishment of an unemployment insurance fund, two preliminary draft texts have been prepared and would provide the basis for the payment of an unemployment allowance for six months, financed equally from employers’ contributions, contributions based on wages and the financial contribution of French Polynesia. The two preliminary draft texts have been sent to the social partners and the one that is selected will be the subject of a tripartite discussion before being submitted to the Economic, Social and Culture Council for its opinion and to the Assembly for a vote. The Government is awaiting the response of the social partners, who need to agree on the establishment of such a scheme.

*The Committee notes these developments and hopes that, in its next report, the Government will be in a position to indicate progress made towards bringing national legislation into conformity with the Convention. Please provide a copy of any relevant text that is adopted in this regard.*

## Germany

#### **Invalidity, Old-Age and Survivors’ Benefits Convention, 1967 (No. 128) (ratification: 1971)**

The Committee notes that, on 5 September 2013, the German Confederation of Trade Unions (DGB) communicated comments on the application of the Convention. In these comments, the DGB recalls that, according to calculations provided in the Government’s report regarding old-age benefit for the period 2010–11, an employed person earning 125 per cent of the net average income of all persons protected would receive a net old-age pension corresponding to 69.1 per cent of previous earnings in the old federal Länder and 68.6 per cent in the new federal Länder, whereas the

replacement rate required by the Convention is set at 45 per cent. The DGB considers that this assumption should be examined critically since, in order to reach this replacement rate after a period of 30 years of contribution or employment, the Government has taken into consideration two sets of additional components which have the effect of increasing the basic pension of the standard beneficiary: (i) certain periods for which no contributions were due, such as 15 months of military service, three years of training and two years of technical college, have been added as they have the effect of increasing the contribution period and, consequently, the basic old-age pension from 41.49 to over 49 per cent of the reference wage. Without these elements, the basic pension granted to a person earning 125 per cent of the average wage of all persons protected, after 30 years of contribution, would amount to around 42 per cent of previous earnings, which is below the threshold of 45 per cent required by the Convention; (ii) the amount of a supposed additional private old-age pension has also been added to the basic old-age pension which has the effect of raising the net replacement rate to approximately 69 per cent of the reference wage. However, some 30 per cent of the total number of workers are not covered either by a supplementary occupational pension scheme or a “Riester” pension scheme and this percentage increases to 42 per cent in the low-income brackets, while the Convention requires pension coverage of all employees. The DGB therefore estimates that, particularly for the low-income groups, the actual level of old-age protection in Germany is considerably less than assumed by the federal Government and stresses that, as party to the Convention representing the minimum standard for well-developed countries, Germany should fulfil the obligation to provide benefits beyond the level needed merely to avoid poverty in old age and seek to ensure income replacement closer to previous earnings so that better social benefits can be guaranteed by growing prosperity. *The Committee requests the Government to provide its reply to the above observations in time to allow examination of the situation at its next session in November–December 2014.*

## Greece

### **Social Security (Minimum Standards) Convention, 1952 (No. 102)** (ratification: 1955)

Recalling the conclusions made in its observation of 2012 and having examined the information provided by the Government in 2013 in its report on the Convention and in the 31st annual report on the application of the European Code of Social Security (thereafter the Code), the Committee finds that the continuing contraction of the economy, employment and public finances caused by the policy of continuous austerity threatens the viability of the national social security system and has resulted in the increased impoverishment of the population, which seriously undermines the application of all accepted Parts of the Convention.

*Protecting the social security system against continuous austerity.* The Committee observes that after six straight years of recession and four years of austerity policies, the country has been led to an economic and humanitarian catastrophe unprecedented in peacetime: a 25 per cent shrinking of GDP – more than at the time of the Great Depression in the United States; over 27 per cent unemployment – the highest level in any western industrialized country during the last 30 years; 40 per cent reduction of household disposable incomes; a third of the population below the poverty line; and over 1 million people or 17.5 per cent of the population living in households with no income at all. These consequences are substantially related to the economic adjustment programme Greece had to accept from the group of international institutions known as “the Troika” (the European Commission, European Central Bank and IMF) to ensure repayment of its sovereign debt. The above statistics show that the policy of continuous austerity has plunged the country into a spiral of continuous recession, lost GDP and employment, higher public deficits and debt. With regard to future economic prospects, the report on the Convention includes the 2013 survey of small enterprises with up to 49 employees, constituting 99.6 per cent of Greek enterprises, conducted by the Small Enterprises’ Institute of the Hellenic Confederation of Professionals, Craftsmen and Merchants (IME GSEVEE). This survey reveals that 76.5 per cent of entrepreneurs and the self-employed believe that the crisis is deepening and have lost all hope for recovery. In absolute terms, 110,000 enterprises are “in the red”, with 40,000 of them estimated to close down over the next 12 months; total job losses in 2013 will reach 85,000–90,000; 63.3 per cent of enterprises estimate that they will not be able to meet their tax obligations in 2013; 57.2 per cent say the same about their social security obligations, while 22.6 per cent already owe contributions to IKA–Social Security Institute (a 30 per cent increase in only six months). The Committee observes that such economic outcomes of the fiscal consolidation programme undermine the viability of the national social security system and negate the very objectives of social protection pursued by the Convention and the Code. The Committee of Ministers of the Council of Europe, in its Resolution CM/ResCSS(2013)21F on the application of the European Code of Social Security by Greece, regretted that “the evolution of the situation in Greece confirms its previous conclusion that applying exclusively financial solutions to the economic and social crisis could eventually lead to the collapse of the internal demand and the social functioning of the State, condemning the country to years of economic recession and social unrest”. The Committee observes that under the present circumstances, by maintaining the course of austerity, the Government is, to a large extent, forfeiting its general responsibility for the proper governance of its social security system, which extends throughout all the provisions of the Convention and the Code. In view of the new austerity measures in Greece scheduled for 2014, the huge deficit of the country’s main social security fund, IKA, in conditions of mass scale non-payment of taxes and social security contributions, and the fact that many benefits have fallen below the poverty threshold, the Committee considers that the Greek Government and the Troika should be called upon to prevent

the collapse of the social security system in Greece and to sustain the social functioning of the State at least at a level to maintain the population “in health and decency” (*Article 67(c)* of the Convention and the Code). The Committee notes in this respect that in June 2012, the Parliamentary Assembly of the Council of Europe called upon the States parties to “closely assess current austerity programmes from the viewpoint of their short- and long-term impact on democratic decision-making processes and social rights standards, social security systems and social services” (*Austerity measures – A danger for democracy and social rights*, Resolution 1884(2012) of 26 June 2012, paragraphs 10.3 and 10.6). The Committee further notes that, in October 2013, the Committee of Ministers invited the Greek Government to ask the National Actuarial Authority to assess the overall impact of the austerity policies on the sustainability of the social security system. **The Committee would therefore like the Government to respond to these recommendations of the Council of Europe by conducting such an assessment of the current austerity programmes, preparing the necessary policy corrections and applying them without delay with a view to preserving the immediate viability and the longer term sustainability of the national social security system. The Committee hopes that the participation of Greece in the European working group on “Efficiency and effectiveness of social spending and financial arrangements”, to which the Government refers in its report on the Convention, will help the Government to assess the effectiveness of its social spending sufficiently in time to arrest the destructive effects of the present financial arrangements.**

*Stopping the increasing impoverishment of the population.* The Committee highlights that the following considerations concern some major developments affecting benefits in 2013 and should be read in continuation of its previous conclusions concerning the impact of austerity measures on poverty levels in Greece in 2012. Referring to austerity measures implementing the Memorandum of Understanding on the Medium-Term Fiscal Strategy 2013–16 (Memorandum III) between the Government of Greece and the IMF, the European Commission and the European Central Bank, the 31st report on the Code states that, as of 1 January 2013, by Law 4093/2012, the amount of monthly pension or the sum of monthly pensions of €1,000 and above were reduced by between 5 and 20 per cent. Also from 1 January 2013, the Christmas, Easter and holiday bonuses were abolished, meaning an additional 6 per cent reduction in annual income from pensions of IKA–ETAM. The report on the Code also states that 910,048 IKA pensions (out of a total of 1,205,513 computerized pensions), which are lower than €1,000, were decreased by 1 per cent after all the deductions, excluding the Christmas, Easter and holiday bonuses. Besides direct cuts in pensions, further financial savings from the pension system were generated by reducing the number of recipients through imposition of stricter qualifying conditions in terms of higher retirement age and income criteria. Thus, the stricter conditions for the entitlement to old-age pension set by Law 3863/2010 that were supposed to come into force on 1 January 2015 were applied from 1 January 2013, increasing from 65 to 67 years the retirement age for pensions provided by the Social Security Funds under the competence of the Ministry of Labour, Social Security and Welfare, as well as the Bank of Greece. According to Law 4093/2012, from 1 January 2014, in order to be entitled to the Social Solidarity Allowance (EKAS) the recipients of old-age, invalidity and survivors’ pensions should reach the age of 65 (instead of 60), with the exception of surviving children. By Law 3996/2011, EKAS is subject to the new income test, which now covers the entire income, including profits and earnings from room renting, truck renting, personal business, sales as travelling salesmen, etc. The non-contributory pension of €360 (€345 net) financed from the state budget and granted by the Agricultural Insurance Organization (OGA) to uninsured persons of old age who do not receive any other pension, provides, since 1 January 2013, for more stringent age, residence and income conditions, which need to be met cumulatively. Nevertheless, according to the report on the Code, there are still 779,661 pensions (with an average monthly amount of around €483.18) that have not been subject to any monthly decrease since 2011. No reductions were made to the minimum pension for old age and disability (€486.84 for persons insured before 31 December 1992, and €495.74 for those insured after 1 January 1993) and for survivors (€438.16 for persons insured before 1992 and €396.58 for those insured subsequently), as well as to EKAS, which constitutes an amount from €30 to €230 (average is around €175.62).

While noting the Government’s efforts to shield low-income pensioners from new reductions, the Committee observes that existing thresholds and safeguards are largely insufficient to prevent poverty in old age: the report on the Convention indicates that the rates of relative poverty and the material deprivation for people over 65 have worsened more than for the population on average, and that this phenomenon requires monitoring. The Committee hopes the Government understands that the aim of monitoring poverty is to reduce it, which cannot be achieved by new pension cuts. The Committee observes that, direct pension cuts in 2013 resulted in a reduction of pensions ranging from 12 to 27 per cent in total. The impact on the population would be greater if one considered also the effect of the introduction of much stricter legal conditions for entitlement to various pensions. The European Committee of Social Rights stated in this respect that “the cumulative effect of the restrictions ... is bound to bring about a significant degradation of the standard of living and the living conditions of many of the pensioners concerned” (Complaint No. 76/2012, *Federation of employed pensioners of Greece (IKA–ETAM) v. Greece*, Decision on the Merits, 7 December 2012, paragraph 78). One might add to this that pension reductions now constitute one of the main remaining sources of budgetary savings that Greece promised to its international creditors in 2013: about half of the €9.37 billion budgetary savings affects pensions. The Committee is saddened to observe that the aggravation of poverty in Greece is not a natural but an artificially created phenomenon perceived as inevitable “collateral damage” to fulfilling the country’s financial obligations before its international lenders. This Committee fully shares the conclusion of the Committee of Ministers of the Council of Europe that a State ceases to fulfil its general responsibilities for the proper management of the social security system and the due provisions of benefits if its social security benefits slide below the poverty line, and would be seen as socially irresponsible if its social security

benefits fall below the subsistence level. In the light of these conclusions of the Committee of Ministers, the Council of Europe, as a human rights institution, has the legal and moral grounds to hold the Greek Government and its international lenders responsible for the “programmed” impoverishment of the population and the human costs it involves. ***With respect to the position of the Greek Government, the Committee considers that the adoption by the Government of the socially responsible policy would imply, inter alia, the fulfilment of the following requests made by the Committee in its previous observation and restated by the Committee of Ministers in its 2013 Resolution on the application of the European Code of Social Security by Greece: (1) to urgently assess past and future social austerity measures in relation to one of the main objectives of the Convention and the Code, which is the prevention of poverty; (2) to put this question on the agenda of its future meetings with the parties of the international support mechanism for Greece; (3) to enable the National Actuarial Authority, in terms of additional financial and human resources, to analyse the redistributive effects of benefit cuts; (4) to determine the most rapid scenarios for undoing certain austerity measures and returning disproportionately cut benefits to the socially acceptable level; and (5) to make full use of ILO technical assistance to support the quantitative analysis of these options and of the subsequent revision of the 2012 actuarial projections for the national pension system.*** According to the report on the Code, the General Secretariat for Social Security of the Ministry of Labour, Social Security and Welfare has forwarded these requests of the Council of Europe and the ILO to the Government and expects the political leadership of the country to take relevant decisions.

The Committee, for its part, hopes that these decisions will be socially responsible and will be forthcoming sooner rather than later, if only considering that since the beginning of austerity the country has been shaken by no less than 39 general strikes. With respect to the proposal to assess the impact of austerity measures on poverty, the Committee finds it encouraging that, in its report on the Convention, the Government refers to the analogous conclusion coming out of the Social Protection Committee of the European Union, namely that member States implementing economic adjustment programmes should assess the social impact of measures prior to implementing those programmes. The Government cites point 7 of the policy conclusions of the report of the above Committee addressed to the European Commission and the European Council for the preparation of the Annual Development Report, which states “Member States implementing economic adjustment programmes (EAPs) have shown an extraordinary commitment to reforms which are painful for their population. Their experience offers a unique source of lessons to be learned. Many of the implemented measures strengthened their social protection systems, while others failed to halt the rise of poverty and in particular child poverty. Social impact assessment must therefore precede the economic adjustment programmes in order to choose the most appropriate path of reforms and adjust the resulting distribution impact across income and age groups.” As a first step towards binding measures decided upon at European level to that effect, the Government refers to the pilot ex ante examination of sectoral economic reforms in the Member States based on the proposal submitted by the European Commission for “ex ante coordination of plans for major economic policy reforms” (Communication, 2013) following its authorization by the EU Summit. The Committee is pleased that the repeated calls of the Council of Europe and the ILO to conduct structural adjustment programmes in a socially responsible manner avoiding large-scale pauperization of significant segments of the affected populations have been heard and acted upon by the European Commission. ***Considering that the European Commission forms part of the Troika, the Committee trusts that the Greek Government will not fail to seize the opportunity of using the above ex ante examination of its economic reforms to conduct the post factum examination of the impact of those reforms and the policies of continuous austerity on the rise of poverty and in particular child poverty.*** The Committee wishes to underscore that such an assessment will no doubt offer “a unique source of lessons to be learned” not only by the European Commission and other members of the Troika, but by all European countries and the international community at large in order to prevent, in future, the creation of widespread poverty.

***Establishing a national social protection floor.*** With respect to the role of the social security system in poverty reduction, the Committee recalls that Greece continues to be the only Eurozone country with no basic social assistance scheme that provides a safety net at the subsistence level determined in terms of the basic needs and the minimum consumer basket. The report on the Convention explains in this respect that the question of indicators based on categories of goods and services is being discussed at the European Union level, where there is no agreement among Member States on the methodology for the elaboration of such indicators that is subject to the Peer Review on “Using reference budgets for drawing up the requirements of a minimum income scheme and assessing adequacy”. However, in the framework of the European Strategy “Europe 2020”, Greece has committed itself to building a social safety net guaranteeing access to basic services and fixed specific quantitative targets for the reduction of poverty and social exclusion in the National Reform Programme: by 2020 the number of people at-risk-of-poverty or material deprivation or living in households with no working member should have been reduced by 450,000 (from 28 per cent in 2008 to 24 per cent in 2020); and the number of children at-risk-of-poverty by 100,000 (from 23 per cent in 2008 to 18 per cent in 2020). In monitoring trends in poverty, the Government is focusing on persons who experience extreme poverty and the unemployed. For the first group, Law 4093/2012 established a pilot programme to set up a minimum guaranteed income scheme, which is being prepared in cooperation with the World Bank and, in the first phase, will be applied in two Greek regions with different socio-economic characteristics. With regard to the unemployed, the Government started discussions with the Troika and intends to revise the benefit for the long-term unemployed. The Committee welcomes these initiatives which commit the World Bank and the Troika to taking into account the urgent needs of the people concerned. ***The Committee considers that in the present situation the establishment of the basic social assistance scheme, in line with the Convention,***

becomes an urgent necessity and would like the Government to refer in this respect to the ILO Social Protection Floors Recommendation, 2012 (No. 202). It hopes that in establishing such a scheme and determining the guaranteed minimum income, as well as the amount of the benefit for the long-term unemployed, the Government will rely not only on the poverty indicators, but will ensure that the established minimum amounts remain in all cases above the physical subsistence level for different age groups of the population.

[The Government is asked to supply full particulars to the Conference at its 103rd Session and to reply in detail to the present comments in 2014.]

## Guinea

### **Equality of Treatment (Social Security) Convention, 1962 (No. 118)** (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:

*Article 5 of the Convention. Payment of benefits in case of residence abroad.* 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(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 the Convention 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. Payment of family benefit.* 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(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 the Convention 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(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 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 not been received. It must therefore repeat its previous observation, which read as follows:

*Article 8 of the Convention. Occupational diseases.* *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.*

*Article 15(1). Conversion of periodical payments into a lump sum.* 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.*

*Articles 19 and 20. Amount of benefits.* 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 II of this instrument have been reached, and to provide the statistical information required by the report form adopted by the Governing Body under Articles 19 or 20, depending on the Government's choice.

*Article 21. Review of employment injury benefit rates.* 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.

*Article 22(2). Payment of employment injury benefits to dependants.* 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.

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.*

*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 near future.*

## Haiti

**Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)**  
(ratification: 1955)

**Workmen's Compensation (Accidents) Convention, 1925 (No. 17)**  
(ratification: 1955)

**Sickness Insurance (Industry) Convention, 1927 (No. 24)**  
(ratification: 1955)

**Sickness Insurance (Agriculture) Convention, 1927 (No. 25)**  
(ratification: 1955)

**Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (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:

*General situation.* According to the Government's report, the Act of 28 August 1967 establishing the Employment Injury, Sickness and Maternity Insurance Office (OFATMA) covers all dependent workers, regardless of the sector of activity. With regard to the agricultural sector, the report specifies that, while agricultural workers are not excluded by the Act, they cannot benefit because of the predominance of family farming and the absence of agricultural enterprises. The Committee also notes that over 95 per cent of the active population in Haiti is engaged in the informal economy. The Committee also notes that under the 1967 Act, the OFATMA currently manages employment injury insurance, but that it has still not been possible to set up a sickness insurance scheme.

In this context, the initiatives indicated by the Government mainly address the training of labour inspectors and the construction of two hospitals in the north and south of the country. The Committee also notes the Government's statements that it plans to continue its efforts, on one hand to progressively establish a sickness insurance branch covering the population as a whole and, on the other to enable the OFATMA to regain the trust of the population. The Committee takes due note of these points. *In order to better assess the challenges facing the country in the application of the social security Conventions and support the initiatives taken in this regard more effectively, the Committee requests the Government to provide further information in its next report on the reasons for the population's loss of trust in the OFATMA, and to provide key figures on the operation of the employment injury insurance scheme administered by the OFATMA (numbers covered, amount of contributions collected annually, number of employment accidents and occupational diseases recorded, amount of benefits paid for employment injury).*

*International assistance.* The Committee notes that the Government's actions receive substantial support from the ILO and the international community, particularly in terms of labour inspection. In addition, since 2010, the ILO and the whole of the United Nations system have made available to the Government their expertise for the establishment of a social protection floor. The Committee also notes that *Better Work*, a joint ILO and International Finance Cooperation programme, operating in the textile sector in Haiti with a view to improving both working conditions and productivity, has noted that the failure to pay social security employment injury and old-age pension contributions was a widespread phenomenon in the textile industry and it prioritized this issue. Through targeted actions and, in particular, the organization of information meetings of the National Old-age Insurance Office (ONA) in the enterprises concerned, *Better Work*, in its biannual report of October 2012, noted a significant improvement in the payment of social security contributions to the ONA and the OFATMA. ***The Committee invites the Ministry of Labour and the OFATMA to take these targeted actions regarding contributions into consideration with a view, where appropriate, to their replication in other sectors of the formal economy in Haiti.***

Regarding the establishment of a social protection floor, the Committee considers that it is necessary for the Government to envisage as a priority establishing mechanisms to provide the population as a whole, including informal workers and their families, with access to essential health care and a minimum income when their earnings capacity is affected. In this respect, the Committee emphasizes that, in order to provide guidance to States where the social security systems are facing difficulties in light of the national economic and social situation and to guarantee respect for the right of everyone to social security, the International Labour Conference adopted the Social Protection Floors Recommendation, 2012 (No. 202), with a view to the establishment of all the basic social security guarantees to prevent and alleviate poverty, vulnerability and social exclusion. In this connection, the implementation of Conventions Nos 12, 17, 24, 25 and 42 and of Recommendation No. 202 should continue in parallel, seeking and exploiting synergies and complementarity.

The Committee recalls in this regard that the establishment of a social protection floor has been included by the Haitian Government as one of the elements of the *Action Plan for National Recovery and Development of Haiti*, adopted in March 2010. However, since then this objective appears not to have led to the development of a national policy on the subject. ***Recalling that the Office's technical assistance, coordinated with that of the United Nations system as a whole, has been made available to the Government, the Committee invites it to provide information in its next report on the initiatives taken with a view to establishing a social protection floor.***

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

## Hungary

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1928)**

*Conditions for the eligibility for benefits.* The rules on compensation in case of permanent incapacity or death are laid down in Act No. LXXXIII on mandatory health-care benefits of 1997 and Act No. CXCI on benefits due to persons with reduced working capacities of 2011. As of 1 January 2012, persons are eligible to receive a new flat-rate benefit in the framework of health insurance if they fulfil the following four conditions: (i) their health status is maximum 60 per cent on the evaluation basis; (ii) they have been insured for at least three years prior to the submission of the application; (iii) they do not perform remunerated work; and (iv) they do not receive any other cash benefits. The new system does not have a special category for the risk of disability due to accidents at work. The Government also states in its report that, upon discussing the report on the application of the Convention with the National ILO Council, the workers' side considered the new three years' qualifying period to go against the provisions of the Convention. The Government observed in this respect that *Article 5 of the Convention* is being given effect by Act No. LXXXIII and by Act No. CXCI mentioned above which, together, guarantee compensation for everyone in case of occupational accident.

With respect to condition (ii) above, the Committee wishes to observe that it is a long established principle of international social security law that benefits due in case of employment injuries shall not be subjected to qualifying periods even where the national social security systems do not differentiate between employment and other injuries. Neither this Convention to which Hungary is party, nor the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), which represents the most up-to-date international social security standard in the area of employment injuries, authorize such condition to be imposed. ***The Committee would therefore like the Government to indicate in its next report how it intends to give effect to this requirement of the Convention.*** With respect to condition (iii) above, the Committee wishes to observe that ILO standards do not preclude the victims of occupational accidents the possibility to use their remaining working capacity in order to complement their pensions with some earnings gained out of employment.

Finally, with respect to condition (iv) above, which prohibits the recipients of the employment injury benefit from receiving any other cash benefit, the Committee wishes to emphasize that the Convention permits the accumulation of employment injury benefits and other cash benefits and expressly requires another cash benefit to be paid to the injured worker in need of the constant help of another person. ***The Committee hopes that explanations of these guiding principles contained in international standards on compensation of employment injuries would help the Government to improve the protection of the victims of occupational accidents in national law and practice and adjust accordingly the new qualifying conditions for the flat-rate benefit under the health insurance introduced as from 1 January 2012.***

The Committee is raising other points in a request addressed directly to the Government.

## Japan

### **Social Security (Minimum Standards) Convention, 1952 (No. 102)** (ratification: 1976)

The Committee notes the Government's report of 2012 containing its reply to the direct request of 2007, as well as the new comments made by the Japanese Trade Union Confederation (JTUC-RENGO). In this regard, the Committee notes with *satisfaction* the adoption of Act No. 62 of 2012 to amend the National Pension Act and other related acts, providing a basis for a better application of *Part V (Old-age benefit) of the Convention* on the following points:

- Section 3 of the Act allows part-time workers in enterprises employing 500 workers or more to join the Employees' Pension Insurance under certain eligibility conditions. An estimated 250,000 part-time workers would benefit from this amendment which, moreover, requires the Government to take a legislative measure to relax this eligibility condition by March 2019, to cover more part-time workers.
- The qualifying period of the basic old-age pension, established by section 26 of the National Pension Act, will be reduced from 25 to ten years; this amendment will enter into force in October 2015.

*The Committee hopes that in its next report the Government will provide more detailed explanations on these amendments.*

## Madagascar

### **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)** (ratification: 1962)

*Article 1(1) of the Convention. Equality of treatment in industrial accident compensation. Export processing zones.* In its previous comments, further to a communication from the General Confederation of Workers' Unions of Madagascar (FISEMA), the Committee asked the Government to indicate how the principle of equal treatment is applied in practice to the nationals of all countries that have ratified the Convention, including in export processing zones, which account for 40 per cent of occupational accidents, and to supply statistical information in this regard.

In reply, the Government indicates that industrial accidents are governed by the Social Welfare Code (Decree No. 69-145 of 8 April 1969). Irrespective of the nationality of the worker who has suffered the accident and his affiliation to a foreign social security institution, humanitarian and first-aid measures are provided under section 175 of the Code, which stipulates that the employer is obliged, in the wake of the accident, to provide first aid to the victim, notify the doctor responsible for medical services in the workplace or, otherwise, the nearest doctor, and if necessary direct the victim to a medical centre. The Government adds that, in the case of an expatriate victim who has chosen to be affiliated to a foreign social security institution, the employer is obliged to notify the institution, within 48 hours, that an accident has occurred. With regard to migrant workers, the Government states that a "single window" system has been set up to take care of administrative formalities for these workers (nationality, number, posts occupied, etc.), thereby making it possible to monitor changes in the professional situation of the workers concerned – who may not hold jobs without prior authorization from the Ministry of Employment, further to approval of their employment contracts by the labour inspector.

While noting this information, the Committee observes that the Government does not supply any information on the critical observations made by the FISEMA to the effect that only French citizens are reported to be covered by law, workers from other countries have no protection and no measures are reported to have been taken to ensure the application of the Convention to workers in the mining industry. Moreover, in a communication dated 27 August 2012, the FISEMA indicates that it is awaiting the Government's reply to its comments. *The Committee therefore requests the Government to supply information in this regard and also the statistical information required by Part V of the report form, including on migrant workers.*

## Malaysia

### Peninsular Malaysia

### **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)** (ratification: 1957)

#### **Follow-up to the conclusions of the Committee on the Application of Standards** (International Labour Conference, 100th Session, June 2011)

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

*Article 1(1) of the Convention. Equal treatment of foreign workers.* The Committee recalls that since 1 April 1993, the Malaysian social security system has contained inequalities of treatment that run counter to the provisions of the Convention. This inequality is due to national legislation that transferred foreign workers, employed in Malaysia for up to five years from the

Employees' Social Security Scheme (ESS), which provided for periodical payments to victims of industrial accidents, to the Workmen's Compensation Scheme (WCS), which guaranteed only a lump sum payment of a significantly lower amount. On several occasions, the case of Malaysia has been discussed by the Conference Committee on the Application of Standards. Most recently, in June 2011, the Conference Committee urged the Government to take immediate steps in order to bring national law and practice into conformity with *Article 1* of the Convention, to respect the system of automatic reciprocity instituted by the Convention between the ratifying countries, and to avail itself of the technical assistance of the ILO to resolve administrative difficulties by concluding special arrangements with the labour-supplying countries under *Articles 1(2)* and *4* of the Convention. In August 2011, the Government indicated that a technical Committee within the Ministry of Human Resources including all stakeholders will pursue the formulation of the right mechanism and system to administer this issue considering the following three options: (i) extension of ESS coverage to foreign workers; (ii) creation of a special scheme for foreign workers under the ESS; and (iii) raising the level of the benefit provided by the WCS so as to be equivalent to that of the ESS benefit.

Replying to the Committee's 2011 observation, the Government indicates in its latest report that it is currently in the midst of conducting the actuarial study on the three options under consideration and that upon completion of the study, continuous engagement with the stakeholders will be carried out before the most suitable option is determined. *The Committee hopes that the study under preparation will be finalized shortly, that the choices made by the Government in consultation with all stakeholders will fully take into account the requirements of the Convention, that a new approach consistent with the Convention will be implemented expeditiously and that it will report thereon.*

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

## Sarawak

### **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)** (ratification: 1964)

The Committee notes that the Government's report has not been received. *The Committee invites the Government to refer to the comments made under Peninsular Malaysia.*

## Mauritania

### **Social Security (Minimum Standards) Convention, 1952 (No. 102)** (ratification: 1968)

The Committee notes that new comments have been received from the Free Confederation of Mauritanian Workers (CLTM) reporting the same inadequacies in the social security scheme as those identified earlier, namely: very limited coverage of the system, low rate of benefits, outdated legislative framework, administrative obstacles to the compilation of benefits files, delay in implementing the findings of the actuarial studies conducted to put the social security finances in order, joint management scheme compromised by unilateral action on the part of the Executive. The Committee recalls that in 2011, the General Confederation of Workers of Mauritania (CGTM) and the association of retired members of the National Social Security Fund already objected that the Government appoints most members of the Fund deliberative body, enabling it to determine policy without leaving the workers so much as a blocking minority; that it appropriates the assets of the pension funds in order to cover its needs; that social fraud is practised by most employers and workers are hired through shell companies; that the services to supervise the social welfare institutions are inoperative; and that old-age pension entitlements determined before 2005 are low, not having been adequately adjusted. The CGTM accordingly asked the Government promptly to convene a meeting with the social partners and undertake a complete overhaul of the National Social Security Fund without delay so as to ensure participatory management, protection of social security funds from mismanagement and sustainable funding for social security.

The Committee is *deeply concerned* at the many communications from trade unions reporting a lack of sound governance of Mauritania's social protection system. The Committee *regrets* that the Government has not sent its report responding to these allegations, or to the Committee's previous comments. In these circumstances, the Committee is bound to remind the Government of its overall and primary responsibility, under *Articles 71* and *72 of the Convention*, to ensure the sustainability of the social security system, inter alia, through joint management that is transparent and based on reliable actuarial data, as well as an inspection system and sufficiently dissuasive sanctions. *The Committee accordingly asks the Government to report without delay on the action it intends to take on the requests made by the abovementioned organizations.*

## Mexico

### **Social Security (Minimum Standards) Convention, 1952 (No. 102)** (ratification: 1961)

The Committee has taken due note of the detailed reports sent by the Government on the manner in which the Convention is applied in law and practice, as well as its replies to the many comments previously received from workers' organizations. In the light of the communications sent by organizations representing workers and protected persons, the Committee notes that the implementation of national social security legislation is fuelling considerable discontent and raising serious questions about the personal coverage of the system, income security in old age, and the provision and

funding of health care. While the Committee agrees with the Government that some of these issues call for actions that are incumbent upon the legislative authority, the Committee would like to point out that the concerns raised by the trade unions relate to the predictability and adequacy of benefits, as well as on the need to ensure the financial, budgetary and economic sustainability of the system and, as such, they are related to the main objectives of the Convention. The Committee hopes that the Government will reply to these concerns effectively, in association with the representative employers' and workers' organizations and other relevant organizations representing the persons concerned, and with the help of the Office if necessary. With a view to having a better understanding of the application of the Convention in the country, the Committee would like to continue the dialogue with the Government and social partners to identify the prerequisites for improving the functioning of the social security system in law and practice in order to fulfil the requirements of international social security standards ratified by Mexico.

*Part XI of the Convention. Calculation of periodical payments. Article 6, read in conjunction with Article 28 of Part V (Old-age benefit).* Since Mexico first introduced in 1997 a system of compulsory individual capitalization accounts for any person entering the labour market after this date, the Committee has regularly pointed out that the protection guaranteed by this type of system is contingent upon the profitability of the funds invested and that there is no mechanism for reviewing the assets in relation with prices, wages or a combination of both. Consequently, this system does not provide the guarantees required under *Article 65* of the Convention with respect to the minimal replacement rates that have to be guaranteed after a certain period of contribution in relation to the earnings of the persons concerned. Since 2007, a similar scheme has also been applied to the public sector. The Committee notes with *regret* that, notwithstanding various requests it has made, the Government has not proven by means of statistics that the replacement level of 40 per cent required by the Convention has been reached. The Mexican legislation nevertheless provides for the payment of a minimum guaranteed pension when the funds available in workers' individual accounts do not ensure a certain level of pension for their beneficiaries. This minimum wage guaranteed by the State is equal to the general minimal wage for the Federal district in the private sector, and twice this amount in the public employees' scheme. The fact that there is a minimum guaranteed pension makes it possible to examine the compliance of the Mexican pension scheme with *Article 66* of the Convention, and to ascertain whether the level of the guaranteed minimum pension accounts for at least 40 per cent of the reference wage of an ordinary adult male labourer selected, in accordance with the methodology established by this provision of the Convention. The Committee *regrets* that the Government has not replied to its questions on this matter and has not proven that the amount of the minimum state guaranteed pension (when the funds accumulated in the individual accounts of persons insured with the Mexican Institute of Social Insurance (IMSS) or the State Workers' Social Security Institute (ISSSTE) schemes do not enable them to benefit from a pension at least equivalent to the minimum pension) reaches the minimum established by this provision of the Convention. ***The Committee therefore concludes that the pension system in Mexico does not comply either to the requirements under Article 65 or Article 66 of the Convention.***

*Article 71(3), read in conjunction with Article 72(2). General State responsibility for the provision of services and the proper administration of social security institutions and services.* In its comments received on 31 August 2012, the National Union of Workers (UNT) alleges that the adoption of the Act on the ISSSTE in 2007 resulted in nullifying the principle established by the countries' Constitution whereby the State shall assume responsibility for guaranteeing protection against social and economic risks. The reform was undertaken without making a proper diagnosis of the state of the hotel infrastructure and health-care services, of which funding was not guaranteed – only 22 per cent of pensioners' required health-care services are funded, for example. In fact, only about 14 per cent of public employees opted for the new system, which reveals the limited interest of the protected population. This entailed costly adjustments and considerable transfers of public funds to offset the lack of funding from the contributions of persons covered (4.2 per cent of the 2012 GDP between 2007 and 2011). The actuarial report conducted in 2010 acknowledged that the ISSSTE reform had not entirely resolved the problem of the funding of health-care services. Pointing out that the ISSSTE reform was implemented in 2007, the UNT believes that the ISSSTE should publish disaggregated and full information that provides a global overview of the situation and adherence to objectives, as well as of the Institute's future viability. In this context, the Committee notes that the Government intends carrying out an actuarial survey on the various pension schemes and health services as prescribed by the Convention. ***The Committee requests the Government to communicate the findings of this survey to the social partners and supply a copy of it with its next report.*** The Committee also notes the information provided by the Government in its 2011 and 2012 reports concerning measures taken to bring the ISSSTE deficit under control, such as: the covering, by the federal Government, of the pensions paid under the transitional scheme and deficits, in accordance with section 231 of the Act on the ISSSTE; the establishment of a reserve fund; and the actualization and review of contributions every four years. ***The Committee hopes that as a result of these measures, the Government will be able to indicate in its next report that the social security system is once again on the way towards sustainable development.***

*Article 18. Limitation on the duration of sickness benefits.* The Government states that, according to section 37 of the Act on the ISSSTE, sickness benefits are paid during a period ranging from 30 to 120 days depending on the seniority of the employee concerned. ***Recalling that the Convention stipulates that the payment of benefits shall be granted throughout the contingency, while authorizing that the benefit may be limited to 26 weeks in each case of sickness, the Committee requests the Government to indicate the measures taken or envisaged to ensure respect of this requirement of the Convention.***

*Article 29(2). Reduced pension after 15 years of contribution or employment.* The Committee notes that in order to benefit from an old-age pension on the basis of accumulated funds in a person's individual capitalization account or on the basis of a state guaranteed minimum pension, a person protected under the IMSS or ISSSTE scheme must justify 25 years of contribution and have reached the age of 65 years. If the protected person has not fulfilled the minimum qualifying period of contribution, he or she may continue to pay contributions or receive a lump sum. **Recalling that the Convention guarantees a reduced benefit to a protected person who has completed a qualifying period of 15 years of contribution or employment, the Committee asks the Government to indicate how the national legislation gives effect to this requirement of the Convention.**

## Myanmar

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (ratification: 1956)

For many years, the Committee has been drawing the Government's attention to the need to amend the national legislation in order to align it with the Convention. In this regard, the Committee notes with *interest* the adoption of the new Social Security Act adopted in August 2012. **The Committee hopes that the implementing regulations of this Act will soon be adopted and that the current revision of the Workmen's Compensation Act of 1923, will give full effect to Articles 5 (compensation in the form of periodical payments) and 10 (supply and renewal of such artificial limbs and surgical appliances as are recognized to be necessary for injured workers) of the Convention.**

## Netherlands

### **Medical Care and Sickness Benefits Convention, 1969 (No. 130)** (ratification: 2006)

*Article 31 of the Convention. Participative management of the health insurance scheme.* In its previous comments, the Committee noted that in the Netherlands the administration of health insurance is not entrusted to an institution regulated by the public authorities but is entirely in the hands of private insurance companies, which run it for profit. For such schemes, *Article 31* of the Convention requires the national legislation to prescribe conditions for the participation of the representatives of the persons protected in the management of the scheme. To promote its management on a tripartite basis, the legislation may also provide for the participation of representatives of employers and of the public authorities. *Article 30(2)* requires the Government to accept general responsibility for the proper administration of the health insurance institutions and providers of medical services, ensuring that the national health insurance scheme is managed in a democratic and transparent manner, with the proper participation of the trade unions and other organizations representing the persons protected together with the professional associations representing care providers and the medical profession. In the light of these explanations, the Government was asked to supply full information on the application of *Article 31* of the Convention in the Dutch health insurance scheme. In reply, the Government states that *Article 31* "is not applicable to the Dutch health care system". The Committee understands from this reply that the provisions of *Article 31* are not applied in Dutch law and practice and that the Government has no intention of changing this situation. Noting this development with *concern*, the Committee cannot but observe that the position of the Government perpetuates the violation by the Netherlands of its obligations under a ratified international treaty, which is the Convention.

The Committee is raising other points in a request addressed directly to the Government.

## Sao Tome and Principe

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (ratification: 1982)

The Committee notes with *regret* that the report provided by the Government in 2013 is identical to the report received in 2007 and does not provide any information on the current situation in the country. **In this situation, the Committee is bound to repeat its request and hopes that, when adopting the regulations under Act No. 7 of 2004 on social protection, the Government will take into account the comments made on the application of the following Articles of the Convention: Article 5 (requirement to provide benefits for permanent partial incapacity); Article 7 (supplementary benefits where the victim needs the constant help of another person); and Articles 9 and 10 (the necessity to provide surgical care and the normal renewal of such artificial limbs and surgical appliances as are recognized to be necessary).**

### **Workmen's Compensation (Occupational Diseases) Convention, 1925** (No. 18) (ratification: 1982)

The Committee notes with *concern* that the report provided by the Government in 2013 is identical to that received in 2007 and does not provide any information on the current situation in the country. **In this situation, the Committee is bound to repeat the request that it has been making since the country ratified the Convention, and urges the**

*Government to take all the necessary measures to adopt a schedule of occupational diseases recognized in the country as soon as possible which includes at least those enumerated in the Schedule annexed to Article 2 of the Convention.*

## Sierra Leone

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (ratification: 1961)

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 5 of the Convention. Payment of compensation in the form of periodical payments without limit of time.* The Government indicates, in reply to the comments made for many years by the Committee, that a bill on workmen's compensation has been formulated but not adopted as yet. It further states that the abovementioned draft legislation reflects the provisions of the Convention concerning the payment of injury benefits throughout the period of contingency and that copy of the revised legislation will be communicated to the ILO as soon as it is adopted. The Committee notes this information as well as the Government's request for technical assistance from the Office in order to accelerate the implementation process of the revised legislation. *The Committee expresses the hope that the draft legislation will soon be adopted and requests the Government to provide a copy of it. On the basis of the new legislation, the ILO would certainly be able to discuss with the Government the terms of the requested technical assistance.*

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

## Suriname

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (ratification: 1976)

Since 2006, the Government has been indicating that the Industrial Accidents Act (IAA) (No. 145 of 1947) is under revision. In its previous observation, the Committee asked the Government to supply a copy of the draft provisions revising the said Act, indicating those which aim at ensuring: (1) additional compensation in cases where the injury results in incapacity of such a nature that the injured workman must have the constant help of another person, in line with *Article 7 of the Convention*; (2) inclusion in the list of occupational diseases established by section 25 of this Act, among the activities likely to cause anthrax infection, the "loading and unloading or transport of merchandise", as required by the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42). In reply, the Government states that the revision IAA is an ongoing process and since the social partners have yet to come to terms with the proposed changes it would be premature to send a copy at this time. The Committee notes with *regret* that the Government has been unable to supply the revised provisions of the IAA, which it has been mentioning since 2006. *The Committee recalls that the Government can avail itself of the technical assistance of the Office in drafting the provisions to be included in the IAA.*

*List of occupational diseases.* With respect to section 25 of the IAA, the Government states that this section has not yet been completed according to the Schedule to Convention No. 42 particularly with regard to anthrax infections. The Committee notes with *concern* that it has been calling the Government's attention to the need to revise section 25 of the IAA for the last 20 years without any concrete action being taken by the Government to fulfil its obligations under the Convention. While taking due note of the Government's statement that the Convention is applied in Suriname, the Committee strongly believes that the abovementioned changes will only strengthen the protection of the workers against the risk of contamination by anthrax and poisoning by lead and mercury. *Furthermore, with reference to its previous observation, the Committee once again requests the Government to confirm that workers employed in activities listed in the Schedule to Convention No. 42 with regard to poisoning by lead and mercury would not be required to prove the occupational origin of their disease.*

*Additional compensation for the constant help of another person.* With respect to the need to include, in the IAA, provisions to ensure additional compensation in cases where the injury results in incapacity of such a nature that the injured worker must have the constant help of another person (*Article 7*), the Government states that in case of further changes, the comment of the Committee will be taken into account. The Committee would like to point out that the obligation of the Government to ensure full compliance with the Convention cannot depend on whether or not further changes would be made in the IAA. On the contrary, it is the Government's responsibility to initiate such changes that will bring national legislation into conformity with the Convention it has ratified. The Committee recalls that the Government first expressed its intention to do so in its 1962 report and has since been continuously referring to the elaboration of the draft provisions to give effect to *Article 7*. *The Committee notes with regret that the Government has taken no action in this regard and hopes that it will change its attitude to the implementation of the Convention in this respect.*

### **Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)** (ratification: 1976)

Please refer to the comment made under Convention No. 17.

## **Equality of Treatment (Social Security) Convention, 1962 (No. 118)** (ratification: 1976)

*Articles 4 and 5 of the Convention. Payment of benefits abroad.* The Committee notes from the report that, while the Government has not been able to amend section 6(8) of the Industrial Accidents Act (No. 145 of 1947) which restricts payment of employment injury pensions to beneficiaries resident abroad, the Ministry of Labour, Technological Development and Environment is committed to continuing the efforts to amend this Act in order to bring it into conformity with the Convention. The Government further indicates that it will have to review the practical implementation of *Article 5* of the Convention, as making benefits payable abroad causes difficulties in practice. *The Committee expects that the Government's next report will indicate real progress achieved in this respect.*

## **Thailand**

### **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)** (ratification: 1968)

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 in March 2012, the Government supplied information in reply to the issues raised by the State Enterprise Workers' Relations Confederation (SERC) in 2011 and that, in April 2012, a delegation composed of officials of the Social Security Office of Thailand was received at the ILO with a view to sharing knowledge and discussing questions concerning the implementation of the Convention. The Committee further notes that, on 18 September 2012, the SERC supplied updated information on the application of the Convention in Thailand which was transmitted to the Government on 25 September 2012. The Committee notes from this information that the situation in law has changed due to the replacement of the Social Security Office (SSO) Circular No. RS.0711/W751 of 2001 by SSO Circular No. RN.0607/987 of 2012 following the adoption of a Cabinet resolution of 13 February 2012 on allowing migrant workers in a regular situation to access social security. In April 2012, the Office of Foreign Worker Administration reported that 642,865 workers from Myanmar, Cambodia and Lao People's Democratic Republic had completed the full nationality verification process and that another 95,929 had come in legally through the MOU import process. Furthermore, on 31 May 2012, the Illegal Alien Workers Management Committee (IAWMC) set up a Committee headed by the Permanent Secretary of the Ministry of Labour to investigate and make recommendations on the issues of migrant worker access to social security and work accident compensation benefits. With regard to the situation in practice, the SERC reports that the new circular does not change the previously existing situation. The official statistics on the number of migrant workers who have completed the nationality verification process continue to be conflicting and unreliable. According to the SERC, an estimated 1–2 million migrant workers from Myanmar remain undocumented and are not covered by employment injury insurance, while the Government continues to press ahead with plans to provide alternative compensation schemes to migrant workers distinct from those existing for Thai nationals without consultation with the interested parties.

*In view of the complexity of the situation and the developments which have taken place since it was last examined in its lengthy 2011 observation, the Committee urges the Government to provide detailed explanations on all issues raised in its previous and present comments. The Government is requested to supply a full report containing information on how the new legal provisions have been implemented, the recommendations made by the Committee set up by the IAWMC, and statistics disaggregated by gender and age, on the number of migrant workers who have completed the nationality verification process, those still undergoing nationality verification, and on the number of migrant workers who became affiliated to the Workmen's Compensation Fund as a result.*

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

## **Direct requests**

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 12** (Angola, Comoros, Dominica, Guinea-Bissau, Uganda); **Convention No. 17** (Angola, Argentina, Armenia, Bahamas, Burundi, China: Macau Special Administrative Region, Djibouti, Guinea-Bissau, Hungary, Iraq, Uganda, Zambia); **Convention No. 18** (Angola, Armenia, Djibouti, Guinea-Bissau, Zambia); **Convention No. 19** (Angola, China, China: Macau Special Administrative Region, Dominica, Guinea-Bissau, Mali, Nigeria, Yemen); **Convention No. 24** (Algeria, Colombia, Hungary); **Convention No. 25** (Colombia); **Convention No. 38** (Djibouti); **Convention No. 42** (Australia, Australia: Norfolk Island, Brazil, Bulgaria, Burundi, France: French Polynesia, Hungary, India, Iraq, Slovakia); **Convention No. 44** (Algeria, Bulgaria); **Convention No. 102** (Albania, Plurinational State of Bolivia, Croatia, Netherlands); **Convention No. 118** (Central African Republic, Democratic Republic of the Congo, Ecuador, Guinea); **Convention No. 121** (Plurinational State of Bolivia, Croatia, Democratic Republic of the Congo, Ecuador); **Convention No. 128** (Czech Republic, Ecuador, Slovakia); **Convention No. 130** (Plurinational State of Bolivia, Netherlands, Slovakia); **Convention No. 168** (Albania, Brazil).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 12** (Croatia); **Convention No. 17** (China: Hong Kong Special Administrative Region); **Convention No. 18** (China: Macau Special Administrative Region); **Convention No. 19** (Botswana, Denmark: Greenland, United Kingdom: British Virgin Islands); **Convention No. 24** (Croatia); **Convention No. 42** (Panama); **Convention No. 102** (Austria).



## Maternity protection

### Albania

#### **Maternity Protection Convention, 2000 (No. 183) (ratification: 2004)**

The Committee notes with *interest* that the 1995 Labour Code is being modified, and that the draft amendments are awaiting approval by the Council of Ministers. The draft text strengthens maternity protection and prohibits overtime by pregnant women and women with a child up to one year of age; it provides for postnatal leave of 63 days (42 days currently), the requirement for the employer to adapt work carried out by a pregnant woman to her condition, which includes the transfer to an equivalent position and the payment of benefits when the transfer is not possible, and paid nursing breaks of two hours or a reduction in working hours upon agreement with the employer. The Committee also notes the adoption of Act No. 10383 of 24 February 2011 on compulsory health insurance which, in accordance with *Article 6(7) of the Convention*, provides for free medical care for pregnant women (medical consultations and examinations, medication, treatment and hospitalization when necessary). ***The Committee requests the Government to provide it with a copy of the Act.***

*Article 6(5) of the Convention. Conditions required to qualify for cash benefits.* Further to its previous comment, the Committee notes the statistical data provided by the Government which shows a steady increase in the number of beneficiaries of cash benefits. However, these same statistics show that women who are entitled to maternity benefits, who fulfil the condition of being insured for at least 12 months before pregnancy, do not seem to constitute the large majority of the women to whom the Convention applies (32.9 per cent in 2012). ***The Committee requests the Government to examine this situation with a view to ensuring that the conditions required to qualify for cash benefits enable a large majority of the women to whom the Convention applies to receive cash benefits.***

*Article 6(6). Cash benefits out of social assistance funds.* The Committee notes the Government's indication that, firstly, a woman who is not insured receives no benefits and, secondly, the legislation on social assistance contains no provision concerning maternity benefits. The Committee draws the Government's attention to the obligations deriving from *Article 6(6) of the Convention* which provide that where a woman does not meet the conditions to qualify for cash benefits under national laws, she shall be entitled to adequate benefits out of social assistance funds, subject to the means test required for such assistance.

*Article 8. Employment protection.* The Committee notes the indication that, under section 147 of the Labour Code, a pregnant woman's employment is protected for the payment period of temporary occupational incapacity benefit, which can last up to one year. In addition, the Committee notes the indication that there is no remedy available to the woman in the case of wrongful dismissal, as the Labour Code provides for compensation. The Committee recalls that the violation of the prohibition of dismissal set out in *Article 8* entails, in the spirit of this provision, the nullity of the dismissal followed, in principle, by the reinstatement of the worker in her previous position. ***The Committee requests the Government to indicate whether the current provisions are sufficiently dissuasive to prevent the dismissal of women workers during the protected period and to take the necessary measures to provide for the reinstatement of the woman worker in the case of wrongful dismissal.***

### Argentina

#### **Maternity Protection Convention, 1919 (No. 3) (ratification: 1933)**

*Articles 2 and 4 of the Convention. Scope of application and protection of employment.* In its previous comments relating to the observations from the Confederation of Workers of Argentina (CTA) concerning employment protection for certain categories of workers, the Committee asked the Government to examine the possibility of including in the national legislation the necessary additional safeguards in order to give better effect to the Convention with respect to women workers in domestic service and agriculture. The Committee notes with *satisfaction* the adoption of Act No. 26844 of 13 March 2013 establishing special regulations governing employment contracts for domestic workers and Act No. 26727 of 21 December 2011 establishing regulations for work in agriculture. The aforementioned laws establish protection against wrongful dismissal for women on maternity leave, with the subsidiary application of the Act relating to employment contracts (sections 40 and 50, respectively).

*Article 3(d). Nursing breaks.* In its previous comments relating to the observations from the CTA, the Committee drew the Government's attention to the practical difficulties of applying the provisions relating to nursing (breastfeeding) in the workplace. The Committee notes with *satisfaction* the adoption of Act No. 26873 of 3 July 2013 concerning the promotion of breastfeeding, section 4(s) and (t) of which provide for the promotion of regulations needed for the protection of nursing working mothers and the establishment of nursing facilities at the workplace. The Committee also understands that the Bill giving mothers who are breastfeeding the choice between daily breaks or a reduction in daily working hours has been adopted. ***The Committee requests the Government to confirm this information and to send a copy of the adopted Act.***

The Committee is raising other points in a request addressed directly to the Government.

## Plurinational State of Bolivia

### **Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1973)**

The Committee notes the detailed information provided concerning the Maternal and Child Universal Insurance Scheme (SUMI) (Act No. 2426 of 21 November 2002) and the “Juana Azurduy” Mother Child Voucher (Supreme Decree No. 0066 on 3 April 2009), the beneficiaries of which are pregnant women and women who have recently given birth and children up to 2 years of age (*Article 4(4),(5) and (8) of the Convention*). The Committee also notes the Government’s indication that it is planned to prepare bills which will take into account its requests, particularly with regard to women agricultural workers (*Article 1*), the harmonization of the duration of maternity leave in labour and social security legislation (*Article 3(2)*), maternity leave in the event of birth after the presumed date (*Article 3(4)*) and pauses for nursing (*Article 5*). **Recalling that in its previous comments the Committee also noted the preparation of a bill, in collaboration with the Bolivian Central of Workers (COB), to amend the current General Labour Act, it hopes that the respective texts will be adopted in the near future.**

*Article 1. Scope of application. Women domestic workers.* The Committee notes the indication that the information requested will be provided in the context of the application of the Domestic Workers Convention, 2011 (No. 189), which has recently been ratified. While welcoming the ratification of Convention No. 189, the Committee emphasizes that the objective of Article 14 of that Convention is to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity. For this reason, substantive information on the legal framework in respect of maternity protection applicable to domestic workers has to be provided by the Government in the context of the application of the present Convention. **The Committee therefore requests the Government to: (1) supplement Act No. 2450 of 2003 to ensure a better application of the Convention to women domestic workers in relation to the compulsory nature of postnatal leave, the extension of prenatal leave in the event of birth after the presumed date, pauses for nursing to be counted as working hours and remunerated accordingly; (2) indicate whether Decree No. 0012 of 19 February 2009, and Supreme Decree No. 0496 of 1 May 2010, apply to domestic workers; and (3) indicate in the next report the measures adopted or envisaged to ensure that section 20 of Act No. 2450, which provides for cases in which no payment of social benefits is made, cannot be applied to maternity benefits due to women workers who are absent from work, in accordance with Article 3 of the Convention.**

## Chile

### **Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1994)**

The Committee notes the amendments to the Labour Code that strengthen maternity protection and include postnatal parental leave and the extension of postnatal leave in the event of premature or multiple birth.

*Article 4(3) of the Convention. Medical benefits.* The Committee notes that Resolution No. 1717 of 1985 still provides for free medical benefits for persons with no income or formal work, persons receiving a subsidy from the State, pregnant women and children up to 6 years of age (group A) and persons receiving a minimum wage (group B). Persons who receive an income higher than the minimum wage (groups C and D) have co-payments of 10 and 20 per cent for medical care related to childbirth. On the matter of free choice of physician and medical care establishment, the Committee notes that this exists for groups B, C and D provided that the State’s contribution is no greater than 75 per cent. **The Committee requests the Government to study the situation of women in groups B, C and D to ensure that the medical benefits specified in Article 3 of the Convention.**

*Article 4(5). Social assistance benefits.* **The Committee requests the Government to reply to its previous comments in which it noted that no benefits out of social assistance are payable, subject to a means test, to women who do not fulfil affiliation requirements set in section 4 of Decree with Force of Law No. 4 of 1978 and are therefore not eligible for cash benefits.**

## Cyprus

### **Maternity Protection Convention, 2000 (No. 183) (ratification: 2005)**

The Committee takes note of the information provided by the Government as regards the manner in which the national legislation or practice gives effect to: *Article 1* (non-discrimination); *Article 2* (scope of application); *Article 3* (protection of the health of pregnant and breastfeeding workers); *Article 5* (leave in case of illness or complications); and *Article 6(6)* (social assistance for women who do not meet the conditions to qualify for cash maternity benefits) of the Convention.

*Article 6(7). Free of charge medical care.* The Committee understands that, in Cyprus, health-care benefits are granted to Cypriot, European Union, European Economic Area and Swiss citizens who permanently reside in the country and who registered with the national health system. Certain categories of beneficiaries are provided free of charge medical care, that is: single persons and members of families whose annual income does not exceed a certain limit; families with

three or more children; persons suffering from certain chronic diseases; state officials, civil servants, members of the police and the armed forces, as well as their dependants; university or college students; and some other specific categories of citizens. ***In the absence of an explicit reference to women who are pregnant or who have recently given birth among the beneficiaries of free health care, the Committee asks the Government to indicate the legal provisions giving effect to Article 6(7) of the Convention by guaranteeing free of charge prenatal, childbirth and postnatal care, as well as hospitalization when necessary.***

***Article 8. Consequences of unlawful dismissal.*** The Committee notes that in accordance with the Equal Treatment of Men and Women in Employment and in Vocational Training Act No. 205(I) of 2002, in cases of termination of employment in violation of its provisions, the Labour Dispute Court orders the reinstatement of the unlawfully dismissed employee, without any limitation as to the size of the enterprise and without examining the good or bad faith of the employer (section 15, paragraph 4). ***Please indicate whether the Termination of Employment Act, which provides for reinstatement only in enterprises of over 20 employees, has been harmonized with the above provision.***

***Article 9(2). Prohibition of pregnancy testing.*** With reference to its previous comments, the Committee notes the Government's indication that although the national legislation does not establish an explicit prohibition, pregnancy testing for employment purposes is deemed unlawful pursuant to Act No. 205(I) of 2002 mentioned above. ***The Committee asks the Government to substantiate this statement with reference to the judiciary decisions on pregnancy screening in recruitment and in employment, indicating the sanctions applied.***

## Ghana

### **Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1986)**

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 there has been no change in legislation or administrative regulations regarding the application of the Convention, but that the Government has communicated the concerns raised by the Committee in its previous observation to the sector minister for consideration and possible amendment of the law. ***The Committee expects the Government to take measures on the following points.***

***Article 3(2) and (3) of the Convention (compulsory leave).*** To specify a period of compulsory leave of at least six weeks following confinement in the Labour Act.

***Article 3(4) (extended prenatal leave).*** To include a provision establishing an extension of the prenatal leave until the actual date of confinement when the confinement takes place after the expected date in the Labour Act.

***Article 4(3), (4) and (8) (cash and medical benefits).*** To ensure that cash maternity benefits are provided by means of compulsory social insurance or out of public funds and not paid by the employers in the public and private sectors.

In this respect, the Committee notes with interest the information received from the Government on the Special Fund within the National Health Insurance Scheme (NHIS), which provides for free medical care before, during and after confinement for every pregnant woman, both in the formal and informal sector of the economy and irrespective of membership of the NHIS. ***The Committee asks the Government to inform the Committee in its next report about the implementing regulation of the Special Fund and the National Health Insurance Act, 2003 (No. 650), and to indicate whether they will shift liability for the costs of medical benefits from employers to a public fund or compulsory social insurance scheme, in conformity with the Convention.***

***Article 6 (prohibition of dismissal).*** The Committee notes that section 57(8) of the Labour Act provides that 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 employment is terminated unfairly if the only reason for termination is the pregnancy of the worker or the absence from work during maternity leave. In contrast, the Convention does not allow notice of dismissal to be made on any ground during the protected period when a woman is absent from work on maternity leave, nor at such time that the notice would expire during such absence. ***The Committee invites the Government to consider amending sections 57(8) and 63(2)(c) of the Labour Act to bring it into conformity with this Article of the Convention.***

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

## Guatemala

### **Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1989)**

The Committee notes that the Government's report provides no information in response to its previous comments. ***In these circumstances, the Committee is bound to reiterate its requests and hopes that the Government's next report will contain detailed information on the measures adopted:***

- ***to guarantee the compulsory nature of the period of postnatal leave, in accordance with Article 3(2) and (3) of the Convention;***
- ***to take the necessary measures expressly to repeal sections 48(c), 149(c) and 71(c) of Decisions Nos 410, 466 and 468 of the Administrative Board of the IGSS and thus bring the legislation into line with Article 4 of the Convention;***
- ***to provide, for women workers who do not meet the requirements to receive social security benefits, for the grant of benefits out of social assistance funds and not by the employer, in accordance with Article 4(4), (5) and (8).***

*Lastly, the Committee requests the Government to reply to the comments of 29 August 2013 by the General Confederation of Workers of Guatemala (CGTG), on the application of the Convention in practice, and particularly on cases of dismissals of pregnant women, and on the effective coverage of the Guatemalan Social Security Institute.*

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Latvia

### **Maternity Protection Convention, 2000 (No. 183) (ratification: 2009)**

*Article 6(7). Medical benefits.* In its previous comments, the Committee asked the Government to specify how medical care was provided following the period of 42 days after childbirth during which women are exempted from sharing the cost of maternity related health care (Regulations No. 611 of 25 July 2006). In its reply, the Government indicates that, should a treatment have begun prior to the elapsing of the 42 postnatal day limit and need to be continued thereafter, co-payment by the insured woman would not be required. Taking due note of this information, the Committee recalls that the Convention requires free of charge prenatal, childbirth and postnatal care, as well as hospitalization care when necessary, to be provided at least during the entire period of maternity leave. In Latvia, the duration of postnatal maternity leave is 56–70 days while the legislation only provides for free of charge medical care during the first 42 days following childbirth. **The Committee therefore asks the Government to indicate the measures it intends to take with a view to harmonizing the national laws and regulations with this provision of the Convention.**

*Article 6(3). Level of cash benefits.* In its report, the Government refers to the temporary measures imposing restrictions on social insurance benefits, including maternity benefits, indicating that a discussion is under way concerning the abolition of restrictions from January 2014. The Committee notes that, as a result of these measures, between 2009 and 2012, the report indicates that the average amount of maternity benefits lost about 45 per cent of its value in real terms, taking into account the decrease of 15 per cent in the average level of earnings in the country. It also observes that, since the beginning of 2013, following amendments to the Law on Payment of State Allowances, the level of benefits rose thus narrowing the gap with the 2009 average level down to 35 per cent. The Committee also notes that, according to information from EUROSTAT, in 2011, Latvia was among the European Union countries with the highest share of persons at risk of poverty or social exclusion – 40 per cent of the population, and the highest proportion of low wage earners – 27.8 per cent. It was also one of the countries with the highest tax burden on these workers.

***In view of the concurrent decrease of wages and benefits calculated as a percentage of those wages, the Committee would like the Government to indicate for which categories of women workers the replacement rate of 80 per cent of insurable earnings established by the national legislation for maternity benefits will be insufficient for the maintenance of the mother and child in proper conditions of health and with a suitable standard of living as prescribed by Article 6(2) of the Convention, compared to at-risk-of-poverty level and subsistence level determined in the country.*** In addition, with respect in particular to low wage earners, the Committee wishes to emphasize that these workers form the most important category of persons protected by the Convention. Should this category of workers not receive benefits sufficient to ensure life in health and decency as required by the Social Security (Minimum Standards) Convention, 1952 (No. 102), this would demonstrate that the social security system operates below at-risk-of-poverty level and possibly even below the subsistence level. **The Committee consequently requests the Government to also supply information on how maternity benefits paid to low wage earners relate to the poverty and subsistence levels determined in the country.**

*Article 6(1). Suspension of cash maternity benefits.* Referring to its previous comments, the Committee notes the Government's indication that maternity benefit is suspended in accordance with section 5(6) of the Law on Maternity and Sickness insurance in case the beneficiary has relinquished the care and upbringing of her child. In such cases, in accordance with the procedure specified in subparagraph 18.5 of Cabinet Resolution No. 152 of 3 April 2001 establishing the procedure for granting sick-leave certificates, a woman would be granted sickness benefit (at the same replacement rate as maternity benefit) to ensure her rehabilitation and recovery of her working capacity after giving birth. While taking note of this information, the Committee observes that the woman may recover her working capacity before the insured person has used up her fully paid maternity leave. **It therefore asks the Government to indicate whether, in the situation mentioned above, the insured person is guaranteed to receive cash benefits for the entire period of remaining maternity leave after childbirth.**

*Other cases of suspension of cash benefits.* The Committee further notes that maternity benefits are also suspended pursuant to the above provision of the Law on Maternity and Sickness insurance: (i) where a woman cannot care for her child during a period of up to 42 days after birth due to sickness, injury or other health-related reasons; or (ii) in case of child abandonment. As regards the first case of suspension, the Committee understands that, during the suspension of maternity benefits, sickness benefit would be provided so as to allow maternity benefit to resume being paid upon recovery from illness. **The Government is asked to confirm that such is indeed the case. As regards the suspension of maternity benefit in case of child abandonment, the Committee asks the Government to specify whether the above 2001 Cabinet Resolution applies to this case of suspension and entitles the insured person to sickness benefit and to indicate whether such a benefit would be paid for the entire period of the remaining maternity leave.**

*Replacement of maternity leave by sick leave.* The Committee notes that, in Latvia, an insured person is entitled to sickness benefit for 26 weeks from the first day of incapacity if incapacity has been continuous, or 52 weeks over a three-year period if incapacity has been repetitive. In the event that sick leave is provided where an insured woman has relinquished the care and raising or has abandoned her child, this could result in a deduction of up to ten weeks from the sickness benefit entitlements, whereas the insured woman had contributed and qualified for maternity benefits corresponding to the entire duration of maternity leave, that is between 16 and 20 weeks. The Committee wishes to emphasize that such a measure would have the effect of depriving the insured person, firstly, of her maternity benefit entitlements and therefore does not comply with *Article 6* of the Convention and, secondly, of unduly shortening her right to sickness benefits in the postnatal period when she might need them most. In both cases, it may lead to discrimination against women contrary to *Article 9* of the Convention pursuant to which maternity shall not constitute a source of discrimination in employment. Sickness benefit and maternity benefit normally constitute distinct contingencies covered by separate branches of social security for which corresponding contributions are paid by the insured persons. Replacing one by the other, instead of providing both with full durations, would not seem fair from the point of view of the equitable balance between rights and contributions. **The Committee would therefore like the Government to reconsider the rationale of maintaining the abovementioned provisions of section 5(6) of the Law on Maternity and Sickness insurance in their current form in the light of these considerations.**

*Article 4(4). Compulsory postnatal leave.* The Committee notes that, with a view to protecting both women's health and the right to return to work, the Labour Law provides for compulsory postnatal leave of two weeks, which is shorter than the six-week period required by the Convention. **The Committee asks the Government to indicate whether the representative organizations of employers and workers at the national level were consulted by the Government and agreed to this reduction of the duration of compulsory postnatal leave.**

*Article 2. Public employees.* **Please provide detailed information on the manner in which each of the provisions of the Convention is applied to public sector employees.**

## Libya

### **Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1975)**

Referring to its previous comments, the Committee notes with *satisfaction* that, in accordance with section 4 of the Labour Relations Act (Law No. 12) of 2010, all work relations are, in principle, covered by the newly adopted legislation in conformity with *Article 1* of the Convention and that the qualifying period of six consecutive months of employment in order to benefit from maternity leave has been repealed bringing the national legislation in compliance with *Article 3(1)* of the Convention.

The Committee is raising other points in a request addressed directly to the Government.

## Mauritania

### **Maternity Protection Convention, 1919 (No. 3) (ratification: 1963)**

*Part V of the report form. Application of the Convention in practice.* The Committee notes that in comments received on 29 August 2013, the Free Confederation of Mauritanian Workers (CLTM) indicates that no texts to implement the new Labour Code (Act No. 2004-017 of 2004) have as yet been issued, which is causing numerous difficulties. The CLTM is accordingly of the view that the new legislation is at the root of the decline in maternity protection: few employers comply with the law in the absence of any monitoring or punishment of offences, and the number of pregnant or nursing women exposed to more hazards and serious risks is on the increase. According to the CLTM, the Government has no reliable and credible statistics on breaches of the maternity protection provisions. **The Committee trusts that the Government will not fail to reply to the CLTM's comments and that it will send its report on the application of the Convention for examination by the Committee at its next session.**

## Netherlands

### **Maternity Protection Convention, 2000 (No. 183) (ratification: 2009)**

*Article 3 of the Convention. Health protection measures.* Referring to its previous comments, the Committee notes that the representative organizations of workers and employers are consulted regarding the introduction of amendments to national legislation concerning the protection of health in the context of pregnancy and childbirth in conformity with the requirements of *Article 3* of the Convention. It further notes that following an amendment made in 2012 to the Working Conditions Decree (*Arbeidsomstandighedenbesluit*) of 1997, a new section 1.42a was added requiring the employer to provide effective information on the work-related risks during pregnancy and breastfeeding periods. Such information shall be provided within two weeks from the date the employer is notified of the worker's pregnancy. This new provision thus complements section 1.42 of the aforementioned Decree, requiring employers to organize work in such a way as to eliminate risks to pregnant or breastfeeding employees and ill-effects on pregnancy and breastfeeding. While indicating that there are no specific procedures put in place for the assessment of health risks, the

Government highlights Internet resources also commonly used by professionals and containing information on occupational health risks for pregnant women. There are also toolkits developed concerning risks in pregnancy by type of work and also containing communication plans for family doctors, midwives and gynaecologists. The Committee understands that on-the-job risk evaluation needs to be carried out by each employer individually, to take into account the nature of the occupations existing within the enterprise. ***Please indicate whether the trade unions within the enterprise or the work council (Ondernemingsraad) are consulted or associated in this evaluation process.*** The Committee further notes that, pursuant to section 1.42, if an employee's work presents a risk to her health that cannot be avoided through a change in her working conditions or hours, or if she cannot be temporarily transferred to another position, she is exempt from her duties while the risk persists. ***Please indicate whether such leave is paid or gives entitlement to income replacement benefits from social insurance.***

***Night work.*** The Committee notes that, according to the Working Hours Act of 1995, as amended, pregnant women cannot in principle be required to carry out night work unless their employer gives "convincing reasons" whereby it cannot reasonably be expected to adapt the employee's work (section 4:5, paragraph 5). ***Please indicate what may constitute "convincing reasons" in this case and indicate whether, for medical reasons, a pregnant employee may request to be exempted from night work in accordance with section 1.42 mentioned above. Please indicate whether there exists a special provision regulating night work by workers who breastfeed their child.***

***Article 9(1). Discrimination in employment, including access to employment.*** The Government indicates that the Netherlands Institute for Human Rights (previously Equal Treatment Commission) published the report undertaken in 2011 to examine the impact of pregnancy or parenthood on women's employment opportunities. According to the findings of this report, certain categories of employees are more at risk than others of becoming victims of discrimination on the grounds of pregnancy or maternity in employment or access to employment: women in lower paid jobs and temporary assignments; women employees in the private sector; women who often fall sick during their pregnancy or suffer complications related to pregnancy or childbirth; and also women in managerial positions. The two main recommendations to the Government were to inform women and employers of their rights and obligations during pregnancy and maternity to allow them to better identify discriminatory practices and provide information on how to file complaints. Following up on these recommendations, the Government regrouped on one website the information regarding the rights of women at work during pregnancy, maternity leave and the period following their return to work. The Human Rights Institute also provides on its website information regarding the filing of complaints. In comments received in August 2013, the Netherlands Trade Union Confederation (FNV) considered that, in spite of the above measures, the problems related to maternity protection are increasing, as well as the number of temporary contracts, with many women still experiencing problems of recruitment or of losing their jobs when they become pregnant as their contracts are not renewed in this case. ***The Committee asks the Government to consider assessing the impact of the measures taken together with the social partners in order to more effectively tackle the problems of application in practice the prohibition of discrimination based on maternity.***

## **Romania**

### **Maternity Protection Convention, 2000 (No. 183) (ratification: 2002)**

***Article 2 (atypical forms of dependent work) read in conjunction with Article 6(2) of the Convention (benefits securing a suitable standard of living).*** The Committee notes that, according to information available from Eurostat, in 2011, Romania has one of the highest rates of persons at risk of poverty or social exclusion in the European Union – 40 per cent of the population, with a relatively high proportion of employed persons at risk of poverty (18.9 per cent). According to Eurostat, among part-time workers, the in-work at-risk-of-poverty rate was 61 per cent in 2012. In this situation, the Committee welcomes the fact that the minimum threshold of maternity benefit reported by the Government (600 Romanian new lei (RON) per month) exceeds the at-risk-of-poverty threshold established by Eurostat at 60 per cent of median equivalized income, that is to say, RON448 per month. The Committee notes also the medical benefits package granted to women earning income lower than the national minimum gross wage. ***Taking into account that maternity benefit represents 85 per cent of the previously insured earnings, which in certain cases may be lower than the national minimum wage, the Committee would like the Government to specify whether all employed women have the right to receive maternity benefit at the guaranteed minimum level and, if not, what additional forms of protection were provided to ensure that the amount of cash maternity benefit remains at a level allowing maintenance of the mother and child with a suitable standard of living, especially as regards women employed in atypical forms of dependent work, including part-time, temporary and domestic women workers.***

***Article 4(1). Minimum qualifying period for entitlement to maternity leave.*** ***Recalling that the Convention does not authorize the right to maternity leave to be made subject to the completion of a qualifying period, the Committee again asks the Government to explain whether a woman who has not been affiliated to the social security system for a minimum of one month would still be granted the right to maternity leave, regardless of whether she qualifies for cash maternity benefits during the duration of such leave.***

*Article 6(5)(6). Social assistance. Please indicate the maximum amount of benefits paid out of social assistance funds under the Emergency Government Ordinance No. 158/2005 to women who do not qualify for contributory cash maternity benefit.*

## Serbia

### **Maternity Protection Convention, 2000 (No. 183) (ratification: 2010)**

*Article 1 of the Convention. Atypical forms of work.* The Committee notes the comments of the Trade Union Confederation “Nezavisnost” dated 5 September 2013 indicating that, although the national legislation provides for maternity protection that exceeds the provisions of the Convention, in practice those provisions are not applied to all forms of work. Only employees in the formal sector with an open-ended contract are covered, which represents less than 10 per cent of the country’s women employees. In 2012, there were 935,486 women aged 15–65 years in the labour market, of whom 850,971 (90.96 per cent) had a fixed-term contract and only 84,515 (9.34 per cent) had a permanent contract. In respect of the number of workers of childbearing age, according to the trade union, only 7.8 per cent of women exercise their right to cash benefits during maternity leave. **The Committee requests the Government to reply to these comments and to specify the manner in which the provisions of the Labour Code on maternity protection apply to women workers with a fixed-term contract, including women workers with occasional or temporary employment, or who are members of youth or student cooperatives governed by sections 197, 198 and 199 of the Labour Code.**

The Committee is raising other points in a request addressed directly to the Government.

## Sri Lanka

### **Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1993)**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 100th Session, June 2011)**

The Committee recalls that, together with the Conference Committee on the Application of Standards, it has identified some serious shortcomings in the application of the Convention since the Convention was ratified in 1993. In 2011, upon the discussion of this case by the 100th Session of the International Labour Conference, the Government made a formal request for technical assistance with a view to improving implementation of the Convention. Following up on this request, Sri Lanka was included among the countries covered by the time-bound programme on international labour standards financed by the Special Programme Account (SPA) under which a technical feasibility report was commissioned to examine the options available to the Government for the establishment of a maternity social insurance scheme replacing the current employer liability system for the payment of maternity cash benefits. The Government has made it clear that it would favour additional efforts aimed at raising awareness and clearing doubts among all stakeholders concerning the proposed options prior to validating the establishment of the maternity insurance scheme. The Committee also notes that, according to the Government and the Office, the introduction of such a scheme needs to be coordinated with other reforms of the social protection system, including projects aim at establishing an employment injury scheme as well as elements of a social protection floor. **While welcoming the assistance provided by the Office, the Committee hopes that the above technical activities will be carried out in the near future and that the Government will indicate in its next report substantive progress made towards the full implementation of the Convention. In the meantime, noting the comments by the National Trade Union Federation (NTUF) and the Lanka Jathika Estate Workers’ Union (LJEWU) according to which the situation has remained unchanged, the Committee wishes the Government to refer to its 2011 observation, for a comprehensive analysis of the discrepancies which continue to exist between the situation in national law and practice and the provisions of the Convention, and reply to the issues raised therein.**

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Bolivarian Republic of Venezuela

### **Maternity Protection Convention, 1919 (No. 3) (ratification: 1944)**

The Committee notes the detailed information, including the statistics, sent by the Government in reply to its previous comments. It also notes the adoption of the Basic Act on labour and male and female workers (LOTTT) in April 2012 reinforcing maternity protection and employment stability for pregnant women and working mothers. In this respect, the Committee notes with **satisfaction** that section 335 of the LOTTT guarantees women workers special protection against dismissal from the start of their pregnancy and up to two years after childbirth, thus strengthening the protection provided for in *Article 4 of the Convention*.

## Zambia

### **Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1979)**

*Legislative measures required to comply with Articles 3 and 5 of the Convention.* In reply to the Committee's previous observation, the Government states that women workers, who do not fulfil the requirement of two years continuous employment for entitlement to maternity leave with full pay set forth in section 15(A), paragraph 3, of the Employment Act of 1997 (Cap. 268), in practice, were still entitled to unpaid maternity leave. *The Committee wishes to point out in this respect that Article 3(1) of the Convention requires such practice to be expressly enshrined in law and asks the Government to amend the Employment Act accordingly. The Committee further hopes that, in undertaking a comprehensive review process of labour legislation to which the Government refers in its 2012 report, it will not fail to supplement the Employment Act with provisions establishing compulsory postnatal leave of not less than six weeks (Article 3(3) of the Convention) and nursing breaks, counted as working time and remunerated accordingly (Article 5). To ensure that the Government's repeated promises are fulfilled, the Committee once again requests it to supply a copy of the draft provisions mentioned above with an indication of the time frame for their adoption.*

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. 3** (Argentina, Cameroon, Central African Republic, China: Hong Kong Special Administrative Region, Colombia, Côte d'Ivoire, Gabon, Guinea, Nicaragua, the former Yugoslav Republic of Macedonia); **Convention No. 103** (Bahamas, Ecuador, Equatorial Guinea, Kyrgyzstan, Libya, Mongolia, San Marino, Spain, Tajikistan, Uruguay, Uzbekistan, Zambia); **Convention No. 183** (Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cuba, Mali, Morocco, Serbia, Slovakia).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 103** (Portugal).

## Social policy

### Guinea

#### **Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)** (ratification: 1966)

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

*Parts I and II of the Convention. Improvement of standards of living. The Committee requests that the Government provide indications of the way in which the improvement of standards of living is regarded as the principal objective in the planning of economic development within the strategy to combat poverty (Article 2 of the Convention). In this regard, the Committee reminds the Government that, pursuant to Article 1(I) of the Convention, "all policies shall be primarily directed to the well-being and development of the population".*

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

### Jamaica

#### **Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)** (ratification: 1966)

*Parts I and II of the Convention. Improvements of standards of living. The Committee notes the Government's report received in October 2013, which indicates that the principal objective in the planning of economic development continues to be the realization of the improvement of standards of living. Moreover, the Government mentions that, while small groups of people are actually experiencing an improvement, the majority is experiencing a reversal or downturn in their standards of living. The Government attributes this situation to the stringent measures imposed by the International Monetary Fund and the global economic downturn. As regards the means employed to aid independent producers to reach a higher standard of living, the Government refers to the provision of grants, training and markets for products. Furthermore, there are programmes to assist in the mitigation of the difficulties experienced by independent producers when unable to maintain a minimum standard of living. The Committee invites the Government to provide, in its next report, up-to-date information indicating how the "improvement of standard of living" is regarded as "the principal objective in the planning of economic development" in accordance with Article 2 of the Convention. Please also supply detailed information on the measures taken to promote cooperatives and to improve the standards of living for workers in the informal economy (Articles 4(e) and 5).*

*Part IV. Remuneration of workers. Protection of wages. The Government indicates that there is no legislation directly aiming to ensure the proper payment of all wages earned. Furthermore, with regard to the measures contemplated in order to give effect to Article 11(8) of the Convention, the Government reiterates the information provided in its previous report. The Committee recalls that, for some years now, the Government has been requested to report on the measures taken or envisaged in order to give effect to various subparagraphs of Article 11. The Committee asks the Government to provide information in its next report on the measures taken to facilitate the supervision necessary to ensure the proper payment of all wages earned, and the keeping by employers of registers to ensure the issue to workers of statements of their wage payments. The Committee requests the Government to provide in its next report specific information on the policies, practices or any other measures adopted indicating, where appropriate, the relevant provisions of legislation and administrative regulations which ensure the proper payment of all wages earned, as provided under each of the subparagraphs of Article 11 of the Convention.*

*Advances on wages. In response to the Committee's previous comments, the Government indicates that, at this time, it has not taken nor is contemplating taking any measures in order to regulate the advances on wages in the private sector. The Committee recalls that, under Article 12 of the Convention, not only does the manner of repayment of advances on wages have to be regulated, but the maximum amounts of advances have to be determined and any advance in excess of the amount laid down has to be made legally irrecoverable. The aforementioned obligation covers both the public and private sectors. The Committee again requests the Government to indicate, in its next report, the measures taken or contemplated to regulate the advances on wages in accordance with Article 12 of the Convention.*

### Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 82** (United Kingdom: Anguilla, United Kingdom: Bermuda, United Kingdom: British Virgin Islands, United Kingdom: Falkland Islands (Malvinas), United Kingdom: Gibraltar, United Kingdom: Montserrat); **Convention No. 117** (Bahamas, Plurinational State of Bolivia, Brazil, Central African Republic, Costa Rica, Democratic Republic of the Congo, Ecuador, Georgia, Ghana, Guatemala, Jordan, Madagascar, Malta, Nicaragua, Panama, Portugal, Senegal, Sudan, Syrian Arab Republic, Tunisia, Bolivarian Republic of Venezuela, Zambia).



## Migrant workers

### Albania

#### **Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)** (ratification: 2006)

*Article 1 of the Convention. Protection of basic human rights. Freedom of association.* The Committee recalls that section 5(4) of the Law on Foreigners (Law No. 9959 of 17 July 2008) recognized the right to organize of foreign nationals subject to obtaining a residence permit. The Committee had therefore requested the Government to take the required measures, where necessary through an amendment to the legislation, to ensure that all workers, including foreign workers without a residence permit, could exercise trade union rights, and particularly the right to join organizations which defend their interests as workers, in conformity with *Article 1* of the Convention. The Committee notes that the new Law on Foreigners (Law No. 108 of 28 March 2013), which repeals the Law No. 9959 of 2008, no longer contains the abovementioned provision. However, the Committee notes that whereas section 70 of the new Law on Foreigners provides that foreign workers with a permanent residence permit shall enjoy economic and social rights on the same terms as Albanian nationals, the Law contains no other provisions relating to the right to organize of foreign nationals. In this context, the Committee also refers the Government to its comments on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). **Recalling the provisions of the Constitution of Albania concerning fundamental rights and freedoms (Article 16(1)), the right to organize collectively (Article 46(1)) and the right of employees to unite freely in labour organizations (Article 50), the Committee requests the Government to confirm that all foreign workers, whether with a permanent or temporary residence permit or without a residence permit, can exercise trade union rights, and particularly the right to join organizations which defend their interests as workers in conformity with Article 1 of the Convention.**

The Committee is raising other points in a request addressed directly to the Government.

### Barbados

#### **Migration for Employment Convention (Revised), 1949 (No. 97)** (ratification: 1967)

*Articles 7 and 9 of the Convention. Free services and assistance and transfer of remittances.* In its previous comments, the Committee considered that the requirement for migrant workers participating in the Canada–Caribbean Seasonal Agricultural Workers Programme “the Farm Labour Programme” – to remit 25 per cent of their earnings to the Government directly from Canada as mandatory savings, 5 per cent of which was retained to pay the administrative costs of the Programme, could be contrary to the spirit of *Article 9* of the Convention. The Committee had also taken note of the concerns expressed by the Congress of Trade Unions and Staff Associations of Barbados that this requirement, together with the immediate deduction of certain costs such as airfares, pension and medical contributions from the workers’ pay, created hardship for the workers, and the Programme needed to be reviewed. The Committee also drew the Government’s attention to the fact that charging workers for purely administrative costs of recruitment, introduction and placement is prohibited under the Convention (General Survey of 1999 on migrant workers, paragraph 170).

The Committee notes the Government’s indication that arrangements are made for a percentage of the earnings of the workers on overseas programmes to be remitted back to the country for them to access upon return and that workers travelling on the overseas programmes are required to sign an “agreement” (contract of employment) which allows for the deduction of 20 per cent of their wages to cover administration costs and national insurance contributions. According to the Government, upon arrival in Canada the workers are met by the Barbados liaison officers and in Barbados the employment services to migrants are rendered free of charge by the National Employment Bureau, which oversees the preparation and departure of workers. The Committee notes that the “Agreement for the Employment in Canada of Commonwealth Caribbean Seasonal Agricultural Workers – 2013” provides that the worker agrees that the employer shall remit to the government agent 25 per cent of the worker’s wages for each payroll period and that “a specified percentage of the 25 per cent remittance to the government agent shall be retained by the Government to defray administrative costs associated with the delivery of the programme” (section IV, paragraphs 1 and 3). The worker also agrees to pay to the employer part of the transportation costs and the employer, on behalf of the worker, will advance the work permit fees and be reimbursed by the government agent (section VII, paragraphs 3–4). **The Committee requests the Government to clarify why it is considered necessary to require migrant workers under the Farm Labour Programme to remit 25 per cent of their wages to the liaison service for mandatory savings, including for administrative costs, and to indicate whether the liaison service has a role in the recruitment, introduction and placement of migrant workers and whether any of the administrative costs retained by the liaison service relate to recruitment, introduction or placement. The Committee also requests the Government to take the necessary measures to ensure that migrants for employment are permitted to transfer their earnings or such part of their earnings and savings as they desire, and to provide**

*information on any steps taken, in cooperation with the workers' and employers' organizations, to review the impact of the Farm Labour Programme on the situation of Barbadian migrant workers.*

The Committee is raising other points in a request addressed directly to the Government.

## Benin

### **Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)** (ratification: 1980)

*Article 14(a) of the Convention. Restrictions on employment and geographical mobility in the country.* The Committee notes that, in reply to its request for the adoption without delay of measures to repeal Decree No. 77-45 of 4 March 1977 issuing regulations respecting the movement of foreign nationals and requiring special authorization for foreign workers to leave their town of residence, the Government indicates that no migrant workers lawfully resident in the national territory are restricted in their movements and reaffirms that provisions will be taken with a view to repealing the Decree. ***Recalling that, under the terms of Article 14(a) of the Convention, migrant workers residing lawfully in the country shall have the right to geographical mobility, the Committee once again urges the Government to take the necessary measures to formally repeal Decree No. 77-45 of 4 March 1977 issuing regulations respecting the movement of foreign nationals and to provide information on the measures adopted for this purpose.***

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

## Italy

### **Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)** (ratification: 1981)

The Committee notes the communication from the Italian Union of Labour (UIL), the Italian General Confederation of Labour (CGIL) and the Italian Confederation of Workers' Trade Unions (CISL) dated 2 October 2012 and the Government's reply thereto.

*Part I. Articles 2–7 of the Convention. Addressing migration in abusive conditions. Multilateral and bilateral cooperation.* Over the past five years, the Committee has been referring to the serious vulnerability of migrant workers in an irregular situation to violations of their basic human and labour rights. The Committee notes with deep sadness the recent events that took place in Italian territorial waters, near the island of Lampedusa, which led to the death of more than 300 migrant workers. The Committee and the Conference Committee have previously acknowledged the particular challenges faced by Italy in addressing the significant increase in immigration flows and in protecting the basic human rights of migrant workers. They have also recognized that the phenomenon of irregular migration is a complex and global issue, and in the case of Italy of a particularly European nature. The Committee further notes that in their observations, the UIL, CGIL and CISL emphasize the need for more effective and cohesive European governance. The Committee draws the Government's attention to the Declaration of the United Nations High-level Dialogue on International Migration and Development adopted on 1 October 2013 which recognizes the need for international cooperation to address, in a holistic and comprehensive manner, the challenges of irregular migration to ensure safe, orderly and regular migration, with full respect for human rights as well as the need to strengthen synergies between international migration and development at the global, regional and national levels. The Declaration also reaffirms the need to promote and protect effectively the human rights and fundamental freedoms of all migrant workers regardless of their migration status (see A/68/L.5, 1 October 2013, paragraphs 5, 6 and 10). ***While recognizing the broader dimension of this phenomenon and the Government's efforts to find solutions to address migration in abusive conditions, particularly in this time of crisis, the Committee requests the Government to continue to take all necessary measures to promote national (through cooperation with workers' and employers' organizations), bilateral, multilateral and regional cooperation to address the issue of irregular migration with full respect of migrant workers' human rights and to prosecute and punish those organizing and assisting in clandestine movements of migrants. Please provide information on any developments in this regard as well as on all the measures adopted at national level to ensure respect, in law and in practice, of the human rights of all migrant workers.***

*Articles 1 and 9. Minimum standards of protection. Access to justice.* The Committee notes that as a result of routine inspection work by local and regional labour directorates in 2011, in the agriculture, construction, industry and other sectors, more than 2,000 workers in an irregular situation were detected. The Committee further notes that section 1(1)(b) of Legislative Decree No. 109/2012 provides for a six month residence permit on humanitarian grounds for those third country nationals who in cases of "particularly exploitative working conditions", lodge complaints or cooperate in criminal proceedings against employers, at the initiative or with the favourable opinion of the courts. This residence permit may be renewed for one year or the maximum period needed to complete the criminal proceedings. The Government indicates that the irregular situation of migrant workers does not deprive them of their rights in terms of pay, contributions and the provisions in force on working hours and health and safety in the workplace as well as on the principle of non-discrimination. The Committee notes however that the UIL, CGIL and CISL indicate that trade unions

have no access to either the Initial Reception Centre or the Asylum Seekers Reception Centre where migrants in an irregular situation are detained which prevents them from assisting and providing information to migrant workers. In this regard, the Committee emphasizes once again that access to justice, including adequate access to assistance and advice, is a basic human right which must be guaranteed to all migrant workers in law and in practice. The Committee highlights in this respect the importance of providing for effective and speedy legal procedures. ***The Committee requests the Government to indicate the specific scope of the term “particularly exploitative working conditions” provided for in article 1(1)(b) of Legislative Decree No. 109/2012 and to provide information on how it is ensured in practice that all migrant workers in an irregular situation can seek redress from the courts with respect to violation of their rights arising out of past employment including non-payment or under-payment of wages, social security and other benefits. In order to assess the effectiveness of the mechanisms in place, the Committee once again requests the Government to provide data disaggregated by sex and origin on the number of migrant workers in an irregular situation that have filed administrative or judicial claims with respect to violations of their basic human rights or rights arising out of past employment. The Committee further requests the Government to provide information on the manner in which adequate legal defence for migrant workers in an irregular situation is ensured, including in detention centres. Please also continue to provide information on inspections carried out in the construction and agriculture as well as other sectors to detect illegal employment of migrants and the results achieved.***

*Part II. Articles 10 and 12. National policy on equality of opportunity and treatment of migrant workers lawfully in the country.* The Committee previously took note of the adoption by the Government of the Plan on Integration in Safety – Identity and Dialogue and requested information on its implementation. The Committee notes that the Government refers to the integration agreements as a new practical instrument under the Plan and indicates that they are still at the launch stage and therefore cannot yet be evaluated. The one-stop-shops for immigration play an important role in the promotion and support services for the training courses that foreign nationals undertake to attend under the integration agreements. The Government further refers to the activities and projects carried out in the framework of the multi-annual programme for the period 2007–13 put in place by the Central Directorate for Immigration and Asylum Policy of the Ministry of Interior following wide-ranging consultation of the institutional stakeholders. The Committee observes, however, that no information is provided on the concrete impact and results of the annual programmes that have already been in place since 2007. The Government also provides information on a range of measures aimed at promoting the integration of migrant workers and raising awareness about migration issues. The Committee notes in particular: the “Migrant Integration Portal” which offers a multitude of services to migrant workers, through a public–private network engaged in integration measures; a handbook on “Immigration: How, when, where – the handbook for integration” designed for those that have not yet arrived in Italy; a campaign for music, sports and integration, as well as the Co.In project, intended to help migrant workers to become integrated and Italian society to become aware of the mutual rewards of integration. Measures have also been taken to improve the approach of the media to immigration, including the drafting of a handbook on migration and the mass media and the organization of seminars. The Committee notes, however, that according to UIL, CGIL and CISL, migrant workers continue to be concentrated in the lowest income range (27.5 per cent of Italian and 55.9 of migrant workers) and are the most affected by unemployment. The Committee notes that this is confirmed by the third annual report on migrant workers in the Italian labour market from the Ministry of Labour and Social Policies, according to which the remuneration gap between national and migrant workers has increased considerably in the past years. ***The Committee asks the Government to continue to provide information on developments with respect to the national policy on equality of opportunity and treatment of migrant workers, including cooperation with employers’ and workers’ organizations. The Committee also requests the Government to indicate the impact of the action taken to implement the national policy including the multi-annual programme 2007–13, and any obstacles encountered. Please provide specific information on the measures adopted to address the remuneration gap between national and migrant workers, particularly in sectors where the gap is the highest.***

The Committee is raising other points in a request addressed directly to the Government.

## Malaysia

### Sabah

#### ***Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 1964)***

*Article 6(1)(b) of the Convention. Equality of treatment with respect to social security. Employment injury benefits.* The Committee recalls its previous comments regarding differences in treatment between nationals and temporary foreign workers with respect to payment of social security benefits in the case of industrial accidents. The differences relate to the Workmen’s Compensation Scheme (WCS), which guarantees to foreign workers employed in the country for up to five years only a lump-sum payment of a significantly lower amount than the periodical payments to victims of industrial accidents provided under the Employees’ Social Security Scheme (ESS), while Malaysian nationals and foreign workers permanently residing in Malaysia (Sabah) continue to be covered by the ESS. The Government indicated in November 2012, that it was conducting an actuarial study considering the following three options:

(i) extension of ESS coverage to foreign workers; (ii) creation of a special scheme for foreign workers under the ESS; or (iii) raising the level of benefit provided under the WCS so as to be equivalent to that of the ESS benefit. Upon the completion of the study, continuous engagement with the stakeholders would be carried out before the most suitable option was determined. Further, the Committee understands that the Social Security Organization of Malaysia (SOCSO) is considering the preparation of a technical study on the potential creation of a separate fund and scheme for the coverage of foreign workers, and has requested ILO technical assistance in this regard. With respect to industrial accidents, the Committee hopes that the actuarial study will be finalized shortly, and refers the Government to the comments made under the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), with respect to Peninsular Malaysia. The Committee notes, however, with *regret* that the Government has not submitted its report on the application of Convention No. 19, due in 2013, and therefore the Committee has no further information on the progress made with respect to the actuarial study.

*Other social security benefits.* With respect to other social security benefits, the Committee notes the information provided by the Government regarding the content of the Memoranda of Understanding concluded with countries of origin, which, however, does not specify how it is ensured that no less favourable treatment is applied to migrant workers than to nationals in respect of social security benefits, including medical care, old-age, invalidity and survivor's pensions, as well as sickness and maternity benefits. ***Taking into account the large number of foreign workers concerned, the Committee requests the Government to provide information on the steps taken, including the conclusion of bilateral or multilateral agreements, to ensure that migrant workers do not receive treatment which is less favourable than that applied to nationals or foreign workers permanently residing in the country with respect to all social security benefits. The Committee also requests the Government to provide information on any developments regarding the actuarial study with respect to industrial accident benefits and the technical study considered by SOCSO, and the results achieved.***

*Minimum wages and the foreign worker levy.* The Committee notes the National Wages Consultative Council (NWCC) Act 2011 (Act 732) and the Minimum Wages Order 2012 providing for a regional monthly minimum wage of 800 Malaysian ringgit (MYR) for Sabah, to be implemented as of 1 January 2013. It also notes the Guidelines on the Implementation of the Minimum Wages Order 2012 (the "Guidelines") published by the NWCC (6 September 2012), as well as its press statement of 13 March 2013 on the implementation of minimum wages. The Committee notes that the Minimum Wages Order 2012 applies to "employees" as defined in section 2(1) of the Schedule of the Labour Ordinance (Sabah Cap. 67), thus covering both nationals and foreign workers, but excluding domestic workers from its application. It also notes from the Guidelines that accommodation and food supply are excluded from the minimum wage. The Committee further notes that pursuant to the Minimum Wages (Amendment) Order 2013 certain enterprises were allowed to defer payment of minimum wages until 31 December 2013, but that as of 1 January 2014, all employers employing foreign workers will have to pay the abovementioned minimum wage. The Committee also notes that the document on the Minimum Wage Policy (March 2013) issued by the Ministry of Human Resources states that employers who have implemented minimum wages are allowed to deduct the actual amount of the foreign worker levy on a prorated monthly basis, as well as the cost of accommodation not exceeding MYR50 per month per person. In special circumstances, based on individual merits, the Labour Department may consider applications to deduct the cost of accommodation exceeding MYR50 a month. The Committee notes from the Government's report the rates of the foreign workers' levy according to sector of employment enforced from 11 September 2011 (agriculture: MYR410; manufacturing: MYR1,100; construction: MYR1,100; social service/personal: MYR1,490 (except welfare home and island resort) and domestic work: MYR410). The Committee had previously noted the Government's indication that the levy could not be deducted from the wages of the worker. The Committee had in the past also warned against the possible negative impact of such a levy system on the wages and general working conditions and rights of migrant workers, especially when levy rates are high and being deducted from employees' wages. The Committee therefore considers that allowing, in practice, the amount of the levy to be deducted from the minimum wages of foreign workers may result in less favourable treatment of these workers with nationals, contrary to *Article 6(1)(a)* of the Convention. ***Given the ambiguity in the Government's previous statement and the Minimum Wage Policy (2013) of the Ministry of Human Resources regarding permissible deductions to minimum wages of foreign workers, the Committee requests the Government to clarify whether employers are still allowed to deduct levy and accommodation costs from the minimum wages of foreign workers, and provide the text of the legal provisions or the policy in this regard. The Committee asks the Government to take the necessary steps to ensure that employers do not deduct, in practice, the levy amount from the minimum wages paid to foreign workers and to provide information in this regard. Recalling that the Government had previously indicated that it was willing to examine the impact of the levy system on the working conditions and equal treatment of migrant workers, including wages, the Committee requests the Government to undertake such an assessment and provide information on its results and any follow-up given to it.***

The Committee is raising other points in a request addressed directly to the Government.

***[The Government is asked to reply in detail to the present comments in 2014.]***

## Mauritius

### **Migration for Employment Convention (Revised), 1949 (No. 97)** (ratification: 1969)

*Article 4 of the Convention. Emigration for employment.* With respect to section 4(2) and (3) of the Recruitment Act, 1993, which requires the examination of the record of a candidate for emigration for the past ten years, and which is contrary to the Convention, the Committee notes the Government's statement that necessary action is being initiated in view of the amendment of the Recruitment Act, 1993, and review of section 4 will be considered within this process. **With reference to its previous comments, the Committee urges once again the Government to take the necessary steps to review section 4 of the Recruitment Act, 1993, in order to correct the situation without delay and to provide information on the results achieved through the legislative review.**

The Committee is raising other points in a request addressed directly to the Government.

## New Zealand

### **Migration for Employment Convention (Revised), 1949 (No. 97)** (ratification: 1950)

The Committee notes the observations of the New Zealand Council of Trade Unions (NZCTU) and of Business New Zealand (Business NZ) attached to the Government's report, as well as the Government's reply thereto.

*Article 6(1)(a)(i) of the Convention. Equality of treatment with respect to conditions of work.* The Committee had previously requested the Government to examine the alleged abuse regarding working conditions and unpaid wages of migrant workers in horticulture and viticulture, as well as in food and other services. The Committee notes that both Business NZ and the NZCTU value the benefits of the Recognized Seasonal Employer (RSE) Scheme for horticulture and viticulture, but that the NZCTU remains concerned over the range and extent of problems relating to the exploitation and treatment of migrant workers and international students working in fast food and hospitality, and horticulture. The NZCTU also recommends that the potential benefits of the RSE Scheme be examined for the food and dairy sectors given the increased dependence of the dairy industry on seasonal labour.

The Committee further notes that according to the NZCTU, many complaints of migrant workers relate to prejudices by employers and the expectation that migrant workers will accept lower pay rates, in some sectors below the minimum wage. The Committee notes that the Government recognizes that migrant workers may indeed face difficulties in complaining about wages and conditions of work because of the dependency on their employer for continued stay and employment. The Committee notes from the Government's report that in the period 2010–11, labour inspectors (including those dealing with RSE issues) completed 2,435 minimum standards investigations, and undertook 2,077 information and workplace assessments to promote good employment practices, of which 19 per cent were in relation to workplaces employing RSE workers and 25.7 per cent related to migrant businesses or workplaces employing other categories of migrant workers; labour inspectors undertook 38 visits in horticulture and viticulture businesses focusing on minimum employment rights and accommodation. The Government also indicates that on 1 December 2011 a prioritizing system was introduced for labour inspectors focusing on employees who are more vulnerable to violations including migrant workers, and that in 2012–13 activities were to focus on assisting RSE workers to access information and make complaints including through union representatives and their country representatives in New Zealand. With respect to migrant students, the Committee notes that the Ministry for Business, Innovation and Employment (MBEI) is taking measures to address the concerns relating to the conditions and unequal treatment of international students in the labour market through enhanced monitoring and enforcement (operational response), as well as a policy review. The policy review aims to identify the size and scale of the problems associated with the employment of migrant students, and the Government anticipates that the findings of the review will also shed light on the measures needed to ensure the application of New Zealand's employment law and minimum conditions for other migrant workers. **The Committee requests the Government, in cooperation with employers' and workers' organizations, to examine the benefits of extending the RSE Scheme to the dairy and food sectors, and provide information on the results achieved. It also requests the Government to indicate the outcome of, and any follow-up given to, the operational response and policy review relating to migrant students in the labour market, and to provide information on any of the measures to improve the conditions of work of migrant workers in horticulture, viticulture, food and hospitality and other services. The Committee requests the Government to provide information, disaggregated by sex, on the number and type of violations detected or complaints received by the labour inspectorate and any decisions handed down by the courts involving violations of Article 6(1)(a)(i), as well as sanctions imposed and remedies provided. Please provide information on the number of seasonal and temporary migrant workers that have been allowed to remain in New Zealand to make a formal complaint under the relevant legislation, and any further measures taken to facilitate access to complaints processes and the impact thereof.**

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. 97** (*Albania, Algeria, Armenia, Bahamas, Barbados, Belgium, Belize, Brazil, Cyprus, Dominica, Ecuador, Grenada, Italy, Jamaica, Kyrgyzstan, Malawi, Malaysia: Sabah, Mauritius, Republic of Moldova, New Zealand, Nigeria, Norway, Portugal, Serbia, Slovenia, Spain, Tajikistan, United Republic of Tanzania: Zanzibar, Trinidad and Tobago, United Kingdom: Montserrat, Zambia*); **Convention No. 143** (*Albania, Armenia, Benin, Cyprus, Guinea, Italy, Norway, Portugal, San Marino, Serbia, Slovenia, Tajikistan, Uganda*).

## Seafarers

### Direct requests

Requests regarding certain points are being addressed directly to the following States: **Convention No. 9** (*Djibouti*); **Convention No. 16** (*Djibouti*); **Convention No. 23** (*Djibouti*); **Convention No. 55** (*Djibouti*); **Convention No. 56** (*Djibouti*); **Convention No. 71** (*Djibouti*); **Convention No. 73** (*Djibouti*); **Convention No. 133** (*Guinea*).



## Fishers

### Sierra Leone

#### **Fishermen's Competency Certificates Convention, 1966 (No. 125) (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:

*Articles 3–15 of the Convention. Certificates of competency.* The Committee has been commenting for a number of years on the absence of laws and regulations giving effect to the Convention. The Government stated in its report communicated in 2004 that progress was being made in this respect and that a national workshop on the formulation of fishing policies was organized. The Government also indicated that copies of the new legislation and the texts defining the new policies would be communicated to the ILO as soon as they were 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 to respond favourably to any specific request for technical assistance in this regard. ***Finally, the Committee requests the Government to supply up-to-date information concerning the fishing industry, including statistics on the composition and capacity of the country's fishing fleet and the approximate number of fishers gainfully employed in the sector.***

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

### Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 112 (Mauritania); Convention No. 113 (Guinea, Tajikistan); Convention No. 114 (Mauritania); Convention No. 126 (Sierra Leone).**



## Dockworkers

### Algeria

#### **Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32) (ratification: 1962)**

*Legislation.* With reference to its previous comments, the Committee deplores the fact that the Government still does not appear to have taken the necessary steps to adopt a legislative text concerning ports and dockers pursuant to Act No. 88-07 of 26 January 1988 on occupational hygiene, safety and medicine, as it indicated it would do several times in its previous reports. **The Committee requests the Government to adopt in the very near future the legislative provisions necessary to ensure the protection of dockers against accidents, giving full effect to the provisions of the Convention, and to send a copy to the ILO once they have been adopted.**

*Article 17 of the Convention and Part V of the report form. Labour inspection and occupational accidents.* The Committee notes that the number of occupational accidents for all Algerian ports was 125 in the first quarter of 2010 and 220 during 2011. It also notes that the Government has not provided any statistics of accidents involving dockers, or any general observations on the manner in which the Convention is applied (for example, extracts of the reports of inspection services, up-to-date statistical information on the number of inspections carried out, the number of infringements reported and the number, nature and causes of accidents recorded). **The Committee requests the Government to provide information on the application of the Convention in practice, including on the measures taken to reduce the number of occupational accidents and increase awareness of safety issues.**

### Ecuador

#### **Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) (ratification: 1988)**

*Legislation. Technical assistance.* In its previous comments, the Committee noted the Government's repeated indications that it planned to update existing standards on safety and health in dock work, and to revise the *Handbook of standards on safety and risk prevention for dockworkers*. The Committee notes that, according to the latest report, there appears to be no plan to update the respective standards to give effect to the provisions of the Convention. Furthermore, the Government states that it is applying the Regulations on safety and health in dock work, which have not been updated since 1988. The Government indicates that it regrets that little progress has been made in this area, but for institutional reasons and its commitment to comply with international Conventions, and owing to the administrative changes that have occurred, ILO assistance would be appropriate to bring the existing legislation into line with the Convention. It adds that it will make a request for assistance through the Ministry of Industrial Relations. **The Committee requests the Government to provide information on any legislative progress in relation to the Convention, as well as on technical assistance.**

*Information requested by the Committee on numerous Articles of the Convention and the preparation of reports.* The Committee notes that the Government has not provided the information requested in its previous comments and that it states that in its previous reports it referred to each of the Articles of the Convention. The Committee recalls that the report submitted by the Government in 2009 did not contain the relevant information requested by the Committee and for that reason it reiterated its requests in 2010 and 2012, and that it is bound to repeat them once again in the present comment. **The Committee again urges the Government to supply detailed information on the manner in which it currently ensures the application of the provisions of the Convention to which it has been referring since 1993, which are set out in detail in its direct request of 2005 and which cover the matters referred to in the following Articles of the Convention: Article 1; Article 4(1)(f) and (2)(d) in conjunction with Article 16(2) and Article 4(2)(g); Article 5(1); Article 7(1); Article 8; Article 9(2); Article 10; Article 11; Article 13(2) and (4); Article 17(2); Article 18(1),(4) and (5); Article 19(2); Article 20(1), (2) and (4); Article 22(2) and (3); Article 25(1), (2) and (3); Article 26; Article 27(2) and (3)(b) and (c); Articles 28, 29 and 31; Article 32(2) and (4); Article 34(3); Article 36 (1) and (3); and Article 38(1) and (2). The Committee requests the Government, when preparing its report, to make every effort to provide the specific information requested by the Committee in respect of the Articles and paragraphs of the Convention referred to above.**

*Article 41. Institutional restructuring. Bodies concerned with dock work. Inspection. Penalties.* The Committee notes that, according to the report, in order to address the need to draw up a comprehensive transport policy, the Government created, by means of Executive Decree No. 8 of 15 January 2007, the Ministry of Transport and Public Works, which includes the Department of Ports and Maritime and River Transport, which will be responsible for the Merchant Marine and Coastal Directorate-General (DIGMER). The Committee thereby understands that the Ministry of Transport and Public Works is responsible for the application of legislation on occupational safety and health in dock work. **Please provide information on the manner in which the Ministry ensures appropriate inspection services to supervise the application of the measures to be taken in pursuance of the Convention, or to satisfy itself that**

appropriate inspection is carried out, as well as on existing penalties, in accordance with Article 41(b) and (c) of the Convention.

*Part V of the report form. Application in practice. Please give a general appreciation of the manner in which this Convention is applied in your country and attach extracts from the reports of the inspection services and information on the number of workers covered by the legislation, the number and nature of the contraventions reported and the resulting action taken, and on the number and nature of occupational accidents and diseases reported.*

*[The Government is asked to report in detail in 2015.]*

## Guinea

### Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) (ratification: 1982)

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(1)(a) and (b) of the Convention. Measures to ensure the safety of portworkers.* The Committee notes that the Government indicates that sections 170 and 172 of the Labour Code, establishing that workers have a general obligation to use health and safety equipment correctly and that those responsible for workplaces have an obligation to organize appropriate practical training with regard to safety and hygiene issues for the benefit of workers, ensure the application of *Article 6(1)(a) and (b)* of the Convention. *The Committee requests the Government to provide detailed information on the measures taken to ensure that these general provisions are applied to portworkers.*

*Article 7. Consultation with employers and workers.* The Committee notes the information provided by the Government with regard to sections 288 and 290 of the Labour Code, which provide for the establishment of a consultative committee which is to be responsible, amongst other things, for issuing opinions and formulating proposals and resolutions on labour legislation and regulations and social laws. *The Committee requests the Government to provide information on the application, in practice, of the measures taken to ensure the collaboration between workers and employers provided for in Article 7 of the Convention.*

*Article 12. Fighting fire.* The Committee notes that sections 71, 72 and 76 of the Merchant Marine Code briefly touch upon the question of fire protection systems and equipment, but only in the context of inspections of vessels engaged in international voyages. *The Committee requests the Government to take the measures necessary to ensure that appropriate and sufficient firefighting measures are made available for use wherever dock work is carried out.*

*Article 32(1). Dangerous cargoes.* The Committee notes that section 174 of the Labour Code states, in general, that vendors or distributors of dangerous substances, as well as those responsible for workplaces where such substances are used, are required to mark and label them. *The Committee requests the Government to indicate the measures taken to ensure the application, in practice, of this provision, which is general in scope, in the dock sector.*

The Committee notes that the information provided by the Government in its report of May 2005 on the application of *Articles 16, 18, 19(1), 29, 30, 35 and 37*, are general in nature and do not permit the Committee to ascertain whether they are being applied in the dock sector. *The Committee requests the Government to provide further information on the measures taken to ensure the application of Articles 16, 18, 19(1), 29, 30, 35 and 37, of the Convention and to attach copies of the relevant national laws and regulations.*

The Committee notes that the Government's report does not contain replies to its request for further information contained in the previous direct request regarding the application of *Articles 19(2) and 33*, of the Convention. *The Committee requests the Government to provide the information requested, as well as information on the measures taken with regard to the application of these Articles.*

The Committee notes that, in its report, the Government does not provide any clarification with regard to the measures taken to give effect to *Article 6(1)(c)*, and *Articles 2, 8, 9, 10, 11, 14, 15, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32(2)–(5)*, and *34* of the Convention. *The Committee requests the Government to take measures to ensure the application of these Articles and to keep the Committee informed of any action taken in this regard.*

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

## Guyana

### Dock Work Convention, 1973 (No. 137) (ratification: 1983)

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

The Committee noted the Government's report for the period ending September 2002, according to which there has been no change in the application of the Convention. *It requests the Government to give a general appreciation on the manner in which the Convention is applied in practice, including for instance extracts from the reports of the authorities entrusted with the application of the laws and regulations, and the available information on the numbers of dockworkers on the registers of workers in docks maintained in accordance with Article 3 of the Convention and of any variations in their numbers (Part V of the report form).*

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

## Nigeria

### **Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32)** (ratification: 1961)

*Part V of the report form. Application in law and in practice.* The Committee notes with *regret* that no information has been provided by the Government on the application of this Convention since 2001. *The Committee therefore asks the Government to provide information on the relevant and effective legislation which gives effect to the Convention, and to provide information on the manner in which the Convention is applied in practice supported by, for example, extracts from inspection reports, statistics, and details of the number of contraventions and accidents recorded.*

## Panama

### **Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32)** (ratification: 1971)

*Laws and regulations.* In its 2010 observation, the Committee noted the Government's indication that on 6 August 2008 it adopted the General Docks Act, No. 56, under section 106 of which the Panama Maritime Authority shall establish standards and procedures on the prevention of occupational accidents and diseases, occupational safety and health, fire prevention and the safe handling of cargo, in order to ensure the safety and efficiency of dock work. The Committee requested a copy of the regulations on safety and health in dock work, once they had been approved. The Committee notes the Government's indication that the draft regulations on safety and health in dock work have not yet been adopted, and that they are currently undergoing technical evaluation by the Dock Safety and Health Section with a view to their adoption. *The Committee, referring to its 2010 observation, requests the Government to make every effort to ensure that the draft regulations are approved in the near future, that they take into account all the matters raised in its 2007 observation, which reiterates the comments that the Committee has been making since 1996, and to provide information in this regard.*

*Information on the effect given in practice to certain provisions of the Convention.* In its 2010 observation, the Committee requested the Government, if the draft regulations had not yet been adopted, to indicate the manner in which effect is given in practice to the various provisions referred to in its 2007 observation. The Committee notes the brief information provided by the Government on the effect given to the following provisions of the Convention:

- *Article 2(2), (3) and (4) of the Convention. Approaches.* The Government indicates that these are taken into account in inspections;
- *Article 9(2)(2). Inspection of hoisting machines.* The Government indicates that maintenance is carried out in accordance with the recommendations of the manufacturer. Daily checks are also carried out prior to their use;
- *Article 11(1). Supervision by a competent person while a load is suspended.* The Government indicates that these measures cover all hoisting machines. Compliance with these safety measures is controlled during operation, and these instructions are included in the new regulations;
- *Article 11(2) and (8). Employment of a signaller and compliance with the maximum permitted load of hoisting machines.* It is ascertained in practice that a person is present to signal hoisting and the teams ensure that the maximum permitted load is not exceeded;
- *Article 11(5). Escape.* The Government indicates that escape routes from docks are verified;
- *Article 14. Fencing, gangways, gear, ladders, life-saving means or appliances.* The Government indicates all of these aspects are checked during inspections of ports and that any infringements are reported.

The Committee observes that the brief information provided does not enable it to gain an overview of the application of the Convention. The Committee wishes to emphasize that the indication that new legislation is being prepared does not exempt the Government from its obligation to ensure the application of all of the provisions of the Convention and to provide detailed information on the effect given to the Convention. *The Committee requests the Government to provide a detailed report on the effect given in law and practice to each of the Articles and paragraphs of the Convention.*

*Part V of the report form. Application in practice. Please provide general information on the manner in which the Convention is applied in practice, including information on the number of workers covered by the Convention, the manner in which inspection is performed in relation to the present Convention, the number and type of violations reported and the most frequent occupational accidents and diseases.*

## Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 27** (*Angola, Azerbaijan, Bangladesh, Belarus, Burundi, Croatia, Hungary, Japan, Montenegro, Panama, Russian Federation, Ukraine*); **Convention No. 32** (*Azerbaijan, Bangladesh, Bulgaria, Croatia, Mauritius, Montenegro, Pakistan, Serbia, Singapore, Slovenia, Tajikistan, Ukraine*); **Convention No. 137** (*France, Nigeria, Russian Federation, United Republic of Tanzania*); **Convention No. 152** (*Brazil, Cyprus, Denmark, Egypt, France, Italy, Jamaica, Lebanon, Peru, Russian Federation, Seychelles, Spain, United Republic of Tanzania, Turkey*).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 152** (*Mexico*).

## Indigenous and tribal peoples

### Argentina

#### **Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2000)**

The Committee takes note of the reports presented by the Government in February and November 2013 containing detailed information supplied by the National Institute for Indigenous Affairs (INAI) and the Government's response to certain matters raised by the Confederation of Workers of Argentina (CTA).

*Communication from the International Organisation of Employers (IOE) (2012). New observations from the General Confederation of Labour (CGT) and the Confederation of Workers of Argentina (CTA) (2013).* The Committee recalls that in August 2012 the IOE presented observations on the application in law and in practice of the consultation requirement embodied in *Articles 6, 7, 15 and 16 of the Convention*. In September 2013, the Office transmitted to the Government the new observations formulated by the CGT and the CTA. ***The Committee invites the Government in its next report to forward any comments it deems appropriate on the IOE's observations and on the matters raised by the CGT and the CTA. It further invites the Government, in preparing its next report, to consult the social partners and indigenous organizations on the issues raised in these comments and to provide information on the results achieved by the measures taken to give effect to the Convention (Parts VII and VIII of the report form).***

*Council for Indigenous Participation (CPI). Consultation and participation.* The Government states that the Coordination Council, provided for in Act No. 23302 of 1985 concerning indigenous policy and support for aboriginal communities, is no longer functioning, and that the Council for Indigenous Participation (CPI), which is part of the INAI, has initiated the necessary steps for consultation. The Committee notes the Regulations for the operation of the CPI, which were adopted in March 2011. The CPI consists of two representatives elected by each community assembly of indigenous peoples and plays a major role in the National Programme for Identification of the Status of Indigenous Community Lands and the Commission for Analysis of the Implementation of Indigenous Community Ownership. In its most recent observations, the CTA raises questions about the functioning of the CPI. ***The Committee invites the Government to continue to provide information in its next report on how the effective participation of indigenous peoples is ensured in the CPI and in the other institutions administering the programmes that concern them (Articles 2 and 33 of the Convention). The Committee also hopes that the report will contain further information on how it has ensured the existence of appropriate prior consultation procedures for the effective participation of indigenous peoples in decisions that are liable to affect them directly (Articles 6 and 7).***

*Indigenous peoples rights in a single draft Civil and Commercial Code.* The Committee takes note that the Government opted to incorporate certain provisions on indigenous community ownership that were analysed by the CPI in a revised, updated and combined draft Civil and Commercial Code that was sent to Congress in July 2012. The Government explains that their inclusion in a Civil and Commercial Code ensures greater consistency in the treatment of indigenous rights. Moreover, if they are incorporated in a national Civil and Commercial Code indigenous rights take precedence over provincial legislation. The report received in February 2013 adds that, given that "the provinces have the original dominion over the natural resources existing in their territory" (article 124 of the 1994 Constitution), any state policy regarding land traditionally occupied by indigenous communities must necessarily be agreed upon jointly by the national Government and the provincial governments. The absence of any mention of collective indigenous rights in the Civil Code that has been in operation since 1871 jeopardized the effective recognition of the ethnic and cultural pre-existence of Argentina's indigenous peoples that is referred to in article 75, paragraph 17, of the Constitution. The Government also mentions rulings handed down by higher courts and provincial authorities that in some cases argued that the provisions of the Constitution had no operational content but were merely programmatic. The Government acknowledges in its report of November 2013 that if the rights of indigenous communities are incorporated in the new Code it would still be necessary to adopt new legislation on indigenous community ownership and the regulation of consultation and participation. In its latest observations the CTA considers that the Civil Code subjects the indigenous institutions to constant state control and approval, and it supports the indigenous organizations' criticism that the draft Code accepts that indigenous peoples should accede to ownership of their land only in cases where there has been a prior administrative decision. The CGT, for its part, expresses its hope that the draft Civil Code reflects some degree of progress in dealing with the lands occupied by the indigenous communities. It hopes that the draft Code will secure the uniform application of the Convention throughout the national territory. ***The Committee invites the Government in its next report to include information on the outcome of the consultations held with the representative institutions on the measures proposed in the revised Civil and Commercial Code (Article 6).***

*Identification of the status of land and its regularization. Suspension of evictions.* The Government stresses in its reports that only if a new law is adopted can the conditions be met for the effective constitutional recognition – in the sense of reparation – of community possession and ownership of land identified as being occupied by indigenous communities. The Committee recalls that the identification of the status of land and its regularization were carried out under Acts Nos 26160 of 2006 and 26554 of 2009 declaring the emergency regarding the possession and ownership of land. The Committee notes with ***interest*** that Act No. 26894, published on 21 October 2013, granted an extension, until

23 November 2017, of the suspension of evictions pending the completion of the identification of the status of land provided for by Act No. 26160. In the report received in November 2013, the Government points out that the judiciary is the body responsible for assessing whether the conditions that trigger an emergency, and the consequent suspension of evictions, have been met. If threats arise to indigenous territories, the Government declares its readiness to ensure an institutional presence and promote committees on dialogue with the provincial authorities and the sectors concerned. The Government emphasizes that it has been giving effect to *Article 14(2)* of the Convention by means of the land status identification process, which has been operating since 2003. ***The Committee refers to its direct request and hopes that the Government will include up-to-date information in its next report on the measures taken to overcome the difficulties encountered with regard to completing the process of recognition of indigenous community possession and ownership in the country (Article 14).***

*Río Negro. Consultation and participation. Traditional activities.* In its previous comments, the Committee had referred to the identification and regularization of the status of land in the province of Río Negro. The Government had also indicated that indigenous stockbreeders should be able to obtain marks and signs certificates (titles of ownership of livestock) easily and to exercise their livestock-raising activities. The Government observed that it was difficult to establish ownership of marks and signs without first having established ownership of the lands, and this complicated the business of getting the animals to market. In its observation of 2011, the Committee noted the comments of the Education Workers' Union of Río Negro (UNTER) of July 2008 referring to the granting by the provincial authorities of exploration permits in hydrocarbon-bearing fields, authorizing the establishment of protected natural areas without holding consultations with the Mapuche peoples inhabiting the area and without recognizing the rights of the Quintupuray and Lof Mariano Epulef Mapuche communities over the lands they traditionally occupy. ***The Committee again refers to the conclusions and recommendations of the report adopted in November 2008 by the Governing Body (document GB.303/19/7) and requests the Government to include in its next report updated information on progress in regularizing indigenous community property in the Province of Río Negro and on how the consultation and participation procedures provided for in the Convention are being applied at the provincial level. It also requests the Government to indicate whether the Indigenous Community Development Council of the province of Río Negro has facilitated the granting of marks and signs certificates, as the raising of livestock is a traditional activity of the Mapuche people (Article 23).***

*Tucumán. Protection of fundamental rights. Chuschagasta community.* The Committee takes note of the updated information sent to it by the Government in its report concerning the trial of three people who were arrested in October 2009 and charged with murdering an indigenous leader and wounding two members of the Chuschagasta community. However, the Criminal Chamber decided on 18 February 2012 to revoke the sentence handed down by the Court of First Instance on grounds of homicide and to free the detainees. The Government states that, under the programme to strengthen the community and ensure its access to justice, the INAI subsidized the cost of the judicial proceedings for the Chuschagasta community. The Committee takes note that the Government proposes to adopt a firm strategy vis-à-vis such judicial proceedings and, at the same time, to take a sufficiently public stance for the crimes committed not to go unpunished. ***The Committee invites the Government to report on the progress made to ensure that the persons responsible for the crimes committed against the Chuschagasta community are punished (Article 3).***

*Quilmes Indian community. Evictions. Application of the Convention by the Supreme Court of Justice of Tucumán.* Responding to earlier comments by the Committee, the Government describes the situation of 40 families living in overcrowded conditions in Coalao del Valle (department of Tafi del Valle). In December 2008, basing its ruling on a provincial law that does not allow discussion of ownership or possession of plots of land, a provisional court ordered the eviction of the indigenous families. The indigenous community received legal aid from an organization of human rights lawyers. In addition, INAI states that it has been providing ongoing collaboration in the disputed area through one of its territorial officers. The court eviction order has not been carried out. The Committee takes note that a complaint lodged with the Supreme Court of Justice of Tucumán by the indigenous community is currently under examination. ***The Committee invites the Government to provide in its next report information on the ruling of the Supreme Court of Justice of Tucumán regarding the situation of the Quilmes Indian community. The Committee hopes that the report will contain information that will allow it to examine the progress made in identifying and regularizing the status of indigenous community lands in Tucumán (Part II of the Convention).***

In a direct request, the Committee invites the Government to provide details of the identification of the status of land and its regularization and of specific situations resulting from the application of the Convention in the provinces of Formosa (Qom Navogoh La Primavera community), Mendoza (community of the Huarpe Milcallac peoples) and Neuquén (Paichil Antriao Mapuche community).

***[The Government is asked to reply in detail to the present comments in 2015.]***

## Bangladesh

### **Indigenous and Tribal Populations Convention, 1957 (No. 107) (ratification: 1972)**

*Implementation of the Chittagong Hill Tracts (CHT) Peace Accord, 1997.* The Committee notes the Government's report received in November 2013 which includes information in reply to the 2009 observation. The Government indicates that the transfer issues mentioned in clause B, section 34, of the Peace Accord, which lists subjects to be added to the functions and responsibilities of the Hill District Councils, is in progress. It adds that 24 offices/departments to the Rangamati District Council, 23 offices/departments to the Khagrachari District Council and 22 offices/departments to the Bandarban District Council have been transferred. The Government states that the transfer of the remaining offices mentioned in the Peace Accord is in progress. **Considering that the implementation of the outstanding provisions referred to in the 2009 observation are still relevant with a view to building and consolidating peace in the region, the Committee requests the Government to take the necessary measures to achieve the full implementation of the Peace Accord and to provide detailed information on the progress made in this regard. Please also continue to provide information on the implementation of clause B, section 34.**

*Articles 2 and 5 of the Convention. Coordinated and systematic government action. Collaboration and participation.* In reply to the 2009 observation, the Government indicates that, under the Annual Development Programme, relevant line ministries have been implementing various projects for development of ethnic minority groups in the regions of the CHT. The development issues of ethnic minority groups in the plains and the CHT have been under active consideration of the Government. Moreover, the Government indicates that in implementing projects and programmes, the participation of indigenous communities is always encouraged. **The Committee refers to its 2009 observation and requests the Government to provide in its next report detailed information on the concrete measures taken by the relevant line ministries responsible for the action in favour of indigenous communities in the plains and the CHT envisaged under the National Strategy for Accelerated Poverty Reduction II (2009–11) (NSAPR) and on the results achieved in improving their situation. It also requests the Government to report on the progress made in adopting and implementing the National Indigenous People's Policy, as mentioned in the NSAPR. Finally, the Committee requests that the Government ensure appropriate collaboration and participation of the indigenous communities and their representatives concerned in the design and implementation of measures affecting them, in keeping with Article 5 of the Convention, and to provide information in this regard.**

*Articles 11–14. Land rights. Legislation in force.* The Government indicates that the CHT Regulation, 1900, was amended in March 2013 and that the amendment process of the CHT Land Disputes Resolution Commission Act, 2001, is at the final stage and awaiting adoption in the Parliament. **The Committee invites the Government to provide a copy to the ILO of the new text of the CHT Land Disputes Resolution Commission Act, when adopted, and a copy of the amended CHT Regulation. Please also include information on the measures taken to enable the Land Commission to fulfil its functions. The Committee also requests the Government to provide information on legislative developments relating to the application of the Convention with regard to the indigenous communities of the plains and the CHT.**

*Land grabbers.* The Committee noted from the NSAPR that indigenous communities are subject to extortion by "land grabbers", who illegally seized traditional lands, and that the formulation of a policy to address issues affecting indigenous communities was envisaged. The Government indicates that it is hoped that once the amended CHT Land Disputes Resolution Commission Act is adopted, the Commission will start working on and resolving land disputes, and land rights of ethnic minority groups will be established. **Recalling that under Article 11 of the Convention, the right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy shall be recognized, the Committee invites the Government to ensure that the land rights of indigenous peoples and communities in Bangladesh, including those of the plains, are fully recognized and effectively protected, in collaboration with their leaders. The Committee requests the Government to provide in its next report detailed information on the specific measures taken in this regard, including measures to investigate fully reports of illegal seizures of the traditional lands of indigenous communities. In addition, the Committee requests the Government to provide information on the progress made in adopting and implementing the national land policy for indigenous communities envisaged under the NSAPR.**

*Rehabilitation of returned refugees and internally displaced persons.* The Government indicates that the task force has been working to rehabilitate refugees returned from India, as well as those who were internally displaced. The Committee notes with *interest* that, according to the Government's report, all refugees returned from India have already been rehabilitated. A listing of internally displaced persons in three CHT districts is in progress and 90,208 families have already been enlisted. The Government further indicates that by recruiting additional employees, the activities of the task force have been extended. **The Committee invites the Government to continue to provide updated information on the number of internally displaced indigenous peoples yet to be rehabilitated.**

*Jum cultivation.* In reply to the 2009 observation, the Government indicates that in March 2013, the CHT Regulation, 1900, was amended with a view to transfer "jum cultivation" regulation powers from the Deputy Commissioners to the Hill District Councils. **The Committee requests the Government to indicate the measures taken to ensure that indigenous communities have the possibility to continue to engage in jum cultivation, including through**

***accelerating measures protecting their land rights, and the measures taken to include shifting cultivation in relevant policies and programmes regarding rural development.***

*Prospects of ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169).* The Government indicates that a project entitled “Building capacities on indigenous and tribal peoples’ issues in Bangladesh: Rights and good practices” is being implemented with the technical assistance of the ILO. The project has a National Steering Committee chaired by the State Minister of Chittagong Hill Tracts Affairs. The Committee recalls that the NSAPR, published in October 2008, included the commitment of the Government to ratifying the Convention No. 169. It also recalls that the Governing Body, at its 270th Session (November 1997), invited States parties to the Convention to contemplate ratifying Convention No. 169, which will, ipso jure, involve the immediate denunciation of the Convention (see the report of the Working Party on Policy regarding the Revision of Standards, document GB.270/LILS/3(Rev.1), paragraph 85). ***The Committee therefore encourages the Government to consider, in consultation with the social partners, ratifying Convention No. 169 and to provide information in this regard.***

***[The Government is invited to reply in detail to the present comments in 2015.]***

## **Plurinational State of Bolivia**

### ***Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1991)***

The Committee notes the Government’s detailed report received in October 2013, containing information and documentation relating to the issues raised in its comments of 2009, 2011 and 2012.

*Communication from the International Organisation of Employers (IOE).* The Government states that it understands the concern expressed by the IOE in August 2012 about the harm that private business could suffer in indigenous territories because of the requirements of prior consultation. The Government indicates that it respects and gives effect to the results of consultations, whether they concern the rights of indigenous peoples or of third parties, such as private enterprises interested in generating economic development projects in indigenous territories. The Government states that legal certainty exists in this field and that any difficulty in applying the consultation requirement or any other provision regarding the rights of indigenous peoples can be resolved under existing laws or through conciliation and negotiation between the parties concerned. ***The Committee invites the Government, in preparing its next report, to consult the social partners and indigenous organizations on the issues raised in these comments and to provide information on the results achieved by the measures taken to give effect to the Convention (Parts VII and VIII of the report form).***

*Construction of a highway. Indigenous territories.* In its observations of 2011 and 2012, the Committee took note of communications from two trade unions expressing support for the National Council of Ayllus and Markas of Qullasuyu, which was opposed to the construction of the Villa Tunari–San Ignacio de Moxos highway since it would affect the TIPNIS (Isoboro Sécure indigenous territory and national park) territories and because the right to free and informed prior consultation had not been observed. In the report received in October 2013, the Government indicates that three indigenous peoples organized in 69 communities affiliated to three groups or *subcentrales* were identified. The communal authorities convened assemblies in which information documents were distributed and consultations were held. According to the Government, these were prior consultations since there was as yet no pre-investment project for the second stretch of the highway and it was established that the road would be an ecological highway, its engineering design guaranteeing the functions and stability of the TIPNIS ecosystem. The Committee notes that 58 indigenous communities decided to exercise their right to consultation, while 11 communities declined consultation. ***The Committee asks the Government to provide in its next report new information enabling it to examine the manner in which appropriate solutions were found in accordance with the Convention, to overcome the difficulties caused by the construction of the Villa Tunari–San Ignacio de Moxos highway. Please also indicate whether the interministerial project has been implemented to eliminate extreme poverty in the TIPNIS territory.***

*Regulation of consultation mechanisms.* The Government indicates that between February 2012 and August 2013, a participatory process of consultation was held about a proposal for a law on prior consultation, with the participation of organizations of original indigenous and *campesino* (peasant farmer) communities, intercultural and Afro-Bolivian communities and representatives of the Executive, Legislative and Electoral Bodies. At the sixth meeting of the National Committee (August 2013), an agreement was reached on a proposal for a “law on free and informed prior consultation”, which will be submitted to the President of the Plurinational State and referred to the Plurinational Legislative Assembly for approval. ***The Committee invites the Government to provide the text of the law on prior consultation as soon as it is enacted. It also invites the Government to include information on any use made of the new consultation mechanism, together with information enabling the Committee to examine the manner in which the new legislation ensures effective participation by indigenous peoples in decisions that may affect them directly and gives full effect to the corresponding provisions of Articles 6, 7, 15 and 16 of the Convention.***

### **Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)**

*Forestry resources.* In reply to the pending issues raised in the report of a tripartite committee approved by the Governing Body in March 1999 (GB.274/16/7), the Government indicates that the Forest and Land Audit and Social Control Authority (ABT), the authority that oversees forests and land, combats indiscriminate and unauthorized logging in woodlands located on Bolivian territory. Further to its request, the Committee notes that in November 2013 the Office once again transmitted the tripartite committee's report to the Government. ***The Committee requests the Government to indicate in its next report how the changes in the national legislation regarding participation, consultation and natural resources have enabled the specific situation of indigenous communities that may be adversely affected by logging to be dealt with.***

In a direct request, the Committee invites the Government, among other things, to supply more information on the measures adopted to ensure that particular groups of the population are not excluded from the Convention, and to report on progress made in the distribution of indigenous lands, the elimination of forced labour and the protection of the Ayoreo people.

## **Brazil**

### **Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2002)**

The Committee notes the detailed replies received from the Government in September 2013 in relation to the matters raised in the observation of 2012. The Committee also notes the observations from the Single Confederation of Workers (CUT) on the application of the Convention which were transmitted to the Government on 25 September 2013. The Government indicates that the report on the Convention was sent to the social partners on 17 October 2013. ***The Committee again requests the Government, when preparing its next report, to consult the social partners and indigenous organizations on the measures taken to give effect to the Convention (Parts VII and VIII of the report form).***

*Regulation of consultation mechanisms.* The Government reports in detail on the activities carried out in 2012 and 2013 by the inter-ministerial working group (GTI) relating to the formulation of the proposed regulations on the right to consultation. With the support of the Secretariat-General of the Government, the Foreign Ministry and other government bodies, a total of 27 information meetings on the Convention were held, with a special emphasis on the issues relating to consultation. The GTI also held regional meetings with the Quilombola communities. The results of the initiatives launched by the GTI include the setting up of a dialogue round table with the indigenous peoples by the President of the Republic on 22 August 2013. The Government indicates that a consensus has been reached on the principles and procedures to be followed with respect to the future regulatory instrument. The Government stresses that it has always sought to provide the material conditions necessary for dialogue with the indigenous peoples and is aware that there are still major challenges with regard to the full application of the rights and guarantees of the Convention, particularly regarding access to land and the regularization of land titles in traditional territories. The GTI intends to prepare the text of a future decree regulating prior consultation. ***The Committee invites the Government to send the text of the regulations concerning consultation, once they have been adopted, and also to provide information on the use that has been made of existing consultation and participation procedures pending the adoption of new, appropriate procedures. The Committee requests the Government to provide information enabling it to evaluate the manner in which the new legislation ensures the effective participation of the indigenous peoples in decisions which may affect them directly and gives full effect to Articles 6, 7, 15 and 16 of the Convention.***

*Diversion of the São Francisco river.* The Committee notes the studies provided by the Government concerning the socio-cultural and historical characterization of the Kambiwá, Pipipã, Truká and Tumbalalá peoples. The Committee observes that the communities consulted have expressed considerable resistance and doubts regarding the impact of the project for the diversion of the São Francisco river. The Government indicates its ongoing commitment to consulting the peoples affected. ***The Committee invites the Government to include up-to-date information in its next report on the efforts made to ensure that the interests and priorities of the indigenous communities affected by the diversion of the São Francisco river have been taken into account (Articles 7 and 15 of the Convention). The Committee refers to its previous comments and requests the Government to continue to provide information on current legal proceedings and, in particular, on the decision regarding the constitutionality of the project for the diversion of the São Francisco river, which is currently before the Federal Supreme Court.***

*Construction of a hydroelectric power plant on the Cotingo river.* In reply to previous comments, the Government indicates in its report that there were no modifications to the project for the installation of a hydroelectric power plant on the Cotingo river in the Raposa Serra do Sol indigenous territory (State of Roraima). In its observations transmitted to the Government in September 2013, the CUT recalls that the demarcation of the area of the Raposa Serra do Sol indigenous land gave rise to a historic decision of the Federal Supreme Court (STF) published in March–June 2009, whereby the lands were ordered to be handed over to the peoples affected. Nevertheless, the CUT expresses concern at the position adopted by the Federal Public Prosecutor's Office and the STF in the follow-up to the case. ***The Committee requests the Government to indicate in its next report the manner in which any project affecting indigenous lands is the subject of***

*full consultations with the peoples affected and how their views, priorities and interests are taken into account when decisions are adopted. The Committee reiterates its hope that the peoples concerned will be associated with the impact studies to be carried out, in accordance with Article 7 of the Convention, and that they will participate in the benefits of the new ventures (Article 15). The Committee requests the Government to include detailed information in its next report on all progress made in this regard.*

**Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)**

*Legislation relating to public forests.* In its 2012 observation, the Committee asked the Government to indicate the manner in which Decree No. 7747 of 5 June 2012, which established a National Policy for the Environmental and Territorial Management of Indigenous Lands (PNGATI), had enabled the issue to be resolved which had been raised in the report of the Governing Body (GB.304/14/7, March 2009) on a representation submitted in October 2005 by the Union of Engineers of the Federal District (SENGE/DF). The Government reiterates in its report received in September 2013 that no forestry operations which affect indigenous lands can be authorized under Act No. 11284/2006 on the administration of public forests. The PNGATI has reinforced the guarantee of indigenous peoples' right to consultation, as required by the Convention (section 3(XI) of Decree No. 7747). The Government also refers to article 231 of the National Constitution, which recognizes indigenous peoples' "original rights with regard to the lands that they traditionally occupy", with the result that logging activities cannot be undertaken on indigenous lands. The PNGATI also includes a commitment to territorial and environmental protection and to improving the quality of life in areas reserved for indigenous peoples and on indigenous lands (section 3(VI) of Decree No. 7747). According to 2012 data from the National Foundation for Indigenous Affairs (FUNAI), an area in excess of 109 million hectares (some 12.9 per cent of the national territory) corresponds to indigenous lands which have already been identified (104,117,642 hectares have been regularized and for the remainder the regularization process is under way). The Government also indicates that FUNAI is closely involved in combating illegal logging on indigenous lands, undertaking monitoring activities and capacity building. In May 2013, the Federal Police conducted an operation on the Alto Rio Guamá indigenous land (State of Pará) against fraudulent activity in the logging industry. In August 2013, on the Sararé indigenous land (State of Mato Grosso), a fine of US\$10 million was imposed for material damage resulting from the illegal clearance of more than 5,600 hectares of vegetation. *The Committee invites the Government to provide in its next report information on the measures taken pursuant to Decree No. 7747 of 5 June 2012 in relation to logging activities. Please continue to provide information in future reports enabling the Committee to evaluate the extent to which the indigenous peoples affected by forestry operations have been consulted and have been able to participate in the benefits of logging activities, in accordance with Articles 6, 7 and 15 of the Convention.*

In a direct request, the Committee is examining the effect of the establishment of a space agency centre on the Quilombola communities, the construction of the Belo Monte hydroelectric power plant, and the situation of the Cinta Larga people and Guarani communities.

*[The Government is asked to reply in detail to the present comments in 2015.]*

## Central African Republic

### **Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2010)**

The Committee notes the Government's first report on the application of the Convention received in June 2013. It recalls that the Central African Republic had been the first country in Africa to ratify the Convention in 2010, and it notes the extremely worrying situation prevailing in the country since March 2013 (United Nations Security Council resolution 2121 (2013), adopted on 10 October 2013 and resolution 2127 (2013), adopted on 5 December 2013). In the same way as the Security Council, the Committee expresses its *particular concern* at reports of the targeted violence against members of ethnic groups protected by the Convention and increasing tensions between communities. *The Committee urges all stakeholders, and specifically the governmental authorities, to ensure full respect of the human rights of indigenous peoples, especially of children and women of the Aka and Mbororo ethnic groups (Article 3 of the Convention). The Committee hopes that law and order will be restored in the country and invites the governmental authorities to fully implement the Convention.*

*[The Government is asked to reply in detail to the present comments in 2015.]*

## Chile

### **Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2008)**

The Committee notes the Government's detailed report received in September 2013. In reply to the observations from the International Organisation of Employers (IOE), the Government indicates that the ratification of the Convention presents the challenge of reconciling the application of indigenous peoples' right to be consulted with the productive development of the country, reducing the recourse to litigation with respect to investment projects. The contributions from the Confederation of Production and Commerce (CPC), the Mining Council, and the Chilean Wood Corporation

(CORMA) express the hope that both the draft legislation on consultation of indigenous peoples and the Environmental Assessment Service Regulations (adopted by means of Decree No. 40 published in August 2013) will become tools for enhancing the legal certainty of investment projects in the country. Among other things, CORMA and the Mining Council underline the need for establishing a clear definition of representativeness of indigenous peoples in order to implement consultations. In this regard, the Committee notes the analysis sent in September 2013 by the Trade Union Federation of Araucanía relating to appeals for protection filed with the Appeals Court in the Ninth Region (the region with the largest indigenous population in the country), which are primarily concerned with the consultation and participation established by the terms of the Convention. According to the aforementioned Federation, the rulings analysed show that recourse to litigation is a tool that paralyzes investment or trade projects for the duration of the non-innovation order pending the outcome of the proceedings in the Supreme Court. The suspension of the project may last at least a year and cause investors to have misgivings. ***The Committee invites the Government, when preparing its next report, to continue communicating with the representative employers' and workers' organizations and consult indigenous peoples' organizations in the country on the measures taken to give effect to the Convention (Parts VII and VIII of the report form). The Government is also invited to include court decisions and documents on pending litigation covering matters relating to the application of the Convention (Part V of the report form).***

***Consultation. New legislation.*** The Government indicates that, between March 2011 and July 2013, dialogue mechanisms were established with representatives of the indigenous peoples with a view to achieving consensus on new legislation concerning consultation and participation. The Committee notes the detailed information on the operation of the Roundtable on Consensus in which the United Nations and the National Human Rights Institute (INDH) were observers. The Government drew the Roundtable's attention to the illustrative report of the INDH "observation mission" of August 2013 concerning the process, content and decisions of the Roundtable on Consensus. The Committee on Consensus held meetings between March and July 2013 and its work culminated in the signature of a protocol setting forth the agreements reached on 17 sections of the draft. The Government indicates that no agreement was reached on the definitions of "directly affected" or on the measures requiring consultation. The Committee notes that the President of the Republic signed Supreme Decree No. 66 on 15 November 2013, thereby approving the regulation "on the indigenous consultation procedure" pursuant to *Article 6(1)(a) and (2)* of the Convention. In response to the request made by indigenous organizations, Supreme Decree No. 124 of 2009 will be abrogated once the new regulation enters into force. ***The Committee requests the Government to provide information to the Office on the entry into force of the new regulation on consultation. The Committee requests the Government to provide information in its next report that will enable it to examine the manner in which the new legislative text ensures the effective consultation of indigenous peoples in all measures which may affect them directly and gives full effect to the corresponding provisions of Articles 6, 15 and 16 of the Convention.***

***Article 7. Participation.*** The Government indicates that it intends to submit proposals to Congress for the establishment of an indigenous peoples' council that represents indigenous peoples at the national level and performs an advisory role in the formulation of policies that affect the peoples concerned. In the dialogue between the indigenous peoples and the Government aimed at reaching consensus on new legislation relating to consultation, it was decided not to adopt regulations on participation. The Committee recalls that the Convention refers to active participation by indigenous peoples, which includes submitting initiatives and proposals for measures, programmes and activities that shape their development and enable them to decide their own priorities [see the *Handbook for ILO Tripartite Constituents* on the Convention, published by the ILO in 2013, page 19]. ***The Committee invites the Government to include in its next report information on how it has been ensured that indigenous peoples participate effectively in decisions that may affect them directly and that full effect is given to the corresponding provisions of Articles 6, 7, 15 and 16 of the Convention.***

***Lands.*** The Government states that, through the 13th land tender in 2012, more than 3,300 hectares of land were purchased and handed over in 2012–13 to 605 families who met the criteria relating to vulnerability and social risk. The Government indicates that each handover of land is accompanied by an agreement providing productive and technical assistance. The Committee recalls that in its previous comments it had observed difficulties in the regularization of property rights claimed by indigenous peoples. ***In view of the persistence of a situation that is not in compliance with the Convention, the Committee reiterates its request to the Government to provide detailed information in its next report on the compliance with the Convention of the procedures for the regularization of land titles and the settlement of disputes. The Committee hopes to be able to examine information showing that account has been taken of the concerns expressed by trade unions and organizations of indigenous peoples in the comments made in 2010, and that the right to land ownership and possession set out in Articles 13 and 14 of the Convention is recognized for indigenous peoples.***

In a direct request, the Committee requests the Government to include information in its next report on other matters related to the self-identification of indigenous peoples, the consultation procedures which have been established in the regulations concerning the Environmental Impact Assessment System (SEIA), natural resources and progress achieved in health and education.

***[The Government is asked to reply in detail to the present comments in 2015.]***

## Colombia

### **Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1991)**

The Committee notes the Government's report received in August 2013 indicating that the most representative employers' and workers' organizations analysed the report in line with the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and they agreed on the importance of the Convention. The National Employers' Association of Colombia (ANDI), the International Organisation of Employers (IOE), the General Confederation of Labour (CGT), and the Single Confederation of Workers (CUT) in conjunction with the Confederation of Workers of Colombia (CTC) submitted observations regarding the application of the Convention. ***The Committee invites the Government, when preparing its next report, to hold consultations with the social partners and indigenous organizations on the subjects referred to in the present observation and to include information on the results achieved by the measures adopted to give effect to each of the provisions of the Convention (Parts VII and VIII of the report form).***

***Protection of Raizal small-scale fishers.*** In a communication received in February 2013, the CGT, on behalf of the Raizal Small-Scale Fishers' Associations and Groups of the Department of San Andrés, Providencia and Santa Catalina, referred to Judgment No. 124 of 19 November 2012 of the International Court of Justice (ICJ) concerning the territorial dispute between Colombia and Nicaragua. According to the Raizal small-scale fishers' organizations of San Andrés and Providencia, the judgment has negative implications for traditional fishing. In a communication received in September 2012, the Government explains that traditional fishing sites are precisely located in the vicinity of areas not affected by the ICJ judgment since it is a question of territorial sea and in this respect the ICJ ruled in favour of Colombia. The Government states that fishers from the islands of San Andrés, Providencia and Santa Catalina can continue fishing in the traditional way. The Government sets out the new options for employment and productivity available to the island fishers, and describes the measures taken to support trade, tourism, education and vocational training, and the Raizal communities' participation in cultural activities. ***The Committee invites the Government to include in its next report information on the impact of the measures taken to ensure that the Raizal communities have received the protection provided for in the Convention.***

***Protection of fundamental rights and physical restitution of collective territories. Afro-Colombian communities of the Curvaradó and Jiguamiandó river basins (department of Chocó).*** The Government indicates in the report received in September 2013 that the Ministry of the Interior coordinates and organizes the process for the restitution of lands of the Jiguamiandó and Curvaradó communities. In January 2013 progress was made with regard to: a self-conducted census of the communities; evictions of unauthorized occupants and new settlers; regularization and expansion of collective territory; prevention and protection measures; inter-institutional coordination; peaceful resolution of disputes; and granting of environmental licences. The Committee recalls that in its observation of 2012 it referred to the documents of the National Indigenous Organization of Colombia (ONIC), which had identified the ethnic groups worst affected by violence. ***The Committee invites the Government to include in its next report information on the implementation of Legislative Decree No. 4633 of December 2011 issuing measures for assistance, care, full reparation and restitution of lands to victims belonging to the Black, Afro-Colombian, Raizal and Palenquero communities. The Committee also invites the Government to continue to take the necessary steps to protect communities that have been subjected to violence, to ensure that all reported occurrences of murders and violence are investigated and that the perpetrators are brought to justice.***

***Articles 6 and 7 of the Convention. Legislation on consultation.*** The Government states that a proposal was submitted in October 2012 for a Bill concerning prior consultation but this was rejected by the indigenous organizations represented on the Standing Committee for Dialogue. In February 2013 a summit of indigenous organizations participating in the Standing Committee for Dialogue was held at which they rejected a statutory law in preference for another instrument, possibly a protocol. The Committee notes that the ANDI and the IOE agreed with the Constitutional Court that the Government is obliged to promote "effective and reasonable forums" for participation in matters which directly affect the indigenous communities. However, also agreeing with the guidance of the Constitutional Court, the employers' organizations consider that if no agreement is reached or any agreement is blocked by an autonomous decision of the peoples consulted, there is no reason to hold back the legislative process or project in matters which are also in the general interest. ***Referring to its previous comments, the Committee: (i) asks the Government to include information in its next report on the steps taken to establish appropriate mechanisms for consultation and participation in conformity with the Convention, taking account of its general observation of 2010; (ii) reiterates its request to the Government to ensure that indigenous peoples are consulted and can participate in an appropriate manner through their representative institutions in the preparation of such mechanisms, so that they can express their views and affect the outcome of the process; and (iii) invites the Government to provide information on any use made of existing consultation and participation mechanisms pending the adoption of appropriate new procedures.***

In a direct request, the Committee asks the Government to include information in its next report on progress made with regard to the protection of human rights and the physical restitution of the territories of Afro-Colombian communities, legislation on consultation, the consultations held by the Directorate for Prior Consultation and the Ministry

of the Environment and Sustainable Development, and new developments in various disputes in the departments of Antioquia, Cauca and Chocó.

*[The Government is asked to reply in detail to the present comments in 2015.]*

## Costa Rica

### **Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1993)**

With regard to the issues it raised in its comments of 2009, the Committee notes the Government's detailed reply in the reports received in July 2010 and September 2013. The Committee also notes the observations made by the Confederation of Workers Rerum Novarum (CTRN) and transmitted to the Government in September 2013. The Committee recalls that the Office transmitted to the Government in September 2012 the observations made by the International Organisation of Employers (IOE). **The Committee invites the Government to include in its next report any comments it deems appropriate on the observations made by the CTRN and the IOE. It also invites the Government, in preparing its next report, to consult the social partners and indigenous organizations on the measures to give effect to the Convention (Parts VII and VIII of the report form).**

*Article 1 of the Convention. Scope of application.* The Committee notes with *interest* the information provided by the Government in the report received in September 2013, on the Xth National Population Census and VIth Housing Census conducted in May and June 2011. The Government indicated that throughout the process there was support and participation from organizations involved in indigenous matters, especially indigenous organizations such as the National Indigenous Committee and the National Indigenous Board. The Committee notes that out of a total population of 4,301,712, the ethnic and racial self-identification results show that 45,228 persons identified themselves as black or as of African descent and 104,103 persons identified themselves as indigenous.

*Articles 2, 6 and 7. Legislation relating to indigenous peoples and on consultation.* In its previous comment, the Committee referred to the Autonomous Development of Indigenous Peoples Bill (Legislative Assembly file No. 14352). According to the information supplied by the Government in the report received in September 2013, the Bill is now before the Legislative Assembly's Social Affairs Committee, a consultation process having been launched in 2006. The CTRN expresses concern at the delay in the enactment of the Bill and considers that if it were adopted, it would remedy the lack of protection that the indigenous peoples of Costa Rica are facing. Referring to the consultation requirement laid down in *Articles 6, 7, 15 and 16* of the Convention, the IOE likewise expresses concern that failure on the part of States to meet the requirement could adversely affect projects implemented by public as well as private enterprises. The Government indicates that in January 2013 a forum for ongoing dialogue was set up, composed of various representatives of indigenous peoples, particularly from the south of Costa Rica. The forum meets once a month, the aim being that the State should take concrete steps towards the effective implementation of international obligations pertaining to indigenous rights. The Government states that the open dialogue under way in the country aims not only to overcome the historical difficulties met by the State in dealing with indigenous peoples, but also to find a formula to govern or regulate the right to prior consultation, which as such has not as yet been regulated in Costa Rica. **The Committee invites the Government to make every effort to secure completion of the legislative process of the Autonomous Development of Indigenous Peoples Bill. It also asks the Government to indicate in its next report the results of the work of the forum for dialogue on the prior consultation requirement. Please include information on any use made of the existing mechanisms for consultation and participation pending the adoption of new and appropriate procedures.**

*Articles 6, 7, 15 and 16. El Diquís (Puntarenas) hydroelectric project.* In reply to the previous comments on the El Diquís hydroelectric project, the Government indicates that it was decided to rectify the procedure so as to secure a suitable consultation process that meets the relevant international standards. As examples of the effects the project is having on indigenous peoples, the Government cites the Térraba area, where the dam and plant affect 792.93 hectares of the territory of the Teribe people; and China Kichá, where the dam affects 97.37 hectares of the territory of the Cabécar people. The Government also mentions Resolution No. 6045-2009, issued in April 2009, in which the Constitutional Chamber of the Supreme Court of Justice found the *amparo* (protection of constitutional rights) action brought against the Costa Rican Electricity Institute (ICE) for breach of *Article 6* of the Convention to be premature on grounds of factual uncertainty because, being in its initial, feasibility stage, the project pertains to the future. The Constitutional Chamber also found that the authority under challenge had made efforts to approach the indigenous inhabitants of the Térraba community despite the fact that there was still no final determination to build the dam. It also pointed out the need to remember that, in the event of a decision to carry out the project, effective participation by the indigenous peoples in the process and in decision making would have to be ensured. The Government indicates that as a result of the decision by the Constitutional Chamber, the ICE sought a suspension of the deadline for submitting the environmental impact study, and this was granted in September 2012 by the National Technical Secretariat for Environment (SETENA). The Committee notes the Government's statement that no relocation of indigenous peoples has been planned; the Government nonetheless indicates that the ICE is aware that should future studies produce different results, the corresponding consultation will have to be held, in accordance with *Article 16* of the Convention. The Government states that the information process launched in Boruca and Curé was halted because of actions by the Agrarian Development Institute (IDA) contesting the constitutionality of the Indigenous Act; this initiative prompted reservations on the part of some of the peoples involved.

The Committee notes that a High-Level Committee was set up and a forum was established for a standing dialogue between representatives of the Government and representatives of the indigenous peoples of Buenos Aires and Pérez Zeledón; and that the ICE is awaiting the outcome of the discussions in that forum. ***The Committee invites the Government to include in its next report information on the activities of the forum for dialogue and the result of the studies conducted in the context of the El Diquís hydroelectric project (Article 7(3) of the Convention).***

In a direct request, the Committee invites the Government in its next report to provide information allowing an assessment of progress made in the area of the lands, natural resources, agrarian programmes and conditions of work of the indigenous workers.

*[The Government is asked to reply in detail to the present comments in 2015.]*

## Ecuador

### ***Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1998)***

The Committee notes that the Government's report due in 2013 was not received. It hopes that the Government will send a report sufficiently in advance to be examined in 2014 and that it will contain full information on the issues raised in this observation and in a direct request.

*Communication from the International Organisation of Employers (IOE).* The Committee recalls that in August 2012, the IOE submitted observations on the application in law and in practice of the consultation requirement established in *Articles 6, 7, 15 and 16 of the Convention*. The IOE's observations were forwarded to the Government in September 2012. The IOE had raised the following issues: the identification of the representative institutions, the definition of indigenous territory and the lack of consensus of indigenous and tribal peoples regarding their internal processes, and the importance of the Committee to be aware of the consequences of these matters in terms of legal security, financial costs and certainty for both public and private investment. The IOE referred to the difficulties, costs and negative impact that the failure by States to comply with the obligation of consultation can have on the projects undertaken by both public and private enterprises. Among other effects the IOE observed that the erroneous application and interpretation of the requirement of prior consultation may lead to a legal obstacle and lead to business difficulties, harm the reputation of enterprises and result in financial costs. The IOE also stated that the difficulties to comply with the obligation of consultation may have an impact on the projects that enterprises may wish to carry out with a view to creating a conducive environment for economic and social development, the creation of decent and productive work and the sustainable development of society as a whole. ***The Committee invites the Government in its next report to make any comments it deems appropriate on the IOE's observations. It asks the Government, in preparing its next report, to consult the social partners and indigenous organizations on the measures taken to give effect to the Convention (Parts VII and VIII of the report form).***

### ***Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)***

*Articles 6, 7 and 15. Consultation and petroleum activities.* The Government stated previously that in its next report it would provide information on the new mechanisms for consultations with the indigenous and Afro-Ecuadorian peoples. It explained that when applications for petroleum concessions are processed in the Ministry of Mines and Petroleum, the indigenous communities that would be affected by the concession are consulted. The Committee noted the alternative report submitted by the Ecuadorian Confederation of Free Trade Union Organizations (CEOSL) on the application of the Convention between 1999 and July 2006, asserting that there were serious problems linked to consultation and participation and petroleum activities. The alternative report referred to the serious problems faced by the Sarayaku people and other serious situations in Block 31 in the province of Orellana and Blocks 18, 23 and 24 in the Ecuadorian Amazon region. As regards Block 24, the Committee recalls that in November 2001 the Governing Body adopted the report of the tripartite committee that examined the representation made by the CEOSL under article 24 of the Constitution (GB.282/14/2, November 2001). ***The Committee invites the Government to report on the action taken on the Governing Body's recommendations set out in paragraph 45 of document GB.282/14/2. It asks the Government to provide in its next report further information allowing an assessment of whether progress has been made in solving the problems referred to in the Governing Body's recommendations concerning the Block 24 case that affected the Shuar people. Referring to its general observation of 2008, the Committee requests the Government to provide information on measures taken in the following areas:***

- (i) including the requirement of prior consultation in the legislation on the exploration and exploitation of natural resources;***
- (ii) engaging in systematic consultation on the legislative and administrative measures referred to in Article 6 of the Convention; and***
- (iii) establishing effective consultation mechanisms that take into account the vision of governments and indigenous and tribal peoples concerning the procedures to be followed.***

*Article 15. Natural resources. The Committee requests the Government to provide information on the legislative or administrative measures that have given effect to article 57 of the Constitution which recognizes and guarantees the rights of indigenous peoples and to provide examples of the provision's application in practice. It also requests the Government to give examples of cases in which indigenous peoples' right to share in profits, as established by the Convention and by article 57 of the Constitution, has been recognized as a result of consultations. Please provide information on the steps taken, in consultation with the peoples concerned, to ensure that full effect is given to the provisions of the Convention in the Cuyabeno-Imuya protected area.*

*Article 18. Protected areas and protection against intrusion. The Committee noted previously that there were problems regarding the effective observance of indigenous rights in protected areas. The Committee invites the Government to indicate in its next report the penalties established in the legislation in force, as required by Article 18 of the Convention, for unauthorized intrusion upon the lands of the peoples concerned or any unlawful use thereof by unauthorized persons. It invites the Government to supply information on the steps taken to prevent such infringements in the Tagaeri-Taromerani protected area and the other protected areas in the country.*

In a direct request, among other matters, the Committee asks for information on the indigenous justice system, the land registry and conditions of employment of indigenous workers.

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Guatemala

### **Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1996)**

*Appropriate consultation and participation mechanism. The Committee notes the information in the report received in August 2013 relating to the meetings facilitated by the Government which took place between a tripartite group and indigenous peoples, in particular in Chichicastenango (department of El Quiché). In June 2013, the indigenous communities of El Quiché department established their position on the consultation process. The Government indicates that the establishment of closer contacts with the indigenous peoples is connected with the Mayan world view in which the time factor is evidence of trust and good faith. The Government recognizes that, according to the Mayan world view, the process must not be rushed and must be undertaken in accordance with the usages and customs of each people. The Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF) states in a communication received in August 2013 that it views positively the efforts that have been made to adopt regulations for implementing the Convention, particularly in relation to the right to consultation. CACIF indicates that it will continue to participate in the tripartite meetings with indigenous leaders, with a view to gathering their views on the form which such consultations should take, so as to contribute to the due application of the Convention. The Committee refers to its observation of 2012, in which it referred to the guidance given by the Constitutional Court concerning the regulation of prior consultation with indigenous peoples through appropriate means. The Committee recalls that the Office is offering assistance to all the parties concerned to facilitate the establishment of appropriate consultation and participation mechanism, as required by Articles 6, 7 and 15 of the Convention. **The Committee understands that a constructive dialogue is developing and requests the Government to include up-to-date information in its next report enabling an evaluation of measures taken:***

- (i) to establish appropriate consultation and participation mechanism in accordance with the Convention, taking into account its general observation of 2010;*
- (ii) to ensure that indigenous peoples are consulted and can participate in an appropriate manner, through their representative institutions, in the establishment of this mechanism in such a way as to be able to express their opinions and influence the final outcome;*
- (iii) to make use of the provisional mechanism for consultation of indigenous peoples, and to apply in practice section 26 of the Act concerning urban and rural development councils; and*
- (iv) to bring the existing legislation, including the Mining Act, into conformity with the Convention.*

*Report of the Human Rights Ombudsman of Guatemala. In September 2013, the Committee received a report that had been produced specially by the Office of the Human Rights Ombudsman of Guatemala, in which it indicates that the situation of indigenous peoples has not improved and expresses concern for the lack of regulation on the right to consultation in the country. **The Committee invites the Government to take account of the aforementioned report when drawing up its next report and to include any comments it may wish to make in this regard.***

*Communication (2012) from the Trade Union Confederation of Guatemala (UNSITRAGUA), the General Confederation of Workers of Guatemala (CGTG) and the Trade Unions' Unity of Guatemala (CUSG). Alternative report (2012) from the Council of Mayan Organizations of Guatemala (COMG). Communication (2013) from the Indigenous and Rural Workers Trade Union Movement of Guatemala (MSICG) and the CGTG. In September 2012, the Office transmitted to the Government a communication from the three trade union confederations concerning the lack of regulation of the right to consultation and the pending legislative amendments relating to mining and environmental health. On 4 December 2012, the Office also received a communication from the Central Confederation of Rural and Urban Workers (CCTCC) submitting an alternative report prepared by the COMG. Among other issues related to the*

application of the Convention, the alternative report referred to the demonstration that took place on 4 October 2012 in Totonicapán, which resulted in the deaths of eight indigenous persons and injuries to another 35. In September 2013, the Office transmitted to the Government the observations from the MSICG concerning the moratorium on the granting of licences for exploration and exploitation of natural resources, and the situation at the San Rafael mine (department of Santa Rosa). The CGTG states that the opportunity afforded by the application of the Convention to national issues is being wasted, particularly as regards the obligation to consult the indigenous peoples. *The Committee requests the Government to provide information on the measures taken to investigate the events that occurred in Totonicapán. The Government is also requested to include detailed information on the measures taken to ensure observance of the Convention in the situations described by the social partners and the indigenous peoples' organizations (Parts VII and VIII of the report form).*

*Project for the construction of a cement plant in the municipality of San Juan Sacatepéquez (department of Guatemala).* The Committee previously examined developments in the situation in the municipality of San Juan Sacatepéquez in 2011 and 2012. The CACIF indicates in the communication received in August 2013 that the enterprise involved in the construction of the cement plant supports the establishment of indigenous institutions that promote development and enable progress to be made, by means of joint actions, in the creation of improved conditions for San Juan. *The Committee invites the Government to provide up-to-date information in its next report on the progress made in good faith negotiations, in accordance with Articles 6, 7 and 15 of the Convention, relating to the abovementioned project. The Committee requests the Government:*

- (i) *to indicate how the solutions proposed for the establishment of a cement factory in San Juan Sacatepéquez have taken into account the interests and priorities of the Maya Kaqchikel communities residing in the area;*
- (ii) *to ensure that the project for the establishment of the cement factory in San Juan Sacatepéquez does not have harmful effects on the health, culture and property of the Maya Kaqchikel communities residing in the area, and draws the Government's attention to Article 7(3) and (4) of the Convention; and*
- (iii) *to take the necessary measures to guarantee the physical integrity of the persons and property affected by the cement factory project, and to ensure that all the parties concerned refrain from any acts of intimidation or violence against persons who do not share their views on the project.*

*Association of indigenous employers.* The Committee notes the information sent by the CACIF concerning the establishment in December 2012 of an association of indigenous employers, which has been proposed to support economic growth embracing identity. *The Committee hopes that future reports will include information on the impact of the setting up of the Association of Indigenous Employers on the application of the Convention.*

*Observing that the Government's report received in August 2013 does not cover the other points examined in the comments made in 2011 and 2012, the Committee requests the Government to include detailed information in its next report on the following matters:*

*Article 1 of the Convention.* *The Committee invites the Government to include in its next report up-to-date disaggregated statistics relating to the communities within the national population which are covered by the Convention.*

*Northern Transversal Strip project. Other territorial development projects.* The Committee previously noted the comments made by the MSICG concerning the lack of consultation of the indigenous peoples concerned in relation to the project for the construction of the Northern Transversal Strip, which involves the construction of a road network of 362 kilometres in the departments of Izabal, Alta Verapaz, El Quiché and Huehuetenango. *With regard to the infrastructure projects, the Committee requests the Government to include information in its next report enabling a detailed examination of the manner in which it has been ensured that indigenous peoples have been consulted on each occasion that legislative or administrative measures, which may affect them directly, have been under consideration (Article 6).*

*Part II. Land.* *The Committee invites the Government to indicate the impact that rural development and agrarian policy measures have had on ensuring recognition for indigenous peoples' rights of ownership and possession over the lands that they traditionally occupy (Article 14). In this regard, the Committee reiterates its request to the Government to provide information on the application in practice of Decree No. 41-2005 and its regulations of 2009 concerning communal lands. The Committee also reiterates its request to the Government to provide up-to-date information on any developments in the land disputes at the estates referred to in its observations of 2011 and 2012.*

*Mining operations at the Marlin mine in San Miguel Ixtahuacán (department of San Marcos).* *With reference to its previous comments, the Committee requests the Government to provide up-to-date information on the consultations and participation in benefits deriving from the exploitation of resources at the Marlin mine (Article 15).*

### **Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)**

The Committee recalls that the report of the tripartite committee adopted by the Governing Body in June 2007 (GB.299/6/1) referred to the lack of prior consultation with regard to the granting of the licence in December 2004 for the exploratory mining of nickel and other minerals in the territory of the Maya Q'eqchi indigenous people in the municipality

of El Estor (department of Izabal). *The Committee reiterates its concern at the fact that the Government has not provided its comments on the application of the Convention with regard to the said mining operations and in relation to the aforementioned indigenous community. The Committee urges the Government once again to provide detailed information on the action taken further to the recommendations of the tripartite committee.*

*Part III. Recruitment and conditions of employment. The Committee requests the Government to provide information on the measures taken to ensure that indigenous workers, including seasonal, casual and migrant workers employed in agriculture, are not subjected to exploitative or abusive recruitment or conditions of work. The Committee requests the Government to provide information on the measures taken by the public authorities, particularly the labour inspectorate, to ensure the effective protection of the labour rights of indigenous peoples (Article 20).*

*Part V. Social security and health. The Committee recalls that the United Nations Committee on the Elimination of Racial Discrimination (CERD) expressed concern at the fact that “the highest maternal and infant mortality figures are in the departments of Alta Verapaz, Huehuetenango, Sololá and Totonicapán, where the indigenous population accounts for between 76 and 100 per cent of the population”. The CERD also expressed concern about the lack of adequate and accessible health services for these communities (CERD/C/GTM/CO/12-13, 16 March 2010, paragraph 13). The Committee requests the Government to take the necessary measures without delay to ensure that the health and maternity programmes of the Guatemalan Social Security Institute are effective in reaching the peoples concerned, so that in practice they are on an equal footing with the rest of the population regarding access to health care. The Committee requests the Government to provide detailed information in this regard.*

*Parts I and VIII. General policy. Administration. Articles 2 and 33. Coordinated and systematic action. The Committee previously noted the establishment of the National Council for Urban and Rural Development, the National Council for the Peace Agreements, the High-Level Commission for Human Rights and Indigenous Peoples, the Inter-Institutional State Coordinating Committee for Indigenous Affairs and the Guatemalan Indigenous Development Fund. However, the Committee observes that the Government does not provide any information on the operation of these bodies. The Committee requests the Government once again to ensure the effective application of Articles 2 and 33 of the Convention by establishing a mechanism, in cooperation with the indigenous and tribal peoples, for developing coordinated and systematic action for the application of the Convention.*

*[The Government is asked to reply in detail to the present comments in 2014.]*

## Honduras

### **Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1995)**

The Committee notes the information provided by the Government for the period ending September 2013. The Government indicates that representatives of all State Secretariats were invited to participate in the preparation of the report, with provision made for dissemination of the replies among the parties concerned. The Committee notes with *interest* the observations and conclusions of the participants in an information workshop on the report which was held on 29 August 2013, with ILO assistance. *The Committee requests the Government to provide information in its next report on the follow-up action taken with respect to the concerns expressed and recommendations made by the indigenous and Afro-Honduran peoples. The Committee invites the Government, when preparing its next report, to consult the social partners and indigenous organizations on the matters raised in the present comments and to include information on the results achieved by the measures taken to give effect to the Convention (Parts VII and VIII of the report form).*

*Articles 6 and 7 of the Convention. Appropriate consultation and participation procedures. The Government indicates that, since the creation of the State Secretariat for the Indigenous and Afro-Honduran Peoples (SEDINAFROH), there is inter-institutional collaboration with the Secretariat for Natural Resources and the Environment (SERNA), the Honduran National Business Council (COHEP) and the ILO regarding the construction of a model for free and informed prior consultation. With reference to its previous comments, the Committee: (i) requests the Government to include information in its next report on the measures taken to establish an appropriate consultation and participation mechanism in conformity with the Convention, taking account of its general observation of 2010; (ii) reiterates its request to the Government to guarantee that the indigenous peoples are consulted and can participate in an appropriate manner through their representative institutions in the formulation of such a mechanism, so that they can express their views and influence the outcome of the process; and (iii) recalling that it observed in its previous comments that flexible consultation procedures existed, invites the Government to provide information on the use that has been made of such mechanisms pending the adoption of appropriate new procedures.*

*Protection of the rights of the Miskito peoples. With reference to its observation of 2012, the Committee notes the information supplied by the Government on the activities of the Inter-Institutional Committee set up to address and prevent the problems of dive-fishing. The Government indicates that a comprehensive annual inspection is carried out at the end of the close season in coordination with other institutions, such as the Directorate-General for the Merchant Marine and the Honduran Naval Forces. In 2013, a total of 34 fishing vessels operating out of La Ceiba, Roatán and Guanaja were inspected, covering a total of 2,285 workers (1,014 divers, 1,014 auxiliaries and 257 crew members). The Committee reiterates the Government to continue providing information on the conditions of work, social security and health of Miskito divers.*

*Mining and hydroelectricity.* The Committee notes the request made in August 2013 by the Lenca Indigenous Movement of Honduras (MILH) that *Article 15(1) and (2)* of the Convention should be complied with whenever hydroelectric or mining projects are undertaken. The MILH also indicates that three communities in Yamaranguila are being removed from the lands they occupy. ***The Committee reiterates the request that it has been making for several years regarding the construction of a hydroelectric dam in the middle reaches of the Patuca river (Patuca Hydroelectric Project) and its impact on the Miskito and Tawahka peoples. The Committee refers to Article 16 of the Convention and requests the Government to indicate in its next report the manner in which it is ensured that the relocation and compensation of the communities referred to by the MILH are carried out under the conditions established by the Convention.***

In a direct request, the Committee invites the Government to continue reporting on the promotion of self-identification and the activities of the State Secretariat for the Indigenous and Afro-Honduran Peoples (SEDINAFROH); land titling processes; consultations required with indigenous peoples in relation to natural resources; conditions of employment, social security and health services.

*[The Government is asked to reply in detail to the present comments in 2015.]*

## India

### **Indigenous and Tribal Populations Convention, 1957 (No. 107) (ratification: 1958)**

*Protection of the Dongria Kondh. Judgment of the Supreme Court of India.* The Committee notes the Government's report received in August 2013 which includes detailed information in relation to the previous comments. The Committee previously noted the situation of the Dongria Kondh indigenous community in relation to a bauxite mining project in Kalahandi and Rayagada Districts of Orissa to be developed in the lands traditionally occupied by them. In this regard, the Committee notes with *interest* the judgement of the Supreme Court of India, dated 18 April 2013, giving certain directions to the State Government and the Ministry of Tribal Affairs for compliance in the context of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The Supreme Court gave specific directions on the process that needs to be followed in ensuring that community claims are settled in accordance with the Forest Rights Act. The judgment emphasizes that the questions relating to religious rights, including the right of worship of the tribal communities in the Niyamgiri Hills, have to be considered and decided by the Gram Sabha (assembly of all men and women in the village above 18 years of age). The Supreme Court laid down a process and a timeline within which claims have to be considered and the decision has to be taken by the Gram Sabha in the presence of senior judicial officers as observers. The Committee notes with *interest* that, on receipt of the judgment, the Ministry of Tribal Affairs gave specific directions to the State Government under section 12 of the Forest Rights Act for complying with the directions of the Supreme Court. ***The Committee invites the Government to continue to take measures to ensure that the rights and interests of the Dongria Kondh, one of the particularly vulnerable tribal groups, are fully respected and guaranteed. The Committee further requests the Government to continue to provide information on the implementation and development measures ordered by the Supreme Court as well as the comprehensive conservation and development plan for the period 2007–12 for the Dongria Kondh prepared by the Scheduled Castes and Scheduled Tribes Development Department of the State, and the measures taken to ensure the involvement of the communities themselves in the design and implementation of such measures.***

*Articles 11–13 of the Convention. Land rights. Legislative developments. Removal of populations.* The Government indicates that since the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, its mandate has been substantially met by awarding more than 1,300,000 land titles to eligible forest dwellers following due process. However, the Ministry of Tribal Affairs noticed that some factors were impeding on the implementation of the Act in letter and in spirit and restricting the flow of intended benefits of this legislation to eligible forest dwellers. Certain procedural lacunae were also observed in the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Rules, 2007, which needed to be addressed. The Ministry accordingly undertook an exercise to arrive at certain steps to facilitate a better implementation of the Act and, based on the said exercise, has issued comprehensive guidelines to the state and union territories governments in July 2012 on the implementation of the Act. The Committee notes that the progress of implementation of the Act is being monitored by the Office of the Prime Minister, Cabinet Secretariat and Planning Commission through monthly progress reports sent by the Ministry of Tribal Affairs. Moreover, it notes that as of 30 June 2013, a total number of 3,256,128 claims have been filed under the Forest Rights Act and 1,308,619 land titles were distributed and 15,700 titles were ready for distribution. A total of 2,827,410 claims have been disposed of (86.83 per cent). ***The Committee invites the Government to continue to provide information on the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, as well as the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Rules, 2007. It also invites the Government to continue to provide information on the number of claims processed and land titles issued, as well as any grievances brought against decisions made under the Act and their outcomes. Please also indicate whether any relocation has taken place in the country, and, in such cases, whether resettlement has been undertaken in compliance with Article 12(2) and (3) of the Convention.***

*The Sardar Sarovar Dam Project.* In reply to its previous observation, the Government indicates that detailed orders and directions have been issued by the Narmada Water Disputes Tribunal regarding the acquisition of land and properties and provision of land, house plots and civic amenities for resettlement and rehabilitation of the persons and families dislocated by the Sardar Sarovar Dam. The Committee notes that 260 families remain to be resettled. **The Committee requests the Government to take the necessary measures for the resettlement, in compliance with Article 12(2) and (3) of the Convention, of the remaining families and to continue to provide information on any developments thereon.**

*Parts III–VI of the Convention. Education, employment, training and health.* The Committee notes the detailed information provided by the Government concerning the education, employment and training measures targeting Scheduled Tribes and other indigenous and tribal communities. The Government reports that the labour force participation rate for Scheduled Tribes was 46 per cent in 2009–10. The Committee notes that the Scheduled Tribes accounted for 17.57 per cent of the total beneficiaries of employment schemes under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA). **The Committee invites the Government to continue to provide updated information on the various measures taken in the areas of education, employment, training, health and other areas covered in Parts III–VI of the Convention, to the benefit of the tribal population, including statistical information on the participation of men and women belonging to tribal groups in education and employment. Please also provide updated information on the implementation and the impact of the government programmes with respect to the rights set out in the Convention.**

The Committee is raising other points, including matters related to the draft National Tribal Policy, in a request addressed directly to the Government.

*[The Government is invited to reply in detail to the present comments in 2015.]*

## Mexico

### **Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1990)**

The Committee notes the comprehensive information provided by the Government in the detailed report received in September 2013, which includes observations from the Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN). The Committee also notes the observations made by the International Organisation of Employers (IOE), which were transmitted to the Government on September 2012. The CONCAMIN indicates that it is important to develop and implement programmes for the various indigenous and tribal groups, and also expresses concern at the confusion that could arise from the requirement to submit any action in relation to infrastructure, economic and social development for the approval of indigenous peoples. The CONCAMIN considers it positive that the Government has provided information on the programmes related to the inclusion of indigenous groups in productive activities in various areas of the country. Similarly, the IOE, referring to the requirement of consultation set out in *Articles 6, 7, 15 and 16 of the Convention*, expresses concern at the negative impact that failure to comply with that requirement can have for States parties in projects carried out by both public and private enterprises. The Committee notes that the National Commission for the Development of Indigenous Peoples (CDI) held over 30 consultations, which served at the federal and state levels as a means for the harmonization of legislation, the formulation of development plans and programmes, the development of public policies, cultural protection and dissemination and the protection of natural resources. In particular, the Government emphasizes the outcome of the consultations held in the states of Guanajuato, Hidalgo and Nueva León. **The Committee refers to its direct request, in which it deals with other aspects relating to consultation, and invites the Government, together with the social partners and indigenous organizations, to continue providing information on the progress achieved in relation to the measures taken to give effect to the Convention (Parts VII and VIII of the report form).**

*Articles 2 and 33. Coordinated and systematic action.* The Committee notes the budgetary resources allocated for the period 2012–13 for the indigenous population and the impact of the programmes and activities carried out by the CDI. The programmes implemented by the CDI, which benefited from greater budgetary allocations during the period 2012–13, were: the Basic Infrastructure Programme for Indigenous Peoples (PIBAI), the Indigenous Regional Funds Programme (PFRI) and the Productive Organization Programme for Indigenous Women (POPMI). During the period 2011–13, the PIBAI benefited 2,321,000 inhabitants through coordination agreements and direct implementation; the PFRI financed 3,433 productive projects, benefiting 31,987 indigenous producers, of whom 53.8 per cent are women; and the POPMI supported 7,696 productive projects, contributing to improving the quality of life of 82,739 indigenous women residing in areas with a high or very high level of marginalization. The Committee also notes with *interest* the inclusion of strategy 2.2.3 in the National Development Plan 2013–18, published in May 2013, which includes three action lines intended to promote the harmonization of the national legal framework in relation to indigenous rights, encourage the participation of indigenous communities and peoples in the planning and management of their own community development, and to promote the economic development of the indigenous peoples and communities. Furthermore, in February 2013, a Dialogue Commission with Indigenous Peoples of Mexico was established within the Secretariat for Governance. **The Committee invites the Government to provide information in its next report on the impact of the programmes and projects implemented to promote the economic, social and cultural rights of indigenous peoples.**

*Please indicate the manner in which the peoples concerned have participated in the development of the programmes and measures implemented.*

**Follow-up to the recommendations of the tripartite committee  
(representation made under article 24 of the Constitution of the ILO)**

*Articles 2, 3 and 7. Sexual and reproductive rights.* In the report of the tripartite committee adopted by the Governing Body in March 2004 (GB.289/17/3), the Government was requested to take measures to ensure that the decision to freely choose definitive contraceptive methods, and to ensure that the persons concerned are fully aware of the definitive nature of such methods of contraception. In the report received in September 2013, the Government indicates that the procedure implemented by the Opportunities Programme of the Mexican Social Security Institute (IMSS) is of informed and shared consent. The operational, political and strategic criteria for the provision of services are principally governed by the Mexican Official Standard on family planning services and the technical guidance of the IMSS on the use of contraceptive methods. The Committee notes the information provided by the Government on the impact of the measures adopted and the programmes implemented in relation to reproductive health. The Committee notes in particular the impact of the programme in the field of maternal health, and particularly the reduction in the maternal mortality rate, which fell from 65.9 to 37.3 per 1,000 live births between 2007 and 2012. In reply to its previous comments, the Government reaffirms the recognition and registration of questions or complaints relating to forced sterilization recorded within the area of competence of the IMSS Opportunities Programme. The Committee also notes with *interest* the Gender Equity Action Programme with the Indigenous Population (PAIGPI), the objectives of which include the full exercise of sexual and reproductive rights. In 2012, the PAIGPI consolidated its initiatives in relation to the Indigenous Women's Forum and developed projects for indigenous women's organizations addressing violence and sexual and reproductive health, which it was estimated were attended by 17,350 women and 2,368 men. **The Committee invites the Government to continue providing information on the manner in which informed consent concerning sexual and reproductive rights has been included in programmes intended for indigenous communities.**

*Article 6. Consultation.* The Committee notes the relevant information provided by the Government concerning the inclusion in state constitutions and legislation of the right of indigenous peoples and communities to consultation and participation. The Committee also notes the recommendations of the final report on the consultation concerning the draft general Bill on consultation in relation to legislation, the purpose of consultation, the principles, the process of consultation and minimum rights. In 2012, the CDI updated the system of indigenous consultation and a consultation protocol was approved by the Advisory Council of the CDI at its XXXIIIrd ordinary session in February 2013. **The Committee invites the Government to provide the Office with a copy of the abovementioned protocol when it is available. The Committee also invites the Government to continue providing information on the various consultation processes conducted in the country at the federal, State and municipal levels. Please also provide information on the progress made in the legislative process of the consultation Bill.**

**Follow-up to the recommendations of the tripartite committee  
(representation made under article 24 of the Constitution of the ILO)**

*Construction of a highway.* **The Committee refers to its previous comments and reiterates its request to the Government to indicate the manner in which the complaints and claims for compensation lodged by indigenous communities in relation to the construction of the Oaxaca–Istmo highway have been resolved (GB.296/5/3, June 2006).**

**Follow-up to the recommendations of the tripartite committee  
(representation made under article 24 of the Constitution of the ILO)**

*Community of San Andrés de Cohamiata.* With reference to developments in the land dispute examined in a representation (GB.272/7/2, June 1998), the Government indicates that it is continuing to pay attention to this agrarian issue, even though the conditions for negotiation between the parties have not been conducive to its final settlement. The Committee notes that the Government will maintain continuous communication so that, in a consensual manner and under respectful and cordial conditions, discussions are maintained until it is finally resolved. **The Committee refers to its previous observations and once again hopes that the parties to the dispute will make efforts to reach a satisfactory solution so as to bring an end to a conflictual situation that has gone on for several decades. The Committee invites the Government to continue providing information on any developments in this respect.**

In a direct request, the Committee examines the application of indigenous customary law, land regularization, the 2012 reforms of the Federal Labour Act, inspections carried out in areas in which indigenous workers work, and progress in relation to multicultural bilingual education.

## **Pakistan**

**Indigenous and Tribal Populations Convention, 1957 (No. 107)  
(ratification: 1960)**

*Article 2 of the Convention. Coordinated and systematic action for the protection of the tribal population.* The Committee notes the Government's report received in August 2013 which includes information in relation to the previous

comments. It also notes the observations made by the Pakistan Workers' Federation (PWF) in a communication dated 30 July 2010, reiterating its comments of 21 September 2008, in which it highlights the need for further action by the Government to promote the welfare of the tribal population which continues to be affected by poverty and unemployment. The Government indicates in its report that it is committed to improving the situation of indigenous peoples. It adds that, however, a major obstacle is the lack of law and order in the tribal areas. The Committee notes the Government's indications that due to unlawful activities of the Taliban, the normal course of development has been hindered as infrastructure, such as schools, hospitals and roads, is being destroyed. The Committee previously noted that the conflict in Federally Administered Tribal Areas (FATA) had severely impacted on the implementation of the FATA Sustainable Development Plan (SDP) 2006–15. The Government indicates that various foreign funded projects are anchored in the FATA Development Programme and the FATA SDP and operate in accordance with the Post-Crisis Needs Assessment (PCNA). An integrated approach is pursued and intended to improve services while also increasing the transparency of the planning process and allowing the population to assert their right to public services. The Government's report cites many national and international partners aiding to implement programmes in the tribal areas, such as staff of hospitals, schools and universities, communities, village elders, Jirgas, politicians, civil society representatives and development cooperation organizations (including the German Society for International Cooperation (GIZ)). ***The Committee hopes that the Government will be able to restore law and order in the tribal areas and invites the Government to provide in its next report detailed information on the results achieved in the implementation of the Sustainable Development Plan in the Federally Administered Tribal Areas. It also reiterates its request for information on the measures taken to apply the Convention to the population concerned in the Provincially Administered Tribal Areas (PATA) of the North-West Frontier Province (NWFP) and of Baluchistan.***

The Committee is raising other points, including matters related to education in the tribal areas and the exploration and exploitation of natural resources, in a request addressed directly to the Government.

## Peru

### ***Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1994)***

The Committee notes the report received from the Government in September 2013 containing detailed information and illustrative additional documentation in reply to the observation made in 2012. The Committee notes the communication received in July 2013 from the General Confederation of Workers of Peru (CGTP) including the 2013 Alternative Report, prepared by seven national and regional indigenous organizations and the Indigenous Peoples Working Group of the National Coordinating Committee for Human Rights. In October 2013 the Government sent its comments in this respect and stated that the alternative report provided a space for reflection and discussion on the rights of indigenous peoples, considering that the institutions presenting the report agreed with the Ministry of Culture on the need to improve procedures for ensuring protection of the rights of indigenous peoples. ***The Committee invites the Government, when preparing its next report, to continue to take account of the views expressed by the social partners and indigenous organizations in order to give further effect to the Convention (Parts VII and VIII of the report form).***

*Article 3 of the Convention. Human rights and fundamental freedoms. Investigation of events in the province of Bagua (Amazonas).* The Government states that the case file relating to the events that occurred in the province of Bagua was referred to the National Criminal Court on 5 October 2012 and that it is providing legal defence for 29 persons involved in the case by means of public defenders for indigenous affairs. The 2013 Alternative Report refers to cases of repressive action against indigenous persons and proceedings against their defenders. ***The Committee invites the Government to indicate the measures taken to ensure that no force or coercion is used in violation of the human rights and fundamental freedoms of indigenous peoples and to avoid criminalizing events involving indigenous peoples. The Government is also requested to provide information on any ongoing judicial proceedings relating to the events in Bagua.***

*Article 6. Consultation.* The Committee notes the ordinances adopted by the regional governments of Amazonas and Loreto concerning the implementation of the right to prior consultation. In its report the Government cites five cases where the need to implement the right to prior consultation was identified. In July and October 2013, the representatives of the Maijuna and Kichwa peoples expressed their agreement with the proposal for the creation of the "Maijuna-Kichwa Regional Conservation Area". PERUPETRO SA, as the sponsoring body, is at the stage of planning prior consultations with indigenous peoples with regard to hydrocarbon plot No. 192 (formerly 1-AB) (department of Loreto). Moreover, the Ministry of Education has prepared draft regulations for the Languages Act and a plan for implementing prior consultation. ***The Committee invites the Government to provide information in its next report on the consultations held by sponsoring bodies and, in particular, on consultations relating to legislative and administrative measures which may directly affect the collective rights of indigenous peoples.***

*Articles 6 and 15. Consultation. Natural resources. Participation in benefits.* The Committee notes that, according to the Ministry of Energy and Mining, the situations which require prior consultation are the granting of operating licences and the authorization to commence mining exploration and exploitation activities. The Directorate-General for Mining received 86 applications for exploration permits and the existence of indigenous peoples was identified in only a small number of them. The Government also points out that the Ministry of Energy and Mining did not

receive any applications for operating licences or authorization to commence mining exploitation activities in which the existence of indigenous peoples had been identified. The Committee notes that the 2013 Alternative Report indicates that regional and local governments whose jurisdiction oversees the exploitation of natural resources that generate various royalties and levies are supposed to allocate funds to farming and native communities located in the areas where natural petroleum resources are being exploited. However, factors such as criteria for the identification of indigenous peoples and low levels of implementation of the budget granted to regional and local governments on the basis of various royalties and levies reduce the impact of these measures on the lives of the indigenous peoples. ***The Committee refers to its direct request and invites the Government to include examples in its next report of projects submitted to the Ministry of Energy and Mining in which the obligation of prior consultation and participation of the peoples concerned in the benefits deriving from such activities has been fulfilled. The Committee invites the Government to indicate the measures adopted at both national and regional levels to ensure that the funds earmarked for indigenous communities have a positive impact on the lives of these peoples.***

***Legislation relating to consultation, participation and cooperation.*** The Committee previously observed that taxation and budgetary rules will not be subject to consultation (section 5(k) of the regulations implementing the Act establishing the right to prior consultation). Also exempt from consultation are any exceptional or temporary state decisions taken to address emergency situations arising from natural or technological disasters (section 5(l) of the regulations) and administrative measures deemed to be supplementary (12th supplementary, transitional and final provision of the regulations). Furthermore, the current legislation does not envisage further legal provisions relating to the machinery for participation and for participation in benefits (fifth and tenth supplementary, transitional and final provisions of the regulations) required by the Convention. The Government reiterates that, since the Convention has constitutional status, national standards must always be interpreted in accordance with the provisions of the Convention. ***Bearing in mind that full effect has not yet been given to the provisions relating to the participation and cooperation of indigenous peoples set out in Article 6(1)(b) and (c), Article 7 and Part II (Lands) of the Convention, the Committee again invites the Government to ensure, in consultation with the indigenous peoples and other parties concerned, that appropriate legislative measures are adopted and that the provisions of the current legislation are revised accordingly.***

In a direct request, the Committee is inviting the Government to continue to provide information on the identification of indigenous peoples, the protection of peoples living in isolation and progress on health and education for indigenous peoples. The Committee also refers to matters still pending in relation to prior consultation and participation in activities related to natural resources and the titling and registration of lands.

***[The Government is asked to reply in detail to the present comments in 2015.]***

## **Bolivarian Republic of Venezuela**

### ***Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2002)***

The Committee notes the information provided by the Government concerning the period ending in September 2013. The Government declares that, in accordance with the strategic objectives laid down in the Plan for the Nation 2013–19, the Ministry of People’s Power for Indigenous Peoples has approved 88 projects and provided 257 dwellings for a total of 1,157 beneficiaries. The Government also highlights the fact that, among other initiatives, the indigenous communities have participated in the discussion process with respect to the Organic Act concerning culture. The Committee notes the observations from the Independent Trade Union Alliance (ASI) concerning the application of the Convention, which were transmitted to the Government in August 2013. The Committee observes that the Government’s report does not cover the other matters referred to in the comments made in 2009 and 2012. ***The Committee therefore requests the Government to provide a report containing detailed replies to the issues raised below.***

***Part I of the Convention. General policy. Article 1. Identification of indigenous or tribal peoples. The Committee invites the Government to indicate in its next report the number of indigenous persons who have received the identity cards provided for in the Organic Act concerning the identification of indigenous persons. Please also include up-to-date, disaggregated statistics relating to the indigenous and tribal communities of the national population covered by the Convention.***

***Articles 2 and 33. Coordinated and systematic action.*** In its report received in August 2013, the Government referred to the strategic objectives laid down in the Plan for the Nation 2013–19 for the Ministry of People’s Power for Indigenous Peoples. ***The Committee invites the Government to include information in its next report enabling an evaluation of the impact of the plans and programmes of the aforementioned Ministry on establishing mechanisms, in cooperation with the indigenous and tribal peoples, for coordinated and systematic action with regard to the application of the Convention.***

***Coordination with other bodies.*** ***The Committee invites the Government to include information in its next report on the activities relating to the Convention undertaken by the special department at the Office of the Ombudsman with competence for the indigenous peoples, the Ministry of the Environment and Natural Resources, and the Standing Committee on Indigenous Peoples at the National Assembly, including materials which illustrate the activities undertaken.***

*Article 3. Human rights and fundamental freedoms. Massacre of members of the Yanomami indigenous people (municipality of Alto Orinoco, State of Amazonas).* The ASI indicates that in August 2012 the Coordinating Committee for Indigenous Organizations of Amazonas (COIAM) reported another massacre of members of the Yanomami indigenous people by illegal miners originating from Brazil. **The Committee requests the Government to include detailed information in its next report on the steps taken to investigate the events affecting the Yanomami communities.**

*Appropriate consultation and participation procedures.* **The Committee invites the Government to include up-to-date information in its next report enabling it to examine the manner in which the effective consultation and participation of the indigenous peoples concerned in measures and decisions which may affect them directly is ensured (Articles 6, 7, 15 and 16).**

*Part II. Land. Articles 13 and 14.* The ASI indicates in the observations transmitted to the Government in August 2013 that there are delays in land demarcation, despite some activity by the National Demarcation Committee and the regional committees. The ASI refers to the COIAM pronouncement of 11 August 2012, which recognizes the efforts of the Regional Demarcation Committee of the State of Amazonas to start examining pending demarcation requests from indigenous peoples in accordance with a schedule approved by the President of the Republic. Nevertheless, COIAM has expressed concern at the way approval of technical reports is going ahead, with pressure on the indigenous peoples and communities and no effective consultation of them, and without any account taken of the proposals from various indigenous peoples to undertake demarcation themselves, resulting in an arbitrary reduction of the self-demarcated area and disputes among the indigenous peoples themselves. **The Committee requests the Government once again to include detailed information in its next report on:**

- (i) the manner in which indigenous representation is ensured in the demarcation procedures;**
- (ii) the lands which are potentially subject to demarcation, disaggregated according to each federative entity inhabited by indigenous communities;**
- (iii) the lands for which demarcation is in progress or completed by December 2013; and**
- (iv) the manner in which the land disputes referred to by the ASI and COIAM in the observations of August 2013 have been resolved.**

*Article 15. Natural resources.* The ASI refers to disputes over mining licences and the construction of mining infrastructure, citing two cases in the State of Bolívar: the eviction in 2011 of members of the Pemón indigenous people from a mine where they were operating; and mercury contamination in El Caura affecting the Yekuana and Sanema communities. **The Committee requests the Government to include information in its next report on the manner in which the application of the Convention is ensured in disputes relating to the exploration and exploitation of natural resources on indigenous lands in the State of Bolívar. The Committee again invites the Government to include detailed information in its report on the manner in which the provisions of the Organic Act concerning indigenous peoples and communities have been applied throughout the country with respect to prior consultation of the indigenous communities concerned, environmental and socio-cultural impact studies, payment of compensation and receipt of benefits by the aforementioned communities.**

*Article 16. Relocation. Situation of the Yukpa communities.* The ASI refers to various situations involving the displacement of indigenous communities, particularly the Yukpa community of Sierra de Perijá (State of Zulia), whose displacement stems from situations arising in their ancestral habitats which are obliging them to flee to the cities. **The Committee invites the Government to include up-to-date information in its next report on the manner in which the application of the Convention is ensured in the case of the Yukpa communities. The Committee requests the Government to include the up-to-date information required in the report form in relation to Articles 16, 17 and 18 of the Convention.**

*Part III. Conditions of employment. Article 20.* **The Committee again requests the Government to supply practical information on the situation of workers belonging to the indigenous peoples, including statistical information relating to the sectors in which they work. Please also specify the measures taken to ensure adequate labour inspection in areas inhabited by indigenous and tribal peoples.**

*Part IV. Vocational training. Articles 21 and 22.* In the report received in August 2013, the Government refers to a “diploma in community development” course at the Bolivarian University of Venezuela (BV), in which members of the indigenous communities of Monagas and Anzoátegui have participated. The ASI points out that in November 2011 the Indigenous University of Venezuela received official recognition. **The Committee invites the Government to include up-to-date information in its next report on special training programmes and methods which have been made available to indigenous peoples with their participation.**

*Part VII. Contacts and cooperation across borders.* **The Committee invites the Government once again to include information in its next report on international agreements adopted to facilitate contact among indigenous and tribal peoples across borders, indicating whether such agreements have made it possible to shed light on, and avoid the recurrence of, situations such as those referred to in the present observation relating to the Yanomami communities.**

**[The Government is asked to reply in detail to the present comments in 2014.]**

## Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 64** (*Burundi*); **Convention No. 107** (*Angola, Belgium, Cuba, Dominican Republic, El Salvador, Ghana, Haiti, India, Malawi, Pakistan, Panama, Syrian Arab Republic, Tunisia*); **Convention No. 169** (*Argentina, Plurinational State of Bolivia, Brazil, Central African Republic, Chile, Colombia, Costa Rica, Denmark: Greenland, Dominica, Ecuador, Fiji, Honduras, Mexico, Nepal, Netherlands, Nicaragua, Peru, Spain*).

## Specific categories of workers

### Sri Lanka

#### **Plantations Convention, 1958 (No. 110) (ratification: 1995)**

*Part VII (Maternity protection), Articles 46–50 of the Convention.* Further to its previous comment, the Committee notes that a study on maternity benefits is under preparation with the technical assistance of the Office. In this connection, the Committee notes that the comments made by the National Trade Union Federation (NTUF) in which reference is made to the discussion concerning the application by Sri Lanka of the Maternity Protection Convention (Revised), 1952 (No. 103), that took place at the 100th Session (2011) of the International Labour Conference, and the Conference Committee on the Application of Standards' conclusions requesting the Government to take "concrete action to advance effectively the solution of these long-standing issues." According to the NTUF, the Government's decision to refer the matter to the steering committee on labour reforms is a mode of procrastination, while plantation workers enjoy substantially lower number of maternity leave days compared to public sector workers. ***The Committee requests the Government to submit any comments it may wish to make in response to the observations of the NTUF.***

The Committee is raising other points in a request addressed directly to the Government.

### Uruguay

#### **Nursing Personnel Convention, 1977 (No. 149) (ratification: 1980)**

*Article 2 of the Convention. National policy for nursing services and nursing personnel.* Further to its previous comment, the Committee notes with **interest** the adoption of Act No. 18.815 of 14 September 2011, which regulates the new legal framework for the exercise of the profession of a qualified nurse and an auxiliary nurse, and which expressly provides in section 8 that the labour conditions of nursing personnel, as regards the work environment, remuneration, work duties and institutional organization, will have to comply with the standards set out in the Convention and the Nursing Personnel Recommendation, 1977 (No. 157). The Committee also notes that under section 3 of the Act, the specific duration of studies and curriculum requirements for the public and private schools delivering nursing education and training will be established by the competent authorities. Furthermore, the Committee notes the Government's information concerning the annual salary adjustments for nursing personnel in both the public and private sectors. ***Noting that the structural reforms in health care initiated in 2008 are still ongoing, the Committee would appreciate receiving copies of any texts implementing Act No. 18.815, in particular regulations setting out the requirements regarding nursing education and training or the requirements for the practice of nursing. The Committee would also be interested in receiving statistical data, if available, on the evolution of remuneration levels of nursing personnel in recent years.***

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. 110** (Côte d'Ivoire, Cuba, Ecuador, Guatemala, Mexico, Nicaragua, Panama, Philippines, Sri Lanka, Uruguay); **Convention No. 149** (Azerbaijan, Bangladesh, Congo, Fiji, Ghana, Guatemala, Guinea, Guyana, Iraq, Jamaica, Kenya, Kyrgyzstan, Latvia, Lithuania, Malawi, Malta, Poland, Portugal, Seychelles, Tajikistan, United Republic of Tanzania, Ukraine, Uruguay, Bolivarian Republic of Venezuela, Zambia); **Convention No. 172** (Cyprus, Dominican Republic, Fiji, Guyana, Iraq, Ireland, Lebanon, Mexico, Uruguay); **Convention No. 177** (Albania, Bulgaria, Netherlands).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 149** (Belgium, Denmark, Finland, Norway, Philippines); **Convention No. 172** (Austria, Switzerland); **Convention No. 177** (Finland).



## **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)**

### **Albania**

*Failure to submit. The Committee invites the Government to report on the submission to the Albanian Parliament of the remaining instruments adopted by the Conference at its 82nd Session (the Protocol of 1995 to the Labour Inspection Convention, 1947), 90th Session (Recommendations Nos 193 and 194), and all the instruments adopted at the 78th, 86th, 89th, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions.*

### **Angola**

*Serious failure to submit. The Committee urges the Government, as did the Conference Committee, to provide the required information on the submission to the National Assembly of the instruments adopted at the 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions of the Conference (2003–12).* The Committee also recalls that the Government is requested to provide information on the submission to the National Assembly of the Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992 (No. 180) (79th Session, 1992), the 1995 Protocol to the Labour Inspection Convention, 1947 (82nd Session, 1995), and the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189) (86th Session, 1998).

### **Antigua and Barbuda**

The Committee notes the information provided by the Government in August 2013 indicating that the Social Protection Floors Recommendation, 2012 (No. 202), was submitted to the relevant competent authority for the necessary action. It recalls the indications provided by the Government in 2012 indicating that Conventions, Recommendations and Protocols adopted by the Conference from the 83rd to the 101st Sessions (1996–2012) were submitted to the competent authority. The Government also indicated that the Domestic Workers Convention, 2011 (No. 189), and its corresponding Recommendation, 2011 (No. 201), were submitted to the competent authority on 11 July 2012 by way of a circulation note. *The Committee invites the Government to confirm that all the abovementioned instruments were submitted to the Parliament of Antigua and Barbuda. It further invites the Government to specify the dates on which the instruments adopted from the 83rd to the 101st Sessions of the Conference were submitted to the Parliament of Antigua and Barbuda.*

## Azerbaijan

The Committee *regrets* that the Government has not replied to its previous comments. *The Committee refers to its previous observations and once again requests the Government to provide information with regard to the submission to the Milli Mejlis (National Assembly) of Recommendation No. 180 (79th Session), and the instruments adopted at the 83rd, 84th, 89th, 90th, 94th, 95th, 96th, 99th, 100th and 101st Sessions of the Conference. Please also indicate the date of submission of Recommendation No. 195 to the National Assembly.*

## Bahamas

The Committee *regrets* that the Government has not replied to its previous comments. *It once again asks the Government to supply information on the submission to Parliament of the 20 instruments adopted by the Conference at 11 sessions held between 1997 and 2012 (85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th and 101st Sessions).*

## Bahrain

*Serious failure to submit.* The Committee notes the information provided by the Government in October 2013, indicating that the Social Protection Floors Recommendation, 2012 (No. 202), was submitted to the competent authority. It recalls the information provided by the Government in August 2012 indicating that the national practice requires, by virtue of the Constitution, the submission of international Conventions to the Council of Ministers which is the body responsible for the formulation of the State's public policy and following up on its implementation (section 47(a) of the Constitution of Bahrain). The Committee recalls that the Government indicated in September 2011 that, with the beginning of parliamentary life in 2002 and the establishment of a National Assembly – composed of the Consultative Council (*Majlis Al-Shura*) and the Council of Representatives (*Majlis al-Nuwab*), there was a need to establish a new mechanism to submit the instruments adopted by the Conference to the National Assembly. The Committee notes that, by virtue of article 19, paragraphs 5 and 6, of the ILO Constitution, each of the Members of the Organization undertakes to submit the instruments adopted by the Conference to the authority or authorities within whose competence the matter lies for the enactment of legislation or other action. In the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, the Governing Body indicated that the competent authority is the authority which, under the Constitution of each State, has power to legislate or to take other action in order to implement Conventions and Recommendations. The competent national authority should normally be the legislature. Even in the case of instruments not requiring action in the form of legislation, it would be desirable to ensure that the purpose of submission, which is also to bring Conventions and Recommendations to the knowledge of the public, is fully met by submitting these instruments also to the parliamentary body. *The Committee invites the Government to indicate the date on which Recommendation No. 202 was submitted to the National Assembly. In addition, the Committee urges the Government, as did the Conference Committee, to provide full information on the submission to the National Assembly of the 18 instruments adopted by the Conference at nine sessions held between 2000 and 2011.*

## Bangladesh

*Serious failure to submit.* The Committee notes with *interest* the information provided by the Government in September 2013 indicating that the 37 instruments adopted by the Conference from 1990 to 2012 were examined by the Tripartite Consultative Committee (TCC). The Government also indicated that the TCC has recommended the ratification of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and the Maritime Labour Convention, 2006 (MLC, 2006), and that necessary steps are being taken to submit the two Conventions to the Cabinet for a decision on ratification. *The Committee recalls that the Conference Committee urged the Government in June 2013, to take steps without delay to submit the 37 pending instruments to Parliament. In view of the progress made by the TCC, the Committee hopes that the Government will soon complete the required steps to submit the pending instruments to Parliament. It therefore invites the Government to provide information on the submission to Parliament of the instruments adopted at the 77th Session (Convention No. 170 and Recommendation No. 177), the 79th Session (Convention No. 173 and Recommendation No. 180), the 85th Session (Recommendation No. 188), as well as all the instruments adopted at the 81st, 82nd, 83rd, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions.*

## Belize

*Serious failure to submit.* *The Committee refers to its previous observations and asks the Government to provide information on the submission to the National Assembly of the 44 instruments adopted by the Conference at its 84th (Maritime) Session (October 1996), and during the other 20 sessions held between 1990 and 2012. The Committee, in the same way as the Conference Committee, urges the Government to take steps without delay to submit the 44 pending instruments to the National Assembly.*

## Plurinational State of Bolivia

The Committee notes with *interest* that the ratification of Convention No. 189 was registered on 15 April 2013. It also recalls that on 26 April 2005 the international labour Conventions adopted by the Conference between 1990 and 2003 were submitted to the National Congress. ***The Committee requests the Government to report the decision taken by the Plurinational Legislative Assembly in relation to the Conventions submitted to it in April 2005. The Committee once again requests the Government to provide all relevant information on the submission to the Plurinational Legislative Assembly of the Conventions, Recommendations and Protocols adopted by the Conference between 1990 and 2012.***

## Brazil

*Failure to submit.* The Committee *regrets* that the Government has not replied to its previous observations. The Committee recalls that Conventions Nos 128, 129, 130, 149, 150, 156 and 157 and the other instruments adopted at the 52nd, 78th, 79th, 81st, 82nd (1995 Protocol), 83rd, 84th (Conventions Nos 179 and 180; 1996 Protocol, Recommendations Nos 186 and 187), 85th, 86th, 88th, 90th, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions of the Conference are still waiting to be submitted to the National Congress. ***The Committee requests the Government to report on the measures taken to submit the 41 pending instruments to the National Congress.*** In this regard, the Committee again recalls that the Tripartite Committee on International Relations (CTRI) requested the Ministry of External Relations in March 2006 to take the necessary steps to submit to the National Congress 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).

## Burundi

The Committee *regrets* that the Government has not replied to its previous comments. ***The Committee requests the Government to supply information on the submission to the National Assembly of the instruments adopted at the 94th, 96th, 99th, 100th and 101st Sessions of the Conference.***

## Chile

The Committee *regrets* that the Government has not replied to its previous observations. It recalls that the ratification of Convention No. 187 was registered in April 2011. The Government indicated its intention to examine the failure to submit to the National Congress the instruments adopted at the Conference. ***The Committee requests the Government to provide the information required on the submission to the National Congress of the instruments adopted at 15 sessions of the Conference held between 1996 and 2012 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th and 101st Sessions).***

## Comoros

*Serious failure to submit.* The Committee *regrets* that the Government has not replied to its previous comments. ***The Committee, in the same way as the Conference Committee, urges the Government to submit the 40 instruments adopted by the Conference at the 19 sessions held between 1992 and 2012 to the Assembly of the Union of Comoros.***

## Congo

*Serious failure to submit.* In its previous observations, the Committee noted that the Ministry of Labour and the Secretary-General of the Government had agreed to submit to the National Assembly, every three months, a certain number of Conventions with a view to their ratification. The Committee noted the bills ratifying Conventions Nos 184, 188 and 189. ***The Committee, in the same way as the Conference Committee, invites the Government to complete the procedure of the submission of the 90 Conventions, Recommendations and Protocols not yet submitted to the National Assembly.*** It recalls that these consist of the instruments adopted by the Conference at its 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 and 75th (Recommendations Nos 175 and 176) Sessions, as well as the instruments adopted at 21 sessions of the Conference held between 1990 and 2012.

## Côte d'Ivoire

*Serious failure to submit.* The Committee *regrets* that the Government has not replied to its previous observations. It recalls the Government's communication received in October 2011 indicating that the Conventions and Recommendations adopted by the Conference between 1995 and 2010 were submitted to the Economic and Social Council on 25 August 2011. ***The Committee once again invites the Government, in the same way as the Conference Committee, to complete the steps to submit to the National Assembly the 31 instruments (Conventions, Recommendations and Protocols) adopted by the Conference at the 15 sessions held between June 1996 and 2012 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions).***

## Croatia

The Committee recalls the information provided by the Government in 2011 indicating that the reports and translations of the majority of the instruments adopted between 1998 and 2011 have been prepared, but due to parliamentary elections, the matter has not yet been included in the agenda of the Croatian Parliament. ***The Committee requests the Government to take appropriate measures in order to ensure that the 18 remaining instruments adopted by the Conference at ten sessions held between 1998 and 2012 (86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th and 101st) are submitted to the Croatian Parliament.***

## Democratic Republic of the Congo

*Serious failure to submit.* The Committee notes the Government's statement included in its report on the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), received in November 2013, indicating that it undertakes to provide the relevant information on the effective submission to Parliament of the 28 instruments adopted at 13 sessions of the Conference (1996–2010). ***The Committee, in the same way as the Conference Committee, urges the Government to provide the relevant information on the effective submission to Parliament of the 31 instruments adopted at the 15 sessions of the Conference held between 1996 and 2012.***

## Djibouti

*Serious failure to submit.* The Committee notes with *serious concern* that the failure of submission by Djibouti concerns the instruments adopted at the 29 sessions of the Conference held between 1980 and 2012. ***The Committee, in the same way as the Conference Committee, requests the Government to make every effort in a tripartite framework to ensure that it is in a position in the near future to provide the required information on the submission to the National Assembly of the 65 instruments adopted at the 29 sessions of the Conference held between 1980 and 2012 (66th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions).***

## Dominica

*Serious failure to submit.* The Committee *regrets* that the Government has not replied to its previous observations. ***In the same way as the Conference Committee, the Committee requests the Government to provide information on the submission of the 38 instruments adopted by the Conference during 18 sessions held between 1993 and 2012 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions) to the House of Assembly.***

## El Salvador

*Serious failure to submit.* The Committee *regrets* that the Government has not replied to its previous observations. ***The Committee requests the Government to provide information on the submission to the Congress of the Republic of the remaining instruments adopted at the 63rd (Convention No. 148 and Recommendations Nos 156 and 157), 67th (Convention No. 154 and Recommendation No. 163), 69th (Recommendation No. 167) and 90th (Recommendations Nos 193 and 194) Sessions. In the same way as the Conference Committee, the Committee also urges the Government to submit to the Congress of the Republic the instruments adopted at 20 sessions of the Conference held between October 1976 and June 2012.***

## Equatorial Guinea

*Serious failure to submit.* The Committee recalls the communication dated 9 May 2008 in which the Ministry of Labour and Social Security requested the Head of Government to proceed with the submission to the House of People's Representatives of the instruments adopted by the Conference at 13 sessions held between 1993 and 2006. ***The Committee once again asks the Government to provide the other relevant information on compliance with the obligation of submission, and particularly the date on which the instruments adopted between 1993 and 2006 were in fact submitted***

to the House of People's Representatives. In the same way as the Conference Committee, the Committee also urges the Government to report on the submission to the House of People's Representatives of the instruments adopted by the Conference at its 99th, 100th and 101st Sessions (2010–12).

## Fiji

The Committee notes with *interest* that the ratification of Convention Nos 142, 181 and the Maritime Labour Convention, 2006 (MLC, 2006), was registered in January 2013. It further recalls the information provided by the Government in May 2012 indicating that the Cabinet has examined Recommendations Nos 188, 189, 193 and 194. The Government again reiterated that it is committed to adopt a new Constitution by 2013 and to hold general elections in 2014. The Committee thus notes that the Government will be able to submit the instruments adopted by the Conference only after the establishment of a Parliament. *The Committee therefore requests information about any developments in regard to the submission to Parliament of the instruments adopted by the Conference at the corresponding sessions held between 1996 and 2012, as required by article 19 of the ILO Constitution.*

## Gabon

The Committee recalls the information received in September 2012 on the measures taken by the Government to submit the Convention and the Recommendations adopted by the Conference at the 100th and 101st Sessions. *The Committee invites the Government to provide information concerning the submission to Parliament of the other Conventions, Recommendations and Protocols that were adopted at the 82nd, 83rd, 85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th and 101st Sessions of the Conference.*

## Georgia

*Submission to the Parliament of Georgia.* The Committee notes with *interest* the communication dated 25 June 2013 by means of which the Ministry of Labour, Health and Social Affairs of Georgia submitted to the President of the Parliament of Georgia the instruments adopted by the Conference at 15 sessions held between 1993 and 2012. *The Committee welcomes this progress and hopes that the Government will regularly communicate the required information on the submission to the Parliament of Georgia of the instrument adopted by the Conference.*

## Grenada

The Committee recalls that in September 2008 the Government reported that, following Cabinet Conclusion No. 486 dated 12 March 2007, the Cabinet endorsed a list of Conventions and Recommendations. The Office of the Houses of Parliament had communicated to the Department of Labour an apparent delay in the process of the information submitted by Cabinet. *The Committee requests the Government to communicate the date at which the instruments adopted by the Conference between 1994 and 2006 were submitted and the decisions taken by the Parliament of Grenada on the instruments submitted. It also asks the Government to provide information on the submission to the Parliament of Grenada of the instruments adopted at the 96th, 99th, 100th and 101st Sessions of the Conference.*

## Guinea

*Serious failure to submit.* The Committee *regrets* that the Government has not replied to its previous observations. *In the same way as the Conference Committee, the Committee urges the Government to provide the information requested regarding the submission to the National Assembly of the 29 instruments adopted at 14 sessions held by the Conference between October 1996 and June 2012 (84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions).*

## Guinea-Bissau

The Committee *regrets* that the Government has not replied to its previous comments. The Committee recalls the communication received from the Government in August 2011 indicating that the ratification of the Maritime Labour Convention, 2006 (MLC, 2006), has been approved by the Council of Ministers and is pending tabling in the National People's Assembly. The Government also intended to request support from the ILO Subregional Office in Dakar in order to conclude the process of submission of the pending instruments adopted by the Conference. *The Committee once again expresses its hope that the Government will soon be in a position to report that the instruments adopted by the Conference at its 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th and 101st Sessions were submitted to the National People's Assembly.*

## Haiti

*Serious failure to submit. The Committee, in the same way as the Conference Committee, hopes that the Government will make every effort in the near future to be in a position to announce the submission to the National Assembly of the following instruments:*

- (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) *the instruments adopted at 22 sessions of the Conference held between 1989 and 2012.*

## Iraq

*Serious failure to submit. The Committee notes the information provided by the Government in October 2013 indicating that consultations with the social partners are ongoing with respect to the examination of the Conventions, Recommendations and Protocols which had been adopted by the Conference from 2000 to 2012. The Government also indicates that the aim of such consultations is to update Iraq's national legislation in accordance with international labour standards, as the country is undergoing an economic, legislative and social phase of transition. In the same way as the Conference Committee, the Committee hopes that the Government will soon be in a position to provide the relevant information on the submission to the Council of Representatives established under the 2005 Iraqi Constitution of the Conventions, Recommendations and Protocols adopted by the Conference from 2000 to 2012.*

## Ireland

The Committee recalls that the instruments adopted by the Conference at its 100th Session were submitted to the Irish Parliament Committee on Jobs, Enterprise and Innovation on 14 June 2012. *The Committee refers to its previous observations and it urges the Government to provide information on the submission to the Oireachtas (Parliament) of the instruments adopted by the Conference at ten sessions held between 2000 and 2012 (88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th and 101st Sessions).*

## Jamaica

*Failure to submit. The Committee again expresses its regret that the Government has not replied to its previous comments. The Committee invites the Government to provide the relevant information regarding the submission to Parliament of the instruments adopted by the Conference at its 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions (2004–12).*

## Jordan

*Failure to submit. The Committee notes the information provided by the Government in August 2013 indicating that the Ministry of Labour will refer the instruments adopted by the Conference between 2004 and 2012 to the Tripartite Committee for Labour Affairs and that this national tripartite committee might formulate recommendations in their regard. The Government also indicates that it will continue to report on the steps taken to submit the instruments adopted to the competent authorities in order to complete the constitutional procedures. The Committee expresses once again its hope that the Government will soon submit the instruments adopted by the Conference between 2004 and 2012 (93rd, 94th, 95th, 96th, 99th, 100th and 101st Sessions) to the National Assembly (Majlis Al-Ummah).*

## Kazakhstan

*The Committee refers to its previous observations and asks the Government to supply the requested information on the submission to Parliament of the 33 instruments still pending submission which were adopted by the Conference between 1993 and 2012. It urges the Government to take steps without delay to submit the pending instruments to Parliament.*

## Kiribati

*Failure to submit. The Committee invites the Government to submit to Parliament the other 18 instruments adopted by the Conference at ten sessions held between 2000 and 2012 (88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th and 101st Sessions).*

## Kuwait

The Committee notes the information provided by the Government in September 2013 indicating that all the instruments adopted by the Conference are submitted by the competent minister to the Council of Ministers, who in turn submits them to the National Assembly (*Majlis Al-Ummah*) as soon as the Conference ends. The Committee also notes the Government's intention to consult with the social partners on the possibility of ratifying Conventions before their submission to the National Assembly. ***The Committee welcomes this approach and invites the Government to indicate the date of submission of the instruments adopted by the Conference at its 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions to the National Assembly (Majlis Al-Ummah). It also refers to its previous comments and invites, once again, the Government to specify the date of submission to the National Assembly of the instruments adopted at the 77th Session (1990: Conventions Nos 170 and 171, Recommendations Nos 177 and 178, and the Protocol of 1990), 80th Session (1993: Recommendation No. 181), 86th Session (1998: Recommendation No. 189) and 89th Session (2001: Convention No. 184 and Recommendation No. 192) of the Conference.***

## Kyrgyzstan

***Serious failure to submit.*** The Committee notes the detailed information communicated by the Government in November 2013 on the measures taken to give effect to the Social Protection Floors Recommendation, 2012 (No. 202). ***The Committee invites the Government to provide the corresponding information regarding the submission of Recommendation No. 202 to the Supreme Council (Jogorku Kenesh).*** In this respect, the Committee refers to the comments that have been formulated since 1994, and recalls that, under article 19 of the ILO Constitution, 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". In 2005, the Governing Body of the International Labour Office adopted a Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, which requires further information on this constitutional obligation of submission. The Committee recalls that the Government has not communicated information on the submission to the competent authorities of instruments adopted by the Conference at 18 sessions held between 1992 and 2011. ***The Committee therefore invites the Government to provide the information requested by the questionnaire included in the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, more specifically the date on which the instruments were submitted and any proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted.***

***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.***

## Liberia

***ILO technical assistance.*** The Committee recalls the Government's communication requesting technical assistance in this field received in May 2012. ***In the same way as the Conference Committee, the Committee expresses again its hope that the Government will soon be in a position to submit to the National Legislature the 19 remaining instruments adopted by the Conference between 2000 and 2012, as well as the 1990 and 1995 Protocols.***

## Libya

***Serious failure to submit.*** The Committee recalls the Government's communication dated 30 August 2012 indicating the difficult conditions experienced by the country under the previous regime and the current process intended to establish a democracy governed by justice, equality and the rule of law. It also recalls the commitment of the new authorities to comply with the obligations set out in the ILO Constitution. ***The Committee, in the same way as the Conference Committee, urges the Government to provide the information required on the submission to the competent authorities, within the meaning of article 19, paragraphs 5 and 6, of the ILO Constitution, of the Conventions, Recommendations and Protocols adopted by the Conference at 15 sessions held between 1996 and 2012 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions).***

## Madagascar

The Committee notes the information provided by the Government in October 2013 indicating that the Domestic Workers Convention, 2011 (No. 189), and its accompanying Recommendation, 2011 (No. 201), were submitted to the Superior Council of Transition (Senate) and the Congress of Transition (National Assembly) on 7 July 2013. ***The Committee invites the Government to provide relevant information on the submission to the Transitional Parliament (Parliament) of the 12 instruments adopted by the Conference between 2002 and 2012.***

## Mali

*Failure to submit.* **The Committee requests the Government to provide the relevant information concerning the submission to the National Assembly of the Protocols of 1996 and 2002, as well as of the instruments adopted at the 86th, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions of the Conference.**

## Mauritania

*Failure to submit.* In its previous comments, the Committee noted the communication of 28 September 2008 by which the Ministry of Employment calls upon the ministry responsible for communications and relations with Parliament to bring to Parliament's attention the Conventions and Recommendations adopted by the Conference at its 81st, 92nd and 96th Sessions. **The Committee again invites the Government to provide the information required on the submission to the National Assembly of Recommendations Nos 182 (81st Session, 1994) and 195 (92nd Session, 2004), the Protocols of 1995 (82nd Session) and 1996 (84th Session), and the instruments adopted at the 94th, 96th, 99th, 100th and 101st Sessions of the Conference.**

## Republic of Moldova

**The Committee again requests the Government to supply information on the submission to Parliament of the instruments adopted by the Conference at its 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th and 101st Sessions.**

## Mozambique

*Serious failure to submit.* The Committee **regrets** that the Government has not replied to its previous observations. **The Committee, in the same way as the Conference Committee, asks the Government to provide the relevant information on the submission to the Assembly of the Republic of the 31 instruments adopted by the Conference at the 15 sessions held between 1996 and 2012.**

## Niger

The Committee notes the communication from the Government received in March 2013 forwarding reports preparatory to the submission of Conventions, Recommendations and Protocols adopted by the Conference at its 83rd, 84th, 85th, 86th, 89th, 90th, 92nd, 95th, 96th, 99th and 101st Sessions. **The Committee invites the Government to indicate the date of submission to the National Assembly of the instruments referred to above. It hopes that the Government will be in a position to complete procedures for the submission to the National Assembly of the 27 instruments adopted by the Conference at 14 sessions held between 1996 and 2012.**

## Pakistan

*Serious failure to submit.* The Committee notes the information provided by the Government in August 2013 indicating that the submission process has started but it could not keep pace due to the general elections and changes in government and Parliament. **The Committee therefore again invites the Government to complete the procedure in order to be in a position to submit to Parliament (Majlis-e-Shoura) the instruments adopted by the Conference at 16 sessions held between 1994 and 2012 (81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions). The Committee, in the same way as the Conference Committee, urges the Government to take steps without delay to submit the 35 pending instruments to Parliament.**

## Papua New Guinea

*Serious failure to submit.* The Committee recalls the information supplied by the Government in June 2012 indicating that there had been progress in the initial preparation for the submission of the 18 instruments pending, but given the large number of instruments that had to be submitted to the competent authorities further consultations should take place. **In the same way as the Conference Committee, the Committee urges the Government to comply with this constitutional obligation and to submit without delay to the National Assembly the 19 instruments adopted by the Conference at 11 sessions held between 2000 and 2012.**

## Peru

The Committee notes with **interest** that the instruments adopted by the Conference between 2002 and 2012 were submitted to the Congress of the Republic on 21 October 2013. **The Committee welcomes this process and invites the Government to continue to regularly provide the required information on the obligation to submit the instruments adopted by the Conference to the Congress of the Republic.**

## Rwanda

*Serious failure to submit.* The Committee recalls the information provided in the communication received in May 2012 indicating the Government's intention to take measures so that Conventions, Recommendations and Protocols are submitted to Parliament. **The Committee asks the Government to report on the submission to the National Assembly of the Conventions, Recommendations and Protocols adopted by the Conference at 17 sessions held between 1993 and 2012 (80th, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions).** **The Committee, in the same way as the Conference Committee, urges the Government to take steps without delay to submit the 36 pending instruments to the National Assembly.**

## Saint Kitts and Nevis

*Submission to the National Assembly.* The Committee recalls the Government's communication, received in August 2012, indicating that the instruments adopted by the Conference were submitted to the Cabinet and that an official document will be sent to the ILO in the near future. It further recalls that the competent national authority should normally be the legislature, that is, in the case of Saint Kitts and Nevis, the National Assembly. **The Committee again invites the Government to complete the submission procedure and provide the required information on the submission to the National Assembly of the instruments adopted by the Conference at 13 sessions held between 1996 and 2012 (83rd, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th and 101st Sessions).**

## Saint Lucia

*Serious failure to submit.* The Committee recalls the brief communication submitted by the Government in August 2012 indicating that the instruments will be provided to the new Minister for Labour for onward submission. The Committee 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 the remaining Conventions, Recommendations and Protocols adopted by the Conference from 1980 to 2012 (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, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions). **The Committee, in the same way as the Conference Committee, urges the Government to take the necessary measures to ensure full compliance with the constitutional obligation to submit.**

## Saint Vincent and the Grenadines

The Committee recalls that, under the 1979 Constitution of Saint Vincent and the Grenadines, the Cabinet is the executive authority which has the responsibility for making final decisions on ratification and for determining any matter that is brought before the House of Assembly for legislative action. **The Committee again asks the Government to fulfil its obligations under article 19, paragraphs 5 and 6, of the ILO Constitution by submitting to the House of Assembly the 25 instruments (Conventions, Recommendations and Protocols) adopted by the Conference at 13 sessions held from 1995 to 2012 (82nd, 83rd, 85th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th and 101st Sessions).**

## Samoa

The Committee again notes that, as of 7 March 2005, the Independent State of Samoa became a Member of the Organization. In accordance with article 19, paragraphs 5(a) and 6(a), of the ILO Constitution, the Office communicated to the Government the text of the Conventions and Recommendations adopted by the Conference at its 94th, 95th, 96th, 99th, 100th and 101st Sessions held between 2006 and 2012. **The Committee requests the Government to provide information on the submission of these instruments to the Legislative Assembly.** It recalls that the Government may request the technical assistance of the Office, if it so wishes, to help in achieving compliance with its obligations under article 19 of the Constitution relating to the submission of the instruments adopted by the Conference to the Legislative Assembly.

## Sao Tome and Principe

*Serious failure to submit.* The Committee **regrets** that the Government has not replied to its previous observation. The Committee recalls that the Government has not provided the required information on the submission to the competent authorities of 45 instruments adopted by the Conference between 1990 and 2012 (77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions). **The Committee, in the same way as the Conference Committee, urges the Government to take steps without delay to fulfil the constitutional obligation of submission and recalls that the ILO is available to provide the necessary technical assistance to give effect to this essential obligation.**

## Seychelles

*Serious failure to submit.* The Committee notes the detailed statement made by the Government representative at the Conference Committee in June 2013. It notes that the failure to submit instruments to the National Assembly remained a challenge for the Government. The Government, however, intends to submit the adopted instruments to the National Assembly as soon as possible. The Ministry of Labour and Human Resources Development has received additional staff members and it has completed an online training on international labour standards and reporting. The Committee also notes that the Government received ILO technical assistance through a national tripartite workshop on international labour standards in 2012. It further notes that the Government was examining the possibility of submitting to the National Assembly six instruments every year in order to clear the backlog, and in this regard the focus has been placed on the Maritime Labour Convention, 2006 (MLC, 2006), the Work in Fishing Convention, 2007 (No. 188), and the HIV and AIDS Recommendation, 2010 (No. 200). The Committee also notes that the MLC, 2006, was submitted to the Cabinet of Ministers for ratification and will be submitted to the National Assembly. ***The Committee welcomes this approach and invites the Government to complete the submission procedure. In the same way as the Conference Committee, the Committee urges the Government to comply with this constitutional obligation and to quickly submit to the National Assembly the instruments adopted by the Conference at ten sessions held between 2001 and 2012.***

## Sierra Leone

*Serious failure to submit.* The Committee notes with *serious concern* that the Government has not replied to its previous comments. ***The Committee asks the Government to report on the submission to Parliament of the instruments adopted by the Conference in October 1976 (Convention No. 146 and Recommendation No. 154, adopted at the 62nd Session) and the instruments adopted between 1977 and 2012. The Committee, in the same way as the Conference Committee, urges the Government to take steps without delay to submit the 95 pending instruments to Parliament.***

## Solomon Islands

*Serious failure to submit.* The Committee recalls that, under the relevant provisions of article 19, paragraphs 5 and 6, of the ILO Constitution, the Members of the Organization have undertaken to submit the instruments adopted by the Conference to the authority within whose competence the matter lies for the enactment of legislation or other action. In the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, the Governing Body indicated that the competent authority is the authority which, under the Constitution of each State, has the power to legislate or to take other action in order to implement Conventions and Recommendations. The competent national authority should normally be the legislature. Even in the case of instruments not requiring action in the form of legislation, it would be desirable to ensure that the purpose of submission, which is also to bring Conventions and Recommendations to the knowledge of the public, is fully met by submitting these instruments to the parliamentary body. ***The Committee therefore requests the Government to make every effort to comply with the constitutional obligation to submit the instruments adopted by the Conference between 1984 and 2012 to the National Parliament. The Committee, in the same way as the Conference Committee, urges the Government to take steps without delay to submit the 59 pending instruments to the National Parliament.***

## Somalia

*Serious failure to submit.* ***In the same way as the Conference Committee, 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 between October 1976 and June 2012.***

## Sudan

*Serious failure to submit.* The Committee recalls the statement made by the Government representative at the Conference Committee in June 2012 indicating that the country had faced an exceptional situation in recent years owing to the separation of South Sudan. It also noted the Government's commitment to take all necessary measures to submit the pending instruments to the competent authorities. ***The Committee, in the same way as the Conference Committee, urges the Government to take steps to submit the 36 pending instruments adopted by the Conference between 1994 and 2012 to the National Assembly.***

## Suriname

*Serious failure to submit.* The Committee recalls the statement made by the Government representative in June 2012 to the Conference Committee indicating that the instruments adopted by the Conference at its 90th to 96th Sessions were submitted to the Council of Ministers. The Government also indicated that it was now in the process of restarting the submission procedures. ***In the same way as the Conference Committee, the Committee invites the Government to indicate if the instruments adopted by the Conference at its 90th to 96th Sessions have been submitted to the National Assembly. It also invites the Government to provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th and 101st Sessions (2010–12).***

## Syrian Arab Republic

*Serious failure to submit.* The Committee notes with ***regret*** that the Government has not replied to its previous observations. The Committee recalls that 43 of the instruments adopted by the Conference are still waiting to be submitted to the People's Council. ***The Committee, in the same way as the Conference Committee, urges the Government to take measures to submit the instruments adopted by the Conference at its 66th and 69th Sessions (Recommendations Nos 167 and 168) and at its 70th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 90th (Recommendations Nos 193 and 194) 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions to the People's Council.***

## Tajikistan

*Serious failure to submit.* The Committee again recalls the information provided by the Government in July 2011 indicating that the HIV and AIDS Recommendation, 2010 (No. 200), has been translated into Tajik and was submitted to the relevant ministries and national committees for its approval. In August 2012, the Government supplied new detailed information on the activities carried out with the participation of the social partners and various governmental departments to promote Recommendation No. 200 and HIV/AIDS prevention in the workplace. The Committee recalls that only Conventions are communicated for ratification in conformity with article 19(5)(a) of the ILO Constitution. It further recalls that the Government is required to provide information on the submission to the Supreme Council (*Majlisi Oli*) of the instruments adopted by the Conference at 13 sessions held between October 1996 and June 2012 (84th, 85th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions). ***The Committee, in the same way as the Conference Committee, urges the Government to take steps without delay to submit the 28 pending instruments to the Supreme Council (Majlisi Oli).***

## The former Yugoslav Republic of Macedonia

The Committee refers to its 2012 observation and recalls that the Government indicated in February 2012 that reviewing unratified international labour Conventions was one of the topics on the agenda of the Economic and Social Council and that the examination was done prior to its submission to the Assembly. ***The Committee invites the Government to provide the relevant information concerning the submission to the Assembly of the Republic (Soberanie) of the remaining Conventions, Recommendations and Protocols adopted by the Conference between October 1996 and June 2012.***

## Togo

***The Committee refers to its previous comments and invites the Government to provide all the relevant information on the submission to the National Assembly of the instruments adopted by the Conference at its 88th, 90th, 91st, 92nd, 95th (Recommendation No. 198), 96th, 99th, 100th and 101st Sessions (2010–12).***

## Uganda

*Serious failure to submit.* The Committee notes the information provided by the Government in June 2013 indicating that a Cabinet Memorandum has been developed and will be submitted to Cabinet and Parliament through the government procedure. The Committee further notes the intention expressed by the Government to better inform parliamentarians and train members of the National Task Force in reviewing the application of Conventions and their linkage to other sectoral policies and national development. ***The Committee invites the Government to continue its efforts to comply with this constitutional obligation. It asks the Government to provide the required information on the submission to Parliament of the instruments adopted by the Conference at 17 sessions held between 1994 and 2012 (81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions). The Committee urges the Government, in the same way as the Conference Committee, to take steps without delay to submit the pending instruments to Parliament.***

## Ukraine

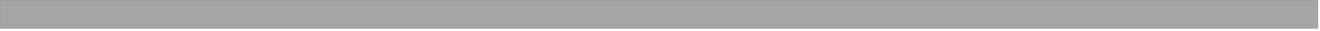
*Submission to the Supreme Rada.* The Committee notes with *interest* the information provided by the Government in May and July 2013, indicating that the 12 Conventions and Recommendations adopted by the Conference between 2003 and 2012 were submitted to the Supreme Rada of Ukraine on 25 April 2013. The Government also indicates that it is examining the possibility of ratifying the Maritime Labour Convention, 2006 (MLC, 2006), and the Domestic Workers Convention, 2011 (No. 189). ***The Committee welcomes this process and invites the Government to continue to regularly provide the required information on the obligation to submit the instruments adopted by the Conference to the Supreme Rada.***

## Vanuatu

*Failure to submit.* The Committee recalls that, as of 22 May 2003, Vanuatu became a Member of the Organization. It further recalls that the ratification by Vanuatu of the eight fundamental Conventions was registered in July 2006. ***The Committee asks the Government to provide information on the submission to the Parliament of Vanuatu of the five Conventions and seven Recommendations adopted by the Conference at seven sessions held between 2003–12 (92nd, 94th, 95th, 96th, 99th, 100th and 101st Sessions).*** It recalls that the Government may request the technical assistance of the Office to help in achieving compliance with the obligations under article 19 of the Constitution relating to the submission of the instruments adopted by the Conference to the Parliament of Vanuatu.

## Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: *Afghanistan, Algeria, Argentina, Austria, Barbados, Belarus, Belgium, Benin, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Canada, Central African Republic, Chad, China, Colombia, Dominican Republic, Ecuador, Gambia, Germany, Greece, Guatemala, Guyana, Honduras, Hungary, Islamic Republic of Iran, Lao People's Democratic Republic, Lebanon, Lesotho, Luxembourg, Malawi, Malaysia, Republic of Maldives, Malta, Mexico, Mongolia, Montenegro, Myanmar, Namibia, Nepal, Netherlands, Nigeria, Norway, Oman, Panama, Paraguay, Portugal, Qatar, San Marino, Saudi Arabia, Senegal, Singapore, Slovakia, Spain, Sri Lanka, Swaziland, Sweden, Thailand, Timor-Leste, Trinidad and Tobago, Turkmenistan, United Arab Emirates, Uruguay, Viet Nam, Yemen, Zambia.*



***Appendices***



**Appendix I. Table of reports received on ratified  
Conventions as of 14 December 2013**  
(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.

**Appendix I. Table of Reports received on ratified Conventions**  
(articles 22 and 35 of the Constitution)

**Reports received as of 14 December 2013**

*Note: First reports are indicated in parentheses.*

<b>Afghanistan</b>	<b>9 reports requested</b>
<ul style="list-style-type: none"> <li>· 5 reports received: Conventions Nos. 14, 41, 106, 140, 142</li> <li>· 4 reports not received: Conventions Nos. 138, 144, 159, 182</li> </ul>	
<b>Albania</b>	<b>9 reports requested</b>
<ul style="list-style-type: none"> <li>All reports received: Conventions Nos. 52, 87, 98, 144, 171, 175, 177, 181, 183</li> </ul>	
<b>Algeria</b>	<b>24 reports requested</b>
<ul style="list-style-type: none"> <li>· 17 reports received: Conventions Nos. 14, 17, 19, 24, 29, 32, 44, 81, 89, 97, 100, 101, 111, 119, 120, 127, 155</li> <li>· 7 reports not received: Conventions Nos. 3, 42, 87, 98, 142, 144, 181</li> </ul>	
<b>Angola</b>	<b>17 reports requested</b>
<ul style="list-style-type: none"> <li>· 9 reports received: Conventions Nos. 12, 17, 18, 19, 27, 29, 100, 105, 111</li> <li>· 8 reports not received: Conventions Nos. 1, 14, 87, 88, 89, 98, 106, 107</li> </ul>	
<b>Antigua and Barbuda</b>	<b>7 reports requested</b>
<ul style="list-style-type: none"> <li>All reports received: Conventions Nos. 14, 87, 98, 101, 122, 142, 144</li> </ul>	
<b>Argentina</b>	<b>14 reports requested</b>
<ul style="list-style-type: none"> <li>All reports received: Conventions Nos. 1, 3, 14, 17, 30, 52, 87, 96, 98, 142, 144, 169, 177, 184</li> </ul>	
<b>Armenia</b>	<b>7 reports requested</b>
<ul style="list-style-type: none"> <li>All reports received: Conventions Nos. 14, 17, 18, 87, 98, 132, 144</li> </ul>	
<b>Australia</b>	<b>7 reports requested</b>
<ul style="list-style-type: none"> <li>All reports received: Conventions Nos. 47, 87, 98, 142, 144, (162), (175)</li> </ul>	
<b>Australia - Norfolk Island</b>	<b>4 reports requested</b>
<ul style="list-style-type: none"> <li>All reports received: Conventions Nos. 47, 87, 98, 142</li> </ul>	
<b>Austria</b>	<b>8 reports requested</b>
<ul style="list-style-type: none"> <li>All reports received: Conventions Nos. 87, 98, 101, 142, 144, 172, 183, (187)</li> </ul>	
<b>Azerbaijan</b>	<b>11 reports requested</b>
<ul style="list-style-type: none"> <li>All reports received: Conventions Nos. 14, 47, 52, 87, 98, 106, 140, 142, 144, 149, 183</li> </ul>	
<b>Bahamas</b>	<b>15 reports requested</b>
<ul style="list-style-type: none"> <li>All reports received: Conventions Nos. 11, 12, 14, 19, 42, 87, 88, 97, 98, 100, 103, 105, 117, 144, 185</li> </ul>	
<b>Bahrain</b>	<b>2 reports requested</b>
<ul style="list-style-type: none"> <li>All reports received: Conventions Nos. 14, 89</li> </ul>	
<b>Bangladesh</b>	<b>9 reports requested</b>
<ul style="list-style-type: none"> <li>· 8 reports received: Conventions Nos. 1, 14, 87, 89, 98, 106, 107, 144</li> <li>· 1 report not received: Convention No. 149</li> </ul>	
<b>Barbados</b>	<b>24 reports requested</b>
<ul style="list-style-type: none"> <li>All reports received: Conventions Nos. 12, 17, 19, 26, 42, 81, 87, 90, 94, 95, 97, 98, 100, 101, 102, 105, 108, 111, 115, 118, 128, 144, 147, 172</li> </ul>	
<b>Belarus</b>	<b>10 reports requested</b>
<ul style="list-style-type: none"> <li>All reports received: Conventions Nos. 14, 47, 52, 87, 98, 106, 142, 144, 149, 183</li> </ul>	

<b>Belgium</b>	<b>15 reports requested</b>
<ul style="list-style-type: none"> <li>· 14 reports received: Conventions Nos. 1, 14, 82, 87, 98, 107, 140, 144, 149, (150), (155), (161), (168), 171</li> <li>· 1 report not received: Convention No. 132</li> </ul>	
<b>Belize</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 14, 87, 89, 98, 101, 115, 140, 144, 183	
<b>Benin</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 14, 41, 87, 98, 144	
<b>Bolivia, Plurinational State of</b>	<b>17 reports requested</b>
All reports received: Conventions Nos. 1, 14, 20, 30, 87, 89, 98, 102, 103, 106, 117, 121, 128, 130, 136, 162, 169	
<b>Bosnia and Herzegovina</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 14, 87, 89, 98, 106, 132, 140, 142, 144, 175, 177, 183	
<b>Botswana</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 14, 87, 98, 144	
<b>Brazil</b>	<b>16 reports requested</b>
<ul style="list-style-type: none"> <li>· 12 reports received: Conventions Nos. 14, 89, 98, 100, 106, 111, 132, 140, 142, 151, 169, 171</li> <li>· 4 reports not received: Conventions Nos. 94, 103, 117, 144</li> </ul>	
<b>Brunei Darussalam</b>	<b>1 report requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Convention No. (138)</li> </ul>	
<b>Bulgaria</b>	<b>24 reports requested</b>
<ul style="list-style-type: none"> <li>· 11 reports received: Conventions Nos. 12, 17, 19, 24, 25, 27, 32, 42, 44, 81, 102</li> <li>· 13 reports not received: Conventions Nos. 1, 3, 14, 30, 52, 87, 95, 98, 106, 144, 177, 181, 183</li> </ul>	
<b>Burkina Faso</b>	<b>13 reports requested</b>
<ul style="list-style-type: none"> <li>· 12 reports received: Conventions Nos. 3, 11, 14, 87, 97, 98, 132, 135, 143, 144, 173, 184</li> <li>· 1 report not received: Convention No. 142</li> </ul>	
<b>Burundi</b>	<b>26 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 1, 11, 12, 14, 17, 19, 26, 27, 29, 42, 52, 62, 64, 81, 87, 89, 90, 94, 98, 100, 101, 105, 111, 135, 138, 144</li> </ul>	
<b>Cabo Verde</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 87, 98, (138), 155	
<b>Cambodia</b>	<b>5 reports requested</b>
<ul style="list-style-type: none"> <li>· 3 reports received: Conventions Nos. 4, 111, 122</li> <li>· 2 reports not received: Conventions Nos. 87, 98</li> </ul>	
<b>Cameroon</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 3, 14, 87, 89, 94, 95, 98, 106, 132, 162	
<b>Canada</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 1, 14, (29), 87, (144), (187)	
<b>Central African Republic</b>	<b>19 reports requested</b>
All reports received: Conventions Nos. 3, 14, 17, 18, 19, 41, 52, 81, 87, 88, 98, 100, 101, 111, 117, 118, 142, 144, 169	
<b>Chad</b>	<b>19 reports requested</b>
All reports received: Conventions Nos. 6, 11, 13, 14, 26, 29, 41, 81, 87, 95, 98, 100, 105, 111, 132, 138, 144, 173, 182	

<b>Chile</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 1, 14, 20, 30, 87, 98, 103, 115, 140, 144, 169, (187)	
<b>China</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 14, 144	
<b>China - Hong Kong Special Administrative Region</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 3, 14, 87, 98, 101, 142, 144	
<b>China - Macau Special Administrative Region</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 1, 14, 87, 98, 106, 144	
<b>Colombia</b>	<b>15 reports requested</b>
All reports received: Conventions Nos. 1, 3, 4, 14, 30, 52, 81, 87, 98, 101, 106, 144, 162, 169, 174	
<b>Comoros</b>	<b>24 reports requested</b>
· No reports received: Conventions Nos. 1, 6, 11, 12, 13, 14, 17, 19, 29, 42, 52, 77, 81, 87, 89, 98, 99, 100, 101, 105, 106, 111, 138, 182	
<b>Congo</b>	<b>8 reports requested</b>
· No reports received: Conventions Nos. 14, 81, 87, 89, 98, 144, 149, 182	
<b>Costa Rica</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 1, 14, 87, 88, 89, 98, 101, 102, 106, 117, 122, 144, 169	
<b>Côte d'Ivoire</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 3, 14, 41, 52, 87, 98, 110, 144, 159	
<b>Croatia</b>	<b>7 reports requested</b>
· No reports received: Conventions Nos. 14, 87, 98, 103, 106, 132, (185)	
<b>Cuba</b>	<b>15 reports requested</b>
All reports received: Conventions Nos. 1, 3, 4, 14, 30, 52, 87, 98, 101, 106, 107, 110, 140, 142, 183	
<b>Cyprus</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 87, 98, 106, 142, 144, 171, 172, 175, 183	
<b>Czech Republic</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 1, 14, (81), 87, 88, 98, (129), 132, 140, 142, 144, 171	
<b>Democratic Republic of the Congo</b>	<b>25 reports requested</b>
· 24 reports received: Conventions Nos. 12, 14, 19, 26, 27, 29, 81, 87, 89, 95, 98, 100, 102, 105, 111, 117, 118, 120, 121, 135, 138, 144, 150, 158	
· 1 report not received: Convention No. 11	
<b>Denmark</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 14, 52, 87, 98, 106, 142, 144, 149, 169	
<b>Denmark - Faeroe Islands</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 14, 52, 87, 98, 106	
<b>Denmark - Greenland</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 14, 87, 106, 122, 126, 169	
<b>Djibouti</b>	<b>51 reports requested</b>
· 11 reports received: Conventions Nos. 29, 81, 87, 98, 100, 105, 111, 122, 138, 144, 182	
· 40 reports not received: Conventions Nos. 1, 9, 11, 12, 13, 14, 16, 17, 18, 19, 22, 23, 24, 26, 37, 38, 52, 53, 55, 56, 63, 69, 71, 73, 77, 78, 88, 89, 94, 95, 96, 99, 101, 106, 108, 115, 120, 124, 125, 126	

<b>Dominica</b>	<b>9 reports requested</b>
· No reports received: Conventions Nos. 14, 19, 87, 94, 97, 98, 111, 144, 169	
<b>Dominican Republic</b>	<b>10 reports requested</b>
· 3 reports received: Conventions Nos. 1, 52, 87	
· 7 reports not received: Conventions Nos. 98, 106, 107, 111, 144, 171, 172	
<b>Ecuador</b>	<b>31 reports requested</b>
· 11 reports received: Conventions Nos. 81, 97, 98, 100, 111, 118, 121, 123, 128, 130, 152	
· 20 reports not received: Conventions Nos. 87, 95, 101, 102, 103, 106, 110, 115, 117, 119, 136, 139, 142, 144, 148, 149, 153, 159, 162, 169	
<b>Egypt</b>	<b>14 reports requested</b>
All reports received: Conventions Nos. 1, 14, 30, 52, 87, 89, 96, 98, 101, 106, 107, 142, 144, 149	
<b>El Salvador</b>	<b>6 reports requested</b>
· No reports received: Conventions Nos. 87, 98, 107, 142, 144, 155	
<b>Equatorial Guinea</b>	<b>14 reports requested</b>
· No reports received: Conventions Nos. 1, 14, 29, 30, 68, 87, 92, 98, 100, 103, 105, 111, 138, 182	
<b>Eritrea</b>	<b>2 reports requested</b>
· No reports received: Conventions Nos. 87, 98	
<b>Estonia</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 14, 41, 87, 98, 144	
<b>Ethiopia</b>	<b>9 reports requested</b>
· 8 reports received: Conventions Nos. 14, 87, 88, 98, 106, (144), 158, 181	
· 1 report not received: Convention No. 11	
<b>Fiji</b>	<b>6 reports requested</b>
· 5 reports received: Conventions Nos. 98, 144, 149, 169, 172	
· 1 report not received: Convention No. 87	
<b>Finland</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 14, 47, 81, 87, 98, 132, 140, 142, 144, 149, 175, 177	
<b>France</b>	<b>15 reports requested</b>
· 14 reports received: Conventions Nos. 3, 14, 52, 82, 87, 98, 101, 106, 137, 140, 142, 144, 149, 152	
· 1 report not received: Convention No. 96	
<b>France - French Polynesia</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 3, 14, 52, 82, 87, 89, 98, 101, 106, 115, 142, 144, 149	
<b>France - French Southern and Antarctic Territories</b>	<b>2 reports requested</b>
· No reports received: Conventions Nos. 87, 98	
<b>France - New Caledonia</b>	<b>24 reports requested</b>
All reports received: Conventions Nos. 3, 12, 14, 17, 19, 24, 42, 44, 52, 81, 82, 87, 89, 98, 100, 101, 106, 111, 115, 120, 129, 142, 144, 149	
<b>Gabon</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 3, 14, 41, 52, 100, 101, 106, 111, 122	

<b>Gambia</b>	<b>6 reports requested</b>
· No reports received: Conventions Nos. 29, 100, 105, 111, 138, 182	
<b>Georgia</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 52, 88, 100, 111, 117, 122, 142, 181	
<b>Germany</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 3, 100, 111, 122, 132, 140, 142, 172	
<b>Ghana</b>	<b>27 reports requested</b>
· 7 reports received: Conventions Nos. 74, 81, 90, 92, 98, 100, 111	
· 20 reports not received: Conventions Nos. 1, 14, 19, 29, 30, 89, 94, 96, 103, 105, 106, 107, 115, 117, 119, (138), (144), 149, 182, (184)	
<b>Greece</b>	<b>17 reports requested</b>
All reports received: Conventions Nos. 11, 13, 17, 19, 42, 77, 78, 87, 88, 90, 95, 98, 100, 102, 111, 122, 124, 126, 136, 141, 144, 150, 154, 156, 159, 182	
<b>Grenada</b>	<b>15 reports requested</b>
All reports received: Conventions Nos. 12, 14, 19, 26, 29, 94, 95, 97, 98, 99, 100, 108, 111, 138, 182	
<b>Guatemala</b>	<b>17 reports requested</b>
All reports received: Conventions Nos. 1, 14, 30, 87, 89, 100, 101, 103, 106, 110, 111, 117, 122, 144, 149, 162, 169	
<b>Guinea</b>	<b>32 reports requested</b>
· No reports received: Conventions Nos. 3, 11, 14, 45, 62, 89, 90, 94, 100, 105, 111, 113, 115, 117, 118, 121, 122, 132, 133, 135, 136, 139, 140, 142, 143, 144, 148, 149, 151, 152, 156, 159	
<b>Guinea - Bissau</b>	<b>16 reports requested</b>
· 14 reports received: Conventions Nos. 1, 12, 14, 17, 18, 19, 29, 81, 88, 89, 100, 105, 106, 111	
· 2 reports not received: Conventions Nos. 27, 107	
<b>Guyana</b>	<b>26 reports requested</b>
· No reports received: Conventions Nos. 11, 12, 29, 87, 94, 95, 98, 100, 105, 108, 111, 115, 129, 131, 135, 137, 138, 139, 140, 141, 142, 144, 149, 151, 172, 175	
<b>Haiti</b>	<b>12 reports requested</b>
· No reports received: Conventions Nos. 1, 12, 14, 17, 24, 25, 30, 42, 100, 106, 107, 111	
<b>Honduras</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 14, 98, 100, 106, 111, 122, 169	
<b>Hungary</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 14, 100, 111, 122, 132, 140, 142, 175, 183	
<b>Iceland</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 100, 102, 111, 122, 182	
<b>India</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 1, 14, 42, 89, 100, 107, 111, 122, 142	
<b>Indonesia</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 100, 106, 111	
<b>Iran, Islamic Republic of</b>	<b>6 reports requested</b>
· 3 reports received: Conventions Nos. 14, 100, 106	
· 3 reports not received: Conventions Nos. 111, 122, 142	

<b>Iraq</b>	<b>16 reports requested</b>
All reports received: Conventions Nos. 1, 14, 30, 89, 100, 106, 107, 111, 122, 132, 140, 142, 149, 153, 167, 172	
<b>Ireland</b>	<b>16 reports requested</b>
· 15 reports received: Conventions Nos. 14, 19, 26, 27, 32, 88, 100, 111, 122, 132, 142, 159, 172, 177, 179	
· 1 report not received: Convention No. 144	
<b>Israel</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 1, 14, 30, 52, 100, 101, 106, 111, 117, 122, 142	
<b>Italy</b>	<b>15 reports requested</b>
All reports received: Conventions Nos. 3, 14, 100, 106, 111, 117, 122, 132, 142, 149, 152, 159, 175, 181, 183	
<b>Jamaica</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 94, 100, 111, 117, 122, 149	
<b>Japan</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 81, 100, 122, 142, 159	
<b>Jordan</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 100, 106, 111, 117, 122, 142, 144	
<b>Kazakhstan</b>	<b>8 reports requested</b>
· 6 reports received: Conventions Nos. 100, 111, 122, 138, 182, 185	
· 2 reports not received: Conventions Nos. (162), 167	
<b>Kenya</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 14, 89, 100, 111, 132, 138, 140, 142, 149	
<b>Kiribati</b>	<b>8 reports requested</b>
· 6 reports received: Conventions Nos. 87, 98, 100, 111, 138, 182	
· 2 reports not received: Conventions Nos. 29, 105	
<b>Korea, Republic of</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. (47), 100, 111, (115), 122, (139), 142	
<b>Kuwait</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 1, 30, 52, 89, 105, 106, 111, 117, 144	
<b>Kyrgyzstan</b>	<b>19 reports requested</b>
All reports received: Conventions Nos. 11, 14, 47, 52, 90, 98, 100, 103, 106, 111, 115, 119, 122, 138, 142, 148, 149, 157, 184	
<b>Lao People's Democratic Republic</b>	<b>8 reports requested</b>
· 4 reports received: Conventions Nos. 6, 29, 138, 144	
· 4 reports not received: Conventions Nos. 4, 100, 111, 182	
<b>Latvia</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 3, 14, 100, 106, 111, 122, 132, 142, 149, 183	
<b>Lebanon</b>	<b>22 reports requested</b>
· 11 reports received: Conventions Nos. 29, 59, 71, 77, 78, 90, 95, 131, 138, 152, 182	
· 11 reports not received: Conventions Nos. 1, 14, 30, 52, 89, 100, 106, 111, 122, 142, 172	
<b>Lesotho</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 11, 14, 26, 29, 100, 105, 111, 138, 144, 182	
<b>Liberia</b>	<b>6 reports requested</b>
· 5 reports received: Conventions Nos. 29, 111, 114, 150, 182	
· 1 report not received: Convention No. 108	

<b>Libya</b>	<b>22 reports requested</b>
<ul style="list-style-type: none"> <li>· 15 reports received: Conventions Nos. 1, 14, 29, 52, 81, 88, 89, 95, 102, 103, 105, 118, 121, 131, 138</li> <li>· 7 reports not received: Conventions Nos. 53, 100, 111, 122, 128, 130, 182</li> </ul>	
<b>Lithuania</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 1, 14, 27, 47, 100, 111, 122, 142, 149, 171, 183	
<b>Luxembourg</b>	<b>16 reports requested</b>
<ul style="list-style-type: none"> <li>· 15 reports received: Conventions Nos. 1, 3, 14, 30, 96, 100, 111, 132, 142, 149, 159, 171, 172, 175, 183</li> <li>· 1 report not received: Convention No. (185)</li> </ul>	
<b>Madagascar</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 14, 89, 100, 111, 117, 122, 132, 171	
<b>Malawi</b>	<b>19 reports requested</b>
<ul style="list-style-type: none"> <li>· 9 reports received: Conventions Nos. 19, 26, 81, 97, 129, 138, 144, 150, 182</li> <li>· 10 reports not received: Conventions Nos. 29, 89, 98, 99, 100, 105, 107, 111, 149, 159</li> </ul>	
<b>Malaysia</b>	<b>4 reports requested</b>
<ul style="list-style-type: none"> <li>· 3 reports received: Conventions Nos. 29, 95, 144</li> <li>· 1 report not received: Convention No. 100</li> </ul>	
<b>Malaysia - Malaysia - Peninsular</b>	<b>1 report requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Convention No. 19</li> </ul>	
<b>Malaysia - Malaysia - Sarawak</b>	<b>3 reports requested</b>
<ul style="list-style-type: none"> <li>· 1 report received: Convention No. 94</li> <li>· 2 reports not received: Conventions Nos. 14, 19</li> </ul>	
<b>Mali</b>	<b>17 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 6, 11, 14, 17, 18, 19, 26, 29, 52, 95, 100, 105, 111, 138, 144, 182, 183</li> </ul>	
<b>Malta</b>	<b>16 reports requested</b>
<ul style="list-style-type: none"> <li>· 8 reports received: Conventions Nos. 32, 77, 78, 95, 96, 98, 124, 131</li> <li>· 8 reports not received: Conventions Nos. 1, 14, 100, 106, 111, 117, 132, 149</li> </ul>	
<b>Marshall Islands</b>	<b>1 report requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Convention No. (185)</li> </ul>	
<b>Mauritania</b>	<b>16 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 3, 14, 29, 33, 52, 81, 89, 100, 101, 102, 111, 112, 114, 122, 138, 182</li> </ul>	
<b>Mauritius</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 14, 26, 29, 95, 99, 100, 105, 111, 137, 144, (154), 175	
<b>Mexico</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 14, 30, 52, 100, 106, 110, 111, 140, 142, 144, 153, 169, 172	
<b>Moldova, Republic of</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 47, 100, 111, 117, 122, 132, 142, 152, 183	
<b>Mongolia</b>	<b>8 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 100, 103, 111, 122, 123, 138, 144, 182</li> </ul>	

<b>Montenegro</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 14, 27, 32, 89, 100, 106, 111, 114, 122, 126, 132, 140, 142	
<b>Morocco</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 4, 14, 30, 52, 100, 101, 106, 111, 122, 158, (162), (183)	
<b>Mozambique</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 1, 14, 30, 100, 111, 122, 144	
<b>Myanmar</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 1, 14, 17, 52	
<b>Namibia</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 29, 100, 105, 111	
<b>Nepal</b>	<b>5 reports requested</b>
<ul style="list-style-type: none"> <li>· 4 reports received: Conventions Nos. 14, 100, 111, 144</li> <li>· 1 report not received: Convention No. 169</li> </ul>	
<b>Netherlands</b>	<b>16 reports requested</b>
All reports received: Conventions Nos. 14, 100, 101, 102, 106, 111, 122, 128, 130, 140, 142, 169, 175, 177, 181, 183	
<b>Netherlands - Aruba</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 14, 101, 106, 122, 140, 142	
<b>Netherlands - Caribbean Part of the Netherlands</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 10, 14, 33, 90, 94, 95, 101, 106, 122, 172	
<b>Netherlands - Curaçao</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 14, 101, 106, 122, 172	
<b>Netherlands - Sint Maarten</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 14, 101, 106, 122, 172	
<b>New Zealand</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 14, 47, 52, 82, 100, 101, 111, 122	
<b>New Zealand - Tokelau</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 82, 100, 111	
<b>Nicaragua</b>	<b>14 reports requested</b>
<ul style="list-style-type: none"> <li>· 13 reports received: Conventions Nos. 1, 3, 14, 30, 78, 100, 110, 111, 117, 122, 140, 142, 169</li> <li>· 1 report not received: Convention No. 4</li> </ul>	
<b>Niger</b>	<b>17 reports requested</b>
All reports received: Conventions Nos. 6, 14, 29, 81, 95, 100, 105, 111, 117, 131, 138, 142, 148, 155, 161, 182, 187	
<b>Nigeria</b>	<b>13 reports requested</b>
<ul style="list-style-type: none"> <li>· 6 reports received: Conventions Nos. 26, 94, 95, 137, 159, 185</li> <li>· 7 reports not received: Conventions Nos. 8, 11, 16, 81, 100, 111, 144</li> </ul>	
<b>Norway</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 14, 30, 47, 100, 111, 122, 132, 142, 149, 169	
<b>Oman</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 29, 105, 138, 182	
<b>Pakistan</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 1, 14, 29, 81, 89, 105, 106, 107, 138, 182	

<b>Panama</b>	<b>15 reports requested</b>
<ul style="list-style-type: none"> <li>· 11 reports received: Conventions Nos. 3, 29, 30, 52, 81, 88, 89, 94, 105, 122, 182</li> <li>· 4 reports not received: Conventions Nos. 107, 110, 117, 138</li> </ul>	
<b>Papua New Guinea</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 29, 103, 105, 138, 158, 182	
<b>Paraguay</b>	<b>15 reports requested</b>
<ul style="list-style-type: none"> <li>· 14 reports received: Conventions Nos. 1, 14, 29, 30, 52, 81, 89, 101, 105, 106, 117, 138, 169, 182</li> <li>· 1 report not received: Convention No. 79</li> </ul>	
<b>Peru</b>	<b>13 reports requested</b>
<ul style="list-style-type: none"> <li>· 12 reports received: Conventions Nos. 1, 14, 29, 52, 67, 71, 101, 105, 106, 138, 169, 182</li> <li>· 1 report not received: Convention No. 81</li> </ul>	
<b>Philippines</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 29, 105, 110, 138, 149, 182, (185)	
<b>Poland</b>	<b>14 reports requested</b>
All reports received: Conventions Nos. 14, 29, 81, 95, 101, 103, 105, 129, 137, 138, 140, 142, 149, 182	
<b>Portugal</b>	<b>18 reports requested</b>
<ul style="list-style-type: none"> <li>· 12 reports received: Conventions Nos. 1, 14, 81, 87, 103, 106, 129, 131, 132, 138, 171, 182</li> <li>· 6 reports not received: Conventions Nos. 29, 105, 117, 142, 149, 175</li> </ul>	
<b>Qatar</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 29, 81, 105, 138, 182	
<b>Romania</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 1, 3, 14, 29, 81, 89, 95, 105, 117, 129, 138, 182, 183	
<b>Russian Federation</b>	<b>16 reports requested</b>
All reports received: Conventions Nos. 14, 29, 47, 81, 92, 103, 105, 106, 132, 133, 138, 142, 149, 150, 182, (187)	
<b>Rwanda</b>	<b>12 reports requested</b>
<ul style="list-style-type: none"> <li>· 4 reports received: Conventions Nos. 26, 42, 122, 123</li> <li>· 8 reports not received: Conventions Nos. 14, 29, 81, 89, 105, 132, 138, 182</li> </ul>	
<b>Saint Kitts and Nevis</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 29, 105, 138, 182	
<b>Saint Lucia</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 14, 29, 101, 105, 182	
<b>Saint Vincent and the Grenadines</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 29, 81, 94, 95, 101, 105, 129, 138, 182	
<b>Samoa</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 29, 105, 138, 182	
<b>San Marino</b>	<b>21 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 29, 87, 98, 100, 103, 105, 111, 119, 138, 140, 142, 143, 148, 150, 151, 154, 156, 159, 160, 161, 182</li> </ul>	
<b>Sao Tome and Principe</b>	<b>17 reports requested</b>
<ul style="list-style-type: none"> <li>· 14 reports received: Conventions Nos. 17, 18, 19, 29, 81, 87, 88, 100, 105, 106, 111, 138, 159, 182</li> <li>· 3 reports not received: Conventions Nos. 98, 144, 184</li> </ul>	

<b>Saudi Arabia</b>	<b>10 reports requested</b>
· 9 reports received: Conventions Nos. 1, 14, 29, 30, 81, 89, 106, 111, 182	
· 1 report not received: Convention No. 105	
<b>Senegal</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 11, 12, 19, 29, 81, 98, 102, 105, 121, 125, 138, 182	
<b>Serbia</b>	<b>14 reports requested</b>
All reports received: Conventions Nos. 14, 29, 81, 89, 105, 106, 129, 132, 138, 140, 142, 158, 182, 183	
<b>Seychelles</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 29, 81, 105, 138, 147, 148, 149, 152, 155, 180, 182	
<b>Sierra Leone</b>	<b>26 reports requested</b>
· 8 reports received: Conventions Nos. 29, 87, 98, 100, 105, 111, (138), (182)	
· 18 reports not received: Conventions Nos. 8, 16, 17, 19, 22, 26, 32, 45, 81, 88, 94, 95, 99, 101, 119, 125, 126, 144	
<b>Singapore</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 29, 81, 138, 182	
<b>Slovakia</b>	<b>23 reports requested</b>
· 10 reports received: Conventions Nos. 1, 29, 42, 90, 105, 122, 139, 148, 171, 182	
· 13 reports not received: Conventions Nos. 14, 27, 52, 81, 98, 123, 129, 138, 140, 142, 156, 159, 183	
<b>Slovenia</b>	<b>22 reports requested</b>
All reports received: Conventions Nos. 14, 27, 29, 32, 81, 97, 105, 106, 129, 132, 138, 140, 142, 143, (144), 149, 151, 173, 174, 175, 182, 183	
<b>Solomon Islands</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 14, 19, 26, 29, 81, 84, 94, 95	
<b>Somalia</b>	<b>13 reports requested</b>
· No reports received: Conventions Nos. 16, 17, 19, 22, 23, 29, 45, 84, 85, 94, 95, 105, 111	
<b>South Africa</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 29, 89, 105, 138, 182	
<b>South Sudan</b>	<b>7 reports requested</b>
· No reports received: Conventions Nos. (29), (98), (100), (105), (111), (138), (182)	
<b>Spain</b>	<b>22 reports requested</b>
· 21 reports received: Conventions Nos. 1, 4, 14, 29, 30, 81, 94, 101, 103, 105, 106, 117, 122, 129, 138, 140, 142, 153, 169, 172, 182	
· 1 report not received: Convention No. 132	
<b>Sri Lanka</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 29, 81, 103, 105, 106, 110, 138, 182	
<b>Sudan</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 26, 29, 81, 95, 98, 105, 117, 122, 138, 182	
<b>Suriname</b>	<b>9 reports requested</b>
· 8 reports received: Conventions Nos. 14, 29, 41, 81, 101, 105, 106, 118	
· 1 report not received: Convention No. 182	
<b>Swaziland</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 14, 29, 81, 87, 89, 101, 105, 138, 182	

<b>Sweden</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 14, 29, 47, 81, 105, 129, 132, 138, 140, 142, 149, 175, 182	
<b>Switzerland</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 14, 29, 81, 105, 132, 138, 142, 153, 172, 182	
<b>Syrian Arab Republic</b>	<b>24 reports requested</b>
· No reports received: Conventions Nos. 1, 14, 29, 30, 52, 81, 89, 94, 95, 98, 100, 101, 105, 106, 107, 117, 123, 124, 129, 131, 138, 155, 170, 182	
<b>Tajikistan</b>	<b>30 reports requested</b>
· No reports received: Conventions Nos. 14, 27, 29, 32, 47, 52, 77, 78, 79, 81, 87, 90, 95, 97, 98, 103, 105, 106, 113, 115, 119, 120, 122, 124, 126, 138, 142, 143, 149, 182	
<b>Tanzania, United Republic of</b>	<b>9 reports requested</b>
· 8 reports received: Conventions Nos. 29, 94, 105, 137, 138, 140, 142, 182	
· 1 report not received: Convention No. 149	
<b>Tanzania, United Republic of - Tanzania. Tanganyika</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 81, 101	
<b>Thailand</b>	<b>7 reports requested</b>
· 2 reports received: Conventions Nos. 29, 138	
· 5 reports not received: Conventions Nos. 14, 19, 105, 122, 182	
<b>The former Yugoslav Republic of Macedonia</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 3, 14, 29, 81, 89, 105, 106, 129, 132, 138, 140, 142, 182	
<b>Timor-Leste</b>	<b>2 reports requested</b>
· No reports received: Conventions Nos. 29, 182	
<b>Togo</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 14, 29, 105, 138, 182	
<b>Trinidad and Tobago</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 29, 81, 105, 138, 182	
<b>Tunisia</b>	<b>20 reports requested</b>
All reports received: Conventions Nos. 14, 26, 29, 52, 77, 81, 88, 89, 90, 95, 98, 99, 105, 106, 107, 117, 124, 138, 142, 182	
<b>Turkey</b>	<b>17 reports requested</b>
· 9 reports received: Conventions Nos. 26, 77, 94, 95, 98, 99, 122, 123, 152	
· 8 reports not received: Conventions Nos. 14, 29, 81, 105, 138, 142, 153, 182	
<b>Turkmenistan</b>	<b>3 reports requested</b>
· No reports received: Conventions Nos. 29, 105, 182	
<b>Uganda</b>	<b>19 reports requested</b>
· 16 reports received: Conventions Nos. 26, 29, 81, 87, 98, 100, 105, 111, 123, 124, 138, 143, 144, 154, 162, 182	
· 3 reports not received: Conventions Nos. 12, 19, 45	
<b>Ukraine</b>	<b>17 reports requested</b>
All reports received: Conventions Nos. 14, 29, 47, 81, 103, 105, 106, 129, 132, 138, 140, 142, 149, 153, (174), (176), 182	

<b>United Arab Emirates</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 1, 29, 81, 89, 105, 138, 182	
<b>United Kingdom</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 29, 81, 82, 105, 138, 140, 142, 182	
<b>United Kingdom - Anguilla</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 14, 29, 82, 101, 105, 140	
<b>United Kingdom - Bermuda</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 29, 82, 105	
<b>United Kingdom - British Virgin Islands</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 14, 19, 29, 82, 105	
<b>United Kingdom - Falkland Islands (Malvinas)</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 14, 29, 82, 105, 182	
<b>United Kingdom - Gibraltar</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 29, 81, 82, 105, 142	
<b>United Kingdom - Guernsey</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 29, 81, 105, 142, 182	
<b>United Kingdom - Isle of Man</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 29, 81, 101, 105	
<b>United Kingdom - Jersey</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 29, 81, 105, 140	
<b>United Kingdom - Montserrat</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 14, 29, 82, 97, 105	
<b>United Kingdom - St Helena</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 14, 29, 82, 105, 182	
<b>United States</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 55, 105, 182	
<b>Uruguay</b>	<b>16 reports requested</b>
All reports received: Conventions Nos. 1, 14, 29, 30, 81, 103, 105, 106, 110, 129, 132, 138, 149, 153, 172, 182	
<b>Uzbekistan</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 29, 47, 52, 103, 105, 138, 182	
<b>Vanuatu</b>	<b>8 reports requested</b>
· No reports received: Conventions Nos. 29, 87, 98, 100, 105, 111, 182, 185	
<b>Venezuela, Bolivarian Republic of</b>	<b>16 reports requested</b>
All reports received: Conventions Nos. 1, 3, 14, 29, 41, 81, 105, 117, 138, 140, 142, 144, 149, 153, 169, 182	
<b>Viet Nam</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 14, 29, 81, 138, 182	
<b>Yemen</b>	<b>15 reports requested</b>
· 14 reports received: Conventions Nos. 14, 19, 29, 58, 59, 81, 95, 105, 131, 132, 138, 156, 158, 182	
· 1 report not received: Convention No. 94	

**Zambia**

**22 reports requested**

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- 19 reports received: Conventions Nos. 11, 12, 18, 29, 97, 103, 105, 117, 122, 124, 131, 135, 138, 141, 149, 151, 154, 176, 182
  - 3 reports not received: Conventions Nos. 17, 19, 173

**Zimbabwe**

**9 reports requested**

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All reports received: Conventions Nos. 14, 29, 81, 87, 105, 129, 138, 140, 182

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**Grand Total**

A total of 2,176 reports (article 22) were requested,  
of which 1,578 reports (72.52 per cent) were received.

A total of 143 reports (article 35) were requested,  
of which 141 reports (98.60 per cent) were received.

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**Appendix II. Statistical table of reports received on  
ratified Conventions as of 14 December 2013**  
(article 22 of the Constitution)

Year of the session of the Committee of Experts	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	1026	212	20.6%	840	75.7%	917	89.3%
1954	1175	268	22.8%	1077	91.7%	1119	95.2%
1955	1234	283	22.9%	1063	86.1%	1170	94.8%
1956	1333	332	24.9%	1234	92.5%	1283	96.2%
1957	1418	210	14.7%	1295	91.3%	1349	95.1%
1958	1558	340	21.8%	1484	95.2%	1509	96.8%
<b>As a result of a decision by the Governing Body, detailed reports were requested as from 1959 until 1976 only on certain Conventions</b>							
1959	995	200	20.4%	864	86.8%	902	90.6%
1960	1100	256	23.2%	838	76.1%	963	87.4%
1961	1362	243	18.1%	1090	80.0%	1142	83.8%
1962	1309	200	15.5%	1059	80.9%	1121	85.6%
1963	1624	280	17.2%	1314	80.9%	1430	88.0%
1964	1495	213	14.2%	1268	84.8%	1356	90.7%
1965	1700	282	16.6%	1444	84.9%	1527	89.8%
1966	1562	245	16.3%	1330	85.1%	1395	89.3%
1967	1883	323	17.4%	1551	84.5%	1643	89.6%
1968	1647	281	17.1%	1409	85.5%	1470	89.1%
1969	1821	249	13.4%	1501	82.4%	1601	87.9%
1970	1894	360	18.9%	1463	77.0%	1549	81.6%
1971	1992	237	11.8%	1504	75.5%	1707	85.6%
1972	2025	297	14.6%	1572	77.6%	1753	86.5%
1973	2048	300	14.6%	1521	74.3%	1691	82.5%
1974	2189	370	16.5%	1854	84.6%	1958	89.4%
1975	2034	301	14.8%	1663	81.7%	1764	86.7%
1976	2200	292	13.2%	1831	83.0%	1914	87.0%

Year of the session of the Committee of Experts	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
<b>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</b>				
1977	1529	215 14.0%	1120 73.2%	1328 87.0%
1978	1701	251 14.7%	1289 75.7%	1391 81.7%
1979	1593	234 14.7%	1270 79.8%	1376 86.4%
1980	1581	168 10.6%	1302 82.2%	1437 90.8%
1981	1543	127 8.1%	1210 78.4%	1340 86.7%
1982	1695	332 19.4%	1382 81.4%	1493 88.0%
1983	1737	236 13.5%	1388 79.9%	1558 89.6%
1984	1669	189 11.3%	1286 77.0%	1412 84.6%
1985	1666	189 11.3%	1312 78.7%	1471 88.2%
1986	1752	207 11.8%	1388 79.2%	1529 87.3%
1987	1793	171 9.5%	1408 78.4%	1542 86.0%
1988	1636	149 9.0%	1230 75.9%	1384 84.4%
1989	1719	196 11.4%	1256 73.0%	1409 81.9%
1990	1958	192 9.8%	1409 71.9%	1639 83.7%
1991	2010	271 13.4%	1411 69.9%	1544 76.8%
1992	1824	313 17.1%	1194 65.4%	1384 75.8%
1993	1906	471 24.7%	1233 64.6%	1473 77.2%
1994	2290	370 16.1%	1573 68.7%	1879 82.0%
<b>As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995</b>				
1995	1252	479 38.2%	824 65.8%	988 78.9%
<b>As a result of a decision by the Governing Body (November 1993), reports were requested, according to certain criteria, at yearly, two-yearly or five-yearly intervals</b>				
1996	1806	362 20.5%	1145 63.3%	1413 78.2%
1997	1927	553 28.7%	1211 62.8%	1438 74.6%
1998	2036	463 22.7%	1264 62.1%	1455 71.4%
1999	2288	520 22.7%	1406 61.4%	1641 71.7%
2000	2550	740 29.0%	1798 70.5%	1952 76.6%
2001	2313	598 25.9%	1513 65.4%	1672 72.2%
2002	2368	600 25.3%	1529 64.5%	1701 71.8%
2003	2344	568 24.2%	1544 65.9%	1701 72.6%
2004	2569	659 25.6%	1645 64.0%	1852 72.1%
2005	2638	696 26.4%	1820 69.0%	2065 78.3%
2006	2586	745 28.8%	1719 66.5%	1949 75.4%
2007	2478	845 34.1%	1611 65.0%	1812 73.2%
2008	2515	811 32.2%	1768 70.2%	1962 78.0%
2009	2733	682 24.9%	1853 67.8%	2120 77.6%
2010	2745	861 31.4%	1866 67.9%	2122 77.3%
2011	2735	960 35.1%	1855 67.8%	2117 77.4%
<b>As a result of a decision by the Governing Body (November 2009 and March 2011), reports are requested, according to certain criteria, at yearly, three-yearly or five-yearly intervals</b>				
2012	2207	809 36.7%	1497 67.8%	1742 78.9%
2013	2176	740 34.1%	1578 72.5%	

### Appendix III. List of observations made by employers' and workers' organizations

<b>Albania</b>	
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• International Trade Union Confederation (ITUC)	on Conventions Nos 87, 98
<b>Algeria</b>	
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• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98
<b>Angola</b>	
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• International Trade Union Confederation (ITUC)	on Conventions Nos 87, 98
<b>Argentina</b>	
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• Confederation of Workers of Argentina (CTA)	on Conventions Nos 1, 3, 14, 17, 30, 87, 98, 144, 169
• General Confederation of Labour (CGT)	1, 3, 17, 52, 87, 96, 98, 169
• International Trade Union Confederation (ITUC)	87, 98
<b>Armenia</b>	
<hr/>	
• Confederation of Trade Unions of Armenia (CTUA)	on Conventions Nos 14, 17, 18, 98, 132, 143, 144
• International Trade Union Confederation (ITUC)	87, 98
• Republican Union of Employers of Armenia (RUEA)	14, 17, 18, 98, 144
• Republican Union of Employers of Armenia (RUEA); International Organisation of Employers (IOE)	131, 144
<b>Australia</b>	
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• Australian Council of Trade Unions (ACTU)	on Conventions Nos 47, 87, 98, 142, 144, 162, 175
• Australian Council of Trade Unions (ACTU); International Trade Union Confederation (ITUC)	87
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<b>Austria</b>	
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• Austrian Federal Economic Chamber (WKÖ)	on Convention No. 172
<b>Bahamas</b>	
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• International Organisation of Employers (IOE)	on Conventions Nos 87
• International Trade Union Confederation (ITUC)	87, 98
<b>Bangladesh</b>	
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• International Organisation of Employers (IOE)	on Conventions Nos 87
• International Trade Union Confederation (ITUC)	87, 98
<b>Belgium</b>	
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• General Confederation of Liberal Trade Unions of Belgium (CGSLB); Confederation of Christian Trade Unions (CSC); General Labour Federation of Belgium (FGTB)	on Conventions Nos 87, 98
• International Trade Union Confederation (ITUC)	87, 98

**Belize**

- International Trade Union Confederation (ITUC)

on Conventions Nos

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**Benin**

- Confederation of Autonomous Trade Unions of Benin
- International Trade Union Confederation (ITUC)

on Conventions Nos

138, 182

87, 98

**Bolivia, Plurinational State of**

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

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87, 98

**Bosnia and Herzegovina**

- Confederation of Trade Unions of the Srpska Republic (SSRS)
- International Trade Union Confederation (ITUC)
- Union of Association of Employers of the Srpska Republic

on Conventions Nos

14, 87, 98, 106, 132, 140, 142, 175, 183

87, 98

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**Botswana**

- International Trade Union Confederation (ITUC)
- Trainers and Allied Workers Union (TAWU)

on Conventions Nos

87, 98

87, 98, 144

**Brazil**

- Federation of Workers in the Extraction Industries in the State of Minas Gerais (FTIEMG)
- International Trade Union Confederation (ITUC)
- National Confederation of Industry (CNI); International Organisation of Employers (IOE)
- Single Confederation of Workers (CUT)
- Union of Hotel, Bar and Allied Workers of São Paulo and Region (SINTHORESP)

on Conventions Nos

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94, 98, 151, 169

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**Bulgaria**

- Confederation of Independent Trade Unions in Bulgaria (KNSB/CITUB)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

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87, 98

**Burkina Faso**

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

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**Burundi**

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Trade Union Confederation of Burundi (COSYBU)

on Conventions Nos

87

87, 98

29, 81, 87, 98, 100, 111, 138, 144, 182

**Cambodia**

- Cambodian Federation of Employers and Business Associations (CAMFEBA); International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

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**Cameroon**

- General Union of Workers of Cameroon (UGTC)
- International Trade Union Confederation (ITUC)

on Conventions Nos

3, 14, 87, 89, 95, 98, 106, 162

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## Canada

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• Canadian Employers Council (CEC); International Organisation of Employers (IOE)	on Conventions Nos	87
• Canadian Labour Congress (CLC)		29, 187
• International Trade Union Confederation (ITUC)		87
• National Union of Public and General Employees (NUPGE)		87

## Central African Republic

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## Chad

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• International Organisation of Employers (IOE)	on Conventions Nos	87
• International Trade Union Confederation (ITUC)		87, 98

## Chile

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• Chilean Wood Corporation (CORMA)	on Conventions Nos	169
• Confederation of Production and Commerce (CPC); International Organisation of Employers (IOE)		169
• General Confederation of Workers (CGT)		1
• International Trade Union Confederation (ITUC)		87, 98
• Inter-Sectorial Association-Araucanía Region (MGA)		169
• World Federation of Trade Unions-Chile		87, 98, 135, 151, 169

## China

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• International Trade Union Confederation (ITUC)	on Convention No.	14
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## China - Hong Kong Special Administrative Region

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• Hong Kong Confederation of Trade Unions (HKCTU)	on Conventions Nos	3, 14, 87, 98, 144
• International Trade Union Confederation (ITUC)		87, 98

## China - Macau Special Administrative Region

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• International Trade Union Confederation (ITUC)	on Conventions Nos	14, 87, 98, 106
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## Colombia

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• General Confederation of Labour (CGT)	on Conventions Nos	169
• International Trade Union Confederation (ITUC)		87, 98
• National Association of Employers of the Bank of the Republic (ANEBRE)		98
• National Employers Association of Colombia (ANDI); International Organisation of Employers (IOE)		81, 87, 98, 100, 111, 144, 162, 169
• Single Confederation of Workers (CUT); Confederation of Workers of Colombia (CTC)		1, 3, 4, 14, 30, 52, 81, 87, 98, 101, 106, 144, 162, 169, 174
• Single Workers' Union of Materials for the Construction Industry (SUTIMAC)		162
• Trade Union Association of Public Employees of the Ministry of Defence, Armed Forces and Associated Agencies (ASODEFENSA)		98, 151, 154

## Comoros

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## Congo

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• International Trade Union Confederation (ITUC)	on Conventions Nos	87, 98
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## Costa Rica

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- Confederation of Workers Rerum Novarum (CTRN) 1, 87, 98, 144, 169
- Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP); International Organisation of Employers (IOE) 87, 102, 122
- International Trade Union Confederation (ITUC) 87, 98
- Trade Union of Employees of the National Council of Production and Allied Workers (SINCONAPRO) 98
- Trade Union of Engineers of ICE (SIICE) 98
- Union of Professional, Technical and Allied Workers of the Banco Popular (UNPROBANPO) 98

## Côte d'Ivoire

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## Croatia

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- Association of Croatian Trade Unions (MATICA) 87, 98
- International Trade Union Confederation (ITUC) 87, 98

## Cuba

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- International Organisation of Employers (IOE) 87
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## Czech Republic

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- Czech-Moravian Confederation of Trade Unions (CM KOS) 1, 14, 81, 87, 98, 129, 132, 171
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- International Trade Union Confederation (ITUC) 87, 98
- Labour Confederation of Congo (CCT) 158

## Denmark

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- Confederation of Danish Employers (DA) 87
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- Association of Academics in Greenland (ASG) 87, 106
- Association of Employers of Greenland (GA) 122, 126
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## Djibouti

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## Dominican Republic

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- International Trade Union Confederation (ITUC) 87, 98

## Ecuador

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- International Trade Union Confederation (ITUC) 87, 98
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## Egypt

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- International Organisation of Employers (IOE) 87
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## El Salvador

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| • National Business Association (ANEP)   |                    | 87, 144 |
| • Trade Union of Men and Women Workers of the Ministry of Labour and Social Welfare (SITRAMITPS) |                    | 81, 129 |

## Equatorial Guinea

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| • International Trade Union Confederation (ITUC) | on Conventions Nos | 87, 98 |
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## Eritrea

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|--|--------------------|--------|
| • International Trade Union Confederation (ITUC) | on Conventions Nos | 87, 98 |
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## Ethiopia

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|--|--------------------|--------|
| • International Organisation of Employers (IOE)  | on Conventions Nos | 87     |
| • International Trade Union Confederation (ITUC) |                    | 87, 98 |

## Fiji

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| • Fiji Islands Council of Trade Unions (FICTU)   | on Conventions Nos | 169    |
| • International Organisation of Employers (IOE)  |                    | 87     |
| • International Trade Union Confederation (ITUC) |                    | 87, 98 |

## Finland

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| • Central Organization of Finnish Trade Unions (SAK)                                      | on Conventions Nos | 47, 81, 132, 175                        |
| • Confederation of Finnish Industries (EK); International Organisation of Employers (IOE) |                    | 144                                     |
| • Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)        |                    | 14, 47, 81, 98, 132, 140, 149, 175, 177 |
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| • International Trade Union Confederation (ITUC) | on Conventions Nos | 87, 98 |
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## Georgia

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| • Georgian Trade Union Confederation (GTUC) | on Conventions Nos | 87, 98 |
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## Germany

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| • Confederation of German Employers' Associations (BDA); International Organisation of Employers (IOE) | on Conventions Nos | 29, 167               |
| • German Confederation of Trade Unions (DGB)   |                    | 3, 122, 128, 132, 140 |

## Greece

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| • Association of Labour Inspectors (GALI)  | on Conventions Nos | 81     |
| • Hellenic Federation of Enterprises and Industries (SEV); International Organisation of Employers (IOE) |                    | 87, 98 |
| • Hellenic Military Medical Corps Association (ESTIA)  |                    | 29     |
| • International Trade Union Confederation (ITUC)   |                    | 87, 98 |
| • Union of Occupational Safety & Health Inspectors   |                    | 81     |

## Guatemala

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| • Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF) | on Conventions Nos | 87, 98, 169                                      |
| • General Confederation of Workers of Guatemala (CGTG)  |                    | 1, 87, 95, 98, 100, 101, 103, 111, 122, 144, 169 |
| • Indigenous and Rural Workers Trade Union Movement of Guatemala (MSICG)                            |                    | 87, 144, 169                                     |
| • International Trade Union Confederation (ITUC)  |                    | 87, 98   |

<b>Guinea</b>	
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• International Organisation of Employers (IOE)	on Convention No. 87
<b>Guyana</b>	
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• International Organisation of Employers (IOE)	on Convention No. 87
<b>Haiti</b>	
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• International Organisation of Employers (IOE)	on Convention No. 87
<b>Honduras</b>	
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• International Organisation of Employers (IOE)	on Conventions Nos 87
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<b>Indonesia</b>	
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• Indonesian Chamber of Commerce and Industry (APINDO); International Organisation of Employers (IOE)	on Conventions Nos 144
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• Aichi Solidarity Laborers' Union; Women's Union for Workers of Trading Company	on Conventions Nos 100
• Japanese Trade Union Confederation (JTUC-RENGO)	81, 100, 159
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• National Confederation of Trade Unions (ZENROREN)	100, 122
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• Federation of Trade Unions of the Republic of Kazakhstan (FPRK)	on Conventions Nos 29, 105, 144
• National Association of Mining and Metallurgical Enterprises (AGMP)	144
• National Economic Chamber of Kazakhstan (ATAMEKEN)	29, 105, 144
• Union of Manufacturers and Exporters of Kazakhstan	144
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• International Organisation of Employers (IOE)	on Convention No. 87
<b>Korea, Republic of</b>	
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• Federation of Korean Trade Unions (FKTU)	on Conventions Nos 47, 100, 111, 115, 122, 139, 142
• International Organisation of Employers (IOE)	111
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<b>Madagascar</b>	
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• Christian Confederation of Malagasy Trade Unions (SEKRIMA)	on Conventions Nos 29, 87, 98, 100, 105, 111, 138, 182
• General Confederation of Workers' Unions of Madagascar (FISEMA)	14, 89, 100, 111, 117, 122, 132, 171
<b>Malawi</b>	
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## Malaysia

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- International Trade Union Confederation (ITUC)

on Convention No.

29

## Mali

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- Confederation of Workers' Union of Mali (CSTM)

on Conventions Nos

11, 14, 17, 26, 29, 52, 100, 105, 111, 138, 144, 182, 183

## Mauritania

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- Free Confederation of Mauritanian Workers (CLTM)
- General Confederation of Workers of Mauritania (CGTM)

on Conventions Nos

3, 14, 29, 52, 102, 111, 122, 138

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## Mauritius

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- General Workers Federation (GWF); and other national trade unions

on Conventions Nos

87, 98

## Mexico

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- Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN)
- National Union of Workers (UNT)

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## Moldova, Republic of

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- National Confederation of Trade Unions of Moldova (CNSM)
- Union of the Enterprise GLODENI-ZAHAR

on Conventions Nos

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## Mozambique

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- Business Associations Confederation of Mozambique (CTA)
- National Confederation of Independent and Free Trade Unions of Mozambique (CONSILMO)
- Workers' Organization of Mozambique (OTM)

on Conventions Nos

1, 14, 30, 100, 111, 122, 144

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## Myanmar

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- International Trade Union Confederation (ITUC)

on Convention No.

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## Netherlands

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- Confederation of Netherlands Industry and Employers (VNO-NCW)
- Netherlands Trade Union Confederation (FNV)

on Conventions Nos

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- Aruba Hotel and Tourism Association (AHATA)

on Convention No.

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## New Zealand

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- Business New Zealand

on Conventions Nos

14, 47, 52, 100, 101, 111, 122

## New Zealand (Tokelau)

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- Business New Zealand

on Conventions Nos

82, 100, 111

## Nigeria

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- International Organisation of Employers (IOE)

on Convention No.

87

## Norway

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- Confederation of Norwegian Business and Industry (NHO)
- Confederation of Norwegian Business and Industry (NHO); International Organisation of Employers (IOE)
- Confederation of Unions for Professionals (Unio)
- Norwegian Confederation of Trade Unions (LO)

on Conventions Nos

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**Pakistan**

- International Trade Union Confederation (ITUC)
- Pakistan Workers' Federation (PWF)

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**Panama**

- International Organisation of Employers (IOE)
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**Paraguay**

- National Confederation of Workers (CNT); Central Confederation of Workers - Authentic (CUT-A)

on Convention No.  
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**Peru**

- Chamber of Commerce of Lima (CCL)
- General Confederation of Workers of Peru (CGTP)
- International Organisation of Employers (IOE)
- National Confederation of Private Business' Institutions (CONFIEP)
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on Conventions Nos  
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**Philippines**

- International Organisation of Employers (IOE)
- Trade Union Congress of the Philippines (TUCP)

on Conventions Nos  
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87, 98

**Poland**

- Independent and Self-Governing Trade Union "Solidarnosc"
- International Organisation of Employers (IOE)

on Conventions Nos  
95, 140, 149  
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**Portugal**

- Confederation of Portuguese Industry (CIP); International Organisation of Employers (IOE)
- Confederation of Portuguese Tourism (CTP)
- Confederation of Trade and Services of Portugal (CCSP)
- General Confederation of Portuguese Workers - National Trade Unions (CGTP-IN)
- General Workers' Union (UGT)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos  
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1, 14, 81, 87, 103, 106, 129, 138, 171, 182  
1, 29, 81, 87, 103, 132, 138, 171, 182  
6, 98, 102, 131, 158  
87, 98

**Romania**

- International Organisation of Employers (IOE)

on Convention No.  
87

**Russian Federation**

- International Organisation of Employers (IOE)

on Convention No.  
87

**Rwanda**

- International Organisation of Employers (IOE)

on Convention No.  
87

**Samoa**

- Samoa Chamber of Commerce and Industry

on Conventions Nos  
29, 105, 138, 182

**Sao Tome and Principe**

- International Organisation of Employers (IOE)

on Convention No.  
87

**Senegal**

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos  
87  
182

## Serbia

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- Confederation of Autonomous Trade Unions of Serbia (CATUS)
- Confederation of Autonomous Trade Unions of Serbia (CATUS); Trade Union of Judiciary Employees of Serbia
- Serbian Association of Employers (SAE); International Organisation of Employers (IOE)
- Trade Union Confederation 'Nezavisnost'
- Union of Employers of Serbia

**on Conventions Nos**  
 14, 81, 106, 129, 132, 140, 142, 158, 183  
 98  
 87, 98  
 14, 29, 81, 89, 105, 106, 129, 132, 140, 142, 158, 182, 183  
 14, 29, 81, 89, 105, 106, 129, 132, 138, 140, 142, 158, 182

## Seychelles

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- Association of Seychelles Employers
- International Organisation of Employers (IOE)
- Seychelles Federation of Workers' Unions (SFWU)

**on Conventions Nos**  
 147, 180  
 87  
 147, 180

## Sierra Leone

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- International Trade Union Confederation (ITUC)

**on Conventions Nos**  
 87, 98

## Slovenia

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- Association of Employers of Slovenia (ZDS)

**on Convention No.**  
 183

## Spain

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- General Union of Workers (UGT)
- Spanish Confederation of Employers' Organizations (CEOE); International Organisation of Employers (IOE)
- Trade Union Confederation of Workers' Commissions (CC.OO.)

**on Conventions Nos**  
 1, 29, 30, 103, 106, 117, 153, 172, 182  
 87, 98, 122, 144, 154  
 30, 106, 122, 129, 172

## Sri Lanka

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- Employers Federation of Ceylon (EFC); International Organisation of Employers (IOE)
- International Organisation of Employers (IOE)
- National Trade Union Federation (NTUF)

**on Conventions Nos**  
 131  
 87  
 29, 81, 103, 105, 106, 110, 138, 182

## Swaziland

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- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

**on Conventions Nos**  
 87  
 87, 98

## Sweden

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- Confederation of Swedish Enterprise (CSE); International Organisation of Employers (IOE)
- Swedish Confederation for Professional Employees (TCO)
- Swedish Trade Union Confederation (LO)

**on Conventions Nos**  
 87, 98  
 47, 81, 132  
 81, 155, 187

## Switzerland

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- Swiss Federation of Trade Unions (USS/SGB)
- Union of Swiss Employers (UPS)

**on Conventions Nos**  
 29, 81, 138, 142  
 14, 29, 81, 105, 132, 138, 142, 153, 172, 182

## Syrian Arab Republic

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- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

**on Conventions Nos**  
 87  
 87, 98

## Tanzania, United Republic of

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- International Organisation of Employers (IOE)

**on Convention No.**  
 87

## Trinidad and Tobago

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- International Organisation of Employers (IOE)

**on Convention No.**  
 87

## Tunisia

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- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

87  
87, 98

## Turkey

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- Confederation of Progressive Trade Unions of Turkey (DISK)
- Confederation of Turkish Real Trade Unions (HAK-IS)
- Confederation of Turkish Trade Unions (TÜRK-IS)
- International Trade Union Confederation (ITUC)
- Municipality and Private Administration Employees Trade Union (BEM-BIR-SEN)
- Turkish Confederation of Employers' Associations (TISK)
- Turkish Confederation of Employers' Associations (TISK); International Organisation of Employers (IOE)

### on Conventions Nos

87, 98  
87, 98  
26, 94, 95, 98, 99, 122, 123  
87, 98  
87, 98  
26, 77, 87, 94, 95, 98, 99, 122, 123  
87, 98, 158

## Uganda

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- International Trade Union Confederation (ITUC)

### on Conventions Nos

87, 98

## Ukraine

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- International Organisation of Employers (IOE)

### on Convention No.

87

## United Kingdom

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- International Organisation of Employers (IOE)
- Public Service Union (UNISON)
- Trades Union Congress (TUC)
- Unite the Union

### on Conventions Nos

87  
87  
29, 81, 140, 142  
87

## United Kingdom (Jersey)

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- International Organisation of Employers (IOE)

### on Convention No.

87

## Uruguay

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- Latin-American Confederation of Labour Inspectors (CLIT)
- National Chamber of Commerce and Services of Uruguay (CNCS); Chamber of Industries of Uruguay (CIU); International Organisation of Employers (IOE)

### on Conventions Nos

81, 129  
98, 131, 144

## Uzbekistan

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- Council of the Federation of Trade Unions
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

29, 47, 52, 103, 105, 138, 182  
29, 105, 182  
105

## Venezuela, Bolivarian Republic of

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- Confederation of Workers of Venezuela (CTV)
- Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS); International Organisation of Employers (IOE)
- Independent Trade Union Alliance (ASI)
- National Union of Workers of Venezuela (UNETE)

### on Conventions Nos

1, 3, 14, 29, 41, 81, 105, 117, 138,  
140, 144, 149, 153, 169, 182  
26, 144, 158  
1, 29, 117, 138, 144, 169  
81, 87, 98, 144, 155

## Yemen

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- International Organisation of Employers (IOE)

### on Convention No.

87

## Zambia

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- International Organisation of Employers (IOE)
- International Organisation of Employers (IOE); Zambia Federation of Employers (ZFE)

### on Conventions Nos

87  
131, 144

**Zimbabwe**

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	on Conventions Nos
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87, 98
• Zimbabwe Congress of Trade Unions (ZCTU)	87, 98, 138, 182

**Appendix IV. 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**

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 any 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 to rationalize and simplify proceedings. As a result, 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 the most recent information on the submission to the competent authorities of the Domestic Workers Convention, 2011 (No. 189), and its corresponding Recommendation, 2011 (No. 201), adopted by the Conference at its 100th Session; and on the submission of the Social Protection Floors Recommendation, 2012 (No. 202), adopted by the Conference at its 101st Session (June 2012). In addition, the present summary contains information supplied by governments with respect to earlier adopted instruments submitted to the competent authorities in 2013.

The summarized information also consists of communications which were forwarded to the Director-General of the International Labour Office after the closure of the 102nd Session of the Conference (June 2013) and which could not therefore be laid before the Conference at that session.

**Australia.** Recommendation No. 202 was submitted to the House of Representatives and the Senate on 14 May 2013.

**Belarus.** The instruments adopted by the Conference at its 100th Session were submitted to the National Assembly on 14 December 2012.

**Belgium.** The instruments adopted by the Conference at its 100th Session were submitted to the House of Representatives and the Senate on 11 January 2013.

**Plurinational State of Bolivia.** The ratification of Convention No. 189 was registered on 14 April 2013.

**Bosnia and Herzegovina.** Recommendation No. 202 was submitted to the Parliamentary Assembly of Bosnia and Herzegovina on 29 October 2013.

**Botswana.** The instruments adopted by the Conference at its 91st, 92nd, 96th, 99th and 100th Sessions were submitted to the National Assembly in March and April 2013.

**Bulgaria.** The instruments adopted by the Conference at its 99th, 100th and 101st Sessions were submitted to the National Assembly in April 2011 and October 2012.

**Cape Verde.** Recommendation No. 202 was submitted to the National Assembly on 12 June 2013.

**Costa Rica.** Recommendation No. 202 was submitted to the Legislative Assembly on 12 June 2013.

**Cuba.** The instruments adopted by the Conference at its 99th and 100th Sessions were submitted to the National Assembly of People's Power on 23 July 2012. Recommendation No. 202 was submitted to the National Assembly of the People's Power on 6 July 2013.

**Cyprus.** Recommendation No. 202 was submitted to the House of Representatives on 16 August 2013.

**Czech Republic.** Recommendation No. 202 was submitted to the Senate and to the Chamber of Deputies on 10 and 11 July 2013.

**Denmark.** The instruments adopted at the 100th and 101st Sessions of the Conference were submitted to the Folketing (Parliament) in May and November 2012.

**Ecuador.** Recommendation No. 202 was submitted to the National Assembly on 18 October 2012.

**Egypt.** Recommendation No. 202 was submitted to the General Secretary of the People's Assembly on 29 October 2013.

**Eritrea.** The instruments adopted by the Conference at its 96th, 99th, 100th and 101st Sessions were submitted to the National Assembly on 1 March 2013.

**Estonia.** The instruments adopted by the Conference at its 100th and 101st Sessions were submitted to Parliament on 24 October 2011 and 25 January 2013, respectively.

**Finland.** The instruments adopted by the Conference at its 100th and 101st Sessions were submitted to Parliament on 12 December 2012 and 1 March 2013, respectively.

**France.** The instruments adopted by the Conference at its 99th, 100th and 101st Sessions were submitted to the House of Deputies and the Senate on 10 September 2012.

**Georgia.** The instruments adopted by the Conference between 1993 and 2013 were submitted to the Parliament of Georgia on 25 June 2013.

**Germany.** The ratification of Convention No. 189 was registered on 20 September 2013.

**Greece.** The instruments adopted by the Conference at its 100th Session were submitted to the Hellenic Parliament on 5 December 2012.

**Guyana.** The ratification of Convention No. 189 was registered on 9 August 2013.

**Honduras.** Recommendation No. 202 was submitted to the National Congress on 26 September 2013.

**Iceland.** The instruments adopted by the Conference at its 99th, 100th and 101st Sessions were submitted to Parliament on 28 February 2013.

**India.** Recommendation No. 202 was submitted in the Rajya Sabha on 8 May 2013 and in the Lok Sabha on 22 April 2013.

**Indonesia.** Recommendation No. 202 was submitted to the House of Representatives on 19 March 2013.

**Israel.** Recommendation No. 202 was submitted to the Knesset on 22 April 2013.

**Italy.** The ratification of Convention No. 189 was registered on 22 January 2013.

**Japan.** Recommendation No. 202 was submitted to the Diet on 7 June 2013.

**Republic of Korea.** Recommendation No. 202 was submitted to the National Assembly on 8 April 2013.

**Latvia.** The instruments adopted by the Conference at its 99th, 100th and 101st Sessions were submitted to the Parliament of Latvia on 8 August 2013.

**Lithuania.** The instruments adopted by the Conference at its 100th and 101st Sessions were submitted to the Seimas on 12 December 2012 and 5 March 2013, respectively.

**Madagascar.** The instruments adopted by the Conference at its 100th Session were submitted to the Superior Council of Transition (Senate) and the Congress of Transition (National Assembly) on 7 July 2013.

**Montenegro.** Recommendation No. 202 was submitted to the Parliament of Montenegro on 11 September 2013.

**Morocco.** Recommendation No. 202 was submitted to the House of Representatives and the House of Councillors on 12 March 2013.

**Myanmar.** The instruments adopted at the 99th and 100th Sessions of the Conference were submitted to a competent authority on 24 January 2011 and 25 April 2012, respectively. Recommendation No. 202 was submitted to the Pyithu Hluttaw (Parliament) on 8 May 2013.

**Netherlands.** Recommendation No. 202 was submitted to the First and Second Chambers of Parliament on 17 June 2013.

**New Zealand.** Recommendation No. 202 was submitted to the House of Representatives on 6 June 2013.

**Nicaragua.** The ratification of Convention No. 189 was registered on 10 January 2013. Recommendation No. 202 was submitted to the National Assembly on 5 April 2012.

**Nigeria.** The instruments adopted by the Conference at its 100th Session were submitted to the Senate on 25 July 2012.

**Norway.** The instruments adopted by the Conference at its 99th and 101st Sessions were submitted to the Storting on 8 October 2012.

**Panama.** Recommendations Nos 197, 198, 199, 200, 201 and 202 were submitted to the National Assembly on 18 February 2013.

**Paraguay.** The ratification of Convention No. 189 was registered on 7 May 2013.

**Peru.** The instruments adopted by the Conference between 2002 and 2012 were submitted to the Congress of the Republic on 21 October 2013.

**Poland.** Recommendation No. 202 was submitted to the Sejm on 30 April 2013.

**Portugal.** The instruments adopted by the Conference at its 99th and 100th Sessions were submitted to the Assembly of the Republic on 9 January 2013.

**Romania.** Recommendation No. 202 was submitted to the Senate and to the Chamber of Deputies on 9 and 18 September 2013, respectively.

**Saudi Arabia.** The instruments adopted by the Conference at its 100th Session were submitted to the Council of Ministers and the Consultative Council on 1 January 2013.

**Slovakia.** Recommendation No. 202 was submitted to the National Council on 18 December 2012.

**Slovenia.** The instruments adopted by the Conference at its 100th and 101st Sessions were submitted to the National Assembly on 23 October 2012.

**South Africa.** The ratification of Conventions Nos 188 and 189, as well as of the Maritime Labour Convention, 2006 (MLC, 2006), were registered in June 2013. Recommendations Nos 201 and 202 were submitted to the National Assembly on 14 March 2013.

**Spain.** The instruments adopted by the Conference at its 100th and 101st Sessions were submitted to the Cortes Generales on 10 January and 25 June 2013, respectively.

**Sri Lanka.** The instruments adopted by the Conference at its 99th and 100th Sessions were submitted to Parliament on 8 January 2013.

**Switzerland.** The instruments adopted by the Conference at its 100th and 101st Sessions were submitted to Parliament on 28 August 2013.

**Trinidad and Tobago.** The instruments adopted by the Conference at its 100th and 101st Sessions were submitted to Parliament on 26 February and 10 September 2013, respectively.

**Tunisia.** Recommendation No. 202 was submitted to the Constituent National Assembly on 27 May 2013.

**Turkey.** Recommendation No. 202 was submitted to the Grand National Assembly on 12 December 2012.

**Ukraine.** The instruments adopted at the eight sessions of the Conference held between 2003 and 2012 were submitted to the Supreme Rada on 25 April 2013.

**United Kingdom.** Recommendation No. 202 was submitted to Parliament on 7 February 2013.

**United States.** Recommendation No. 202 was submitted to the Senate and the House of Representatives on 31 December 2012.

**Uruguay.** The ratification of Convention No. 189 was registered on 14 June 2012.

**Bolivarian Republic of Venezuela.** The instruments adopted by the Conference at its 100th Session were submitted to the National Assembly on 20 September 2012.

The Committee has deemed it necessary, in certain cases, to request additional information on the nature of the competent authorities to which the instruments adopted by the Conference have been submitted, as well as other particulars required by the questionnaire included in the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, as revised in March 2005.

**Appendix V. Information supplied by governments with regard to the  
obligation to submit Conventions and Recommendations  
to the competent authorities**

(31st–101st Sessions of the International Labour Conference, 1948–2012)

*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 member States 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), 73rd Session (June 1987), 93rd Session (June 2005), 97th Session (June 2008) and 98th Session (June 2009).*

	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)
<b>Afghanistan</b>	31-56, 58-72, 74-92, 94, 95	96, 99-101
<b>Albania</b>	79-81, 82 (C176, R183), 83, 84 (C178, P147, R186), 85, 87, 88, 90 (P155), 91	78, 82 (P081), 84 (C179, C180, R185, R187), 86, 89, 90 (R193, R194), 92, 94-96, 99-101
<b>Algeria</b>	47-56, 58-72, 74-92, 94-96, 100	99, 101
<b>Angola</b>	61-72, 74-78, 79 (C173), 80, 81, 82 (R183, C176), 83-85, 87-90	79 (R180), 82 (P081), 86, 91, 92, 94-96, 99-101
<b>Antigua and Barbuda</b>	68-72, 74-82, 84, 87, 94, 100	83, 85, 86, 88-92, 95, 96, 99, 101
<b>Argentina</b>	31-56, 58-72, 74-90, 92, 94, 96	91, 95, 99-101
<b>Armenia</b>	80-92, 94-96, 99-101	
<b>Australia</b>	31-56, 58-72, 74-92, 94-96, 99-101	
<b>Austria</b>	31-56, 58-72, 74-92, 94-96, 99	100, 101
<b>Azerbaijan</b>	79 (C173), 80-82, 85-88, 91, 92	79 (R180), 83, 84, 89, 90, 94-96, 99-101
<b>Bahamas</b>	61-72, 74-84, 87, 91, 94	85, 86, 88-90, 92, 95, 96, 99-101
<b>Bahrain</b>	63-72, 74-87	88-92, 94-96, 99-101

	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)
<b>Bangladesh</b>	58-72, 74-76, 77 (C171, R178), 78, 80, 84, 85 (C181), 87	77 (C170, P089, R177), 79, 81-83, 85 (R188), 86, 88-92, 94-96, 99-101
<b>Barbados</b>	51-56, 58-72, 74-92, 94-96, 99	100, 101
<b>Belarus</b>	37-56, 58-72, 74-92, 94-96, 99, 100	101
<b>Belgium</b>	31-56, 58-72, 74-92, 94, 95 (C187, R197), 96, 99, 100	95 (R198), 101
<b>Belize</b>	68-72, 74-76, 84 (P147), 87, 88	77-83, 84 (C178, C179, C180, R185, R186, R187), 85, 86, 89-92, 94-96, 99-101
<b>Benin</b>	45-56, 58-72, 74-92, 94-96, 99	100, 101
<b>Bolivia, Plurinational State of</b>	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, 100	80 (R181), 81 (R182), 82 (P081, R183), 83 (R184), 84 (P147, R185, R186, R187), 85 (R188), 86, 88 (R191), 89 (R192), 90, 92, 94-96, 99, 101
<b>Bosnia and Herzegovina</b>	80, 81, 82 (C176, R183), 83-89, 90 (R193, R194), 91, 92, 94-96	82 (P081), 90 (P155), 99-101
<b>Botswana</b>	64-72, 74-92, 94-96, 99, 100	101
<b>Brazil</b>	31-50, 51 (C127, R128, R129, R130, R131), 53 (R133, R134), 54-56, 58-62, 63 (C148, R156, R157), 64 (C151, 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, 91	51 (C128), 52, 53 (C129, C130), 63 (C149), 64 (C150), 67 (C156), 68 (C157), 78, 79, 81, 82 (P081), 83, 84 (C179, C180, P147, R186, R187), 85, 86, 88, 90, 92, 94-96, 99-101
<b>Brunei Darussalam</b>		96, 99-101
<b>Bulgaria</b>	31-56, 58-72, 74-92, 94-96, 99-101	
<b>Burkina Faso</b>	45-56, 58-72, 74-92, 94-96	99-101
<b>Burundi</b>	47-56, 58-72, 74-92, 95	94, 96, 99-101

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)
<b>Cabo Verde</b>	
65-72, 74-92, 94-96, 99-101	
<b>Cambodia</b>	
53-56, 58-72, 74-92, 94-96	99-101
<b>Cameroon</b>	
44-56, 58-72, 74-92, 94-96	99-101
<b>Canada</b>	
31-56, 58-72, 74-92, 94-96	99-101
<b>Central African Republic</b>	
45-56, 58-72, 74-92, 94-96	99-101
<b>Chad</b>	
45-56, 58-72, 74-92, 94-96	99-101
<b>Chile</b>	
31-56, 58-72, 74-82, 87, 95 (C187, R197)	83-86, 88-92, 94, 95 (R198), 96, 99-101
<b>China</b>	
31-56, 58-72, 74-92, 94-96, 99, 100	101
<b>Colombia</b>	
31-56, 58-72, 74-81, 82 (C176, P081), 83-89, 90 (R193, R194), 91, 92, 94-96, 99-101	82 (R183), 90 (P155)
<b>Comoros</b>	
65-72, 74-78, 87	79-86, 88-92, 94-96, 99-101
<b>Congo</b>	
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), 77-86, 88-92, 94-96, 99-101
<b>Costa Rica</b>	
31-56, 58-72, 74-92, 94-96, 99-101	
<b>Côte d'Ivoire</b>	
45-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101
<b>Croatia</b>	
80-85, 87, 91, 94	86, 88-90, 92, 95, 96, 99-101
<b>Cuba</b>	
31-56, 58-72, 74-92, 94-96, 99-101	
<b>Cyprus</b>	
45-56, 58-72, 74-92, 94-96, 99-101	

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)
<b>Czech Republic</b>	
80-92, 94-96, 99-101	
<b>Democratic Republic of the Congo</b>	
45-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101
<b>Denmark</b>	
31-56, 58-72, 74-92, 94-96, 99-101	
<b>Djibouti</b>	
64, 65, 67, 71, 72, 83, 87	66, 68-70, 74-82, 84-86, 88-92, 94-96, 99-101
<b>Dominica</b>	
68-72, 74-79, 87	80-86, 88-92, 94-96, 99-101
<b>Dominican Republic</b>	
31-56, 58-72, 74-92, 94, 95, 99	96, 100, 101
<b>Ecuador</b>	
31-56, 58-72, 74-88, 90 (P155), 91, 92, 94, 95, 100, 101	89, 90 (R193, R194), 96, 99
<b>Egypt</b>	
31-56, 58-72, 74-92, 94-96, 99-101	
<b>El Salvador</b>	
31-56, 58-61, 63 (C149), 64, 67 (R164, R165, C155, C156), 69 (R168, C159), 71, 72, 74-81, 87, 90 (P155)	62, 63 (R156, R157, C148), 65, 66, 67 (R163, C154), 68, 69 (R167), 70, 82-86, 88, 89, 90 (R193, R194), 91, 92, 94-96, 99-101
<b>Equatorial Guinea</b>	
67-72, 74-79, 84, 87	80-83, 85, 86, 88-92, 94-96, 99-101
<b>Eritrea</b>	
80-92, 94-96, 99-101	
<b>Estonia</b>	
79-92, 94-96, 99-101	
<b>Ethiopia</b>	
31-56, 58-72, 74-92, 94-96, 99-101	
<b>Fiji</b>	
59-72, 74-82, 84 (C178, R185), 87, 89	83, 84 (C179, C180, P147, R186, R187), 85, 86, 88, 90-92, 94-96, 99-101
<b>Finland</b>	
31-56, 58-72, 74-92, 94-96, 99-101	
<b>France</b>	
31-56, 58-72, 74-92, 94-96, 99-101	

	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)
<b>Gabon</b>	45-56, 58-72, 74-81, 82 (C176), 83 (C177), 84, 85 (C181), 87, 89 (C184), 91, 94	82 (P081, R183), 83 (R184), 85 (R188), 86, 88, 89 (R192), 90, 92, 95, 96, 99-101
<b>Gambia</b>	82-92, 94-96	99-101
<b>Georgia</b>	80-92, 94-96, 99-101	
<b>Germany</b>	34-56, 58-72, 74-76, 77 (C170, R177), 78-92, 94-96, 99, 100	77 (C171, P089, R178), 101
<b>Ghana</b>	40-56, 58-72, 74-92, 94-96, 99-101	
<b>Greece</b>	31-56, 58-72, 74-92, 94-96, 99, 100	101
<b>Grenada</b>	66-72, 74-92, 94, 95	96, 99-101
<b>Guatemala</b>	31-56, 58-72, 74-92, 94-96	99-101
<b>Guinea</b>	43-56, 58-72, 74-83, 87	84-86, 88-92, 94-96, 99-101
<b>Guinea - Bissau</b>	63-72, 74-88, 94	89-92, 95, 96, 99-101
<b>Guyana</b>	50-56, 58-72, 74-92, 94, 95, 100	96, 99, 101
<b>Haiti</b>	31-56, 58-66, 67 (C156, R165), 69-72, 74, 75 (C167), 87	67 (C154, C155, R163, R164), 68, 75 (C168, R175, R176), 76-86, 88-92, 94-96, 99-101
<b>Honduras</b>	38-56, 58-72, 74-92, 101	94-96, 99, 100
<b>Hungary</b>	31-56, 58-72, 74-92, 94-96	99-101
<b>Iceland</b>	31-56, 58-72, 74-92, 94-96, 99-101	
<b>India</b>	31-56, 58-72, 74-92, 94-96, 99-101	
<b>Indonesia</b>	33-56, 58-72, 74-92, 94-96, 99-101	

	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)
<b>Iran, Islamic Republic of</b>	31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 94-96	90 (P155), 99-101
<b>Iraq</b>	31-56, 58-72, 74-87, 89	88, 90-92, 94-96, 99-101
<b>Ireland</b>	31-56, 58-72, 74-87, 100	88-92, 94-96, 99, 101
<b>Israel</b>	32-56, 58-72, 74-92, 94-96, 99-101	
<b>Italy</b>	31-56, 58-72, 74-92, 94-96, 99-101	
<b>Jamaica</b>	47-56, 58-72, 74-91	92, 94-96, 99-101
<b>Japan</b>	35-56, 58-72, 74-92, 94-96, 99-101	
<b>Jordan</b>	39-56, 58-72, 74-91	92, 94-96, 99-101
<b>Kazakhstan</b>	82 (C176, R183), 87, 88, 91	80, 81, 82 (P081), 83-86, 89, 90, 92, 94-96, 99-101
<b>Kenya</b>	48-56, 58-72, 74-92, 94-96, 99-101	
<b>Kiribati</b>	94	88-92, 95, 96, 99-101
<b>Korea, Republic of</b>	79-92, 94-96, 99-101	
<b>Kuwait</b>	45-56, 58-72, 74-76, 78, 79, 80 (C174), 81-85, 87, 88, 90, 91	77, 80 (R181), 86, 89, 92, 94-96, 99-101
<b>Kyrgyzstan</b>	87, 89	79-86, 88, 90-92, 94-96, 99-101
<b>Lao People's Democratic Republic</b>	48-56, 58-72, 74-81, 82 (R183, C176), 83-92, 94-96, 99, 100	82 (P081), 101
<b>Latvia</b>	79-92, 94-96, 99-101	
<b>Lebanon</b>	32-56, 58-72, 74-92, 94-96	99-101

	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)
<b>Lesotho</b>	66-72, 74-92, 94-96	99-101
<b>Liberia</b>	31-56, 58-72, 74-76, 77 (C170, C171, R177, R178), 78-81, 82 (C176, R183), 83-87, 91, 94	77 (P089), 82 (P081), 88-90, 92, 95, 96, 99-101
<b>Libya</b>	35-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101
<b>Lithuania</b>	79-92, 94-96, 99-101	
<b>Luxembourg</b>	31-56, 58-72, 74-92, 94-96	99-101
<b>Madagascar</b>	45-56, 58-72, 74-89, 91, 100	90, 92, 94-96, 99, 101
<b>Malawi</b>	49-56, 58-72, 74-92, 94-96	99-101
<b>Malaysia</b>	41-56, 58-72, 74-92, 94, 95 (C187, R197)	95 (R198), 96, 99-101
<b>Maldives, Republic of</b>		99-101
<b>Mali</b>	45-56, 58-72, 74-83, 84 (C178, C179, C180, R185, R186, R187), 85, 87-89, 90 (R193, R194), 91	84 (P147), 86, 90 (P155), 92, 94-96, 99-101
<b>Malta</b>	49-56, 58-72, 74-92, 94, 95	96, 99-101
<b>Marshall Islands</b>		99-101
<b>Mauritania</b>	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, 94-96, 99-101
<b>Mauritius</b>	53-56, 58-72, 74-92, 94-96, 99, 100	101
<b>Mexico</b>	31-56, 58-72, 74-89, 90 (P155, R194), 91, 94	90 (R193), 92, 95, 96, 99-101
<b>Moldova, Republic of</b>	79-91, 95 (C187, R197)	92, 94, 95 (R198), 96, 99-101

	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)
<b>Mongolia</b>	52-56, 58-72, 74-81, 82 (C176, R183), 83-92, 94-96, 99, 100	82 (P081), 101
<b>Montenegro</b>	96, 99, 101	100
<b>Morocco</b>	39-56, 58-72, 74-92, 94-96, 99-101	
<b>Mozambique</b>	61-72, 74-82, 87	83-86, 88-92, 94-96, 99-101
<b>Myanmar</b>	31-56, 58-72, 74-92, 94-96, 99-101	
<b>Namibia</b>	65-72, 74-92, 94-96	99-101
<b>Nepal</b>	51-56, 58-72, 74-92, 94, 95	96, 99-101
<b>Netherlands</b>	31-56, 58-72, 74-92, 94, 95 (R198), 96, 101	95 (C187, R197), 99, 100
<b>New Zealand</b>	31-56, 58-72, 74-92, 94-96, 99-101	
<b>Nicaragua</b>	40-56, 58-72, 74-92, 94-96, 99-101	
<b>Niger</b>	45-56, 58-72, 74-82, 87, 88, 95 (C187, R197)	83-86, 89-92, 94, 95 (R198), 96, 99-101
<b>Nigeria</b>	45-56, 58-72, 74-92, 95, 100	94, 96, 99, 101
<b>Norway</b>	31-56, 58-72, 74-92, 94-96, 99, 101	100
<b>Oman</b>	81-92, 95 (R197, R198), 99	94, 95 (C187), 96, 100, 101
<b>Pakistan</b>	31-56, 58-72, 74-80, 87, 91	81-86, 88-90, 92, 94-96, 99-101
<b>Palau</b>		101
<b>Panama</b>	31-56, 58-72, 74-87, 88 (R191), 89 (R192), 90 (R193, R194), 92, 94, 95 (R197, R198), 96 (R199), 99, 100 (R201), 101	88 (C183), 89 (C184), 90 (P155), 91, 95 (C187), 96 (C188), 100 (C189)

	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)
<b>Papua New Guinea</b>	61-72, 74-87	88-92, 94-96, 99-101
<b>Paraguay</b>	40-56, 58-72, 74-92, 94-96, 100	99, 101
<b>Peru</b>	31-56, 58-72, 74-92, 94-96, 99-101	
<b>Philippines</b>	31-56, 58-72, 74-92, 94-96, 99-101	
<b>Poland</b>	31-56, 58-72, 74-92, 94-96, 99-101	
<b>Portugal</b>	31-56, 58-72, 74-92, 94-96, 99, 100	101
<b>Qatar</b>	58-72, 74-92, 94-96, 99	100, 101
<b>Romania</b>	39-56, 58-72, 74-92, 94-96, 99-101	
<b>Russian Federation</b>	37-56, 58-72, 74-88, 91, 94, 95 (C187, R197)	89, 90, 92, 95 (R198), 96, 99-101
<b>Rwanda</b>	47-56, 58-72, 74-79, 81, 87	80, 82-86, 88-92, 94-96, 99-101
<b>Saint Kitts and Nevis</b>	84, 87, 94	83, 85, 86, 88-92, 95, 96, 99-101
<b>Saint Lucia</b>	67 (C154, R163), 68 (C158, R166), 87	66, 67 (C155, C156, R164, R165), 68 (C157, P110), 69-72, 74-86, 88-92, 94-96, 99-101
<b>Saint Vincent and the Grenadines</b>	84, 86, 87, 94	82, 83, 85, 88-92, 95, 96, 99-101
<b>Samoa</b>		94-96, 99-101
<b>San Marino</b>	68-72, 74-92, 94-96	99-101
<b>Sao Tome and Principe</b>	68-72, 74-76, 87, 89	77-86, 88, 90-92, 94-96, 99-101
<b>Saudi Arabia</b>	61-72, 74-92, 94-96, 99, 100	101

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)
<b>Senegal</b>	
45-56, 58-72, 74-81, 82 (R183, C176), 83, 84 (R185, R186, R187, C178, C179, C180), 85-89, 90 (R193, R194), 91, 92, 94-96	82 (P081), 84 (P147), 90 (P155), 99-101
<b>Serbia</b>	
89-92, 94-96, 99-101	
<b>Seychelles</b>	
63-72, 74-88	89-92, 94-96, 99-101
<b>Sierra Leone</b>	
45-56, 58-61, 62 (C145, C147, R153, R155)	62 (C146, R154), 63-72, 74-92, 94-96, 99-101
<b>Singapore</b>	
50-56, 58-72, 74-92, 94-96, 99, 100	101
<b>Slovakia</b>	
80-92, 94-96, 99, 100	101
<b>Slovenia</b>	
79-92, 94-96, 99-101	
<b>Solomon Islands</b>	
74, 87	70-72, 75-86, 88-92, 94-96, 99-101
<b>Somalia</b>	
45-56, 58-72, 74, 75	76-92, 94-96, 99-101
<b>South Africa</b>	
81, 82 (C176, R183), 83-92, 94-96, 99-101	
<b>South Sudan</b>	
	101
<b>Spain</b>	
39-56, 58-72, 74-92, 94, 95, 99-101	96
<b>Sri Lanka</b>	
31-56, 58-72, 74-92, 94-96, 99, 100	101
<b>Sudan</b>	
39-56, 58-72, 74-80, 87	81-86, 88-92, 94-96, 99-101
<b>Suriname</b>	
61-72, 74-89	90-92, 94-96, 99-101
<b>Swaziland</b>	
60-72, 74-92, 94-96	99-101
<b>Sweden</b>	
31-56, 58-72, 74-92, 94, 95, 99	96, 100, 101

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)
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**Switzerland**

31-56, 58-72, 74-92, 94-96, 99-101

**Syrian Arab Republic**

31-56, 58-65, 67, 68, 69 (C159, R167), 71, 72, 74-76, 77 (C170, R177), 87-89, 90 (P155)	66, 69 (R168), 70, 77 (C171, P089, R178), 78-86, 90 (R193, R194), 91, 92, 94-96, 99-101
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**Tajikistan**

81-83, 86, 87

84, 85, 88-92, 94-96, 99-101

**Tanzania, United Republic of**

46-56, 58-72, 74-92, 94-96, 99-101

**Thailand**

31-56, 58-72, 74-92, 94-96

99-101

**The former Yugoslav Republic of Macedonia**

80-83, 85, 87, 88, 95 (C187, R197)

84, 86, 89-92, 94, 95 (R198), 96, 99-101

**Timor-Leste**

92, 94-96

99-101

**Togo**

44-56, 58-72, 74-87, 89, 94, 95 (C187, R197)

88, 90-92, 95 (R198), 96, 99-101

**Trinidad and Tobago**

47-56, 58-72, 74-92, 94, 95, 99-101

96

**Tunisia**

39-56, 58-72, 74-92, 94-96, 99-101

**Turkey**

31-56, 58-72, 74-92, 94-96, 99-101

**Turkmenistan**

81-92, 94-96, 99, 100

101

**Tuvalu**

99-101

**Uganda**

47-56, 58-72, 74-80, 87

81-86, 88-92, 94-96, 99-101

**Ukraine**

37-56, 58-72, 74-92, 94-96, 99-101

**United Arab Emirates**

58-72, 74-92, 95, 96

94, 99-101

**United Kingdom**

31-56, 58-72, 74-92, 94-96, 99-101

**United States**

66-72, 74-92, 94-96, 99-101

	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)
<b>Uruguay</b>	31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 95 (R197, R198), 100	90 (P155), 94, 95 (C187), 96, 99, 101
<b>Uzbekistan</b>	80-92, 94-96, 99-101	
<b>Vanuatu</b>		91, 92, 94-96, 99-101
<b>Venezuela, Bolivarian Republic of</b>	41-56, 58-72, 74-92, 94-96, 99-101	
<b>Viet Nam</b>	79-92, 94-96, 99, 100	101
<b>Yemen</b>	49-56, 58-72, 74-87, 88 (C183), 89 (C184), 91, 95 (C187)	88 (R191), 89 (R192), 90, 92, 94, 95 (R197, R198), 96, 99-101
<b>Zambia</b>	49-56, 58-72, 74-92, 94-96	99-101
<b>Zimbabwe</b>	66-72, 74-92, 94-96, 99-101	

**Appendix VI. Overall position of member States with regard to  
the submission to the competent authorities of  
the instruments adopted by the Conference**  
(as of 14 December 2013)

Sessions of the ILC	Number of States in which, according to the information supplied by the Government:			Number of 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	0	<b>117</b>
52nd (June 1968)	117	0	1	<b>118</b>
53rd (June 1969)	120	1	0	<b>121</b>
54th (June 1970)	119	1	0	<b>120</b>
55th (October 1970)	119	1	0	<b>120</b>
56th (June 1971)	120	0	0	<b>120</b>
58th (June 1973)	122	1	0	<b>123</b>
59th (June 1974)	125	0	0	<b>125</b>
60th (June 1975)	125	1	0	<b>126</b>
61st (June 1976)	131	0	0	<b>131</b>
62nd (October 1976)	128	1	2	<b>131</b>
63rd (June 1977)	130	3	1	<b>134</b>
64th (June 1978)	133	1	1	<b>135</b>
65th (June 1979)	135	0	2	<b>137</b>
66th (June 1980)	137	0	5	<b>142</b>
67th (June 1981)	137	5	1	<b>143</b>
68th (June 1982)	140	3	4	<b>147</b>
69th (June 1983)	142	2	4	<b>148</b>
70th (June 1984)	142	0	7	<b>149</b>
71st (June 1985)	145	1	3	<b>149</b>
72nd (June 1986)	145	0	4	<b>149</b>
74th (October 1987)	145	0	4	<b>149</b>
75th (June 1988)	143	2	4	<b>149</b>
76th (June 1989)	141	0	6	<b>147</b>
77th (June 1990)	133	4	10	<b>147</b>
78th (June 1991)	137	0	12	<b>149</b>
79th (June 1992)	140	2	14	<b>156</b>
80th (June 1993)	149	2	16	<b>167</b>
81st (June 1994)	149	2	20	<b>171</b>
82nd (June 1995)	138	14	21	<b>173</b>
83rd (June 1996)	140	2	32	<b>174</b>
84th (October 1996)	138	8	28	<b>174</b>
85th (June 1997)	137	3	34	<b>174</b>
86th (June 1998)	133	0	41	<b>174</b>
87th (June 1999)	172	0	2	<b>174</b>

Sessions of the ILC	Number of States in which, according to the information supplied by the Government:			Number of 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>				
<b>88th</b> (June 2000)	132	3	40	<b>175</b>
<b>89th</b> (June 2001)	127	4	44	<b>175</b>
<b>90th</b> (June 2002)	112	12	51	<b>175</b>
<b>91st</b> (June 2003)	131	0	45	<b>176</b>
<b>92nd</b> (June 2004)	115	0	62	<b>177</b>
<b>94th</b> (February 2006)	120	0	58	<b>178</b>
<b>95th</b> (June 2006)	107	12	59	<b>178</b>
<b>96th</b> (June 2007)	96	1	81	<b>178</b>
<b>99th</b> (June 2010)	77	0	106	<b>183</b>
<b>100th</b> (June 2011)	77	1	105	<b>183</b>
<b>101st</b> (June 2012)	59	0	126	<b>185</b>

## 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.*

<b>Afghanistan</b>	<b>General observation</b> <i>Direct requests on Conventions Nos 14, 41, 106, 140, 142</i> <i>Direct request on submission</i>
<b>Albania</b>	<b>Observations on Conventions Nos 87, 98, 143, 183</b> <i>Direct requests on Conventions Nos 52, 81, 88, 97, 102, 122, 129, 143, 144, 168, 171, 174, 175, 176, 177, 181</i> <b>Observation on submission</b>
<b>Algeria</b>	<b>Observations on Conventions Nos 29, 32, 42, 87, 100, 111, 120</b> <i>Direct requests on Conventions Nos 14, 24, 29, 44, 81, 89, 97, 100, 101, 111, 119, 127, 142, 144, 155, 181</i> <i>Direct request on submission</i>
<b>Angola</b>	<b>Observations on Conventions Nos 88, 98</b> <i>Direct requests on Conventions Nos 1, 12, 14, 17, 18, 19, 27, 29, 87, 89, 98, 100, 105, 106, 107, 111</i> <b>Observation on submission</b>
<b>Antigua and Barbuda</b>	<i>Direct requests on Conventions Nos 14, 87, 101, 122, 142, 144</i> <b>Observation on submission</b>
<b>Argentina</b>	<b>Observations on Conventions Nos 3, 87, 169, 184</b> <i>Direct requests on Conventions Nos 1, 3, 14, 17, 30, 96, 98, 142, 144, 169, 184</i> <i>Direct request on submission</i>
<b>Armenia</b>	<b>Observations on Conventions Nos 17, 98</b> <i>Direct requests on Conventions Nos 14, 17, 18, 87, 97, 122, 131, 132, 143, 144, 174, 176</i>
<b>Australia</b>  Norfolk Island	<b>Observations on Conventions Nos 42, 87, 98, 111</b> <i>Direct requests on Conventions Nos 42, 87, 98, 100, 111, 162, 175</i> <i>Direct request on Convention No. 42</i>
<b>Austria</b>	<i>Direct request on Convention No. 187</i> <i>Response received to direct requests on Conventions Nos. 102, 172</i> <i>Direct request on submission</i>
<b>Azerbaijan</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 14, 27, 32, 47, 52, 81, 106, 120, 129, 140, 142, 144, 149, 156, 183</i> <b>Observation on submission</b>
<b>Bahamas</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 14, 17, 81, 87, 97, 100, 103, 105, 117, 144</i> <b>Observation on submission</b>
<b>Bahrain</b>	<i>Direct requests on Conventions Nos 14, 89</i> <b>Observation on submission</b>
<b>Bangladesh</b>	<b>Observations on Conventions Nos 81, 87, 98, 107, 144</b> <i>Direct requests on Conventions Nos 1, 14, 27, 32, 81, 89, 106, 149</i> <b>Observation on submission</b>
<b>Barbados</b>	<b>Observations on Conventions Nos 81, 87, 97, 98, 111, 115</b> <i>Direct requests on Conventions Nos 26, 81, 95, 97, 98, 100, 101, 105, 111, 144</i> <i>Response received to a direct request on Convention No. 94</i> <i>Direct request on submission</i>
<b>Belarus</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 27, 81, 87, 142, 144</i> <i>Direct request on submission</i>

<b>Belgium</b>	<i>Direct requests on Conventions Nos 1, 14, 87, 97, 98, 107, 132, 150, 155, 161</i> <i>Response received to a direct request on Convention No. 149</i> <i>Direct request on submission</i>
<b>Belize</b>	<b>Observations on Conventions Nos 87, 98, 115</b> <i>Direct requests on Conventions Nos 14, 81, 89, 97, 101, 144, 155</i> <b>Observation on submission</b>
<b>Benin</b>	<b>Observations on Conventions Nos 81, 87, 143</b> <i>Direct requests on Conventions Nos 14, 41, 81, 143, 144</i> <i>Direct request on submission</i>
<b>Bolivia, Plurinational State of</b>	<b>Observations on Conventions Nos 1, 14, 30, 87, 98, 103, 106, 136, 162, 169</b> <i>Direct requests on Conventions Nos 89, 98, 102, 117, 121, 130, 131, 169</i> <b>Observation on submission</b>
<b>Bosnia and Herzegovina</b>	<b>Observations on Conventions Nos 81, 87</b> <i>Direct requests on Conventions Nos 14, 81, 87, 89, 98, 106, 129, 132, 140, 142, 144, 175, 181, 183</i> <i>Direct request on submission</i>
<b>Botswana</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 14, 87, 144</i> <i>Response received to a direct request on Convention No. 19</i> <i>Direct request on submission</i>
<b>Brazil</b>	<b>Observations on Conventions Nos 81, 98, 111, 118, 131, 155, 169</b> <i>Direct requests on Conventions Nos 42, 81, 94, 97, 98, 100, 111, 117, 132, 144, 151, 152, 159, 168, 169</i> <b>Observation on submission</b>
<b>Brunei Darussalam</b>	<i>General direct request</i> <i>Direct request on submission</i>
<b>Bulgaria</b>	<i>General direct request</i> <b>Observations on Conventions Nos 81, 87, 98</b> <i>Direct requests on Conventions Nos 1, 14, 30, 32, 42, 44, 52, 81, 95, 106, 144, 177, 181, 183</i>
<b>Burkina Faso</b>	<b>Observation on Convention No. 98</b> <i>Direct requests on Conventions Nos 87, 98, 122, 142</i> <i>Direct request on submission</i>
<b>Burundi</b>	<b>General observation</b> <b>Observations on Conventions Nos 11, 26, 29, 62, 81, 87, 94, 98, 100, 111, 138, 144</b> <i>Direct requests on Conventions Nos 14, 17, 27, 29, 42, 52, 64, 87, 89, 100, 101, 105, 111, 135, 138</i> <b>Observation on submission</b>
<b>Cabo Verde</b>	<i>Direct requests on Conventions Nos 87, 98, 138, 155</i>
<b>Cambodia</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 4, 87, 98, 111, 150</i> <i>Direct request on submission</i>
<b>Cameroon</b>	<b>Observations on Conventions Nos 87, 94, 162</b> <i>Direct requests on Conventions Nos 3, 14, 89, 95, 98, 106, 132</i> <i>Direct request on submission</i>
<b>Canada</b>	<b>Observations on Conventions Nos 87, 111</b> <i>Direct requests on Conventions Nos 1, 87, 111, 144, 187</i> <i>Response received to a direct request on Convention No. 14</i> <i>Direct request on submission</i>
<b>Central African Republic</b>	<b>Observations on Conventions Nos 18, 81, 87, 98, 100, 111, 118, 169</b> <i>Direct requests on Conventions Nos 3, 14, 41, 52, 81, 87, 88, 98, 100, 101, 111, 117, 118, 142, 144, 169</i> <i>Direct request on submission</i>

<b>Chad</b>	<b>Observations on Conventions Nos 29, 87, 98, 111, 144, 182</b> <i>Direct requests on Conventions Nos 13, 14, 26, 29, 41, 81, 87, 95, 100, 105, 111, 132, 138, 182</i> <i>Direct request on submission</i>
<b>Chile</b>	<b>Observations on Conventions Nos 1, 30, 87, 98, 103, 115, 144, 169</b> <i>Direct requests on Conventions Nos 87, 115, 140, 169, 187</i> <b>Observation on submission</b>
<b>China</b>	<i>Direct requests on Conventions Nos 14, 19, 144</i> <i>Direct request on submission</i>
<b>Hong Kong Special Administrative Region</b>	<b>Observations on Conventions Nos 98, 144</b> <i>Direct requests on Conventions Nos 3, 14, 87</i> <i>Response received to direct requests on Conventions Nos. 17, 101</i>
<b>Macau Special Administrative Region</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 14, 17, 19, 87, 106, 144</i> <i>Response received to a direct request on Convention No. 18</i>
<b>Colombia</b>	<b>Observations on Conventions Nos 24, 81, 87, 98, 162, 169, 174</b> <i>Direct requests on Conventions Nos 1, 3, 4, 14, 24, 25, 30, 52, 81, 101, 106, 144, 162, 169, 174</i> <i>Direct request on submission</i>
<b>Comoros</b>	<b>General observation</b> <b>Observations on Conventions Nos 13, 17, 19, 42, 81, 98, 99, 100, 111</b> <i>Direct requests on Conventions Nos 1, 12, 29, 52, 77, 87, 100, 101, 105, 111, 138, 182</i> <b>Observation on submission</b>
<b>Congo</b>	<i>General direct request</i> <b>Observations on Conventions Nos 81, 87, 182</b> <i>Direct requests on Conventions Nos 14, 87, 89, 98, 144, 149, 182</i> <b>Observation on submission</b>
<b>Costa Rica</b>	<b>Observations on Conventions Nos 87, 95, 98, 100, 102, 122, 144, 169</b> <i>Direct requests on Conventions Nos 1, 14, 87, 88, 94, 100, 106, 111, 117, 122, 131, 169</i>
<b>Côte d'Ivoire</b>	<b>Observations on Conventions Nos 81, 87, 129, 144</b> <i>Direct requests on Conventions Nos 3, 14, 41, 81, 87, 98, 110, 159</i> <i>Response received to a direct request on Convention No. 52</i> <b>Observation on submission</b>
<b>Croatia</b>	<i>General direct request</i> <b>Observations on Conventions Nos 81, 98, 162</b> <i>Direct requests on Conventions Nos 14, 27, 32, 81, 87, 102, 106, 121, 129, 132</i> <i>Response received to direct requests on Conventions Nos. 12, 24</i> <b>Observation on submission</b>
<b>Cuba</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 1, 30, 52, 101, 107, 110, 183</i>
<b>Cyprus</b>	<b>Observation on Convention No. 183</b> <i>Direct requests on Conventions Nos 97, 106, 143, 144, 152, 171, 172</i> <i>Response received to a direct request on Convention No. 175</i>
<b>Czech Republic</b>	<i>General direct request</i> <b>Observations on Conventions Nos 88, 132</b> <i>Direct requests on Conventions Nos 1, 14, 81, 87, 98, 128, 129, 140, 142, 144</i>
<b>Democratic Republic of the Congo</b>	<b>Observations on Conventions Nos 29, 81, 87, 98, 100, 102, 111, 121, 138, 144, 158</b> <i>Direct requests on Conventions Nos 14, 26, 29, 81, 87, 89, 95, 98, 100, 105, 111, 117, 118, 120, 121, 135, 138, 150</i> <b>Observation on submission</b>
<b>Denmark</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 14, 52, 81, 87, 98, 106, 129, 144, 152</i> <i>Response received to a direct request on Convention No. 149</i>
<b>Faeroe Islands</b>	<i>Direct requests on Conventions Nos 14, 52, 106</i>

Greenland	<i>Direct requests on Conventions Nos 14, 106, 122, 169</i> <i>Response received to a direct request on Convention No. 19</i>
<b>Djibouti</b>	<i>General direct request</i> <b>Observations on Conventions Nos 19, 24, 26, 37, 63, 81, 87, 94, 98, 115, 120, 144</b> <i>Direct requests on Conventions Nos 1, 9, 14, 16, 17, 18, 23, 29, 38, 52, 55, 56, 71, 73, 81, 87, 88, 89, 95, 96, 98, 100, 101, 106, 111, 138, 182</i> <b>Observation on submission</b>
<b>Dominica</b>	<i>General direct request</i> <i>Direct requests on Conventions Nos 12, 14, 19, 81, 87, 94, 97, 111, 144, 169</i> <b>Observation on submission</b>
<b>Dominican Republic</b>	<i>General direct request</i> <b>Observations on Conventions Nos 19, 81, 87, 98, 111, 144, 171</b> <i>Direct requests on Conventions Nos 29, 81, 87, 106, 107, 111, 167, 172</i> <i>Direct request on submission</i>
<b>Ecuador</b>	<i>General direct request</i> <b>Observations on Conventions Nos 87, 95, 98, 100, 101, 111, 115, 119, 121, 130, 136, 139, 148, 152, 153, 162, 169</b> <i>Direct requests on Conventions Nos 81, 87, 97, 101, 103, 106, 110, 111, 117, 118, 121, 128, 142, 144, 159, 169</i> <i>Response received to a direct request on Convention No. 123</i> <i>Direct request on submission</i>
<b>Egypt</b>	<b>Observations on Conventions Nos 81, 87, 98, 129</b> <i>Direct requests on Conventions Nos 14, 81, 87, 106, 129, 144, 152</i>
<b>El Salvador</b>	<i>General direct request</i> <b>Observations on Conventions Nos 98, 144, 155</b> <i>Direct requests on Conventions Nos 87, 107, 142</i> <b>Observation on submission</b>
<b>Equatorial Guinea</b>	<b>General observation</b> <b>Observations on Conventions Nos 1, 30, 87, 98</b> <i>Direct requests on Conventions Nos 1, 29, 30, 103, 105, 111, 138, 182</i> <b>Observation on submission</b>
<b>Eritrea</b>	<i>General direct request</i> <b>Observation on Convention No. 98</b> <i>Direct request on Convention No. 87</i>
<b>Estonia</b>	<b>Observation on Convention No. 87</b> <i>Direct requests on Conventions Nos 14, 98, 144</i>
<b>Ethiopia</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 14, 106</i>
<b>Fiji</b>	<b>Observations on Conventions Nos 87, 98, 144</b> <i>Direct requests on Conventions Nos 122, 149, 169, 172</i> <b>Observation on submission</b>
<b>Finland</b>	<b>Observation on Convention No. 81</b> <i>Direct requests on Conventions Nos 14, 81, 132, 140, 144, 175</i> <i>Response received to direct requests on Conventions Nos. 149, 177</i>
<b>France</b>	<b>Observations on Conventions Nos 81, 96, 129</b> <i>Direct requests on Conventions Nos 81, 98, 106, 129, 137, 142, 152</i> <i>Response received to a direct request on Convention No. 14</i> <b>Observations on Conventions Nos 37, 38, 42, 44, 81, 115</b> <i>Direct requests on Conventions Nos 14, 42, 81, 89, 106, 129, 142, 144</i> <i>General direct request</i> <b>Observations on Conventions Nos 111, 115</b> <i>Direct requests on Conventions Nos 14, 52, 81, 89, 100, 101, 106, 111, 120, 129, 142, 144</i>
French Polynesia	
French Southern and Antarctic Territories	
New Caledonia	

<b>Gabon</b>	<i>Direct requests on Conventions Nos 3, 14, 41, 52, 100, 101, 106, 111, 122</i> <b>Observation on submission</b>
<b>Gambia</b>	<b>General observation</b> <b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 29, 100, 105, 111, 138, 182</i> <i>Direct request on submission</i>
<b>Georgia</b>	<b>Observation on Convention No. 100</b> <i>Direct requests on Conventions Nos 52, 88, 100, 111, 117, 122, 142, 181</i> <b>Observation on submission</b>
<b>Germany</b>	<b>Observation on Convention No. 128</b> <i>Direct requests on Conventions Nos 100, 111, 132, 140</i> <i>Direct request on submission</i>
<b>Ghana</b>	<i>General direct request</i> <b>Observations on Conventions Nos 81, 94, 96, 98, 100, 103, 105</b> <i>Direct requests on Conventions Nos 1, 14, 29, 30, 89, 100, 105, 106, 107, 111, 115, 117, 119, 149, 182</i>
<b>Greece</b>	<b>Observations on Conventions Nos 81, 98, 102, 150</b> <i>Direct request on submission</i>
<b>Grenada</b>	<b>Observation on Convention No. 99</b> <i>Direct requests on Conventions Nos 14, 26, 81, 94, 97, 100, 111, 138, 182</i> <i>Response received to a direct request on Convention No. 95</i> <b>Observation on submission</b>
<b>Guatemala</b>	<b>Observations on Conventions Nos 1, 87, 100, 103, 111, 144, 162, 169</b> <i>Direct requests on Conventions Nos 30, 89, 95, 100, 101, 110, 111, 117, 149</i> <i>Direct request on submission</i>
<b>Guinea</b>	<i>General direct request</i> <b>Observations on Conventions Nos 62, 94, 111, 115, 117, 118, 121, 136, 139, 140, 142, 144, 148, 152, 159</b> <i>Direct requests on Conventions Nos 3, 89, 90, 100, 105, 111, 113, 118, 122, 132, 133, 143, 149, 156</i> <b>Observation on submission</b>
<b>Guinea - Bissau</b>	<b>Observation on Convention No. 81</b> <i>Direct requests on Conventions Nos 12, 17, 18, 19, 29, 81, 88, 100, 105, 111</i> <b>Observation on submission</b>
<b>Guyana</b>	<i>General direct request</i> <b>Observations on Conventions Nos 29, 98, 100, 111, 115, 129, 137, 139, 140, 144</b> <i>Direct requests on Conventions Nos 87, 94, 95, 100, 111, 138, 142, 149, 172, 175</i> <i>Direct request on submission</i>
<b>Haiti</b>	<i>General direct request</i> <b>Observations on Conventions Nos 12, 17, 24, 25, 42</b> <i>Direct requests on Conventions Nos 1, 14, 30, 100, 106, 107, 111</i> <b>Observation on submission</b>
<b>Honduras</b>	<b>Observations on Conventions Nos 98, 100, 111, 169</b> <i>Direct requests on Conventions Nos 14, 100, 106, 111, 122, 169</i> <i>Direct request on submission</i>
<b>Hungary</b>	<b>Observations on Conventions Nos 17, 111</b> <i>Direct requests on Conventions Nos 14, 17, 24, 27, 42, 100, 111, 132, 160, 175</i> <i>Direct request on submission</i>
<b>Iceland</b>	<i>Direct requests on Conventions Nos 111, 182</i>
<b>India</b>	<b>Observations on Conventions Nos 100, 107, 111</b> <i>Direct requests on Conventions Nos 1, 14, 42, 89, 100, 107, 111, 122, 142</i>

<b>Indonesia</b>	<b>Observations on Conventions Nos 100, 106, 111</b> <i>Direct requests on Conventions Nos 100, 111</i>
<b>Iran, Islamic Republic of</b>	<b>Observations on Conventions Nos 100, 111</b> <i>Direct requests on Conventions Nos 14, 100, 106, 122, 142</i> <i>Direct request on submission</i>
<b>Iraq</b>	<b>Observation on Convention No. 100</b> <i>Direct requests on Conventions Nos 14, 17, 42, 89, 100, 111, 120, 132, 149, 153, 172</i> <b>Observation on submission</b>
<b>Ireland</b>	<b>Observations on Conventions Nos 111, 122, 144</b> <i>Direct requests on Conventions Nos 14, 26, 88, 100, 111, 142, 159, 160, 172</i> <b>Observation on submission</b>
<b>Israel</b>	<b>Observations on Conventions Nos 100, 111</b> <i>Direct requests on Conventions Nos 14, 100, 106, 111, 122, 160</i>
<b>Italy</b>	<b>Observations on Conventions Nos 111, 143</b> <i>Direct requests on Conventions Nos 29, 97, 100, 111, 143, 152, 175</i> <i>Response received to a direct request on Convention No. 14</i>
<b>Jamaica</b>	<b>Observations on Conventions Nos 100, 117</b> <i>Direct requests on Conventions Nos 97, 100, 111, 122, 149, 152</i> <b>Observation on submission</b>
<b>Japan</b>	<b>Observations on Conventions Nos 81, 102, 122, 142, 159</b> <i>Direct requests on Conventions Nos 27, 81, 122</i>
<b>Jordan</b>	<b>Observations on Conventions Nos 100, 106, 111, 144</b> <i>Direct requests on Conventions Nos 100, 111, 117, 122</i> <b>Observation on submission</b>
<b>Kazakhstan</b>	<b>General observation</b> <b>Observations on Conventions Nos 100, 111, 138, 182</b> <i>Direct requests on Conventions Nos 100, 122, 138, 144, 182</i> <b>Observation on submission</b>
<b>Kenya</b>	<b>Observations on Conventions Nos 111, 138</b> <i>Direct requests on Conventions Nos 14, 89, 100, 111, 131, 132, 138, 140, 142, 149</i>
<b>Kiribati</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 29, 87, 100, 105, 111, 138, 182</i> <b>Observation on submission</b>
<b>Korea, Republic of</b>	<b>Observations on Conventions Nos 100, 111, 115, 122, 139</b> <i>Direct requests on Conventions Nos 47, 100, 111, 142</i>
<b>Kuwait</b>	<b>Observation on Convention No. 105</b> <i>Direct requests on Conventions Nos 1, 30, 89, 105, 106, 144</i> <b>Observation on submission</b>
<b>Kyrgyzstan</b>	<b>Observation on Convention No. 138</b> <i>Direct requests on Conventions Nos 14, 47, 81, 95, 97, 98, 100, 103, 106, 111, 115, 119, 120, 122, 131, 138, 142, 144, 148, 149, 150, 159, 160, 184</i> <i>Response received to a direct request on Convention No. 11</i> <b>Observation on submission</b>
<b>Lao People's Democratic Republic</b>	<i>Direct requests on Conventions Nos 4, 29, 100, 111, 138, 144, 182</i> <i>Direct request on submission</i>
<b>Latvia</b>	<b>Observations on Conventions Nos 111, 183</b> <i>Direct requests on Conventions Nos 100, 106, 111, 132, 149</i>
<b>Lebanon</b>	<b>Observations on Conventions Nos 29, 100, 111, 138, 182</b> <i>Direct requests on Conventions Nos 1, 14, 29, 30, 52, 59, 77, 78, 89, 90, 95, 100, 106, 111, 122, 131, 138, 142, 152, 172, 182</i> <i>Direct request on submission</i>

<b>Lesotho</b>	<b>Observations on Conventions Nos 138, 182</b> <i>Direct requests on Conventions Nos 14, 26, 29, 100, 105, 111, 144, 182</i> <i>Direct request on submission</i>
<b>Liberia</b>	<b>Observation on Convention No. 182</b> <i>Direct requests on Conventions Nos 29, 111, 150, 182</i> <b>Observation on submission</b>
<b>Libya</b>	<b>Observation on Convention No. 103</b> <i>Direct requests on Conventions Nos 1, 14, 29, 52, 81, 89, 95, 103, 105, 131</i> <i>Response received to a direct request on Convention No. 138</i> <b>Observation on submission</b>
<b>Lithuania</b>	<b>Observation on Convention No. 100</b> <i>Direct requests on Conventions Nos 1, 14, 47, 100, 111, 149</i> <i>Response received to a direct request on Convention No. 171</i>
<b>Luxembourg</b>	<i>General direct request</i> <b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 1, 14, 30, 100, 111, 129, 142, 159, 171</i> <i>Direct request on submission</i>
<b>Madagascar</b>	<b>Observations on Conventions Nos 19, 100, 111, 122</b> <i>Direct requests on Conventions Nos 14, 89, 100, 111, 117, 132, 171</i> <b>Observation on submission</b>
<b>Malawi</b>	<i>General direct request</i> <b>Observations on Conventions Nos 81, 100, 111, 129, 138, 144, 182</b> <i>Direct requests on Conventions Nos 26, 29, 89, 97, 98, 99, 100, 105, 107, 111, 149, 150, 159, 182</i> <i>Direct request on submission</i>
<b>Malaysia</b>	<b>Observations on Conventions Nos 29, 100</b> <i>Direct requests on Conventions Nos 29, 95, 100, 144</i> <i>Direct request on submission</i>
Peninsular	<i>General direct request</i>
Sabah	<b>Observation on Convention No. 19</b>
Sarawak	<b>Observation on Convention No. 97</b> <i>Direct request on Convention No. 97</i>
	<i>General direct request</i> <b>Observation on Convention No. 19</b> <i>Direct requests on Conventions Nos 14, 94</i>
<b>Maldives, Republic of</b>	<i>Direct request on submission</i>
<b>Mali</b>	<b>General observation</b> <b>Observations on Conventions Nos 14, 138, 182</b> <i>Direct requests on Conventions Nos 14, 19, 26, 29, 52, 95, 100, 105, 111, 144, 182, 183</i> <b>Observation on submission</b>
<b>Malta</b>	<b>Observations on Conventions Nos 98, 111</b> <i>Direct requests on Conventions Nos 1, 14, 95, 96, 100, 106, 111, 117, 131, 132, 149</i> <i>Response received to direct requests on Conventions Nos. 77, 78</i> <i>Direct request on submission</i>
<b>Marshall Islands</b>	<i>General direct request</i>
<b>Mauritania</b>	<i>General direct request</i> <b>Observations on Conventions Nos 3, 29, 81, 100, 102, 111, 122, 138, 182</b> <i>Direct requests on Conventions Nos 14, 52, 89, 100, 111, 112, 114, 138, 182</i> <b>Observation on submission</b>
<b>Mauritius</b>	<b>Observations on Conventions Nos 97, 100, 111</b> <i>Direct requests on Conventions Nos 14, 26, 29, 32, 95, 97, 99, 100, 105, 111, 144, 154, 175</i>

<b>Mexico</b>	<b>Observations on Conventions Nos 100, 102, 111, 169</b> <i>Direct requests on Conventions Nos 100, 110, 111, 142, 144, 169, 172</i> <i>Response received to a direct request on Convention No. 152</i> <i>Direct request on submission</i>
<b>Moldova, Republic of</b>	<i>Direct requests on Conventions Nos 47, 95, 97, 132, 187</i> <b>Observation on submission</b>
<b>Mongolia</b>	<i>General direct request</i> <b>Observations on Conventions Nos 100, 111, 138</b> <i>Direct requests on Conventions Nos 100, 103, 111, 122, 123, 144, 182</i> <i>Direct request on submission</i>
<b>Montenegro</b>	<b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 14, 27, 29, 32, 89, 100, 105, 106, 111, 122, 132, 140, 142</i> <i>Direct request on submission</i>
<b>Morocco</b>	<b>Observations on Conventions Nos 100, 111, 122</b> <i>Direct requests on Conventions Nos 4, 30, 100, 111, 158, 162, 183</i> <i>Response received to direct requests on Conventions Nos. 14, 52, 106</i>
<b>Mozambique</b>	<b>Observation on Convention No. 100</b> <i>Direct requests on Conventions Nos 100, 111, 122, 144</i> <b>Observation on submission</b>
<b>Myanmar</b>	<b>Observations on Conventions Nos 17, 52</b> <i>Direct requests on Conventions Nos 1, 14</i> <i>Direct request on submission</i>
<b>Namibia</b>	<b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 29, 100, 105, 111</i> <i>Direct request on submission</i>
<b>Nepal</b>	<b>Observations on Conventions Nos 100, 111</b> <i>Direct requests on Conventions Nos 14, 100, 111, 144, 169</i> <i>Direct request on submission</i>
<b>Netherlands</b>	<b>Observations on Conventions Nos 100, 111, 122, 130, 142, 181, 183</b> <i>Direct requests on Conventions Nos 94, 100, 102, 111, 130, 169, 177</i> <i>Response received to direct requests on Conventions Nos. 14, 106, 175</i> <i>Direct request on submission</i>
Aruba	<i>General direct request</i> <i>Direct requests on Conventions Nos 14, 94, 95, 106, 182</i>
Caribbean Part of the Netherlands	<i>Direct requests on Conventions Nos 14, 94, 101, 106, 122</i>
Curaçao	<i>Direct requests on Conventions Nos 14, 106, 122</i>
Sint Maarten	<i>Direct requests on Conventions Nos 14, 101, 106, 122</i>
<b>New Zealand</b>	<b>Observations on Conventions Nos 97, 122</b> <i>Direct requests on Conventions Nos 14, 52, 97, 101</i> <i>Direct requests on Conventions Nos 100, 111</i>
Tokelau	<i>Direct requests on Conventions Nos 100, 111</i>
<b>Nicaragua</b>	<b>Observations on Conventions Nos 111, 138, 182</b> <i>Direct requests on Conventions Nos 1, 3, 4, 100, 110, 111, 117, 122, 140, 142, 169, 182</i>
<b>Niger</b>	<b>Observations on Conventions Nos 29, 81, 138, 182</b> <i>Direct requests on Conventions Nos 14, 29, 81, 95, 105, 131, 148, 155, 161, 182, 187</i> <b>Observation on submission</b>
<b>Nigeria</b>	<i>General direct request</i> <b>Observations on Conventions Nos 32, 88, 111, 144, 155</b> <i>Direct requests on Conventions Nos 19, 26, 94, 95, 97, 100, 111, 137, 155, 159</i> <i>Direct request on submission</i>

<b>Norway</b>	<b>Observation on Convention No. 100</b> <i>Direct requests on Conventions Nos 14, 30, 97, 100, 111, 122, 132, 142, 143</i> <i>Response received to a direct request on Convention No. 149</i> <i>Direct request on submission</i>
<b>Oman</b>	<b>Observations on Conventions Nos 29, 182</b> <i>Direct requests on Conventions Nos 29, 105, 138</i> <i>Direct request on submission</i>
<b>Pakistan</b>	<b>Observations on Conventions Nos 29, 81, 96, 105, 107, 138, 159, 182</b> <i>Direct requests on Conventions Nos 1, 14, 29, 32, 89, 105, 106, 107, 138, 182</i> <b>Observation on submission</b>
<b>Panama</b>	<b>Observations on Conventions Nos 30, 32, 122, 138</b> <i>Direct requests on Conventions Nos 27, 29, 88, 89, 94, 105, 107, 110, 117, 122, 182</i> <i>Response received to a direct request on Convention No. 42</i> <i>Direct request on submission</i>
<b>Papua New Guinea</b>	<b>Observations on Conventions Nos 29, 138, 182</b> <i>Direct requests on Conventions Nos 29, 105, 138, 158, 182</i> <b>Observation on submission</b>
<b>Paraguay</b>	<b>Observations on Conventions Nos 29, 79, 81, 122, 138, 182</b> <i>Direct requests on Conventions Nos 1, 14, 29, 30, 52, 81, 89, 106, 138, 182</i> <i>Direct request on submission</i>
<b>Peru</b>	<b>Observations on Conventions Nos 1, 29, 122, 138, 169, 182</b> <i>Direct requests on Conventions Nos 14, 29, 52, 101, 105, 106, 122, 138, 152, 169, 176, 182</i> <b>Observation on submission</b>
<b>Philippines</b>	<b>Observations on Conventions Nos 29, 105, 122, 138, 182</b> <i>Direct requests on Conventions Nos 29, 105, 110, 122, 138, 182</i> <i>Response received to a direct request on Convention No. 149</i>
<b>Poland</b>	<b>Observations on Conventions Nos 81, 129, 140, 142</b> <i>Direct requests on Conventions Nos 29, 81, 95, 129, 149</i> <i>Response received to direct requests on Conventions Nos. 101, 182</i>
<b>Portugal</b>	<b>Observations on Conventions Nos 81, 122, 129</b> <i>Direct requests on Conventions Nos 29, 87, 97, 117, 131, 132, 138, 143, 149, 175, 182</i> <i>Response received to a direct request on Convention No. 103</i> <i>Direct request on submission</i>
<b>Qatar</b>	<b>Observation on Convention No. 81</b> <i>Direct requests on Conventions Nos 29, 81, 105</i> <i>Direct request on submission</i>
<b>Romania</b>	<b>Observations on Conventions Nos 1, 81, 183</b> <i>Direct requests on Conventions Nos 14, 29, 81, 89, 95, 105, 129, 138, 182</i>
<b>Russian Federation</b>	<b>Observations on Conventions Nos 29, 81, 105, 122, 138, 182</b> <i>Direct requests on Conventions Nos 14, 27, 29, 81, 95, 106, 119, 132, 137, 150, 152, 162, 182, 187</i> <i>Direct request on submission</i>
<b>Rwanda</b>	<i>General direct request</i> <b>Observations on Conventions Nos 81, 123, 138</b> <i>Direct requests on Conventions Nos 14, 26, 29, 81, 89, 105, 122, 123, 132, 138, 182</i> <b>Observation on submission</b>
<b>Saint Kitts and Nevis</b>	<i>Direct requests on Conventions Nos 29, 105, 138, 182</i> <b>Observation on submission</b>
<b>Saint Lucia</b>	<i>Direct requests on Conventions Nos 14, 29, 101, 182</i> <b>Observation on submission</b>

<b>Saint Vincent and the Grenadines</b>	<p><b>Observations on Conventions Nos 81, 182</b>  <i>Direct requests on Conventions Nos 81, 94, 95, 101, 105, 129, 138, 182</i>  <b>Observation on submission</b></p>
<b>Samoa</b>	<p><b>Observations on Conventions Nos 138, 182</b>  <i>Direct requests on Conventions Nos 29, 105, 138, 182</i>  <b>Observation on submission</b></p>
<b>San Marino</b>	<p><b>General observation</b>  <b>Observations on Conventions Nos 148, 160</b>  <i>Direct requests on Conventions Nos 100, 103, 111, 140, 143, 150, 156, 159</i>  <i>Direct request on submission</i></p>
<b>Sao Tome and Principe</b>	<p><b>General observation</b>  <b>Observations on Conventions Nos 17, 18, 81, 87, 88, 98, 100, 111, 144, 159</b>  <i>Direct requests on Conventions Nos 29, 81, 100, 105, 138, 182</i>  <b>Observation on submission</b></p>
<b>Saudi Arabia</b>	<p><b>Observations on Conventions Nos 29, 81, 111, 182</b>  <i>Direct requests on Conventions Nos 1, 14, 29, 30, 81, 106, 182</i>  <i>Direct request on submission</i></p>
<b>Senegal</b>	<p><b>Observations on Conventions Nos 81, 105, 138, 182</b>  <i>Direct requests on Conventions Nos 14, 29, 81, 117, 182</i>  <i>Response received to a direct request on Convention No. 52</i>  <i>Direct request on submission</i></p>
<b>Serbia</b>	<p><b>Observations on Conventions Nos 81, 122, 183</b>  <i>Direct requests on Conventions Nos 14, 29, 32, 81, 89, 97, 105, 106, 129, 132, 140, 142, 143, 158, 182, 183</i>  <i>Response received to a direct request on Convention No. 138</i></p>
<b>Seychelles</b>	<p><i>Direct requests on Conventions Nos 81, 105, 138, 148, 149, 152, 155, 161, 182</i>  <b>Observation on submission</b></p>
<b>Sierra Leone</b>	<p><i>General direct request</i>  <b>Observations on Conventions Nos 17, 29, 88, 94, 95, 98, 111, 119, 125, 144</b>  <i>Direct requests on Conventions Nos 26, 45, 81, 87, 100, 101, 105, 111, 126, 138, 182</i>  <b>Observation on submission</b></p>
<b>Singapore</b>	<p><b>Observation on Convention No. 81</b>  <i>Direct requests on Conventions Nos 29, 32, 81, 94, 144, 182</i>  <i>Response received to a direct request on Convention No. 138</i>  <i>Direct request on submission</i></p>
<b>Slovakia</b>	<p><i>General direct request</i>  <b>Observation on Convention No. 122</b>  <i>Direct requests on Conventions Nos 1, 14, 42, 52, 81, 98, 105, 128, 129, 130, 139, 140, 148, 156, 159, 171, 182, 183</i>  <i>Direct request on submission</i></p>
<b>Slovenia</b>	<p><b>Observation on Convention No. 122</b>  <i>Direct requests on Conventions Nos 14, 32, 97, 106, 132, 143, 151, 173, 174, 182</i></p>
<b>Solomon Islands</b>	<p><b>Observation on Convention No. 81</b>  <i>Direct requests on Conventions Nos 14, 26, 29, 81, 94, 95</i>  <b>Observation on submission</b></p>
<b>Somalia</b>	<p><b>General observation</b>  <b>Observation on submission</b></p>
<b>South Africa</b>	<p><b>Observation on Convention No. 182</b>  <i>Direct requests on Conventions Nos 29, 105, 138, 182</i></p>
<b>South Sudan</b>	<p><i>General direct request</i></p>

<b>Spain</b>	<p><b>Observations on Conventions Nos 1, 14, 30, 81, 94, 106, 182</b>  <i>Direct requests on Conventions Nos 4, 29, 81, 97, 103, 129, 131, 132, 152, 169, 182</i>  <i>Response received to a direct request on Convention No. 101</i>  <i>Direct request on submission</i></p>
<b>Sri Lanka</b>	<p><b>Observations on Conventions Nos 29, 81, 103, 105, 110, 138, 182</b>  <i>Direct requests on Conventions Nos 29, 81, 105, 106, 110, 131, 182</i>  <i>Direct request on submission</i></p>
<b>Sudan</b>	<p><b>Observations on Conventions Nos 26, 29, 98, 105, 122, 182</b>  <i>Direct requests on Conventions Nos 95, 105, 117, 138, 182</i>  <b>Observation on submission</b></p>
<b>Suriname</b>	<p><b>Observations on Conventions Nos 17, 42, 81, 118, 182</b>  <i>Direct requests on Conventions Nos 41, 81, 105, 182</i>  <b>Observation on submission</b></p>
<b>Swaziland</b>	<p><b>Observations on Conventions Nos 29, 81, 87, 138, 182</b>  <i>Direct requests on Conventions Nos 14, 81, 87, 89, 101, 138, 182</i>  <i>Direct request on submission</i></p>
<b>Sweden</b>	<p><b>Observation on Convention No. 81</b>  <i>Direct requests on Conventions Nos 14, 47, 132, 175, 182</i>  <i>Direct request on submission</i></p>
<b>Switzerland</b>	<p><b>Observations on Conventions Nos 81, 182</b>  <i>Response received to direct requests on Conventions Nos. 14, 132, 138, 172</i></p>
<b>Syrian Arab Republic</b>	<p><i>General direct request</i>  <b>Observations on Conventions Nos 29, 81, 98, 100, 105, 129, 138</b>  <i>Direct requests on Conventions Nos 1, 14, 29, 30, 89, 94, 95, 106, 107, 117, 131, 155, 170, 182</i>  <b>Observation on submission</b></p>
<b>Tajikistan</b>	<p><b>General observation</b>  <i>Direct requests on Conventions Nos 14, 29, 32, 47, 77, 78, 79, 81, 87, 90, 95, 97, 98, 103, 105, 106, 113, 115, 119, 120, 122, 138, 142, 143, 149, 182</i>  <b>Observation on submission</b></p>
<b>Tanzania, United Republic of</b>	<p><b>Observations on Conventions Nos 29, 94, 138, 182</b>  <i>Direct requests on Conventions Nos 29, 105, 137, 138, 140, 142, 149, 152, 182</i></p>
Tanzania. Tanganyika	<p><b>Observation on Convention No. 81</b>  <i>Direct requests on Conventions Nos 81, 101</i></p>
Tanzania. Zanzibar	<p><i>Direct request on Convention No. 97</i></p>
<b>Thailand</b>	<p><i>General direct request</i>  <b>Observations on Conventions Nos 19, 29, 105, 122, 182</b>  <i>Direct requests on Conventions Nos 14, 105, 138, 182</i>  <i>Direct request on submission</i></p>
<b>The former Yugoslav Republic of Macedonia</b>	<p><b>Observations on Conventions Nos 81, 138, 182</b>  <i>Direct requests on Conventions Nos 3, 14, 29, 81, 89, 106, 122, 129, 132, 138, 140, 142, 182</i>  <b>Observation on submission</b></p>
<b>Timor-Leste</b>	<p><i>General direct request</i>  <i>Direct requests on Conventions Nos 29, 182</i>  <i>Direct request on submission</i></p>
<b>Togo</b>	<p><b>Observations on Conventions Nos 138, 182</b>  <i>Direct requests on Conventions Nos 14, 29, 105, 138, 182</i>  <b>Observation on submission</b></p>
<b>Trinidad and Tobago</b>	<p><b>Observations on Conventions Nos 105, 182</b>  <i>Direct requests on Conventions Nos 29, 81, 97, 138, 182</i>  <i>Direct request on submission</i></p>
<b>Tunisia</b>	<p><i>Direct requests on Conventions Nos 26, 81, 88, 89, 95, 99, 107, 117, 138, 182</i></p>

<b>Turkey</b>	<b>Observations on Conventions Nos 29, 81, 98, 105, 138, 182</b> <i>Direct requests on Conventions Nos 14, 26, 29, 77, 81, 87, 94, 95, 99, 122, 123, 142, 152, 153, 182</i>
<b>Turkmenistan</b>	<i>General direct request</i> <i>Direct requests on Conventions Nos 29, 105, 182</i> <i>Direct request on submission</i>
<b>Uganda</b>	<b>Observations on Conventions Nos 26, 29, 81, 87, 98, 105, 111, 138, 144, 182</b> <i>Direct requests on Conventions Nos 12, 17, 29, 45, 94, 95, 100, 105, 111, 123, 124, 138, 143, 144, 154, 162, 182</i> <b>Observation on submission</b>
<b>Ukraine</b>	<b>Observations on Conventions Nos 29, 81, 105, 129, 138, 182</b> <i>Direct requests on Conventions Nos 14, 27, 29, 32, 47, 81, 95, 105, 106, 129, 138, 139, 149, 161, 174, 176, 182</i> <b>Observation on submission</b>
<b>United Arab Emirates</b>	<b>Observations on Conventions Nos 29, 105, 182</b> <i>Direct requests on Conventions Nos 1, 29, 105, 138, 182</i> <i>Direct request on submission</i>
<b>United Kingdom</b>	<b>Observations on Conventions Nos 29, 81</b> <i>Direct requests on Conventions Nos 29, 87, 140</i> <i>Response received to direct requests on Conventions Nos. 138, 182</i>
<b>Anguilla</b>	<i>Direct requests on Conventions Nos 14, 82, 101, 140</i> <i>Response received to a direct request on Convention No. 29</i>
<b>Bermuda</b>	<i>Direct request on Convention No. 82</i>
<b>British Virgin Islands</b>	<i>Direct requests on Conventions Nos 14, 82</i> <i>Response received to a direct request on Convention No. 19</i>
<b>Falkland Islands (Malvinas)</b>	<i>Direct requests on Conventions Nos 14, 82, 182</i>
<b>Gibraltar</b>	<b>Observation on Convention No. 81</b> <i>Direct requests on Conventions Nos 82, 142</i>
<b>Guernsey</b>	<i>Direct requests on Conventions Nos 81, 182</i>
<b>Isle of Man</b>	<i>Direct request on Convention No. 81</i> <i>Response received to a direct request on Convention No. 101</i>
<b>Jersey</b>	<i>Direct request on Convention No. 140</i>
<b>Montserrat</b>	<i>Direct requests on Conventions Nos 14, 29, 82, 97</i>
<b>St Helena</b>	<i>Direct requests on Conventions Nos 14, 29, 182</i>
<b>United States</b>	<b>Observation on Convention No. 182</b> <i>Direct request on Convention No. 105</i>
<b>Uruguay</b>	<b>Observations on Conventions Nos 81, 122, 129, 138, 149, 182</b> <i>Direct requests on Conventions Nos 1, 14, 29, 30, 81, 103, 106, 110, 129, 131, 132, 138, 149, 172, 182</i> <i>Direct request on submission</i>
<b>Uzbekistan</b>	<b>Observations on Conventions Nos 105, 182</b> <i>Direct requests on Conventions Nos 29, 47, 103, 105, 138, 182</i>
<b>Vanuatu</b>	<b>General observation</b> <i>Direct requests on Conventions Nos 29, 105</i> <b>Observation on submission</b>
<b>Venezuela, Bolivarian Republic of</b>	<b>Observations on Conventions Nos 3, 26, 81, 87, 105, 138, 144, 155, 158, 169, 182</b> <i>Direct requests on Conventions Nos 1, 29, 41, 81, 117, 140, 142, 149, 182</i>
<b>Viet Nam</b>	<b>Observations on Conventions Nos 29, 81, 138, 182</b> <i>Direct requests on Conventions Nos 14, 29, 81, 138, 182</i> <i>Direct request on submission</i>
<b>Yemen</b>	<b>Observations on Conventions Nos 94, 131, 138, 182</b> <i>Direct requests on Conventions Nos 19, 29, 59, 105, 138, 156, 182</i> <i>Direct request on submission</i>

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**Zambia****Observations on Conventions Nos 29, 103, 131, 138, 182**

*Direct requests on Conventions Nos 17, 18, 29, 97, 103, 117, 122, 136, 138, 148, 149, 159, 176, 182*

*Direct request on submission*

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**Zimbabwe****Observations on Conventions Nos 81, 87, 105, 129, 138, 182**

*Direct requests on Conventions Nos 14, 29, 81, 87, 105, 129, 138, 140, 182*