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REPORT III (Part 1A)

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

International Labour Conference, 105th Session, 2016

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 5–36**).
- (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 37–560**).
- (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 Migration for Employment Convention (Revised), 1949 (No. 97), the Migration for Employment Recommendation (Revised), 1949 (No. 86), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the Migrant Workers Recommendation, 1975 (No. 151) (**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.

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List of Conventions and Protocols 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 or Protocol 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 Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
	C098 Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
	C135 Workers' Representatives Convention, 1971 (No. 135)
	C141 Rural Workers' Organisations Convention, 1975 (No. 141)
	C151 Labour Relations (Public Service) Convention, 1978 (No. 151)
	C154 Collective Bargaining Convention, 1981 (No. 154)
2	Forced labour
	C029 Forced Labour Convention, 1930 (No. 29)
	C105 Abolition of Forced Labour Convention, 1957 (No. 105)
◆	P029 Protocol of 2014 to the Forced Labour Convention, 1930
3	Elimination of child labour and protection of children and young persons
★	C005 Minimum Age (Industry) Convention, 1919 (No. 5)
★	C006 Night Work of Young Persons (Industry) Convention, 1919 (No. 6)
★	C010 Minimum Age (Agriculture) Convention, 1921 (No. 10)
★	C015 Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15)
●	C033 Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33)
★	C059 Minimum Age (Industry) Convention (Revised), 1937 (No. 59)
★	C060 Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60)
	C077 Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)
	C078 Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)
	C079 Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79)
	C090 Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)
★	C123 Minimum Age (Underground Work) Convention, 1965 (No. 123)
	C124 Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)
	C138 Minimum Age Convention, 1973 (No. 138)
	C182 Worst Forms of Child Labour Convention, 1999 (No. 182)
4	Equality of opportunity and treatment
	C100 Equal Remuneration Convention, 1951 (No. 100)
	C111 Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
	C156 Workers with Family Responsibilities Convention, 1981 (No. 156)
5	Tripartite consultation
	C144 <i>Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)</i>

6 Labour administration and inspection

- C063 Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)
- ★ C081 *Labour Inspection Convention, 1947 (No. 81)*
- C085 Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)
- C129 *Labour Inspection (Agriculture) Convention, 1969 (No. 129)*
- C150 Labour Administration Convention, 1978 (No. 150)
- C160 Labour Statistics Convention, 1985 (No. 160)
- P081 Protocol of 1995 to the Labour Inspection Convention, 1947

7 Employment policy and promotion

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

8 Vocational guidance and training

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

9 Employment security

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

10 Wages

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

11 Working time

- C001 Hours of Work (Industry) Convention, 1919 (No. 1)
- ★ C004 Night Work (Women) Convention, 1919 (No. 4)
- C014 Weekly Rest (Industry) Convention, 1921 (No. 14)
- C020 Night Work (Bakeries) Convention, 1925 (No. 20)
- C030 Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)
- 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)
- P089 Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

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)
- P155 Protocol of 2002 to the Occupational Safety and Health Convention, 1981

13 Social security

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

14 Maternity protection

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

15 Social policy

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

16 Migrant workers

- C021 Inspection of Emigrants Convention, 1926 (No. 21)
- 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, 2006	Maritime Labour Convention, 2006 (MLC, 2006)
	P147	Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976

18 Fishers

- ★ 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)

19 Dockworkers

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

20 Indigenous and tribal peoples

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

21 Specific categories of workers

- 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)
- C177 Home Work Convention, 1996 (No. 177)
- C189 Domestic Workers Convention, 2011 (No. 189)
- P110 Protocol of 1982 to the Plantations Convention, 1958

22 Final Articles Conventions

- C080 Final Articles Revision Convention, 1946 (No. 80)
- C116 Final Articles Revision Convention, 1961 (No. 116)

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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.¹

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 periodic reports (article 22 of the ILO Constitution),² 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 mechanisms 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 application of international labour standards. They may, for instance, draw attention to a discrepancy in law or practice regarding the application of a ratified Convention. Furthermore, any employers' or workers' organization may submit comments on the application of international labour standards 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.³

¹ 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.

² 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.

³ See paras 58–61 of the General Report.

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 sitting 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 resolution⁴ 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, 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.

Work of the Committee

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

- the periodic 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.⁶

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.⁷ 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 are generally used in more serious or long-standing cases of failure to fulfil obligations. They 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 are not published in the report of the Committee of Experts, but are communicated directly to the government concerned and are available online.⁸ 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

⁴ Appendix VII, *Record of Proceedings* of the Eighth Session of the International Labour Conference, 1926, Vol. 1.

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

⁶ Article 35 covers the application of Conventions to non-metropolitan territories.

⁷ See para. 15 of the General Report.

⁸ See para. 36 of the General Report. Observations and direct requests are accessible through the NORMLEX database available at: www.ilo.org/normes.

number of Conventions and Recommendations chosen by the Governing Body.⁹ The General Survey is 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 the instruments concerning migrant workers.

Report of the Committee of Experts

As a result of its work, the Committee produces an annual report. The report consists of two volumes.¹⁰

The first volume (Report III (Part 1A))¹¹ 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)).

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).

Work of the Committee

The Conference Committee on the Application of Standards meets annually at the Conference in June. 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. Governments are able to elaborate on information previously supplied to the Committee of Experts, indicate any further measures taken or proposed since the last session of the Committee of Experts, draw attention to difficulties encountered in the fulfilment of obligations and seek guidance as to how to overcome such difficulties.

The Conference Committee on the Application of Standards discusses the report 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. The Conference Committee then discusses the General

⁹ By virtue of the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008, 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. In principle, the subjects of General Surveys have therefore been aligned with the four strategic objectives of the ILO.

¹⁰ An *Information document on ratifications and standards-related activities* (Report III (Part 2)) accompanies the report of the Committee of Experts. 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.

¹¹ 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.

Survey. It also examines cases of serious failure to fulfil reporting and other standards-related obligations. Finally, the Conference Committee examines a number of individual cases concerning the application of ratified Conventions which have been the subject of observations by the Committee of Experts. At the end of the discussion of each individual case, the Conference Committee adopts conclusions on the case in question.

In its report¹² 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 and 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.

¹² 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, 104th Session, Geneva, 2015.



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 86th Session in Geneva from 18 November to 5 December 2015. 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 Shinichi AGO (Japan), Ms Lia ATHANASSIOU (Greece), Ms Leila AZOURI (Lebanon), 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 Pierre LYON-CAEN (France), Ms Elena E. MACHULSKAYA (Russian Federation), Ms Karon MONAGHAN (United Kingdom), Mr Vitit MUNTARBHORN (Thailand), Ms Rosemary OWENS (Australia), Mr Paul-Gérard POUGOUË (Cameroon), Mr Raymond RANJEVA (Madagascar), Mr Ajit Prakash SHAH (India), Ms Deborah THOMAS-FELIX (Trinidad and Tobago) and Mr Bernd WAAS (Germany). Appendix I of the General Report contains brief biographies of all the Committee members.

3. The Committee noted that Mr Lyon-Caen, who had been a member of the Committee since 2001, would be completing his 15-year mandate at the end of its session. The Committee expressed its deep appreciation for the outstanding manner in which Mr Lyon-Caen had carried out his duties during his service on the Committee.

4. During its session, the Committee welcomed Mr Ago, Ms Athanassiou and Mr Waas, nominated by the Governing Body at its 323rd Session (March 2015), as well as Ms Thomas-Felix, nominated by the Governing Body at its 325th Session (November 2015). **The Committee noted with appreciation that it had been able to function with its full membership at this session for the first time since 2001.**

5. Mr Koroma continued his mandate as Chairperson of the Committee and the Committee elected Ms Owens as Reporter. The Committee also decided that Mr Koroma would continue to serve as Chairperson of the Committee for a second mandate as of its next session.

Working methods

6. Consideration of its working methods by the Committee of Experts has been an ongoing process since its establishment. In this process, the Committee has always given due consideration to the views expressed by the tripartite constituents. In recent years, in its reflection on possible improvements and the strengthening of its working methods, the Committee of Experts directed its efforts towards identifying ways to adapt its working methods in order to undertake its work more efficiently and effectively, and in particular to address the challenges of its workload and its role in better assisting the tripartite constituents in meeting their obligations in relation to international labour standards.

7. In order to guide the Committee's reflection on continuous improvement of its working methods, 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. This year, the subcommittee on working methods met under the guidance of Mr Bentes Corrêa, who was elected as its chairperson. In pursuance of the objective of ensuring a better understanding and an enhanced quality and visibility of the Committee's work, and in view of the comments made during the general discussion of the Committee on the Application of Standards at the 104th Session of the International Labour Conference (June 2015), the subcommittee examined the issue of the application of the criteria of distinction between observations and direct requests, and the procedure for the treatment of observations received from workers' and employers' organizations. The subcommittee also discussed issues

related to the Committee's workload and the time constraints in which the Committee is called upon to perform its work. Finally, the subcommittee pursued the reflection related to the dual need to ensure consistency in the supervision of the application of ratified Conventions and to enhance coherence by subject matter and strengthen a holistic approach by country, in light in particular of the adoption by the international community of the 2030 Agenda for Sustainable Development and member States' commitment towards its 17 goals.

8. Following consideration of the report and recommendations of the subcommittee, the Committee wished to indicate that it had paid particular attention this year in the exercise of its judgment when adopting its comments, to applying in a consistent manner its criteria for distinction between observations and direct requests, as contained in paragraph 36 of its General Report, and that it would continue to do so in the future. The Committee also decided to provide an explanation of its practice when treating observations received from workers' and employers' organizations.¹ In relation to the issue of workload and time constraints, the Committee wished to reiterate its longstanding concern at the low proportion of reports received by 1 September and to highlight once again the fact that this situation disturbed the sound operation of the regular supervisory procedure.² As regards possible ways of giving more visibility to the Committee's findings by country, the Committee invited the Office to use the electronic means available, in particular through the NORMLEX database, to facilitate access to all the comments made on the application of ratified Conventions for each country.

9. The subcommittee on the streamlining of treatment of certain information (which was established by the Committee of Experts in 2012 with a particular focus on information related to reporting obligations) also met this year, before the beginning of the work of the Committee. The subcommittee prepared draft "general" observations and direct requests addressing the failure to comply with the obligation to submit reports on the application of ratified Conventions (articles 22 and 35 of the Constitution)³ and the obligation to communicate copies of the reports on ratified Conventions to the representative organizations of employers and workers (article 23, paragraph 2, of the Constitution).⁴ It also prepared the Committee's "repetitions" (an individual observation or direct request may be repeated when a report was due on the application of a ratified Convention, but no report has been received or the report received contained no reply to the Committee's previous comments). The subcommittee 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.

Relations with the Conference Committee on the Application of Standards

10. 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. In this context, the Committee once again welcomed the participation of its Chairperson in the general discussion of the Committee on the Application of Standards at the 104th Session of the International Labour Conference (June 2015). 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 105th Session (June 2016) of the Conference. The Committee of Experts accepted this invitation.

11. The Chairperson of the Committee of Experts invited the Employer Vice-Chairperson (Ms Sonia Regenbogen) and the Worker Vice-Chairperson (Mr Marc Leemans) to participate in a special sitting of the Committee at its present session. They both accepted this invitation.

12. An interactive and thorough exchange of views took place on matters of common interest. The Vice-Chairpersons took the opportunity of this discussion to highlight the important developments that had taken place in the framework of the Standards Initiative since the last meeting of the Committee of Experts, most notably in relation to the issue of the right to strike and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). In this regard, they referred in particular to the outcome of the Tripartite Meeting of February 2015, including the Joint Statement of the Workers' and the Employers' groups and the two statements from the Government group. The Committee of Experts indicated that it had taken due note of all these relevant developments, with particular attention given to the statements made in February.

13. The Vice-Chairpersons also underlined the constructive atmosphere in which the Conference Committee had been able to undertake its work in 2015 and to adopt conclusions, based on real tripartite participation and ownership. The special sitting offered an opportunity to discuss certain matters related to the working methods of both Committees, in particular in so much as they have implications on their respective work. The discussion centred on the manner in which the report of the Committee of Experts can provide the best possible basis for the work of the Conference Committee, with particular reference to the distinction between observations and direct requests, the treatment of observations received

¹ See paras 58–61 of the General Report.

² See para. 21 of the General Report.

³ See para. 23 of the General Report.

⁴ See para. 27 of the General Report.

from workers' and employers' organizations and the identification by the Committee of Experts of cases of progress and those in which governments are required to provide full particulars to the Conference (so-called "double footnotes").

14. In addition, an exchange of views took place on the opportunities that the recent developments in the multilateral context offered, in particular with the adoption by the United Nations of the Sustainable Development Goals. This would require the ILO to be forward looking and to make the fullest use of the unique advantage of its tripartite structure and standards system. In this context, and noting that 2016 would mark the 90th anniversary of both Committees, the importance of continued direct and transparent dialogue between the Conference Committee and the Committee of Experts was particularly emphasized.

Mandate

15. 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 standards-related obligations

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

16. The Committee's principal task consists of the examination of the reports supplied by governments on Conventions that have been ratified by member States (article 22 of the Constitution) and that have been declared applicable to non-metropolitan territories (article 35 of the Constitution).

Reporting arrangements

17. In accordance with the decision taken by the Governing Body at its 258th Session (November 1993), the reports due on ratified Conventions should be sent to the Office **between 1 June and 1 September** of each year.

18. The Committee recalls that detailed reports should be sent in the case of first reports (a first report is due after ratification) or when specifically requested by the Committee of Experts or the Conference Committee. Simplified reports are then requested on a regular basis.⁵ The Committee also recalls that, at its 306th Session (November 2009), the Governing Body decided to increase from two to three years the regular reporting cycle for the fundamental and governance Conventions and to maintain the cycle at five years for the other Conventions.

19. In addition, reports may be requested by the Committee outside of the regular reporting cycle.⁶ Reports may also be expressly requested outside of the regular reporting cycle by the Conference Committee or the Governing Body. At each session, the Committee also has to examine reports requested in cases where a government had failed to send a report due for the previous period or to reply to the Committee's previous comments.

Compliance with reporting obligations

20. This year a total of 2,336 reports (2,139 reports under article 22 of the Constitution and 197 reports under article 35 of the Constitution) were requested from governments on the application of Conventions ratified by member States, compared to 2,383 reports last year.

21. The Committee observes with **concern** that the proportion of reports received by 1 September 2015 remains low (38.7 per cent, compared with 38.9 per cent at its previous session). It recalls that the fact that a significant number of reports are received after 1 September disturbs the sound operation of the regular supervisory procedure. ***The Committee is therefore bound to reiterate its request that member States make a particular effort to ensure that their reports are submitted in time next year and that they contain all the information requested so as to allow a complete examination by the Committee.***

⁵ In 1993, a distinction was made between detailed and simplified reports. As explained in the report forms, in the case of simplified reports, information need normally be given only on the following points: (a) any new legislative or other measures affecting the application of the Convention; (b) replies to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations; and (c) replies to comments by the supervisory bodies.

⁶ See para. 40 of the General Report.

22. At the end of the present session of the Committee, 1,628 reports had been received by the Office. This figure corresponds to 69.7 per cent of the reports requested ⁷ (last year, the Office received a total of 1,709 reports, representing 71.7 per cent). The Committee notes in particular that 69 of the 108 first reports due on the application of ratified Conventions were received by the time the Committee's session ended (last year, 75 of the 107 first reports due had been received).

23. When examining the failure by member States to respect their reporting obligations, the Committee adopts "general" comments (contained at the beginning of Part II (section I) of this report). It makes general observations when none of the reports due have been sent for two or more years; or when a first report has not been sent for two or more years. It makes a general direct request when, in the current year, a country has not sent the reports due, or the majority of reports due; or it has not sent a first report due.

24. None of the reports due have been sent for the past two or more years from the following **14** countries: **Afghanistan, Belize, Burundi, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Gambia, Guinea-Bissau, Haiti, Ireland, Saint Lucia, Sierra Leone, Somalia and Tuvalu.**

25. **Seven** countries have failed to supply a first report for two or more years:

Failure to submit first reports on the application of ratified Conventions for two or more years	
State	Conventions Nos
Afghanistan	– Since 2012: Conventions Nos 138, 144, 159 and 182
Canada	– Since 2014: MLC, 2006
Croatia	– Since 2014: MLC, 2006
Equatorial Guinea	– Since 1998: Conventions Nos 68 and 92
Kiribati	– Since 2014: MLC, 2006
Luxembourg	– Since 2014: MLC, 2006
Tuvalu	– Since 2014: MLC, 2006

26. *The Committee urges the Governments concerned to make every effort to supply the reports requested on ratified Conventions, and to make a special effort to supply the first reports due.* 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. 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 such cases, it is **important for governments to request assistance from the Office and for such assistance to be provided rapidly.** ⁸

27. In a general observation, which is also contained at the beginning of Part II (section I) of this report, the Committee examines the compliance by member States with their obligation under article 23(2) of the Constitution to communicate to the representative employers' and workers' organizations copies of the reports on ratified Conventions. The Committee notes that almost all governments have fulfilled their obligation in this respect. In its general observation, it addresses cases where none of the reports supplied by a country indicate the employers' and workers' organizations to which copies of the reports were communicated, as well as cases where a majority of the reports received do not provide such information. 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. ⁹ 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.*

⁷ Appendix I to this report provides an indication by country of whether the reports requested (under articles 22 and 35 of the Constitution) have been registered or not by the end of the meeting of the Committee. Appendix II shows, for the reports requested under article 22 of the Constitution, for each year 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.

⁸ In certain exceptional cases, the absence of reports is a result of more general difficulties related to the national situation, which prevents the provision of any technical assistance by the Office.

⁹ See para. 58 of the General Report.

Replies to the comments of the Committee

28. 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 some cases, the reports received did not contain replies to the Committee's requests or were not accompanied by copies of the relevant legislation or other documentation necessary for their full examination. In such cases, the Office, as requested by the Committee, has written to the governments concerned asking them to supply the requested information or material, where this material was not otherwise available.

29. This year, no information has been received as regards all or most of the observations and direct requests of the Committee to which a reply was requested for the following countries: Afghanistan, Angola, Bahamas, Belize, Burundi, Central African Republic, Comoros, Congo, Croatia, Democratic Republic of the Congo, Djibouti, Dominica, Equatorial Guinea, Eritrea, Gambia, Guinea-Bissau, Guyana, Haiti, Ireland, Kazakhstan, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Malta, Montenegro, Nepal, Papua New Guinea, Saint Lucia, San Marino, Sierra Leone, Solomon Islands, Suriname, Timor-Leste, Trinidad and Tobago, United Kingdom (Anguilla, Guernsey, Jersey and Montserrat) and Yemen.

30. The Committee notes with *concern* that the number of comments to which replies have not been received remains significantly high. 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 requested and recalls that they may avail themselves of the technical assistance of the Office, where necessary.*

Follow-up to cases of serious failure by member States to fulfil reporting obligations mentioned in the report of the Committee on the Application of Standards

31. As the functioning of the supervisory system is based primarily on the information provided by governments in their reports, both the Committee and the Conference Committee considered that failure by member States to fulfil their obligations in this respect has to be given the same level of attention as non-compliance relating to the application of ratified Conventions. The two Committees have therefore decided to strengthen, with the assistance of the Office, the follow-up given to these cases of failure.

32. The Committee was informed that, pursuant to the discussions of the Conference Committee in June 2015, the Office had sent specific letters to the member States mentioned in the relevant paragraphs of the report of the Conference Committee concerning these cases of failure.¹⁰ The Committee welcomes the fact that, since the end of the session of the Conference, 13 of the member States concerned have fulfilled at least part of their reporting obligations.¹¹

33. The Committee hopes that the Office will maintain the sustained technical assistance that it has been providing to member States in this respect. 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.

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

34. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, in accordance with its practice, the Committee assigned to each of its members the initial responsibility for a group of Conventions. 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.

35. The Committee wishes to inform member States that, in view of its heavy workload, there are a number of reports that it was unable to examine at its current session. It will be examining these reports at its next session.

Observations and direct requests

36. First of all, the Committee considers that it is worthy of note that in 337 cases it has found, following examination of the corresponding reports that no comment was called for regarding the manner in which a ratified Convention had been implemented. In other cases, however, the Committee has found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. As in previous years, its comments have been drawn up in the form of either "observations", which are reproduced in the report of the Committee, or "direct requests", which are not published

¹⁰ See report of the Conference Committee, 2015, paras 124, 125 and 127.

¹¹ Barbados, France (French Southern and Antarctic Territories), Ghana, Grenada, Guinea, Liberia, Mauritania, Nigeria, Saint Kitts and Nevis, Samoa, San Marino, Saint Vincent and the Grenadines and Tajikistan.

in the Committee's report, but are communicated directly to the governments concerned and are available online.¹² Observations are generally used in more serious or long-standing cases of failure to fulfil obligations. They point to important discrepancies between the obligations under a Convention and the related law and/or practice of member States. They may address the absence of measures to give effect to a Convention or to take appropriate action following the Committee's requests. They may also highlight progress, as appropriate. Direct requests allow the Committee to be engaged in a continuing dialogue with governments often when the questions raised are primarily of a technical nature. They can also be used for the clarification of certain points when the information available does not enable a full appreciation of the extent to which the obligations are fulfilled. Direct requests are also used to examine the first reports supplied by governments on the application of Conventions.

37. The Committee's observations appear in Part II of this report, together with, for each subject, a list of direct requests. An index of all observations and direct requests, classified by country, is provided in Appendix VII to the report.

Follow-up to the conclusions of the Committee on the Application of Standards

38. The Committee 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. This year, the Committee 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 (104th Session, June 2015) in the following cases.

List of cases in which the Committee has examined the follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)	
State	Conventions Nos
Algeria	87
Bangladesh	87
Belarus	87
Plurinational State of Bolivia	138
Cambodia	182
Cameroon	182
El Salvador	87
Eritrea	29
Guatemala	87
Honduras	81
India	81
Italy	122
Kazakhstan	87
Republic of Korea	111
Mauritania	29
Mauritius	98
Mexico	87
Qatar	29
Spain	122
Swaziland	87
Turkey	155
Bolivarian Republic of Venezuela	87

¹² Observations and direct requests are accessible through the NORMLEX database, on the ILO website (www.ilo.org/normes).

Follow-up of representations under article 24 of the Constitution and complaints under article 26 of the Constitution

39. In accordance with the established practice, the Committee also examines the measures taken by governments pursuant to the recommendations of tripartite committees (set up to examine representations under article 24 of the Constitution) and commissions of inquiry (set up to examine complaints under article 26 of the Constitution). The corresponding information forms an integral part of the Committee's dialogue with the governments concerned. 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 measures taken by governments to give effect to the recommendations of commissions of inquiry (complaints under article 26)	
State	Conventions Nos
Belarus	87
Myanmar	29
Zimbabwe	87 and 98

List of cases in which the Committee has examined the measures taken by governments to give effect to the recommendations of tripartite committees (representations under article 24)	
State	Conventions Nos
Chile	35 and 37
Dominican Republic	19
Japan	159 and 181
Mexico	155
Republic of Moldova	81
Netherlands	81, 129 and 155
Portugal	137
Qatar	29 and 111
Spain	158

Special notes

40. As in the past, the Committee has indicated by special notes (traditionally known as “footnotes”) at the end of its comments 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 2016.

41. 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.

42. 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.

43. 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.

44. 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.

45. This year, the Committee has requested governments to supply full particulars to the Conference at its next session in 2016 in the following cases:

List of the cases in which the Committee has requested governments to supply full particulars to the Conference at its next session in May–June 2016	
State	Conventions Nos
Belarus	29
Madagascar	182
Nigeria	138
Philippines	87
Turkmenistan	105

46. The Committee has requested governments to furnish detailed reports outside of the reporting cycle in the following cases:

List of the cases in which the Committee has requested detailed reports outside of the reporting cycle	
State	Conventions Nos
Dominican Republic	111
Mauritania	3 and 81
San Marino	87, 98 and 154

47. In addition, the Committee has requested simplified reports outside of the reporting cycle in the following cases:

List of the cases in which the Committee has requested simplified reports outside of the reporting cycle	
State	Conventions Nos
Albania	176 and 181
Antigua and Barbuda	144

List of the cases in which the Committee has requested simplified reports outside of the reporting cycle	
State	Conventions Nos
Argentina	96 and 154
Australia	88
Azerbaijan	23, 92, 133, 134 and 147
Bahamas	MLC, 2006
Bangladesh	81
Belarus	105
Belgium	MLC, 2006
Plurinational State of Bolivia	136 and 162
Brazil	22, 133, 146, 163, 164, 166 and 178
Bulgaria	MLC, 2006
Canada	160
Chile	35 and 37
Colombia	12, 17, 18, 136 and 162
Cyprus	160 and MLC, 2006
Dominican Republic	19
Egypt	159
El Salvador	81 and 144
France	MLC, 2006
Germany	88, 159 and MLC, 2006
Ghana	119 and 182
Greece	160
Guatemala	87, 159 and 169
Haiti	12, 17, 24, 25 and 42
India	81
Indonesia	87 and 98
Iraq	8, 22, 23, 92, 146 and 147
Japan	115, 159 and 181
Jordan	119
Kazakhstan	87
Lebanon	142
Madagascar	88 and 159
Mauritius	98
Mexico	22, 55, 87, 134, 155, 159, 163, 164 and 166
Montenegro	140
Morocco	MLC, 2006
Netherlands	159 and MLC, 2006
Nigeria	87

List of the cases in which the Committee has requested simplified reports outside of the reporting cycle	
State	Conventions Nos
Peru	159
Portugal	137 and 162
Russian Federation	MLC, 2006
Sao Tome and Principe	144 and 159
Slovakia	140
Spain	88, 122, 159, 181 and MLC, 2006
Sri Lanka	98
Sweden	MLC, 2006
Turkey	98, 155 and 159
Uganda	162
Ukraine	176
United Kingdom	87 and MLC, 2006
United Kingdom – Isle of Man	MLC, 2006
Uzbekistan	98
Bolivarian Republic of Venezuela	87 and 88
Zambia	98, 136 and 176
Zimbabwe	87 and 98

Cases of progress

48. 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.

49. 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 measures 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 relates to the adoption of 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.

50. Since first identifying cases of satisfaction in its report in 1964,¹³ 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**

¹³ See para. 16 of the report of the Committee of Experts submitted to the 48th Session (1964) of the International Labour Conference.

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.

51. Details concerning these cases of progress are found in Part II of this report and cover **19** instances in which measures of this kind have been taken in **18** countries. The full list is as follows:

List of the cases in which the Committee has been able to express its satisfaction at certain measures taken by the governments of the following countries	
State	Conventions Nos
Barbados	135
Brazil	155
Cuba	81
Ecuador	87
Fiji	87
Kenya	138
Kuwait	138
Madagascar	127
Mexico	182
Mozambique	87 and 98
Namibia	182
Netherlands – Aruba	138
Panama	107
Peru	87
Philippines	111
Samoa	98
Serbia	98
Swaziland	87

52. 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 **2,999** since the Committee began listing them in its report.

53. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979.¹⁴ 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.** 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;

¹⁴ See para. 122 of the report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference.

- 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.

54. Details concerning the cases in question are found either in Part II of this report or in the requests addressed directly to the governments concerned, and include **158** instances in which measures of this kind have been adopted in **85** countries. The full list is as follows:

List of the cases in which the Committee has been able to note with interest certain measures taken by the governments of the following countries	
State	Conventions Nos
Argentina	88 and 169
Armenia	29, 105, 138 and 150
Azerbaijan	29
Bangladesh	81 and 87
Belarus	29 and 87
Belgium	62 and 155
Bosnia and Herzegovina	29 and 159
Brazil	29, 117, 155, 159, 160 and 169
Brunei-Darussalam	182
Burkina Faso	144
Cabo Verde	138 and 182
Chile	122
Colombia	2, 81, 88, 159, 160, 161, 162 and 169
Costa Rica	159, 160 and 169
Cuba	81
Cyprus	155
Denmark	100 and 122
Dominican Republic	19
Ecuador	81 and 98
Egypt	150
El Salvador	159
Fiji	87 and 100
France	MLC, 2006
Gabon	29
Georgia	138
Germany	88 and 98
Ghana	105 and 182
Greece	81

List of the cases in which the Committee has been able to note with interest certain measures taken by the governments of the following countries	
State	Conventions Nos
Grenada	87 and 182
Guatemala	127
Guinea	118, 121, 132, 144 and 149
Haiti	29 and 182
Honduras	138 and 169
Iceland	108 and 144
India	29, 107, 136 and 144
Iraq	29, 81, 138 and 182
Ireland	98
Jordan	144 and 159
Kenya	138
Kuwait	29 and 182
Lao People's Democratic Republic	138
Lesotho	138 and 182
Lithuania	29 and 159
Madagascar	81, 144 and 182
Malawi	105
Malaysia	19
Mali	150
Mauritania	23
Mauritius	19
Mexico	87, 150, 159 and 182
Mongolia	98
Montenegro	182
Morocco	138
Mozambique	81
Namibia	182
Nepal	169
Netherlands	159
Netherlands – Aruba	138
Nicaragua	144
Niger	81
Nigeria	111
Pakistan	144
Panama	87, 98 and 107
Paraguay	159

List of the cases in which the Committee has been able to note with interest certain measures taken by the governments of the following countries	
State	Conventions Nos
Peru	87 and 98
Philippines	122, 159 and 189
Poland	87 and 98
Rwanda	29
Saint Kitts and Nevis	87 and 98
Samoa	87 and 111
Singapore	187
South Africa	87, 100 and 111
Sri Lanka	87 and 98
Sudan	98
Sweden	87 and 98
The former Yugoslav Republic of Macedonia	88, 100, 158 and 159
Timor-Leste	87
Trinidad and Tobago	144
Turkey	87, 98 and 151
Turkmenistan	100
Uganda	87
Ukraine	159
Uruguay	87, 98 and 135
Uzbekistan	182
Viet Nam	100, 111 and 155
Zimbabwe	98

Practical application

55. As part of its assessment of the application of Conventions in practice, the Committee notes the information contained in governments' reports, 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.

56. The Committee notes that 532 reports received this year contain information on the practical application of Conventions. Of these, 58 reports contain information on national jurisprudence. The Committee also notes that 474 of the reports contain information on statistics and labour inspection.

57. 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.

Observations made by employers' and workers' organizations

58. At each session, the Committee recalls that the contribution by employers' and workers' organizations is essential for the Committee's evaluation of the application of Conventions in national law and in practice. Member States have an obligation under article 23(2) of the Constitution to communicate to the representative employers' and workers' organizations copies of the reports supplied under articles 19 and 22 of the Constitution. Compliance with this constitutional obligation is intended to enable organizations of employers and workers to participate fully in the

supervision of the application of international labour standards. In some cases, governments transmit the observations made by employers' and workers' organizations with their reports, sometimes adding their own comments. However, in the majority of cases, observations from employers' and workers' organizations are sent directly to the Office which, in accordance with the established practice, transmits them to the governments concerned for comment, so as to ensure respect for due process. For reasons of transparency, all the observations received from employers' and workers' organizations on the application of ratified Conventions since the last session of the Committee are listed in Appendix III to its report. Where the Committee finds that the observations are not within the scope of the Convention or do not contain information that would add value to its examination of the application of the Convention, it will not refer to them in its comments. Otherwise, the observations received from employers' and workers' organizations may be considered in an observation or in a direct request, as appropriate.

59. The Committee recalls that, **in a reporting year**, when observations from employers' and workers' organizations are not provided with the government's report, they should be received by the Office by 1 September at the latest, so as to allow the government concerned to have a reasonable time to respond, thereby enabling the Committee to examine the issues raised at its session the same year. When observations are received after 1 September, they would not be examined in substance in the absence of a reply from the government, except in exceptional cases. Over the years, the Committee has identified exceptional cases as those where the allegations are sufficiently substantiated and there is an urgent need to address the situation, whether because they refer to matters of life and death or to fundamental human rights or because any delay may cause irreparable harm. In addition, observations referring to legislative proposals or draft laws may also be examined by the Committee in the absence of a reply from the government, where this may be of assistance for the country at the drafting stage.

60. Furthermore, the Committee recalls that, **in a non-reporting year**, when employers' and workers' organizations send observations which simply repeat comments made in previous years, or refer to matters already raised by the Committee, they will be examined in the year when the government's report is due, in accordance with the regular reporting cycle. In this case, a report will not be requested from the government outside of that cycle. However, where the observations meet the criteria of exceptional cases, as defined in the previous paragraph, the Committee will examine them in the year in which they are received, even in the absence of a reply from the government concerned. The government will then be requested to send a report the next year, which may be outside of the regular reporting cycle.

61. 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.

62. Since its last session, the Committee has received **1019** observations (compared to 1,143 last year), **305** of which (compared to 309 last year) were communicated by employers' organizations and **714** (compared to 834 last year) by workers' organizations. The great majority of the observations received (**818**) related to the application of ratified Conventions;¹⁵ **433** of these observations concerned the application of fundamental Conventions, **97** related to governance Conventions and **288** concerned the application of other Conventions. Moreover, **201** observations related to the General Survey on the instruments concerning migrant workers.¹⁶

63. The Committee notes that, of the observations received this year on the application of ratified Conventions, **626** were transmitted directly to the Office. In **192** cases, the governments transmitted the comments made by employers' and workers' organizations with their reports. The Committee notes that in general the employers' and workers' organizations concerned endeavoured to gather and present information on the application of ratified Conventions in specific countries, both in law and in practice. The Committee recalls that observations of a general nature relating to certain Conventions are more appropriately addressed within the framework of the Committee's consideration of General Surveys or within other forums of the ILO.

Cases in which the need for technical assistance has been highlighted

64. 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. In this regard, the Committee welcomed the information received from the Office that, in 2015, targeted technical assistance continued in order to support countries with the ratification and implementation of international labour standards and to reinforce the capacity of ministries of labour to fulfil their constitutional obligations (including the preparation of reports on the application of Conventions). Detailed information on technical assistance is contained in Report III (Part 2).¹⁷

¹⁵ See Appendix III to this report.

¹⁶ An indication of the observations made by employers' and workers' organizations on the application of Conventions received during the current year is available through the NORMLEX database, on the ILO website (www.ilo.org/normes).

¹⁷ See Report III (Part 2), International Labour Conference, 105th Session, Geneva, 2016.

65. The Committee reiterates its hope that a comprehensive technical assistance programme will be developed in the near future, and that it will be adequately resourced to help all constituents improve the application of international labour standards in both law and practice.

66. In addition to cases of serious failure by member States to fulfil certain specific obligations related to reporting, 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 are highlighted in the following table and details can be found in Part II of this report.

List of the cases in which technical assistance would be particularly useful in helping member States	
State	Conventions Nos
Armenia	150
Bahamas	100
Bangladesh	81, 100 and 111
Belarus	87
Benin	13 and 160
Plurinational State of Bolivia	138
Burkina Faso	161
Cambodia	13, 100 and 182
Cameroon	162 and 182
Chad	81
Colombia	162
Djibouti	94
Dominican Republic	111
Ecuador	81, 98, 100, 115, 119, 139, 148, 152 and 162
Egypt	63
El Salvador	87
Eritrea	29
Fiji	108
Ghana	81, 87 and 94
Guatemala	87, 138, 161 and 182
Guinea	81, 133 and 134
Honduras	81, 127 and 144
India	81
Indonesia	87 and 98
Jamaica	138
Kazakhstan	81 and 87
Kenya	138
Lesotho	81
Libya	87
Madagascar	81
Malawi	81

List of the cases in which technical assistance would be particularly useful in helping member States	
State	Conventions Nos
Malaysia	98
Mauritania	29 and 87
Mauritius	98
Mexico	87
Mongolia	138 and 182
Montenegro	98
Mozambique	87, 98, 138 and 182
Niger	81
Nigeria	87 and 138
Panama	100
Paraguay	87, 98 and 100
Romania	98
Saint Vincent and the Grenadines	100
San Marino	87, 98 and 154
Sao Tome and Principe	87, 98 and 154
Serbia	87
Seychelles	87 and 98
Sierra Leone	17
Slovenia	98
Sudan	98
Swaziland	98
United Republic of Tanzania	87 and 98
Tunisia	87
Turkey	98
Uganda	162
Ukraine	155
Uruguay	98
Uzbekistan	98 and 105
Bolivarian Republic of Venezuela	87
Yemen	94
Zimbabwe	98

C. Reports under article 19 of the Constitution

67. The Committee recalls that the Governing Body decided that, in principle, the subjects of General Surveys should be aligned with those of the annual recurrent discussions in the Conference under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008. 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 Migration for Employment Convention (Revised), 1949 (No. 97), the Migration for Employment Recommendation (Revised), 1949

(No. 86), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the Migrant Workers Recommendation, 1975 (No. 151).¹⁸ 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 six members of the Committee.

68. 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 **30** countries: **Armenia, Burundi, Comoros, Congo, Democratic Republic of the Congo, Equatorial Guinea, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Kiribati, Liberia, Libya, Malawi, Marshall Islands, Nigeria, Rwanda, Saint Kitts and Nevis, Saint Lucia, San Marino, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Tuvalu, Vanuatu, Yemen and Zambia.**

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

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

70. 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:

- (a) additional information on measures taken to submit to the competent authorities the instruments adopted by the Conference from 1967 (51st Session) to June 2014 (103rd Session) (Conventions Nos 128–189, Recommendations Nos 132–203 and Protocols);
- (b) replies to the observations and direct requests made by the Committee at its 85th Session (November–December 2014).

71. Appendix IV of the report contains a summary of the last information received indicating the competent authorities to which the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd 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 2015.

72. Additional statistical information is found in Appendices V and VI 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.

103rd Session

73. At its 103rd Session in June 2014, the Conference adopted the Protocol of 2014 to the Forced Labour Convention, 1930, and Recommendation No. 203. The 12-month period for submission to the competent authorities of these instruments ended on 11 June 2015, and the 18-month period on 11 December 2015. In all, 45 governments have submitted the Protocol of 2014 to the Forced Labour Convention, 1930, and 43 have submitted Recommendation No. 203. At this session, the Committee examined information on the steps taken regarding the Protocol of 2014 to the Forced Labour Convention, 1930, and Recommendation No. 203 by the following 61 Governments: **Albania, Algeria, Australia, Austria, Belgium, Benin, Brazil, Bulgaria, Cameroon, Colombia, Costa Rica, Cuba, Czech Republic, Ecuador, Estonia, Finland, France, Greece, Guatemala, Honduras, Iceland, Indonesia, Iraq, Israel, Italy, Jamaica, Japan, Kazakhstan, Republic of Korea, Lao People's Democratic Republic, Latvia, Lebanon, Lithuania, Luxembourg, Mauritania, Montenegro, Morocco, Myanmar, Nicaragua, Niger, Norway, Panama, Papua New Guinea, Philippines, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, South Africa, Sri Lanka, Sweden, Switzerland, Turkey, Ukraine, United States, Uzbekistan, Bolivarian Republic of Venezuela, Viet Nam and Zimbabwe.** The Committee notes with *interest* that, following the ratifications of **Niger** and **Norway**, the Protocol of 2014 to the Forced Labour Convention, 1930, will enter into force on 9 November 2016.

104th Session

74. The Committee notes that the following 12 Governments have already provided information on the submission to the competent authorities of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference on 12 June 2015: **Benin, Guatemala, Israel, Latvia, Luxembourg, Republic of Moldova, Morocco, Nigeria, Panama, Philippines, Ukraine and Viet Nam.** *The Committee encourages all other governments to continue their efforts to submit Recommendation No. 204 to parliaments and to report on the action taken with regard to this instrument.*

¹⁸ See Report III (Part 1B), International Labour Conference, 105th Session, Geneva, 2016.

Cases of progress

75. The Committee notes with *interest* the information sent by the governments of the following countries: **Brazil, Nepal, Sao Tome and Principe and Tajikistan**. It welcomes the efforts made by these Governments to recognize the significant delay in submission and to take important steps toward fulfilling their obligation to submit to their parliaments the instruments adopted by the Conference over a number of years.

Special problems

76. 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 94th (February 2006, Maritime) Session and concludes on the 103rd Session (2014) because the Conference did not adopt any Conventions or Recommendations during the 97th (2008), 98th (2009) or 102nd (2013) Sessions.** Thus, 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.

77. The Committee notes that at the closure of its 86th Session, on 5 December 2015, the following 32 countries were in this situation: **Angola, Azerbaijan, Bahrain, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Dominica, El Salvador, Equatorial Guinea, Guinea, Haiti, Iraq, Jamaica, Kazakhstan, Kuwait, Kyrgyzstan, Libya, Mali, Mauritania, Mozambique, Pakistan, Papua New Guinea, Rwanda, Saint Lucia, Sierra Leone, Solomon Islands, Somalia, Sudan, Suriname, Uganda and Vanuatu.**

78. 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 104th Session of the Conference (June 2015), 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.

79. 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 relevant 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. This notice also allows the governments to 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

80. 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 brought to the special attention of governments. In general, 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).

81. As the Committee has already pointed out, it is important that governments send the information and documents required by the questionnaire set forth at the end of 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 obligation of submission is discharged only once the instruments adopted by the Conference have been submitted to parliament and the Government has provided information as to the action taken on them. The Office has to be informed of this action, as well as of the submission of instruments to parliament. The Committee hopes to be able to note progress in this matter in its next report. It again reminds governments that they may seek technical assistance from the ILO.

Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session (June 2015)

82. The Committee notes that the adoption of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), results from a strong tripartite consensus in the International Labour Conference at its 104th Session (June 2015). At the same session, the Conference also adopted the resolution concerning efforts to facilitate the transition from the informal to the formal economy, which invites governments, employers and workers jointly to give full effect to Recommendation No. 204.

83. This new Recommendation is the first international labour standard to focus on the informal economy in its entirety and to point clearly to transition to the formal economy as essential for realizing decent work for all and achieving inclusive development. The Recommendation, of universal relevance, acknowledges the broad diversity of situations of

informality, including specific national contexts and priorities for the transition to the formal economy, and provides practical guidance to address these priorities.

84. The new instrument also recognizes the key role of tripartism and effective coordination across government bodies and other stakeholders to give effect to its provisions; and the key role of employers' and workers' organizations to extend membership and services to workers and economic units in the informal economy.

85. Recommendation No. 204 reaffirms the relevance of the eight ILO fundamental Conventions and other relevant international labour standards and United Nations instruments as listed in its Annex. It also recognizes the importance for those in the informal economy to enjoy freedom of association and the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

86. Moreover, this new Recommendation recognizes that workers in the informal economy have resources and strategies for emerging from poverty. They are recognized as active agents for change. The new instrument provides guidance to Members to pursue a threefold objective, namely to: (a) facilitate the transition of workers and economic units from the informal to the formal economy, while respecting workers' fundamental rights and ensuring opportunities for income security, livelihoods and entrepreneurship; (b) promote the creation, preservation and sustainability of enterprises and decent jobs in the formal economy and the coherence of macroeconomic, employment, social protection and other social policies; and (c) prevent the informalization of formal economy jobs.

87. Additionally, the Recommendation invites Members to design coherent and integrated strategies to facilitate the transition from the informal to the formal economy and sets out 12 guiding principles to frame such strategies. These principles include the effective promotion and protection of the human rights of all those operating in the informal economy, the fulfilment of decent work for all through respect for the fundamental principles and rights at work, in law and practice, as well as the promotion of gender equality and non-discrimination and the need to pay special attention to those who are the most vulnerable in the informal economy.

88. In designing coherent and integrated strategies, member States should also take into account among others the preservation and expansion, during the transition to the formal economy, of the entrepreneurial potential, creativity, dynamism, skills and innovative capacities of workers and economic units in the informal economy; the need for a balanced approach combining incentives with compliance measures; and the need to prevent and sanction deliberate avoidance of, or exit from, the formal economy for the purpose of evading taxation and the application of social and labour laws and regulations.

89. The new instrument also identifies a range of policy areas that need to be addressed according to national circumstances. In this regard, Recommendation No. 204 indicates that an integrated policy framework should address areas which include, among others, the establishment of an appropriate legislative and regulatory framework; the promotion of a conducive business and investment environment; the promotion of entrepreneurship, micro, small and medium-sized enterprises, and other forms of business models and economic units, such as cooperatives and other social and solidarity economy units; access to education, lifelong learning and skills development; access to markets; the establishment of social protection floors, where they do not exist, and the extension of social security coverage; efficient and effective labour inspections; and income security, including appropriately designed minimum wage policies.

90. The Committee wishes to underline the importance of monitoring and evaluating the progress towards formalization, in consultation with employers' and workers' organizations, as well as the collection, analysis, and dissemination of relevant data on the informal economy.

91. The Committee also wishes to recall that, in pursuing the objective of quality job creation in the formal economy, Members should formulate and implement a national employment policy in line with the Employment Policy Convention, 1964 (No. 122), and make full, decent, productive and freely chosen employment a central goal in their national development and growth strategy or plan.

92. It should be noted that the Committee has regularly invited member States to provide information on their efforts to ensure the application of the relevant international labour standards for workers in the informal economy. For example, member States that have ratified the Employment Policy Convention, 1964 (No. 122), have referred to the informal economy in their employment plans or policies and adopted specific measures directed at raising productivity and incomes in the informal economy. In its 2010 General Survey concerning employment instruments, the Committee recalled that since the early 1970s the ILO has been advocating for the promotion of a better understanding and devotion of special attention to the informal economy.

93. The Committee notes that, at its 325th Session, the Governing Body adopted a plan of action for the implementation of Recommendation No. 204. The strategy for Office follow-up to Recommendation No. 204 aims, first and foremost, to support constituents' action in the development and implementation of integrated and coherent national strategies, according to national circumstances and priorities, in facilitating the transition to the formal economy. The strategy is articulated around four interrelated components, namely: (1) a promotional awareness-raising and advocacy campaign; (2) capacity building of tripartite constituents; (3) knowledge development and dissemination; and (4) international cooperation and partnerships.

94. The Committee encourages governments and social partners to supplement their reports and observations on the application of relevant international labour standards, especially those included in the Annex to the Recommendation which include the fundamental and governance Conventions and other relevant instruments, with information related to the measures taken to ensure a successful transition from the informal to the formal economy, in line with Recommendation No. 204.

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

Cooperation with international organizations in the field of standards

95. In the context of collaboration with other international organizations on questions concerning the application of international instruments relating to subjects of common interest, the ILO has entered into special arrangements with the United Nations, certain specialized agencies and other intergovernmental organizations.¹⁹ In particular, these organizations may send information on the application of certain Conventions that would assist the Committee of Experts in examining the application of these Conventions.

United Nations treaties concerning human rights

96. 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.

97. 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. The Committee considers that coherent international monitoring is an important basis for action to enhance the enjoyment of, and compliance with civil, political, economic, social and cultural rights at the national level.

European Code of Social Security and its Protocol

98. 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.

99. 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

¹⁹ The following organizations are concerned: the United Nations, the Office of the High Commissioner for Human Rights (OHCHR), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), the International Atomic Energy Agency (IAEA) (concerning the Radiation Protection Convention, 1960 (No. 115)), and the International Maritime Organization (IMO).

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 secretariat of the Council of Europe and the Office may prove to be an effective means of improving the application of the Code.

* * *

100. 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 complex task in a limited period of time.

Geneva, 5 December 2015

(Signed) Abdul G. Koroma
Chairperson

Rosemary Owens
Reporter

Appendix to the General Report

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

Mr Mario ACKERMAN (Argentina)

Doctor of Law; Professor of Labour Law and 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 Shinichi AGO (Japan)

Professor of International Law at the College of Law, Ritsumeikan University, Kyoto; former Professor of International Economic Laws and Dean of the Faculty of Law at Kyushu University; Vice-President of the Asian Society of International Law; member of the International Law Association, the International Society for Labour and Social Security Law; Judge, Asian Development Bank Administrative Tribunal.

Ms Lia ATHANASSIOU (Greece)

Professor of Maritime and Commercial Law at the National and Kapodistrian University of Athens (Faculty of Law); Ph.D. from the University of Paris I – Sorbonne; practising lawyer and arbitrator specializing in European and commercial law.

Ms Leila AZOURI (Lebanon)

Doctor of Law; Professor of Labour Law at the Faculty of Law at Sagesse University, Beirut; Director of Research at the Doctoral School of Law of the Lebanese University; former Director of the Faculty of Law of the Lebanese University; member of the Executive Bureau of the National Commission for Lebanese Women; Chairperson of the national commission responsible for the preparation of the reports submitted by the Government of Lebanon to the UN Committee on the Elimination of Discrimination against Women (CEDAW); legal expert for the Arab Women Organization.

Mr Lelio BENTES CORRÊA (Brazil)

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

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 the Panamanian Chamber of Construction, as well as for the Conciliation and Arbitration Center of the Panamanian Chamber of Commerce; and legal adviser and international consultant.

Mr Rachid FILALI MEKNASSI (Morocco)

Doctor of Law; Professor at the University Mohammed V of Rabat; member of the Higher Council of Education, Training and Scientific Research; consultant with national and international public bodies, including the World Bank, the United Nations Development Programme (UNDP), the Food and Agriculture Organization of the United Nations (FAO), and UNICEF; 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).

Mr Abdul G. KOROMA (Sierra Leone)

Judge at the International Court of Justice (1994-2012); former President of the Henry 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 Pierre LYON-CAEN (France)

Honorary Advocate-General, Court of Cassation (Social Division); former 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).

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 Emeritus of Law in Thailand; 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; former Chairperson of the United Nations Coordination Committee of Special Procedures; Chairperson of the United Nations Commission of Inquiry on the Ivory Coast (2011); member, Advisory Board, United Nations Human Security Fund; Commissioner, United Nations Commission of Inquiry on Syria (2012–present); recipient of the 2004 UNESCO Prize for Human Rights Education.

Ms Rosemary OWENS (Australia)

Professor Emerita of Law, Adelaide Law School, University of Adelaide; former Dame Roma Mitchell Professor of Law (2008–15); former Dean of Law (2007–11); Officer of the Order of Australia; Fellow and Director (2014–15) 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 Government's Ministerial Advisory Committee on Work–Life Balance (2010–13); Chairperson and member of the Board of Management of the Working Women's Centre (SA) (1990–2014).

Mr Paul-Gérard POUGOUÉ (Cameroon)

Professor of Law (*agrégé*); guest or associate professor at several universities and at the Hague Academy of International Law; Head of the Department of Legal Theory, Legal Epistemology and Comparative Law and Director of the Master's Programme of Legal Theories and Pluralism of the Faculty of Law and Political Sciences of the University of Yaoundé II; on several occasions, President of the jury for the *agrégation* competition (private law and criminal sciences section) of the African and Malagasy Council for Higher Education (CAMES); former member (1993–2001) of the Scientific Council of the *Agence universitaire de la Francophonie* (AUF); former member (2002–12) of the Council of the International Order of Academic Palms of CAMES; 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; founder and Director of the review *Juridis périodique*; President of the Association for the Promotion of Human Rights in Central Africa (APDHAC).

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 (1981–91)

and other institutions; a number of administrative posts held, including First Rector of the University of Antananarivo (1988–90); 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 (1987–91); 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; Vice-Chairman of the International Law Institute (2015–17); Chairperson of the ILO Commission of Inquiry on Zimbabwe.

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.

Ms Deborah THOMAS-FELIX (Trinidad and Tobago)

President of the Industrial Court of Trinidad and Tobago since 2011; Judge of the United Nations Appeals Tribunal since 2014; former Chair of the Trinidad and Tobago Securities and Exchange Commission; former Deputy Chief Magistrate of the Judiciary of Trinidad and Tobago; former President of the Family Court of Saint Vincent and the Grenadines.

Mr Bernd WAAS (Germany)

Professor of Labour Law and Civil Law at the University of Frankfurt; coordinator and member of the European Labour Law Network; lawyer who has provided legal advice to institutions including the German Parliament and Government, the National People's Congress of the People's Republic of China, Ministries of Labour in various countries and the International Society for Labour Law and Social Security.



Part II. Observations concerning particular countries

I. **Observations concerning reports on ratified Conventions (articles 22, 23, paragraph 2, and 35, of the Constitution)**

General observation (article 23, paragraph 2, of the Constitution)

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 indicate the employers' and workers' organizations to which a copy has been communicated: **Plurinational State of Bolivia** (2015), **Brunei Darussalam** (2015), **Islamic Republic of Iran** (2014 and 2015), **Malawi** (2015), **Mongolia** (2015), **Namibia** (2015), **Nigeria** (2015), **Philippines** (2015), **Rwanda** (2014 and 2015) and the **United Kingdom – British Virgin Islands** (2015). 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: **Cambodia** (2015), **Côte d'Ivoire** (2014 and 2015), **Liberia** (2015) and **Uganda** (2015). *The Committee requests the governments concerned to fulfil their constitutional obligation without delay.*

General observations (articles 22 and 35 of the Constitution)

Afghanistan

The Committee notes with **concern** that, for the fourth year in succession, the first reports due on the application of Conventions Nos 138, 144, 159 and 182 have not been received. Ten reports are now due on fundamental, governance and technical Conventions (most of which should include information in reply to the Committee's comments). The Committee once again 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.

Belize

The Committee notes with **concern** that, for the second year in succession, the reports due on ratified Conventions have not been received and that 25 reports are now due on fundamental, governance and technical Conventions (some of which should include information in reply to the Committee's comments). The Committee hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

Burundi

The Committee notes with **deep concern** that, for the fifth year in succession, the reports due on the application of ratified Conventions have not been received. Twenty-seven reports are now due on fundamental, governance and technical Conventions (most of which should include information in reply to the Committee's comments). The Committee once again reminds the Government that it may seek technical assistance from the Office. The Committee firmly hopes that the Government will soon submit all the reports due, in accordance with its constitutional obligation.

Canada

The Committee notes with *regret* that for the second year in succession, the first report on the Maritime Labour Convention, 2006 (MLC, 2006), has not been received. The Committee hopes that the Government will soon submit its report, in accordance with its constitutional obligation.

Croatia

The Committee notes with *concern* that the reports due on the application of ratified Conventions have not been received, including the first report on the Maritime Labour Convention, 2006 (MLC, 2006), due since 2014, and that 27 reports are now due on fundamental, governance and technical Conventions (most of which should include information in reply to the Committee's comments). The Committee hopes that the Government will soon submit these reports, in accordance with its constitutional obligation.

Democratic Republic of the Congo

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

Dominica

The Committee notes with *concern* that, for the third year in succession, the reports due on ratified Conventions have not been received. Twenty-two reports are now due on fundamental, governance and technical Conventions (most of which should include information in reply to the Committee's comments). The Committee hopes that the Government will soon submit its reports, in accordance with its constitutional obligation.

Equatorial Guinea

The Committee notes with *deep concern* that, for the ninth year in succession, the reports due on ratified Conventions have not been received. Fourteen reports are now due on fundamental and technical Conventions (most of which should include information in reply to the Committee's comments). Of these 14 reports, two reports are first reports on the application of Conventions Nos 68 and 92 due since 1998. Recalling that technical assistance was provided on these issues in 2012, the Committee firmly hopes that the Government will soon submit its reports, in accordance with its constitutional obligation.

Gambia

The Committee notes with *concern* that, for the fourth year in succession, the reports due on ratified Conventions have not been received. Eight reports are now due on fundamental Conventions (and should include information in reply to the Committee's comments). The Committee hopes that the Government will soon submit its reports, in accordance with its constitutional obligation.

Guinea-Bissau

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

Haiti

The Committee notes with *concern* that, for the third year in succession, the reports due have not been received. Twenty reports are now due on fundamental, governance and technical Conventions (most of which should include information in reply to the Committee's comments). The Committee hopes that that Government will soon submit its reports, in accordance with its constitutional obligation.

Ireland

The Committee notes with *concern* that, for the second year in succession, the reports due on the ratified Conventions have been received and that 31 reports are now due on fundamental, governance and technical Conventions

(most of which should include information in reply to the Committee's comments). It hopes that the Government will soon submit its reports, in accordance with its constitutional obligation.

Kiribati

The Committee notes with *regret* that for the second year in succession, the first report on the Maritime Labour Convention, 2006 (MLC, 2006), has not been received. Only two of the eight reports requested this year have been received (six reports are still due for this year on fundamental and technical Conventions (most of which should include information in reply to the Committee's comments). It hopes that the Government will soon submit its reports, in accordance with its constitutional obligation.

Luxembourg

The Committee notes with *regret* that for the second year in succession, the first report on the Maritime Labour Convention, 2006 (MLC, 2006), has not been received. It hopes that the Government will soon submit its report, in accordance with its constitutional obligation.

Saint Lucia

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

Sierra Leone

The Committee notes with *concern* that, for the second year in succession, the reports due on ratified Conventions have not been received, and that 22 reports are now due on fundamental, governance and technical Conventions (most of which should include information in reply to the Committee's comments). The Committee hopes that the Government will soon submit its reports, in accordance with its constitutional obligation.

Somalia

The Committee notes with *deep concern* that, for the tenth year in succession, the reports due on ratified Conventions have not been received. Thirteen reports are now due on fundamental and technical Conventions. The Committee firmly hopes that the Government will soon submit its reports, in accordance with its constitutional obligation.

Tuvalu

The Committee notes with *regret* that, for the second year in succession, the first report on the Maritime Labour Convention, 2006 (MLC, 2006), has not been received. The Committee hopes that the Government will soon submit its report, in accordance with its constitutional obligation.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Angola, Bahamas, Barbados, Central African Republic, Comoros, Congo, Djibouti, Eritrea, France (New Caledonia), Ghana, Guyana, Kazakhstan, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Libya, Malawi, Malaysia, Malaysia (Sarawak), Malta, Montenegro, Nepal, Netherlands (Curaçao), Nicaragua, Nigeria, Papua New Guinea, Rwanda, Saint Vincent and the Grenadines, Samoa, San Marino, Suriname, Timor-Leste, Trinidad and Tobago, United Kingdom (Anguilla, Bermuda, Gibraltar, Guernsey, Jersey, Montserrat), Vanuatu, Yemen.*

Freedom of Association, Collective Bargaining, and Industrial Relations

Algeria

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015 on the persistent violations of the Convention in practice. *The Committee requests the Government to provide its comments in this respect.*

The Committee also notes the joint observations of the International Organisation of Employers (IOE) and the General Confederation of Algerian Enterprises (CGEA) received on 31 August 2015.

The Committee notes the observations of the General and Autonomous Confederation of Workers in Algeria (CGATA) received on 31 May 2015 denouncing the recurrent difficulties for independent trade unions in registering and developing their activities, and communicating its analysis of the new draft Labour Code. *The Committee requests the Government to provide its comments in response to the CGATA.*

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee takes note of the discussion that took place at the Conference Committee on the Application of Standards in June 2015, concerning the application of the Convention by Algeria. The Committee notes that, in its conclusions, the Conference Committee requested the Government to: (i) provide detailed information regarding the new draft labour code including by providing a copy of it; (ii) ensure that there are no obstacles to the registration of trade unions in law or practice and act expeditiously to process pending applications for trade union registration; and (iii) reinstate public service employees who have been dismissed on grounds of alleged anti-union discrimination.

Legislative issues

The Committee refers to the conclusions of the Conference Committee inviting the Government to provide a copy of the new draft Labour Code and notes that the Government provided a copy of the bill in its version dated October 2015. In this regard, the Committee notes that in March 2015 the Office sent the Government technical comments on the bill and that the Government indicates in its report that 77 per cent of the technical comments made by the Office resulted in a reformulation of the draft in order to bring it into line with international labour standards. *The Committee is formulating, in a request addressed directly to the Government, certain comments on the bill of the new Labour Code concerning the application of the Convention and trusts that the Government will duly take them into account. The Committee trusts that the Government will spare no effort to ensure the adoption of the new Labour Code without further delay, that the process will necessarily include consultation with the representative employers' and workers' organizations in order to take their views into account, and that the Government will take measures to adopt the modifications requested by the Committee.*

Moreover, the Committee trusts that the Government will not fail to take the necessary measures to amend the other legal provisions, as below, which have been the subject of comments for a number of years, and that it will report in this regard in the near future.

Article 2 of the Convention. Right to establish trade union organizations. The Committee recalls that its comments have focused on section 6 of Act No. 90-14 of 2 June 1990 on the exercise of the right to organize, which 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. The Committee notes the Government's indication that the Act in question will be amended as requested in order to secure the right to form trade unions for foreign nationals. *Regardless of efforts to lower the threshold period of acquisition of Algerian nationality for the purpose of exercising trade union rights, the Committee trusts that the Government will take measures to revise section 6 of Act No. 90-14 without further delay so as to secure to all workers, without distinction as to nationality, the right to establish a trade union.*

Trade union registration in practice

The Committee notes that the June 2015 conclusions of the Conference Committee refer to the need for the Government to ensure that there are no obstacles, in law or practice, to the registration of trade unions and to act expeditiously to process pending applications for trade union registration. The Committee notes that, in its report, the Government refers to the registration of five trade unions in 2015 in various sectors, bringing the number of registered trade unions and employers' organizations to 100. The Committee nevertheless notes with *regret* that the Government has not provided information on the situation of the organizations, mentioned by the ITUC in its observations, whose registration has been pending for several years. Those organizations are the Higher Education Teachers' Union (SESS), the National Autonomous Union of Postal Workers (SNAP) and the CGATA. The Committee also notes, with regard to

the SESS and the SNAP, whose first applications for registration were submitted in 2012, that these trade unions have lodged a complaint with the Committee on Freedom of Association, which has requested the Government to process their registration as a matter of urgency (Case No. 2944, 374th Report, paragraph 17). Noting the observations of the ITUC and the CGATA on the ongoing challenges for newly established independent trade unions to obtain registration, the Committee recalls that 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, in accordance with Article 2 of the Convention. ***The Committee therefore urges the Government to guarantee the speedy registration of trade unions which have met the requirements set out by law, and trusts that it will report on the registration of the SESS, SNAP and CGATA in the very near future.***

Article 5. Right to establish federations and confederations. The Committee recalls that its comments have focused on sections 2 and 4 of Act No. 90-14 which, read together, have the effect of limiting the right to establish federations and confederations to one occupation or branch or to the same sector of activity. The Committee notes the Government's indication that section 4 of the Act will be amended to include a definition of federations and confederations. ***The Committee trusts that the Government will take all necessary measures to revise section 4 of Act No. 90-14 without further delay in order to remove any obstacles to the establishment by workers' organizations of federations and confederations of their choosing, irrespective of the sector to which they belong.***

Lastly, the Committee notes that, in its conclusions, the Conference Committee also requested the Government to reinstate public service employees who were dismissed on grounds related to alleged anti-union discrimination. In this regard, the Government indicates in its report that the civil servant clerks in question had been suspended further to disciplinary action brought against them in accordance with public service regulations for reasons unrelated to their trade union activity. The Government also specifies that all these civil servants have taken up their new positions. The Committee takes note of this information.

The Committee is raising other matters 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 observations of the International Trade Union Confederation (ITUC) and the Confederation of Workers of Argentina (CTA Autonomos), both received on 1 September 2015, and of the General Confederation of Labour of the Argentine Republic (CGT RA), received on 2 September 2015. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature.

Articles 2, 3 and 6 of the Convention. Autonomy of trade unions and the principle of non-interference of the State. The Committee recalls that for many years its comments have referred to the following provisions of Act No. 23551 of 1988 on trade union associations (LAS) and of the corresponding implementing Decree No. 467/88, which are not in conformity with the Convention:

- ***Trade union status:*** (i) section 28 of the LAS, 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 providing that the association claiming trade union status must have at least 10 per cent more dues-paying members than the organization that currently has the status; (ii) section 29 of the LAS, 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 (iii) section 30 of the LAS, 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, and that the latter's status must not cover the workers concerned.
- ***Benefits deriving from trade union status:*** (i) section 38 of the LAS, under which the check-off of trade union dues is allowed only for associations with trade union status, and not for those that are merely registered; and (ii) sections 48 and 52 of the LAS, which give special protection (trade union immunity) only to representatives of organizations that have trade union status.

In its previous comments, after noting the decisions of the Supreme Court of Justice and of other national and provincial courts which have found unconstitutional various sections of the above legislation, particularly with regard to trade union status and protection, the Committee urged the Government to draw all the consequences of these judicial decisions, with the aim of bringing the legislation into conformity with the Convention.

The Committee notes the information provided by the Government in its report on a number of legislative initiatives to reform the LAS, which cover provisions referred to in the comment. Reaffirming its willingness to use the necessary institutional channels to seek greater conformity between national legislation and the provisions of international labour Conventions, the Government considers that these legislative initiatives show the emergence of a broad new situation

regarding the need to adapt the LAS, reflect the favourable institutional environment created by the Government and constitute a positive step towards building the necessary consensus for the reform. However, emphasizing the need for the consensus to include all actors in the industrial relations system, the Government indicates that progress still needs to be made in some trade union and enterprise sectors in order to achieve a consensus-based reform.

The Committee also notes CTA Autonomous' indication that the social partners were not invited to attend a tripartite meeting to prepare draft amendments to bring the legislation into conformity with the Convention, and the ITUC's indication that CTA Autonomous was excluded from the meeting and from other consultation forums.

While taking due note of this information, and in particular the existence of certain ongoing legislative initiatives, the Committee observes with concern the delay in bringing the legislation into conformity with the Convention, despite the many years that have passed, the repeated requests for amendments and the technical assistance provided by the Office on several occasions. The Committee once again firmly urges the Government to take the necessary measures, without delay, and following tripartite examination of the pending issues with all of the social partners, to bring the LAS and the corresponding implementing Decree into full conformity with the Convention.

Article 3. Interference by the administrative authorities in trade union election processes. The Committee notes that CTA Autonomous reports interference by the Government in trade union elections, and refers to a recent example and the conclusions of the Committee on Freedom of Association on this matter. *Observing with concern that these allegations have been the subject of cases before the Committee on Freedom of Association (in particular Cases Nos 2865 and 2979), the Committee requests the Government to provide its comments in this regard and trusts that the issue of non-interference of the administrative authorities in trade union elections will be part of the tripartite review carried out to amend the LAS.*

Application in practice. The Committee notes that the ITUC and CTA Autonomous report unjustified delays in the administrative procedure to register a trade union or obtain trade union status, and cite examples of delays lasting between five and ten years. *Recalling that allegations of undue delays have been the subject of several cases before the Committee on Freedom of Association (for example, Cases Nos 1872, 2302, 2515 and 2870), and referring to the recommendations of the latter in this regard, the Committee requests the Government to take all the necessary measures to avoid unjustified delays in the procedures to register a trade union or obtain trade union status, and to report on progress made in reducing such delays.*

The Committee welcomes the information provided by the Government and CTA Autonomous on the completion of the process of registering the latter as a trade union. The Committee recalls that, in previous comments, it referred to the request for trade union status by the Confederation of Workers of Argentina in August 2004 and that, like the Committee on Freedom of Association and the Conference Committee on the Application of Standards, it urged the Government to make a decision in the near future. In this regard, the Committee notes the Government's indication that, when the Confederation of Workers of Argentina separated into two trade unions (CTA and CTA Autonomous), both were able to register and neither required recognition of their trade union status.

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

Collective Bargaining Convention, 1981 (No. 154) (ratification: 1993)

The Committee notes the observations of the Argentine Federation of the Judiciary (FJA), received on 31 August 2015, the Confederation of Workers of Argentina (CTA Autonomous), received on 1 September 2015, and the General Confederation of Labour of the Argentine Republic (CGT RA), received on 2 September 2015, all of which once again denounce the denial of the right to collective bargaining of workers in the national judiciary and the provinces.

The Committee notes that the Government, in reply to its previous comments in this respect, confines itself to forwarding a communication from the National Supreme Court of Justice, in which the justices of the Court indicate that they have been informed of a recent complaint before the Committee on Freedom of Association (Case No. 3078) and have decided not to intervene in it.

The Committee once again observes that this issue was already addressed in 2012 by the Committee on Freedom of Association (see 364th Report, Case No. 2881, paragraph 231), in which it recommended the Government, "pursuant to Article 5 of Convention No. 154, to take measures adapted to national conditions, including legislative measures if necessary, to promote collective bargaining between judiciary authorities and the trade union organizations concerned". *The Committee notes with concern the lack of tangible progress to guarantee the collective bargaining rights of workers in the national judiciary and in several provinces of the country. The Committee urges the Government to take the necessary measures in this regard, and requests it to provide information on any developments on the subject.*

[The Government is asked to reply in detail to the present comments in 2016.]

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, 104th Session, June 2015)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2015 concerning the application of the Convention. The Committee observes that the Conference Committee urged the Government to: undertake amendments to the Bangladesh Labour Act (BLA) 2006, as amended in 2013, in order to address the issues raised in relation to freedom of association and collective bargaining; ensure that the law governing the export processing zones (EPZs) allows for full freedom of association, including to form trade unions and to associate with trade unions outside of EPZs; investigate as a matter of urgency all acts of anti-union discrimination, ensure the reinstatement of those illegally dismissed, and impose fines or criminal sanctions; and ensure that applications for union registration are acted upon expeditiously and are not denied unless they fail to meet clear and objective criteria set out in the law. Further noting that the Conference Committee urged the Government to accept a high-level tripartite mission this year to ensure compliance with the recommendations, the Committee notes the Government's indication that it did not consider it feasible to ensure effective coordination of both the direct contacts mission related to the Labour Inspection Convention, 1947 (No. 81), and the mission related to this Convention. *Noting that the Government did, however, express its willingness to receive a mission related to this Convention in 2016, the Committee expresses its firm hope that the high-level tripartite mission requested by the Conference Committee will take place without further delay.*

The Committee takes note of the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2015. *The Committee takes note of the response of the Government to the 2014 ITUC observations and requests the Government to provide its comments on the latest communication.* The Committee notes the observations provided by the International Organisation of Employers (IOE) and the Bangladesh Employers' Federation (BEF) in a communication received on 1 September 2015. The Committee also notes the observations of the IOE received on 1 September 2015, which are of a general nature.

Civil liberties. The Committee has, over the years, taken note of numerous allegations from the ITUC of violence against trade unionists. The Committee had requested the Government to provide detailed information on any pending investigations into serious allegations of violence and harassment. The Committee notes the Government's general indication that there was no record of harassment for participation in trade union activities. The Government also refers to a helpline targeting the ready-made garment (RMG) sector in the Ashulia area which is expected to expand nationwide. *The Committee notes this new development with interest and requests the Government to provide further information on the expansion of the helpline and statistics on its use, the precise nature of the follow-up to calls and the number of cases resolved.*

The Committee had also requested the Government to report on the status of the investigations into the 2012 murder of a trade unionist. The Committee notes the information provided on the measures taken to investigate allegations of violence against a trade union general secretary and the subsequent filing of a court case against the management which is currently pending, while other cases were resolved through mutual dialogue. As regards the 2012 murder, the Government indicates that the Criminal Investigation Department has concluded that two persons are the principal suspects, and it has identified one of those. As this suspect had absconded, the Government has declared a reward of 100,000 Bangladeshi taka (US\$1,400) for the apprehension of the identified individual. The case has been brought under the ambit of "sensitive cases", which will ensure regular monitoring and thereby an expeditious trial. The charge sheet has been submitted and the case is under trial in absentia. *The Committee trusts that all perpetrators and instigators responsible for violence against trade unionists will be identified, brought to trial and punished so as to prevent the repetition of such acts, and requests the Government to provide information on the outcome of the ongoing trials and investigations referred to.*

Legislative implementation. The Committee notes that the Bangladesh Labour Rules (BLR or Rules) were published in the *Official Gazette* on 15 September 2015 as part of the implementation of the BLA. The Committee welcomes the issuance of the Rules and trusts that they will assist in the implementation of the BLA in a manner which is fully consistent with the Convention and raises below a certain number of matters in this regard.

Articles 2 and 3 of the Convention. *The right to organize, elect officers and carry out activities freely.* The Committee had previously requested the Government to provide detailed information and statistics on the registration of trade unions, and to respond to the ITUC observations that registered unions still only represented a small fraction of the 4 million workers in the RMG sector, and that there were a large number of registration applications that had yet to be acted upon, while dozens had been rejected under the Director of Labour's discretionary authority. The Committee notes the Government's indication that there are 7,550 trade unions and 171 trade union federations registered in the country. Between 1 January 2013 and 31 August 2015 a total of 333 trade unions were registered in the RMG sector bringing the total now to 465. There are 16 trade unions in the shrimp sector and eight in the ship-breaking sector. The Government adds that, in order to further ease the process, an online registration system has been introduced on the website of the Department of Labour. The Government further indicates that 31 applications for registration were refused in 2013, 145 in

2014 and 121 in 2015 (up to August) as they were missing the correct documents and information and were not in conformity with the provisions of the labour law. According to the Government, 30 applications for registration in the RMG sector were rejected, while the ITUC refers to 39. ***Recalling that the registration process should be a simple formality, which should not restrict the right of workers to establish organizations without previous authorization, the Committee trusts that the online registration system will facilitate resolution of registration applications expeditiously, and requests the Government to continue to provide statistics on the registration of trade unions and the specific legislative obstacles invoked for cases of denial.***

The Committee notes that Rule 167(4) appears to introduce a new minimum membership requirement of 400 workers to establish an agricultural trade union. The Committee expresses its **concern** at the apparent introduction in the Rules of an element that is not set out in the BLA itself, and which would restrict the right of agricultural workers to form and join the organization of their own choosing. The Committee recalls in this regard its 2015 General Survey, *Giving a voice to rural workers*, paragraphs 115–120 and 292, in which it refers to the importance of ensuring that minimum membership requirements for rural workers' organizations do not constitute an obstacle to the right to organize of these workers, especially bearing in mind the particular challenges they face for organizing. ***The Committee requests the Government to clarify the implications of this Rule and, if it does indeed restrict the right to organize of agricultural workers, to modify the Rule so as to align it with the BLA and in any event to lower the requirement to ensure conformity with the Convention.***

As regards the existing 30 per cent minimum membership requirement, while noting the views of the Government and the IOE and BEF that the establishment of threshold limits for the formation of unions must be viewed within the national context and must bear in mind the importance of avoiding a proliferation of trade unions that could be counterproductive to the development of healthy industrial relations and economic growth, the Committee must recall its **deep concern** that workers are still obliged to meet this excessive requirement for initial and continued union registration, and that unions whose membership falls below this number will be deregistered (sections 179(2) and 190(f) of the BLA), while no more than three trade unions shall be registered in any establishment or group of establishments (section 179(5)). The Committee emphasizes once again that such a high threshold for merely being able to form a union and maintain registration violates the right of all workers, without distinction whatsoever, to form and join organizations of their own choosing provided under *Article 2* of the Convention. ***The Committee requests the Government to review these provisions with the social partners with a view to its amendment and to provide information on the progress made in this regard.***

As regards the legislative reform more generally, the Committee notes the reference made by the IOE and the BEF to their interventions in the Conference Committee and in particular their indication that it would be useful for the ILO to provide assistance to the country in the process of reviewing its legislation so that the overall outcomes, as provided for in the Convention, could be achieved and a distinction made between lawful industrial activities and public disorder. ***Regretting that the Government has not provided any additional information on steps taken to further amend the BLA since its 2013 amendment, the Committee once again requests the Government to indicate the steps taken to review and amend the following provisions to ensure that restrictions on the exercise of the right to freedom of association and related industrial activities are in conformity with the Convention: scope of the law (sections 1(4), 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); and cancellation of trade union registration (section 202(22)) and excessive penalties (section 301).***

The Committee further notes that newly issued Rule 169(4) (eligibility for membership to the union executive committee) refers to the notion of permanent workers, and requests the Government to clarify the impact that this would have on the right of workers' organizations to elect their officers freely.

The Committee further notes that Rule 202 restricts in a very general manner the actions that can be taken by trade unions and participation committees, providing that they shall refrain in particular from: interference in the administrative functions of the establishment; interference in the appointment, transfer and promotion of officials, employees or workers in the establishment; receiving any facilities from the management concerning transport, furniture or financial matters; and interference in production and normal activities of the establishment. The Committee notes with **concern** that Rule 188 further provides a role for the employer in forming the election committees to conduct the election of worker representatives to participation committees in the absence of a union, and provides a ratio for the representation therein of two employer representatives to three worker representatives, while at the same time, the ITUC has made reference in its communication to growing concerns that employers are encouraging the formation of company unions in order to prevent being organized by worker-led trade unions. The Committee notes that while section 195 of the BLA sets out what constitutes unfair labour practices on the part of the employers, there appears to be no additional development on this point in the Rules (apart from a general reference in Rule 366) that would clearly limit the restrictions set out in Rule 202

or provide appropriate procedures and remedies for unfair labour practice complaints, including as regards the election process to participation committees. ***Observing that this was an element of the Government's commitment undertaken within the framework of the implementation of the European Union, United States, Bangladesh Sustainability Compact, the Committee requests the Government to indicate the steps taken to ensure that workers' organizations are not restricted in the exercise of their internal affairs and that unfair labour practices are effectively prevented.***

Article 5. The right to form federations. In its previous comments, the Committee requested the Government to review section 200(1) of the BLA so as to ensure that the requirement of the minimum number of trade unions to form a federation (now at five) is not excessively high and thus does not infringe the right of workers' organizations to form federations. It further requested the Government to take measures to amend the section so that workers may form federations of a broader occupational or interoccupational coverage and that there is no requirement for the trade union members to belong to more than one administrative division. The Committee takes due note of the Government's indication that this amendment made in 2013 was the result of tripartite consensus. ***The Committee requests the Government to continue to provide information on any further developments in this regard, including on the number of federations formed since the amendment and as to whether any complaints have been made in relation to the impact that this provision has had on the right of workers' organizations to form the federation of their own choosing.***

Right to organize in export processing zones (EPZs). In its previous observation, the Committee had recalled that there were a number of provisions of the EPZ Workers' Welfare Associations and Industrial Relations Act 2010 (EWWAIRA) (sections 6–10, 12, 16, 20, 21, 24, 27, 28, 34, 38, 46 and 80), which needed to be amended in order to bring the Act into conformity with the Convention. The Government referred to a draft of the Bangladesh EPZ Labour Act, which was approved in principle by the Cabinet in July 2014, while the ITUC had indicated that this draft was elaborated without consultation with Worker representatives and did nothing to address the concerns that had been raised under the Convention. The Committee had thus called on the Government to carry out full consultations with the workers' and employers' organizations in the country with a view to enacting new legislation for the EPZs which is fully in conformity with the provisions of the Convention. The Government indicates in the latest information provided simply that the draft EPZ Labour Act has been sent to the Ministry of Law for vetting prior to submission to the Parliament. ***Recalling the Conference Committee's recommendation to the Government to ensure that the law governing the EPZs allows for full freedom of association, including to form trade unions and to associate with trade unions outside of EPZs, the Committee once again urges the Government to resubmit this matter for full consultations with the workers' and employers' organizations in the country with a view to enacting new legislation for the EPZs in the near future, which is fully in conformity with the Convention.***

The Committee further notes that the ITUC refers in its observations to a Korean Export Processing Zone (KEPZ), which it states is the only private EPZ established under the Bangladesh Private EPZ Act (1996), and adds that it is unclear which law is applied to this zone as regards wages and labour rights. The ITUC alleges that on the one hand, the wages of government EPZs appear not to apply in the KEPZ, while on the other hand the employer bans the establishment of trade unions implying that the BLA does not apply either. ***The Committee requests the Government to respond to these observations and to indicate the labour laws that are applicable to private EPZs (or Special Economic Zones), and which ensure that the rights under the Convention are guaranteed to workers in these zones.***

In view of the absence of any meaningful progress on most of the matters it has been raising for many years, the Committee cannot but recall the critical importance which it gives to freedom of association as a fundamental human and enabling right and express its firm hope that significant progress will be made in the very near future to bring the legislation and practice into conformity with the Convention.

Barbados

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1977)

Article 1 of the Convention. Protection of workers' representatives. The Committee notes with *satisfaction* the adoption of a new Employment Rights Act, which includes protection from dismissal by reason of being, or being proposed to become, an officer, a shop steward, a safety and health representative, or a delegate or member of a trade union, as well as by reason of seeking office or acting as a worker's representative.

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, 104th Session, June 2015)

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 2015 concerning the application of the Convention. The Committee observes that the Conference Committee urged the Government to comply with the rest of the recommendations of the 2004 Commission of Inquiry and to accept substantially increased technical assistance in this regard and to provide information related to the functions and role of the Tripartite Council for the Improvement of Legislation in the Social and Labour Sphere (hereinafter, Tripartite Council).

The Committee notes the observations submitted by the International Trade Union Confederation (ITUC) received on 1 September 2015 on the application of the Convention. It further notes the observations submitted by the Belarusian Congress of Democratic Trade Unions (BKDP) received on 31 August 2015 alleging violations of this Convention, and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), in law and in practice and raising concerns that the Tripartite Council does not fulfil its functions. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

As a general point, the Committee notes with *interest* that, following a seminar in July 2014 organized by the ILO in Minsk on the experience of tripartite consultative bodies with social partnership, the Tripartite Council approved amendments to its Regulations aimed at improving its efficiency, which were issued by the Ministry of Labour and Social Protection in Order No. 48 of 8 May 2015. The Committee notes in particular that the regulations expand the mandate of the Tripartite Council to send proposals to legislative bodies on the implementation of ILO Conventions and Recommendations in law, in accordance with ILO recommendations, to review the application in practice of labour and trade union legislation and examine communications from trade unions and employers' organizations on issues of compliance with ratified ILO Conventions. ***The Committee trusts that the extended mandate of the Tripartite Council will be of assistance in addressing the points that the Committee has been raising for a number of years.*** In this regard, the Committee notes with *interest* the latest information from the Government that the Tripartite Council met in November 2015 and agreed upon a mechanism for negotiating and concluding collective agreements at enterprises with more than one union, which would figure in the General Agreement for 2016–18.

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 with *interest* the Government's indication that, following a proposal by the Tripartite Council, Presidential Decree No. 4 of 2 June 2015 abolished the 10 per cent minimum membership requirement by lowering the minimum number for forming an enterprise trade union to ten workers. The Committee further notes the observations of the BKDP that it considers the changes introduced to be cosmetic in nature given that the trade union practice in Belarus does not envisage the creation of autonomous individual unions but rather organizational structures under national sectoral trade unions in accordance with their by-laws. In this respect, the Committee recalls the numerous allegations of obstacles to the registration of such organizational structures due to their difficulties in obtaining legal address. It further recalls that the BKDP had indicated that, faced with such obstacles, independent trade unions generally had been discouraged from seeking registration.

In view of the above, the Committee *deeply regrets* that the Government's latest report does not indicate any measures taken or envisaged to amend the legal address requirement, as recommended by the Commission of Inquiry. ***The Committee once again urges the Government to consider, within the framework of the Tripartite Council, the measures necessary to ensure that the matter of legal address ceases to be an obstacle to the registration of trade unions in practice. The Committee requests the Government to indicate all progress made in this respect.***

Further recalling the specific allegations relating to legal address which were considered by the direct contacts mission that visited the country in January 2014 and its recommendation that mechanisms be developed to find an acceptable resolution of these kinds of disputes in the future, through fact-finding, facilitation and mediation, with full respect of freedom of association principles, the Committee welcomes the Government's indication that, with the support of the ILO, a tripartite seminar on dispute resolution and mediation is scheduled to take place in January 2016. ***The Committee requests the Government to provide information on the results and concrete outcome of this activity.***

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 BKDP, the Belarusian Independent Trade Union (BNP) and the Radio and Electronic Workers' Union (REP)

to hold demonstrations and meetings. The Committee had urged 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 notes the allegations in the latest communication of the BKDP that many municipal authorities had further denied authorization for it and its affiliates to carry out demonstrations: in February to protest against a new decree affecting workers' interests; on May Day; and to hold meetings in October dedicated to the World Day for Decent Work. The Committee notes that the Government only replies with respect to the latter event, stating that the Minsk authorities did grant permission to the BKDP, and the rally took place in the Friendship of People's Park on Bangalore Square. The Committee *regrets* that the Government has not replied to the other allegations of refusal to grant authorization for demonstrations in February and on May Day, nor has it provided any information on the steps taken to investigate the cases of refusal with the organizations concerned. ***The Committee urges the Government once again to work together with the abovementioned organizations to investigate these cases, 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. It requests the Government to provide information on the measures taken in this regard. The Committee further recalls in this connection that it has been requesting the Government for a number of years to take measures to amend the Act on Mass Activities, and urges the Government to review, with the assistance of the ILO, its provisions in the Tripartite Council, with a view to their amendment, and to report on the progress made.***

Finally, the Committee once again urges the Government to take measures to amend, in consultation with the social partners, Decree No. 24, which requires previous authorization for foreign gratuitous aid and restricts the use of such aid, 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.

Article 3. Right of workers' organizations to organize their activities. The Committee recalls that it had previously requested the Government to indicate the measures taken to amend sections 388, 390, 392 and 399 of the Labour Code regarding the exercise of the right to strike. The Committee *regrets* that no information has been provided by the Government on the concrete measures taken to amend the abovementioned provisions affecting the right of workers' organizations to organize their activities in full freedom. ***The Committee therefore encourages the Government to take measures 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 *regret* that, despite some progress noted above, it is bound to conclude, as did the Conference Committee on the Application of Standards, that over ten years since the Commission of Inquiry first issued its recommendations, the Government has failed to address most of them, leaving the overall situation in relation to trade union rights still highly unsatisfactory. ***The Committee is nevertheless encouraged by the intensified engagement of the Government with the ILO aimed at reviewing and addressing the obstacles faced in this regard, including the tripartite seminar on dispute resolution and mediation planned for January 2016, and expresses the firm hope that it will be in a position to observe significant progress made on the remaining recommendations.***

Botswana

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

Application of the Convention in practice. Regretting the absence of any comment from the Government in this respect, the Committee is obliged to reiterate its request to the Government to reply to the observations of the International Trade Union Confederation (ITUC) concerning cases of anti-union discrimination, refusal of union recognition and restrictions to collective bargaining in practice.

Article 1 of the Convention. Application of the Convention to prison staff. In its previous comments, the Committee recalled that the Convention applies to the Botswana prison service. The Committee notes the Government's indication that: (i) it has noted the concern expressed by the Committee; and (ii) while prison officers, governed by the Prisons Service Act, still remain part of the disciplined forces, support personnel at the Department of Prison and Rehabilitation are covered by labour laws and thus enjoy the right to associate. ***Recalling that the exception contained in Article 1(3) of the Convention only applies to the armed forces and the police, the Committee reiterates its hopes that the Government will take steps in the near future to amend the relevant legislation to ensure that prison officers enjoy the rights enshrined in the Convention, and urges the Government to provide information on any developments in this regard.***

Article 5. Protection against acts of interference. In its previous comments, the Committee had invited the Government to ensure that the revision of the Public Service Act would include the incorporation of a provision providing adequate protection to public employees' organizations against acts of interference by public authorities in their establishment, functioning or administration. The Committee notes the Government's indication that the Public Service

Act is still under review and that the Committee's comments will be examined. *The Committee urges the Government to provide information on any developments so as to ensure that legislation adequately protects public employees' organizations against acts of interference by public authorities.*

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 expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

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 the observations of the International Organisation of Employers (IOE) received on 1 September 2015.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015. *It requests the Government to provide its comments in this respect.*

The Committee also notes with *regret* that the Government's report has not been received. It expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

The Committee takes note of the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014, and by the Trade Union Confederation of Burundi (COSYBU) in a communication received on 26 September 2014. *The Committee requests the Government to provide its comments on the issues raised, 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 (SYMEDU) 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 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.

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

The Committee notes the comments of the International Trade Union Confederation (ITUC) received on 1 September 2015. The Committee notes that the ITUC emphasizes that Article 227 of the Labour Code allows the authorities to interfere in collective bargaining and that, pursuant to Article 224 of the Code, collective agreements with non-unionized workers are allowed. The ITUC adds that compulsory arbitration can be imposed by the labour inspection in the context of collective bargaining. ***The Committee requests the Government to provide its comments in this respect.***

The Committee also notes with *regret* that the Government's report has not been received. It expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

The Committee noted the observations submitted by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014, and by the Trade Union Confederation of Burundi (COSYBU) in a communication received on 26 September 2014 concerning the application of the Convention. ***The Committee requests the Government to provide its comments in this respect.***

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 in order to strengthen the sanctions. The Committee requests the Government to provide information on 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 had noted 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 near future.

Cambodia

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

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature. The Committee further notes the observations made by the International Trade Union Confederation (ITUC) received on 1 September 2015, which refer in particular to violence against trade unionists during strike action or during May Day rally, harassing lawsuits against trade union leaders and a recurrent blockage on registration of new independent unions. In its observations, the ITUC also comments on the draft Trade Union Law. The Committee further notes the observations made by Education International (EI) and its affiliate, the National Educators' Association for Development (NEAD), in a communication received on 28 September 2015 referring to police intimidation during the national Congress of the NEAD in September 2014. ***The Committee requests the Government to provide its comments on the observations submitted by the ITUC, EI and the NEAD.***

The Committee also notes the observations of the Cambodia Independent Teachers' Association (CITA) received on 4 August 2015, raising concern about the newly adopted Law on Associations and Non-Governmental Organizations. The Committee expresses its particular **concern** at a number of provisions in this law which would appear to violate the fundamental rights of teachers under the Convention. ***The Committee urges the Government to provide detailed information on the measures taken or envisaged to ensure that teachers and civil servants, who are not covered by the general trade union legislation, are fully ensured their rights under the Convention.***

The Committee takes note of the comments of the Government in reply to the previous observations from the ITUC, EI and the NEAD with regard to arrest and detention of workers involved in demonstrations, impediments to the registration of new independent trade unions, and intimidation against teachers joining trade unions. The Committee observes that the Government objects to most of the allegations and issues raised. In view of the divergent information provided by the workers' organizations and the Government, the Committee is bound to recall that freedom of association can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of workers' and employers' organizations, and it is for the Government to ensure that this principle is respected.

Murders of trade unionists. In its previous observation, the Committee had urged the Government to ensure that thorough and independent investigations into the murders of trade union leaders Chea Vichea, Ros Sovannareth and Hy Vuthy were carried out expeditiously. In relation to the murder of Ros Sovannareth, the Government reiterates that this case had already been concluded following the arrest and sentencing of Thach Saveth, also known as Chan Sopheak. He was sentenced to 15 years of imprisonment on 15 February 2005 for premeditated murder and is currently serving his term in prison. In this regard, the Committee notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2318 recalling that Thach Saveth was convicted of the murder of Ros Sovannareth in trials that were fraught with judicial irregularities and an absence of due process, and requesting the Government to investigate and indicate whether Thach Saveth was effectively given the opportunity to appeal against the court ruling and, if so, whether he had exercised his right to appeal (see 376th Report, paragraph 218). The Committee notes the Government's indication that a special Inter-ministerial Committee was established in August 2015 to ensure thorough and expeditious investigations of these criminal cases. ***The Committee once again requests the Government to ensure full and expeditious investigations into the murders of the abovementioned trade union leaders and to bring, not only the perpetrators, but also the instigators of these heinous crimes, to justice so as to bring to an end the prevailing situation of impunity, and hopes that it will soon be able to report progress in this regard. The Committee requests the Government to ensure that the Special Inter-ministerial Committee keeps the national employers' and workers' organizations informed on a regular basis of the progress of its investigations with a view to promoting social dialogue and putting an end to the climate of impunity that exists surrounding the acts of violence against trade unionists.***

Trade union rights and civil liberties. In its previous observation, the Committee urged the Government to investigate into the events of 2–3 January 2014 where strikes and demonstrations in the context of minimum wage fixing resulted in serious violence and assaults, death, and arrests of workers as well as alleged procedural irregularities in their trial. In its report, the Government reiterates that the strike action turned violent and that the security forces had to intervene in order to protect private and public properties, and to restore peace. The Government indicates that three committees had been set up following the incidents: the damages evaluation committee, the Veng Sreng road violence fact-finding committee and the minimum wages for workers in apparel and footwear sector study committee. ***The Committee requests the Government to provide information on any conclusions and recommendations reached by these committees as regards the incidents of January 2014, as well as any follow-up measures.***

Further to its previous comments, while taking due note of the details provided on the duties and mission of the strike-demonstration settlement committee, the Committee requests the Government to report on its work.

Independence of the judiciary. In its previous observation, the Committee requested the Government to indicate any capacity building or other measures undertaken in relation to the newly adopted laws on the status of judges and prosecutors and on the organization and functioning of the courts. The Government provides information on the organization of a national training workshop in December 2014 attended by over 500 persons representing all relevant stakeholders, as well as regular training for the officials of the provincial/municipal courts conducted through the Technical Committee on the Legal and Judicial Reform and by the General Directorate of Court Administration. The Government further explains that labour disputes would be settled by a Specialized Labour Court at the Court of first instance and Chambers of Labour at the higher courts (Court of Appeal and Supreme Court). The Government concludes by identifying the need to develop a guideline on the operation of the Labour Court and the Labour Chamber. ***The Committee requests the Government to indicate any progress on the drafting of the guideline on the operation of the Labour Court and the Labour Chamber, and to provide information on the progress made in their establishment and operation. The Committee recalls once again the urgent need to ensure the effectiveness of the judicial system as a safeguard against impunity, and an effective means to protect workers' rights during labour disputes.***

Draft Trade Union Law. In its previous observation, while noting the indication that the draft Trade Union Law was expected to be adopted by early 2015, the Committee urged the Government to expedite the adoption of legislative amendments that take into account all its comments ensuring the rights under the Convention to all workers, whether through the Trade Union Law or other relevant legislative measures. In this regard, the Committee notes that the Government reiterates its commitment to ensure a thorough and inclusive process, and the Committee welcomes the Government's engagement with the ILO throughout the drafting process. The Committee observes that the ITUC provided comments on a 2014 version of the draft Law, raising concerns on a number of provisions. ***Observing that the Government has further revised the draft Law and has submitted it to the Council of Ministers, the Committee trusts that the draft Trade Union Law will be adopted in the very near future and will be in full conformity with the provisions of the Convention. The Committee requests the Government to indicate progress in this regard and to provide a copy of the Trade Union Law as soon as it is adopted.***

The Committee is raising other matters 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 observations of the International Organisation of Employers (IOE), received on 1 September 2014.

The Committee notes the Government's reply to the observations of the International Trade Union Confederation (ITUC) concerning the dismissal of the general secretary of the teachers' association in 2008. According to the Government, this measure was not connected to the general secretary's trade union activities, and his rights were subsequently restored.

Articles 2, 3, 5 and 6 of the Convention. Legislative matters. The Committee recalls that since 2009 its comments have concerned the need to amend certain legislative provisions to bring them into line with the Convention:

- section 17 of the Labour Code, which limits the right of foreigners to join trade unions by imposing conditions of residence (two years) and reciprocity;
- section 24 of the Labour Code, which limits the right of foreigners to be elected to trade union office by imposing a condition of reciprocity;
- section 25 of the Labour Code, which renders non-eligible for trade union office persons sentenced to imprisonment, persons with a criminal record or persons deprived of their right of eligibility as a result of the application of national law, even where the nature of the relevant offence is not prejudicial to the integrity required for trade union office;
- section 26 of the Labour Code, under which the union affiliation of minors under 16 years of age may be opposed by parents or guardians despite the minimum age for admission to employment being 14 years under section 259 of the Labour Code; and
- section 49(3) of the Labour Code, under which no central organization may be established without the prior existence of "occupational federations" and "regional unions" (section 49(1) and (2)).

The Committee notes the report submitted in June 2014, in which the Government indicates that the requested amendments to sections 17, 25, 26 and 49(3) of the Labour Code are the subject of an implementing decree which is in the process of being adopted. The successive political crises affecting the country have prevented the adoption of this decree to date. ***The Committee hopes that the Government will take all necessary steps in this regard and will be in a position to announce the adoption of the implementing decree in question, and also the amendment of section 24 of the Labour Code and Order No. 81/028, which are the subject of specific comments in a direct request.***

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: 1964)

Articles 2, 4 and 6 of the Convention. Legislative matters. The Committee recalls that for several years its comments have concerned the following points:

- section 30(2) of the Labour Code (insufficient protection against all the acts of interference envisaged in *Article 2* of the Convention 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.***
- section 40 of the Labour Code (collective agreements must be discussed by the representative employers' and workers' organizations belonging to the occupation concerned): ***The Committee requests the Government to indicate the legislative provision which grants federations and confederations the right to engage in collective bargaining.***
- sections 197 and 198 of the Labour Code (possibility for professional groupings of workers to engage in collective bargaining with the employer on an equal footing with trade unions): Recalling that *Article 4* of the Convention promotes collective bargaining between employers and trade union organizations, the Committee requested the Government to indicate the measures taken to ensure that professional groupings of workers may negotiate collective agreements with employers only where no trade union exists in the bargaining units concerned. ***Noting the Government's indication that steps are being taken to amend sections 197 and 198 of the Labour Code, the Committee hopes that the Government will be in a position to report specific progress in this respect in the near future.***
- 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, the Committee requests the Government to provide clarification on the scope of application of section 211, particularly specifying the extent to which the right to engage in collective bargaining is recognized for all public employees, with the possible exception of public servants engaged in the administration of the State, the armed forces and the police.***

Furthermore, the Committee previously asked the Government to reply to the observations of the International Trade Union Confederation (ITUC) alleging that there is no collective bargaining in the wage-fixing process in the public sector. The Government indicates that in the context of fixing minimum wages in the public sector, the opinion of the tripartite Standing National Labour Council (CNPT) is taken into account. The Government also declares that since it is the biggest employer in the country and it is part of the CNPT, engaging in collective bargaining with regard to public servants' wages would be a duplication of effort. While noting the explanations provided by the Government, the Committee wishes to recall that, under the terms of the Convention, public servants other than those engaged in the administration of the State should have the benefit of machinery for negotiating the terms and conditions of their employment, including the question of wages other than the minimum wage. ***The Committee therefore requests the Government to indicate the measures taken to promote such machinery for negotiation in the public sector.***

Lastly, the Committee requested the Government to consider amending sections 367–370 of the Labour Code, which appear to establish a procedure whereby all collective disputes are subject to conciliation and, failing resolution, to arbitration. ***In view of the lack of information from the Government on this matter, the Committee repeats its request, recalling that recourse to compulsory arbitration in all cases where the parties do not reach agreement through collective bargaining is only acceptable in relation to public servants engaged in the administration of the State (Article 6 of the Convention), essential services in the strict sense of the term and acute national crises. The Committee also requests the Government once again to provide its comments on the matter of compulsory recourse to long conciliation or arbitration procedures in the event of a dispute, as raised by the ITUC in its 2013 observations.***

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

Congo

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

The Committee notes the Government's reply to the allegations made by the International Trade Union Confederation (ITUC) in 2014 concerning a strike by teachers that reportedly resulted in: (i) the arbitrary arrest of teachers who are trade unionists by the Directorate-General for Territorial Surveillance (DGST); and (ii) the abduction in June 2013 of Mr Dominique Ntsienkoulou, a member of the Dialogue Group for the Redevelopment of the Teaching Profession (CRPE), by officials of the Provincial Directorate for Territorial Surveillance (DDST) and his subsequent disappearance. The Committee notes that, according to the Government: (i) the Directorate-General of the Police (and not the DGST) summoned the leaders of the CRPE to explain the reasons for their excessive action during the strike; and

(ii) Mr Ntsienkoulou left his home on his own initiative and was never arrested, abducted or investigated by the national police services. In light of the divergent information provided by the ITUC and the Government, the Committee wishes to recall that the public authorities must not interfere in the legitimate activities of trade union organizations by subjecting workers to arrest or arbitrary detention, and that the arrest and detention of trade unionists, without any charges being brought or without a warrant, constitute a serious violation of the trade union rights enshrined in the Convention. ***The Committee trusts that the Government will ensure that these principles are fully respected and urgently requests it to further investigate the situation of Mr Ntsienkoulou, particularly as to his safety and whereabouts and to provide information in this respect.***

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature.

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

Croatia

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

The Committee notes that the Government's report has not been received. The Committee is bound to repeat its previous comments.

Follow-up to the discussion of the Committee on the Application of Standards (International Labour Conference, 103rd Session, May–June 2014)

The Committee takes due note of the discussion which took place within the Conference Committee in June 2014.

The Committee notes the observations received on 1 September 2014 from the International Trade Union Confederation (ITUC) and requests the Government to provide its comments on the application in practice of the provisions of the Convention. The Committee also notes the Government's comments on the 2013 observations made by the Association of Croatian Trade Unions (MATICA).

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 requested the Government to provide information on the progress made with respect to the measures aimed at improving the efficiency of the legal protection. The Committee notes from the information provided by the Government to the Conference Committee that: (i) a comprehensive process of judicial reform has been taking place during the past few years, in the framework of which many laws have been amended, the courts have been restructured and their territorial distribution modified, and information technology has been advancing, which resulted in a considerable drop of the number of unresolved cases; and (ii) the Labour Inspectorate Act was adopted and entered into force on 20 February 2014 and the Inspectorate Unit was established as a separate unit within the Ministry of Labour and Pension System since 1 January 2014. ***The Committee requests the Government to continue to provide details on measures envisaged or taken with a view to accelerating judicial proceedings in cases of anti-union discrimination, and to provide practical information including statistics concerning the impact of such measures on the length of the proceedings.***

Articles 4 and 6. Promotion of collective bargaining in the public service. In its previous comments, the Committee, referring to previous allegations made by the Trade Union of State and Local Government Employees of Croatia (SDLSN) that the Local and Regional Self-Government Wage Act of 19 February 2010 restricts the right of employees of financially weaker local and regional self-government units to bargain collectively over the wage formation basis, had noted the Government's indication that salaries of civil servants in local and regional self-government units are adjusted to salaries of civil servants at state level and had requested the Government to provide information on the practical application of such adjustment. The Committee notes from the information provided by the Government to the Conference Committee that: (i) the wage formation basis for the calculation of pay of employees of all local and regional self-government units, including financially weaker ones, is determined by collective bargaining (section 9 of the Act); (ii) the wage formation basis in units where aids exceed 10 per cent of the unit income must not exceed the wage formation basis of civil servants (section 16); and (iii) this restriction ensures that units which do not have sufficient income for their expenses and rely on aid from the state budget for the salaries of their employees, cannot increase salaries disproportionately to their income. The Committee recalls that special modalities for collective bargaining in the public service, in particular as regards wage clauses and other clauses with budgetary implications, are compatible with the Convention. ***Noting that the SDLSN criticizes the current system, the Committee invites the Government to initiate a dialogue with the most representative workers' organizations in the local and regional self-government units of the public service with a view to exploring possible improvements to the collective bargaining system on the wage formation basis.***

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 collective agreements in the public sector for financial reasons. 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 had requested the Government to provide a copy of the relevant legislative provisions and information on their application in practice. The Committee notes from the information provided by the Government to the Conference Committee that this law is no longer in force, that it is standard procedure to adopt annually an act on the realization of the state budget, and that the Act on the Realization of the State Budget of the Republic of Croatia for 2014 was recently adopted but not yet translated into one of the ILO working languages. ***The Committee requests the Government to provide a copy of the aforementioned Act and underlines the importance of ensuring that any future Act on the Realization of the State Budget does not enable the Government to modify the substance of collective agreements in force in the public service for financial reasons.***

With reference to previous allegations of MATICA denouncing the content of the Act on the Criteria for Participation in Tripartite Bodies and Representativeness for Collective Bargaining of 13 July 2012 (2012 Representativeness Act), the Committee had expressed the wish to receive any 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. The Committee notes

the Government's indication that: (i) the contested 2012 Representativeness Act is no longer in force; (ii) a new Act on Trade Unions' and Employers' Associations' Representativeness (2014 Representativeness Act) was adopted and entered into force on 7 August 2014 as part of a package which included adoption of a new Labour Act; and (iii) the 2014 Representativeness Act was elaborated in close cooperation and after numerous consultations with all representative social partners including MATICA. The Committee notes that the Government draws attention to certain developments in the new legislation that seek to address issues previously raised by MATICA (for example, longer period of extended application of collective agreement after expiry may be specified by the collective agreement in question; professional unions must fulfil the same general representativeness criteria as all other unions). ***With a view to examining the conformity of the 2014 Representativeness Act with the Convention, the Committee requests the Government to provide copies of it and further information on the relevant provisions and their application in practice, and expresses the wish that the most representative employers' and workers' organizations provide any views or comments in respect of the new legislation, so as to enable it to assess the newly established representativeness criteria, and to determine whether the established criteria are shared by the most representative social partners.***

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

Noting the adoption of the new Labour Act in 2014, the Committee invites the Government to provide information on the provisions giving effect to the Articles of the Convention, and their application in practice.

Ecuador

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

The Committee notes the joint observations of the National Federation of Education Workers (UNE), Public Services International-Ecuador (PSI-E) and the United Front of Workers (FUT), received on 23 August 2015, and the observations of the International Trade Union Confederation (ITUC), received on 1 September 2015, with both of the trade union communications referring to issues examined in the present observation and the corresponding direct request. The Committee also notes that, in their observations, these Ecuadorian trade unions denounce the active role played by the Government in the establishment of the National Confederation of Public Sector Workers, the United Central Workers' Organization and the Primary Teachers' Network. ***The Committee requests the Government to provide its comments in this regard.*** The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature.

The Committee notes the Government's comments in reply to the 2014 observations of the PSI-E, the Standing Inter-Union Committee and the UNE concerning the prosecution of Mery Zamora (former President of the UNE), Carlos Figueroa (former Executive Secretary of the Ecuadorian Medical Federation) and Fernando Villavicencio (former trade union leader in the petroleum sector). The Government indicates that: (i) in its ruling of 27 May 2014, the National Court of Justice acquitted Mery Zamora, who had previously been found guilty of the destruction, deterioration, misuse, interruption or paralysis of public services; (ii) Carlos Figueroa was found guilty on 13 March 2014 of the crime of malicious defamation against the President of the Republic, and he was released from the Social Rehabilitation Centre of Quito on 17 January 2015; and (iii) Fernando Villavicencio was convicted of the same crime on 16 April 2013, and on 23 March 2015, following several appeals, the national court set aside the penalty imposed upon him. The Committee notes that, in their 2015 observations, the UNE, PSI-E and FUT, as well as the ITUC, denounce: (i) the violation by the State of the precautionary measures ordered by the Inter-American Commission on Human Rights for Carlos Figueroa; and (ii) the persistence of the persecution of Mery Zamora. The trade unions indicate that an appeal has been lodged against the acquittal of Mery Zamora by the Office of the Prosecutor General through an extraordinary protection appeal to the Constitutional Court, despite the fact that such legal action is intended to protect the fundamental rights of individuals, and not the interests of the State. The Committee expresses **concern** at the cases described above and recalls that the peaceful exercise of trade union activities, including the right to express opinions, should not give rise to charges, convictions, or extraordinary legal action by the Government against trade union leaders and members. ***The Committee requests the Government to take these principles fully into account in the future and to continue providing information on the situation of Mery Zamora.***

The Committee notes the Government's comments in reply to the observations of the PSI-E, the Standing Inter-Union Committee and the UNE of 2014 concerning the refusal to register the new executive committee of the UNE. The Government indicates that the Ministry of Education refused the registration of the executive committee on the grounds that it had not attached the documents required by section 21(a) of the Regulations on the operation of the unified information system for social and citizens' organizations (Executive Decree No. 16 of 20 June 2013) and because it had not complied with various provisions of the statutes of UNE. While noting that matters of a general nature raised by Executive Decree No. 16 are examined in the direct request supplementing the present observation, the Committee recalls that, under *Article 3 of the Convention*, the election of trade union leaders is an internal matter for the organizations in which the administrative authorities should not interfere. In this regard, any issues concerning the lawful nature of trade union elections should first give rise to the application of the procedures set out in the organization's statutes and, if they cannot be resolved internally, should be submitted to the courts. ***Based on the above, the Committee requests the Government to register the new executive committee of the UNE and to provide information on developments in this regard.***

The Committee also notes the report of the ILO technical mission which, at the invitation of the Government, visited the country from 26 to 30 January 2015 as a follow-up to the discussion in the Committee on the Application of Standards of the International Labour Conference in June 2014 concerning the application by Ecuador of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The Committee welcomes the fact that the Government agreed to broaden the mandate of the mission to the legislative issues raised by the Committee concerning the present Convention.

Article 2 of the Convention. Right of workers to establish organizations of their own choosing without previous authorization. Impossibility of establishing more than one trade union in state bodies. In its previous comments, the Committee requested the Government to take measures to amend article 326(9) of the Constitution, which provides that for all purposes relating to industrial relations in state institutions, workers shall be represented by a single organization. The Committee notes the Government's indication that: (i) both article 326(7) of the Constitution, which gives broad recognition to the right to freedom of association, and the provisions of the Labour Code, which are applicable to public sector workers, recognize the right of workers in the public sector, without distinction whatsoever, to establish organizations of their own choosing; and (ii) 1,532 trade unions of public sector workers are registered in the country. ***Taking due note of the Government's indications, the Committee requests the Government to take the necessary measures to amend article 326(9) of the Constitution so as to bring it into conformity with Article 2 of the Convention and with the provisions of Ecuadorian legislation referred to above.***

Excessive number of workers (30) required for the establishment of associations, enterprise committees, or assemblies for the organization of enterprise committees. In its 2014 report, the Government indicated that, during the current revision of the labour legislation, the Committee's comments would be taken into account concerning the minimum number of workers required for the establishment of trade unions. Nevertheless, the Committee notes that the Basic Act on labour justice and the recognition of household work (hereinafter, the Labour Justice Act), adopted in April 2015, has not modified the minimum number of 30 workers required by the legislation. The Committee also notes the Government's indication in its latest report that: (i) the Convention does not establish a specific minimum number of members, leaving their determination to the national authorities; and (ii) the minimum number of 30 members does not constitute an obstacle to the establishment of trade unions. The Committee recalls in this respect that: (i) under the terms of Article 2 of the Convention, workers shall have the right to establish organizations of their own choosing; (ii) as indicated in its 2012 General Survey on the fundamental Conventions, paragraph 89, while the legislation in countries which have ratified the Convention may regulate the exercise of this right by establishing a minimum number of members, the numbers should be fixed in a reasonable manner so that the establishment of organizations freely, as guaranteed by the Convention, is not hindered; and (iii) the Committee has generally considered that the requirement of a minimum number of 30 members to establish enterprise unions in countries in which the economy is characterized by the prevalence of small enterprises, hinders the freedom to establish trade unions. Noting that the country has a very high proportion of small enterprises and that the national trade union structure is based on enterprise unions, the Committee, since the legislative reform of 1985 which increased the minimum number of members from 15 to 30, has been requesting the Government to reduce the minimum number required by the legislation. ***The Committee therefore once again requests the Government to take the necessary measures to amend sections 443, 452 and 459 of the Labour Code, which stipulate various requirements and criteria for the establishment of associations, and to report any developments in this regard.***

Article 3. Requirement of Ecuadorian nationality to be eligible for trade union office. In its previous comments, the Committee requested the Government to take measures to amend section 459(4) of the Labour Code, which establishes the requirement of Ecuadorian nationality to hold office in enterprise committees. In this regard, the Committee notes with **satisfaction** that section 49 of the Labour Justice Act has removed from the Labour Code the nationality requirement referred to above.

Election of workers who are not union members as officers of enterprise committees. The Committee notes that the ITUC, UNE, PSI-E and FUT denounce the fact that new section 459(3) of the Labour Code, adopted as part of the Labour Justice Act, provides that enterprise committees "shall be composed of any worker, whether or not a union member, who is registered on the lists for such election", and thereby violates the independence of trade unions and allows interference by both the State and the employer in elections. The Committee observes that, under the terms of the Labour Code, the enterprise committee is one of the forms that may be taken by trade unions within the enterprise, with the officers of the enterprise committee being elected by all the workers in the enterprise who are unionized. Recalling that, under the terms of Article 3 of the Convention, workers' organizations shall have the right to elect their representatives in full freedom, the Committee considers that: (i) the imposition by law that workers who are not union members may stand for election as officers of the enterprise committee is contrary to the trade union autonomy recognized by this provision of the Convention; and (ii) it would be acceptable for workers who are not union members to stand for office only if the specific rules of the enterprise committee envisage this possibility. ***The Committee therefore requests the Government to take the necessary measures to amend section 459(3) of the Labour Code to bring it into compliance with the principle of trade union autonomy, and to provide information on any progress made in this regard.***

Prison sentences for the stoppage or obstruction of public services. In its previous comments, the Committee requested the Government to take the necessary steps to amend Decree No. 105, of 7 June 1967, and section 346 of the Basic Comprehensive Penal Code, so as not to impose penal sanctions on workers carrying out a peaceful strike. In this

regard, the Committee notes that: (i) the Government indicates that Decree No. 105 has not been part of Ecuadorian legislation since 1971; (ii) the Government's report does not refer to section 346 of the Basic Comprehensive Penal Code; and (iii) during the ILO technical mission in January 2015, the officials of the Ministry of Labour indicated that section 346 of the Basic Comprehensive Penal Code was not intended to prohibit the right to strike, and discussed the possibility of that provision explicitly indicating that the specified acts do not include the peaceful exercise of the right to strike. ***Recalling that no penal sanctions should be imposed with respect to carrying out a peaceful strike but such sanctions should only be permissible where violence against persons or property, or other serious infringements of penal law have been committed, the Committee once again urges the Government to take the necessary measures to amend section 346 of the Basic Comprehensive Penal Code as indicated above and to report any developments in this regard.***

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: 1959)***

The Committee notes the joint observations of the National Federation of Education Workers (UNE), Public Services International–Ecuador (PSI-E) and the United Front of Workers (FUT), received on 23 August 2015, and the observations of the International Trade Union Confederation (ITUC), received on 1 September 2015, which contain denunciations of violations of the Convention in practice, as well as legislative issues that the Committee is examining in the present observation. ***The Committee requests the Government to provide its comments on the denunciations of violations in practice contained in these trade union observations. The Committee also once again requests the Government to provide its comments on the allegations of anti-union dismissals in an enterprise in the banana sector contained in the 2014 ITUC observations.***

The Committee also notes the report of the ILO technical mission which visited the country at the invitation of the Government, from 26 to 30 January 2015, as a follow-up to the discussion in the Committee on the Application of Standards of the International Labour Conference in June 2014 on the application of the Convention by Ecuador.

Application of the Convention in the private sector

Article 1 of the Convention. Protection against acts of anti-union discrimination. The Committee notes with ***interest*** that section 33 of the Act on labour justice and the recognition of household work (hereinafter, the Labour Justice Act), adopted in April 2015, which amends section 187 of the Labour Code, provides that the unjustified dismissal of members of the executive committee of a trade union shall have no effect. ***The Committee requests the Government to provide information on the application of this provision in practice.***

In its previous comments, the Committee 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 in access to employment. ***Noting that the Government's report does not refer to this matter, the Committee once again requests the Government to take the measures requested and to report on any progress made in this respect.***

Article 4. Promotion of collective bargaining. In its previous comments, the Committee pointed out the need to amend section 221 of the Labour Code respecting the submission of the draft collective agreement, so that, where there is no organization with over 50 per cent of the workers as members, minority trade unions may, either alone or jointly, negotiate on behalf of their members. The Committee notes the Government's indication that this provision of the Labour Code guarantees the representativity of the workers' organization with which the collective agreement is concluded. ***Recalling that the requirement of an excessively high percentage of representativity in order to be allowed to participate in collective bargaining can hinder the promotion and development of free and voluntary collective bargaining in accordance with the Convention, the Committee once again requests the Government to take the necessary measures to amend section 221 of the Labour Code as indicated. The Committee also requests the Government to indicate the number of collective agreements concluded in recent years, and the number of workers and sectors covered.***

Application of the Convention in the public sector

Articles 1 and 2. Protection against acts of anti-union discrimination and interference. In its previous comments, noting the absence of specific provisions respecting anti-union discrimination and interference in the Basic Act on the Public Service (LOSEP), the Basic Act on Public Enterprises (LOEP), the Basic Act on Higher Education (LOES) and the Basic Act on Intercultural Education (LOEI), the Committee requested the Government to take the necessary measures to ensure that the legislation applicable to the public sector, at least for workers not covered by the exception set out in ***Article 6*** of the Convention, contains provisions prohibiting and establishing dissuasive penalties for any acts of anti-union discrimination and interference, as envisaged in ***Articles 1 and 2*** of the Convention. The Committee notes that the ILO technical mission which visited the country in January 2015, in its report, noted the undertaking by the Ministry of Labour to include in the LOSEP a provision similar to that in the Labour Justice Act, which inserted into the Labour Code a provision establishing that the unjustified dismissal of trade union representatives shall be null and void. However, the Committee notes that the Government's report, which refers to the general prohibition of discrimination in the Constitution and the LOSEP, does not contain information on this subject. In this regard, the Committee emphasizes that the procedure known as "compulsory purchase of redundancy", as examined by the Committee on Freedom of

Association in Case No. 2926, which allows the public administration, through the payment of compensation, to unilaterally remove public servants without having to indicate the grounds for the termination of the employment relationship, makes it even more necessary to adopt provisions affording effective protection to public servants against any acts of anti-union discrimination. ***The Committee therefore urges the Government to take the necessary measures to ensure that the legislation applicable to the public sector contains provisions prohibiting and establishing dissuasive penalties for any acts of anti-union discrimination and interference, as set out in Articles 1 and 2 of the Convention.***

Articles 4 and 6. Personal scope of collective bargaining in the public sector. In its previous comments, the Committee noted that the LOEP, LOSEP, LOES and LOEI do not recognize the right to collective bargaining of public servants, and that only public sector workers governed by the Labour Code may engage in collective bargaining. Recalling that the Convention applies to public servants not engaged in the administration of the State (such as employees in public enterprises, municipal employees and employees in decentralized bodies, public sector teachers and air transport personnel), the Committee requested the Government to take the necessary measures to extend the right to collective bargaining to all the categories of public employees covered by the Convention. In this regard, the Committee notes the Government's indication that public servants enjoy the right to organize and that they benefit from financial conditions that are better than those in the private sector, as well as a broad series of rights which respond to their needs. ***Emphasizing that, under the terms of the Convention, workers who are covered by the Convention have the right to engage in collective bargaining, irrespective of the other rights or benefits that they enjoy, the Committee urges the Government, in consultation with the trade union organizations concerned, to take the necessary measures for the revision of the LOSEP and related legislation so as to recognize the right to collective bargaining of public servants who are not engaged in the administration of the State.***

The Committee further notes that the UNE, PSI-E, FUT and ITUC allege that a draft set of constitutional amendments, which have been under examination since June 2014 by the National Assembly, and which provide that public sector workers currently governed by the Labour Code will be subject to administrative laws governing the terms and conditions of work of public servants, has the objective of completely eliminating the right to collective bargaining in the public sector. The Committee notes that the draft constitutional amendments did not give rise to broad discussions before the ILO technical mission in January 2015 and were the subject of the conclusions and recommendations of the Committee on Freedom of Association in November 2015, in the context of Case No. 2970. The Committee notes that the Committee on Freedom of Association referred to the legislative aspects of the case.

In this regard, the Committee notes that: (i) with a view to unifying the legal regime governing workers in the public sector, these constitutional amendments envisage the deletion of the third indent of article 229 of the Constitution and the amendment of the 16th indent of article 326 such that wage earners in the public sector, who are currently governed by the Labour Code, will be subject to the LOSEP and the other administrative laws governing terms and conditions of work in the public sector; and (ii) the single transitional provision in the draft amendments provides that wage earners in the public sector recruited prior to the entry into force of the amendments will not lose the rights guaranteed by the Labour Code.

The Committee therefore observes that the adoption of the constitutional amendments would have the effect of extending the scope of application of the LOSEP and other administrative laws to all public sector workers, with the sole exception of wage earners in the public sector recruited prior to the entry into force of the amendments. Since, as noted above, the administrative laws referred to do not recognize the right of public servants to collective bargaining, the Committee notes with **concern** that the adoption of the constitutional amendments would result, with the legislation in its current form, in an extension of non-compliance of *Article 4* of the Convention, which recognizes the right to collective bargaining of all public sector workers who are not engaged in the administration of the State. In this respect, the Committee considers, in the same way as the Committee on Freedom of Association, that the discussion of the draft constitutional amendments makes it even more urgent to amend the LOSEP and other administrative laws in order to bring them into conformity with the Convention. While noting that the Government informed the Committee on Freedom of Association that provisions would be adopted regulating more specifically the trade union rights of public servants, once the constitutional amendments had been adopted, the Committee notes that it has not received information on specific initiatives to amend the legislation as indicated. ***The Committee therefore urges the Government to launch immediately a process of consultation with workers' organizations in the public sector with a view to taking the necessary measures to ensure that the draft constitutional amendments contribute to the application of Article 4 of the Convention and that the legislation applicable to the public sector is in conformity with that Article. Recalling that the Government may avail itself of ILO technical assistance, the Committee requests it to report on any developments in this regard.***

Material scope of collective bargaining in the public sector. In its previous comments, the Committee noted that the LOSEP and the LOEP do not allow public sector workers who have the right to conclude collective agreements (public service workers governed by the Labour Code), to negotiate the level of their remuneration. Recalling that the Convention applies to public servants who are not engaged in the administration of the State, the Committee requested the Government to take the necessary measures to restore the right of public sector workers covered by the Convention to engage in collective bargaining with regard to their remuneration. In this respect, the Committee again notes the Government's indication that public sector workers enjoy better financial conditions than those in the private sector, as well as a broad range of rights which respond to their needs. The Committee also notes that the new section 118 of the

Labour Code, as amended by the Labour Justice Act adopted in April 2015, provides that the Ministry of Labour shall set remuneration and determine the scales of increments applicable to public servants and public sector workers. **Recalling once again, in reply to the Government's earlier comments, that there are arrangements which allow for the conciliation of the protection of the principle of equal remuneration for work of equal value in the public sector and the respect for budgetary allocations, on the one hand, and the recognition of the right to collective bargaining, on the other, the Committee urges the Government to take the necessary measures to restore the right to collective bargaining on all matters affecting the working and living conditions of public servants and public sector workers covered by the Convention, and to report on any developments in this regard.**

Determination of the abusive nature of collective agreements in the public sector by the Ministry of Labour. The Committee recalls that the Committee on Freedom of Association drew its attention to the legislative aspects of Case No. 2684 (Report No. 372, paragraphs 282 and 285) relating to the violation of the right to collective bargaining as a result of empowering the Ministry of Industrial Relations through Ministerial Order Nos 00080 and 00155 to determine the abusive character of clauses in collective agreements in the public sector. In its previous comments, the Committee requested 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. The Committee once again notes the Government's indication that the administrative authorities are not judges and parties to the revision of collective agreements in the public sector, as they provide equitable support to both employers and workers. The Committee highlights once again that, in light of the principle of free and voluntary collective bargaining enshrined in *Article 4* of the Convention, the determination of the abusive nature of clauses in collective agreements in the public sector should only apply to cases of violation of the legislation or to very serious cases of distortion of the collective bargaining purposes, and that this determination should lie with the judicial authorities. **The Committee therefore urges again the Government to take the necessary measures in this respect, including the repeal of the provisions of the national legislation which empower the Ministry of Labour to determine the abusive nature of collective agreements in the public sector. The Committee requests the Government to report on any developments in this regard.**

El Salvador

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2006)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2015, alleging violations of the Convention in specific enterprises and public institutions, and the observations of the Salvadorean Trade Union Coordination (CSS), received on 9 September 2015. In addition, the Committee notes the joint observations of the International Organisation of Employers (IOE) and the National Business Association (ANEP), received on 1 September 2015. **The Committee requests the Government to provide its comments on all the abovementioned observations.**

The Committee also notes the observations of the IOE received on 1 September 2015, which are of a general nature.

Follow-up to the conclusions in the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee takes note of the discussion held in the Conference Committee on the Application of Standards in June 2015 on the application of the Convention by El Salvador. It notes that the Conference Committee requested the Government to: (i) take all necessary measures without delay to identify those responsible for the murder of Victoriano Abel Vega and punish those guilty of this crime; (ii) ensure the full autonomy of employers' and workers' organization in the joint and tripartite decision-making bodies, which necessitates the convocation and immediate setting up of the Higher Labour Council where the legal reforms necessary to guarantee this autonomy should be the subject of consultations. In order to achieve this, the Government should abstain from requesting consensus from the trade union confederations and federations for the nomination of their representatives to the Higher Labour Council; (iii) revise on a tripartite basis in the Higher Labour Council, Presidential Decree No. 86, which created the Presidential Commission for Labour Affairs; and (iv) accept ILO technical assistance with a view to bringing its legislation and practice into conformity with the provisions of the Convention.

With regard to the murder of the trade union leader Mr Victoriano Abel Vega in January 2010, which is the subject of Case No. 2923 before the Committee on Freedom of Association, the Committee notes that, according to the Government, in July 2015 the Ministry of Labour met with the General Prosecutor of the Republic and that the latter undertook to speed up the investigation process. The Committee recalls that the absence of judgments against those guilty of crimes against trade union leaders and members creates, in practice, a situation of impunity, reinforcing the climate of violence and insecurity and thereby seriously damaging the exercise of trade union rights. **Observing that more than five years have elapsed since the murder of Mr Victoriano Abel Vega, the Committee once again strongly urges the Government to take all necessary measures to determine criminal liability and to punish the perpetrators of this crime in the near future.**

With regard to the observance of the autonomy of employers' and workers' organizations to appoint their representatives in joint and tripartite decision-making bodies, the Committee notes that, according to the Government: (i) except for the Higher Labour Council (CST), all the joint and tripartite bodies in the country, including the Higher Council on Wages, are functioning properly; (ii) since the entry into force of the reform of the procedures for election to the executive bodies of various joint and tripartite institutions, such institutions, especially the Salvadorean Social Security Institute, the Salvadorean Vocational Training Institute and the Social Fund for Housing, have been functioning normally; (iii) the representatives both of employers' organizations and of workers' organizations have full autonomy in the activities they carry out in these joint and tripartite bodies; and (iv) the abovementioned reforms allow equitable participation by all organizations of workers and employers, the latter representing small and medium-sized enterprises as well as large enterprises. The Committee also notes that, in their observations, the IOE and the ANEP assert that: (i) the President of the Republic continues to appoint at his discretion the private sector representatives to the joint and tripartite bodies; and (ii) the situation has worsened since this matter was discussed in the Committee on the Application of Standards, as evidenced by the appointment of a person who is not representative of the private sector to the governing board of the Development Bank of El Salvador. The Committee observes that the 19 decrees adopted on 22 August 2012 (Decrees Nos 81 to 99) provide that the employer representatives who are to sit on the executive councils of the abovementioned institutions shall be chosen and appointed by the President of the Republic from an open list of candidates from employers' organizations, which have duly approved legal status, and which shall select their candidates in accordance with their internal regulations.

While recalling that this matter gave rise to recommendations by the Committee on Freedom of Association in June 2013 in the context of Case No. 2980, the Committee emphasizes that the full autonomy of employers' and workers' organizations to determine their representatives, envisaged in *Article 3 of the Convention*, also applies to the appointment of their representatives to joint and tripartite bodies. It follows that mechanisms that grant discretion to the executive to select such representatives are contrary to the Convention. ***The Committee regrets the absence of any progress in law and practice in this matter, and again urges the Government to take the necessary steps, in consultation with the social partners, to amend the 19 decrees adopted on 22 August 2012 so that they reflect the guarantees laid down in the Convention. The Committee requests the Government to report on all progress made in this matter.***

As regards the failure to appoint workers' representatives to the Higher Labour Council (hereinafter "the Council"), the Committee takes note of the Government's report and of the observations of the IOE and the ANEP which both refer to the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The Committee also notes the conclusions and recommendations of June 2015 made by the Committee on Freedom of Association in Case No. 3054. The Committee notes that: (i) the Council's regulations stipulate that the worker members are to be appointed by trade union federations and confederations registered with the Ministry of Labour and Social Welfare but provide for no specific mechanisms to regulate such appointments; (ii) in 2013, two groups of federations and confederations submitted two different lists of representatives; (iii) the Government indicates that since then it has been trying to get all the federations and confederations to reach a consensus on the appointment of worker representatives; and (iv) the existence of divergences between various blocks of trade union organizations has prevented the conclusion of such an agreement. Lastly, the Committee notes that on 17 November 2015, the Government expressed the intention of engaging a mediation process to facilitate the reactivation of the Council and requested assistance from the Office in identifying a mediator. The Committee wishes to recall in this connection that: (i) according to *Article 3 of the Convention*, in appointing workers' and employers' representatives to joint and tripartite bodies, the autonomy of their representative organizations must be observed; (ii) where the appointment of representatives is based on "most representative" status, the determination of the most representative organization should always be based on objective, precise and pre-established criteria so as to avoid any partiality or abuse in decision-making; and (iii) any dispute as to the appointment of workers' or employers' representatives should be settled by an independent body that has the confidence of the parties. Observing the central role played by the Higher Labour Council in developing social dialogue in the country, the Committee underscores the need to reconstitute the Council as a matter of urgency, since it has not functioned since 2013. ***The Committee trusts that the mediation process announced by the Government will allow the workers' representatives to the Council to be appointed in the near future and in accordance with the guarantees laid down in the Convention. The Committee requests the Government to report on all progress in this regard.***

Article 2 of the Convention. Right of workers to establish and join organizations of their own choosing without distinction and without previous authorization. Exclusion of some categories of public workers from the guarantees of the Convention. In its previous comments, the Committee requested the Government to take the necessary measures to revise the provisions of the Constitution of the Republic and the Civil Service Act (LSC), which exclude certain categories of public servants from the right to organize (members of the judiciary, public servants who have authority to make decisions or hold managerial posts, employees with duties of a highly confidential nature, private secretaries of high-ranking officials, diplomatic representatives, assistants of the Public Prosecutor, or auxiliary agents, assistant prosecutors, labour prosecutors and delegates). The Committee notes that the Government indicates that: (i) the draft reform of the LSC proposed by the Civil Service Tribunal in 2011 is still before the Labour and Social Welfare Committee of the Legislative Assembly; (ii) the reform of section 73 of the LSC implies amending articles 219 and 236 of the Constitution, which is a long and complex process; and (iii) the restrictions in the current legislation have not precluded the existence of 101 trade union organizations in the public sector. While noting the information supplied by the Government, the

Committee recalls first that according to *Articles 2 and 9* of the Convention, all workers, with the sole exception of members of the armed forces and the police, shall enjoy the guarantees set in the Convention. It further recalls that laws and regulations providing that high-level officials must form separate organizations from those of other public servants are compatible with the Convention, provided that they limit this category to persons exercising senior managerial or policy-making responsibilities. ***The Committee accordingly requests the Government once again to take the necessary measures to revise articles 219 and 236 of the Constitution and section 73 of the LSC as indicated above, and to report on all progress in this regard.***

Membership of more than one trade union. For several years, the Committee has been asking the Government to take the necessary steps to revise section 204 of the Labour Code (CT), which prohibits membership of more than one trade union, so as to enable workers who have more than one job in various occupations or sectors to join the corresponding unions, and also to give them the possibility, should they so wish, to join branch and enterprise unions simultaneously. ***Noting that, according to the Government, an inter-institutional team was set up in 2015 to examine the feasibility of the legislative amendments requested, the Committee requests the Government to provide information on any progress made in this regard.***

Minimum membership to establish an organization. For several years, the Committee has been asking the Government to take the necessary steps to revise section 211 of the CT and section 76 of the LSC, which lay down a requirement of a minimum of 35 members to establish a workers' union, and section 212 of the CT, which sets a requirement of a minimum of seven employers to establish an employers' organization. The Committee notes that the Government indicates that a draft amendment of section 211 of the CT, which would reduce the minimum required to 20 workers has been under discussion in the Labour and Social Welfare Committee of the Legislative Assembly since 2007. ***Noting also the establishment of the abovementioned inter-institutional team, the Committee requests the Government to provide information on any progress made in revising the abovementioned provisions.***

Requirements for the acquisition of legal personality. In its previous comments, the Committee requested the Government to take steps to amend section 219 of the CT, which provides that, in the process to register the union, the employer shall certify that the founding members are employees. The Committee notes that the Government indicates that, in order to verify that the founding members of the union are not employers' representatives, the list the employer uses to certify that the workers are employees is not enough, and that payslips or work certificates showing the job held are also necessary. Observing that the information supplied by the Government appears to show that, in practice, employers are still asked to certify that the founding members are employees, the Committee again recalls that the communication to the employer of the names of members may give rise to acts of discrimination against workers who are forming a trade union. ***On the basis of the foregoing, the Committee again requests the Government to take the necessary measures to amend section 219 of the CT in order to ensure that the list of members of a union in the process of being formed is not communicated to the employer.***

Waiting period for the establishment of a new union following the refusal of its registration. In its previous comments, the Committee requested the Government to take measures to revise section 248 of the CT by eliminating the waiting period of six months required to submit a new application where a former application to register a union had been denied. The Committee notes that the Government: (i) reiterates that in practice, the Ministry of Labour accepts a new application for registration the day after the refusal; and (ii) reports that a proposal to amend section 248 of the CT as requested by the Committee is before the Legislative Assembly. ***The Committee requests the Government to report on all progress made in revising the abovementioned provision.***

Article 3. Right of workers' and employers' organizations to elect their representatives in full freedom. In its previous comments, the Committee requested the Government to take measures to revise article 47(4) of the Constitution of the Republic, section 225 of the CT and section 90 of the LSC, which lay down a requirement to be "a national of El Salvador by birth" in order to hold office on the executive board of a union. The Committee notes that the Government indicates that: (i) in practice, most of the foreigners employed in the country hold managerial posts, which under the legislation of El Salvador precludes their holding trade union office; and (ii) the abovementioned inter-institutional team will examine the possibility of revising the provisions in question. ***Recalling that foreign workers should be allowed access to trade union office at least after a reasonable period of residence in the host country, the Committee again requests the Government to take the necessary steps to amend these provisions as indicated above.***

With regard to the invitation extended by the Conference Committee on the Application of Standards to the Government to accept technical assistance from the Office in order to bring its law and practice into line with the provisions of the Convention, the Committee welcomes the request for assistance made by the Government in September 2015 and hopes that the assistance will materialize in the near future.

Lastly, the Committee welcomes the ILO's project, funded by the Directorate-General for Trade of the European Commission, to support countries benefiting from the Generalized System of Preferences (GSP+) in applying international labour standards effectively, El Salvador being one of the four countries covered by the project. ***The Committee trusts that the activities conducted under the project will strengthen the Government's capacity to adopt the measures requested in this observation.***

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

Equatorial Guinea

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015.

The Committee also notes with *regret* that the Government's report has not been received. It expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

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 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 with *regret* that the Government's report has not been received. It expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

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.*

Application of the Convention 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.

Fiji

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2002)

The Committee notes the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2015. It also notes the observations from the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Complaint made under article 26 of the Constitution of the ILO for non-observance of the Convention. The Committee recalls 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 2013 International Labour Conference, was declared receivable and remains pending before the Governing Body. The Committee takes note of the Tripartite Agreement signed on 25 March 2015 by the Government, the Fiji Trades Union Congress (FTUC) and the Fiji Commerce and Employers' Federation (FCEF) acknowledging the review of labour laws including the Employment Relations Promulgation (ERP) to be conducted under the Employment Relations Advisory Board (ERAB) to ensure compliance with ILO core Conventions. The Committee notes that the Governing Body regretted the continuing failure to submit a joint implementation report to the Governing Body in accordance with the Tripartite Agreement signed by the Government of the Republic of Fiji, the FTUC and the FCEF on 25 March 2015, and as requested by the Governing Body at its 324th Session (June 2015), and called on the Government of Fiji to accept a tripartite mission to review the ongoing obstacles to the submission of a joint implementation report and consider all matters pending in the article 26 complaint. ***The Committee understands that the tripartite mission will take place in the near future and trusts that it will be able to assist the Government and the social partners in finding solutions to the outstanding matters concerning the application of the Convention.***

Trade union rights and civil liberties. The Committee previously noted with interest that the new Police Commissioner had reactivated the investigation into the assault of trade union leader Felix Anthony which had been the subject of its previous comments. The Committee trusted that Mr Anthony would cooperate with the investigation and requested the Government to provide information on any further developments in this matter. The Committee takes due note of the Government's indication that the relevant investigation file has been compiled by the Fijian Police and forwarded to the Office of the Director of Prosecutions on 25 February 2015 for advice on the next course of action, and that Mr Anthony has failed to provide a formal statement indicating his willingness to pursue the case and to submit the outstanding medical reports.

The Committee further recalls that its previous comments also referred to the cases of Mr Daniel Urai (President of the FTUC) and Mr Goundar who were the subject of criminal charges. The Committee trusted that all charges against Mr Urai related to his exercise of trade union activity would be immediately dropped, and requested the Government to indicate whether there were any charges still pending against Mr Goundar. The Committee understands and notes with **satisfaction** that the sedition charges brought against Mr Urai and another person four years ago, have been dropped by the Suva Magistrate Court, after the filing of a *nolle prosequi* by the Director of Public Prosecutions, and that the dropping of charges entails the passport return and the lifting of a travel ban. ***Noting the Government's indication that Mr Urai had a second case pending in court on charges of unlawful assembly on the grounds of failure to observe the terms of the Public Emergency Regulations (PER), the Committee expresses the strong hope that the remaining charges against Mr Urai related to his exercise of trade union activity would equally be dropped without delay, and requests the Government once again to indicate whether there were any charges still pending against Mr Goundar.***

Legislative issues. Employment Relations (Amendment) Act 2015. The Committee notes that, according to the Government's report as well as the implementation report submitted by the Government of Fiji on 15 October 2015: (i) the ERAB held three meetings in May 2015, at which it endorsed the repeal of the Essential National Industries (Employment) Decree 2011 (ENID) and discussed the draft Employment Relations (Amendment) Bill prepared by the Government; (ii) after the ERAB recorded the matters of disagreement, the Government proposed that it refer the draft Bill to the Minister; and (iii) the Bill was tabled in Parliament on 22 May 2015; the Parliamentary Standing Committee heard submissions from all stakeholders; and the Bill was approved by Parliament and enacted on 14 July 2015 as Employment Relations (Amendment) Act No. 10 of 2015.

The Committee notes with **satisfaction** that the following issues raised previously have been resolved through the adoption of the Employment Relations (Amendment) Act 2015: possibility for workers exercising more than one occupational activity to belong to more than one union in the same industry, trade or occupation as long as it does not concern the same employer (section 119(2)) as amended; power of the Registrar to inspect union accounts during normal business hours limited to the case of requisition of 10 per cent of the voting membership (section 128(2)); and the removal of the penalty of imprisonment in case of staging an unlawful but peaceful strike (sections 250 and 256(a)). ***However, recalling that penal sanctions should not be imposed for participation in peaceful strikes, the Committee requests that sections 250 and 256(a) be amended to eliminate the penalty of a fine for such form of participation.***

The Committee further notes that section 191BW of the ERP as amended in 2015 provides that the ENID is repealed except to the extent saved by new Part 19 of the ERP. While noting with **interest** the repeal of the ENID, the Committee notes with **deep concern** that the amendments to the ERP carry on a number of elements of the ENID, which had already been the subject of concern to the Committee, and which are further addressed below.

Article 2 of the Convention. Right of workers to establish and join organizations of their own choosing. The Committee notes that new Part 19 of the ERP sets out the manner of worker representation in all designated essential services and industries. Parts 1–12, 14–16, 18, 21 and 22 of the ERP shall only apply to essential services and industries to the extent that there is no inconsistency with Part 19. The Committee notes with **concern** that, pursuant to section 185 of the ERP as amended, the list of industries considered as essential services now includes the services listed in Schedule 7 of the ERP (air/sea rescue services; air traffic control services; civil aviation telecommunication services; electricity

services; emergency services in times of national disaster; fire services; health services; hospital services; lighthouse services; meteorological services; mine pumping, ventilation and winding; sanitary services; supply and distribution of fuel, petrol, oil, power and light essential to the maintenance of the services in Schedule 7; telecommunications; transport services necessary for the operation of any services in Schedule 7; and water services), the essential national industries declared under the ENID (financial industry, telecommunications industry, civil aviation industry and public utilities industry) and the corresponding companies designated under the ENID, as well as the Government, statutory authorities, local authorities and government commercial companies (according to the FTUC, the latter item further qualifies the sugar industry and the fishing industry as essential services). This expanded list, as indicated by the Government, concerns workplaces where workers may choose means of representation other than trade unions.

The new definition applicable to Part 19 of the term “trade union” (section 185) refers to a trade union of workers registered under the ERP, which shall include a bargaining unit formed or registered under the ENID or under Part 19. Section 189(1) provides that a bargaining unit, which is formed under the ENID or by decision, through secret ballot, of 25 per cent of workers employed by the same employer in an essential service (section 189(4)), shall be deemed to be a trade union for the purposes of Part 19 and shall be entitled to engage in collective bargaining for the workers who are part of the bargaining unit and to lodge trade disputes to the Arbitration Court on behalf of those workers. Pursuant to section 189(3), a bargaining unit shall be entitled to register itself as a trade union under the ERP and shall, upon registration, be entitled to all the rights, and shall be subject to all the liabilities, applicable to a trade union under the ERP. Section 190 provides that all workers in an essential service shall have the right to form and join a trade union or a bargaining unit, and shall be entitled to engage in collective bargaining and have their trade disputes adjudicated by the Arbitration Court in accordance with Part 19. According to section 189(2), if a majority of the workers in a bargaining unit formed under the ENID decide, through secret ballot, to join a trade union established under the ERP, then that bargaining unit shall cease to exist and the workers shall, for the purposes of Part 19, be represented by that trade union.

The Committee notes that there is a dual use of the term “trade union” in the above provisions: on the one hand, the term is used in the traditional sense for workers’ organizations registered under Part 14 of the ERP; and on the other hand, the term is employed for bargaining units, whose officers are restricted to those working in the bargaining unit, and whose procedures for registration under Part 14, with accompanying constitutions, rules, elections of officers, general assemblies, etc. are not clear. The establishment of a bargaining unit appears to simply require under the ERP the holding of a ballot where 25 per cent of workers vote in favour. The Committee recalls that, according to the report of the 2014 ILO direct contacts mission:

[T]he mission heard numerous witnesses expressing deep concern about the effects of the ENID on the trade union movement in the country and the capacity to exercise trade union rights. Indeed, beyond the detailed provisions that the supervisory bodies have already requested be amended, the information gathered by the mission from all concerned, including enterprises covered by the Decree and their respective bargaining units, has led it to understand that it is not possible for trade unions as such to continue to function under the Decree. ... The de-registration of unions and abrogation of collective bargaining agreements are not followed by the establishment of enterprise unions, but rather the creation of bargaining units with employee representatives that have to additionally create new legal structures for any dues collection. While it has been said that they can consult with outside unions, the employee representatives are nevertheless obliged to sit alone in negotiations with management representatives and hired lawyers apparently much better equipped for such dialogue; thus resulting in a severe imbalance of power in the bargaining process, not to mention the fear of reprisal that accompanies employee bargaining representatives who consider that their jobs may be in jeopardy.

The Committee observes that, in the case of a long list of essential services and industries, the ERP as now amended gives preference, just like the ENID, to the formation of worker representation in structures other than trade unions, by enabling “bargaining units” to be created with only 25 per cent of workers. Such representation will continue as the only representation at the workplace unless and until the workers vote by a majority (50 per cent plus one) to establish a trade union. In these circumstances, the Committee cannot but conclude that the amendments introducing the ENID approach to worker representation into the ERP perpetuate the undermining of the right of workers to establish trade unions of their own choosing and are likely to perpetuate the negative impact of the ENID on the trade union movement that was observed by the direct contacts mission. ***The Committee therefore calls upon the Government to review sections 185 and 189(1) and (3) in consultation with the representative national workers’ and employers’ organizations with a view to their amendment, so as to ensure that workers’ organizations are not effectively undermined.***

In this regard, the Committee recalls that a minimum membership requirement for setting up a workers’ or employers’ organization should be fixed in a reasonable manner so as not to hinder the establishment of organizations, and not to preclude in practice the establishment of more than one trade union in each enterprise. In its 2012 General Survey on the fundamental Conventions, paragraphs 89 and 90, the Committee recalls that a minimum membership requirement of 40 workers for the mere purpose of setting up a union is excessive and criticizes minimum membership requirements of 30 per cent. ***In the interests of permitting trade union pluralism and ensuring that minimum membership requirements do not unduly restrict the rights of workers to form and join the organizations of their own choosing, the Committee must conclude that a provision imposing a minimum membership of 50 per cent for workers in the so-called essential services constitutes a violation of Article 2 of the Convention, and urges the Government to take measures to amend section 189(2) without delay.***

As regards the definition of “trade union” in Part 19, the Committee emphasizes that, while certain rights traditionally viewed as trade union rights should also be enjoyed by employee representatives (e.g. protection against anti-

union discrimination) or may be exercised by them where no trade union exists, the Committee considers that the right to participate in national tripartite bodies, and the right to nominate delegates to international bodies should remain the prerogative of workers' and employers' organizations within the meaning of the Convention. In this regard, the Committee observes that the Government appointed, in October 2015, 18 additional members to the ERAB, that at least two of the six new worker members were representatives of bargaining units, and that, the FTUC, denouncing that the expanded ERAB comprised many participants that have no status, advised that it could not be a party to the ERAB meetings. The Committee observes that similar issues are likely to arise with respect to the nominations to the worker panel feeding into the composition of the Arbitration Court. ***The Committee urges the Government to ensure that the composition of the worker and employer members to these bodies is determined by the representative national workers' and employers' organizations.***

Moreover, the Committee notes that the FTUC denounces that there has been no remedy to the deregistration of trade unions and the discontinuation of disputes resulting from the introduction of the ENID, and observes that these points were among the matters of disagreement regarding the Employment Relations (Amendment) Bill that the ERAB had decided to record and discuss at a later stage. The Committee also notes the Government's indication in the implementation report that the ERAB agreed that individual grievance cases filed by employees with the Employment Tribunal, which had been discontinued under the ENID provisions, should be reinstated before the courts for adjudication. ***Observing that the negative effects of the ENID on the trade union movement still persist, and recalling its previous comments concerning sections 6 and 26 of the now repealed ENID (cancellation of all existing trade union registrations in "essential national industries"; and lack of judicial recourse for rights disputes), the Committee urges the Government: (i) to re-register the trade unions that had been deregistered by virtue of section 6 of the ENID; and (ii) to implement the recommendation of the ERAB to reinitiate the resolution of the disputes that had been discontinued by section 26 of the ENID.***

The Committee further observes that the following issues previously raised are still pending after the adoption of the Employment Relations (Amendment) Act 2015: denial of right to organize to prison guards (section 3(2)); excessively wide discretionary power of the Registrar in deciding after consultation whether or not a union meets the conditions for registration under the ERP (section 125(1)(a) as amended); obligation of union officials to be employees of the relevant industry, trade or occupation for a period of not less than three months (section 127(a) as amended); prohibition of non-citizens to be trade union officers (section 127(d)); interference in union by-laws (section 184); excessive power of the Registrar to request detailed and certified accounts from the treasurer at any time (section 128(3)); provisions likely to impede industrial action (sections 175(3)(b) and 180); and compulsory arbitration (sections 169 and 170; section 181(c) as amended; and new section 191BS (formerly 191(1)(c)). ***With reference to its earlier comments, the Committee requests the Government to review the abovementioned provisions of the ERP in consultation with the representative national workers' and employers' organizations with a view to their amendment, so as to bring the legislation into full conformity with the Convention.***

Article 3. Right of workers' organizations to organize their activities and to formulate their programmes. The Committee notes with **concern** the following additional discrepancies also raised by the ITUC between the provisions of the ERP as amended in 2015 and the Convention in terms of: provisions likely to impede industrial action (section 191BN); penalty of imprisonment in case of staging a (unlawful or possibly even lawful) peaceful strike in services qualified as essential (sections 191BQ(1), 256(a), 179 and 191BM); excessively wide discretionary powers of the Minister with respect to the appointment and removal of members of the Arbitration Court and appointment of mediators, calling into question the impartiality of the dispute settlement bodies (sections 191D, 191E, 191G and 191Y); compulsory arbitration in services qualified as essential (sections 191Q, 191R, 191S, 191T and 191AA); etc. The Committee notes that in light of the expanded list of essential services (noted under *Article 2* above), these restrictions would cover a broad range of the economy; the Committee further observes, however, that they do not provide for an outright prohibition of industrial action. While noting with **interest** that the ERAB agreed to recommend to the Minister the reduction of the strike notice period from 28 to 14 days, the Committee notes with **concern** that the cumulative effect of the established system of compulsory arbitration applicable to "essential services", and the accompanying harsh penalties involving imprisonment, is to effectively prevent or repress industrial action in these services. ***The Committee requests the Government to take measures to review the abovementioned provisions of the ERP in consultation with the representative national workers' and employers' organizations with a view to their amendment so as to bring the legislation into full conformity with the Convention.***

Public service. As to the decrees relating to the public sector eliminating the access of public service workers to judicial or administrative review and restricting their rights under the Convention, the Committee notes with **interest** that section 191BW of the ERP as amended in 2015 provides that both Employment Relations (Amendment) Decree No. 21 of 2011 and Public Service (Amendment) Decree No. 36 of 2011 are repealed, which the Committee understands brings the public service workers back under ERP coverage. The Committee observes, however, that the public service as a whole, including public enterprises, is now qualified as an essential service and falls under Part 19 of the ERP, with the ensuing restrictions on the right of workers to establish organizations of their own choosing and refers to its comments above.

Electoral Decree. The Committee previously noted that section 154 of Electoral Decree No. 11 of 27 March 2014 as amended provides that the Elections Office shall be responsible for the conduct of elections of all registered trade

unions, and firmly hoped that any supervision of elections of employers' or workers' organizations would be carried out by an independent body. The Committee notes the Government's indication that the Elections Office in liaison with the Registrar of Trade Unions are conducting trade union elections, and that the Elections Office has conducted awareness campaigns on the electoral process and has developed an elections guideline in accordance with international requirements. ***The Committee requests the Government to provide a copy of the abovementioned guideline.***

Constitution of the Republic of Fiji of 2013. The Committee recalls that in its previous comments it had noted with deep concern that the rights relating to freedom of association enshrined in the new Constitution (articles 19 and 20) are subject to broad exceptions and limitations for the purpose of regulating trade unions, collective bargaining processes and "essential services and industries, in the overall interests of the Fijian economy and the citizens of Fiji", which could be invoked to undermine the underlying principles. The Committee observes that the Government has not replied to these matters. ***In light of the ITUC's previous observations that these limitations could potentially be interpreted to permit very broad restrictions on the fundamental right to freedom of association, the Committee requests the Government once again to provide information on any court judgments issued interpreting these provisions, and trusts that they will be applied in full conformity with the provisions of the Convention.***

Political Parties Decree. The Committee recalls that in its previous comments, it had noted that under section 14 of the 2013 Political Parties Decree, persons holding an office in any workers' or employers' organization are banned from membership or office in any political party and from any political activity, including merely expressing support or opposition to a political party, and had requested information in this regard. The Committee notes the Government's indication that the same rules apply to other tripartite partners and affiliates of employers' organizations, the public service and the judiciary; and that the purpose was to provide a fair political participation process and prevent the use of undue influence to gain advantage in the political arena. The Committee further notes that sections 113(2) and 115(1) of the Electoral Decree prohibit any public officer to conduct campaign activities, and any person, entity or organization that receives any funding or assistance from a foreign government, inter-governmental or non-governmental organization to engage in, participate in or conduct any campaign (including organizing debates, public forum, meetings, interviews, panel discussions, or publishing any material) that is related to the election. The Committee recalls that provisions imposing a general prohibition on political activities by trade unions or employers' organizations for the promotion of their specific objectives are contrary to the Convention. ***The Committee requests the Government to take measures to review the above provisions in consultation with the representative national workers' and employers' organizations with a view to their amendment so as to ensure respect for this principle.***

Gambia

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 is therefore bound to repeat its previous comments.

Scope of the Convention. Civil servants, prison officers and domestic workers. In its previous comments, the Committee had requested the Government to guarantee that the rights afforded by the Convention were ensured for prison officers, domestic workers and civil servants not engaged in the administration of the State. The Committee noted with regret that the new Labour Act did not apply to the abovementioned categories of workers (section 3(2)). The Committee recalled that only the armed forces, the police and public servants engaged in the administration of the State can be excluded from the guarantees of the Convention. The Committee notes that the Government had indicated that the right to collective bargaining under Part XIII of the Labour Act is a communal right guaranteed to all workers. The Committee observes that although prison officers, domestic workers and civil servant are excluded from the application of the Labour Act, section 3(3) entitles the Secretary of State to extend the Act's application by an order published in the gazette, to any excluded category of workers. ***The Committee therefore requests the Government to indicate if the excluded employees under section 3(2) of the Labour Act are afforded the rights to collective bargaining under Part XIII of the Labour Act as a result of an order published in the gazette by the Secretary of State and if so, to provide a copy of the said Order. The Committee also requests the Government to indicate how these categories of workers are afforded adequate protection against acts of anti-union discrimination and interference, in accordance with Articles 1 and 2 of the Convention.***

Article 4. Measures to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or their organizations and workers' organizations. In its previous comments, the Committee had noted that according to section 130 of the Act, in order to be recognized as a sole bargaining agent, a trade union should represent a certain percentage of employees under a contract of service (30 per cent in the case of a single union and at least 45 per cent if the establishment in question employs at least 100 people; in this case, the bargaining agent could be composed of two or more trade unions). The Committee recalled that where, under a system for nominating an exclusive bargaining agent, there is no union representing the required percentage to be so designated, collective bargaining rights should not be denied to other unions in the unit, at least on behalf of their own members. The Committee further noted that section 131 of the Act provides that an employer may, if he or she wishes, organize a secret ballot to establish a sole bargaining agent. The Committee recalled that the organization of a ballot for determining representativeness should be carried out by the authorities or an independent party upon a request presented by a union. The Committee requested the Government to take the necessary measures in order to bring the legislation into conformity with the Convention in accordance with the abovementioned principles. The Committee noted the Government's indication that the Department of Labour is in consultation with the Central Government for amendments to be tabled before Parliament for approval. ***The Committee requests the Government to provide information on any development in this regard.***

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

Germany

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

The Committee notes that the Government does not respond, in its report, to the 2014 observations from the International Trade Union Confederation (ITUC) alleging acts of interference and anti-union discrimination. ***The Committee requests the Government once again to provide its comments thereon.***

Article 4 of the Convention. Right to collective bargaining with respect to conditions of employment of public servants not engaged in the administration of the State. The Committee recalls that it has been requesting, for a number of years, the adoption of measures to ensure that public servants who are not engaged in the administration of the State, including teachers, enjoy the right to collective bargaining. The Committee notes that the Government reiterates that employees in the public service (*Arbeitnehmer des öffentlichen Dienstes*), for example, teachers employed under collective agreements in the education services of the *Länder*, do enjoy the right to bargain collectively, whereas civil servants (*Beamte*) do not have the right to bargain collectively because the civil service is subject to legislative regulation.

Furthermore, the Committee notes that the Government refers to a ruling handed down by the Federal Administrative Court on 27 February 2014 in the appeal proceedings against a 2010 decision of the Düsseldorf Administrative Court. The Committee notes with *interest* that the Federal Administrative Court holds that: (i) while the general prohibition of collective bargaining and collective action deriving from article 33(5) of the Basic Law is linked to the civil servant status (*Beamtenstatus*) as such and thus applies to all civil servants (*Beamte*) irrespective of their duties and responsibilities, Article 11(2) of the European Convention on Human Rights provides that restrictions to freedom of association could only be justified by the relevant function of the civil servant, that is, would only be permissible in the case of civil servants (*Beamte*) who exercise sovereign authority (*hoheitliche Befugnisse*) – for example, army, police or law enforcement in general, judiciary, diplomacy, and public administration units at the federal, state or local levels elaborating, implementing and enforcing legal acts; (ii) in the case of civil servants (*Beamte*) who do not exercise sovereign authority, for instance teachers in public schools, there is therefore a collision with the European Convention on Human Rights; and (iii) this collision needs to be solved by the federal legislator who must bring about a balancing of the mutually exclusive legal positions under article 33(5) of the Basic Law and Article 11 of the European Convention on Human Rights.

The Committee notes the Government's indications that: (i) the Federal Administrative Court states that it would be incompatible with the legal nature of the civil service (*Beamtenverhältnis*) as a relationship characterized by sovereignty and loyalty that the concretization of the regulatory framework of civil service law (*Beamtenrecht*) is subject to collective bargaining, that is negotiated and agreed upon between the public employer and the trade unions of civil servants (*Beamte*); and that the civil service (*Beamtentum*) as an institution would be fundamentally altered should the issues of pay, working hours or age limits for recruitment and retirement be regulated by collective agreements; (ii) the Federal Administrative Court is however of the view that the federal legislator is called upon, in public service domains that are not characterized by the exercise of genuinely sovereign authority (*hoheitliche Befugnisse*), to broaden considerably the participation rights of trade unions of civil servants (*Beamte*) towards a negotiation model, since the participation rights currently granted under section 118 of the Federal Law on Civil Servants (*Bundesbeamtengesetz (BBG)*) and section 53 of the Law on the Status of Civil Servants (*Beamtenstatusgesetz*) do not suffice; and (iii) the matter has been referred to the Federal Constitutional Court, and therefore legislative measures should not forestall the specifications of the Federal Constitutional Court with respect to possible solutions.

Recalling that it has been highlighting for many years that, pursuant to *Article 6* of the Convention, all public service workers, other than those engaged in the administration of the State, should enjoy collective bargaining rights, the Committee reiterates its view that, given their functions, teachers, as well as postal workers and railway employees, irrespective of their status, cannot be considered as employees engaged in the administration of the State, and that they should therefore enjoy the right to bargain collectively. ***Taking due note of the abovementioned decision of the Federal Administrative Court and given the still large numbers of civil servants (Beamte) not engaged in the administration of the State who are being denied collective bargaining rights, the Committee requests the Government to engage in a comprehensive national dialogue with representative organizations in the public service with a view to exploring possible ways in which the current system could be developed so as to effectively recognize the right to collective bargaining of public servants who are not engaged in the administration of the State. The Committee also requests the Government to provide information on any ruling handed down by the Federal Constitutional Court on the subject.***

Guatemala

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

The Committee notes the observations received on 1 September 2015 of the: (i) International Trade Union Confederation (ITUC); (ii) Autonomous People's Trade Union Movement of Guatemala and the global trade unions of Guatemala; and (iii) the Guatemalan Union, Indigenous and Peasant Movement (MSICG). ***The Committee notes that these observations relate to matters examined by the Committee in its present observation as well as to denunciations of violations in practice on which the Committee is requesting the Government to provide its comments.*** The Committee also notes the joint observations of the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), received on 1 September 2015, which refer to matters examined by the Committee in the present observation. Finally, the Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature.

Complaint made under article 26 of the Constitution of the ILO for non-observance of the Convention. The Committee notes that, at its 325th Session (November 2015), the Governing Body decided to postpone until its 326th Session (March 2016) the decision to establish a commission of inquiry to examine the complaint made under article 26 of the Constitution of the ILO by various Worker delegates to the 101st Session of the International Labour Conference (June 2012) concerning non-observance by Guatemala of the Convention. In particular, the Committee notes that the Governing Body: (i) once again urged the Government to take, without delay, all the measures necessary to fully implement the roadmap adopted on 17 October 2013 by the Government of Guatemala in consultation with the social partners and the key indicators related to the roadmap adopted by the Tripartite Committee on International Labour Affairs on 15 May 2015; and (ii) invited the tripartite constituents of Guatemala to reach agreement with the Office before the end of 2015 on the nature of the extended mandate of the ILO representation in the country.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee notes the discussion in the Conference Committee on the Application of Standards (hereinafter, the Conference Committee) in June 2015 on the application of the Convention by Guatemala. In particular, the Committee notes that the Conference Committee reached specific and detailed conclusions on: (i) the investigation and conviction of those guilty of murders of trade union leaders and members; (ii) the protection of trade union leaders and members who are under threat; and (iii) the need for the Government, in consultation with the social partners, to submit a bill based on the comments of the Committee, as a matter of urgency, to the Congress of the Republic to bring the legislation into conformity with the Convention.

Finally, the Committee notes the report of the Special Representative of the Director-General in Guatemala, prepared at the request of the Conference Committee.

Trade union rights and civil liberties

The Committee notes with ***regret*** that for a number of years, in the same way as the Committee on Freedom of Association, it has been examining allegations of serious acts of violence against trade union officers and members, including numerous murders and the related situation of impunity. The Committee notes the Government's indication that: (i) of these 70 cases of murder of trade union officers and members registered by the authorities, 13 have given rise to rulings (nine convictions and four acquittals), while 40 other cases are currently being examined by the judicial authorities; (ii) in the framework of the collaboration agreement between the Special Investigation Unit for Crimes against Trade Unionists and the Public Prosecutor's Office and the International Commission against Impunity in Guatemala (CICIG), 12 cases of investigations of murders identified by the trade union movement in Guatemala were referred to the CICIG on 15 June 2015 so that it could issue recommendations on the conduct of the investigations; (iii) after consulting the social partners, the Public Prosecutor's Office adopted General Instruction No. 1-2015 in February 2015 on the effective investigation and criminal prosecution of crimes against trade union members and officers of workers' organizations and other defenders of labour and trade union rights; (iv) the Ministry of the Interior granted nine personal security measures and 63 security measures covering specific locations for trade union officers and members; and (v) the telephone number 1543 to make free calls to denounce acts of violence or threats against human rights defenders, including trade union members, has been operational since 14 May 2015.

The Committee notes that the Autonomous People's Trade Union Movement of Guatemala and the global unions of Guatemala denounce the murder, on 24 September 2015, of Mynor Rolando Ramos Castillo, a member of the Jalapa Municipal Workers Union (SITRAMJ). The trade unions indicate that the murdered trade unionist was one of the municipal workers awaiting implementation of the reinstatement order issued by the labour court. The Committee also notes that the various trade unions which made observations to the Committee indicate that: (i) the great majority of the perpetrators and all instigators of the 74 murders of trade union officers and members denounced to the ILO are at freedom with impunity; and (ii) not all of the necessary risk assessments have been carried out, and many threats against trade union officers and members have not given rise to any action by the Public Prosecutor's Office.

The Committee further notes that the report of the Special Representative of the Director-General in Guatemala indicates that: (i) at the request of the Public Prosecutor's Office, the judicial authorities are preparing administrative agreements to establish specialized courts to examine crimes against trade unionists and penalties for non-compliance by public authorities and private employers who refuse to give effect to rulings relating to freedom of association, including reinstatement orders; and (ii) certain trade union leaders under protection have had to give up that protection, as they could not personally finance the fees of the security guards.

The Committee notes with **deep concern** the murder of Mynor Rolando Ramos Castillo, a member of the SITRAMJ. The Committee notes that SITRAMJ submitted a complaint, which was examined by the Committee on Freedom of Association, relating to a series of anti-union dismissals (Case No. 2978). Recalling that the absence of judgments against those guilty of crimes against trade union officers and members creates, in practice, a situation of impunity, which reinforces the climate of violence and insecurity, and which is extremely damaging to the exercise of trade union rights, the Committee also expresses **deep concern** at the low number of convictions for the murders of trade union officers and members. *While taking due note of certain measures adopted by the authorities to improve the effectiveness of the investigations into the murders of trade union officers and members and to provide effective protection for trade union officers and members who are under threat (particularly the adoption of Instruction No. 01-2015 of the Public Prosecutor's Office and the establishment of the emergency telephone number), the Committee notes the tragic lack of progress in this area and firmly urges the Government to continue making every effort to: (i) investigate all acts of violence against trade union officers and members with a view to determining responsibilities and punishing the perpetrators, taking fully into consideration in the investigations the trade union activities of the victims; and (ii) provide prompt and effective protection for all trade union officers and members who are at risk. In particular, the Committee requests the Government to intensify its efforts to: (i) develop the collaboration initiated between the Public Prosecutor's Office and the CICIG; (ii) establish special courts to deal more rapidly with crimes and offences committed against members of the trade union movement; and (iii) increase the budget for protection programmes for members of the trade union movement so that those who are protected do not have to personally finance any of the associated costs. The Committee requests the Government to continue providing information on all of the measures adopted and the results achieved in this regard.*

Legislative issues

Articles 2 and 3 of the Convention. The Committee recalls that it has been asking the Government for many years to take measures to amend the following legislative provisions:

- section 215(c) of the Labour Code, which establishes the requirement for 50 per cent plus one of those working in the sector in order to be able to establish sectoral 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; and
- section 241 of the Labour Code, under the terms of which, in order to be lawful, strikes have to be called by a majority of the workers and not by a majority of those casting votes; 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 non-essential services and establishes 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 criminal penalties in the event of a strike by public officials or 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 other items of the budget) enjoy the guarantees afforded by the Convention.

The Committee recalls that in the 2013 roadmap, the Government undertook to submit to the Tripartite Committee on International Labour Affairs the necessary draft legislative reforms and indicated that the National Congress would adopt the corresponding legislation.

The Committee notes from the Government's report and from the observations of the social partners that: (i) in 2015, the Labour Commission of the Congress held two working meetings with the social partners to obtain their views on the reforms requested by the Committee; (ii) on 3 September 2015, workers' organizations submitted to the Office of the Minister of Labour new draft reforms to the Labour Code, including the amendments requested by the Committee in relation to the Convention; (iii) the employers' organizations considered it necessary to continue analysing the viability of the Committee's recommendations and supported the need for a comprehensive legislative reform; and (iv) the Tripartite Committee on International Labour Affairs made a request on 24 September 2015 to the Representative of the Director-General of the ILO in Guatemala for the appointment of an expert to provide technical assistance to constituents in the process of legislative reform. *While welcoming the request made to the ILO for technical assistance, the Committee recalls that it has been urging the Government for many years to take the necessary measures for the adoption of the legislative reforms referred to above. The Committee therefore expresses the firm hope that it will be able to note the adoption of these amendments in the Government's next report.*

Application of the Convention in practice

Registration of trade unions. As in previous years, the Committee notes the recurrent observations by trade unions concerning obstacles to the registration of trade unions. The Committee also notes that, within the framework of the complaint procedure for non-observance by Guatemala of the Convention made under article 26 of the Constitution of the ILO: (i) the ILO Governing Body included in June (GB.324/INS/4) and November (GB.325/INS/8) 2015 the unimpeded registration of trade union organizations by the Ministry of Labour and Social Welfare among the priority issues that continue to require further urgent action by the Government; (ii) the Government provided the Governing Body with the following statistics on the registration of trade unions since 2013: 52 applications for registration in 2013, resulting in the registration of 17 legal personalities; 35 applications in 2014, resulting in 19 registrations; and 56 applications in 2015, resulting in 30 registrations. The Committee also notes the conclusions and recommendations of the Committee on Freedom of Association in November 2015 in the context of Case No. 3042 relating to the refusal to register 57 trade unions. The Committee notes that the Committee on Freedom of Association, in addition to the legislative issues raised above in the observation (requirements for the establishment of sectoral trade unions, the exclusion of precarious state workers from the benefit of the right to freedom of association), noted: (i) the excessive duration and complexity of the registration process; (ii) the frequency with which the labour administration requests substantive changes to statutes, which affects trade union independence; and (iii) the excessively broad interpretation by the labour administration of the concept of workers in managerial positions and in positions of trust.

The Committee once again expresses *deep concern* at the obstacles to the registration of trade unions. ***The Committee therefore once again urges the Government to eliminate the various legislative obstacles to the freedom to establish trade unions, as indicated above, and, in consultation with the trade union confederations and employers' organizations of the country, and with the support of the Special Representative of the Director-General in Guatemala, to revise the procedure for processing applications for registration with a view to adopting an approach in which any substantive problems and formal issues that arise can be resolved very rapidly with the founding members of the trade unions, and to facilitate as soon as possible the registration of trade unions. The Committee requests the Government to provide information on the initiatives taken and the results achieved in this regard.***

Settlement of disputes relating to freedom of association and collective bargaining. The Committee welcomes the activities of the Conflict Resolution Committee on Freedom of Association and Collective Bargaining (hereinafter the Conflict Resolution Committee), established within the context of the roadmap with the support of the Special Representative of the Director-General of the ILO in Guatemala. The Committee notes the indication by the CACIF that 17 cases are being reviewed by the Conflict Resolution Committee, of which two are related to the private sector. With regard to the mediation concerning Case No. 3040 of the Committee on Freedom of Association, the CACIF indicates that the Conflict Resolution Committee has assessed very positively the progress made in resolving the violation of the right to freedom of association. ***The Committee trusts that the Conflict Resolution Committee will continue to be strengthened and will contribute to resolving the many cases of denunciations of violations of the Convention reported by trade unions.***

Awareness-raising campaign on freedom of association and collective bargaining. The Committee welcomes the launch in the official national media on 30 October 2015 of an awareness-raising campaign on freedom of association, the content of which was prepared with ILO support, and was agreed to by the tripartite partners. ***With a view to ensuring that the campaign reaches out broadly to the population, the Committee invites the Government to disseminate the campaign in the mass media in the country and to provide information on this subject.***

Maquila sector. ***Noting the absence of information provided by the Government on the application of the Convention in the maquila (export processing) sector, the Committee once again requests the Government to: (i) intensify its efforts to guarantee and promote full compliance with trade union rights in this sector; (ii) give special attention to the maquila sector in the context of the awareness-raising campaign; and (iii) continue to provide information on the exercise in practice of trade union rights in this sector.***

Finally, the Committee welcomes the ILO project financed by the Directorate-General for Trade of the European Commission to support beneficiary countries of the Generalized System of Preferences (GSP+) to implement effectively international labour standards, with Guatemala being one of the four countries targeted by the project.

Taking due note that a new Government will enter office in January 2016, the Committee trusts that the Government will take all the necessary measures to resolve the serious violations of the Convention noted by the ILO supervisory bodies and will take full advantage of the opportunity of the technical assistance provided to the country by the Office as well as of the resources available through international cooperation.

[The Government is asked to reply in detail to the present comments in 2016.]

Guinea-Bissau

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1977)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the comments of 4 August 2011 by the International Trade Union Confederation (ITUC) referring to wage bargaining under the National Tripartite Council for Social Consultation and to the inadequate provisions in the General Labour Act regarding protection against anti-union discrimination. The Committee also notes the comments of 30 August 2011 by the National Workers Union of Guinea (UNTG-CS) referring to the need to strengthen the capacity of the general labour inspectorate and the courts to enforce the labour legislation. *The Committee requests the Government to send its observations thereon.*

Articles 4 and 6 of the Convention. Scope of the Convention. Agricultural workers and dockworkers. The Committee noted previously the Government's intention to pursue revision of the General Labour Act, Title XI of which contains provisions on collective bargaining and the adoption of measures to guarantee agricultural workers and dockworkers the rights laid down in the Convention. The Committee notes that, in its report, the Government states that the revision of the legislation is still in process. The Committee noted previously the Government's statement that the draft Labour Code provided for adaptation of the application of its provisions to the specific characteristics of the work performed by agricultural workers and dockworkers. *The Committee requests the Government to provide information on the status of the draft legislation and trusts that it will guarantee for agricultural workers and dockworkers the rights laid down in the Convention.*

The Committee notes that the Government states that there is no specific legislation on this subject, which is dealt with in bodies created for the purpose such as the Standing Committee on Social Consultation. The Committee reminds the Government that it requested information on measures taken to adopt the special legislation which, under section 2(2) of Act No. 8/41 on freedom of association, was to regulate the right to collective bargaining of public servants who are not engaged in the administration of the State. *The Committee once again requests the Government to send information on this matter.*

The Committee requested the Government to provide information on any developments regarding the promotion of collective bargaining in the public and private sectors (training and information activities, seminars with the social partners, etc.), and to provide statistics on the collective agreements concluded (by sector) and the number of workers they cover. The Committee noted that the ITUC's comments show that the collective bargaining situation is not satisfactory. It again reminds the Government that *Article 4* of the Convention provides that "measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiations between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreement". *The Committee requests the Government to take specific measures to promote greater use in practice of collective bargaining in the private and public sectors, and to report any developments in the situation, indicating the number of new agreements concluded and the number of workers covered. The Committee hopes that the Government's next report will contain full information on the matters raised and on the ITUC's comments.*

The Committee reminds the Government that it may seek technical assistance from the Office should it so wish.

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

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 is therefore bound to repeat its previous comments.

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 near future.

Haiti

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1979)

The Committee takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2015.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015 and of the Confederation of Workers of the Public and Private Sectors (CTSP) received on 31 August

2015 concerning alleged violations of freedom of association in the public and private sectors, including acts of interference in trade union activities. ***It requests the Government to provide its comments in this respect.***

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee takes note of the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014. ***The Committee requests the Government to provide its comments in this regard.***

The Committee has for many years been asking the Government to amend the national legislation, particularly the Labour Code, in order to align it with the provisions of the Convention. In previous comments, the Committee made the following points:

Article 2 of the Convention. Right of workers, without distinction whatsoever, to form and join organizations of their choosing.

- The need to amend articles 229 and 233 of the Labour Code in order to ensure that minors who have reached the statutory minimum age for admission to employment are allowed to exercise their trade union rights without parental authorization.
- The need to amend section 239 of the Labour Code so as to allow foreign workers to serve as trade union officials, at least after a reasonable period of residence in the country.
- The need to guarantee for domestic workers the rights laid down in the Convention (section 257 of the Labour Code establishes that domestic work is not governed by the Code, and the Act adopted by Parliament in 2009 to amend this provision – which has not yet been promulgated but to which the Government referred in its previous reports – likewise omits the trade union rights of domestic workers).

Article 3. Right of workers' organizations to organize their activities and formulate their programmes.

- The need to revise the Labour Code's provisions on compulsory arbitration so as to ensure that recourse to the latter in order to end a collective labour dispute or a strike may be had only in specific circumstances, namely: (1) when the two parties to the dispute so agree; or (2) where a strike may be restricted, or prohibited, namely: (a) in disputes involving officials who exercise authority in the name of the State; (b) in disputes in essential services in the strict sense of the term; or (c) in situations of acute national or local crisis, although only for a limited period and solely to the extent necessary to meet the requirements of the situation.

While aware of the difficulties the country is facing, the Committee trusts that with the technical assistance it is receiving, in particular for the reform of the Labour Code, and with the political will reaffirmed by the Government, the latter will be in a position in its next report to provide information on progress made in revising the national legislation to bring it fully into conformity with the Convention. The Committee requests the Government to provide copies of any new texts adopted.

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.

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

The Committee notes the observation of the International Trade Union Confederation (ITUC) on 1 September 2015 and the observation of the Confederation of Workers of the Public and Private Sectors (CTSP) on 31 August 2015. According to the ITUC, legislative texts are not object of consultations and many anti-trade union lay-offs occur in practice. The CTSP also refers to such practices and indicates that there are only three collective agreements in the country. ***The Committee expresses concern at this information and requests the Government to send its comments on these issues.***

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee takes note of the observations provided by the International Trade Union Confederation (ITUC) in a communication received on 31 August 2014. ***The Committee requests the Government to provide its comments in this regard.***

Noting that most employment in Haiti is in the informal sector, the Committee requests the Government to indicate the manner in which the application of the Convention to workers in the informal economy is ensured and to clarify, in particular, whether specific measures have been adopted to address the particular difficulties encountered by these workers. The Committee also requests the Government to supply information on the application of the Convention in the export processing zones.

The Committee recalls that it has been asking the Government for many years to amend the national legislation, particularly the Labour Code, in order to bring it into conformity with the provisions of the Convention.

The Committee recalls that its comments refer principally to:

Article 1 of the Convention. Adequate protection of workers against acts of anti-union discrimination in respect of their employment. The Committee recalls that its previous comments concerned the need to adopt a specific provision establishing protection against anti-union discrimination in recruitment practices, and the need to adopt provisions generally affording adequate protection to workers against acts of anti-union discrimination (on the basis of union membership or activity) during employment, accompanied by effective and rapid procedures and penalties acting as an adequate deterrent.

The Committee notes that section 251 of the Labour Code provides that “any employer who, in order to prevent an employee from joining a trade union, organizing a trade union or exercising his or her rights as a trade union member, dismisses, suspends or demotes the employee or reduces his or her wages, shall be liable to a fine of 1,000 to 3,000 Haitian gourdes (HTG) (approximately US\$25 to US\$75) to be imposed by the labour tribunal, without prejudice to any compensation to which the employee concerned shall be entitled”. The Committee notes that the Government reiterates in its report that the social partners have begun to submit their views with regard to the preparation of the new Labour Code and that the points raised by the Committee regarding protection against anti-union discrimination at the time of recruitment and during employment are due to

receive particular attention in the context of the reform in progress. *The Committee requests the Government to ensure that, in the context of the reform of the Labour Code, the penalties provided for in the event of anti-union discrimination during employment are made more severe, in order to ensure that they act as an adequate deterrent. It also requests the Government to ensure that a specific provision establishing protection against anti-union discrimination at the time of recruitment is adopted.*

Article 4. Promotion of collective bargaining. The Committee recalls that its previous comment also concerned the need to amend section 34 of the Decree of 4 November 1983, which empowers the Labour Organizations Branch of the Labour Directorate of the Ministry of Social Affairs and Labour to intervene in the drafting of collective agreements and in collective labour disputes with respect of all matters related to freedom of association. *Noting the Government's indication that this matter is due to receive particular attention in the context of the legislative reform in progress, the Committee hopes that the Government will avail itself of the technical assistance provided by the Office in this context to amend section 34 of the Decree of 4 November 1983, in order to ensure that the Labour Organizations Branch can only intervene in collective bargaining at the request of the parties. The Committee requests the Government to send a copy of any amendments adopted to this effect.*

Right to collective bargaining of public officials and employees. *The Committee requests the Government to provide information on the legal provisions relating to this field.*

Right to collective bargaining in practice. The Committee appreciates the information to the effect that, further to the tripartite training on international labour standards and the ILO supervisory system organized by the Office in Port-au-Prince in July 2012 for interested parties in the textile manufacturing sector, the participants affirmed the need, in order to continue to strengthen dialogue between the interested parties in this sector, to establish a permanent forum for bipartite dialogue which would meet each month to discuss all ILO-related subjects, and any other subject connected with labour relations. *The Committee requests the Government to supply information on the activities of this dialogue forum and hopes that this process will be extended to other sectors, with technical assistance from the Office.*

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

Hungary

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

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2015, which mainly concern allegations pertaining to the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). It also notes the observations of the workers' group of the National ILO Council at its meeting of 3 September 2014 included in the Government's report, as well as the Government's comments thereon. The Committee notes the observations from the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Freedom of expression. In its previous comments, the Committee had noted with concern that sections 8 and 9 of the newly adopted Labour Code prohibit any conduct of workers including the exercise of their right to express an opinion – whether during or outside working time – that may jeopardize the employer's reputation or legitimate economic and organizational interests; and explicitly provide for the possibility to restrict the workers' personal rights in this regard. The Committee had invited the Government to assess, in consultation with the social partners, the need for amending these provisions so as to ensure the respect of freedom of expression. The Committee welcomes the Government's indication that: (i) an assessment of the impact of the Labour Code on employers and employees was undertaken as part of the "For Employment" project, which was implemented between 1 September 2013 and 31 August 2015 and consisted of various workshops and official presentations, and, while the results of the project are not yet available, in order to be able to achieve its objective, the review and modification of the Labour Code was included in the legislative schedule for 2015; and (ii) as agreed with the social partners in December 2014, consultations are being undertaken since February 2015 on the modification of the Labour Code within the framework of the Permanent Consultation Forum of the Market Sector and the Government, a forum composed of tripartite theme-based expert groups, that deliberates on the matters raised by the Committee, and that is due to present consensus-based proposals for modification. The Committee notes that the workers' group of the National ILO Council questions the efficiency and effectiveness of these consultations. *The Committee requests the Government to provide detailed information on the results of the "For Employment" project as well as on the outcome of the consultations within the framework of the Permanent Consultation Forum of the Market Sector and the Government. The Committee expresses the hope that the review of the Labour Code will fully take into account the Committee's comments with respect to the need to take any necessary measures, including legislative amendments, to guarantee that sections 8 and 9 of the Labour Code do not impede freedom of expression and the exercise of the mandate of trade unions and their leaders to defend the occupational interests of their members. It requests the Government to provide information on any developments in this regard.*

Article 2 of the Convention. Registration of trade unions. In its previous comments, the Committee had noted the allegation of the workers' group of the National ILO Council that numerous rules in the new Civil Code concerning the establishment of trade unions (for example, on trade union headquarters and the verification of its legal usage) obstructed their registration in practice. The Committee notes that the Government indicates that: (i) based on the experience so far (most of all, the small number of pending judicial proceedings), the requirements of the new Civil Code have not made it significantly more difficult for trade unions to be registered; (ii) unless trade unions pursue activities which require a licence, they may pursue their activities automatically after being registered by the court; and (iii) the Civil Organization

Registration Act of 2011 permits the registration of an association by the court within the framework of a simplified registration procedure (duration of 15 days). The Committee notes that the workers' group of the National ILO Council reiterates that the relevant provisions made the registration of trade unions and the modification of the articles of association of already registered trade unions so difficult that it is basically impossible for them to function. ***Noting the divergence between the statements of the Government and the workers' organizations, and recalling that registration should be a mere formality, the Committee requests the Government to: (i) assess without delay, in consultation with the social partners, the need to simplify the registration requirements, including those relating to union headquarters, as well as the ensuing obligation to bring the trade union by-laws into line with the Civil Code on or before 15 March 2016; and (ii) take the necessary steps to effectively address the difficulties signalled with respect to registration in practice, so that the right of workers to establish organizations of their own choosing is not hindered. The Committee also requests the Government to provide information on the number of registered organizations and the number of organizations denied or delayed registration (including the grounds for refusal or modification) during the reporting period.***

Article 3. Right of workers' organizations to organize their activities. In its previous comments, the Committee had noted that: (i) section 3(3) of the Act on Strikes, as amended in 2010, states that the degree and condition of the minimum level of service may be established by law, and that, in the absence of such regulation, they shall be agreed upon by the parties during the pre-strike negotiations; or, failing such agreement, they shall be determined by final decision of the court; and (ii) the Government had indicated that based on trade union applications to the courts for determination of minimum services, it became necessary to amend and clarify the provisions of the Act on Strikes with respect to services where parties could frequently not agree (public transport and postal services) so as to guarantee a predictable service level for users. In reply to the Committee's request for information, the Government indicates that: (i) the Act XLI of 2012 on passenger transport service (Passenger Transport Services Act) states that for the period affected by the strike, the minimum level of service for local and suburban passenger transportation public services is 66 per cent; and the minimum service for national and regional passenger transportation public services is 50 per cent; and (ii) with regard to postal services, section 34(3) of the Act CLIX of 2012 on postal services (Postal Services Act) states that in case of a strike, official documents must be collected at least four days a week and shall be delivered within a period no more than 50 per cent longer than the specified time frame; and other mail shall be collected at least on every second working day and delivered within a period no more than twice as long. The Committee welcomes the Government's indication that, as agreed with the social partners in December 2014, consultations are currently being undertaken on the modification of the Strike Act within the framework of the Permanent Consultation Forum of the Market Sector and the Government; and that the Committee's comments are being discussed in these consultations. The Committee notes that the workers' group of the National ILO Council questions the efficiency and effectiveness of these consultations, and alleges that it is practically impossible to organize or maintain a lawful strike because the Strikes Act establishes the definition, degree and volume of passenger transportation public services and postal services in such detail, and because the Act prescribes an unreasonably high minimum level of service.

The Committee recalls that, since the establishment of a minimum service restricts one of the essential means of pressure available to workers to defend their economic and social interests, workers' organizations should be able, if they so wish, to participate in establishing the minimum service, together with employers and public authorities. The parties might also envisage the establishment of a joint or independent body responsible for examining rapidly and without formalities the difficulties raised by the definition and application of such a minimum service, and empowered to issue enforceable decisions. The Committee further recalls that the minimum service must genuinely and exclusively be a minimum service, that is one which is limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, while maintaining the effectiveness of the pressure brought to bear; and that, in the past, it has considered that a requirement of 50 per cent of the volume of transportation may considerably restrict the right of transport workers to take industrial action. The Committee therefore highlights the need to amend the relevant laws (including the Strike Act, the Passenger Transport Services Act and the Postal Services Act), in order to ensure that the workers' organizations concerned may participate in the definition of a minimum service and that, where no agreement is possible, the matter is referred to a joint or independent body. ***In view of the consultations currently being undertaken on the modification of the Strike Act, the Committee trusts that due account will be taken of its comments during the legal review, and requests the Government to provide information on any progress achieved in this respect.***

Indonesia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1998)

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2014. The Committee further notes the observations received on 1 September 2014 from the International Trade Union Confederation (ITUC), which relate to: (i) legislative matters already raised by the Committee; (ii) issues pending before the Committee on Freedom of Association in Case No. 3050; and (iii) serious allegations of acts of

violence against peacefully striking workers committed on 31 October 2013 by paramilitary organizations, leaving 17 workers severely injured while police officers deployed at the site took no action; and on 2 July 2014 by the riot police at the request of a food packaging company, leaving 20 workers severely injured. *The Committee refers to the conclusions and recommendations made by the Committee on Freedom of Association in the framework of Case No. 3050, and requests the Government to provide its comments with respect to point (iii).*

Trade union rights and civil liberties. The Committee previously requested the Government to provide its comments on the 2011 and 2012 ITUC allegations concerning violence and arrests in relation to demonstrations and strikes, and to take measures to ensure that the use of excessive violence in trying to control demonstrations is avoided, that arrests are made only where criminal acts have been committed, and that the police are called in strike situations only where there is a genuine and imminent threat to public order. The Committee notes that the Government confines itself to indicating that it has never received reports with regard to the alleged shooting incident during a demonstration and that it will coordinate with the Indonesian National Police in order to obtain the proper data and evidence. *The Committee requests the Government: (i) to provide its comments on the remaining 2011, 2012 and 2014 ITUC communications alleging violence against striking workers, acts of intimidation against union leaders, excessive violence and arrests in relation to demonstrations and police involvement in strike situations, and to carry out investigations in response to these serious and recurrent allegations, some of which have also been highlighted by the Committee on Freedom of Association (see 374th Report, Case No. 3050, paragraphs 436–478); and (ii) to ensure, by means of appropriate measures such as education and training of the police as well as police accountability, that the use of excessive violence in trying to control demonstrations is avoided, that arrests are made only where perpetrators have committed serious violence or other criminal acts, and that the police are called in strike situations only where there is a genuine and imminent threat to public order.*

Furthermore, the Committee had requested the Government to take the necessary measures to repeal or amend sections 160 and 335 of the Penal Code, respectively on “instigation” and “unpleasant acts” against employers, so as to ensure that these provisions cannot be misused as a pretext for the arbitrary arrest and detention of trade unionists. The Committee notes that the Government indicates that it agrees that the Penal Code including sections 160 and 335 will be amended but that the revision process will have to await the new legislative session (2014–19). *The Committee trusts that, in the framework of the revision of the Penal Code announced by the Government, sections 160 and 335 will be repealed or amended in the near future. It requests the Government to provide information on the developments in this regard.*

Article 2 of the Convention. Right to organize of civil servants. The Committee previously expressed the hope that the Government would adopt an act guaranteeing the exercise of the right to organize of civil servants, pursuant to section 44 of Act No. 21 of 2000 concerning trade unions, which proclaims that civil servants shall enjoy freedom of association and that the implementation of this right shall be regulated in a separate act, so as to bring the legislation into conformity with the Convention. The Committee notes that the Government indicates that, although section 44 of the Trade Union Act bestows upon civil servants the right of association the implementation of which shall be regulated by specific legislation, there have been hitherto no proposals from civil servants to establish a union. *The Committee underlines the importance of giving effect to the right to freedom of association of civil servants enshrined in section 44(1) of the Trade Union Act through implementing legislation guaranteeing and regulating its exercise as stipulated in section 44(2), and requests the Government to indicate any developments in this regard, as well as any information about proposals from civil servants to establish a union.*

Article 3. Right of workers’ organizations to organize their activities. The Committee previously pointed to a number of shortcomings in relation to the exercise of the right to strike, in particular concerning: (i) the manner of determining failure of negotiations (section 4 of Ministerial Decree No. KEP.232/MEN/2003); (ii) the issuance of back-to-work orders prior to the determination of the illegality of the strike by an independent body (section 6(2) and (3) of Ministerial Decree No. KEP.232/MEN/2003); (iii) the extensive time period accorded to mediation/conciliation procedures (Industrial Relations Dispute Settlement Act No. 2 of 2004); and (iv) the criminal conviction for violation of certain provisions in relation to the right to strike (section 186 of Manpower Act No. 13 of 2003). The Committee notes the Government’s view regarding point (iv) that it is not necessary to amend section 186, given that sanctions need to be imposed by law if the right to freedom of opinion, association and gathering guaranteed by the Indonesian Constitution is implemented in such a way that the strike causes disturbance of public order and anarchy. *Recalling that it has continually emphasized that no penal sanctions, including measures of imprisonment or fines, should be imposed against a worker for having carried out a peaceful strike, the Committee urges the Government to take the necessary measures to ensure that section 186 of the Manpower Act is amended accordingly in the near future. In the absence of information concerning the review of Ministerial Decree No. KEP.232/MEN/2003 and the Industrial Relations Dispute Settlement Act previously announced by the Government, the Committee trusts that its comments will be duly taken into account in this context in order to bring the legislation into full conformity with the Convention. It requests the Government to provide information on the progress achieved in this respect.*

Article 4. Dissolution and suspension of organizations by the administrative authority. The Committee previously noted that if union officials violate section 21 (failure to inform the Government of changes in union constitution or by-laws within 30 days) or section 31 (failure to report financial assistance from overseas) of the Trade Union Act, serious

sanctions can be imposed under section 42 of the same Act (revocation and loss of trade union rights or suspension), and requested the Government to indicate the measures taken to: (i) repeal the reference to sections 21 and 31 in section 42 of the Trade Union Act; and (ii) ensure that organizations affected by dissolution or suspension by the administrative authority have a right of appeal to an independent judicial body, and that such administrative decisions do not take effect until that body issues a final decision. The Committee notes the Government's indication that the applicable regulations seek to protect the right of association and avoid internal conflicts between trade unions, and that the Government provides guidance to unions in this regard. In the absence of information concerning the review of the Trade Union Act previously announced by the Government, the Committee recalls that dissolution and suspension constitute extreme forms of interference by the authorities in the activities of trade union organizations and should therefore be accompanied by all the necessary guarantees, which can only be ensured through a normal judicial procedure with the effect of a stay of execution of the relevant administrative decision. ***The Committee requests the Government to take the necessary measures: (i) to ensure that section 42 of the Trade Union Act is amended so as to remove the reference to sections 21 and 31, and, in the meantime, to provide information as to any sanctions that have been imposed thereunder; and (ii) to ensure that organizations affected by dissolution or suspension by the administrative authority have a right of appeal to an independent judicial body, with suspensive effect.***

The Committee reminds the Government that if it so wishes it may take advantage of technical assistance from the International Labour Office in relation to the issues raised in these comments.

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

[The Government is asked to reply in detail to the present comments in 2016.]

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

The Committee notes the observations made by the International Trade Union Confederation (ITUC) received on 1 September 2014, which relate to: (i) legislative matters already being raised by the Committee; and (ii) acts of anti-union discrimination and interference against union members and officials. ***The Committee requests the Government to provide its comments with respect to point (ii).*** The Committee further notes the Government's comments on the 2011 observations of the ITUC.

Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and employer interference. The Committee previously requested the Government to take steps to amend the legislation to ensure comprehensive protection against anti-union discrimination, providing for swift recourse to mechanisms that may impose sufficiently dissuasive sanctions against such acts. It also requested the Government to provide practical information in this regard and a copy of Decree No. 03 of 1984 of the Minister of Manpower. The Committee notes that the Government indicates that there are several anti-union discrimination complaints that have been reported to the Indonesian National Police as the main investigator, and that the labour inspector is always involved in the procedure by conducting inspections. ***In the absence of information concerning the review of the Trade Union Act previously announced by the Government, the Committee requests the Government to: (i) take steps, in the near future, and in full consultation with the social partners concerned, to amend the legislation to ensure comprehensive protection against any acts of anti-union discrimination and employer interference, providing for swift recourse to mechanisms that may impose sufficiently dissuasive sanctions against such acts; (ii) specify, separately, the number of complaints of anti-union discrimination and interference filed with (a) the police, (b) the labour inspectorate and (c) the courts, as well as the steps taken to investigate these complaints, the remedies and sanctions imposed, as well as the average duration of proceedings under each category; and (iii) supply a copy of Decree No. 03 of 1984 of the Minister of Manpower. The Committee invites the Government to make full use of ILO technical assistance in this respect, including as regards training for the authorities competent to deal with cases of anti-union discrimination and employer interference.***

Article 2. Protection against acts of interference. The Committee's previous comments concerned the need to amend section 122 of the Manpower Act so as to discontinue the presence of the employer during a voting procedure held in order to determine which trade union in an enterprise shall have the right to represent the workers in collective bargaining. The Committee notes that the Government once again indicates that the employer and the Government are merely present during the vote as witnesses and that their presence will not affect the voting. ***Highlighting the need to ensure adequate protection against acts of interference in practice, the Committee reiterates its previous comments and requests the Government to take steps to amend section 122 of the Manpower Act, so as to suppress the presence of the employer during voting procedures, as well as to discontinue the presence of the Government except if the unions concerned request otherwise.***

Article 4. Promotion of collective bargaining. In its previous comments, the Committee had requested the Government to take measures to amend sections 5, 14 and 24 of Act No. 2 of 2004 concerning industrial relations dispute settlement, which enables either of the parties to an industrial dispute to file a legal petition to the Industrial Relations Court for final settlement of the dispute if conciliation or mediation failed. The Committee notes that the Government states that Act No. 2 of 2004 provides for industrial relations dispute settlement through arbitration, conciliation or mediation (in case of failure of conciliation or mediation, any of the parties may bring the case to the industrial court). The Committee observes that the ability of one of the parties, as per sections 5, 14 and 24 of Act No. 2 of 2004, to refer the

dispute to the Court if settlement cannot be achieved through conciliation or mediation, constitutes compulsory arbitration. The Committee emphasizes that compulsory arbitration at the initiative of one party to the dispute cannot be considered to promote voluntary collective bargaining. The Committee further recalls that compulsory arbitration is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term and acute national crises. ***The Committee therefore requests the Government to take measures to amend sections 5, 14 and 24 of Act No. 2 of 2004 so as to ensure the respect for these principles.***

Recognition of organizations for the purposes of collective bargaining. The Committee previously commented on section 119(1) and (2) of the Manpower Act, according to which, in order to negotiate a collective agreement, a union must have membership equal to more than 50 per cent of the total workforce in the enterprise or receive more than 50 per cent support in a vote of all the workers in the enterprise. The Committee also notes that, if the relevant union does not obtain 50 per cent support in such a vote, it may once again put forward its request to engage in collective bargaining after a period of six months. In the absence of relevant information from the Government, the Committee recalls that, while it is acceptable that the union which represents the majority or a high percentage of workers in a bargaining unit should enjoy preferential or exclusive bargaining rights, the Committee considers that in cases where no union meets these conditions, the minority trade union or unions should at least be able to conclude a collective agreement on behalf of its/their own members. ***The Committee requests the Government to guarantee the respect of this principle and to take the necessary measures to amend section 119(3) of the Manpower Act accordingly so as to ensure that this provision promotes collective bargaining in the sense of Article 4 of the Convention.***

Time limit for collective bargaining. The Committee previously noted the Government's indication that collective agreements must be concluded within 30 days after the beginning of negotiations, and requested the Government to ensure the application of the principles concerning the free and voluntary exercise of collective bargaining. The Committee notes that, according to sections 3 and 4 of Act No. 2 of 2004, if bargaining does not result in an agreement within 30 days, one or both parties may initiate the dispute settlement procedure. Mindful of the fact that the dispute settlement procedure under Act No. 2 of 2004 might culminate in compulsory arbitration (see comments above), the Committee considers that a negotiation period of 30 days may be too short, in particular in the case of negotiations of a branch collective agreement or of a first collective agreement at the enterprise level in complex corporate structures. In the absence of any information from the Government, the Committee recalls that the parties should be able to continue the negotiation of a collective agreement, if they so wish, even after the 30-day delay has expired, and that, in the event that a collective agreement already exists, the parties should be able to start the negotiations of a future agreement before the end of the current one. ***The Committee requests the Government to guarantee the respect of the above principles concerning the free and voluntary exercise of collective bargaining and to provide information on the measures taken or contemplated to this end.***

Federations and confederations. The Committee previously noted the Government's indication that there has been no report of federations or confederations of trade unions having signed collective agreements, and requested it to ensure that such information is publicly available and to continue to provide information concerning collective agreements signed by federations or confederations. The Committee notes that the Government states that it still coordinates with the respective parties and will provide up-to-date information in the future. ***The Committee requests the Government to supply information concerning the number and type of current collective agreements concluded by federations or confederations of trade unions, and to ensure that such information is publicly available.***

Export processing zones (EPZs). In its previous observations, the Committee had repeatedly requested the Government, pursuant to allegations of violent intimidation and assault of union organizers, and dismissals of union activists in the EPZs, to provide information on the number of collective agreements in force in the EPZs and the percentage of workers covered, as well as on the number of complaints of anti-union discrimination and employer interference in EPZs and the relevant investigation and remediation measures. Noting the Government's indication that it coordinates with the respective parties and will provide up-to-date information in the future, the Committee ***deeply regrets*** that the Government has still not provided the requested information. ***The Committee once again requests the Government to provide data concerning the number of collective agreements in EPZs and workers covered by them, as well as on the number of complaints of anti-union discrimination and employer interference in EPZs and the relevant investigation and remediation measures.***

The Committee recalls that the availability of information concerning collective agreements in force is a means of promoting collective bargaining.

[The Government is asked to reply in detail to the present comments in 2016.]

Ireland

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

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.

The Committee takes note of the observations provided by the Irish Congress of Trade Unions (ICTU) in a communication received on 21 September 2015.

Article 4 of the Convention. Promotion of collective bargaining. The Committee notes with *interest* the information provided by the ICTU that a significant step was taken with the introduction of the Industrial Relations (Amendment) Act 2015 (No. 27), which entered into force on 1 August 2015. According to the ICTU, the Act provides for the reintroduction of a mechanism for the registration of employment agreements between an employer or employers and trade unions governing remuneration and conditions of employment in individual enterprises. The ICTU also states that the Act addresses some of the issues it had raised in a complaint before the Committee on Freedom of Association (Case No. 2780). ***The Committee welcomes this development and trusts that the introduction of these amendments will foster an improved framework for the promotion of collective bargaining in accordance with the Convention.***

Self-employed workers. In its previous comments, the Committee had requested the Government to provide comments on the observations made by the ICTU in relation to restrictions on the right to organize and bargain collectively introduced by the Competition Authority of Ireland. The Committee recalled that the ICTU had stated that the Competition Authority had decided that the provisions of the Competition Act 2002 overruled the provisions of the Industrial Relations Act and had declared unlawful a collective agreement between Equity/SITP and the Institute of Advertising Practitioners that fixes rates of pay and conditions of employment for workers within radio, television, cinema and the visual arts. The Committee had noted the Government's indication that, during the course of the social partnership talks in 2008, it committed itself to introducing legislation amending section 4 of the Competition Act to the effect that certain categories of vulnerable workers, formerly or currently covered by collective agreements, when engaging in collective bargaining, would be excluded from the prohibition in section 4 of the Competition Act. The Government subsequently added however that this commitment was overtaken by the EU/International Monetary Fund (IMF) Programme of Financial Support for Ireland in which it had been agreed that no further exemptions to the competition law framework would be granted unless they were entirely consistent with the goals of the EU/IMF Programme and the needs of the economy. The Committee had trusted that the Government would pursue its review of the Act with the social partners in accordance with its previous commitment and requested it to provide information on progress made in this regard.

The Committee notes that the ICTU continues to raise its concerns that this matter has not been resolved. In 2015, and in light of a recent decision emanating from the European Court of Justice (*FNV Kunsten Informatie en Media v. Staat der Nederlanden*, of 4 December 2014), the ICTU had requested the Competition Authority to reconsider its decision. The Authority nevertheless upheld its decision despite the concerns of the ICTU that there were increasing categories of self-employed workers who, due to the Authority's decision, find themselves classed as "undertakings" and hence excluded from the right to collective bargaining. This included actors, freelance journalists, writers, photographers, musicians, dancers, performers, models, bricklayers and other skilled trades in the construction industry. The ICTU explains that it does not dispute that competition law should preclude price fixing agreements among cartels of businesses. The ICTU maintains, however, that, in order to protect legitimate collective bargaining, there needs to be a workable distinction between the sole-trade carrying on a business and a worker in the everyday sense of the word who is in a position of subordination.

The Committee recalls that *Article 4* of the Convention establishes the principle of free and voluntary collective bargaining and the autonomy of the bargaining parties with respect to all workers and employers covered by the Convention. As regards the self-employed, the Committee recalls, in its 2012 General Survey on the fundamental Conventions, paragraph 209, that the right to collective bargaining should also cover organizations representing the self-employed. The Committee is nevertheless aware that the mechanisms for collective bargaining in traditional workplace relationships may not be adapted to the specific circumstances and conditions in which the self-employed work. ***The Committee therefore invites the Government to hold consultations with all the parties concerned with the aim of limiting the restrictions to collective bargaining that have been created by the Competition Authority's decision, so as to ensure that self-employed workers may bargain collectively. To this end, the Committee suggests that the Government and the social partners concerned may wish to identify the particularities of self-employed workers that have a bearing on collective bargaining, so as to develop specific collective bargaining mechanisms relevant to them.***

Jamaica

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015. *The Committee requests the Government to provide its comments in this regard.*

The Committee takes note of the observations received from the International Organisation of Employers (IOE) on 1 September 2015, which are of a general nature.

Article 2 of the Convention. Right of workers to establish and join organizations. The Committee notes the indications of the ITUC that section 6(4) of the Trade Union Act (TUA) provides that, if an application for registration of a trade union has not been made in line with the Act, or if registration of a trade union has been refused or cancelled, every member of the trade union who continues to be a member thereof, and every person who participates in any meetings or proceedings of the trade union, knowing that it is not registered under the Act, shall be guilty of an offence and liable on summary conviction to a penalty of up to 500 Jamaican dollars. *Acknowledging that the official recognition of an organization through its registration constitutes a relevant aspect of the right to organize, as it is the first measure to be taken so that organizations can fulfil their role effectively, but also recalling that the exercise of legitimate trade union activities should not be dependent upon registration and that, therefore, penalties should not be imposed upon workers for their membership and participation in an unregistered trade union, the Committee requests the Government to take the necessary measures to amend the legislation in this respect.*

Article 3. Interference in the financial administration of a trade union. The Committee notes that the ITUC denounces that, in addition to the obligation on the treasurer to submit to the Registrar annual statements of account, audit certificates, membership lists and changes to the rules and officers of the trade union, the Registrar may, in line with section 16(2) of the TUA, at any time, request the treasurer or any trade union member to provide detailed accounts of the revenue, expenditures, assets, liabilities and funds of the trade union in respect of any specified period. *Recalling that the control exercised by the public authorities over trade union finances should not normally exceed the obligation to submit periodic reports, and that the discretionary rights of the authorities to carry out inspections and request information at any time entails a danger of interference in the internal administration of trade unions, the Committee requests the Government to take the necessary measures to restrict the Registrar's powers in this regard.*

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: 1962)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015, which refer to matters already examined by the Committee and also denounce fixed and unreasonable procedural requirements for, and limitations on, collective bargaining. *The Committee requests the Government to provide its comments in this regard.*

Article 4 of the Convention. Right to collective bargaining. The Committee had previously referred to the following matters:

- the denial of the right to negotiate collectively in cases where a trade union fails to prove that at least 40 per cent of the workers in the unit are its members or, when having met the former condition, a single union that is engaged in the procedure of obtaining recognition does not obtain 50 per cent of the votes of the workers in a ballot that the Minister has caused to be taken (section 5(5) of Act No. 14 of 1975 and section 3(1)(d) of its regulations); and
- the need to take measures to amend the legislation so that a ballot is made possible when one or more trade unions are already established as bargaining agents and another trade union claims that it has more affiliated members in the bargaining unit than the other trade unions, and therefore invokes its most representative status in the unit in order to be considered as a bargaining agent.

The Committee notes that in its report the Government indicates that there is no new development in relation to lowering the mentioned percentage of workers. The Committee further notes that the Government does not provide any new information on legislative amendments allowing a ballot in cases of disputes concerning representativeness. *Regretting the lack of progress, the Committee firmly hopes that the Government will take the necessary measures in the very near future to amend its legislation in order to: (i) lower the percentage mentioned or, if no union obtains the required 50 per cent of the votes of the total number of workers to be declared the exclusive bargaining agent, to grant collective bargaining rights to all the unions, at least on behalf of their own members; and (ii) allow a ballot in cases of disputes concerning representativeness, so as to bring it into full conformity with the Convention. The Committee requests the Government to provide information on any developments in this regard.*

Kazakhstan

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2015 concerning the application of the Convention. The Committee further notes with *regret* that the Government did not appear before the Conference Committee during the examination of this case, despite its accreditation to the Conference. As a result, the Conference Committee decided to place its conclusions in a special paragraph. The Committee notes the Conference Committee's request to the Government to: amend the provisions of the Act on the National Chamber of Entrepreneurs in a manner that would ensure the full autonomy and independence of the free and independent employers' organizations in Kazakhstan; amend the provisions of the Trade Union Act of 2014; and amend the Constitution and appropriate legislation to: (i) permit judges, firefighters and prison staff to form and join a trade union; and (ii) lift the ban on financial assistance to national trade unions by an international organization.

The Committee notes with *regret* that the Government's report has not been received despite the specific request from the Conference Committee when it examined the application of the Convention in June 2015 in the absence of a Government delegate.

The Committee notes the observations on the application of the Convention by the International Organisation of Employers (IOE) received on 4 September 2015. In its previous comments, it had also noted observations of the Confederation of Free Trade Unions of Kazakhstan (KSPK) and the International Trade Union Confederation (ITUC) to which the Government is yet to reply. ***The Committee deeply regrets that the Government has not provided its comments in reply to these observations and firmly trusts that it will provide complete comments thereon without delay.***

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. In its previous comments, the Committee had requested the Government to take the necessary measures to amend its legislation so as to ensure the right to organize of judges, firefighters and prison staff, which is currently restricted by article 23 of the Constitution, section 11(4) of the Act on Public Associations and Act No. 380-IV on Law Enforcement Bodies. ***The Committee once again urges the Government to take the necessary measures to amend its legislation so as to ensure that judges, firefighters and prison staff have the right to establish organizations for the furtherance and defence of their interests in line with the Convention, and to indicate the progress made in this regard.***

Right to establish organizations without previous authorization. The Committee recalls that pursuant to section 10(1) of the Act on Public Associations, applicable to employers' organizations, a minimum of ten persons is required to establish an employers' organization, and once again urges the Government to indicate the measures taken or envisaged to amend its legislation so as to lower the minimum membership requirement for establishing an employers' organization.

Right to establish and join organizations of their own choosing. The Committee recalls that sections 11(3), 12(3), 13(3) and 14(4) of the Act on Trade Unions require, under the threat of de-registration pursuant to section 10(3) of that Act, the mandatory affiliation of sector-based, territorial and local trade unions to a national trade union association within six months following their registration. The Committee recalls once again that the free exercise of the right to establish and join organizations implies the right of workers to freely decide whether they wish to associate or become members of a higher-level trade union structure. ***The Committee once again urges the Government to take the necessary measures in order to amend the abovementioned legislative provisions accordingly, and to provide information on the progress made in this regard.***

Act on the National Chamber of Entrepreneurs. In its previous comments, the Committee had analysed the Act on the National Chamber of Entrepreneurs and observed that a number of its provisions interfered with the right of employers to form and join the organization of their own choosing and the right of such organizations to elect their officers, carry out their activities and formulate their programmes without Government interference. The Committee had requested the Government to take measures to amend the Act so as to bring it into conformity with the Convention.

The Committee notes the information provided by the IOE that, with the adoption of the Act on the National Chamber of Entrepreneurs, its affiliate organization, the Confederation of Employers of the Republic of Kazakhstan (KRRK) is facing declining membership, relevance, income and staff due to the pressure and competition by government-controlled enterprise association entities. The National Union of Employers and Entrepreneurs (Atameken), which was established in 2005 on the initiative and with the support of the presidential administration, has transformed into the National Chamber of Entrepreneurs of Kazakhstan with the adoption of the Act in 2013. According to the IOE, the Act gives the National Chamber of Entrepreneurs an all-encompassing competence to represent Kazakh employers in all areas related to business operations with mandatory membership throughout the country.

The Committee recalls in this regard the concerns it had raised in relation to section 3(2) of the Act, under which the main aim of the Chamber is to consolidate the action of entrepreneurs in the country. Through the Chamber, entrepreneurs

further and defend their rights and interests, including by engaging with various state bodies and participating in the development and drafting of the legislation affecting their interests. Pursuant to section 9(1) of the Act, the Chamber represents the interests and rights of entrepreneurs in the various state bodies and international organizations.

Moreover, the Committee recalls that, according to section 5(1) and (2) of the Act, the Government approves the maximum membership fees to be paid by the members of the Chamber, and establishes the procedure therefore. Pursuant to section 19(2) of the Act, the Government participates in the work of the congress (supreme governing body) of the Chamber and has the right to veto its decisions. Furthermore, pursuant to section 21(1) of the Act, the presidium (governing body) of the Chamber is composed, among others, of the government representatives and 16 parliamentarians. The Committee recalls that these provisions restrict the Chamber's freedom, as well as the freedom of its member organizations, to administer the funds and establish overall control over internal acts and decisions, in a manner so as to jeopardize the Chamber's independence from the Government and its capacity to effectively represent the interests of its members free from Government interference. In the opinion of the IOE, these restrictions and the powers enabling the Government to interfere, clearly show that the National Chamber of Entrepreneurs cannot be considered to be an independent employers' organization but rather a quasi-ministry specialized in a business agenda.

In light of the above, and bearing in mind the serious concerns raised during the discussion of the application of this Convention in the Conference Committee, the Committee urges the Government to take measures without delay to amend the Act on the National Chamber of Entrepreneurs, so as to eliminate all possible interference by the Government in the functioning of the Chamber and so as to ensure the full autonomy and independence of the free and independent employers' organizations in Kazakhstan, so that they may effectively represent their members' interests without discrimination or Government interference. The Committee reminds the Government that the technical assistance of the Office is available in this respect.

Article 3. Right of organizations to organize their activities and to formulate their programmes. Labour Code. The Committee once again requests the Government to indicate which organizations fall into the category of organizations carrying out "dangerous industrial activities" for which strikes are illegal (section 303(1) of the Labour Code) by providing concrete examples. It further requests the Government to indicate all other categories of workers whose rights may be restricted, as stipulated in section 303(5) of the Labour Code.

The Committee reiterates its previous request to amend section 303(2) of the Labour Code so as to ensure that any minimum service is a genuinely and exclusively minimum one and that workers' organizations can participate in its definition, and requests the Government to indicate all measures taken or envisaged to that end.

Article 5. Right of organizations to establish federations and confederations and to affiliate with international organizations. The Committee had previously requested the Government to take steps to amend section 106 of the Civil Code, as well as article 5 of the Constitution, so as to lift the ban on financial assistance to national trade unions by an international organization. The Committee recalls that legislation prohibiting the acceptance by a national trade union of financial assistance from an international organization of workers to which it is affiliated, infringes the principles concerning the right to affiliate with international organizations of workers, and that all national organizations of workers and employers should have the right to receive financial assistance from international organizations of workers and employers, respectively, whether they are affiliated or not to the latter. The Committee therefore once again requests the Government to take the necessary steps to amend section 106 of the Civil Code, as well as article 5 of the Constitution, so as to lift this prohibition, and to indicate the measures taken or envisaged in this respect.

The Committee recalls that section 13(2) of the Act on Trade Unions, requires a sector-based trade union to represent no less than half of the total workforce of the sector or related sectors, or organizations of the sector or related sectors, or to have structural subdivisions and members organizations on the territory of more than half of all regions, cities of national significance and the capital. The Committee recalls that the requirement of excessively high thresholds to establish a higher-level organization (e.g. a sector-based trade union) conflicts with Article 5 of the Convention. The Committee notes the statement made by the Government representative after the case was examined by the Conference Committee, indicating that: a new law specifically provided that it was essential that trade unions were represented at the regional, local and enterprise levels; while a great number of trade unions existed in the country, there was no trade union unity, with trade unions being rather dispersed; only branch and sectorial trade unions were able to conclude collective agreements, and over 600 trade unions at the local and regional level were not associated to them. ***Recalling the KSPK and ITUC observations in this respect, the Committee requests the Government to engage with the relevant trade union organizations, including the KSPK, with a view to lowering the thresholds set by section 13(2) of the Act on Trade Unions. It requests the Government to provide information on the progress made in this regard.***

The Committee notes the general statement by a Government representative at the Conference Committee that Kazakhstan was a young country and needed more time to implement the internationally recognized principles, and that new laws could be adopted where necessary, in accordance with international standards and international best practice. He stated that the Government was committed to improving the situation and would take into account the discussions in, and the conclusions of, the Conference Committee. ***The Committee trusts that the Government will rapidly undertake a review of the Constitution and the abovementioned legislative texts to bring them fully into conformity with the provisions of the Convention, and requests the Government to provide full details in this regard.***

[The Government is asked to reply in detail to the present comments in 2016.]

Kuwait

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1961)

The Committee notes the observations made by the International Trade Union Confederation (ITUC) in communications received on 4 August 2011 and 1 September 2014, many of which concern issues dealt with by the Committee, as well as the response from the Government to the first communication. The Committee also takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2014.

Article 2 of the Convention. Migrant workers. In its previous observation, the Committee requested the Government to take the necessary measures to ensure full conformity of the legislation with the right of migrant workers to establish and join organizations of their own choosing, and to provide a copy of the order to be issued by the minister on the admission of non-Kuwaiti workers as trade union members.

Regarding the right to establish organizations, the Government notes in its report that it is the only trade union right not accorded to migrant workers, due to the fact that their residence in Kuwait is temporary and ends at their contracts' expiration. The Committee recalls that the right to establish organizations is guaranteed under *Article 2* of the Convention to all workers without distinction whatsoever, and that the temporal nature of residency of migrant workers does not justify depriving them of this right.

As to the right to join unions, the Government states in its report that the admission of non-Kuwaiti workers as trade union members is provided for by Ministerial Order No. 1 of 1964, which requires them to hold a work permit and to have resided in Kuwait for five years. The Committee observes that the legal imposition of these restrictions is not compatible with *Article 2* of the Convention, as the right of workers, without distinction whatsoever, to establish and join organizations implies that all workers residing in the territory of a State, whether or not they have a work permit and regardless of years of residency, benefit from the trade union rights provided for by the Convention.

The Committee requests the Government to take any necessary measures to ensure the recognition of the right of migrant workers to join and establish organizations of their own choosing, repealing any restriction or requirement on account of work permit status or time of residence, and to provide information on any developments in this respect.

Domestic workers. In its previous observation, noting that section 5(2) of Private Sector Labour Law No. 6 of 2010 (Labour Act) provides that the situation of domestic workers will be governed by a decision to be taken by the competent minister, the Committee had hoped that an order regulating labour relations of domestic workers would be adopted in the near future and guarantee the rights of domestic workers to establish and join organizations. The Government reports that no decision or law allowing domestic workers to establish or join occupational organizations, has been promulgated. The Committee observes in this regard that the new law adopted in June 2015 on the rights of domestic workers does not provide for their right to organize. ***Regretting the lack of progress in this regard and hoping that it will be able to note progress in the near future, the Committee requests the Government to adopt any necessary measure to ensure the full recognition of the right of domestic workers to establish and join organizations. The Committee requests the Government to provide information on developments in this respect.***

Other categories of workers. In its previous observation, the Committee requested the Government to indicate: (i) the manner in which the right to establish and join organizations of their own choosing is ensured to civil servants; and (ii) whether the Maritime Act and the law governing the oil sector include provisions on trade union rights. The Government indicates that the Maritime Act and the law governing the oil sector do not contain any provisions on trade union rights and that, therefore, the provisions of the Labour Act apply and fully guarantee trade union rights in these sectors. The Government indicates that there is no specific legislation on the rights of civil servants to establish or join unions, and that section 98 of the Labour Act, which recognizes the right to organize and establish unions, also covers civil servants, provided that there is no conflict with the laws which regulate their affairs. ***The Committee requests the Government to indicate how the right to establish and join unions of their own choosing is fully guaranteed for civil servants in practice, as well as whether any legislation applicable to civil servants limits or restricts their exercise of this right, and to provide a copy of the relevant legislation. The Committee further requests the Government to provide additional information on the exercise of trade union rights in practice in the maritime, oil and public sectors, including the number of unions established and the membership in each union.***

Article 3. Financial administration of organizations. The Committee had previously requested the Government to take the necessary measures to amend section 104(2) of the Labour Act, which prohibits trade unions from using their funds in financial speculation, real estate or other forms of speculation. The Government notes in response that there are no restrictions imposed on the financial administration of organizations and that the prohibition on financial speculation is set out to avoid the risks involved and to prevent loss of union funds. The Committee further observes that section 104(3) of the Labour Act unduly subjects the acceptance of gifts and donations by unions to the approval of the ministry. The Committee recalls that legislative provisions that subject the acceptance of gifts and donations to prior authorization by

the public authorities, or restrict the freedom of trade unions to administer, utilize and invest their funds as they wish for normal and lawful trade union purposes, including through financial or real estate investments, are incompatible with *Article 3* of the Convention, and that the control exercised by public authorities over trade union finances should not go beyond the requirement for the organizations to submit periodic reports. ***The Committee regrets the lack of progress in this respect and again requests the Government to take the necessary measures to amend section 104(2) and 104(3) of the Labour Act in accordance with the abovementioned principle.***

Overall prohibition on trade union political activities. In its previous observation, the Committee had requested the Government to take the necessary measures to revise section 104(1) of the Labour Act, which prohibits trade unions from involvement in any political matters. The Committee notes the Government's response stating that political union activities are in conflict with the union's main objective to defend the interests of workers and improve their financial, social and economic situation. The Committee once again recalls that legislation which prohibits all political activities for trade unions is not in conformity with the Convention, and that trade unions should be able to express their views on matters of economic and social policy affecting their members and workers in general. ***The Committee notes with regret the lack of progress in this respect and requests the Government to take the necessary measures to revise section 104(1) of the Labour Act, so as to eliminate the total ban on political activities in keeping with the abovementioned principle, and to indicate developments in this regard.***

Compulsory arbitration. The Committee had noted in its previous observation that the intervention by the ministry in labour disputes pursuant to sections 131 and 132 of the Labour Act could lead to compulsory arbitration and the prohibition of strikes. The Committee notes the Government's statement in its report that the aim of sections 131 and 132 was to avoid any interference by the ministry unless needed, and that the ministry has not thus far intervened pursuant to these sections. The Committee also notes that the Government welcomes in its report the Committee's previous comments and declares that it will examine them in collaboration with the social partners. ***The Committee requests the Government to provide information on the results of this tripartite examination, in particular as to the need to amend sections 131 and 132 of the Labour Act, and hopes that it will be able to observe progress in this respect in the near future.***

Dismissal of executive boards. Section 108 of the Labour Act provides for the possibility to dismiss an organization's board of directors by court order in case it engages in an activity that either violates the provisions of the Labour Act or of the "laws relevant to the preservation of public order and morals". The Committee points out that the reference, as grounds for board dismissal, to any activity that violates the laws relevant to the preservation of the public order and morals is too broad and vague, and could lead to an application that hinders the exercise of the trade union rights enshrined in the Convention. The Committee considers that the dismissal of the executive boards of employers' or workers' organizations by court order should be restricted to serious and repeated violations of the organizations' constitutions or of relevant legislation, and recalls that legislation cannot impair nor be applied to impair the guarantees provided for in the Convention. ***The Committee requests the Government to take measures to amend section 108 of the Labour Act to ensure the respect of the abovementioned principle.***

Article 5. Limitation to a single confederation. In its previous observation, the Committee once again requested the Government to take the appropriate measures to amend section 106 of the Labour Act, which provides that "there shall not be more than one general union for each of the workers and the employers", so as to ensure the right of employers and workers to establish organizations of their own choosing at all levels, including the possibility of forming more than one general confederation. The Committee notes the Government's reply that the restriction only concerns the establishment of a single confederation, in accordance with the state's policies to unify unions' efforts and prevent their dissipation. ***The Committee notes with regret the lack of progress in this regard, recalls that a legislatively imposed trade union monopoly at any level is incompatible with the requirements of the Convention, and requests the Government to take the appropriate measures to amend section 106 of the Labour Act, so as to ensure the right of workers to establish the organization of their own choosing at all levels, including the possibility of forming more than one confederation, and to provide information on any developments in this respect.***

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: 2007)

The Committee notes the observations made by the International Trade Union Confederation (ITUC) in communications received on 4 August 2011 and 31 August 2014, as well as the response from the Government to the first communication.

Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and interference. The Committee had requested the Government to indicate any legislative provisions ensuring adequate protection against acts of anti-union discrimination and interference, the penalties applicable in cases of violation, as well as the measures taken or contemplated to that effect. The Committee notes that the Government indicates in its report that Kuwait's Constitution provides for the principle of equality and non-discrimination based on the grounds of race, origin, language or religion (section 29), and sets out that no one may be compelled to join any association or union (section 43); and that the Labour Act provides that a worker's service may not be terminated without justification or on the grounds of union activity (section 46). The Committee confirms its observation that, beyond these general provisions, national legislation does not

provide for further concrete protection against acts of discrimination. The Committee recalls that this protection should prohibit not only dismissals but also other measures of anti-union discrimination, such as transfers, demotions and any other prejudicial acts, as well as acts of anti-union discrimination in taking up employment. The Committee further recalls that legislation should protect against all acts of interference, such as acts aiming to place workers' organizations under the control of employers or employers' organizations by financial or other means. The Committee emphasizes that legislation should make express provision for effective procedures and dissuasive sanctions to prevent and redress all acts of anti-union discrimination and to protect employers' and workers' organizations against interference by each other. ***The Committee requests the Government to take any necessary measures to ensure that the legislation provides for the prohibition of all acts of anti-union discrimination and interference forbidden by the Convention, as well as redress mechanisms to ensure adequate protection, including effective procedures and dissuasive sanctions, in accordance with the abovementioned principles.***

Article 4. Collective bargaining and compulsory arbitration. The Committee had noted in its previous comments that under sections 131–132 of the Labour Act, the ministry may intervene in a dispute without being asked to do so by any of the disputing parties, to bring about an amicable settlement of the dispute, and may also refer the dispute to the Conciliation Committee or the Arbitration Panel, as it deems appropriate. The Committee recalls that compulsory arbitration in the framework of collective bargaining is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term (services whose interruption would endanger the life, personal safety or health of the whole or part of the population), and acute national crises. The Committee had requested the Government to take the necessary measures to amend Labour Act in conformity with these principles. The Committee notes that the Government states in its report that the intervention under section 131 is an optional measure by the ministry, which has not been used so far. The Committee emphasizes that, even if optional, the provision unduly affords the ministry discretion to provide for compulsory arbitration beyond the acceptable cases previously mentioned. ***The Committee requests the Government to take the necessary measures to amend sections 131 and 132 of the Labour Act, as well as other provisions on compulsory arbitration concerned, to ensure their full conformity with the abovementioned principles, and to provide information on any developments in this respect.***

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

Liberia

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015.

The Committee also notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations made by the International Organisation of Employers (IOE) in a communication received on 1 September 2014. The Committee also recalls the 2012 observations of the International Trade Union Confederation (ITUC), concerning the application of the Convention. ***The Committee once again requests the Government to provide its comments thereon.*** With regard to the observations made by the ITUC in 2008 and 2010 concerning serious acts of violence against striking workers and the closure of a radio station belonging to a trade union, the Committee notes the Government's comments concerning the need for the intervention of the forces of order and the temporary closure of the union's radio station to restore calm. In this regard, the Committee recalls that the right to express opinions through the press and other media is one of the essential components of trade union rights. The authorities should only have recourse to the forces of law and order in the event of a strike in exceptional circumstances and situations in which public order is under serious threat, and that such interventions by the forces of law and order should be in proportion to the gravity of the situation. ***The Committee requests the Government to ensure full respect for these principles in future.***

The Committee notes that the Bill on decent work, which has been under discussion for several years, has been adopted by the legislative authorities and that it will enter into force when it has been promulgated by the President of the Republic.

Articles 2 and 3 of the Convention. Right of workers to establish and join organizations of their own choosing. Right of workers' organizations to elect their representatives in full freedom. The Committee recalls that for many years it has been commenting on the need to amend or repeal the following provisions of the Labour Act, which are not in conformity with the Convention:

- section 4506, prohibiting workers in state enterprises and the public administration from establishing trade unions;
- section 4601-A, prohibiting agricultural workers from joining industrial workers' organizations; and
- section 4102(10) and (11), providing for the supervision of trade union elections by the Labour Practices Review Board.

The Committee trusts that the Bill on decent work will enter into force in the very near future and that its content will take into account all the issues raised by the Committee, as indicated by the Government in its last report. The Committee requests the Government to report any developments in this regard. In its previous comment, the Committee noted the Government's indication that the legislation guaranteeing the right of public employees to establish trade unions (the Public Service Ordinance) was being revised with the technical assistance of the Office. ***The Committee trusts that the current legislative process will give full effect to the Convention in relation to public employees and requests the Government to report any developments in this regard.***

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: 1962)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes that the Bill on Decent Work which has been under discussion for several years has been adopted by the legislative authorities and will enter into force once it has been promulgated by the President of the Republic.

Articles 1, 2 and 4 of the Convention. Protection against anti-union discrimination and acts of interference. Promotion of collective bargaining. The Committee recalls that for many years it has been commenting on the need to adopt legal provisions guaranteeing:

- adequate protection against anti-union discrimination at the time of recruitment and during the employment relationship, accompanied by sufficiently effective and dissuasive sanctions;
- adequate protection for workers' organizations against acts of interference by employers and their organizations, including sufficiently effective and dissuasive sanctions; and
- the right to collective bargaining for employees in State-owned enterprises and public officials who are not engaged in the administration of the State.

The Committee trusts that the Bill on Decent Work will enter into force in the very near future and that its content takes into account all the matters raised by the Committee, as indicated by the Government in its last report. The Committee requests the Government to report any developments in this respect.

Article 6. Public officials not engaged in the administration of the State. In its previous comments, the Committee noted the Government's indication that the legislation guaranteeing the right of collective bargaining of public servants and employees in State enterprises (Ordinance on the public service) was currently under revision with the technical assistance of the Office. *The Committee trusts that the current legislative process will make it possible to give full effect to the Convention in relation to public officials not engaged in the administration of the State and it requests the Government to report any developments in this regard.*

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

Malaysia

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

The Committee notes the observations received on 1 September 2015 of the International Trade Union Confederation (ITUC) and of the Malaysian Trades Union Congress (MTUC), concerning matters addressed by the Committee as well as allegations of anti-union discrimination and interference in several sectors, including dismissals and non-recognition of unions. *The Committee requests the Government to provide its comments in this respect.*

The Committee further notes that, in response to the 2014 observations of the World Federation of Trade Unions (WFTU) and the National Union of Bank Employees (NUBE), the Government states that the matters raised therein are the object of two cases pending before the Industrial Court of Malaysia. *The Committee requests the Government to provide information on the outcome of the judicial proceedings.*

The Committee also notes the Government's statement that Malaysia is currently conducting a holistic review of its main labour laws – the Employment Act 1955, the Trade Unions Act 1959 and the Industrial Relations Act 1967 (IRA). *The Committee firmly trusts that the Government will take into account the following comments to ensure the full conformity of these Acts with the Convention and, recalling that the technical assistance of the ILO is at its disposal, it requests the Government to inform of any developments in this regard.*

Articles 1 and 4 of the Convention. Trade union recognition for purposes of collective bargaining. Duration of proceedings for the recognition of a trade union. In its previous comments, the Committee had considered that the average duration of proceedings for the recognition of a union for collective bargaining purposes indicated by the Government (nine months) was excessively long, and requested the Government to take measures to modify the legislation in order to reduce the length of proceedings. The Committee notes that, in response to this request, the Government states that the average duration of the recognition process is: (i) just over three months in proceedings resolved by voluntary recognition; and (ii) four-and-a-half months for claims resolved by the Industrial Relations Department, when these do not lead to judicial review. The Government thus affirms that a number of cases were settled in less than the nine-month average previously noted, depending on whether the parties concerned cooperated and whether they resorted to judicial review. *Considering that the duration of proceedings can still be excessively long, the Committee requests the Government, in consultation with the social partners, to take any necessary measures to modify the legislation in order to further reduce the length of proceedings for the recognition of trade unions.*

Criteria and procedure for recognition. The Committee had noted in its previous comments that, under section 9 of the IRA, should an employer reject a union's claim for voluntary recognition for the purpose of collective bargaining, the union has to: (i) inform the Director General of Industrial Relations (DGIR) for the latter to take appropriate action, including a competency check; and (ii) when the matter is not resolved by the DGIR, the Minister decides on the recognition, a decision that may be subject to judicial review by the High Court. The Committee had requested the Government to provide information concerning the requirements to fulfil the competency check and the criteria applicable

to the decisions of the DGIR and/or the Minister. The Committee notes the Government's indication that recognition on a mandatory basis is granted subject to the competency of the trade union concerned to represent the particular workpeople and the strength of their membership. The Government indicates that the competency check is stipulated under section 9(4A)(b), which refers to a secret ballot to ascertain the percentage of the workpeople or class of workpeople, in respect of whom recognition is being sought, who are members of the trade union making the claim. The Committee also notes that the MTUC criticizes the methodology to ascertain majority for union recognition by secret ballot, noting that the Industrial Relations Department is using the total number of workers on the date sought by the union instead of the total number of the participants in the ballot and that in certain instances more than 50 per cent of the workforce was migrant and had repatriated to their home country, yet was considered as counting against the union for the purposes of the secret ballot. ***The Committee requests the Government to provide further information on the criteria and procedure to assess the competency of a trade union to be recognized for the purposes of collective bargaining, including the percentage required in a secret ballot to attain recognition and the workers considered to calculate the percentage (whether those present at the ballot or the total number of workers and, in the latter case, the methodology and data used for such determination).***

Refusal to apply orders of recognition and of reinstatement In its previous comments, addressing the ITUC's observations to apply any sanctions against employers who opposed the directives of the authorities granting trade union recognition or refused to comply with Industrial Court orders to reinstate unlawfully dismissed workers, the Committee had requested the Government to provide: (i) details about the institutional operation of the Legal Division of the Industrial Relations Department; and (ii) information and statistics on any sanctions against employers opposing such directives or refusing to comply with reinstatement orders. The Committee duly notes the information provided by the Government: (i) on the composition and functioning of the Legal Division of the Industrial Relations Department; and (ii) that in the last two years no cases have been reported: (a) regarding employers opposing the directives of the authorities granting trade union recognition, except in cases where the employer obtained a stay from court due to judicial review; or (b) regarding employers refusing to comply with Industrial Court orders to reinstate unlawfully dismissed workers. The Committee also notes the observations of the ITUC and the MTUC alleging continued difficulties to ensure the recognition of trade unions, anti-union discrimination practices, and backlog of cases in the Industrial Courts in Penang and Kuala Lumpur. ***Taking note of the information provided by the Government, as well as of the allegations of the ITUC and the MTUC, the Committee trusts that the Government will take any necessary measures to ensure the availability and swift operation of efficient remedies to protect workers against anti-union discrimination and to ensure compliance with the decisions regarding union recognition.***

Migrant workers. In its previous comments, considering that the requirement for foreign workers to obtain the permission from the Minister of Human Resources in order to be elected as trade union representatives, hinders the right of trade union organizations to freely choose their representatives for collective bargaining purposes, the Committee requested the Government to take measures in order to modify the legislation. The Committee notes that the Government simply states in its report that it has taken note of the request. ***Firmly hoping that it will soon be in a position to observe progress on the matter, the Committee reiterates its previous request.***

Scope of collective bargaining. The Committee had previously urged the Government to take measures to amend the legislation so as to bring section 13(3) of the IRA, which contains restrictions on collective bargaining with regard to transfer, dismissal and reinstatement (some of the matters known as "internal management prerogatives"), into full conformity with Article 4 of the Convention. The Committee notes that the Government: (i) once again indicates in its report that it intends to retain said provision to maintain industrial harmony and speed up the collective bargaining process; (ii) states that if both parties agree they may negotiate the provisions under section 13(3) during the collective bargaining process; and (iii) notes that the issue will be addressed in the holistic review of labour laws currently taking place. The Committee observes that section 13(3) of the IRA provides that the abovementioned excluded matters may not be included by a trade union in its proposals for collective bargaining. The Committee recalls again, in this regard, that measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with the Convention; and tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining are a particularly appropriate method to resolve these difficulties. ***The Committee once again requests the Government to take measures to amend section 13(3) of the IRA so as to remove these restrictions on collective bargaining matters, and to initiate tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining.***

Compulsory arbitration. In its previous comments, the Committee had noted that section 26(2) of the IRA allows compulsory arbitration by the Minister of Labour of his own motion in case of failure of collective bargaining. The Committee had requested the Government to take measures to ensure that the legislation only authorizes compulsory arbitration in essential services in the strict sense of the term, for public servants engaged in the administration of the State or in cases of acute national crisis. The Committee notes that the Government reiterates that, although the provision accords discretionary powers to the Minister to refer a trade dispute to the Industrial Court for arbitration, in practice the Minister only makes the referral when conciliation has failed to resolve the dispute amicably, and when the dispute is referred to the DGIR. The Government also indicates that the matter will be addressed in the holistic review of labour laws under way. The Committee recalls that the imposition of compulsory arbitration procedure if the parties do not reach agreement on a draft collective agreement raises problems in relation to the application of the Convention. ***Reiterating its***

previous comments, the Committee urges the Government to take measures to ensure that the legislation only authorizes compulsory arbitration in essential services in the strict sense of the term, for public servants engaged in the administration of the State or in cases of acute national crisis.

Restrictions on collective bargaining in the public sector. The Committee has for many years requested the Government to take the necessary measures to ensure the right of public servants not engaged in the administration of the State to bargain collectively over wages, remuneration and other employment conditions. The Committee notes with *regret* that the Government, invoking the peculiarities of the public service, once again reiterates that the right to collective bargaining cannot be extended to employees of the public sector. The Government once again points out that the public service can discuss with its employer on matters concerning conditions of work through the Joint National Council and the Joint Agency Council. Nevertheless, the Committee, while recognizing the singularity of the public service which allows special modalities, considers that simple consultation with unions of public servants not engaged in the administration of the State do not meet the requirements of *Article 4* of the Convention. ***Therefore, the Committee urges the Government once again to take the necessary measures to guarantee the right of public servants not engaged in the administration of the State to bargain collectively over wages, remuneration and other employment conditions, in conformity with Article 4 of the Convention.***

Malta

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015.

The Committee also notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3 of the Convention. Right of organizations to freely organize their activities and to formulate their programmes. In its previous comments, the Committee noted that under section 74(1) and (3) of the Employment and Industrial Relations Act 2002 (EIRA), where disputes have been referred to conciliation to promote an amicable settlement of a trade dispute and conciliation has not resulted in a settlement, one of the parties may notify the Minister and the Minister shall refer the dispute to the Tribunal for settlement.

The Committee recalls that compulsory arbitration to end a collective labour dispute is only accepted if it is at the request of both parties involved in a dispute, or in the 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, namely those services whose interruption would endanger the life, personal safety or health of the whole or part of the population. ***In this respect, the Committee requests once again the Government to take the necessary measures to amend section 74(1) and (3) of the EIRA to ensure the respect of these principles. The Committee requests the Government to indicate any developments in this regard and to indicate in its next report any measures taken to bring its legislation into conformity with the Convention.***

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: 1965)

The Committee notes with *regret* that the Government's report has not been received. It expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

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 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.

Mauritania

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1961)

The Committee takes note of the observations of the International Trade Union Confederation (ITUC), received on 1 September 2015, reporting systematic arrests of trade unionists during demonstrations. *The Committee requests the Government to send its comments on this matter.* The Committee takes note of the observations of the General Confederation of Workers of Mauritania (CGTM), received on 28 August 2015, and the Government's reply. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature.

Article 3 of the Convention. Trade union elections. The Committee noted previously the process initiated in 2014 to adopt a legal framework for the determination of representativeness criteria in the private and public sectors with a view to organizing corresponding elections. According to the Government, Decree No. 156-2014/PM of 21 October 2014 on determining the representativeness of trade union organizations sets the criteria at establishment level and up to interoccupational and national level. The Decree also organizes the trade union representativeness of public servants and contractual employees of the State. The Committee also notes the information to the effect that draft decrees are currently before the National Council for Labour, Employment and Social Security (CNTESS) for an opinion prior to their adoption. These are draft orders establishing arrangements for the collection and consolidation of election results; establishing rules and practical arrangements for organizing the election of staff delegates in enterprises and establishments; and establishing practical arrangements for the organization and functioning of the National Council on Social Dialogue. Lastly, the draft order establishing rules and practical arrangements for the organization of elections to joint administrative committees in the public service is before the Higher Council for the Public Service and Administrative Reform for its opinion prior to adoption. *The Committee requests the Government to continue to provide information on the progress made in the organization of elections of workers' representatives for determining trade union representativeness in the public and private sectors. The Committee hopes that the Government will continue, as it has requested, to benefit from technical assistance from the Office to this end. Lastly, in view of the ITUC's observations on the exclusion of the CGTM from consultations in the CNTESS, the Committee trusts that the Government will include all the organizations concerned in its consultations on the process of legislative reform that it has initiated in view of the elections.*

Articles 2 and 3. Legislative amendments. The Committee recalls that for several years it has been requesting the Government to take measures to amend certain provisions of the Labour Code to make them fully consistent with the Convention. The Committee notes the information supplied by the Government to the effect that a committee in charge of the revision of the Labour Code was set up in July 2015 and should complete its work before the end of the year. In the course of its work, the abovementioned committee has already consulted the social partners and other institutions. *The Committee again expresses the firm hope that in the near future the Government will report tangible progress in the revision of the Labour Code to bring it fully into conformity with the Convention. The Committee trusts that the Government will take due account in this connection of all the points recalled below.*

- *Right of workers to establish and join organizations of their own choosing without prior authorization. The Committee requests the Government to take measures to amend section 269 of the Labour Code so as to remove any obstacles that prevent minors who have access to the labour market (14 years according to section 153 of the Labour Code), whether as workers or apprentices, from exercising the right to organize without permission from the parents or guardian being necessary.*
- *Right to organize of magistrates.* The Committee recalls that for many years it has been requesting the Government to take steps to ensure that magistrates enjoy the right to form and join organizations of their own choosing, in accordance with Article 2 of the Convention. *Noting the information supplied by the Government to the effect that magistrates now have their own organization in which they exercise their trade union rights in full, the Committee requests the Government to indicate the legal basis for enabling this progress.*
- *The right of workers' organizations freely to elect their representatives and organize their administration and activities in full freedom, without interference from the public authorities. The Committee requests the Government to take measures to amend section 278 of the Labour Code to ensure that any change in the administration or leadership of a trade union may take effect as soon as it is notified to the competent authorities and without the latter's approval being necessary.*

- *Compulsory arbitration. The Committee requests the Government to take measures to amend section 350 of the Labour Code to ensure that the possibility for the Ministry of Labour to resort to compulsory arbitration in the event of a collective dispute is limited to cases involving an essential service in the strict sense of the term, that is a service the interruption of which would endanger the life, personal safety or health of the whole or part of the population, and to situations of acute national crisis.*
- *Duration of mediation. Recalling that the maximum duration (120 days) of a mediation procedure before a strike may be called, stipulated in section 346 of the Labour Code, is too long, the Committee requests the Government to take measures to amend this provision in order to reduce the maximum duration.*

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

Mauritius

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

The Committee notes the observations from the International Organisation of Employers (IOE) and the Mauritius Employers' Federation (MEF) received on 31 August 2015. It also notes the Government's response to the observations made by the International Trade Union Confederation (ITUC) in 2014.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee takes due note of the debate which took place within the Conference Committee in June 2015 and the ensuing conclusions.

Article 1 of the Convention. Alleged acts of anti-union discrimination. The Committee previously requested the Government to conduct the necessary inquiries into allegations of anti-union discrimination made by the ITUC in 2014. In this regard, the Committee notes that the Government indicates that: (i) as regards the suspension of a trade union leader, an agreement was reached to the satisfaction of the parties before the Commission for Conciliation and Mediation (CCM); and (ii) as regards the alleged prejudicial changes to the employment contracts of 37 female workers after they joined a union, the information provided to the Government was insufficient to be able to carry out an investigation.

Article 4. Collective bargaining. In its previous observation, the Committee noted the Government's indication that statistics were not available allowing it to comment on the alleged reduction in collective agreements in 2009, that 43 collective agreements were registered for the period June 2010–May 2014; and that there was no legislative impediment to collective bargaining in export processing zones (EPZs), the textile sector or for migrant workers. The Committee requested the Government to provide information on any concrete measures taken or envisaged to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements, in EPZs, the textile sector and for migrant workers. The Committee also requested the Government to take measures in order to compile statistical information on collective agreements in the country and on the use of conciliation services.

The Committee notes from the information provided by the Government to the Conference Committee that: (i) while there is no legal impediment to collective bargaining for EPZ workers, the Government will do everything to encourage and promote the full development and utilization in the EPZs of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, including awareness-raising campaigns to sensitize workers of their rights; and (ii) since the amendment of the Employment Relations Act (ERA) in 2013, a conciliation service is provided by the Minister upon the request of the parties to a labour dispute at any time before a lawful strike takes place. The Committee duly notes that, in its conclusions ensuing from the debate in June 2015, the Conference Committee urged the Government to "take concrete measures to promote collective bargaining in the EPZs and provide information to the Committee of Experts on the state of collective bargaining in the Zones". The Committee notes with *regret* that the Government has failed to provide any information in this respect in its report. ***The Committee urges the Government to provide detailed information on the current situation with regard to collective bargaining in the EPZs, as well as on the concrete measures taken or envisaged to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to regulating terms and conditions of employment by means of collective agreements, in EPZs, the textile sector and for migrant workers (for example, training and information activities, seminars with the social partners, etc.). Furthermore, in order for it to be able to review the functioning of collective bargaining in practice, the Committee once again requests the Government to take measures in order to compile statistical information on collective agreements in the country (for example, number of agreements concluded in the public and private sectors as well as in EPZs, branches covered, number of workers covered, etc.) and on the use of conciliation services.***

Interference in collective bargaining. The Committee had previously noted the 2014 observations from the IOE and the MEF alleging that, in 2010, the Government had intervened in the collective bargaining process in the sugar

industry by referring the 21 issues that could not be resolved during the collective bargaining process to the National Remuneration Board (NRB). The Committee had noted the Government's subsequent indication that the dispute had been resolved and that the court proceedings lodged by the MEF in this regard had been withdrawn. The Committee further notes that the Government indicated to the Conference Committee that: (i) the Minister of Labour had withdrawn the referral of the 21 issues to the NRB pursuant to an agreement reached by the parties in August 2012; (ii) the referral had been made in a very specific context with a view to avoiding a strike in the sugar industry, which would have had negative economic effects; and (iii) it was not the policy of the Government to request the NRB to intervene in cases where a final collective agreement had been concluded. The Committee also notes the Worker members' statements to the Conference Committee that: (i) the Government had justified its interference in the bargaining process to set wages in the sugar cane sector on the grounds of an imminent threat of strike action which had to be avoided if it were to honour its commitments to the European market; and (ii) negotiations had therefore been held under Government auspices, and those provisions on which no agreement had been reached had been passed on to a compulsory arbitration board.

Moreover, the Committee notes the statements by the Employer members to the Conference Committee and the observations submitted by the IOE and the MEF, according to which: (i) the same problems had arisen again in November-December 2014; (ii) following the expiration of the collective agreement in the sugar industry on 31 December 2013, and after months of protracted negotiations, the union had decided to take strike action; and (iii) the Government had intervened, requiring the signature of a collective agreement and referring the three issues that had remained unresolved during collective bargaining to the NRB and to compulsory arbitration, as it had done in 2010. In this regard, the Committee notes that the Government states in its report and indicated to the Conference Committee that: (i) following negotiations, no collective agreement had been concluded, and both parties had referred the dispute to the CCM where no agreement could be reached; (ii) the strike action had negative economic effects; (iii) the Minister of Labour, acting under section 79A "Conciliation service by Minister" of the ERA, had brought the two parties to the negotiating table and an interim collective agreement had been reached with the consent of both parties; (iv) in the absence of agreement between the parties, the dispute had then been referred to an arbitrator appointed by the Government, who rendered an award on 31 July 2015 concerning wage increases; and (v) the allegation that arbitration was imposed is not justified as the parties voluntarily agreed on the appointment of the arbitrator.

The Committee duly notes that the Conference Committee urged the Government, in its conclusions ensuing from the debate in June 2015 to: (i) "refrain from violating Article 4 of the Convention and avoid such violations in the future"; (ii) "cease undue interference in private sector collective bargaining by selectively reviewing the Remuneration Orders in response to the outcome of collective bargaining"; and (iii) "engage in social dialogue with the social partners regarding collective bargaining and the Remuneration Orders".

The Committee notes that there is disagreement with regard to the events in 2014, since the Government claims in its report that recourse to arbitration in 2014 was voluntarily agreed upon by the parties, whereas the Employer members denounced before the Conference Committee, just like the IOE and MEF in their observations, that in 2014 the Government referred a dispute to compulsory arbitration during a strike in the sugar sector. The Committee observes, however, that, with respect to 2012, both social partners stated before the Conference Committee that the Government had interfered in collective bargaining and referred the dispute to compulsory arbitration in the context of an imminent strike in the sugar sector, and that the Government did not challenge this allegation. The Committee recalls that the imposition of a compulsory arbitration procedure if the parties do not reach agreement on a draft collective agreement through collective bargaining is incompatible with the voluntary nature of collective bargaining and raises problems in relation to the application of Convention No. 98. The Committee recalls that recourse to compulsory arbitration to bring an end to a collective labour dispute in the private sector is acceptable in conflicts in 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 in situations of acute national or local crisis. Noting that regard must be had to the particular circumstances prevailing in a country, the Committee considers that, at the time of recourse to compulsory arbitration in the sugar sector, there has been no clear and imminent threat to the life, personal safety or health of the whole or part of the population, and that the sector does thus not constitute an essential service within the strict sense of the term.

Considering that recourse to public authorities like the NRB should be voluntary, the Committee firmly hopes that, in the future, the Government will make every effort to refrain from having recourse to compulsory arbitration with the effect of bringing to an end collective labour disputes in the sugar sector, and that in any event it will give priority to collective bargaining of a voluntary nature as the means of determining terms and conditions of employment in that sector. Finally, noting the Government's indication that it has taken due note of the conclusions of the Conference Committee and that it undertakes to consider to the extent possible, in the context of the labour law review currently being carried out in consultation with employers' and workers' organizations, how best to encourage and promote the full development of collective bargaining, the Committee requests the Government to provide information on any developments in this respect.

The Committee reminds the Government that if it so wishes it may take advantage of ILO technical assistance in relation to the issues raised in this observation.

[The Government is asked to reply in detail to the present comments in 2016.]

Mexico

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

The Committee notes the observations of the IndustriALL Global Union (IndustriALL), received on 29 August 2014 and 1 September 2015, the National Trade Union of Workers in the Iron and Steel Industry, Derivatives, Similar and Related Products of the Mexican Republic (SNTIHAPDSC), received on 31 August 2015, the International Trade Union Confederation (ITUC), received on 1 September 2015, and the National Union of Workers (UNT), received on 10 September 2015. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee notes the discussion on the application of the Convention that took place at the Conference Committee on the Application of Standards in June 2015.

Civil liberties and trade union rights. With regard to the murder of two rural workers' leaders, referred to in its previous comment, the Committee notes the Government's indication that: the victims were not dependent workers, but coffee producers; they were not members of any trade union; their complaints were related to the devastation caused by the hurricane and the issue of insecurity among the population; and the events were not related to the Convention.

The Committee notes with **concern** the allegations of the ITUC and IndustriALL relating to acts of violence against trade unionists, which refer to cases of attacks and arrests in the mining, telephone, electricity and footwear sectors, and protests by agricultural workers. **The Committee requests the Government to provide its comments on this subject.**

Article 2 of the Convention. Registration of trade unions. The Committee observes that the Committee on the Application of Standards requested the Government to fulfil without delay its obligation to publish the registration and by-laws of trade unions in the local conciliation and arbitration boards in the 31 states in the country, not just in the Federal District and San Luis de Potosí, in a period of three years as established in the Federal Labour Act. In this regard, the Committee notes that the observations of the SNTIHAPDSC allege delays and a lack of progress in implementing the provisions on the transparency and publicity to be given to trade union information, established in section 365bis of the Federal Labour Act (LFT).

The Committee notes the Government's indication that: (i) transitional section 5 of the 2012 Decree amending the 2012 LFT provides for a period of up to three years to transform the conciliation boards into local conciliation and arbitration boards, for which purpose the respective legislative authorities must approve budgets to guarantee their operation in accordance with the LFT; (ii) the Ministry of Labour and Social Welfare and the Federal Conciliation and Arbitration Board publish registers of trade unions on their respective websites; (iii) the local boards of San Luis de Potosí and the Federal District have a section on their websites where registers of associations can be consulted, with over 650 and 900 registrations published, respectively; (iv) the other local boards are in the process of publishing this information and are still within the time limit established; and (v) the Government plans to promote the effective application of section 365bis of the LFT in the context of the National Conference of Conciliation and Arbitration Boards. The Committee notes the Government's indication that, as an additional measure adopted to ensure trade union transparency, section 15 of the General Act on transparency and access to public information of 4 May 2015, requires administrative and judicial labour authorities to publish and update the information they have on trade unions. **The Committee, taking due note of the measures indicated by the Government, firmly hopes that the legal requirement for all conciliation and arbitration boards to publish registers and by-laws of trade unions is met without delay. The Committee requests the Government to provide information in this regard.**

Representativity of trade unions and protection contracts. The Committee observes that the Committee on the Application of Standards requested the Government to identify, in consultation with the social partners, additional legislative reforms to the 2012 Labour Act necessary to comply with the Convention, emphasizing that this should include reforms that would prevent the registration of trade unions that cannot demonstrate the support of the majority of the workers they intend to represent, by means of a democratic election process – so-called protection unions. The Committee notes that the observations received from the ITUC, IndustriALL and the SNTIHAPDSC all consider that the issue of protection unions and contracts is one of the most serious obstacles to the exercise of freedom of association in the country. These organizations report that: (i) non-democratic trade unions and employers are signing collective protection contracts without the participation or even the knowledge of workers, with the aim of reducing wages and preventing the establishment of independent trade unions; (ii) once a protection contract is registered, it is extremely difficult to establish an independent trade union in the enterprise and to conclude a legitimate collective agreement (IndustriALL emphasizes that the only means of challenging the control exercised by the protection union (elections and recounts to determine the title holder of the agreement) is not sufficiently regulated, grants broad powers to the labour authorities and can involve significant delays); (iii) the problem of protection unions and contracts persists and is affecting thousands of workplaces (the organizations describe recent examples that illustrate the difficulties experienced in establishing independent trade unions); (iv) the 2012 labour reform did not include the measures proposed to limit the practice of protection unions and

contracts, in particular the proposal for section 388bis, which would have required the approval of collective agreements by workers (IndustriALL also proposes the simplification of trade union election and recount procedures, and the requirement for trade unions and employers to distribute copies of collective agreements to all the workers concerned); and (v) the Government has yet to give effect to the recommendations of the Committee on Freedom of Association and the Committee on the Application of Standards in this regard. The Committee notes that, regarding dialogue with the social partners to seek a solution to the issue of protection unions, the Government indicates that it has planned a meeting with the ITUC, and with the national organizations of employers and workers to address the matter. Furthermore, the Committee notes the Government's indication that the National Conference of Labour Ministers issued a joint statement condemning any collusion that restricted the freedom of workers to decide who they want to represent them or their will to sign a collective agreement. ***The Committee requests the Government, in consultation with the social partners and in accordance with the conclusions of the Committee on the Application of Standards, to take all the necessary measures without delay to find effective solutions to the issues raised, and to provide information in this regard.***

Articles 2 and 3. Possibility of trade union pluralism in state bodies and the possibility to re-elect trade union leaders. The Committee recalls that for years it has been commenting on the following provisions: (i) the prohibition of the coexistence of two or more unions in the same state body (sections 68, 71, 72 and 73 of the Federal Act on State Employees (LFTSE)); (ii) the prohibition of trade unionists from leaving the union of which they have become members (section 69 of the LFTSE); (iii) the prohibition of unions of public servants from joining trade union organizations of workers or rural workers (section 79 of the LFTSE); (iv) the reference to the Federation of Unions of Workers in the Service of the State (FSTSE) as the single central trade union federation recognized by the State (section 84 of the LFTSE); (v) the legislative declaration establishing the trade union monopoly of the National Federation of Banking Unions (FENASIB) (section 23 of the Act issued under article 123(B)(XIIIbis) of the Constitution); and (vi) the prohibition of re-election in trade unions (section 75 of the LFTSE).

The Committee takes due note that the Government: (i) indicates that, in accordance with the case law of the Supreme Court of Justice, and with practices and customs, these legislative restrictions on the freedom of association of public servants are not applied; (ii) adds that the exclusion clause (whereby workers would lose their jobs if they gave up their membership of a trade union) is prohibited by section 76 of the LFTSE; and (iii) provides examples that illustrate the non-application of the provisions in question (the Government indicates that: there is more than one trade union in 13 state bodies; several trade unions of public servants have joined organizations of workers; four federations have been registered in addition to the FSTSE; several banking unions are not members of the FENASIB, as they are either independent or members of the UNT; and a number of trade union leaders have been re-elected). The Committee also notes the Government's indication that the legislative authority is making efforts to update the LFTSE and that there are legislative initiatives to amend some of the sections concerned (68, 69, 71, 72 and 73). The Committee recalls the importance of amending or repealing, in relation to all of these issues, all provisions that are contrary to the Convention, even if they have been declared inapplicable or are not given effect, in order to promote legal security. ***The Committee notes the legislative initiatives indicated and requests the Government to take the additional measures that are necessary to amend all the restrictive provisions mentioned to bring them into conformity with national case law and the Convention. The Committee requests the Government to provide information on all developments in this regard.***

Article 3. Right to elect trade union representatives freely. Prohibition on foreign nationals becoming members of trade union executive bodies (section 372(II) of the LFT). The Committee notes the Government's indication that section 372(II) of the LFT, which prohibits foreign nationals from becoming members of trade union executive bodies, was tacitly repealed by the amendment of section 2 of the LFT, which prohibits all discrimination based on ethnic or national origin. The Committee also notes that the Government states that the registration authorities do not require trade union leaders to have Mexican nationality, and that this prohibition is not applied in practice. ***Noting with interest the Government's indication that foreign nationals can become members of trade union executive bodies, and recalling the need to ensure the conformity of the legislative provisions with the Convention, even if they are in abeyance or are not applied in practice, the Committee requests the Government to take the necessary measures to amend section 372(II) of the LFT, to provide explicitly that the restriction has been tacitly repealed, and to provide information on this subject, including whether the Government is aware of any foreign nationals who are members of particular executive bodies.***

Application in practice. Conciliation and arbitration boards. The Committee notes the observations of the ITUC, IndustriALL and the SNTIHAPDSC, which report that the operation of the conciliation and arbitration boards is impeding the exercise of freedom of association, and which: (i) denounce the fact that the boards are controlled by federal Government and state bodies and lack the independence necessary for the discharge of their functions; (ii) allege that there is national consensus on the corruption and ineffectiveness of the boards (with particular reference to the critical conclusions of an April 2015 study on everyday justice by the Centre for Economic Investigation and Education (CIDE), conducted at the request of the President of the Republic); (iii) consider that the elections of workers representatives to such boards are not transparent and that the boards' members may be subject to conflicts of interests, especially when workers are represented by protection unions; and (iv) propose the modification of the boards' functions and powers, or their replacement, for example, by tribunals under the responsibility of the judicial authorities. The Committee observes that the Committee on Freedom of Association examined allegations of lack of impartiality in the operation of the conciliation and arbitration boards, invited the Government to initiate a constructive dialogue on the subject with the

social partners and observed recently that the reform of the LFT was having a positive impact on the operation of the Federal Conciliation and Arbitration Board (see Case No. 2694, 370th Report, paragraph 567). *The Committee requests the Government to provide its comments on this subject, and encourages it to continue examining, through constructive dialogue with the social partners, the issues raised by trade unions in relation to the conciliation and arbitration boards with regard to the exercise of the trade union rights enshrined in the Convention.*

The Committee trusts that the Government will give full effect without delay to the conclusions of the Committee on the Application of Standards and reminds the Government that it can avail itself of the technical assistance of the Office.

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

[The Government is asked to reply in detail to the present comments in 2016.]

Montenegro

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2006)

The Committee notes the observations made by the International Trade Union Confederation (ITUC) in a communication received on 4 August 2011, and the Government's comments thereon.

Article 1 of the Convention. Protection against anti-union discrimination. The Committee previously noted that the new Labour Act enshrines: (i) protection against acts of direct and indirect discrimination of persons seeking employment and employed persons on the ground of membership in trade union organizations (sections 5–10); and (ii) protection against acts of anti-union discrimination of trade union representatives up to six months after termination of trade union activities (section 160). The Committee noted however that section 172, which imposes strong fines for various infringements by employers (including failure to provide employees with free exercise of trade union rights, or the union with conditions for exercising trade union rights), does not provide for fines in cases of acts of discrimination prohibited under sections 5–10 and 160, and requested the Government to take the necessary measures to amend the legislation so as to ensure sufficiently dissuasive sanctions against acts of anti-union discrimination linked to the performance of legitimate trade union activities. In the absence of additional information provided by the Government, the Committee reiterates that the Labour Act neither provides for fines in case of the acts of anti-union discrimination against workers due to their trade union membership (sections 5–10), nor against trade union representatives (section 160). *Recalling that legal standards on protection against acts of anti-union discrimination are inadequate if they are not accompanied by sufficiently dissuasive sanctions and effective and expeditious procedures to ensure their application in practice, the Committee requests the Government once again to take the necessary measures to amend the legislation so as to ensure sufficiently dissuasive sanctions – including dissuasive fines – for acts of anti-union discrimination against union members and officials on grounds of trade union membership or legitimate trade union activities.*

Article 2. Protection against interference. In its previous comments, the Committee had noted that there was no explicit provision against acts of interference by employers or employers' organizations in the establishment, functioning and administration of trade unions and vice versa. The Committee notes once again sections 154 and 159 of the Labour Act mentioned by the Government as well as the Government's reference to sections 53 and 54 of the General Collective Agreement of 2014, according to which employers are required to guarantee the respect of the right to participation in trade union activities at the local, national and international levels; the inviolability of trade union funds, property, premises, correspondence and telephone conversations; and the access of media to trade union premises. While noting that the new Labour Act and the General Collective Agreement cover certain acts of interference by the employer, the Committee observes that the provisions do not specifically cover acts of interference designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to place workers' organizations under the control of employers or employers' organizations through financial or other means. *The Committee requests the Government to take measures to adopt specific legislative provisions prohibiting such acts of interference on the part of the employer or employers' organizations as defined in Article 2(2) of the Convention and making express provision for rapid appeal procedures, accompanied with effective and sufficiently dissuasive sanctions.*

Article 4. Promotion of collective bargaining. The Committee had previously requested the Government to: (i) take the necessary measures to amend sections 149 and 150 of the new Labour Act so as to ensure that the Government may participate in the negotiation of a general collective agreement on issues linked to the minimum wage – as it is enabled now – but not on the matters linked to the terms of employment; and (ii) provide information on any developments regarding the promotion of collective bargaining in the public and private sectors. The Committee notes the information supplied by the Government concerning the seminar on promotion of social dialogue held in March 2014. As to the Government's reference to the 2011 amendments of sections 149 and 150 of the Labour Act, the Committee observes that the amendments did not address the issues raised in its previous comment, and that the 2014 General Collective Agreement was concluded between the Government, the representative national employers' association and the

representative national trade union organizations and deals, in addition to salary, fringe benefits and other remuneration, with terms of employment such as annual leave and termination of employment.

The Committee once again recalls that *Article 4* of the Convention envisages collective bargaining between employers and their organizations and workers' organizations in a bipartite structure and that, while the presence of the Government would be justifiable if the general collective agreement was limited to the establishment of the minimum wage rate, the negotiation of the other terms of employment should take place in a bipartite context and the parties should enjoy full autonomy in this regard. ***The Committee requests the Government to take the necessary measures to amend sections 149 and 150 of the Labour Act so as to ensure that the Government may solely participate in the negotiation of a general collective agreement that is limited to issues linked to the minimum wage, and that the matters relating to other terms of employment are subject to bipartite collective bargaining between employers and their organizations and workers' organizations.***

Rights of trade unions according to their representativeness. The Committee had previously requested the Government to provide information on the rights of trade unions with no representative status to negotiate on behalf of their members, when there is no union which fulfils the representativeness requirements at the level of the enterprise. The Committee notes the Government's indication that trade unions without representative status enjoy all rights under the Labour Act; but do not enjoy the rights granted by section 5 of the Act on trade union representativeness including the right to collective bargaining. The Committee observes that section 13 of the latter Act as amended provides that if there are two or more representative trade unions at an appropriate level for which representativeness has been determined under the law, all trade unions shall have the rights referred to in section 5. The Committee further observes that trade unions without representative status do not enjoy the right to collective bargaining but may merge for the purpose of fulfilling the representativeness requirements (section 14 of the Act on trade union representativeness).

Determination of trade union representativeness. As regards the procedure for the determination of representativeness at the enterprise level, the Committee previously noted that sections 15, 17 and 18 of the Act refer to various powers of a certain "director", for example, the power to establish a commission for determining the representativeness of trade unions and to decide on the representativeness at the proposal of the commission. The Committee had requested the Government to provide information as to the authority that this "director" represents, as well as on the mandate and procedure of the aforesaid commission. The Committee notes that the Government merely cites in its report sections 15–18 as last amended, and provides statistics and a list of representative trade unions at national and branch levels, as well as the number of appeals (three) filed with the board for determining representativeness pursuant to section 18. ***The Committee requests the Government once again to clarify the term "director" used in these provisions. Noting that section 17 of the Act on trade union representativeness as amended refers to the rules of procedure of the commission, the Committee requests the Government to provide a copy, as well as additional information on the mandate and procedure of the abovementioned board.***

Conditions for trade union representativeness. The Committee notes that the condition for trade unions to be able to bargain collectively at branch level is to affiliate a minimum of 15 per cent of the total number of workers employed in the relevant economic sector. ***The Committee considers that the required percentage could hamper the exercise of collective bargaining and requests the Government to consider reducing the threshold, in consultation with the most representative employers' and workers' organizations.***

Representativeness of employers' federations. In its previous comments, the Committee had noted that section 161 of the Labour Act provides that an employers' federation shall be considered as representative if its members employ a minimum of 25 per cent of employees in the economy of Montenegro and participate in the gross domestic product of Montenegro with a minimum of 25 per cent and that, should no association meet these requirements, employers may make an agreement to participate directly in the conclusion of a collective agreement. The Committee had requested the Government to take measures to either substantially reduce or repeal these minimums. ***Noting that the Government merely reiterates the above provision, the Committee requests the Government once again to take all necessary measures to either substantially reduce or repeal the minimum requirements established for an employers' association to be considered as representative, so as to allow for the conclusion of collective agreements by employers and employers' associations.***

In addition, the Committee notes the Rulebook on the manner and procedure for registering employers and determining their representation (No. 34/05) supplied by the Government, and in particular that, according to its section 12, the affiliation of employers' associations to international or regional employers' confederations is a prerequisite for them to be considered as being representative at the national level. The Committee considers that, for an employers' association to be able to negotiate a collective agreement, it should suffice to establish that it is sufficiently representative at the appropriate level, regardless of its international or regional affiliation or non-affiliation. ***The Committee requests the Government to take measures to amend Rulebook No. 34/05 in this regard.***

The Committee reminds the Government that the technical assistance of the Office remains at its disposal, if it so wishes, as regards the legal issues raised in this observation.

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

Mozambique

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

The Committee notes the observations of the Business Associations Confederation of Mozambique (CTA), attached to the Government's report, indicating that the content of the Convention is fully taken into account in the laws and regulations in force. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2014.

In its previous comments, the Committee noted the 2010 observations made by the International Trade Union Confederation (ITUC) concerning the application of the Convention. *The Committee once again requests the Government to provide its comments in this respect. With regard to the ITUC's observations of 2008 relating to serious acts of violence against striking workers in the sugarcane plantation sector, the Committee requests the Government to provide information on investigations carried out in relation to these matters and, in cases in which the alleged violations are found to be true, to take the appropriate measures to remedy them.*

Adoption of the Act on the right to organize in the public service. Further to its previous comments concerning the lack of recognition of the right to organize of public servants, the Committee notes with *satisfaction* the adoption of the Act on the right to organize in the public service, of 27 August 2014, which recognizes the freedom of association of public servants and establishes the legal framework for its exercise. The Committee is addressing this subject with a series of questions for the Government in a direct request.

Article 2 of the Convention. Registration of workers' and employers' organizations. In its previous comments, the Committee requested the Government to take the necessary measures to revise section 150 of the Labour Act, which allows the central authority of the labour administration a period of 45 days to register a trade union or an employers' organization. While noting that the Government had indicated in a previous report that this period is justified by the fact that the country does not have a modern computerized communications system, the Committee recalls that the excessive duration of the registration procedure represents a serious obstacle to the establishment of organizations, and that this time requirement should be shortened to a reasonable length, for example, not exceeding 30 days. *The Committee therefore requests the Government to initiate consultations with the social partners with a view to amending section 150 of the Labour Act as indicated, and to provide information on any progress achieved in this regard.*

Article 3. Penal responsibility of striking workers. In its previous comments, the Committee requested the Government to take the necessary measures to amend section 268(3) of the Labour Act, under the terms of which any violation of sections 199 (freedom to work of non-strikers), 202(1) and 209(1) (minimum services) constitutes a breach of discipline for which workers who are on strike are liable under both civil and penal law. Noting that the Government's report does not reply to the Committee's comment on this point, the Committee recalls that penal sanctions may only be envisaged where, during a strike, violence is committed against persons or property, or other serious breaches of the law, and only in accordance with the provisions punishing such offences. *The Committee therefore requests the Government to take the necessary measures to amend section 268(3) of the Labour Act as indicated, and to provide information on any progress achieved in this regard.*

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: 1996)

In its previous comments, the Committee noted the 2010 observations of the International Trade Union Confederation (ITUC) referring once again to acts of anti-union discrimination in export processing zones and the consistent violation of collective agreements. *Recalling that similar observations had already been brought to its attention and noting that the Government has still not provided information in reply, the Committee urges the Government to provide its comments in this respect and to ensure that the provisions of the Convention are applied in this sector.*

Adoption of the Act on trade union organization in the public service. The Committee notes with *satisfaction* the adoption on 27 August 2014 of the Act on trade union organization in the public service which recognizes the freedom of association and right to collective bargaining of public servants. With a view to ensuring that public servants and employees who are not engaged in the administration of the State (for example, workers in public enterprises, municipal employees and employees in decentralized institutions, teachers in the public sector) who are covered by the present Convention benefit from its guarantees, the Committee is addressing a series of questions and comments to the Government on certain provisions of the Act in a direct request.

Articles 1 and 2 of the Convention. Protection against anti-union discrimination and interference. In its previous comments, the Committee requested the Government to provide information on the number of complaints received concerning acts of anti-union discrimination and interference, and the amount of the fines imposed, with a view to being able to assess whether the penalties envisaged (between five and ten minimum wages, which may be doubled in the event of repeat offences) are sufficiently dissuasive in practice. The Committee notes with *regret* that the Government has still

not provided information on this point. *The Committee therefore once again requests the Government to provide detailed information on the number of complaints received concerning acts of anti-union discrimination and interference, and the amount of the fines imposed, including in export processing zones which, according to the ITUC, are the areas most frequently subject to anti-union discrimination and interference.*

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

Nigeria

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

The Committee notes the Government's reply to the 2010 observations of the International Trade Union Confederation (ITUC), relating to the storming of a trade union meeting by a combined team of army, police and the security services; beating of trade unionists who attended the meeting; arrests and detentions. The Committee notes that the Government indicates that the incident occurred at the State level and that it was immediately rescinded and rectified. The Government emphasizes that freedom of association is embedded in the Constitution, and that any act or omission of criminal nature in this context by any Nigerian is an issue for the police to investigate and prosecute. The Committee once again recalls that the rights of workers' and employers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations. It also wishes to recall that the arrest and detention, even if only briefly, of trade union leaders and trade unionists, for exercising legitimate trade union activities constitutes a violation of the principles of freedom of association enshrined in the Convention. ***Trusting that the Government will take all necessary measures to ensure the respect of these principles, the Committee requests the Government to provide further information on the results of the investigations carried out and of any judicial proceedings, and on sanctions imposed.***

The Committee also takes note of the observations provided by the ITUC in a communication received on 1 September 2015, which contain allegations of denial of the right to join trade unions; massive dismissals for trying to join trade unions; mass persecution of union members; arrests of union members; and other violations. ***The Committee requests the Government to provide its comments in this regard.***

The Committee notes the Government's reply to the 2014 observations of the Association of Senior Civil Servants of Nigeria (ASCSN), in which the ASCSN rejected the truthfulness of the allegations contained in an communication sent by Education International (EI) and the Nigeria Union of Teachers (NUT) in 2012. The Committee recalls that EI and the NUT had indicated that employers of teachers in private educational institutions resist the express wish of their employees to belong to the NUT, and that teachers in federal educational institutions have been coerced to join the ASCSN and thus have been denied the right to belong to the professional union of their own choice. In its report, the Government indicates that the inter-union dispute between ASCSN and NUT, which concerns the interpretation of the jurisdictional scope of trade unions as stipulated in the Third Schedule of the Trade Unions Act, was referred to the Industrial Court of Nigeria. The Government emphasizes that no worker was forced to belong to any union at any point in time. ***The Committee requests the Government to provide information on the outcome of the proceedings before the Industrial Court of Nigeria.***

The Committee also takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Civil liberties. In its previous comments, the Committee had noted the Government's indication that eight suspects had been arrested in connection with the assassination of Mr Alhaji Saula Saka, the Lagos Zonal Chairman of the National Union of Road Transport Workers. The Committee had requested the Government to provide information on the results of the investigations carried out and of any judicial proceedings. The Committee takes note of the Government's intention to provide information on the results of the judicial proceedings as soon as it obtains a copy from the courts. ***The Committee requests the Government to provide detailed information on the results of the judicial proceedings, and, in case of conviction, on the execution of the sentence.***

Organizing in export processing zones (EPZs). In its previous comments, the Committee had noted the Government's statement that the Federal Ministry of Labour and Productivity was still in discussion with the EPZ authority on the issues of unionization and entry for inspection in the EPZs. The Committee had also noted the ITUC's comments, according to which section 13(1) of the EPZ Authority Decree 1992, which provides that "no person shall enter, remain in or reside in a Zone without the prior permission of the Authority", makes it difficult for workers to join trade unions as it is almost impossible for worker representatives to gain access to the EPZs. In this respect, the Committee noted the Government's indication that: (i) the EPZ Authority is not opposed to trade union activities; (ii) the third part of the Federal Ministry of Labour and Productivity Guidelines on Labour Administration and Issues in Contract Staffing/Outsourcing in the Oil and Gas Sector regulates the right to freedom of association in the EPZs; and (iii) unionization in the EPZ's has commenced. The Committee further noted the Government's indication that the Ministerial Guidelines, which seek to prevent anti-union discrimination against any worker in the EPZs, will remain in force until the Export Processing Zone Act is amended. The Committee notes that section 3.13 of the abovementioned

Ministerial Guidelines, which are attached to the Government's report, states that "all workers in the free trade zones and export promotion zones shall not be denied the rights to freedom of association and collective bargaining". The Committee also notes, however, that section 3.2 of the said Ministerial Guidelines provides that "all contract staff under Manpower/Labour Contract shall belong either to the National Union of Petroleum & Natural Gas Workers (NUPENG) or Petroleum & Natural Gas Senior Staff Association of Nigeria (PENGASSAN) as appropriate". In this respect, the Committee recalls that *Article 2 of the Convention* provides that workers and employers shall have the right to establish and join organizations "of their own choosing". ***The Committee requests the Government to take the necessary measures, including by amending relevant Ministerial Guidelines and EPZ legislation, to ensure that EPZ workers enjoy the right to establish and join organizations of their own choosing, as enshrined in the Convention. It further requests the Government to indicate the measures taken or envisaged to ensure that representatives of workers' organizations are granted reasonable access to EPZs.***

The Committee welcomes the Government's indication of its intention to request ILO technical assistance.

Pending legislative issues

The Committee recalls that for a number of years it has been making comments on the matters below, and, **regretting** not having received any information in this regard, the Committee is bound to repeat them:

Article 2 of the Convention. Legislatively imposed trade union monopoly. In its previous comments, the Committee had raised its concern over the legislatively imposed trade union monopoly under section 3(2) of the Trade Union Act, which restricts the possibility of other trade unions from being registered where a trade union already exists. The Committee recalled that under *Article 2 of the Convention*, workers have the right to establish and to join organizations of their own choosing without distinction whatsoever, and that it is important for workers to be able to establish a new trade union for reasons of independence, effectiveness or ideological choice. ***The Committee therefore once again requests the Government to take measures to amend section 3(2) of the Trade Union Act taking into account the aforementioned principles.***

Organizing in various government departments and services. In its previous comments, the Committee requested the Government to take measures to amend section 11 of the Trade Union Act, which denied the right to organize to employees in the Customs and Excise Department, the Immigration Department, the prison services, the Nigerian Security Printing and Minting Company Limited, the Central Bank of Nigeria, and Nigeria Telecommunications. The Committee had noted that the Collective Labour Relations Bill, pending before the lower chamber of Parliament, would address this issue. The Committee noted that the Collective Labour Relations Bill was still pending before the National Assembly. ***The Committee firmly trusts that the Collective Labour Relations Act amending section 11 of the Trade Union Act will be adopted in the near future. The Committee also requests the Government to send a copy of the Collective Labour Relations Act, once it is adopted.***

Minimum membership requirement. The Committee had previously expressed its concern over section 3(1) of the Trade Union Act requiring 50 workers to establish a trade union, considering that even though this minimum membership would be permissible for industry trade unions, it could have the effect of hindering the establishment of enterprise organizations, particularly in small enterprises. The Committee had noted the Government's statement that section 3(1)(a) applies to the registration of national unions, and that at the enterprise level, there is no limit on the number of people required to establish a trade union. The Committee noted the Government's indication that the country operates an industry-based system, and that workers in small enterprises form branches of the national union. ***The Committee once again requests the Government to take measures to amend section 3(1) of the Trade Union Act, so as to explicitly indicate that the minimum membership requirement of 50 workers does not apply to the establishment of trade unions at the enterprise level.***

Article 3. Right of organizations to organize their administration and activities and to formulate programmes without interference from the public authorities. Administration of organizations. In its previous comments the Committee had requested the Government to take measures to amend sections 39 and 40 of the Trade Union Act in order to limit the broad powers of the registrar to supervise the union accounts at any time, and to ensure that such a power was limited to the obligation of submitting periodic financial reports, or in order to investigate a complaint. The Committee noted the Government's statement that the Collective Labour Relations Bill that addressed this issue has yet to be passed. ***The Committee once again expresses the firm hope that the Collective Labour Relations Act will fully take into account its comments and will be adopted without delay.***

Activities and programmes. The Committee recalls that it had previously commented upon certain restrictions to the exercise of the right to strike (section 30 of the Trade Union Act, as amended by section 6(d) of the Trade Union (Amendment) Act, imposing compulsory arbitration, requiring a majority of all registered union members for calling a strike, defining "essential services" in an overly broad manner, containing restrictions relating to the objectives of strike action and imposing penal sanctions including imprisonment for illegal strikes; and section 42 of the Trade Union Act, as amended by section 9 of the Trade Union (Amendment) Act, outlawing gatherings or strikes that prevent aircraft from flying or obstruct public highways, institutions or other premises). The Committee noted that the Government's indication that: (i) the right to strike of workers is not inhibited; (ii) the Collective Labour Relations Bill has taken care of the issue of essential services; (iii) in practice, trade union federations go on strike or protest against the Government's socio-

economic policies without sanctions; and (iv) section 42 as amended only aims at guaranteeing the maintenance of public order. The Committee expressed its hope that, in the process of legislative review, all measures would be taken to amend the abovementioned provisions of the Trade Union Act, taking into account the Committee's previous comments in regard to these matters. ***The Committee once again requests the Government to indicate the measures taken or envisaged in this respect.***

Article 4. Dissolution by administrative authority. In its previous comments, the Committee had requested the Government to take measures to amend section 7(9) of the Trade Union Act by repealing the broad authority of the Minister to cancel the registration of workers' and employers' organizations, as the possibility of administrative dissolution under this provision involved a serious risk of interference by the public authority in the very existence of organizations. The Committee noted that the Government reiterated that the issue had been addressed by the Collective Labour Relations Bill which was before the National Assembly. ***The Committee once again expresses the firm hope that the Collective Labour Relations Act will be enacted without further delay and adequately address the issue.***

Articles 5 and 6. Right of organizations to establish federations and confederations and to affiliate with international organizations. The Committee had noted that section 8(a)(1)(b) and (g) of the Trade Unions (Amendment) Act 2005 requires federations to consist of 12 or more trade unions in order to be registered. The Committee noted that according to section 1(2) of that the Trade Unions (International Affiliation) Act of 1996, the application of a trade union for international affiliation shall be submitted to the Minister for approval. The Committee considered that legislation that requires that government permission be obtained for the international affiliation of a trade union is incompatible with the principle of free and voluntary affiliation of trade unions with international organizations. With regard to the requirement in section 8(a)(1)(b) and (g) of the Trade Unions (Amendment) Act 2005 that federations shall consist of 12 or more trade unions, the Committee recalled that the requirement of an excessively high minimum number of trade unions to establish a higher level organization conflicts with ***Article 5. The Committee once again requests the Government to take the necessary measures to amend sections 8(a)(1)(b) and (g) of the Trade Unions (Amendment) Act 2005 and section 1 of the 1996 Trade Unions (International Affiliation) Act, so as to provide for a reasonable minimum number of affiliated trade unions in order not to hinder the establishment of federations, and to ensure that the international affiliation of trade unions does not require government permission.***

Recalling the Government representative's statement before the Conference Committee on the Application of Standards in 2011 that five Labour Bills had been drafted with the technical assistance of the ILO, and noting the Government's previous indication that the Labour Bills were before the National Assembly and had yet to be passed, the Committee urges the Government to take appropriate measures to ensure that the necessary amendments to the laws referred to above are adopted in the very near future in order to bring them into full conformity with the Convention.

[The Government is asked to reply in detail to the present comments in 2016.]

Panama

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1958)

The Committee notes the Government's detailed reply to the observations made by the International Trade Union Confederation (ITUC) in 2012. ***The Committee also notes the observations made by the ITUC on 1 September 2015 and requests the Government to provide its comments on this subject.*** The Committee also notes the observations of the National Confederation of United Independent Unions (CONUSI) and the National Council of Organized Workers (CONATO), received on 31 August 2015, as well as the Government's detailed reply to these observations and to earlier observations from these organizations that were received on 14 March 2014. The Committee further notes the observations of the International Organisation of Employers (IOE) of September 2013 and the Government's comments in that regard. Lastly, the Committee notes the observations of the IOE received on 1 September 2015, which are of a general nature.

The Committee recalls that in its previous comments it trusted that the Government would deal with the issue of the refusal of the administrative authorities to grant legal personality to a number of unions, as raised by the ITUC, the National Federation of Associations and Organizations of Public Employees, CONUSI and CONATO. In this regard, the Committee notes with ***interest*** that, according to the Government's indications, the granting of legal personality to trade unions has been normalized since 1 July 2014. According to the Government's information in its report, over the past year legal personality has been granted to a total of 12 unions, compared with only nine over the previous five years.

Follow-up to ILO technical assistance. In its previous comments, the Committee noted with interest that, through the good offices of an ILO technical assistance mission, on 1 February 2012 representatives of the Government, CONATO, CONUSI and the National Council of Private Enterprise signed a tripartite agreement, as a result of which two committees were established: the Implementation Committee (with the objective of seeking forms of consensus to bring the national legislation into harmony with the provisions of the Convention and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)); and the Committee for the Rapid Handling of Complaints relating to Freedom of

Association and Collective Bargaining (the Complaints Committee). The Committee notes that on 11 June 2013, at the Tripartite Meeting of the Delegation of Panama (which occurred in the context of the 102nd International Labour Conference) the social partners undertook to reactivate the meetings of the committees established under the tripartite agreement of February 2012, but suspended since November 2012. The Committee recalls that the Implementation Committee had undertaken to address the following pending legislative issues:

Article 2 of the Convention. Right of workers and employers without distinction whatsoever to establish and join organizations

- The requirement that there may not be more than one association in a public institution, and that associations may have provincial or regional chapters but not more than one chapter per province, under the terms, respectively, of sections 179 and 182 of the Single Text of Act No. 9, as amended by Act No. 43 of 31 July 2009;
- the requirement of too large a membership (10) for the establishment of an employers' organization and an even larger membership (40) for the establishment of a workers' organization at the enterprise level, under the terms of section 41 of Act No. 44 of 1995 (amending section 344 of the Labour Code), and the requirement of a high number (40) of public servants to establish an organization of public servants under section 182 of the Single Text of Act No. 9;
- the denial to public servants (non-career public servants, as well as those holding appointment governed by the Constitution and those who are elected and serving) of the right to establish unions.

Article 3. Right of organizations to elect their representatives in full freedom

- the requirement to be of Panamanian nationality in order to serve on the executive board of a trade union (the Government indicates that, although this limitation has been removed from the Labour Code, it remains in the Constitution).

Right of organizations to organize their activities and to formulate their programmes in full freedom

- legislation interfering with the activities of employers' and workers' organizations (sections 452(2), 493(4) and 494 of the Labour Code) (closure of the enterprise in the event of a strike and prohibition of entry to non-striking workers); the obligation for non-members to pay a solidarity contribution in recognition of the benefits derived from collective bargaining (section 405 of the Labour Code); and the automatic intervention of the police in the event of a strike (section 493(1) of the Labour Code);
- the prohibition on federations and confederations from calling strikes, the prohibition on strikes against the Government's economic and social policy, and the unlawfulness of strikes that are not related to an enterprise collective agreement; the authority of the Regional or General Labour Directorate to refer labour disputes to compulsory arbitration in private transport enterprises (section 452 and 486 of the Labour Code); and the obligation to provide minimum services with 50 per cent of the staff in the transport sector, as well as the penalty of summary dismissal of public servants for failure to comply with minimum services in the event of a strike (sections 155 and 192 of the Single Text of 29 August 2008, as amended by Act No. 43 of 31 July 2009).

In this regard, the Government indicates that, as agreed in the record of the Tripartite Meeting of the Delegation of Panama of June 2013, the Implementation Committee undertook to deal first with issues relating to the conformity of labour legislation respecting the public sector. The Committee notes that: (i) after two years of infrequent activities, nine working meetings of the Implementation Committee were held in October and November 2015, in which various agreements were reached on subjects relating to the collective rights of public sector workers (the right to organize, the right to collective bargaining, the right to strike and the settlement of disputes); (ii) the Government indicates that the objective of these meetings is to reach consensus on the various subjects with a view to subsequently drawing up draft legislation on the collective rights of public servants; and (iii) if consensus is achieved among all parties on the draft legislation, it will then be submitted to the executive authorities with a view to its referral to the legislative authorities for adoption.

The Committee welcomes the progress achieved in the work of the Implementation Committee and the agreements reached in its working meetings, and particularly those recognizing the constitutional right to freedom of association of public servants. However, the Committee observes that some of the agreements reached are not necessarily in accordance with its previous comments, particularly with regard to the need to allow trade union pluralism in public institutions and the need to reduce the minimum number of members required for public servants to be able to establish organizations. ***Under these conditions, the Committee hopes that the draft legislation that will be prepared in the near future will recognize the possibility for public servants to establish more than one organization for each institution, if they so wish, and to reduce to a reasonable level the requirements regarding the minimum number of members necessary to establish an organization of public servants.***

The Committee recalls that other issues relating to the private sector remain pending and notes the Government's indication that they have not yet been dealt with by the Implementation Committee. ***The Committee firmly trusts that the Implementation Committee will continue to make its best efforts, taking into account the comments made by the Committee, to bring the law and practice into full conformity with the Convention. The Committee requests the***

Government to provide information on the agreements reached in the meetings of the Implementation Committee and on the draft legislation on the collective rights of public servants that is being prepared, and on the other measures adopted to ensure the full conformity of the legislation with the Convention.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
(ratification: 1966)

The Committee notes the Government's detailed reply to the observations made by the International Trade Union Confederation (ITUC) in 2012. The Committee also notes the observations of the National Confederation of United Independent Unions (CONUSI) and the National Council of Organized Workers (CONATO) received on 14 March 2014 and on 31 August 2015, as well as the Government's detailed comments thereon. The Committee notes that the Government highlights that, from 2013 to June 2015, a total of 182 collective agreements have been concluded covering 107,363 workers.

Follow-up to ILO technical assistance. In its previous comments, the Committee noted with interest that, through the good offices of the ILO technical assistance mission, on 1 February 2012, representatives of the Government, CONATO, CONUSI and the National Council of Private Enterprise signed an agreement for the establishment of two committees: the Implementation Committee (with the objective of seeking forms of consensus to bring the national legislation into harmony with the Convention and with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)); and the Committee for the Rapid Handling of Complaints relating to Freedom of Association and Collective Bargaining (the Complaints Committee). The Committee notes the Government's indication in its report that, on 11 June 2013, in the context of the 102nd Session of the International Labour Conference, the record of the Tripartite Meeting of the Delegation of Panama was signed, in which the social partners undertook to reactivate the meetings of the committees established under the tripartite agreement, which had been suspended since November 2012. The Committee notes the various agreements reached by the Complaints Committee and notes with *interest* that, through Agreement No. 4, concluded on 23 March 2015, the Complaints Committee recommended the reinstatement of all the trade union leaders in the public sector who had been dismissed, including those in the education sector, considering that in certain cases their dismissals were in violation of trade union immunity and of freedom of association in general. The Committee notes that while many of the public servants covered by Agreement No. 4 of the Complaints Committee were reinstated into their former jobs, there are still many others who have not been reinstated. ***The Committee requests the Government to provide information on the reinstatement of the other trade union leaders referred to in Agreement No. 4 of the Complaints Committee.***

Articles 4 and 6 of the Convention. Right to collective bargaining. Pending legislative issues. The Committee recalls that its previous comments referred to:

- the need to amend section 514 of the Labour Code so that the payment of wages for strike days attributable to the employer is not automatically imposed by law, but is a matter for collective bargaining between the parties concerned;
- the need to amend section 427 of the Labour Code, which requires that the number of representatives of the parties in negotiation shall be between two and five;
- the need to regulate mechanisms for the settlement of legal disputes; and the possibility for employers to submit lists of demands and initiate a conciliation procedure; and
- the need to guarantee the right to collective bargaining for public employees and public servants who are not engaged in the administration of the State.

In this regard, the Government indicates that, as agreed in the record of the Tripartite Meeting of the Delegation of Panama in June 2013, the Implementation Committee undertook to deal first with issues relating to the conformity of labour legislation respecting the public service. The Committee notes that: (i) in October and November 2015, the Implementation Committee held nine working meetings, in which various agreements were reached on matters relating to the collective rights of public sector workers (the right to organize, the right to collective bargaining, the right to strike and the settlement of disputes); (ii) the Government indicates that the objective of these meetings is to reach consensus on various issues with a view to subsequently preparing draft legislation on the collective rights of public servants; and (iii) if consensus is achieved among all parties on the draft legislation, it will then be submitted to the executive authorities with a view to its referral to the legislative authorities for adoption. ***The Committee trusts that the Implementation Committee will continue to make its best efforts to seek compromise solutions allowing for the harmonization of the national legislation with the Convention. The Committee hopes that the Implementation Committee will address as soon as possible the pending legislative issues, including those relating to the Labour Code, so as to bring it into full conformity with the Convention. The Committee requests the Government to provide information on the draft legislation that is being prepared on the collective rights of public servants, and on the other measures adopted to ensure that the legislation is in full conformity with the Convention.***

Other matters. Restrictions on collective bargaining in the maritime sector. The Committee notes the Government's clarification in its report that section 75 of Legislative Decree No. 8, of 26 February 1998, which had given rise in practice to the refusal of workers' claims by employers, was found unconstitutional by the plenary of the Supreme

Court of Justice in its ruling of 2 October 2006. According to the Government, as a result of this finding, in the event that any union or workers in the maritime sector notify the labour authorities of the existence of a collective dispute, or any sets of claims are submitted relating to violations of the provisions of the Labour Code or the conclusion of a collective labour agreement or its registration, if the collective agreement is negotiated directly, all the provisions of the third book of the Labour Code on the workers' right to organize and collective bargaining will apply in full. *The Committee requests the Government to provide information on the number of collective agreements concluded in the maritime sector.*

Papua New Guinea

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

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the developments with regard to the adoption of the Industrial Relations Bill communicated by the Government, and in particular, the Committee takes note that, according to the Government's report, the Sixth Draft Industrial Relations Bill had gone through several deliberations, revisions and amendments resulting in a final version finalized in November 2011. The Committee notes that the Industrial Relations Bill 2011 had been already endorsed by the National Tripartite Consultative Council in the Ministry of Labour and Industrial Relations and submitted to the Central Agency Consultative Council, being currently awaiting deliberations and preparation of a Ministerial Advice to be attached before it is presented to the National Executive Council, and eventually into Parliament. The Committee notes the Government's commitment to provide the Committee with a copy of the Act once it has been adopted. *The Committee requests the Government to ensure the conformity of the Industrial Relations Bill 2011 with the provisions of the Convention and, in particular, with respect to the provisions in relation to Article 4 and the concerns mentioned below.*

The Committee takes note of the comments regarding the lack of enforcement of the law in practice in respect with discrimination acts against workers seeking to form or join a union, provided by the International Trade Union Confederation (ITUC) in a communication dated 31 August 2011. *The Committee requests the Government to reply to the comments made by the ITUC.*

Article 4. Promotion of collective bargaining. The Committee notes that, according to the Government's report, the amendments requested by the Committee concerning the power of the Minister to assess collective agreements on grounds of public interest and compulsory arbitration when conciliation fails have not been introduced in the Industrial Relations Bill; the Committee's comments were sent to the author of the Bill, however feedback has not yet been received. Therefore the Committee has to mostly reproduce its previous observation with regard to the abovementioned points.

Power of the Minister to assess collective agreements on the ground of public interest. The Committee recalls that the approval of collective agreements may only be refused if the collective agreement has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation (General Survey of 1994 on freedom of association and collective bargaining, paragraph 251), but may not be refused for general reasons of public interests. *The Committee once again requests the Government to take the necessary measures to bring section 50 of the Industrial Relations Bill 2011 in conformity with the abovementioned principle, and to provide information thereon.*

Compulsory arbitration in cases where the conciliation between the parties has failed. The Committee recalls that compulsory arbitration is only acceptable if it is requested by both parties involved in a dispute, or in the case of disputes in the public service only when it involves public servants exercising authority in the name of the State or in essential services in the strict sense of the term, namely those services whose interruption would endanger the life, personal safety or health of the whole or part of the population. *The Committee once again requests the Government to take the necessary measures to bring sections 78 and 79 of the Industrial Relations Bill 2011 into conformity with the abovementioned principle, and to provide information thereon.*

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

Paraguay

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

The Committee recalls that in its previous comments, it requested the Government to send its comments on the 2010 observations of the International Trade Union Confederation (ITUC) referring to the arrest of trade unionists. The Committee takes note of the observations of the ITUC received on 1 September 2015. *The Committee requests the Government to send its comments thereon.*

The Committee further notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Articles 2 and 3 of the Convention. Pending legislative issues. The Committee recalls that for many years it has been commenting on the inconsistency of the following legislative provisions with the Convention:

- the requirement of an unduly large number of workers (300) to establish a branch trade union (section 292 of the Labour Code);

- the prohibition on joining more than one union even if the worker has more than one part-time employment contract, whether at the level of the enterprise or industry, occupation or trade, or institution (section 293(c) of the Labour Code);
- imposition of unduly demanding conditions of eligibility for office on the executive board of a trade union: the need to be an employee in the enterprise, industry, occupation or institution, whether active or on leave (section 298(a) of the Labour Code), to have reached the age of majority and to be an active member of the union (section 293(d) of the Labour Code);
- the requirement for trade unions to respond to all requests from the labour authorities for consultations or reports (sections 290(f) and 304(c) of the Labour Code);
- the requirement that, for a strike to be called, its sole purpose must be directly and exclusively linked to the workers' occupational interests (sections 358 and 376(a) of the Labour Code); and
- the obligation to provide a minimum service in the event of a strike in public services that are essential to the community without any requirement to consult the employers' and workers' organizations concerned (section 362 of the Labour Code).

The Committee recalls that in its previous comments it noted the elaboration of a draft Bill to amend certain sections of the Labour Code and of Amending Act No. 496/94. The Committee also notes the Memorandum of Understanding on International Labour Standards, signed on 1 October 2014 by the Government and the social partners, in which it was agreed, among other things, to entrust to the Tripartite Advisory Committee of the Ministry of Labour, Employment and Social Security the task of studying possible adjustments to the legislation to bring it into conformity with the provisions of the international labour conventions ratified by the Republic of Paraguay. ***Observing that in its report the Government includes no further information on the process to align the Labour Code with the Convention, the Committee trusts that the necessary measures will be taken to ensure that the provisions in question are amended in the near future. The Committee invites the Government to seek technical assistance from the Office in its process to amend the legislation. It requests the Government to provide information on any progress achieved in this regard.***

The Committee recalls that in its previous comments it noted that according to information in the Government's 2006 report regarding the referral of collective disputes to compulsory arbitration, sections 284–320 of the Code of Labour Procedure were tacitly repealed by section 97 of the Constitution of the Republic of Paraguay, which provides that “the State shall facilitate conciliatory solutions to labour disputes and social dialogue. Arbitration shall be optional.” ***The Committee once again requests the Government, in the light of the provisions of the Constitution of Paraguay, and in order to avoid all possible ambiguity in interpretation, to take the necessary measures to amend or to repeal expressly the provisions in question.***

The Committee expresses the firm hope that it will be able to note tangible progress regarding all referenced legislation in the near future, and requests the Government to report on developments in this regard.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

Articles 1–3 of the Convention. Pending legislative matters. The Committee recalls that for many years its comments have referred to:

- the absence of legal provisions affording protection to workers who are not trade union leaders against all acts of anti-union discrimination (article 88 of the Constitution only affords protection against discrimination based on trade union preferences);
- the absence of adequate penalties for non-observance of the provisions relating to the employment stability of trade unionists and to acts of interference in workers' and employers' organizations by each other (the Committee previously indicated that the penalties laid down in the Labour Code for non-compliance with the legal provisions on this point in sections 385, 393 and 395 are not sufficiently dissuasive, except in the case of a repeated offence by the employer, in which case the fine is doubled); in this regard, the Committee recalls, with regard to protection against acts of anti-union discrimination, that the Committee on Freedom of Association also requested the Government to ensure, in consultation with the social partners, the effectiveness of national procedures to prevent or punish acts of discrimination (see 355th Report, Case No. 2648, paragraph 963); and
- the delays in the application of justice in relation to acts of anti-union discrimination and interference.

The Committee recalls that in its previous comments it noted the preparation of preliminary draft legislation to amend certain sections of the Labour Code and amending Act No. 496/94, and that the Government had held meetings with the President of the Legislative Committee of the Chamber of Senators in relation to the preliminary draft legislation to amend certain sections of the Labour Code. The Committee also notes the Memorandum of Understanding on International Labour Standards concluded on 1 October 2014 between the Government and the social partners, in which it was agreed, among other matters, to entrust the Tripartite Advisory Council of the Ministry of Labour, Employment and Social Security with the examination of possible legislative amendments in accordance with the provisions of the

international labour Conventions ratified by Paraguay. ***Observing that the Government has not provided additional information on this subject in its report, the Committee firmly trusts that in the near future the necessary measures will be taken to ensure the full conformity of national law and practice with the requirements of the Convention, as indicated above. The Committee invites the Government to have recourse to ILO technical assistance. The Committee requests the Government to provide information on any progress made in this regard.***

Article 6. Public servants not engaged in the administration of the State. The Committee recalls that in its previous comments it considered that sections 49 and 124 of the Public Service Act afford adequate protection against the dismissal of trade union officers within the meaning of *Article 1* of the Convention, but do not cover protection against dismissal or other prejudicial measures against public servants and public employees due to their membership or legitimate union activities. The Committee once again notes that the Government has not provided information on this point. ***The Committee once again requests the Government to take the necessary measures to provide for adequate protection in the legislation against acts of anti-union discrimination against public servants and public employees, including those who are not trade union officers, and also to establish sufficiently dissuasive sanctions.***

Peru

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015 which are of a general nature. The Committee also notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2014 and 1 September 2015 which contain, firstly, reports of violations of the Convention in specific public institutions and enterprises and, secondly, legislative matters addressed by the Committee in this observation and in the corresponding direct request. ***The Committee requests the Government to provide its comments in relation to the cases of alleged violation of the Convention in the specific public institutions and enterprises mentioned in the ITUC observations.***

Article 2 of the Convention. Right of all workers, without distinction, to form organizations and to join them. For several years, the Committee has been recalling the need for the relevant legislation (Act No. 28518 and its Regulations, and the General Education Act) to guarantee that workers under training schemes enjoy the rights enshrined in the Convention. In this respect, the Committee notes the Government's indication that: (i) indeed, the right to organize of workers under training schemes is not expressly recognized in any specific provision in national legislation; (ii) that right is, however, generally recognized by the Peruvian legal framework in so far as the Peruvian Constitution recognizes broadly the rights of association and collective bargaining, and the right to strike, and confers constitutional status on the ratified international human rights conventions, including the present Convention; and (iii) in practice, the Labour Authority has never denied the right of workers under training schemes to exercise their freedom of association. While it takes due note of these elements, the Committee recalls that Act No. 28518 and its Regulations exclude workers under training schemes from the scope of application of labour legislation, with the consequence that they are not covered by the freedom of association legislation. The Committee also recalls that, as a result of a complaint submitted by three Peruvian Confederations, the Committee on Freedom of Association, in the framework of Case No. 2757, requested that workers under training schemes be recognized the right to associate. ***The Committee therefore requests the Government to take the necessary measures to revise the relevant legislation to expressly recognize the freedom of association of workers under training schemes. The Committee requests the Government to report on any steps taken in this regard.***

In previous comments relating to restrictions to the scope of freedom of association contained in section 153 of the Peruvian Constitution, the Committee requested the Government to take the necessary measures to guarantee that judges and prosecutors enjoy the right to form associations or organizations to defend their interests. ***The Committee requests the Government to provide information, in the near future, on any steps taken in this respect.***

The Committee notes that the ITUC reports that article 42 of the Peruvian Constitution does not recognize the right to organize of public servants with decision-making powers and in positions of trust or leadership. The Committee observes that section 40 of Act No. 30057 of the Civil Service Act of 2013 contains identical restrictions. In this respect, the Committee recalls that, under *Articles 2 and 9* of the Convention, all workers, with the only exception of members of the armed forces and the police, must enjoy the guarantees of the Convention, and that the legislation that provides that senior officials must form separate organizations from other public servants is compatible with the Convention, provided that the legislation limits this category to persons exercising senior managerial or policy-making responsibilities. ***In light of the above, the Committee requests the Government to take the necessary steps to revise the relevant provisions in its legal framework in order to secure the right to organize of employees in positions of trust or leadership in the public administration. The Committee requests the Government to inform it of any steps taken in this respect.***

Article 3. Right of organizations to organize their activities and formulate their programmes. Holding a strike vote. In relation to section 73(b) of the Collective Labour Relations Act, which provides that the decision to call a strike represents the will of the majority of the workers concerned, the Committee requested that it should be ensured that only the votes cast are counted and that the required quorum or majority is fixed at a reasonable level. Taking note of the Government's indication that Supreme Decree No. 024-2007-TR amended section 62 of the Regulations of the Collective

Labour Relations Act, the Committee observes with *satisfaction* that under the revised section the call to strike may be made “in the form expressly set out in the statutes, provided that the decision to strike is adopted by a majority of its voting members present at the meeting”. *Observing that the General Regulations of the Civil Service Act adopted in 2014 provide, like the Collective Labour Relations Act, that the decision to call a strike should represent the will of the majority of the workers concerned, the Committee requests the Government to indicate whether the revised section 62 of the Regulations of the Collective Labour Relations Act is applicable to the public administration.*

Determining the unlawfulness of strikes. In its previous comments, the Committee emphasized the need to ensure that the authority to determine a strike unlawful lies not with the Government but with an independent body that has the trust of the parties (a point made several times by the Committee on Freedom of Association). In relation to the private sector, the Committee notes the Government’s indication that, under Supreme Decree No. 017-2012-TR, the body authorized to determine the lawfulness or unlawfulness of a strike is the Administrative Labour Authority. *The Committee regrets the lack of progress on this matter and urges the Government to take the necessary measures in order that the authority to determine a strike unlawful in the private sector does not lie with the labour administration but with an independent body that has the trust of the parties.* In relation to the public administration, the Committee notes the Government’s indication that, under sections 86, 87 and 88 of the General Regulations of 2014 of the Civil Service Act, the authority to determine the lawfulness or unlawfulness of a strike lies with the Civil Service Support Commission, which consists of independent professionals who are elected in accordance with a decision of the Executive Board of the National Civil Service Authority. *In order to be able to examine in detail the nature of the body concerned, the Committee requests the Government to provide additional information on the rules governing the operations of the Civil Service Support Commission, its current composition, as well as decisions it has issued with respect to the exercise of the right to strike. With respect to the education sector, the Committee requests that the Government indicates whether sections 86, 87 and 88 of the General Regulations of 2014 of the Civil Service Act mentioned above, are applicable to strikes within that sector. If this is not the case, the Committee requests the Government to revise section 20 of Supreme Decree No. 017-2007-ED in order that the authority to determine the lawfulness or unlawfulness of strikes in the education sector does not lie with the Ministry of Education but rather with an independent body that has the trust of the parties.*

Definition of minimum services in essential public services. In its previous comments, the Committee requested the Government to provide information on the composition of the independent body appointed to give a ruling in the event of disagreement about the number and occupation of workers who are to continue working in the event of a strike in essential public services. The Committee notes the Government’s indication that, to date, this procedure has not been implemented since no disagreement has been referred to the Labour Authority on the number and occupation of workers necessary to maintain essential services. *Observing that the Committee on Freedom of Association recently examined a case relating to this issue (see Case No. 3096, 376th report of the Committee on Freedom of Association, November 2015), the Committee requests the Government to take, in consultation with the social stakeholders, the necessary measures to define in advance the composition of the independent body appointed to give a ruling in the event of disagreement about the number and occupation of workers who are to continue working in the event of a strike in essential public services. The Committee requests the Government to report on any steps taken in this respect.* The Committee also notes the Government’s indication relating to the resolution of the disagreements on the number and occupation of workers who are to continue working in the event of a strike in essential public services which are operated by public administration workers. The Government points out that, under the Civil Service Act that task falls within the competence of the Civil Service Support Commission. *Observing that this body was already mentioned above with respect to the determination of the lawfulness of strike actions in the public administration, the Committee reiterates its requests to the Government to send additional information in order to enable it to examine in detail the nature of the Civil Service Support Commission.*

Right of trade unions to hold meetings and to access workplaces. The Committee observes that sections 4 and 5 of the final supplementary provisions to Supreme Decree No. 017-2007-ED define as serious offences by head teachers and deputy head teachers in schools the acts of: (i) providing school premises for trade union meetings; and (ii) allowing political and/or union proselytising in the educational institutions. In this respect, the Committee recalls that *Article 3* of the Convention protects the right of trade unions to hold meetings and to access workplaces to communicate with workers. *The Committee therefore requests the Government to revise the final provisions of the abovementioned Supreme Decree in order to enable head teachers in schools to determine, with the trade unions concerned the modalities of access to workplaces that do not jeopardize the effective functioning of those facilities. The Committee requests the Government to report any steps taken in this respect.*

Article 5. Establishment of federations and confederations. In its previous comments, the Committee recalled the need to guarantee that federations and confederations of public servants may, if they so wish, join confederations consisting of organizations of workers who are not state workers. The Committee notes the Government’s indication that, under section 57 of the General Regulations of the Civil Service Act which repeals Supreme Decree No. 003-2004-TR, which had previously been examined by the Committee: (i) at least two trade unions from the same field are required to establish a federation and at least two federations to establish a confederation; and (ii) the federations and confederations are governed by the Civil Service Act and the Regulations in question. The Committee notes with *interest* that the new

provisions no longer prohibit the affiliation of federations and confederations of public servants with broader confederations. *The Committee requests the Government to indicate the regulations that govern the operations of the confederations that group together both federations of private sector workers and federations of public administration workers.*

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: 1964)***

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2014 and 1 September 2015, as well as the observations of the Single Trade Union of Workers of the Judiciary-Lima (SITRAPOJ) received on 11 September 2015, which contain allegations of anti-union discrimination and obstacles to the right to collective bargaining in specific public institutions and private enterprises, as well as legislative and institutional issues addressed by the Committee in its comments. *While noting the Government's general reply to the observations submitted by various trade unions in 2011 and 2012, the Committee requests the Government to provide its detailed comments on the alleged violations in practice contained in the abovementioned trade union observations of 2014 and 2015.*

Article 1 of the Convention. Protection against any acts of anti-union discrimination. Workers with fixed-term contracts in the private sector. The Committee notes that the ITUC reports that workers with fixed-term contracts are especially vulnerable to discriminatory non-renewal of their contracts, and that the routine use of this contractual modality enables employers to prevent their workers from joining a trade union. *Noting that this issue has been the subject of several cases before the Committee on Freedom of Association, the Committee requests the Government to engage in dialogue on the subject of protection against anti-union discrimination against workers with fixed-term contracts with the workers' and employers' organizations concerned and to report on the outcome.*

Workers with fixed-term contracts in the public sector. The Committee notes that the ITUC states that the public workers engaged under administrative service contracts (CAS) are especially vulnerable to anti-union discrimination owing to the determined duration of their contracts. The ITUC denounces that the contracts of workers in this category who join a trade union are either terminated or not renewed. *The Committee, in so far as the CAS can be used to employ public sector workers who are not engaged in the administration of the State, refers to its previous comments under the Labour Relations (Public Service) Convention, 1978 (No. 151). The Committee once again requests the Government to engage in dialogue with the public sector trade unions on the subject of the protection against anti-union discrimination against workers under CAS and to report on the outcome.*

Article 4. Promotion of collective bargaining. Public sector workers. The Committee notes that the ITUC and SITRAPOJ indicate that for 20 years the annual budget legislation has prevented negotiation of the economic conditions of public sector workers and that the Civil Service Act No. 30057 of 2013 endorses that prohibition. The Committee recalls that, in its observation relating to Convention No. 151 published in 2015, it noted with concern that the public sector budget legislation for the fiscal years 2013 and 2014, and sections 42, 43 and 44(b) of the Civil Service Act of 2013 deny to the entire public sector the right to collective bargaining concerning the determination of wages or other matters of economic nature. The Committee also indicates that, in its March 2015 meeting, the Committee on Freedom of Association regretted to observe that the Government had disregarded its recommendations in previous cases, and that the applicable legislation continued to exclude from negotiation subjects relating to wages or of economic nature throughout the public sector (Case No. 3026, 374th Report, paragraph 666).

The Committee also observes that, in a ruling of 3 September 2015 (Cases Nos 0003-2013-PUTC, 0004-2013-PI/FC and 0023-2013-PUTC), the Constitutional Court of Peru, on the basis of this Convention and Convention No. 151 and of the corresponding comments of the ILO supervisory bodies: (i) declared unconstitutional the prohibition of collective bargaining for salary rises contained in the public sector budget legislation for the years 2012–15; and (ii) called upon Congress to approve the regulation of collective bargaining in the public sector starting with the first ordinary term of 2016–17. While it welcomes the Constitutional Court ruling, the Committee notes with renewed **concern** that the legislation in force continues to prohibit all collective bargaining on subjects of economic nature throughout the public sector. *Without prejudice to the specific obligations of the Government under Convention No. 151 with respect to the right of public employees engaged in the administration of the State to participate in the determination of their remuneration, the Committee urges the Government to, in consultation with the trade unions concerned, take the necessary measures to revise the Civil Service Act of 2013 and all relevant legislation so that public sector workers who do not work in state administration can exercise their right to collectively negotiate matters relating to wages or of economic nature in conformity with the Convention.*

Promotion of collective bargaining. Workers under training schemes. In its previous observations, the Committee had noted that neither Act No. 28518 and its Regulations nor the General Education Act recognize the right to collective bargaining of workers covered by training schemes. In this respect, the Committee notes the Government's indication that, while the right to collective bargaining of workers under training schemes is not expressly recognized in any specific provision in national legislation, it is recognized by the Peruvian legal framework overall in so far as the Peruvian Constitution broadly recognizes the rights of association and collective bargaining, and the right to strike, and

confers constitutional status on the ratified international human rights conventions, including the present Convention. While it takes due note of these elements, the Committee observes that Act No. 28518 and its Regulations provide that workers under training schemes are excluded from the scope of application of labour legislation, with the consequence that they are not covered by the collective bargaining legislation. ***The Committee therefore once again requests the Government to revise the relevant legislation to expressly recognize the right of collective bargaining of workers under training schemes.***

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

Philippines

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1953)

The Committee takes note of the observations received from the following workers' organizations: (i) the Trade Union Confederation Congress of the Philippines (TUCP) (25 June 2013) referring to matters before the Committee on Freedom of Association (Case No. 3037); (ii) the International Trade Union Confederation (ITUC) (1 September 2015); (iii) Education International (EI) and the National Alliance of Teachers and Office Workers (SMP-NATOW) (28 September 2015); and (iv) the Center of United and Progressive Workers (SENTRO) (1 October 2015). The Committee notes the comments received from the Government in reply to the observations received from the ITUC, EI and the SMP-NATOW, and the SENTRO. The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Civil liberties and trade union rights

Monitoring mechanisms. In its previous comments, the Committee noted the information provided by the Government on the establishment of several monitoring entities. The Committee notes that the Government provides additional information on these mechanisms: (i) regarding the National Monitoring Mechanism (NMM), its mandate is to monitor the nation's progress on the resolution of human rights violations, prioritizing, in the short term, cases of extrajudicial killings, enforced disappearances and torture, and to provide legal and other services; (ii) the participation of the Department of Labour and Employment (DOLE) in the NMM consists in referring cases to it, disseminating information, capacity building, allocating the budget and recommending rehabilitation plans for the victims and their relatives, including union leaders and members; (iii) the Department of Justice (DOJ) Special Task Force secured several convictions, including for the killings of a Bayan Muna Secretary General, a Young Officers Union Spokesperson and two media professionals; (iv) the Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons (IAC) was created in November 2012 by Administrative Order No. 35 (AO 35) and is charged with the mandate to investigate cases of extrajudicial killings, enforced disappearances, torture and other grave human rights violations perpetrated by state and non-state forces, to prioritize unsolved cases, and to create special investigation teams; (v) the IAC operational guidelines define extrajudicial killings so as to include cases where the victim was a member of or was affiliated with a labour organization, or was apparently mistaken or identified to be so and the victim was targeted and killed because of the actual or perceived membership; and (vi) in order to ensure expeditious investigation, prosecution and resolution of cases involving labour leaders and union members, the social partners were offered to actively participate in the investigations while members of the National Tripartite Industrial Peace Council – Monitoring Body (NTIPC-MB) were given observer status in the IAC. ***The Committee welcomes these developments and requests the Government to provide further information on the functioning of the NMM, the DOJ Special Task Force and the IAC in practice, including on the participation of social partners in IAC investigations as well as on the number and types of cases addressed by these mechanisms.***

Allegations of violations of trade union rights. The Committee had previously noted the Government's reply to the ITUC's 2011 observations referring to certain violations of trade union rights in 2010, including the alleged killing of three trade union leaders, arrests and false criminal charges filed against trade union leaders and physical assaults of striking workers. The Committee notes that the Government has provided information about the developments in these cases: (i) in relation to the killing of Eduard Panganiban, elected Secretary of the United Strength of Workers in Takata, the main update provided is that the victim's mother decided not to pursue the case; (ii) the case regarding the killing of Benjamin Bayles, organizer of the National Federation of Sugar Workers, is still at trial and is monitored by the IAC; (iii) regarding the killing of Carlo "Caloy" Rodriguez, President of the Calamba Water District Union, the main update provided is that assistance by the victim's wife could not be obtained; and (iv) out of the seven remaining cases of alleged violations of trade union rights, in two cases the parties had reached a settlement, one was declared not to be linked to trade union rights, and the others are in the process of amicable settlement or pending resolution. The Committee had also previously requested the Government to provide its comments on the grave allegations made by the ITUC in 2012: (i) killings of four trade union leaders (Celito Baccay, board member of the Maeno-Giken Workers' Organization; Noriel Salazar, President of the Union of COCOHEM; Santos V. Manrique, President of the Boringot Small-scale Miners' Cooperative and Chairperson of the Federation of Miners Aggrupation; and Elpidio Malinao, Vice-President of the University of the Philippines (UP) Los Banos Chapter of the Organization of Non-Academic Personnel of UP); (ii) abduction and arbitrary detention of Elizar Nabas, member of the National Federation of Sugar Workers; and

(iii) continuing harassment of Remigio Saladero Jr, chief legal counsel of the Kilusang Mayo Uno (KMU). The Committee notes that the Government provides the following updates: (i) the cases of Celito Baccay, Noriel Salazar and Elpidio Malinao are still ongoing; (ii) the case of Santos V. Manrique was dismissed as not related to his trade union activities and the case of Alizar Nabas was dismissed due to insufficient evidence; and (iii) the charges against Remigio Saladero Jr and 71 other activists were dismissed due to insufficient evidence and lack of probable cause. ***Recalling the importance of avoiding any situation of impunity, the Committee firmly hopes that the investigations of all these serious allegations will be finalized in the near future with a view to establishing the facts, determining responsibilities and punishing the perpetrators, and requests the Government to provide detailed information on any developments in this regard.***

The Committee notes with ***deep concern*** the ITUC's 2015 observations alleging numerous violations of trade union rights, in particular: (i) the killing of Florencio "Bong" Romano, trade union leader from the KMU; (ii) harassment of Ed Cubelo, leader of the Toyota Motor Philippines Corporate Workers Association as well as the interrogation and harassment of KMU labour leaders in southern Midano; (iii) a shooting on employees of the banana company Sumifru by the company's owner during a picket; (iv) the enforced disappearance of Benajmin Villeno, Southern Tagalog labour leader, as well as arbitrary detention of Randy Vegas and Raul Camposano, organizers of the public sector union centre Confederation for the Unity, Recognition and Advancement of Government Employees (COURAGE); and (v) a dramatic rise in false criminal charges brought against trade unionists, such as Artemio Robilla and Danilo Delegencia, leaders of the Margusan DOLE Stanfilco Workers' Union-NAFLU-KMU.

The Committee notes the Government's reply that: (i) the case of Florencio Romano was referred to the Regional Tripartite Monitoring Body (RTMB), the Philippine National Police Task Force Usig, as well as the IAC; (ii) the specific allegations of harassment of KMU members were brought to the attention of RTMB, the AFP Human Rights Office and the IAC, and concerning other allegations of harassment by the police and the armed forces, the RTMB has been mobilized in gathering relevant information and the cases were brought to the attention of the IAC; (iii) in relation to the shooting on Sumifru employees, the company's leader Jesus Jamero was subjected to a complaint before the local authorities but the dispute was later settled by agreement between the parties; (iv) the allegations of enforced disappearance of Benajmin Villeno and arbitrary detention of Randy Vegas and Raul Camposano will be referred to the RTMB; and (v) the criminal charges brought against Artemio Robilla and Danilo Delegencia are under a new investigation. The Government also indicates that it conducted awareness-raising campaigns on observance of freedom of assembly, conducted capacity building for monitoring focal persons, and took measures to strengthen the existing monitoring structures. The Government further notes that to provide safeguards against false criminal charges against trade union members and to avoid detention of workers on the basis of their union activities, the DOLE and the Department of Justice issued Joint Clarificatory Memorandum Circular No. 1-15 to clarify the provisions of the *DOLE-DILG-PNP-DND-AFP Joint Guidelines on the Conduct of the AFP/PNP Relative to the Exercise of Workers' Right to Freedom of Association, Collective Bargaining, Concerted Actions and Other Trade Union Activities* (AFP Guidelines). The Circular makes clear that before filing information in court on cases arising out of or related to labour disputes, prosecutors must secure clearance from the DOLE or the Office of the President, and that this requirement for clearance applies to cases arising out of the exercise of workers' freedom of association, collective bargaining and other trade union activities.

The Committee further notes with ***deep concern*** the SENTRO's observations concerning serious violations of trade union rights, in particular: (i) killings of Antonio Petalcorin, President of the Davao-based Network of Transport Organization; Rolando Pango, a farmworker leader; and Victorio Embang, president of the Maria Cecilia Farm Workers Association; (ii) assassination attempt on Anterio Embang, leader of the Maria Cecilia Farm Workers Association; (iii) violent suppression of strikes and other collective actions by the police and the armed forces; (iv) harassment of unionists and prevention from joining trade unions in export processing zones (EPZs) as well as breach of the Memorandum of Agreement between the DOLE and the Philippine Economic Zone Authority (PEZA); and (v) bankruptcy falsification to deny workers trade union rights. The Committee notes the Government's reply indicating that: the case of Antonio Petalcorin was referred to the RTMB, the Philippine National Police (PNP) and the IAC but was declared not to be an incident of extrajudicial killing by reason of trade union activities or other advocacy under AO 35 while the case of Rolando Pango is considered as a case of extrajudicial killings and a special team will be created to investigate, file and prosecute the case. The Government further indicates that the DOLE conducts capacity-building activities and advocacies to ensure the implementation of the AFP Guidelines which aim to prevent the police and the armed forces from unduly suppressing strikes, demonstrations and other collective actions. ***The Committee hopes that all alleged cases of violations of trade union rights reported by the ITUC and the SENTRO will be the subject of appropriate investigations which will be vigorously pursued. The Committee requests the Government to provide information on any developments in this regard.***

Human Security Act. In its previous comments, the Committee trusted that the Government would take all necessary steps to ensure that the Human Security Act would not be misused to suppress legitimate trade union activities. In this regard, the Committee notes that, in its observations, the SENTRO expressed concern about the possible negative implications of the Human Security Act on the exercise of trade union rights. The Committee notes that the Government repeats that this Act cannot be used against the exercise of trade union rights, especially legitimate trade union activities,

and that the AFP Guidelines from 2012 provide that the armed forces and the police may only intervene in trade union activities if expressly requested to do so by the DOLE, if a criminal act has been, is or is about to be committed, or in case of actual violence arising out of a labour dispute. The Government further indicates that it has started, in cooperation with the ILO Manila, a Technical Cooperation Programme (TCP) on training and capacity building of all relevant stakeholders on international labour standards, including freedom of association and collective bargaining. The Committee takes note of this information.

Legislative issues

Labour Code. In its previous comments, the Committee noted the Government's indication that there were three bills seeking to amend the Labour Code and that the NTIPC constituted a Tripartite Labour Code Review Team as an external partner in the drafting process. The Committee recalls the need to bring the national legislation into conformity with the following Articles of the Convention.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations of their own choosing, without previous authorization. Aliens. The Committee had previously referred to the need to amend sections 269 and 272(b) of the Labour Code so as to grant the right to organize to all workers lawfully residing within the Philippines (and not just those with valid permits if the same rights are guaranteed to Filipino workers in the country of the alien workers, or if the country in question has ratified this Convention and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)). The Committee notes the Government's statement that House Bill No. 894, which aimed to extend the right to self-organization to aliens in the Philippines failed to pass in the Congress, has been re-filed as House Bill No. 2543 and is now again pending before the Congress. The Committee also observes that in June 2015, House Bill No. 2543 was substituted by House Bill No. 5886 but that this Bill, while recognizing a degree of participation in trade union activities to all aliens, it only recognizes the right to self-organization and the right to join and assist labour organizations, to aliens with a valid working permit. ***Recalling that the right of workers, without distinction whatsoever, to establish and join organizations of their own choosing implies that anyone residing in the territory of a State, whether or not they have a residence or a working permit, benefits from the trade union rights provided by the Convention, the Committee firmly hopes that any relevant legislation will accurately reflect the Convention in this regard and will be adopted in the near future. The Committee requests the Government to provide information on any progress made in this respect.***

Other categories of workers excluded from the rights of the Convention. The Committee notes the observations of the SENTRO: (i) concerning the lack of trade union rights of certain public servants (firefighters, prison guards, persons outside the armed forces and the police who by the nature of their function are authorized to carry firearms and public sector employees in policy-making positions or with access to confidential information); and (ii) that section 245 of the Labour Code excludes managerial employees from forming or joining any labour organizations. The Committee also notes the observations of the SENTRO, EI and the SMP-NATOW alleging widespread denial by employers of employees' employment status, misclassification of employees, and the use of contract and temporary workers, who do not have employment status, which hinders them from joining trade unions, particularly in the public sector, electrical cooperatives, banks, and broadcasting services. The Government replies that: (i) a working group was created to address the issue of proliferation of contract and temporary workers in the public sector; and (ii) the DOLE developed and implemented administrative measures and proposed legislation that seek to address these issues, including a resolution urging the executive branch to cease from engaging temporary and contract personnel. In this respect, the Committee observes various initiatives to amend the provisions of the Labour Code and the proposed Civil Service Reform Code (House Bill No. 2400 and Senate Bill No. 1174) which are pending before the Congress. The Committee recalls that: (i) the right to organize should be guaranteed to all workers without distinction or discrimination of any kind, with the sole possible exception of the armed forces and the police; and (ii) it is not necessarily incompatible with the Convention to deny managerial and executive staff the right to join trade unions which represent other workers in the sector, provided they have the right to establish their own organizations to defend their interests. ***Accordingly, the Committee hopes that the proposed legislative amendments and any other relevant legislative measures will, in accordance with the abovementioned principles, ensure that all workers (including those in managerial positions or with access to confidential information, firefighters, prison guards and other public sector workers, temporary and outsourced workers, as well as workers without employment contract) fully benefit from the right to establish and join organizations to defend their occupational interests. The Committee requests the Government to provide information on any developments in this regard.***

Registration requirements. The Committee had previously requested the Government to take the necessary measures to amend section 234(c) of the Labour Code so as to lower the excessive minimum membership requirement for forming an independent union (20 per cent of all the employees in the bargaining unit where the union seeks to operate) and expressed hope that House Bill No. 5927, seeking to remove the 20 per cent minimum membership requirement, would be adopted. The Committee notes that the Government reports that House Bill No. 5927 failed to pass in the Congress, that the removal of the 20 per cent requirement was reconsidered and lowered to 10 per cent in order to prevent proliferation of short-term unions and intra-union disputes, and that the new amendment is supported by the NTIPC. The Government also indicates that House Bill No. 2540, which also seeks to lower the minimum membership requirements for establishing trade unions, is pending before the Congress. The Committee observes that the 10 per cent requirement

may still obstruct the right of workers to establish trade unions, in particular in large bargaining units, and recalls that while a minimum membership requirement is not in itself incompatible with the Convention, the number should be fixed in a reasonable manner so that the establishment of organizations is not hindered, and that what constitutes a reasonable number may vary according to the particular conditions in which a restriction is imposed. ***Accordingly, the Committee firmly hopes that the above legislative measures will lower the minimum membership requirements to a reasonable number in light of the abovementioned principle and in consultation with the social partners, and requests the Government to provide information on any progress made in this respect.***

Article 3 of the Convention. Right of workers' organizations to organize their administration and activities and to formulate their programmes without interference by the public authorities. The Committee had previously requested the Government to take the necessary measures to amend section 263(g) of the Labour Code and Department Order No. 40-G-03 so as to restrict governmental intervention leading to compulsory arbitration to essential services in the strict sense. The Committee notes that the Government indicates that House Bill No. 5933, which sought to install the necessary amendments, failed to pass in the Congress but that: (i) the Bill was re-filed as House Bill No. 5471; and (ii) the Secretary of Labour and Employment issued DOLE Department Order No. 40-H-13, which harmonizes the list of industries indispensable to the national interest, in which governmental intervention is possible, with the essential services criteria of the Convention. These industries include the hospital sector, electric power industry, water supply and air traffic control, and other industries may be included upon recommendation of the tripartite NTIPC. The Committee welcomes the Government's initiative to limit governmental intervention leading to compulsory arbitration to industries which can be defined as essential services in the strict sense of the term. ***The Committee firmly hopes that the re-filed Bill will be adopted in the near future, and requests the Government to provide information on any relevant developments in this regard.***

In its previous comments, the Committee expressed the firm hope that sections 264 and 272 of the Labour Code would be amended, taking into account the principle according to which no penal sanctions should be imposed against a worker for having carried out a peaceful strike. The Committee notes the Government's indication that House Bill No. 5933 failed to pass in the Congress but is now pending before the Congress as House Bill No. 5471, and aims to remove penal sanctions for the exercise of the right to strike. The Committee understands, however, that once a final judgment declares the illegality of a strike, the Bill allows for criminal prosecution under section 264, which prohibits labour organizations to declare a strike without having complied with the bargaining and notice requirements provided for in the Labour Code. In this regard, the Bill does not appear to give full effect to the principle according to which measures of imprisonment or fines should not be imposed on any account, unless, during a strike, violence against persons or property, or other serious infringements of penal law have been committed, and these sanctions can be imposed exclusively pursuant to legislation punishing such acts. ***The Committee trusts that sections 264 and 272 of the Labour Code will be amended in the near future, giving full effect to the abovementioned principles, and requests the Government to provide information on any relevant developments in this regard.***

The Committee had previously requested the Government to take the necessary measures to amend section 270 of the Labour Code, which subjected the receipt of foreign assistance to trade unions to prior permission of the Secretary of Labour. The Committee notes the Government's indication that, on the one hand, the amended House Bill No. 5927, which is pending before the Congress, repeals section 270 of the Labour Code, and on the other hand, House Bill No. 2543 (previously House Bill No. 894), seeks to remove the requirement of Government permission for foreign assistance to trade unions. The Committee observes that in June 2015, House Bill No. 2543 was substituted by House Bill No. 5886. ***The Committee firmly hopes that the Bills removing the need for Government permission for foreign assistance to trade unions will be adopted in the near future, and requests the Government to provide information on any relevant developments in this regard.***

Article 5. Right of organizations to establish federations and confederations. The Committee previously requested the Government to take the necessary measures in order to lower the excessively high requirement of ten union members for the registration of federations or national unions set out in section 237(1) of the Labour Code. The Committee notes the Government's statement that House Bill No. 5927, which sought to address the issue, failed to pass in the Congress but the NTIPC endorsed an amended legislative proposal, which is pending before the Congress and which reduces the registration requirement for federations from ten to five duly recognized bargaining agents or local chapters. The Committee notes the Government's statement that House Bill No. 2540 also addresses this issue. ***The Committee firmly hopes that legislative provisions will be adopted in the near future to lower the excessively high requirement of ten affiliated unions for the registration of federations or national unions, and requests the Government to provide information on any relevant developments in this regard.***

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

[The Government is asked to supply full particulars to the Conference at its 105th Session and to reply in detail to the present comments in 2016.]

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

The Committee notes the observations received from the following workers' organizations: (i) the Trade Union Confederation Congress of the Philippines (TUCP) (25 June 2013) referring to matters before the Committee on Freedom of Association (Case No. 3037); (ii) the International Trade Union Confederation (ITUC) (1 September 2015); (iii) Education International (EI) and the National Alliance of Teachers and Office Workers (SMP-NATOW) (28 September 2015); and (iv) the Center of United and Progressive Workers (SENTRO) (1 October 2015). The Committee also notes the comments received from the Government in reply to the observations received from the ITUC, IE and the SMP-NATOW; and the SENTRO. ***The Committee requests the Government to provide its comments on the pending observations of the SENTRO, in particular with regard to the requirements for union certification elections.***

The Committee had previously noted the Government's comments on the 2011 ITUC observations on anti-union dismissals and acts of interference on the part of the employer and requested the Government to provide information on any developments in this regard. The Committee notes the Government's comments on the progress made in these cases, in particular the closure of two out of the seven cases, in which the parties had reached a settlement, facilitated by the National Conciliation and Mediation Board (NCMB), and the indication that the remaining five cases are being addressed. ***The Committee requests the Government to continue to provide information on any further developments in this regard as well as in relation to the pending 2012 ITUC observations.***

Articles 1, 2 and 3 of the Convention. Protection against acts of anti-union discrimination and interference. The Committee had previously noted the Government's comments on the observations submitted by the ITUC in 2010 and previous years on alleged anti-union practices, acts of anti-union discrimination including dismissals, and employer interference, as well as cases of replacement of trade unions by non-independent company unions, dismissals and blacklisting of activists, as well as other anti-union tactics in export processing zones (EPZs) and other special economic zones. The Committee had requested the Government to continue to provide information concerning any developments with regard to the investigation of these allegations. The Committee notes that the Government states that: (i) the National Tripartite Industrial Peace Council-Monitoring Body (NTIPC-MB) issued Resolution No. 8 of 2012 to facilitate gathering of information on 17 cases of alleged violations of trade union rights within economic zones that were presented by the Kilusang Mayo Uno (KMU) in its observations from 30 September 2009; and (ii) many of the cases have already been settled or are being addressed. In this respect, the Committee also notes the Government's comments on the 2015 ITUC and SENTRO observations alleging further violations of trade union rights and anti-union practices (including anti-union dismissals and employer interference, blacklisting of trade union members and activists and replacement of strikers), indicating that: (i) the specific cases of anti-union acts and interference reported by the ITUC and the SENTRO have been validated and settled or are being monitored by the NTIPC-MB and the Regional Tripartite Monitoring Bodies (RTMBs); and (ii) the number of unfair labour practices cases filed before the NCMB and its regional branches has considerably decreased. ***The Committee takes note of this information and trusts that the Government will continue to take steps to ensure that all remaining allegations of acts of anti-union discrimination and interference, including in EPZs, are addressed and, if need be, appropriate measures of redress are taken and sufficiently dissuasive sanctions imposed, so as to ensure the effective protection of the right to organize. It requests the Government to continue to provide information on any developments in this regard.***

Concerning the strengthening in practice of the protection available against acts of anti-union discrimination and interference, the Committee noted in its previous comments the Government's indication of specific measures taken in this regard. The Committee welcomes the additional information provided by the Government in its report on the Incentivizing Compliance Program, referred to as the new Department of Labor and Employment (DOLE) Labor Laws Compliance System (LLCS), in particular the indications that: (i) the LLCS combines both regulatory and developmental approaches and involves a joint tripartite assessment and certification process to determine compliance by establishments with all labour laws, including freedom of association and collective bargaining; (ii) for a more effective monitoring, compliance officers are provided with an electronic checklist of labour law compliance based on decent work indicators, which makes data instantly available for viewing and processing in order to generate reports, statistics, and summonses; (iii) in case of deficiencies in compliance with labour standards, DOLE regional officers and compliance officers can provide technical assistance and educate employers and workers on labour laws; and (iv) to improve the efficiency of the LLCS, the Secretary of Labor and Employment issued an administrative order specifying five compliance assessment modalities. ***Taking note of these developments, the Committee requests the Government to provide further information on the functioning of the LLCS in practice, including on the participation of the social partners in the establishment of assessments of compliance of enterprises with the principles of freedom of association and collective bargaining, and to continue providing information on any legislative or other measures taken or envisaged to strengthen, in law and in practice, the protection available against acts of anti-union discrimination and interference, with special emphasis on EPZs and special economic zones.***

In its previous comments, the Committee noted with concern that, under item 14(a) of the Standard Employment Contract used by the Philippines Overseas Employment Administration (POEA) provided by the Government in 2012, engaging in trade union activities constitutes a ground for termination of the contract. The Committee requested the Government to take all necessary measures to remove this ground for termination from item 14(a) of the POEA Standard

Employment Contract and to provide an estimate of the number of workers governed by this sample contract. The Committee notes the Government's indication that the provision in the Standard Employment Contract making the act of engaging in trade union activities a ground for termination of employment was removed in December 2008 pursuant to Memorandum Circular No. 08 of 2008.

Article 4. Collective bargaining in the public sector. In its previous comments, the Committee noted the Government's indication that under section 13 of Executive Order No. 180, only terms and conditions not otherwise fixed by law may be negotiated between public sector employees' organizations and the government authorities. The Committee noted that the areas that may be subject to collective negotiation do not include such important aspects of conditions of work as wages, benefits and allowances, and working time, and requested the Government to expand the subjects covered by collective bargaining, in order to ensure that public sector employees not engaged in the administration of the State fully enjoy the right to negotiate their terms and the conditions of employment. In this regard, the Committee notes the observations of EI and the SMP-NATOW, as well as those of the SENTRO, referring to: (i) the limitations on the subjects of collective bargaining in the public sector; (ii) the decrease in the number of workers covered by collective bargaining agreements (CBAs), including in the public sector; and (iii) the non-ratification of the Labour Relations (Public Service) Convention, 1978 (No. 151). The Committee observes that in its comments the Government provides statistical data on union membership and on workers covered by CBAs and states that the CBA coverage range has been fluctuating in recent years mostly due to the fact that, while every year new CBAs are concluded, others expire. The Committee also notes that the Government informs about the adoption by the NTIPC of Resolution No. 6 of 2014, recommending: (i) the issuance of an Executive Order institutionalizing social dialogue in the public sector; (ii) the amendment of Executive Order No. 180, which limits the form in which government workers can bargain collectively by prohibiting their right to strike; and (iii) the ratification of Convention No. 151. The Resolution also urges the concerned agencies to revoke resolutions with provisions violating the rights of public sector workers to organize and negotiate collectively, and to review and modify the implementation of Executive Order No. 80, which limits collective negotiation in the public sector since it precludes negotiation on cash incentives. The Government further indicates the adoption of two resolutions calling on the DOLE to pursue the ratification of Convention No. 151. ***The Committee takes note of this information and requests the Government to take the necessary legislative or other measures to expand the subjects covered by collective bargaining, so as to ensure that public sector employees not engaged in the administration of the State fully enjoy the right to negotiate their terms and conditions of employment, including wages, benefits and allowances, and working time in accordance with Article 4 of the Convention. It requests the Government to continue to indicate any developments in this regard and to provide copies of any relevant legislation adopted.***

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

Poland

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

The Committee notes the observations of the National Commission of the Independent and Self-Governing Trade Union (NSZZ) "Solidarnosc" received on 26 August 2015, which mainly relate to legislative issues being raised by the Committee. The Committee notes the observations from the International Trade Union Confederation (ITUC), which concern the alleged prohibition of displaying union flags and the alleged prohibition or restriction of, and violent police intervention in, demonstrations and pickets, as well as the Government's comments thereon. The Committee wishes to generally recall in this regard that the display of union flags constitutes a legitimate trade union activity, and that the prohibition of and police intervention in, pickets and demonstrations is justified only if they cease to be peaceful or otherwise constitute a threat to public order. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

The Committee notes that an ILO mission visited Poland from 14 to 16 May 2014 following the Government's request for technical assistance. It also notes with *interest* the establishment of the Social Dialogue Council, a new tripartite institutional forum replacing the Tripartite Commission for Social and Economic Affairs.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join trade unions of their own choosing. In its previous comments, the Committee noted that, according to section 2(1) of the 1991 Act on Trade Unions, the right to form and join trade unions was not granted to those persons who had entered into an employment relationship on the basis of civil law contracts, since they did not fall under the definition of "employee" in section 2 of the Labour Code. The Committee had welcomed the initiatives on potential improvements to the legislation and hoped that any legislative reform would bring national law into conformity with the Convention. The Committee notes with *interest*, on the basis of the information provided by the Government in its report, that: (i) following the technical advice provided by the ILO mission on the possibility and implications of extending the right to form and establish trade unions taking into account the specificity of work performed under civil law contracts, the Ministry of Labour and Social Policy prepared in 2014 a new draft Act amending the Act on Trade Unions, which extends the right to establish and join trade unions to persons performing outwork, the self-employed and those who work on the basis of civil law contracts; (ii) in June 2015, following a motion submitted by All-Poland Alliance of Trade Unions (OPZZ), the

Constitutional Tribunal passed a verdict holding that section 2(1) of the Act on Trade Unions is contrary to the Constitution of the Republic of Poland, as the reference to the definition of “employee” in section 2 of the Labour Code does not guarantee the possibility of associating in trade unions to all people covered by the constitutional guarantees; and that the legislator should extend the right to organize to all persons performing paid work on the basis of a legal relationship; (iii) the Ministry of Labour and Social Policy is currently working to analyse the consequences of the judgment for the scope and coherence of the new draft Act; and (iv) due to its much larger personal scope, the draft Act introduces a systemic change that requires consultations with the social partners, which will be undertaken in the newly established Social Dialogue Council. ***The Committee trusts that the draft Act will be adopted in the near future and will guarantee the right of all workers, without distinction whatsoever, including workers without an employment contract, to establish and join organizations of their own choosing, with the sole exception of members of the armed forces and the police. The Committee requests the Government to provide information on any progress made in this respect.***

Article 3. Right of organizations to elect their representatives in full freedom. The Committee had previously noted that, according to section 78(6) of the Act on Civil Service of 21 November 2008, members of the civil service occupying senior positions cannot exercise trade union functions. The Committee had hoped that the announced revision of the Act on Civil Service, in particular its section 78(6), would be undertaken in the near future so as to bring it into line with the Convention. The Committee notes the Government’s indication to abide by its intention to align section 78(6) with ***Article 3*** of the Convention during the upcoming amendment of the Act on Civil Service. The Committee reiterates that, while legislation may restrict the right of civil servants in senior positions to join unions of lower grade employees, the persons concerned should have the right to form their own organizations to defend their interests and the right to elect representatives in full freedom; and all workers in the public service should have the right to perform trade union functions in their respective trade union organizations. ***The Committee firmly hopes that, during the upcoming amendment of the Act on the Civil Service announced by the Government, full account will be taken of the Committee’s comments with respect to the need to amend section 78(6) so as to ensure the respect of the principles mentioned above.***

Right of organizations to organize their activities in full freedom and to formulate their programmes. The Committee previously noted that section 78(3) of the Act on Civil Service forbids civil servants to participate in strikes or actions of protest interfering with the normal functioning of the office. In this regard, the Committee notes the Government’s indication that: (i) the limitations to the right to strike are contained in section 19 of the 1991 Act on Collective Labour Disputes, especially in its section 19(3); (ii) the term “civil service corps” used by the Act on Civil Service refers to a specific form of public service; unlike in some countries, where the civil service corps covers almost the whole public sector, including teachers, health care and local government employees, its scope is rather limited in Poland, and covers only about 121,400 persons employed in government administration offices; (iii) since the civil service corps is formed by officials employed in organizational units with a great importance for the performance of state activities, the prohibition of industrial action for the civil service corps in section 78(3) of the Act on Civil Service as well as the denial of the right to strike under section 19(3) of the Act on Collective Labour Disputes with regard to the members of the civil service corps and employees in courts and prosecutors’ offices, appear to be justified due to public interest and fall within the catalogue of permissible exclusions under the Convention; and (iv) with reference to the complaint filed by NSZZ “Solidarnosc” with the Constitutional Tribunal on this issue, the Government is awaiting resolution by the Constitutional Tribunal before it embarks on any legislative action.

The Committee wishes to generally recall that restrictions to the right to strike in the public sector should be limited to public servants exercising authority in the name of the State. ***The Committee trusts that the Government will consider establishing a procedure for determining exactly which public servants enumerated in section 19(3) of the Collective Labour Disputes Act and in section 2 of the Act on the Civil Service are exercising authority in the name of the State and for whom the right to strike could therefore be restricted under section 78(3) of the Act on the Civil Service and section 19(3) of the Collective Labour Disputes Act. In this regard, the Committee suggests that a tripartite body could be established with the responsibility of identifying the relevant public servants, and that any disagreement could be settled by an independent body. The Committee also requests the Government to supply a copy of the judgment of the Constitutional Tribunal as soon as it is handed down.***

Lastly, the Committee notes with *interest* the detailed statistical information provided by the Government, according to which, in 2014, there were 12,900 active trade union organizations, with a total of 1.6 million members (5 per cent of adult population), and the majority of enterprise unions operated within public sector entities (66 per cent).

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

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2015 and on 1 September 2014, which concern allegations of anti-union dismissals and other acts of anti-union discrimination, as well as the Government’s comments thereon. It also notes the observations of the National Commission of the Independent and Self-Governing Trade Union (NSZZ) “Solidarnosc” received on 26 August 2015, which mainly relate to legislative issues raised under the Freedom of Association and Protection of the Right to Organise

Convention, 1948 (No. 87). Lastly, the Committee notes the Government's comments on the 2012 ITUC observations concerning allegations of anti-union dismissals in various sectors of activity.

The Committee notes with *interest* the establishment of the Social Dialogue Council, a new tripartite institutional forum replacing the Tripartite Commission for Social and Economic Affairs.

Article 1 of the Convention. Effective protection against anti-union discrimination. The Committee had previously noted, in the context of earlier allegations of inefficiency of the proceedings and sanctions established in the legislation, the various legislative provisions enumerated by the Government providing protection against anti-union discrimination (article 59(1) of the Constitution; sections 18, 38 and 45(1) of the Labour Code; and the penalties under section 218(1) of the Penal Code and section 35(1) of the Act on Trade Unions of 1991), as well as relevant statistical information. The Committee requested the Government to submit statistics on the number of new cases concerning anti-union practices brought before the courts. Furthermore, in view of earlier allegations that victims of anti-union dismissals could ask for reinstatement but court proceedings could take up to two years, the Committee had noted the Government's reference to a possible amendment to the Code of Civil Procedure so that, in cases of anti-union discrimination, the persons concerned may remain in their jobs during the proceedings; and had requested the Government to provide information in this respect.

The Committee notes that the Government refers to sections 11 (prohibition of discrimination in employment on the grounds of, inter alia, trade union membership) and 47 of the Labour Code (right of reinstated employee to remuneration for not more than two months or, in the case of employees under special protection, for the entire period being unemployed) and section 32 of the Act on Trade Unions (special protection in the form of prohibition to terminate or unilaterally change conditions of employment without the consent of the trade union board, for a certain proportion of trade union officials). The Committee also notes the statistical information provided by the Government on the number of cases brought to courts for discrimination in employment (before the district courts 139 in 2012, 98 in 2013 and 79 in 2014; before the regional courts 14 in 2012, 14 in 2013 and 12 in 2014), their duration in days (before district courts 225 in 2012, 285 in 2013 and 249 in 2014; before regional courts 365 in 2012, 274 in 2013 and 511 in 2014) and their outcome; the number of sanctions imposed by courts; and the number of complaints against anti-union discrimination brought before the National Labour Inspectorate (17 in 2012 as of July; 37 in 2013; 37 in 2014; and five in 2015 until June) and their outcome, including concrete examples of cases in which inspections have been undertaken and their outcome. Lastly, the Committee takes note of the Government's indication that at present, the Ministry of Justice does not envisage any amendments to the Code of Civil Procedure.

Taking into account the numerous allegations of acts of anti-union discrimination, the Committee observes with *concern* the extremely low number of sanctions imposed for cases of anti-union discrimination or interference under section 35(1) of the Trade Union Act (zero in 2010; two in 2011; six in 2012; zero in 2013; and zero in 2014), and also notes a decrease by half in the number of sanctions imposed for infringements of workers' rights in general under section 218(1) of the Penal Code (434 in 2010; 358 in 2011; 203 in 2012; 179 in 2013; and 172 in 2014). *The Committee requests the Government to provide explanations in regard to these numbers and to take any necessary measures to ensure the effective protection against acts of anti-union discrimination in practice.*

In the same context, the Committee observes with *concern* that in the two concrete examples of cases supplied by the Government in which inspection has been undertaken and a court ruling issued, the fines imposed for the termination of employees under special protection without the trade union's consent (section 32 of the Trade Union Act), amounted, per dismissed employee, to 1,700 Polish zloty (PLN) (approximately US\$425) and PLN1,500 (approximately US\$375), respectively. The Committee considers that such level of fines imposed on the employers, which corresponds to half of the national average monthly wage, are too low to be sufficiently dissuasive. *In view of the recurrent allegations of numerous acts of anti-union dismissals, the Committee invites the Government to raise the level of fines imposed on employers in such cases, in order to ensure that the sanctions established and enforced are sufficiently dissuasive to prevent future acts of anti-union discrimination.*

Portugal

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 30 August 2013, and the Government's comments thereon; the observations of the International Organisation of Employers (IOE), received on 1 September 2013, and the Government's comments thereon; and the observations of the General Workers' Union (UGT) and of the General Confederation of Portuguese Workers – National Trade Unions (CGTP-IN), appended to the Government's report, which contains the Government's reply.

Article 4 of the Convention. Promotion of collective bargaining. The Committee notes that both the IOE and the ITUC allege that Council of Ministers Decision No. 90/2012 of 31 October 2012, undermined the practice of the "*erga omnes*" extension of collective agreements, in establishing that they can only be extended if the signatory employers represent at least 50 per cent of the workers in the sector of activity, unless the signatory parties exclude micro-, small and

medium-sized enterprises (the vast majority of Portuguese enterprises) from the extension request; this has a negative impact on the system of collective bargaining, with a drastic decrease in the number of collective agreements and workplaces covered by them. Moreover, the Committee notes the UGT's request for the revocation of the established extension criteria, and its denunciation of the weakening of collective bargaining and the lack of promotion thereof by the Government. In addition, the Committee notes the Government's replies, indicating that this measure introduced clear and objective criteria to be followed in weighing up the circumstances that might justify the extension of a collective agreement, taking account of representativeness and the impact of the extension on employment and the competitiveness of the economy. The Government states that the reduction in the number of collective agreements and their coverage was due at the time to the economic and financial situation and also to changes in the labour regulations. The Government indicates that collective bargaining is on the increase again and supplies statistical information on new collective agreements that have been published (93 in 2012, 97 in 2013, 161 in 2014, and 64 up to May 2015). Lastly, the Government emphasizes that, recognizing the importance of boosting collective bargaining, a new alternative criterion for the extension of agreements was redefined by Council of Ministers Decision No. 43/2014, taking account of the representativeness of micro-, small and medium-sized enterprises in various sectors of activity, which has contributed to the increase in the number of published extensions (13 in 2012, nine in 2013, 13 in 2014, and 23 up to August 2015). ***Observing that the current model for the extension of collective agreements is questioned by both workers' and employers' organizations, the Committee invites the Government to conduct a tripartite dialogue on the current regulations concerning the extension of collective agreements with a view to finding, as far as possible, shared solutions.***

Alteration of collective agreements and regulations concerning their expiry. The Committee notes the observations of the CGTP-*IN*, criticizing various legislative provisions that suspend, reduce or cancel provisions in collective agreements, resulting in cuts in wages and other allowances and benefits. The CGTP-*IN* also alleges that the regulations concerning the expiry of validity (*caducidade*) of collective agreements introduced by section 501 of the Labour Code is contrary to the Convention. The Committee observes that these matters have already been examined by the Committee on Freedom of Association (Case No. 3072). The Committee observes that the Committee on Freedom of Association invited the Government, in the light of the principles of freedom of association and collective bargaining, together with the most representative employers' and workers' organizations, to evaluate the impact of the legislative provisions concerning wages and other allowances and benefits on the exercise of trade union rights, particularly the right to collective bargaining, with a view to ensuring that the exceptional measures adopted in connection with the crisis are not perpetuated. The Committee concurs with the recommendations of the Committee on Freedom of Association.

Compulsory arbitration. In its previous comments, the Committee referred to sections 508 and 509 of the Labour Code, which allow the Labour Minister to take a reasoned decision to have recourse to compulsory arbitration. The Committee notes the Government's indication that, under section 508(1)(c) of the Labour Code, recourse to compulsory arbitration is only possible: (i) at the request of one of the parties, when a first collective agreement is concerned, "after protracted and fruitless negotiations and unsuccessful conciliation and mediation, and it has not been possible to refer the dispute to voluntary arbitration because of the other party's lack of good faith in negotiations"; (ii) in the event of revision of a collective agreement at the recommendation of the Standing Committee on Social Dialogue (CPCS), a tripartite body in which the workers' and employers' organizations are represented); or (iii) on the initiative of the Labour Minister "when it is a question of essential services designed to protect the life, health and safety of persons". In this last scenario, the Minister must first hear both parties and take into account: (i) the number of workers and employers affected; (ii) the social and economic effects of the dispute; and (iii) the position of the parties. Lastly, the Committee notes that the Government underlines the fact that compulsory arbitration is a measure of last resort, and that from 2006 to May 2015 only three awards resulting from compulsory arbitration were registered. ***The Committee requests the Government to provide information on any new cases involving the application of sections 508(1)(c) and 509 of the Labour Code, and also to indicate whether a judicial appeal can be made against the decision of the Labour Minister.***

Representativeness of organizations. The Committee noted in its previous comments the conclusions of the Committee on Freedom of Association in Case No. 2334, which stated that the legislation: (i) cites by name the organizations that are to form part of the Economic and Social Council (CES) and the CPCS, which means that some organizations that deem themselves representative are left out; and (ii) does not lay down objective criteria for determining the representativeness of workers' and employers' organizations. The Committee requested the Government to take the necessary measures to determine and lay down objective, precise and predetermined criteria to evaluate the representativeness and independence of employers' and workers' organizations forming part of the CES and CPCS. The Committee notes that the Government repeats in its report the same information that was supplied previously, namely that the president of the CES took the initiative of launching a general discussion on the composition of the CES with the cooperation of its members. The Government adds that to date it has no knowledge of any progress made on this issue and that the composition of the CES is a matter of legal competence. ***The Committee firmly hopes that the necessary steps will be taken in the very near future to determine and lay down objective, precise and predetermined criteria to evaluate the representativeness and independence of employers' and workers' organizations forming part of the CES and CPCS, and to amend section 9 of Act No. 108/91 concerning the Economic and Social Council as indicated above.***

Romania

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

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2015, which mainly relate to matters raised by the Committee under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Furthermore, the Committee notes the 2014 observations from the ITUC and the Government's comments thereon. The Committee also notes the observations from the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

In its previous observation, the Committee had noted with satisfaction that a number of matters raised earlier had been resolved through the adoption of Act No. 62 of 2011 concerning social dialogue (Social Dialogue Act). The Committee noted, however, that certain issues had remained unaddressed, including the denial of the right to organize to certain categories of public servants (section 4); and excessive control of trade union finances (section 26(2)). The Committee also noted a number of additional discrepancies between the provisions of the Social Dialogue Act and the Convention in terms of scope of application of freedom of association under section 3(1) (self-employed, apprentices, dismissed or retired workers not covered), eligibility conditions for trade union officials (section 8), and restriction of trade union activities (prohibition of activities with political character in section 2(2)).

Article 2 of the Convention. Right of workers to establish and join organizations of their own choosing. Workers without employment contract. As to the scope of application of freedom of association, the Committee notes the information provided by the Government in its report that self-employed workers enjoy freedom of association in accordance with Ordinance No. 26/2000 on associations and foundations, and that apprentices have the right to trade union affiliation under Act No. 279 of 2005 on apprenticeship in conjunction with the Labour Code. Noting that, as regards retired workers, the Government merely refers to Ordinance 26/2000, the Committee recalls that legislation should not prevent former workers and retirees from joining trade unions, if they so wish, particularly when they have participated in the activity represented by the union. **Noting that, in the absence of an employment contract, retired workers and dismissed or unemployed workers do not fall within the remit of the Labour Code, the Committee requests the Government to clarify whether such workers may, subject solely to union constitutions and by-laws, join a trade union or retain union membership after they cease to work.**

Public officials. With respect to the denial of the right to organize to certain categories of public officials, the Committee notes the information provided by the Government that: (i) section 4 of the Social Dialogue Act excludes persons elected or appointed to positions such as president, parliamentarian, mayor, prime minister, minister, president of the Supreme Court, etc.; and (ii) judges are excluded under section 4 but have the right to join professional associations as provided by the European Charter on the statute for judges.

Article 3. Right of workers' organizations to organize their administration. With reference to the excessive control of trade union finances, the Committee notes the Government's indication that trade unions as legal entities are subject, without discrimination, to the national fiscal legislation, adopted after consultations with the social partners. The Committee considers that the powers afforded to state administrative bodies under section 26(2) (control over the economic and financial activity and payment of debts to the state budget) need to be limited to the obligation of submitting periodic reports, cases of complaints or serious grounds to suspect violations. **The Committee requests the Government to take measures to delete or amend section 26(2) of the Social Dialogue Act so as to bring it into line with the Convention.**

Right of workers' organizations to organize their activities and to formulate their programmes. Concerning the prohibition of political activities, the Committee notes the Government's indication that the prohibition is a constitutional measure seeking to ensure the independence of trade unions, and that the Convention only protects trade union activities that relate to the interests of union members. The Committee recalls that, while trade unions should not engage in political activities in an abusive manner promoting essentially political interests, provisions imposing a general prohibition on political activities by trade unions for the promotion of their specific objectives are contrary to the principles of freedom of association and unrealistic in practice, since trade unions may wish, for example, to express publicly their opinion regarding the Government's economic and social policy. **The Committee requests the Government to take measures to delete or amend section 2(2) of the Social Dialogue Act so as to ensure respect for the above principle.**

Right of workers' organizations to elect their representatives in full freedom. In the absence of information provided by the Government regarding the previously raised issue of eligibility conditions for trade union officers, the Committee recalls that conviction on account of offences that do not call into question the integrity of the person and are not prejudicial to the exercise of trade union functions should not constitute grounds for disqualification. **The Committee requests the Government to indicate the measures taken or envisaged to amend section 8 of the Social Dialogue Act so as to ensure respect for this principle.**

The Committee generally notes that the Government indicates that: (i) following an agreement in 2014 of the National Tripartite Council for Social Dialogue, two bipartite working groups have been set up concerning amendments to the Social Dialogue Act and concerning collective bargaining sectors and procedure but were unable to reach consensus

on a common draft amending the relevant legislation; and (ii) a series of proposals for amendments to the Social Dialogue Act have been submitted to the ILO for comments in 2015 and the memorandum will be discussed by the National Tripartite Council. *The Committee trusts that the Government will take due account of its comments in the context of this legislative review and that the new legislation will be in full conformity with the Convention. It requests the Government to indicate any progress made in this respect. Recalling also that the Government recently benefited from ILO technical assistance seeking to ensure the conformity with the Convention of a draft Emergency Ordinance substantially amending the Social Dialogue Act, the Committee requests the Government to provide information on any developments in this regard.*

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: 1958)

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2015, which allege acts of anti-union discrimination and interference on the part of the employer. *The Committee requests the Government to provide its comments thereon.* Furthermore, the Committee notes the 2014 observations from the ITUC and the Government's comments thereon.

Article 4 of the Convention. Criteria of representativeness. The Committee had previously noted the representativeness criteria at enterprise level set out in section 51 of the Social Dialogue Act (union membership of at least 50 per cent plus one of the workers of the enterprise), and had requested the Government to take measures to ensure that if no union secures the absolute majority, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members. The Committee notes the information provided by the Government according to which: (i) all trade unions enjoy by virtue of section 1(b)(iii) and (u) of the Social Dialogue Act the right to collective bargaining in line with section 153 (the provision stipulates that any legally established trade union may conclude agreements with an employer or employers' organization that are only applicable to the members of the signatory union); and (ii) collective bargaining by representative trade unions leads, due to their legitimacy, to collective agreements with force of law applicable to all workers in the unit.

Furthermore, the Committee had previously observed that, according to section 135(1): (i) in enterprises without a representative trade union, if an enterprise-level union exists and is affiliated to a representative federation in the relevant sector of activity, the negotiation of a collective agreement will be carried out by that federation together with the elected workers' representatives; and (ii) in enterprises without a representative trade union, if an enterprise-level union exists but is not affiliated to a representative federation in the relevant sector of activity, the negotiation of a collective agreement will be carried out by the elected workers' representatives. The Committee had requested the Government to ensure that the relevant legislation is amended in order to guarantee respect for the principle that negotiation between employers and organizations of workers should be encouraged and promoted. The Committee notes the Government's indication that: (i) the requirement, in case that there is only a non-representative enterprise union, of its affiliation to a federation representative at the relevant sectoral level, originates from the former legislation and has the support of the trade unions; and (ii) the recognition of the right of workers' representatives (elected from within the enterprise union(s) or among non-affiliated workers) to negotiate in the absence of a representative enterprise union or of a non-representative enterprise union affiliated to a representative sectoral federation, responds to the necessity to cooperate at enterprise level so as to avoid mutual challenges from unions and a deadlock in collective bargaining. The Committee understands that section 135 regulates the manner of negotiating a collective agreement applicable to all workers in the unit (*erga omnes*) in the absence of a representative union and of its ensuing legitimacy. The Committee observes that this lack of legitimacy might explain the requirement for the non-representative union to be affiliated to a representative sectoral federation in order for that federation to be able to negotiate, at the request and within the mandate of the union, together with the workers' representatives, an *erga omnes* collective agreement (section 135(1)(a)). However, the Committee observes that, in cases where a non-representative union is not affiliated to a representative sectoral federation, the negotiation of a collective agreement *erga omnes* can be carried out exclusively by elected workers' representatives, thus rendering obsolete the right of non-representative unions to negotiate on behalf of their own members (section 153). The Committee recalls in this regard that collective bargaining with representatives of non-unionized workers should only be possible when there are no trade unions at the respective level, and that appropriate measures should be taken, wherever necessary, to ensure that the existence of elected worker representatives is not used to undermine the position of the workers' organizations concerned. *The Committee requests the Government to take measures to amend the relevant legislation in order to guarantee the application of these principles.*

Collective bargaining in the public sector. In its previous comments, the Committee had noted that, in the public budget sector, which covers all public employees, including those who are not engaged in the administration of the State, the fixation of salaries is exclusively by law, and no salaries or other pecuniary entitlements exceeding the provisions of this law can be negotiated through collective agreements (sections 3(b) and 37(1) of Act No. 284/2010 on Unitary Salaries of the Staff Paid from the Public Budget). The Committee had welcomed section 138(3) of the Social Dialogue Act as amended, according to which, in cases where the wage entitlements are established in special laws between minimum and maximum limits, the concrete wage entitlements are determined by collective bargaining within the legal limits.

Considering that this provision may be compatible with the Convention, depending on the practical application, the Committee had requested the Government to indicate the categories of employees in the public budget sector for which wage entitlements were established in special laws between minimum and maximum limits so that the concrete wage entitlements were determined by collective bargaining within those limits.

The Committee notes the Government's indications that: (i) the provisions relating to the negotiation of bonuses, increases and pecuniary rights (section 138(3) of the Social Dialogue Act and sections 12, 21–23 and 32 of Act No. 284/2010) are applied by respecting, during the negotiations, the minimum and maximum limits stipulated by the law and the special laws; (ii) such negotiations took place in the health and education sectors and resulted in agreements concerning pecuniary rights or fiscal advantages; (iii) unitary salaries under Act No. 284/2010 are based on a coefficient which is periodically reviewed in consultation/negotiation with the social partners, and to which salary increases are directly related; and (iv) a draft amendment to Act No. 284/2010 is currently being discussed. The Committee understands from the information provided by the Government and the annexes to Act No. 284/2010 that: (i) in case of pecuniary rights such as bonuses (e.g. for special, difficult or dangerous working conditions) and indemnities, negotiations are taking place with the trade unions concerned as regards the relevant workplaces, staff categories and amounts (which cannot exceed the legal limits); and (ii) in case of base salaries, however, the coefficient for the relevant staff category is fixed in the annexes to Act No. 284/2010 after consultation with the social partners. ***Highlighting once again the need to ensure that, in addition to pecuniary entitlements, wages are equally included in the scope of collective bargaining for all public service workers covered by the Convention, the Committee requests the Government to take the necessary measures in full consultation with the social partners and, if necessary, with technical assistance from the Office, to bring national law and practice into conformity with Article 4 of the Convention, on the understanding that upper and lower limits may be fixed for the wage negotiations with the trade unions concerned. The Committee trusts that due account will be taken of its comments during the ongoing legal review of Act No. 284/2010 and requests the Government to provide information on any developments in this respect.***

More generally, the Committee notes that the Government indicates that: (i) following an agreement in 2014 of the National Tripartite Council for Social Dialogue, two bipartite working groups have been set up concerning amendments to the Social Dialogue Act and concerning collective bargaining sectors and procedure, but were unable to reach consensus on a common draft amending the relevant legislation; and (ii) a series of proposals for amendments to the Social Dialogue Act have been submitted to the ILO for comment in 2015 and the ILO memorandum will be discussed by the National Tripartite Council. ***The Committee trusts that the Government will take due account of its comments in the context of this legislative review and that the new legislation will be in full conformity with the Convention. It requests the Government to indicate any progress made in this respect. Recalling also that the Government recently benefited from ILO technical assistance seeking to ensure the conformity with the Convention of a draft Emergency Ordinance substantially amending the Social Dialogue Act, the Committee requests the Government to provide information on any developments in this regard.***

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

Rwanda

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1988)

The Committee notes the observations of the International Trade Union Corporation (ITUC) received on 31 August 2014 on the matters related to the application of the Convention. ***The Committee requests the Government to provide its comments in this regard.***

The Committee notes as well the observations of the International Organisation of Employers (IOE) received on 1 September 2015.

The Committee takes note of the new Law 86/2013 of 19 September 2013 on the General Statute for Public Servants, whose article 51 recognizes the right of public servants to join any trade union of their choice. ***The Committee requests the Government to provide information on the recognition of the right of public servants to establish their own unions as well as their other rights under the Convention.***

The Committee also notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee had taken note of the comments provided by the ITUC dated 31 July 2012 on the application of the Convention. ***The Committee requests again the Government to provide its observations thereon.***

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish organizations of their own choosing. The Committee had noted in its previous comments that under the terms of section 124 of the Labour Code any organization requesting recognition as the most representative organization had to authorize the labour administration to check the register of its members and property. The Committee had noted that the Government indicates that this requirement will be removed from the labour law. ***The Committee requests again the Government to provide a copy of the legal text which repeals the requirement to check the register of property from the Labour Code.***

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.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
(ratification: 1988)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received 31 August 2014 and 1 September 2014. *It requests the Government to send its comments.*

The Committee notes the recent adoption of the new law on the general status of public service (Act 86/2013 of 11 September 2013) and requests the Government to clarify its impact on the rights protected in the Convention in Articles 1, 2 and 4.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Anti-union discrimination and interference. In its previous comments the Committee asked the Government to take steps to establish sufficiently dissuasive penalties for acts of anti-union interference and discrimination particularly concerning the amount of legal compensation of trade union affiliates. The Committee noted that, according to the provisions of section 114 of the new Labour Law (Law 13/2009), any act which infringes the provisions providing protection against acts of discrimination and interference should constitute an offence and incur the payment of damages. In this regard the Committee requested the Government to provide further information on the amount of damages applicable for acts of discrimination against trade union members or officials, other than the dismissal of trade unions representatives established in article 33 of the Labour Law. The Committee notes that, according to the government report, such acts can be punished by a term of imprisonment not exceeding two months and a fine ranging from 50,000 to 300,000 Rwandan francs (RWF) (approximately between US\$80 and \$480) (section 169 of the Labour Law). The Committee notes that the Government recognizes in its report that the Law 13/2009 does not specify the amount of damages applicable to acts of anti-union discrimination against trade union members or officials; this issue will be addressed accordingly in reviewing the Labour Code by making clear that the amount of damages provided under article 33 of the Labour Law can also apply to acts of discrimination against trade union members or officials. *The Committee requests the Government to provide information on any developments in this regard and underlines the importance that the future version of the Labour Law applies to all acts of anti-union discrimination and interference in respect of compensation. The Committee further requests the Government to provide information on the application in practice of the sanctions established in Law 13/2009.*

Article 4. Collective bargaining and arbitration. With reference to its previous comments concerning compulsory arbitration in the context of collective bargaining, the Committee noted that the collective bargaining dispute settlement procedure provided for in section 143 ff. of the Labour Law culminates, in cases of non-conciliation, in referral to an arbitration committee whose decisions may be the subject of an appeal to the competent jurisdiction, whose decision shall be binding. The Committee recalls once again that, except for the cases of public servants engaged in the administration of the State and essential services in the strict sense of the term, arbitration imposed by authorities is contrary to the principle of voluntary negotiation of collective agreements established by the Convention, and thus the autonomy of bargaining partners (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 257). *The Committee once again requests the Government to take the necessary steps to amend the legislation in such a way that, except in the circumstances referred to above, a collective labour dispute in the context of collective bargaining may be submitted to arbitration or to the competent legal authority only with the agreement of both parties.*

Moreover, with reference to its previous comments, the Committee noted that section 121 of the Labour Law provided that, at the request of a representative organization of workers or employers, the collective agreement shall be negotiated within a joint committee convened by the Minister of Labour or his/her delegate or representatives of the Administration participating as advisers. The Committee notes that, according to the Government's report, such a commission is made up of an equal number of employers' and workers' organizations so that negotiations are carried out on an equal footing and the outcome of the negotiations finally reflects the agreement of both parties, and that this provision could rather promote the negotiation of collective agreements. Nevertheless, the Committee recalls once again that such a provision may restrict the principle of free and voluntary negotiation of the parties established by the Convention. *The Committee requests the Government to take the necessary measures to amend section 121 of the Labour Law so that the joint committee to negotiate a collective agreement operates without the presence of a representative of the labour administration.*

With regard to the question of the extension of collective agreements, the Committee in its previous observations noted that, under section 133 of the Labour Law, at the request of a representative workers' or employers' organization, whether or not it is a party to the agreement or on its own initiative, the Minister of Labour may make all or some of the provisions of a collective agreement binding on all employers and workers covered by the occupational territorial scope of the agreement. The Committee notes that, according to the Government's report, in practice the extension of a collective agreement can be possible only subject to in-depth tripartite consultations. *The Committee requests the Government to take the necessary measures to ensure that extension of collective agreements is not done unilaterally.*

Collective bargaining in practice. Finally, in its previous comments, the Committee requested the Government to supply information on the activities of the National Labour Council with regard to collective bargaining, on the number of collective agreements concluded, and on the sectors and numbers of workers covered. The Committee notes that, according to the Government, one collective agreement was signed on 1 January 2012 between the Congress of Labour and Brotherhood of Rwanda (COTRAV) and the Workers' Trade Union Confederation of Rwanda (CESTRAR) and, on the other hand, the Rwandan Society for Tea Production and Commercialization (SORWATHE Ltd) covering between 700 and 1,000 workers in the tea sector. The Government adds that the two abovementioned trade unions have sent their representatives to the National Labour Council. The Committee also notes that, according to the Government, the National Labour Council is a tripartite organism whose responsibilities are giving advice on bills and draft regulations concerning labour and social security, assisting in the application of laws and regulations, identifying all the shortcomings in the field of labour laws and proposing amendments, among others. *The Committee underlines the need to further promote collective bargaining and again requests the Government to take measures in this direction and to provide information on the National Labour Council's activities in the field of collective bargaining and on the number of collective agreements concluded, including the number of workers covered.*

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

Saint Kitts and Nevis

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)

The Committee welcomes the information provided by the Government on the preparation of the draft Labour Code through tripartite consultations and with technical assistance from the ILO.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. In its previous comments, the Committee had requested the Government:

- to take the necessary legislative measures to ensure that workers are granted adequate protection against all acts of anti-union discrimination at the time of recruitment and throughout the course of employment (section 11 of the Protection of Employment Act only refers to protection against termination of employment on the grounds of union membership or participation in union activities); and
- to provide information on any development in relation to the Government's efforts to ensure that the sanctions provided for in the Protection of Employment Act be reviewed so that they are sufficiently dissuasive against all acts of anti-union discrimination.

The Committee notes with *interest* that the Government indicates in its report that: (i) all the necessary legislative measures have been taken into consideration to ensure that workers are granted adequate protection against acts of anti-union discrimination at the time of recruitment, throughout the course and up to the termination of employment and that these measures form part of the draft Labour Code; and (ii) the existing sanctions outlined in the Act are being reviewed with a view to ensuring that they are increased according to the Committee's recommendations.

Article 2. Adequate protection against acts of interference. In its previous comments, the Committee had requested the Government to provide information on the measures taken towards the adoption of specific provisions that would explicitly provide for rapid appeal procedures, coupled with effective and dissuasive sanctions, against acts of interference. The Committee notes with *interest* that the draft Labour Code includes a provision explicitly prohibiting any acts of interference (section 203). The Committee notes the Government's statement that sanctions will be reviewed in accordance with the Committee's comments. In this regard, the Committee recalls, in its 2012 General Survey on the fundamental Conventions, paragraph 197, that "adequate protection" against acts of interference requires the establishment of rapid appeal procedures and sufficiently dissuasive sanctions against such acts.

Article 4. Recognition of organizations for the purposes of collective bargaining. In its previous comments, the Committee had requested the Government to provide information on the measures taken towards the adoption of specific provisions to explicitly recognize and regulate in the legislation the right to bargain collectively, in conformity with the Convention. The Committee notes that the Government states in its report that all the Committee's recommendations have been taken into consideration, and that this issue has been addressed in the draft Labour Code.

The Committee observes that: (i) sections 235 and 236 of the draft Labour Code appear to require the support of more than 50 per cent of the bargaining unit to be recognized as bargaining agents; and (ii) sections 233 and 240 of the draft Labour Code confer discretion on the Labour Commissioner to determine the "appropriate" bargaining unit. In this regard, the Committee recalls that: (i) legislation that unilaterally imposes a level of bargaining or makes it compulsory for bargaining to take place at a specific level may also raise problems of compatibility with the Convention; and (ii) requiring the support of 50 per cent of the members of a bargaining unit to be recognized as a bargaining agent raises problems of compatibility with the Convention, as it means that a representative union which fails to secure the absolute majority may thus be denied the possibility of bargaining. The Committee recalls in its 2012 General Survey on the fundamental Conventions, paragraphs 222 and 234, that under a system of the designation of an exclusive bargaining agent, if no union represents the required percentage of workers to be declared the exclusive bargaining agent, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members.

The Committee requests the Government to make any necessary amendments to the draft Labour Code to ensure conformity with the abovementioned principles. The Committee hopes that the new Labour Code will soon be adopted and requests the Government to provide a copy.

Saint Lucia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1980)

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and to join organizations. For several years, noting that the "protective services" – which include the fire services and prison officers –

were excluded from the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999, the Committee had requested the Government to take the necessary measures to ensure the right to organize to fire service personnel and prison staff. The Committee notes that section 325 of the Labour Act 2006 also excludes "protective services" (which according to section 2 of the Act include the fire service and the correctional services) from the scope of application of the provisions which are dealing with the right to organize in the new legislation. *Noting that the Government indicates in its report that the issue of the right to organize fire service personnel and prison staff would be raised with the Minister of Labour, and recalling previous indications that the workers of these services benefit in practice from this right, the Committee once again requests the Government to indicate the manner in which service personnel and prison staff are assured the organizational rights provided in 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.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1980)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1, 2, 4 and 6 of the Convention. For several years, noting that the "protective services" – which include the fire services and correctional officers – were excluded from the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999, the Committee had requested the Government to take the necessary measures in order to grant fire service personnel and correctional staff the rights and guarantees provided for in the Convention. The Committee notes that the Labour Act 2006, which entered into force on 1 August 2012, repeals the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999. It further notes that section 355 of the Labour Act 2006 also excludes "protective services" (which according to section 2 of the Act include the fire service and the correctional services) from the scope of application of the provisions which are dealing with the right to bargain collectively in the new legislation. *Noting that the Government indicates in its report that fire service personnel and prison staff benefit in practice from the right to collective bargaining, and that the issue would be raised with the Minister of Labour, the Committee once again requests the Government to take the necessary measures to expressly grant in the legislation the right to collective bargaining to fire service personnel and correctional staff.*

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

Saint Vincent and the Grenadines

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

The Committee notes the observations from the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Articles 2 and 3 of the Convention. Legislative matters. The Committee had previously referred to the need to amend the following sections of the Trade Unions Act (TUA): section 11(3), so as to eliminate the discretionary authority of the Registrar in respect of the registration of trade unions; and section 25, so as to limit the powers of the Registrar to conduct investigations into the accounts of trade unions. The Committee had noted the Government's indication that the new Labour Relations Bill which would repeal the abovementioned sections of the TUA was still awaiting the Cabinet's approval. In its previous observation, the Committee noted that the Government indicated in its report that: (i) there had been some setbacks on the progress of the new Labour Relations Bill as a result of circumstances outside the control of the Department of Labour; (ii) it had become necessary to review the draft Bill by way of consultations with the new leadership of the respective social partners; and (iii) this process had commenced and the Government remained hopeful that the new Bill would be adopted in the near future. The Committee expressed the hope that the new Labour Relations Bill would be adopted in the near future and would address the abovementioned issues.

The Committee notes that the Government reports that: (i) no changes have occurred with respect to legislation or practice affecting the application of the Convention; (ii) there has been no new development with regard to the ongoing consultation in respect of the proposed Labour Relations Bill; and (iii) the Government continues to remain hopeful that the new Bill will be adopted in the near future.

The Committee firmly hopes that the Government will continue the consultation with the social partners and that the Labour Relations Bill will be adopted in the near future and will address the abovementioned issues. The Committee requests the Government to provide information on any progress made in this regard.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1998)

Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and interference. In its previous comments, the Committee had requested the Government to take measures to include in the legislation provisions which provide protection against acts of anti-union discrimination and interference by the employer or employers' organizations in workers' organizations (and vice versa) and which encourage collective bargaining in the private and public sectors (with the sole possible exception of public servants engaged in the administration of the State). The Committee had noted that a new Labour Relations Bill was awaiting the Cabinet's approval and that this Bill included

provisions against trade union discrimination and interference by employers' and workers' organizations. In this regard, the Committee had recalled that the provisions should not only include protection against trade union discrimination and interference by employers' and workers' organizations, but also by the employer or any person acting on behalf of that employer. The Committee subsequently noted that: (i) the Government expressed gratitude to the ILO for providing technical comments on the Labour Relations Bill; (ii) copies of the ILO's memorandum of technical comments were submitted to the respective employers' and workers' organizations for their consideration and adoption; (iii) the provisions of the revised Bill were expected to address the issues that are of concern to the ILO; and (iv) the Government had initiated a series of consultations with the new leadership of the respective social partners. The Committee expressed the hope that the revised Labour Relations Bill would address the abovementioned issues and would ensure full conformity with the Convention.

The Committee notes that the Government reports that: (i) no changes have occurred with respect to legislation or practice affecting the application of the Convention; (ii) there has been no new development with regard to the ongoing consultation in respect of the proposed Labour Relations Bill, which is intended to replace the existing Trade Union Act; and (iii) the Government continues to remain hopeful that the new Bill will be adopted in the near future.

The Committee firmly hopes that the Government will continue the consultation with the social partners and that the Labour Relations Bill will be adopted in the near future and will address the abovementioned issues. The Committee requests the Government to provide information on any progress made in this regard.

Samoa

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2008)

Articles 1, 2 and 4 of the Convention. Legislative matters. Referring to its previous comments, the Committee welcomes the adoption of the Labour and Employment Relations Act 2013 (LERA) and notes with *satisfaction* that:

- Section 21 of the LERA guarantees the right to collective bargaining to trade unions, employers and federations of trade unions or employers' organizations and imposes upon them an obligation to negotiate in good faith and make every reasonable effort to reach agreement.
- Section 83(2)(q) of the LERA provides for regulations to be adopted to further provide for the effective exercise of the right to collective bargaining, including, but not limited to, matters relating to good faith bargaining, recognition of representative organizations and regulation of collective agreements.
- Section 4 of the LERA establishes the National Tripartite Forum which aims at promoting industrial peace and contributing to a balanced growth of the national economy (section 7).
- Section 13 of the LERA allows the Ministry responsible for labour and employment relations to investigate grievances and complaints, to assist with conciliation efforts where there are disputes between employers and employees and to promote harmonious relations and social dialogue between employers and employees.
- Section 22(4) of the LERA protects employees against anti-union discrimination in recruitment and section 78(1) of the LERA provides for a fine not exceeding 50 penalty units for an employer who enters into a contract contrary to the LERA.
- Section 63 of the LERA grants the Chief Executive Officer (CEO) of the Ministry responsible for labour and employment relations the powers to conciliate when requested to do so by either party to an industrial dispute; and, in line with section 64 of the LERA, the CEO can, upon a joint request of the parties and after consulting the National Tripartite Forum, refer an industrial dispute to a tripartite conciliation committee; section 76 allows the Minister responsible for labour and employment relations upon the application of any of the parties, to refer an industrial dispute which has not been solved through conciliation, to a judge of the Supreme Court sitting with two assessors.

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

Sao Tome and Principe

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

Articles 1 and 2 of the Convention. Interference and anti-union discrimination. The Committee recalls that for several years it has been requesting the Government to take the necessary measures for the adoption of appropriate legislation which imposes sufficiently effective and dissuasive sanctions against acts of anti-union discrimination and acts of interference against trade union organizations, in accordance with the provisions of the Convention. The Committee notes the Government's indication in its report that it has taken due note of the Committee's comments and is engaged in

dialogue with the representative trade union organizations of the country with a view to the amendment of the Trade Union Act No. 5/92 in response to the issues emphasized by the Committee.

Article 4. Absence of a legal framework for the exercise of the right to collective bargaining. The Committee once again notes that the right to collective bargaining is recognized in Act No. 5/92, of 28 May 1992, but is not the subject of legal regulation, and that the adoption of a Bill on the legal framework for collective bargaining has been pending for several years. The Committee notes the Government's indication that, due to successive changes in the governing and legislative authorities of the country, it has not been possible to adopt draft legislation to make this amendment to Act No. 5/92.

The Committee requests the Government to provide information on any developments in the legislative processes referred to in relation to Articles 1, 2 and 4 of the Convention and, in the hope that they are completed as soon as possible, to send a copy of the legislation that is adopted.

Application in practice. In its previous observation, the Committee noted that, according to the Government: (i) there are no collective agreements in the country owing to its geographical size; and (ii) the Labour Directorate might act as an intermediary between the parties to collective bargaining, including to ensure the enforcement of the agreement. *The Committee expresses concern at the absence of collective agreements and once again requests the Government to take the necessary measures to encourage and promote the development and utilization of collective bargaining. The Committee once again requests the Government to provide further details on the role played by the Labour Directorate in the process of collective bargaining.*

The Committee reminds the Government that it can avail itself of technical assistance from the Office in relation to the various matters raised and trusts that it will be able to note progress in the near future.

Collective Bargaining Convention, 1981 (No. 154) (ratification: 2005)

Article 5 of the Convention. Collective bargaining in the public administration. The Committee notes the Government's indication in its report that collective bargaining does not apply to the public service. *The Committee requests the Government to indicate the obstacles preventing the application of collective bargaining to public servants and to take all measures at its disposal to make possible and promote collective bargaining in the public service with a view to giving effect to Article 5 of the Convention.*

Legal framework for the exercise of collective bargaining. The Committee notes that, in the context of the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Government indicates that the Bill establishing the legal framework for collective bargaining has still not been adopted. *The Committee requests the Government to inform it of the ongoing legislative process and it firmly hopes that all appropriate measures will be taken for the adoption of the necessary regulation to promote collective bargaining.*

Article 6. Mediation. The Committee notes the Government's indication that the Labour Directorate of the Ministry of Employment and Social Affairs only acts as a mediator in disputes between employers and workers in the private sector.

Article 7. Consultation and negotiation with employers' and workers' organizations. The Committee reminded the Government in previous comments that, under the terms of the Convention, consultation and negotiation with the most representative organizations of workers and employers has to be promoted during the process of determining the rules for collective bargaining procedures. *The Committee once again requests the Government to take measures for this purpose.*

Application in practice. The Committee previously noted the Government's indication that there are currently no collective agreements in the country in view of its geographical size. *The Committee expresses concern in this regard and once again invites the Government to have recourse to ILO technical assistance to resolve this important problem.*

Senegal

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

In its previous observation, the Committee noted the serious allegations of the International Trade Union Confederation (ITUC) received in 2012 concerning the violent police repression of a general assembly of the National Postal and Telecommunications Workers Union (SNTPTS), held in front of the postal services General Directorate in Dakar. In its reply, the Government confines itself to indicating that the police do not interfere in peaceful demonstrations, except to perform their supervisory role. The Committee wishes to recall once again that the right to organize meetings is an essential element of the rights of employers' and workers' organizations and that the public authorities should refrain from any interference which would restrict this right or impede its legal exercise, unless such exercise seriously and imminently endangers public order. The Committee also notes the observations of the ITUC received on 1 September 2015 including on the recurring difficulties in registering trade unions. In this regard, the Committee recalls that workers and employers should have the right to establish the organizations that they consider appropriate in a climate of security, and any delay caused by the authorities in registering these organizations would constitute a denial of their rights and a

violation of the Convention. ***The Committee urges the Government to ensure the full respect of these principles, and to provide its comments in reply to the most recent observations of the ITUC.***

The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Bringing legislation into conformity with the Convention. The Committee recalls that for over ten years its comments have related to the need to amend several legal provisions to bring them into conformity with the Convention. During this period, the Government has always expressed its willingness to make these amendments. In its latest report, the Government indicates once again that the process to amend the legislation on all the points raised by the Committee has been initiated and is ongoing. ***The Committee notes with regret the time that has elapsed without any progress being made in bringing the legislation into conformity with the Convention, and urges the Government to take all the necessary measures to complete the legislative reform process in order to bring national law into conformity with the Convention on the following points:***

- ***Article 2 of the Convention. Trade union rights of minors.*** The need to amend the Labour Code to guarantee the right to organize of minors who have reached the statutory minimum age for admission to work (persons of 15 years of age, under section L.145 of the Labour Code), and who have access to the labour market both as workers and as apprentices, without authorization by their parents or guardians being necessary.
- ***Articles 2, 5 and 6. Right of workers to establish organizations of their own choosing without previous authorization.*** The need to repeal Act No. 76-28 of 6 April 1976 and to amend section L.8 of the Labour Code (as amended in 1997) so as to guarantee to workers and their organizations the right to establish organizations of their own choosing by abolishing the requirement of previous authorization from the Ministry of the Interior. Noting that the Government reiterates that the State has the basic responsibility of ensuring that the founders of an organization of any kind have a good moral character and are not in conflict with the law, the Committee is bound once again to recall that the provisions of Act No. 76-28 of 6 April 1976, repeated in section L.8 of the Labour Code, which, in practice, grant the Minister of the Interior discretionary power to issue a receipt conferring recognition of the existence of a trade union, are incompatible with *Article 2* of the Convention.
- ***Article 3. The right of organizations to exercise their activities in full freedom and to formulate their programmes.*** The need to adopt the Decree implementing section L.276 of the Labour Code, to establish a list of jobs in which the requisitioning of workers is only authorized in the event of a strike to ensure the operation of essential services in the strict sense of the term.
- The need to amend the Labour Code to include a provision ensuring that the restrictions set forth in section L.276 of the Labour Code concerning the occupation of workplaces or their immediate surroundings during strikes only apply when strikes cease to be peaceful or when respect for the freedom to work of non-strikers and the right of the management to enter the premises of the enterprise are hindered.
- ***Article 4. Dissolution by administrative authority.*** The need to adopt a provision, in a law or regulations, that expressly establishes that the dissolution of seditious associations, as envisaged by Act No. 65-40 on associations, may in no event be applied to industrial associations. In this regard, the Committee notes the Government's comment that an industrial association that protects the interests of its members cannot be classed as a seditious association and would not be affected by the possibility of dissolution by administrative authority. However, the Government adds that the process of bringing the Act into conformity with the Convention on this point is still ongoing.

Serbia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

The Committee notes the observations of the International Organisation of Employers (IOE) and the Serbian Association of Employers (SAE) received on 1 September 2013, as well as the Government's comments thereon. The Committee further notes the observations of the Union of Employers of Serbia (UES) received on 17 October 2014. The Committee also notes the observations from the IOE received on 1 September 2015, which are of a general nature.

The Committee had previously requested the Government to provide its comments on the observations – forwarded to the Committee by the Government in 2012 – from the following workers' and employers' organizations: (i) the UES; (ii) the Trade Union Confederation "Nezavisnost"; (iii) the Confederation of Autonomous Trade Unions of Serbia (CATUS); and (iv) the Confederation of Free Trade Unions (CFTU). The Committee notes that, in its report, the Government provides comments on some of the observations made by the workers' and employers' organizations. ***The Committee requests the Government to reply to the outstanding observations made by these organizations.***

Civil liberties. In its previous observation, the Committee noted: (i) the Government's indications to the 2011 Conference Committee that it had not been aware of the alleged physical assaults against union officials and members,

especially in the educational and health-care sectors, claimed by the International Trade Union Confederation (ITUC) and the CATUS, and that, once provided with the relevant information, it would take the necessary steps to resolve the issue in accordance with the Convention; and (ii) the Conference Committee's request that the Government undertake without delay independent investigations into the allegations and report accordingly. The Committee also noted with concern the ITUC allegation of an attempted physical attack during a strike organized by the Independent Trade Union of Police (ITUP) and requested the Government to take the necessary measures to institute an independent inquiry into all alleged acts of violence against trade union officials or members and to ensure respect for the abovementioned principles.

The Committee notes that: (i) in respect of the allegations of physical assaults on trade union officials and members, particularly in the educational and health-care sectors, the Government indicates in its report that it requires more data to be able to take the necessary measures and that, as soon as additional information is received, competent authorities shall take the necessary steps in accordance with the law; and (ii) in respect of the alleged attempt of physical attack during a strike organized by the ITUP, the Government indicates that it had already provided a reply on this issue. In this regard, the Committee observes that the Government previously indicated that the Ministry of Interior followed up a notification of such allegations submitted by the ITUP. ***Recalling that the right of workers' and employers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, the Committee requests the Government to provide further information on the follow-up measures taken by the Ministry of Interior to investigate the alleged attempted assault during the strike organized by the ITUP, as well as the outcome of such investigation.***

Article 2 of the Convention. Right of employers to establish and join organizations of their own choosing without previous authorization. The Committee recalls that for a number of years, it has been commenting upon the need to amend section 216 of the Labour Act, which provides that employers' associations may be established by employers that employ no less than 5 per cent of the total number of employees in a certain branch, group, subgroup, line of business or territory of a certain territorial unit, in order to establish a reasonable minimum membership requirement. In its previous observation, the Committee noted the Government's indication that the Committee's comments on section 216 would be taken into consideration in the course of the amendment of the Labour Act. The Committee also observed that, in its conclusions, the 2011 Conference Committee considered that the Government should accelerate the long-awaited amendment of section 216 of the Labour Act, especially to repeal the 5 per cent threshold, and that concerns persisted about the full participation of the social partners in the announced legislative review. The Committee notes that the Government restates the content of section 216 of the Labour Act but does not provide any further information on the requested legislative amendments. ***Regretting the lack of progress, the Committee trusts that the process of revising the relevant legislation will be conducted in full consultation with the most representative workers' and employers' organizations and that due account will be taken of the need to amend section 216 of the Labour Act, so as to establish a reasonable minimum membership requirement that does not hinder the establishment of employers' organizations. The Committee firmly hopes that the legislative process will be completed in the near future and requests the Government to provide information on any developments in this regard.***

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: 2000)

The Committee takes note of the observations provided by the following workers' and employers' organizations: (i) the Confederation of Autonomous Free Trade Unions of Serbia (CATUS) and the Trade Union of Judiciary Employees of Serbia (TUJES) (2 April 2013) alleging irregularities in collective bargaining; (ii) the International Organisation of Employers (IOE) and the Serbian Association of Employers (SAE) (1 September 2013) concerning the determination of trade union representativeness; (iii) the Union of Employers of Serbia (UES) (18 November 2014) relating to employers' participation in the Health Insurance Fund; and (iv) the International Trade Union Confederation (ITUC) (1 September 2015) relative to the Government's refusal to consult trade unions over labour changes. The Committee also notes the Government's comments received in 2013 in reply to the observations from the CATUS and the TUJES and in reply to the observations from the IOE and the SAE.

The Committee had previously requested the Government to provide its comments on the observations – forwarded to the Committee by the Government – from the following workers' and employers' organizations: (i) the Trade Union Confederation "Nezavisnost" (5 September 2012) alleging anti-union discrimination, flaws in labour inspection, initiative for the establishment of courts specialized in labour relations, and irregularities in collective bargaining; (ii) the UES (5 September 2012) concerning delays in legislative amendments; and (iii) the Confederation of Free Trade Unions (CFTU) (30 October 2012) alleging anti-union harassment, pressure on trade union members and general non-respect of collective agreements by employers and claiming that the three-year period of validity of collective agreements, as provided in the Labour Act, has adverse consequences on the continuity of workers' rights. The Committee notes that, in its report, the Government provides comments on some of the observations made by the workers' and employers' organizations. ***It requests the Government to reply to the outstanding observations made by these organizations as well as to the observations received from the ITUC on 1 September 2015.***

Article 1 of the Convention. Protection against anti-union discrimination in practice. In its previous comments, the Committee had requested the Government to provide information on the application of the Convention in practice, including statistical data on the number of complaints of anti-union discrimination brought before the competent authorities (labour inspectorate and judicial bodies), as well as on the outcome of investigations and judicial proceedings and their average duration. The Committee notes that in its report the Government provides detailed information on the activities of the labour inspectorate, in particular its meetings with the social partners in order to strengthen social dialogue and control compliance with collective agreements and inspection of allegations of anti-union discrimination, including cases relative to expulsion from union membership, termination of affiliation fee deduction or irregularities relating to the payment of union dues. ***The Committee notes the information provided and requests the Government to provide further details on proceedings particularly related to anti-union discrimination, including judicial proceedings, and their average duration.***

Article 4. Promotion of collective bargaining. Representativeness of workers' and employers' organizations. The Committee had previously raised the need to amend section 233 of the Labour Act which imposed a time period of three years before a trade union, an employer or an employers' association could submit a request for reassessment of an already determined representativeness of a trade union. The Committee had requested the Government to take the necessary measures to amend section 233 of the Labour Act so that the three-year time span is reduced to a more reasonable period or to explicitly allow the procedure for determination of the most representative status to take place in advance of the expiration of the applicable collective agreement. The Committee notes with *satisfaction* that amendments were made to section 233 of the Labour Act, which reduce the period during which it is not possible to challenge an already determined representativeness of a trade union.

The Committee had previously noted the Government's indications that: (i) the conditions and mechanism for the establishment of the representativeness of trade unions and employers' organizations are decided by the Minister of Labour upon a proposal by a specific tripartite board, the Representativeness Board; (ii) since this Board was not functional due to its method of decision-making (consensus), the Ministry established an independent commission, which was dismantled in view of the huge discontent of the members of the Representativeness Board; and (iii) the Ministry noted that the issue could be addressed by the adoption of the amendments to the Labour Act or of a separate law. The Committee notes the observations received from the IOE and SAE on 1 September 2013, in which the organizations allege that the Government bypassed the existing legal process for determining representativeness of trade unions by creating a new entity to assess the representativeness of trade unions, in particular of the CFTU, and that the Minister of Finance unduly intervened and put pressure on the secretary and members of the Social and Economic Council (SEC) by requesting them to include the CFTU in the SEC. The Committee notes that in its reply the Government reiterates what it had previously stated in respect of the developments relative to the Representativeness Board and further specifies that the Ministry of Labour will propose a revision of the Labour Act to ensure that applications for representativeness are resolved in a more efficient and timely manner, following clearly defined criteria that will enable any organization to prove its eligibility for representativeness. According to the Government, the issues of concern with the current system are that: (i) it is not possible for an organization to become recognized unless representative social partners, members of the Representativeness Board, reach an agreement on it; and (ii) the current social partners only cease to be recognized if they vote against themselves. The Committee observes that new paragraphs were added to section 229 of the Labour Act which establish decision-making by majority and allow the Minister to decide upon a request for representativeness without the Board's approval if it fails to submit a proposal to the Minister within 30 days from the date of the request. ***Recalling that methods for the determination of the most representative organizations should be based on objective, pre-established and precise criteria, the Committee requests the Government to indicate whether the new amendments have improved the Representativeness Board's operation and efficiency when dealing with requests to grant representativeness and whether the Government is developing any further amendments to the Labour Act in this regard.***

Percentage required for collective bargaining. The Committee had previously noted that section 222 of the Labour Act required employers' associations to represent 10 per cent of the total number of employers and employ 15 per cent of the total number of employees in order to exercise collective bargaining rights. The Committee had requested the Government to lift the 10 per cent requirement for employers' organizations to be entitled to engage in collective bargaining, which is particularly high, especially in the context of negotiations in large enterprises, at the sectoral or national level. The Committee had noted that, according to the Government, this issue would be reconsidered in the framework of the revision of the Labour Act. The Committee notes that the Government indicates that the Ministry of Labour and the social partners have started to analyse the effect of the Labour Act, including its compliance with the Convention. ***Welcoming this initiative to review the Labour Act in consultation with the social partners, the Committee trusts that the necessary measures will be taken so as to lower the abovementioned percentages and to provide information on any developments in this regard.***

The Committee had also previously noted, that according to the observations of the CFTU received on 30 October 2012, an agreement to achieve representativeness may only be signed by two or more unrepresentative trade unions at company level in order to be able to be party to collective bargaining, and that this is not possible for trade unions and employers' associations at higher levels. The Committee notes that according to the Government, section 249 of the Labour Act does not restrict the conclusion of agreements between trade unions and employers' associations at any level

as it stipulates that if none of the trade unions or employers' associations meet the requirements of representativeness within the meaning of the law, trade unions and employers' associations may conclude an agreement on association in order to meet the conditions for representativeness and participation in collective agreements. The Committee takes note of this information.

The Committee expresses the hope that the Government will take the necessary measures without delay in order to bring the legislation into conformity with the requirements of the Convention, taking into account the preceding comments, and requests the Government to indicate the progress made in this respect.

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

Seychelles

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

The Committee takes note of the observations submitted by the Association of Seychelles Employers and the Seychelles Federation of Workers' Unions (SFWU), received on 31 August 2015, which refer to matters already examined by the Committee. The Committee also takes note of the observations provided by the International Organisation of Employers (IOE) in a communication received on 1 September 2015, which are of a general nature.

The Committee recalls that for several years it has been commenting upon and requesting the Government to take the necessary measures to amend several provisions of the Industrial Relations Act (IRA) concerning the issues of trade union registration and the exercise of the right to strike. The Committee welcomes the Government's indications that: (i) in 2012, the Ministry of Labour and Human Resources Development (MLHRD) established a committee to review the IRA, composed of representatives from the MLHRD, the employers' and workers' organizations and other stakeholders from the ministries, departments and a non-governmental organization; (ii) the IRA Committee actively met on four occasions between April and July 2013 during which it proceeded to an analysis of the IRA by order of the sections; and (iii) the social partners in the IRA Committee found that section 9(b) provided discretionary powers to the Registrar and was unnecessary as the issue of trade union activities likely to cause a serious threat to public safety, public order or public health was already covered by section 19 of the Public Order Act, 2013. The Committee further notes that in its report the Government informs that: (i) in relation to section 9(1)(f) of the IRA there are currently no specific qualifications required to hold any office in a trade union; (ii) since the IRA Committee only had a chance to examine sections 1 to 9, the Committee's remaining comments regarding sections 52(1)(a)(iv), 52(4), 52(1)(b) and 56(1) have not yet been addressed; (iii) although a roadmap was prepared to ensure regular progress in the review of the IRA, priority was given to the review of the Employment Act, while the review of the IRA was put on hold due to the lack of expertise and human resources; (iv) as a result of the delay, the MLHRD contracted a consultancy to review the IRA to ensure its compatibility with the national labour legislation and international labour standards, the main work of which will be undertaken from September 2015 to February 2016, with the validation workshop of the IRA draft scheduled to take place in February 2016; (v) the terms of reference of the IRA consultancy were forwarded to the ILO Country Office in Antananarivo; and (vi) the Committee's comments will be considered by both the IRA Committee and the IRA consultancy in their review of the legal instrument. The Committee observes that the Government expressed the need for ILO technical assistance and stated that it would forward the IRA draft for the ILO's comments prior to the validation workshop.

The Committee trusts that the review of the IRA will continue without delay, in consultation with the social partners and with the technical assistance of the ILO requested by the MLHRD, and that the following sections of the IRA will be amended taking into account the Committee's previous comments:

- *section 9(1)(b) and (f), which confers on the Registrar discretionary power to refuse registration;*
- *section 52(1)(a)(iv), which provides that a strike has to be approved by two-thirds of union members present and voting at the meeting called for the purpose of considering the issue;*
- *section 52(1)(b), which provides for a cooling-off period of 60 days before a strike may begin;*
- *section 52(4), which allows the minister to declare a strike to be unlawful if he or she is of the opinion that its continuance would endanger, among other things, "public order or the national economy"; and*
- *section 56(1), which imposes penalties of up to six months of imprisonment for organizing or participating in a strike declared unlawful on the basis of the IRA provisions.*

The Committee requests the Government to provide information on any developments in this respect.

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

The Committee takes note of the observations submitted by the Association of Seychelles Employers and the Seychelles Federation of Workers' Unions (SFWU), received on 31 August 2015, which refer to matters already examined by the Committee.

Articles 2, 3, 4 and 6 of the Convention. Pending legislative matters. The Committee recalls that for several years it has been commenting upon and requesting the Government to take measures to amend several provisions of the Industrial Relations Act (IRA) concerning insufficient protection against acts of interference and restrictions on the right to bargain collectively. The Committee welcomes the Government's indications that: (i) in 2012, the Ministry of Labour and Human Resources Development (MLHRD) established a committee to review the IRA, composed of representatives from the MLHRD, the employers' and workers' organizations and other stakeholders from the ministries, departments and a non-governmental organization; (ii) the IRA Committee actively met on four occasions between April and July 2013 during which it proceeded to an analysis of the IRA by order of the sections; and (iii) in relation to section 3 concerning the application of the IRA, the IRA Committee took into account the Committee's comments and proposed to widen the scope of the IRA so as to encompass prison staff. The Committee further notes that in its report the Government informs that: (i) since the IRA Committee only had a chance to examine sections 1–9, the Committee's remaining comments regarding the need to take the necessary measures to ensure protection against acts of interference by employers or their organizations into workers' organizations and the need to restrict the recourse to compulsory arbitration, which concern sections 36–38 and sections 46–53 of the IRA, have not yet been addressed; (ii) the MLHRD contracted a consultancy to review the IRA to ensure its compatibility with the national labour legislation and international labour standards, the main work of which will be undertaken from September 2015 to February 2016, with the validation workshop of the IRA draft scheduled to take place in February 2016; (iii) the terms of reference of the IRA's consultancy were forwarded to the ILO Country Office in Antananarivo; and (iv) the Committee's comments will be considered by both the IRA Committee and the IRA consultancy in their review of the legal instrument. The Committee observes that the Government expressed the need for ILO technical assistance and stated that it would forward the IRA draft for the ILO's comments prior to the validation workshop.

The Committee trusts that the review of the IRA will continue without delay, in consultation with the social partners and with the technical assistance of the ILO, taking into account the Committee's previous comments in which it had requested the Government to take the necessary measures in order to:

- *adopt legislative provisions providing for protection against acts of interference by employers or their organizations in workers' organizations, in particular, acts which are designed to promote the establishment of workers' organizations under the domination or control by employers or employers' organizations, coupled with effective and sufficiently dissuasive sanctions;*
- *amend its legislation so as to ensure that recourse to compulsory arbitration in cases where the parties do not reach an agreement through collective bargaining is permissible only in relation to public servants engaged in the administration of the State (Article 6 of the Convention), essential services in the strict sense of the term and acute national crises; and*
- *ensure that prison staff, excluded from the scope of the IRA, are granted the right to bargain collectively.*

The Committee requests the Government to provide information on any developments in this respect.

Sierra Leone

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

The Committee notes with *regret* that the Government's report has not been received. It expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

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.*

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.

Slovenia

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

Articles 2 and 3 of the Convention. Protection against acts of interference. In its previous comments, the Committee had requested the Government to take the necessary measures to ensure that national legislation contained specific provisions prohibiting acts of interference by employers or their organizations in the establishment, functioning and administration of workers' organizations, and providing effective and sufficiently dissuasive sanctions against such acts. The Committee notes that the Government indicates in its report that adequate judicial protection and sanctions are set out in the Employment Relationship Act, whose sections 217 and 218 establish fines for discrimination based on union membership against either jobseekers or employees, as well as other fines to employers failing to provide prescribed facilities to unions or to consult them on certain matters, or not affording prescribed protections to union representatives. The Committee recalls that, in addition to the obligation to protect against acts of anti-union discrimination, the Convention requires the existence of clear and precise legislative provisions to adequately protect workers' organizations from acts of interference, such as those aiming to place workers' organizations under the control of employers or employers' organizations by financial or other means. ***The Committee again requests the Government to take any necessary measures to ensure that the legislation provides for the prohibition of all acts of interference, as well as effective and sufficiently dissuasive sanctions. Hoping that it will be able to observe progress in the near future, the Committee reminds the Government that it may avail itself of the technical assistance of the Office.***

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

South Africa

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature.

Trade union rights and civil liberties. Allegations of violent repression of strike actions and arrests of striking workers. The Committee notes the Government replies to the 2008, 2010, 2011 and 2012 ITUC observations denouncing, in different sectors, many instances of violent repression of strike actions, leading to injuries and death, as well as the arrest of striking workers by the public authorities. The Committee notes that the Government states that: (i) the incidents pointed out by the ITUC, although regrettable, do not reflect the overall situation of crowd management by the Public Order Police; (ii) the Public Order Police takes action only in cases of extreme provocation and misconduct by the crowd during the strikes; (iii) in such cases, only non-lethal measures are used such as rubber rounds (consisting of rubber balls not bullets), stun grenades, tear gas and water canon; (iv) as from 1 April 2012, all firearms discharged by police are investigated by the Independent Police Investigative Directorate; and (v) violent behaviour during strike action is unacceptable and undermines the system of collective bargaining in the country. While taking due note of the Government replies, the Committee observes that in its 2015 observations, the ITUC denounces the arrest of 100 community health striking workers in June 2014 and the killing, in January 2014, during a clash with the Police that took place in the context of a strike, of a union steward of the Association of Mineworkers and Construction Union (AMCU).

The Committee expresses its **concern** about the persistence, on the one hand, of violent incidents, leading to injuries and death, resulting from police intervention during strike actions and, on the other hand, of allegations of arrests of peaceful striking workers. The Committee recalls that, while strike actions shall be carried out in a peaceful manner, the authorities should only resort to the use of force in exceptional circumstances and in situations of gravity where there is a serious threat of public disorder, and that such use of force must be proportionate to the circumstances. Furthermore, the Committee recalls that the arrest, even if only briefly, of trade union leaders and trade unionists, and of the leaders of employers' organizations, for exercising legitimate activities in relation to their right of association constitutes a violation of the rights enshrined in the Convention.

The Committee has also taken note of the release, on 25 June 2015, of the report of the *Judicial Commission of Inquiry into the Events at Marikana Mine in Rustenburg*, regarding the violent death of numerous workers during a strike action in August 2012. The Committee observes that the report contains general recommendations addressing, among other elements, the use of firearms by the police during violent strike actions, the public accountability of the South African Police Service in case of similar events as well as the effective functioning of the Independent Police Investigative Directorate. ***The Committee therefore requests the Government to provide information on the action taken to implement the recommendations of the mentioned Judicial Commission of Inquiry and trusts that the social partners will be consulted in this respect. The Committee requests additionally the Government to reply to the 2015 ITUC observations and to communicate the results of the investigation regarding the death of the AMCU union steward.***

Articles 2 and 3 of the Convention. Rights of vulnerable workers to be effectively represented by their organizations. In previous comments, the Committee had noted the ITUC allegations regarding the difficulties faced by casual workers to enjoy the rights of the Convention. The Committee notes with **interest** that the Labour Relations Amendment Act adopted in August 2014 contains provisions aimed at facilitating the representation by trade unions of employees of temporary employment services or labour brokers (that is, employees made available to a client which assigns their tasks and supervises the execution of these tasks). The Committee notes especially that: (i) by virtue of the Labour Relations Amendment Act, trade unions representing the employees of temporary employment services or of a labour broker are now in a position to exercise their organizational rights not only at the workplace of the employer, but also at the client's workplace; and (ii) employees of temporary employment services or of a labour broker who participate in a legally protected strike action are entitled to picket at the client's premises. ***The Committee invites the Government to provide information on the application and impact of these provisions.***

The Committee additionally notes that, in its 2015 observations, the ITUC alleges that farmworkers are not in a position to meet the requirements to engage in legally protected industrial action. The Committee notes that the Government communicates the conclusions of the 2011 report on *Identifying obstacles to unions organizing in farms. Towards a decent work strategy in the farming sector*. ***The Committee requests the Government to provide information on any measures taken or planned to be taken to implement the conclusions of the abovementioned report and to reply to the ITUC observations.***

Spain

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1977)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2014 and 1 September 2015, the Trade Union Confederation of Workers' Commissions (CCOO), received on 17 August 2015 and also included in the Government's report, and the General Union of Workers (UGT), received on 4 September 2015, as well as the Government's replies to them. The Committee also notes the observations of the International Organisation of Employers (IOE) and the Spanish Confederation of Employers' Organizations (CEOE), received on 1 September 2015, as well as other observations of the IOE, received on the same date, which are of a general nature.

Observations of the ITUC and the CCOO on the exercise of civil liberties. The Committee notes that the observations of the ITUC and the CCOO allege that Basic Act No. 4/2015 protecting public safety (LPSC) and the new section 557ter of the Penal Code restrict freedom of assembly, expression and demonstration, which are essential to the exercise of freedom of association. The Committee further notes the Government's reply indicating that: (i) the LPSC does not restrict or violate the right to freedom of association or to strike, as it only criminalizes offences committed by persons who disrupt or seek to disrupt harmonious relations among citizens, disrupting public order, causing damage to persons or property, blocking roads or public spaces or preventing authorities or bodies from performing their duties freely; (ii) the LPSC provides greater guarantees than the previous legislation by establishing that any administrative action shall be governed by the principles of lawfulness, equal treatment and non-discrimination, opportunity, proportionality, effectiveness, efficiency and accountability, and shall be subject to administrative and judicial supervision; and (iii) the LPSC establishes that its provisions on the maintenance of public safety and on penalties shall be interpreted and applied in the manner most favourable to the full enjoyment of fundamental rights and public liberties, and particularly the right of assembly and to demonstrate, freedom of expression and of information, freedom of association and the right to strike. ***Taking due note of the Government's reply, the Committee requests the Government to provide information on the application in practice of the LPSC with regard to the exercise of freedom of association, as well as its comments on the allegations relating to the new section 557ter of the Penal Code.***

Observations of the IOE, CEOE, UGT and CCOO on the exercise of the right to strike. The Committee notes that, in their observations, the IOE and the CEOE make allegations of dysfunctions in the exercise of the right to strike in the country, which should be rectified to ensure the free individual exercise of both the right to strike and the right to work. In this regard, they call for: (i) the prohibition of dissemination of information on a strike in the 24 hours preceding its initiation in order to avoid situations of coercion; (ii) court rulings on the lawfulness or unlawfulness of strikes to be issued prior to the commencement of the strike; (iii) minimum services to be negotiated prior to disputes arising and to be established on a permanent basis; (iv) the determination of all liabilities that may be derived from participation in illegal strikes; and (v) the intensification of the use of dialogue and out-of-court settlement mechanisms. Moreover, the Committee notes that the UGT and the CCOO allege that public administrations issue decisions imposing minimum services that are abusive in view of their excessive scope and lack of justification, and which have been found null and void after having been challenged by trade unions in the courts (many rulings are cited). The Committee further notes the information provided by the Government on various court rulings issued in disputes over the definition of minimum services. ***Noting the differing views of the confederations of workers and of the IOE and the CEOE, including with regard to minimum services, and noting the existence of large numbers of court rulings setting aside administrative decisions establishing minimum services on the grounds mentioned above, the Committee requests the Government to***

address through tripartite dialogue the operation of the procedures for the determination of minimum services, as well as the other issues and concerns raised by these organizations.

The Committee takes note of the issues raised in the observations of the ITUC, the UGT and the CCOO relating to the exercise of the right to strike, criticizing penal provisions and alleging the initiation of a large number of criminal and disciplinary proceedings against trade union members, as well as the Government's reply, and notes that they are the subject of a case before the Committee on Freedom of Association (Case No. 3093).

Sri Lanka

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1995)

The Committee notes the observations from IndustriALL Global Union (IndustriALL) received on 31 August 2015, concerning matters being raised by the Committee. The Committee also notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2014, which concern matters addressed by the Committee, as well as the Government's comments thereon. The Committee further notes that, in its report, the Government addresses the issues raised by the Lanka Jathika Estate Workers' Union (LJEWU) in its 2012 observations. The Committee notes the Government's comments on the observations of the Employers' Federation of Ceylon (EFC) and the International Organisation of Employers (IOE) of 2011. The Committee also notes the observations of the IOE received on 1 September 2015, which are of a general nature.

The Committee notes the Government's comments on the observations of the ITUC of 2012, which do not respond to the serious allegations of intimidation, arrest, detention and suspension of trade union activists and workers following a strike in an export processing zone (EPZ), as well as police violence during a workers' demonstration in an EPZ, including recourse to firing that led to the death of a worker and hundreds injured. ***Recalling that a truly free and independent trade union movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of workers' organizations, the Committee requests the Government to provide its comments on the above allegations, and to take the necessary measures to ensure that the use of excessive violence in trying to control demonstrations is prohibited, that arrests are made only where serious violence or other criminal acts have been committed, and that the police are called in a strike situation only where there is a genuine and imminent threat to public order.***

In its previous comment, the Committee had noted the Government's indication that the National Labour Advisory Council (NLAC) decided, on 1 February 2011, to set up a tripartite subcommittee to further discuss the implementation of the national labour policy and reflect on how laws and practice should be developed, in particular in relation to freedom of association and collective bargaining issues. The Committee had expressed the hope that this tripartite process would bring positive results. The Committee notes that the Government states that both the employer and the worker side have submitted proposals in respect of the amendment of the Industrial Disputes Act relating to the application of the Convention, that the proposals were discussed without any consensus being reached, and that discussions will be pursued at the subcommittee level and at the NLAC. It also notes the indication of IndustriALL that the decision of the NLAC on 7 March 2011 to set up a tripartite committee for the Free Trade Zones has not been implemented so far. ***The Committee requests the Government to provide information on any developments with regard to the establishment or working of the abovementioned tripartite forums and firmly hopes that these tripartite mechanisms will contribute to achieve progress towards the amendment of labour legislation, taking fully into account the comments made by the Committee for a number of years.***

Article 2 of the Convention. Minimum age for trade union membership. In its previous observation, noting that the minimum age for admission to employment was 14 years and that the minimum age for trade union membership was 16 years (section 31 of the Trade Unions Ordinance), the Committee recalled that the minimum age for trade union membership should be the same as the minimum age for admission to employment. The Committee notes with *interest* that the Government indicates in its report that, in principle, the Ministry of Labour has decided to amend the Trade Unions Ordinance accordingly, and that the procedures in this regard will be started soon. ***The Committee hopes that the minimum age for trade union membership will be aligned with the minimum age for admission to employment in the near future, and requests the Government to provide information on any developments in this regard.***

Articles 2 and 5. Right of public servants' organizations to establish and join federations and confederations. The Committee had previously reiterated its hope that amendments to section 21 of the Trade Unions Ordinance would be adopted in the near future, in order to ensure that trade unions in the public sector may join confederations of their own choosing, and that first-level organizations of public employees may cover more than one ministry or department in the public service, and requested the Government to indicate the progress made in this respect in its next report. The Committee notes that the Government indicates that: (i) the prohibition to federate or amalgamate does not apply to all trade unions of public officers but only to trade unions of peace officers and Government staff officers; (ii) an example of a vertically federated trade union is the Health Services Trade Unions Alliance (HSTUA); (iii) there are public service federations operating openly that are not registered and not recognized as federations; and (iv) this matter has been and will be further discussed to explore the possibility of amending the Trade Unions Ordinance to allow public sector trade

unions to federate among themselves or with private sector trade unions. The Committee underlines once again the need to ensure that organizations of government staff officers may join federations and confederations of their own choosing, including those which also group together organizations of workers from the private sector, and that first-level organizations of public employees may cover more than one ministry or department in the public service. ***The Committee firmly hopes that the discussions mentioned by the Government will have a positive outcome and that the Government will soon take the necessary measures to amend section 21 of the Trade Unions Ordinance in this respect.***

Article 3. Dispute settlement machinery in the public sector. In its previous comments, the Committee had noted that the Industrial Disputes Act – which provides for conciliation, arbitration, industrial court and labour tribunal procedures – did not apply to the public service (section 49 of the Industrial Disputes Act), that a mechanism for dispute prevention and settlement in the public sector was being developed with technical assistance from the ILO, and that a document concerning the dispute settlement mechanism had been adopted. The Committee expressed the hope that progress would be made in the near future in this regard and requested the Government to provide information on any developments. The Committee notes with *interest* the Government's indication that: (i) action was initiated to implement the dispute settlement and social dialogue mechanism developed with the assistance of the ILO; (ii) it was decided to implement a pilot project in the health sector with a view to implementing the mechanism in the Ministry of Health and developing a strategy to extend it to the entire public sector; (iii) the report on the implementation of the pilot phase was submitted to the Cabinet of Ministers, which approved extending the mechanism to the entire public sector; and (iv) further steps are envisioned, including: the engagement of the Ministry of Public Administration to extend the mechanism; the establishment of new structures such as mediation and arbitration, determining their jurisdiction and developing procedures; the training of managerial staff and trade union leaders; and the development of a monitoring mechanism. ***The Committee trusts that progress will continue to be made for the establishment in the near future of a mechanism for dispute prevention and settlement in the public sector, giving full effect to the principles recalled in the Committee's previous comments. The Committee requests the Government to continue to provide information on any developments in this regard.***

Compulsory arbitration. In its previous observation, the Committee had noted that, under section 4(1) of the Industrial Disputes Act, the Minister may, if he or she is of the opinion that an industrial dispute is a minor dispute, refer it, by an order in writing, for settlement by arbitration, to an arbitrator appointed by the Minister or to a Labour Tribunal, notwithstanding that the parties to such dispute or their representatives do not consent to such reference; and that, under section 4(2), the Minister may, by an order in writing, refer any industrial dispute to an industrial court for settlement. The Committee had requested the Government to take the necessary measures to amend these provisions so as to bring them into line with the Convention. The Committee notes that the Government states that there are several stages of handling industrial disputes before referring to compulsory arbitration, that very few industrial disputes are referred to compulsory arbitration taking into account national interest and the importance of the continuous operation of an industry, and that the Minister attempts to refer cases to compulsory arbitration with the consent of trade unions. The Committee notes the statistics supplied by the Government, according to which in 2013, 49 out of 3,371 disputes were referred to arbitration (in 2012, 43 out of 3,702). While noting the low proportion of industrial disputes referred to arbitration in practice, the Committee observes that section 4 of the Industrial Disputes Act affords a broad power to the Minister to refer industrial disputes to compulsory arbitration. ***In this regard, the Committee reiterates that recourse to compulsory arbitration to bring an end to a collective labour dispute and a strike is admissible when the strike in question may be restricted, or even prohibited, that is: (i) in the case of disputes concerning public servants exercising authority in the name of the State; (ii) in conflicts in essential services in the strict sense of the term; or (iii) in situations of acute national or local crisis. The Committee requests the Government once again to take measures to amend section 4(1) and (2) of the Industrial Disputes Act, so as to guarantee respect for the abovementioned principle.***

Article 4. Dissolution of organizations by the administrative authority. In its previous observation, the Committee had reiterated its request to the Government to take the necessary measures to ensure that administrative decisions concerning the dissolution of a trade union were suspended pending their appeal in court. The Government indicates that no progress has been made in this regard during the reporting period. ***The Committee requests the Government once again to take the necessary measures without delay to ensure that in all cases where the decision of the Registrar to withdraw or cancel the registration of a trade union is appealed to the courts (in accordance with sections 16 and 17 of the Trade Unions Ordinance), the withdrawal or cancellation of the trade union registration ordered by the Registrar (administrative authority) will not take effect until the final judicial decision is handed down.***

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: 1972)

The Committee notes the observations from IndustriALL Global Union (IndustriALL) received on 31 August 2015, concerning cases of anti-union discrimination, interference and persecution of union members as well as other issues addressed by the Committee. ***The Committee requests the Government to provide its comments thereon.*** The Committee also notes the observations of the International Trade Union Confederation (ITUC) of 2014, which concern acts of anti-union discrimination, including dismissals in an export processing zone, as well as the Government's comments thereon.

The Committee further notes the Government's comments on the observations of the Employers' Federation of Ceylon (EFC) and the International Organisation of Employers (IOE) of 2011, as well as on the observations of the ITUC of 2012 and 2014. The Committee also notes that, in its report, the Government addresses the issues raised by the Lanka Jathika Estate Workers' Union (LJEWU) in its 2012 observations.

In its previous comments, the Committee had noted the Government's indication that the National Labour Advisory Council (NLAC) decided on 1 February 2011 to set up a tripartite subcommittee to further discuss the implementation of the national labour policy and reflect on how laws and practice should be developed, in particular in relation to freedom of association and collective bargaining issues. The Committee had expressed the hope that this tripartite process would bring positive results. The Committee notes that the Government states in its report that both the employer and the worker side have submitted proposals in respect of the amendment of the Industrial Disputes Act relating to the application of the Convention, that the proposals were discussed without any consensus being reached, and that discussions will be pursued at the subcommittee level and at the NLAC. It also notes the indication of IndustriALL that the decision of the NLAC on 7 March 2011 to set up a tripartite committee for the free trade zones has not been implemented so far. ***The Committee requests the Government to provide information on any developments with regard to the establishment and working of the abovementioned tripartite forums and expresses the strong hope that these tripartite mechanisms will contribute to achieve progress towards the amendment of the labour legislation, taking fully into account the comments made by the Committee for a number of years.***

Article 1 of the Convention. Protection against acts of anti-union discrimination. Effective and expeditious procedures. Noting that in practice only the Department of Labour can bring cases concerning anti-union discrimination before the Magistrate's Court, and that there are no mandatory time limits within which complaints should be made to the Court, the Committee had previously requested the Government to ensure the effectiveness and expeditiousness of the procedures of unfair labour practices and to take the necessary measures to ensure that workers who are victims of anti-union discrimination can lodge a complaint before the judicial courts. The Committee also invited the Government to continue to discuss, on a tripartite basis, the possibility of granting trade unions the right to bring anti-union discrimination cases directly before the courts. The Committee notes with *interest* the Government's indication that it wishes to take measures to ensure that workers who are victims of anti-union discrimination can lodge complaints before the courts, and that it intends to amend the Industrial Disputes Act in order to also grant trade unions the right to bring anti-union discrimination cases directly before the courts. The Committee also notes that the Government indicates that, even though the Department of Labour has taken a number of initiatives to expedite the processes against anti-union discrimination, it faces various practical difficulties, including lack of accurate information and unwillingness of workers to give evidence before the courts, which cause delays in the processes. Finally, in relation to the observations of the EFC and the IOE that the Industrial Disputes Act is discriminatory because it only sets out unfair labour practices on the part of the employers but not on the part of the workers or their organizations, the Committee notes the Government's intention to address this issue. ***The Committee requests the Government once again to take the necessary measures in the near future to ensure that workers who are victims of anti-union discrimination can lodge a complaint before the judicial courts. The Committee also expresses the hope that the Government will take the necessary measures to amend the Industrial Disputes Act so as to grant trade unions the right to bring anti-union discrimination cases directly before the courts. The Committee requests the Government to provide information on any developments as to its intention to address the observations of the EFC and the IOE. The Committee further requests the Government to provide information on the number of cases of anti-union discrimination examined by the courts, the duration of proceedings and the sanctions or remedies imposed.***

Article 4. Measures to promote collective bargaining. The Committee had previously requested the Government to provide information on progress made to promote collective bargaining. The Committee notes the Government's indication that the Social Dialogue and Workplace Cooperation Unit (SDWC), established under the Department of Labour, has implemented a number of programmes to enhance the awareness of collective bargaining among the general public and at workplaces. The Committee notes the information provided by the Government and observes with *interest* that more than 20,000 persons participated in approximately 400 workshops organized by the SDWC in the period 2014–15. ***The Committee requests the Government to continue to take measures to promote collective bargaining and to provide information in this regard.***

Export processing zones (EPZs). In its previous comments, the Committee had noted that the ITUC referred to difficulties with regard to the exercise of workers' rights to organize and collective bargaining in EPZs. The Committee notes that, according to the most recent observations from the ITUC and IndustriALL, these difficulties continue to exist. With respect to the earlier ITUC allegation that labour inspectors are not allowed to carry out unannounced visits to EPZ factories, the Committee notes that the Government indicates that labour inspectors have the authority to enter into any factory in EPZs without getting permission of the employer or Board of Investment (BOI), and that trade union facilitation centres have been established in three EPZs, with a view to facilitating private meetings between workers and their representatives. The Committee notes that IndustriALL states that the way in which the facilitation centres are set up makes it difficult for workers to approach them. With respect to the earlier ITUC allegation that employee councils are promoted by the BOI as a substitute for trade unions in EPZs, the Committee notes that the Government indicates that three employee councils in EPZs have been converted and registered as trade unions, and that there are three entities that

address employer manipulations of employee councils. The Committee notes, however, that IndustriALL submits that employee councils continue to be used to undermine trade unions. The Committee also notes that the Government indicates that 34 enterprises have recognized trade unions in EPZs and industrial processing zones, of which 18 enterprises have granted check-off facilities to trade unions and six enterprises have signed collective agreements. Furthermore, the Committee takes note that a total of 2,148 EPZ workers and employers attended the awareness-raising programmes on collective bargaining conducted by the ILO Colombo Office in the period 2014–15. ***Noting the divergence between the statements of the Government and of the workers' organizations with regard to the exercise of workers' rights to organize and collective bargaining in EPZs, the Committee requests the Government to provide information on the difficulties encountered in the application of the Convention to EPZs and the specific measures taken to address these difficulties. The Committee reiterates its request to the Government to ensure that employee councils do not undermine the position of trade unions, in particular in relation to their right to collective bargaining. The Committee also requests the Government to provide further information on the number of collective agreements concluded by trade unions in the EPZs and the number of workers covered.***

Representativeness requirements for collective bargaining. In its previous comments, the Committee had noted that, under section 32(A)(g) of the Industrial Disputes Act, no employer shall refuse to bargain with a trade union which has in its membership not less than 40 per cent of the workers on whose behalf the trade union seeks to bargain. The Committee requested the Government to ensure that if no trade union covers more than 40 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. The Committee notes that the Government indicates that: (i) there is a multiplicity of trade unions in the country and it is difficult for a single employer to negotiate with more than one union; (ii) it considers important that the bargaining agent on behalf of the workers is sufficiently representative to bargain with the employer; (iii) all major trade unions of the country have no objections in keeping the threshold of 40 per cent; and (iv) this issue is to be discussed at the NLAC. The Committee also notes that the ITUC in its 2014 observations states that it is very difficult in practice for a union to attain the 40 per cent requirement due to the diversity of the trade union movement. The Committee reiterates the need to ensure that where, under a system for nominating an exclusive bargaining agent who is entitled to negotiate a collective agreement applicable to all workers in the unit, there is no union representing the required percentage to be so designated (in this case 40 per cent), trade unions should either be granted the possibility of forming a grouping with a view to achieving the required percentage or at least be given the possibility to negotiate on behalf of their own members. ***The Committee firmly trusts that the NLAC and the Government will take into account these principles when reviewing section 32(A)(g) of the Industrial Disputes Act in order to promote the full development and utilization of collective bargaining. The Committee requests the Government to indicate any progress in this regard and to provide information on the number of collective agreements in force, the sectors concerned and the percentage of workers covered.***

Article 6. The right to collective bargaining in the public service. In its previous comments, the Committee noted that the procedures regarding the right to collective bargaining of public sector workers did not provide for genuine collective bargaining, but rather established a consultative mechanism – with perhaps some elements of arbitration – under which the demands of public service trade unions were considered, while the final decision on salary determination rested with the Cabinet of Ministers. The Committee requested the Government to take the necessary measures to recognize and promote civil servants' right to collective bargaining, as long as they are not engaged in the administration of the State. The Committee notes that the Government indicates that: (i) the Industrial Disputes Act recognizes the right of private sector trade unions to bargain collectively with the employer or the authority concerned; (ii) in Sri Lanka, the private sector includes government corporations where a large segment of workers is engaged in; and (iii) section 32(A) of the Act, which deals with unfair labour practices and collective bargaining, applies not only to trade unions in the private sector but also to trade unions in public corporations. ***In light of section 49 of the Industrial Disputes Act, which excludes state and government employees from the Act's scope of application, the Committee requests the Government to specify the provisions ensuring persons employed by public undertakings the right to collective bargaining.*** The Committee once again recalls that all public service workers other than those engaged in the administration of the State should enjoy collective bargaining rights with respect to salaries and other conditions of employment. ***The Committee requests the Government to take the necessary measures to guarantee the right to collective bargaining to public service workers, in accordance with this principle, and to indicate any progress made in this regard.***

[The Government is asked to reply in detail to the present comments in 2016.]

Sudan

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

The Committee notes the observations by the Sudanese Businessmen and Employers Federation (SBEF) received on 15 September 2015, in which it provides information on its reflections concerning section 112 of the Labour Code 1997 as well as the development and coverage of collective agreements in Sudan.

Article 4 of the Convention. Compulsory arbitration. The Committee recalls that compulsory arbitration is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential

services in the strict sense of the term and acute national crises. In its previous comments, the Committee had requested the Government to take the necessary steps to amend section 112 of the Labour Code of 1997, which provides for recourse to compulsory arbitration and hoped that the new Labour Code would take into account the abovementioned principles. The Committee further noted the Government's statement that the draft new Labour Code was still under examination and would be sent to the ILO when adopted. The Committee notes with *interest* that, in its report, the Government indicates that the definition of essential services recalled by the Committee will be inserted in the draft law. However, according to the Government, the passage of the draft law was postponed as a result of the new constitutional amendments, which made the civil service a joint authority between the centre and the provinces. ***The Committee hopes that the Government will make every effort to speed up the process of adoption of the new Labour Code, and requests the Government to provide information on all progress made in this regard.***

Collective bargaining in practice. In its previous comments, the Committee requested the Government to provide statistical information on the number of collective agreements in existence, and the sectors and workers covered. The Committee notes the information provided by the Government on the number of collective agreements concluded between 2010 and 2013 (a total of 629) as well as the collective agreement on wages in the private sector (2014–17), which covers all sectors of the economy. The Committee further notes the information contained in SBEF observations on the development of collective agreements in Sudan, their coverage, as well as the role of the tripartite committee, which monitors the coverage of collective agreements and promotes dialogue and conciliation. ***The Committee requests the Government to continue to provide statistical information on collective agreements in Sudan, including their number as well as the sectors and workers covered.***

Trade union rights in export processing zones (EPZs). In its previous comments, the Committee requested 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. The Committee notes the Government's indication that the Labour Code of 1997 includes all workers in EPZs since there is no exemption of such workers in the Code. ***The Committee requests the Government to continue to provide information on the application of trade union rights in EPZs, including a copy of the relevant labour inspection reports.***

Lastly, the Committee observed, in its previous comments, 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 invited 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. The Committee notes the Government's indication that many laws, including the Trade Unions Act of 2010, are currently under examination and undergoing tripartite consultations. ***The Committee hopes that the Trade Unions Act of 2010 will be amended in the near future in compliance with the principles of freedom of association with a view to promoting the full development and utilization of collective bargaining pursuant to Article 4 of the Convention, and invites the Government to continue to provide information on this amendment process. The Committee reminds the Government that it may avail itself of ILO technical assistance, if it so wishes.***

Swaziland

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

The Committee notes the observations received on 1 September 2015 from the International Trade Union Confederation (ITUC) concerning the issues being examined by the Committee. The Committee also notes the joint communication received on 1 September 2015 from the International Organisation of Employers (IOE) and the Federation of Swaziland Employers and Chamber of Commerce (FSE&CC) on recent developments in the country concerning issues discussed by the Committee on the Application of Standards of the International Labour Conference (hereafter the Conference Committee) in June 2015.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee notes the discussion which took place at the Conference Committee in June 2015. The Committee observes that the Conference Committee took note of the information provided by the Government relating to the amendment made to the Industrial Relations Act (IRA) by virtue of which the Trade Union Congress of Swaziland (TUCOSWA), the FSE&CC, and the Federation of Swaziland Business Community (FSBC) are now registered. The Conference Committee also referred to the commitment by the Government to fully ensure the full operationalization of all the tripartite structures in the country by inviting the federations to nominate their members on the various statutory bodies in order to assist in maintaining a healthy social dialogue in the country. Concerning developments in relation to pending issues, the Conference Committee, in its conclusions, urged the Government, among other things: (i) to release

unconditionally Mr Thulani Maseko, TUCOSWA's lawyer, who was serving a jail term; (ii) to ensure that all workers' and employers' organizations are fully assured of their freedom of association rights in relation to the registration issue, in particular to register the Amalgamated Trade Union of Swaziland (ATUSWA) without delay; (iii) to amend section 32 of the IRA to eliminate the discretion of the Commissioner of Labour to register trade unions; (iv) to amend the 1963 Public Order Act following the work of an ILO consultant as well as the Suppression of Terrorism Act, in consultation with the social partners, to bring them into compliance with the Convention; (v) to adopt the Code of Good Practice for protest and industrial action; and (vi) to address issues in relation to the Public Services Bill and the Correctional Services Bill in consultation with the social partners.

The Committee notes that in October 2015 the Government provided updated information in relation to the issues under consideration by the Conference Committee in June 2015.

Articles 2, 3 and 5 of the Convention. Registration of workers' and employers' federations. In its previous comments, the Committee had noted the adoption by Parliament of the Industrial Relations (Amendment) Act, 2014 (Act No. 11 of 2014 published in the *Government Gazette* of 13 November 2014), introducing provisions concerning the registration of employers' and workers' federations, and had urged the Government to register and recognize the legal personality of TUCOSWA, the FSE&CC and the FSBC. The Committee notes with *satisfaction* that TUCOSWA, the FSE&CC and the FSBC were registered in May 2015, and the indication from the Government that they are now represented in all tripartite structures that have been established, including the Labour Advisory Board, the National Steering Committee on Social Dialogue for Swaziland, the Swaziland National Provident Fund Board, the Training and Localization Committee and Wages Councils. The Committee further notes from the Government that another federation, the Federation of Swaziland Trade Unions (FESWATU), had been registered in June 2015. ***The Committee urges the Government to indicate the steps taken to register ATUSWA as requested by the Conference Committee.***

Furthermore, the Committee notes with *satisfaction* that TUCOSWA's lawyer, Mr Thulani Maseko, was released unconditionally on 30 June 2015 by a decision of the Supreme Court.

Legislative issues. The Committee takes due note of the information provided by the Government on the status of its long-standing requests concerning amendments and modifications to the following legal texts:

- The Public Service Bill: The Committee notes that the Bill was approved by Cabinet and has been published in the *Gazette* as Legal Notice No. 16 of 2015 and is lying open for public comments before being tabled in Parliament for debate and promulgation. The Government adds that dialogue on the Bill is still ongoing on some issues.
- The 1963 Public Order Act: The Committee recalls that it has been requesting the Government for many years to take the necessary measures to amend the Public Order Act so as to ensure that the Act could not be used to repress lawful and peaceful strike action. The Committee notes that in the framework of the Office's technical assistance, a review of the Public Order Act commenced in September 2015 and that a draft bill will be presented shortly to the Government and the social partners.
- The Correctional Services (Prison) Bill: In relation to the recognition of the right to organize for prison staff, the Committee notes that the Bill has been reviewed by the Ministry of Justice and Constitutional Affairs and submitted to Cabinet for approval, after which it will be published in the *Gazette* and shall be subject to public comments for 30 days before being tabled to Parliament for debate and promulgation.
- The Code of Good Practice for protest and industrial action: The Committee notes that the Code has been approved by Cabinet and has been tabled before Parliament for 14 days in each chamber. If it is not called for debate, it shall be deemed to have been approved and shall therefore come into force.

While welcoming the concrete steps taken by the Government throughout the year on these legislative and administrative matters, the Committee trusts that the Government will endeavour to promptly complete these reform processes to ensure full compliance with the provisions of the Convention, and will provide information on all progress made in this regard.

With regard to the amendment of section 32 of the IRA requested by the Conference Committee, the Committee takes note of the observations from the ITUC according to which the IRA, as amended in November 2014 by Parliament, did not reflect the tripartite consensus reached in the Labour Advisory Board with respect to section 32bis which vests the Commissioner of Labour with unrestricted discretion in deciding over the registration of a trade union. The Committee also notes the observations from the IOE and the FSE&CC indicating that this issue was never brought to tripartite discussion and requesting TUCOSWA to provide information on how the discretion of the Commissioner of Labour is contrary to good practice. ***The Committee trusts that this issue will be brought to the relevant national tripartite structure for discussion and requests the Government to indicate any developments in this regard.***

Lastly, with regard to the conclusions of the Conference Committee in relation to the amendment to the Suppression of Terrorism Act, the Committee requests the Government to indicate any consultation with the social partners in this regard and its outcome.

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

Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and interference. The Committee had previously requested the Government to indicate measures taken to ensure that workers and their organizations are effectively protected against acts of interference and anti-union discrimination. In its reply, the Government recalls that this was part of the agenda of the Labour Advisory Board, which acknowledged the need for a study to be undertaken especially in the textile sector which is the most affected. The Government also considers an awareness-raising campaign through radio programmes and road shows as well as on-the-ground work by the Labour Inspectorate, in order to discourage interference and anti-union discrimination behaviours. The Government adds that the ILO technical assistance will be sought. It also informs that the worker members of the Labour Advisory Board noted, in relation to the Government's report, that trade union meetings are still monitored by the police despite their registration. ***The Committee requests the Government to provide information on any development with regard to the measures envisaged to ensure that workers and their organizations are effectively protected against acts of interference and anti-union discrimination, in accordance with the Convention.***

Article 4. Promotion of collective bargaining mechanisms. The Committee had previously requested the Government to provide information on the status of collective bargaining in all sectors, including in export processing zones (EPZs), following the entry into force of the Industrial Relations (Amendment) Act No. 6 of 2010, which modified section 42 of the Industrial Relations Act (IRA) by requiring employers with more than two unrecognized unions to give collective bargaining rights to such unions to negotiate on behalf of their members. The Committee notes that in its report the Government acknowledges that section 42 of the IRA as amended has not been resorted to, and that there are therefore no recorded cases of collective bargaining pursuant to the amendment. In order to improve the situation, the Government is willing to seek technical assistance from the ILO, and the Labour Advisory Board suggests mobilizing appropriate national capacity. The Government further specifies that, by virtue of the Wages Act of 1964, there are presently 18 sector-based wages councils that undertake collective bargaining on conditions of work issues, including wage adjustment, hours of work, overtime pay, maternity leave and annual leave. The Committee observes in this respect that, by the virtue of section 6 of the Wages Act of 1964, while the Minister consults representative organizations to appoint one member representing the employers and one member representing the workers, the Minister also appoints directly three members as being independent persons, including the chairperson. While acknowledging that it is up to the legislative authority to determine the legal minimum standards for conditions of work, and that the fixing of minimum wages may be subject to decision by tripartite bodies, the Committee recalls the principle under *Article 4* of the Convention that any collective agreement fixing conditions of employment should be the result of bipartite bargaining without interference from the Government. ***The Committee trusts that the wages councils set by virtue of the Wages Act operate in compliance with this principle and requests the Government to provide information on the functioning of these sector-based councils, and in particular to specify any agreement reached.***

With regard to the textile sector, the Government asserts that it has promoted awareness on the provisions of the law regarding collective bargaining, through workshops which resulted in the formation of a joint negotiation council in the EPZs, but that the arrangement did not last due to some employers pulling out for various reasons. With regard to collective bargaining in the public sector, the Government indicates that public sector trade unions engage in collective bargaining with the Government in the Joint Negotiation Team (JNT) to set salaries and benefits in the public sector on an annual basis, and that there is no restriction as to the subject of negotiation.

While taking due note of the details provided, the Committee requests the Government to continue to provide information on steps taken to promote collective bargaining in all sectors, including measures taken to implement section 42 of the IRA, as well as information on the number of collective agreements signed and the number of workers covered.

Sweden

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1949)

The Committee notes the joint observations made by the Swedish Trade Union Confederation (LO), the Swedish Confederation of Professional Employees (TCO) and the Swedish Confederation of Professional Associations (SACO) received on 6 October 2015. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

The Committee recalls that in its previous observation it had taken note of observations provided by the LO and the TCO concerning the application of the Convention within the framework of the European Court of Justice (ECJ) judgment in the case *Laval un Partneri v. Svenska Byggnadsarbetareförbundet (Laval)*. At that time, the Committee had requested the Government to review with the social partners the 2010 amendments made to the Foreign Posting of Employees Act (*Lex Laval*) so as to ensure that workers' organizations representing foreign posted workers were not restricted in their rights.

Having observed in its previous comments that the LO and the TCO also filed a complaint against Sweden in relation to similar matters before the European Committee of Social Rights (ECSR), the Committee now notes the ECSR decision issued on 3 July 2013, which concluded in relation to Article 6(4) of the European Social Charter that the restrictions on industrial action resulting from sections 5(a) and (b) of the Foreign Posting of Employees Act and section 41(c) of the Co-determination Act constituted a disproportionate restriction on the free enjoyment of the right of trade unions to engage in collective action, insofar as it prevented trade unions from taking action to improve the employment conditions of posted workers over and beyond the minimum conditions set out in agreements at central level or the user undertaking.

In its previous comments, the Committee had further taken note of the information provided by the Government that a parliamentary committee was assigned to look at the situation of posted workers and, following its investigation: (i) evaluate whether the application of the regulation ensures that fundamental employment conditions of posted workers in Sweden can be safeguarded; (ii) in terms of foreseeability, assess and evaluate the practice of the Swedish Work Environment Authority's statutory task of providing information and the trade unions' obligation to submit information on collective bargaining agreements to the Swedish Work Environment Authority, and if necessary propose legislative changes in this regard; and (iii) consider necessary changes to safeguard the Swedish labour market model in an international context. The Committee requested the Government to continue to provide information on the impact of the legislation and in particular the outcome of the work of the parliamentary committee and any proposed legislative changes, as well as the developments relating to the Bill regarding agency workers.

The Committee notes the Government's indication that, in November 2014, given its view that *Lex Laval* did not sufficiently safeguard the role of collective bargaining agreements and that there was a risk that this would lead to unfair competition and a race to the bottom in terms of wages and employment conditions, the parliamentary committee was also assigned to consider legal amendments and possible other measures necessary to strengthen the role of collective agreements as regards posting of workers. While observing that the LO, the TCO and the SACO briefly stated that they would wait until they had the full report of the parliamentary committee and all its proposals before making their comments, the Committee takes note of the Report of the Inquiry on the Posting of Foreign Workers to Sweden transmitted by the Government on 20 October 2015. The Committee notes with *interest* that the cross-party Inquiry committee makes a number of proposals to safeguard the Swedish labour market model and status of collective agreements in situations involving posted workers, and that it suggests that its proposals enter into force on 1 January 2017. Among the elements related to the Convention, the Inquiry committee proposes that *Lex Laval* be replaced by new regulations to apply when a Swedish employees' organization wishes to take industrial action against an employer with the aim of obtaining regulation of terms and conditions for posted workers via a collective agreement. Such industrial action may only be taken if the terms and conditions demanded correspond to the minimum terms and conditions in the applicable sectoral agreement and fall within the hard core of the Posting of Workers' Directive (PWD), but would not apply in cases of third-country postings.

The Committee further notes with *interest* the Government's indication that one example for strengthening the regulatory framework would be to consider "confirmation agreements" whereby trade unions can take action aimed at getting the foreign employer to sign an agreement to confirm that the conditions required for the concerned sector shall be applied for posted workers when such employers claim to apply the same or better conditions. The Committee further notes the statement of the Swedish Prime Minister referred to by the Government that the principle shall be equal pay for equal work according to laws and collective agreements in the country where the posted worker temporarily performs work. The Government welcomed the European Commission's intention to present a labour mobility package, including a targeted revision of the PWD at the end of the year, and expressed its desire that this would make it possible for a revision in substance, which would enable a more substantial revision of the so-called *Lex Laval* and contribute to EU law being developed in line with applicable international agreements.

The Committee trusts that the amendments ultimately adopted will ensure fuller compliance with the Convention for posting workers and organizations representing them and requests the Government to provide information on the progress made in this regard and to transmit a copy of the amendments once approved.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1950)

The Committee notes the observations made by the Swedish Trade Union Confederation (LO), the Swedish Confederation of Professional Employees (TCO) and the Swedish Confederation of Professional Associations (SACO) received on 6 October 2015.

Article 4 of the Convention. Promotion of collective bargaining. The Committee recalls that in its previous observation it had taken note of the observations provided by the LO and the TCO, as well as those of the Confederation of Swedish Enterprise (CSE) and the Government in relation to the impact on collective bargaining of the legislation introduced in Sweden in 2010 in response to the application of the European Court of Justice (ECJ) judgment in the case *Laval un Partneri v. Svenska Byggnadsarbetareförbundet (Laval)*. At that time, the Committee had observed that the unions' concerns were not related to a desire to have better terms and conditions of employment for foreign posted workers than those set out in collective agreements, but rather to ensure that the terms for foreign workers were

comparable to those in the relevant sector and geographic area. The Committee had also noted the LO and TCO concerns that, even if a foreign employer had to appoint a contact person in Sweden, there was no requirement that the representative of the employer would be mandated to negotiate and conclude collective agreements and that there was an increasing number of “double agreements” in foreign companies which set terms at a very low level, while providing a second agreement only for presentation to the authorities and the trade union setting out better terms. Noting the concerns expressed by the LO and the TCO that the number of agreements had fallen dramatically after the ECJ judgment, the Committee had welcomed the plans for the submission of a bill whereby a foreign employer must report that it posts workers to Sweden and must appoint a contact person in Sweden. The Committee hoped that this bill would facilitate engagement in collective bargaining with foreign employers posting workers in Sweden.

The Committee notes with *interest* the information provided by the Government in its report under the Collective Bargaining Convention, 1981 (No. 154) that a statutory amendment to the Foreign Posting of Employees Act requiring a foreign employer to report to the Swedish Work Environment Authority when it posts workers to Sweden and to appoint a contact person entered into force on 1 July 2013. According to the Swedish Work Environment Authority, around 2,700 companies and 20,000 posted workers were registered between 1 July and 31 December 2013. The TCO and the SACO added that the second report from the Swedish Work Environment Authority shows 1,000 new companies registered between 1 January and 30 June 2014. The LO, TCO and SACO state that, while they are in favour of the legislation regarding the obligation to report posted workers, they query how the Government will ensure that the registered workers are genuinely posted workers and whether it will carry out spot checks.

The Committee further notes the statistics provided by the Government that there were a total of 251 registered collective agreements concluded directly with foreign employers as at mid-November 2013. The Swedish Building Workers’ Union (Byggnads) concluded 45 collective agreements directly with foreign employers in 2014 and an additional 11 foreign employers became bound by collective agreements with Byggnads through membership of an employers’ organization in 2014.

As regards the concerns raised relating to double agreements, the Government refers to the work assigned to the Parliamentary Committee of Inquiry regarding posting workers and further recalls the possibility of “confirmation agreements” whereby trade unions can take action aimed at getting the foreign employer to sign an agreement to confirm that the conditions required within the concerned sector shall be applied for posted workers when employers claim to apply the same or better conditions.

While observing that the LO, TCO and SACO briefly stated that they would wait until they had the full report of the Parliamentary Committee and all its proposals before making their comments, the Committee takes note of the Report of the Inquiry on the Posting of Foreign Workers to Sweden transmitted by the Government on 20 October 2015. The Committee notes with *interest* that the cross-party Inquiry committee makes a number of proposals to safeguard the Swedish labour market model and status of collective agreements in situations involving posted workers, and that it suggests that its proposals enter into force on 1 January 2017. Among the elements related to the Convention, the Inquiry committee proposes that *Lex Laval* be replaced by new regulations requiring a posting employer, when requested to do so, to appoint a representative who is authorized to negotiate and conclude collective agreements. The request for bargaining from the employees’ organization can be made whether or not the organization has members working for the employer and must include details of the minimum terms and conditions in the sector in question. Moreover, where an agreement has been entered into, the contracting employees’ organization has supervisory powers over its application, which includes an obligation on the employer to submit relevant documentation. Damages are proposed in the event of non-compliance.

The Committee trusts that the amendments ultimately adopted will have the effect of promoting voluntary collective bargaining for organizations representing posted workers and requests the Government to provide information on the progress made in this regard and to transmit a copy of the amendments once approved.

Switzerland

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015 concerning anti-union dismissals in the press, publishing industry and health sector, and intimidation towards trade union members in the service-providing enterprises at Geneva airport. *The Committee requests the Government to provide its comments in response to the ITUC’s allegations.*

Articles 1 and 3 of the Convention. Protection against anti-union dismissals. The Committee recalls that its previous comments addressed the difference of opinion between the Government, the employers’ organizations and the trade unions on the degree of protection of trade union delegates and representatives against anti-union dismissals. The Federal Council decided to submit to social dialogue the matter of penalties for unfair dismissal, including dismissal of elected staff representatives, and dismissal for membership or non-membership of a trade union or for lawful trade union activity for the purpose of looking into an increase of the maximum penalty. The Government had previously referred to the work it had undertaken to that end between 2009 and 2011. The Committee, while recalling its position, according to

which compensation for unfair dismissal (up to six months' wages) may be a deterrent for small and medium-sized enterprises but is not for high productivity and large enterprises, had invited the Government to maintain tripartite dialogue on this matter and to report in this regard.

The Committee notes the actions undertaken by the Government since the completion of the consultation on a draft bill for a partial review of the Code of Obligations in January 2011. This governmental draft proposed an increase from six to 12 months' wages of the maximum penalty for abusive or unfair termination of contract. Redundancies of elected staff representatives were also deemed unfair. According to the Government, the draft bill gave rise to diametrically opposed opinions and ultimately there was little support for the proposals contained therein. It was evident that political backing for the draft was not forthcoming and work on it was therefore suspended. However, the Government wished to maintain dialogue on the matter by ordering a study into the protection afforded to workers' representatives which should lay the foundations for decisions on the follow-up to the draft bill. The study, led by the Study Centre for Industrial Relations of the University of Neuchâtel, was completed in January 2015 and was the subject of discussion with the Federal Committee for ILO Affairs in February 2015. On that occasion, the employers' and trade unions' organizations had the opportunity to express their opinions on the study and, according to the Government, they neither adopted nor refused a firm position in relation to the study and the ideas set out. The Government adds that the study and the discussion demonstrate that the solutions proposed in the 2010 draft could constitute compromise solutions and that, in any case, the proposal aimed at more favourable measures for workers through agreements could be a minimum possible solution. A seminar to provide information and raise awareness of the results of the study is planned for the first term of 2016. ***The Committee welcomes the constructive tripartite dialogue held by the Government on the issue of adequate protection against anti-union dismissals. The Committee invites the Government to pursue this open dialogue and to report on any new developments in this regard.***

Article 4. Promotion of collective bargaining. The Committee notes the statistics available from the Federal Statistics Office on the collective agreements concluded in the country and the number of workers covered for 2012 and 2014 (as at 1 July 2014, 41 legally binding national collective agreements covering 67,115 employers and 590,459 workers, and 33 extensive cantonal collective agreements covering 5,578 employers and 32,868 workers). ***The Committee requests the Government to continue to provide up-to-date statistical information on the number of collective agreements by sector and the number of workers covered.***

United Republic of Tanzania

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

The Committee notes the Government's reply to the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015. The Committee also takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Articles 2 and 3 of the Convention. Right of workers and employers, without distinction whatsoever, to establish organizations without previous authorization. Right of organizations to organize their activities and to formulate their programmes freely. The Committee notes the Government's replies to the following points raised in its previous comments concerning the Employment and Labour Relations Act (No. 6 of 2004) (ELRA) and the 2003 Public Service (Negotiating Machinery) Act:

- The need to amend section 2(1)(iii) of the ELRA so that prison guards enjoy the right to establish and join organizations of their own choosing. The Committee notes that the Government indicates that civilians employed in the prison service enjoy the right to organize under the ELRA and are affiliated to the Trade Union for Government and Health Employees (TUGHE). The Committee observes, however, that section 2(1)(iii) of the ELRA as currently written explicitly excludes members of the prison service from the scope of the Act. ***Accordingly, the Committee once again requests the Government to take the necessary measures to amend section 2(1)(iii) of the ELRA so that members of the prison service enjoy the right to establish and join organizations of their own choosing.***
- The need to determine the types of workers included in the category of the "national service" referred to in section 2(1)(iv) of the ELRA, who are excluded from the provisions of the law. The Government indicates that: (i) employees employed in the national service include military members and civilians employed or seconded to the national service; and (ii) while military members of the service are excluded from the ELRA, civilians employed in the national service enjoy fundamental principles and rights including freedom of association as granted under the ELRA, and most of them are members of the TUGHE. While it takes due note of the Government's indication that civilians employed or seconded in the national service enjoy the right to organize, the Committee observes that section 2(1)(iv) of the ELRA provides that all members of the national service are explicitly excluded from the scope of the Act. ***Accordingly, the Committee requests the Government to take the necessary measures to amend section 2(1)(iv) of the ELRA so that it is clearly indicated that the exception only applies to military members of the national service.***

- The need to amend the ELRA, which does not provide for specific time limits within which the registration procedure of an organization should be concluded, and to adopt a provision determining a reasonable time period for the processing of applications for registration of employers' and workers' organizations. The Government indicates that this issue has been addressed in the Regulations for Act No. 7 of 2004 and that the Committee will be informed in detail once these Regulations are finalized. ***The Committee requests the Government to provide information on this matter and to provide a copy of the said Regulations once finalized.***
- In relation to sections 4 and 85 of the ELRA, the Committee recalls its previous comments that, while the solution to legal conflicts arising as a result of a difference in the interpretation of a legal text should be left to the competent courts, prohibiting protest action in respect of all disputes possessing a legal remedy may unduly infringe upon the right to strike. ***The Committee requests the Government to provide information on the practical application of these provisions.***
- The need to initiate consultations addressing the amendment of section 76(3)(a), which prohibits picketing in support of a strike or in opposition to a lawful lockout. The Government has previously indicated that the Committee's comments would be communicated to stakeholders for consultation. ***The Committee requests the Government to provide information on any progress made thereon.***
- The need to amend section 26(2) of the Public Service (Negotiating Machinery) Act (No. 19 of 2003), which requires certain conditions to be satisfied for civil servants to take part in a strike. The Government had previously indicated that section 80(1) of the ELRA, which also applies to workers in the public service in mainland Tanzania, provides that a strike has to be called by a trade union and a ballot is conducted under the union's constitution. The Committee had previously observed that section 26(2) of the Public Service Act needed to be aligned with the relevant provisions of the ELRA. In this regard, the Government indicates that measures have been taken to amend the ELRA to clarify that in cases of any law contravening the provisions of the ELRA, the ELRA will prevail. ***The Committee requests the Government to provide more detailed information as to the measures that have been taken to this effect.***
- *Essential services.* In its previous comments, the Committee noted that no service had been designated as essential by the Essential Services Committee pursuant to section 77 of the ELRA, and recalled that essential services should be defined 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. The Committee notes that the Government once again indicates that no service has yet been designated as essential by the Essential Services Committee. ***The Committee reiterates its hope that in establishing a list of essential services the abovementioned definitional principle will be fully taken into account.***

Zanzibar

Articles 2 and 3 of the Convention. Legislative matters. The Committee takes note of the Government's indication that the Legal Review Commission is planning to undertake a review of the labour laws and that the concerns raised previously by the Committee will be addressed in this framework. The Committee takes note of the request for ILO technical assistance in order to undertake the review. ***The Committee hopes that with the technical assistance requested to the Office, the Government will be in a position to report on progress made to bring its legislation in full conformity with the Convention on the matters and provisions in need of amendment recalled hereunder:***

- Section 2(2) of the Labour Relations Act (No. 1 of 2005) (LRA), which excludes the following categories of employees from the LRA's provisions: (i) judges and all judiciary officers; (ii) members of special departments; and (iii) employees of the House of Representatives.
- Section 42 of the LRA which forbids the union to use, directly or indirectly, its funds to pay any fines or penalties incurred by a trade union official in the discharge of his or her duties on behalf of the organization. The Committee had recalled that trade unions should have the power to manage their funds without undue restrictions from the legislation.
- Section 64(1) and (2) of the LRA, which sets forth categories of employees that may not participate in a strike, without any additional indication, and lists several services that are deemed essential, including sanitation services, and in which strikes are forbidden. The Committee recalls that the prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State or in 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.
- Sections 63(2)(b) and 69(2) of the LRA, which determine that before resorting to protest action, the trade union must give the mediation authority at least 30 days to resolve it and subsequently give 14 days' advance notice explaining the purpose, nature and place and date of the protest action. The Committee requested the Government to shorten this 44-day period (to a maximum of 30 days, for example). The Committee recalls that the period of advance notice

should not be an additional obstacle to bargaining, with workers in practice simply waiting for its expiry in order to be able to exercise their right to strike.

- Section 41(2)(j) of the LRA so that institutions to which a trade union may wish to contribute to are not subject to the Registrar's approval.

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

The Committee notes the Government's reply to the observations of the International Trade Union Confederation (ITUC) of 2012, according to which employers in the private sector often deny the right of workers to bargain collectively and that collective agreements must be submitted to the Industrial Court for approval. The Committee notes that the Government indicates that section 71(1) of the Employment and Labour Relations Act (No. 6 of 2004) (ELRA) provides that a collective agreement shall be in writing, signed by the parties and binding on the last signatures, and that the parties are not bound to submit it for approval to a court. The Government highlights that parties to collective agreements are no longer required to submit the collective agreements agreed upon to the Industrial Court for approval as it used to be under the Industrial Court of Tanzania Act No. 41 of 1961. Act No. 41 of 1961 was wholly repealed by the ELRA and the Industrial Court became defunct. ***Taking due note of this information, the Committee requests the Government to provide information on the number of collective agreements concluded in the private sector and their coverage.***

The Committee takes note of the observations of the ITUC of 2014 concerning allegations of arrests and of acts of anti-union dismissal on grounds of participation in strikes. ***The Committee requests the Government to provide its comments in this regard.***

Scope of the Convention. The Committee had previously noted the Government's indication that the 2003 Public Service (Negotiating Machinery) Act excludes employees of the prison service and national service; and requested the Government to indicate the types of workers included in the national service and to take the necessary measures to ensure to prison staff the rights enshrined in the Convention. The Committee notes that the Government indicates that:

- Civilians employed in the prison service enjoy fundamental principles and rights, including freedom of association, as granted under the ELRA and are affiliated to the Trade Union for Government and Health Employees (TUGHE). The Committee notes, however, that section 2(1)(iii) of the ELRA explicitly excludes members of the prison service from the scope of the Act. ***Accordingly, the Committee requests the Government to take the necessary measures to amend section 2(1)(iii) of the ELRA so that members of the prison service enjoy the rights enshrined in the Convention.***
- With respect to the types of workers included in the category of the "national service", the Government indicates that: (i) employees employed in the national service include military members and civilians employed or seconded to the national service; and (ii) while military members of the service are excluded from the ELRA, civilians employed in the national service enjoy fundamental principles and rights including freedom of association as granted under the ELRA and most of them are members of the TUGHE. The Committee observes, however, that under section 2(1)(iv) of the ELRA, all members of the national service are explicitly excluded from the scope of the Act. ***Accordingly, the Committee requests the Government to take the necessary measures to amend section 2(1)(iv) of the ELRA so that it is clearly indicated that only the military members of the national service are excluded from the scope of the Act.***

Article 4 of the Convention. Compulsory arbitration. The Committee recalls that compulsory arbitration in the framework of collective bargaining is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term and acute national crises. In its previous comments, the Committee requested the Government to take measures to amend sections 17 and 18 of the Public Service (Negotiating Machinery) Act, so as to ensure their full conformity with these principles. ***The Committee trusts that its next report will contain information on progress made in this regard.***

Zanzibar

Article 4 of the Convention. Trade union recognition for purposes of collective bargaining. The Committee previously requested the Government to take the necessary measures to amend section 57(2) of the Labour Relations Act of 2005 (LRA) so that, if no union covers more than 50 per cent of the workers, the minority unions in the bargaining unit are not denied collective bargaining rights, at least on behalf of their respective members. The Committee requested the Government to ensure that the rules and regulations that were being drafted for the implementation of the LRA provide for objective procedures and criteria for the determination of representative trade union status. Furthermore, the Committee requested the Government to indicate whether, in practice, minority unions enjoy collective bargaining rights in cases where there is no union representing 50 per cent of the workers concerned. The Government indicates that there are no new developments in this regard and that there are no available statistics relating to minority unions that have exercised collective bargaining. The Committee notes that the Government is requesting technical assistance of the Office in this regard. ***The Committee requests the Government to indicate whether, under the LRA, where no union covers more than***

50 per cent of the workers in a bargaining unit, the minority unions can enter into collective bargaining, at least on behalf of their members.

Categories of employees excluded from the right to bargain collectively. The Committee previously requested the Government to take the necessary measures to amend section 54(2)(b) of the LRA, so as to guarantee to managerial employees the right to collective bargaining with respect to salaries and other conditions of employment, and to indicate the categories of employees excluded from the right to bargain collectively by the minister under section 54(2)(c) of the LRA. The Committee notes that the Government is requesting technical assistance from the Office in this regard. ***The Committee hopes that with the technical assistance of the Office, the Government will take any necessary measures to ensure full compliance with the abovementioned principle and that it will be in a position to report on progress in this regard.***

Timor-Leste

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2009)

The Committee notes the observations from the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

The Committee observes with *interest* the adoption of a new Strike Act (Act No. 5/2012 of 29 February 2012), which applies to all workers, including civil servants and agents of the public administration, and prohibits any discrimination against workers for adhering or not adhering to a strike.

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

Togo

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

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature. The Committee also notes the joint observations of the IOE and the National Council of Employers of Togo (CNP-Togo), received on 31 August 2015, denouncing the Government's incapacity to prevent the obstruction of the right, guaranteed by *Article 3 of the Convention*, of the members of the CNP-Togo to elect their representatives freely, the consequence of which has been that the CNP-Togo has been prevented from organizing its activities and formulating its programmes since 2013. The Committee observes that this matter has been the subject of a complaint before the Committee on Freedom of Association, which issued recommendations in this regard in May 2015. In these recommendations, the Committee: (i) invited the parties to the dispute, if the solution proposed by the justice system did not suit them, to agree on the appointment of an independent mediator who would assist them in implementing a procedure accepted by all to enable the CNP-Togo members to choose their representatives freely and quickly; (ii) requested the Government to ensure the reopening (unsealing) of the CNP-Togo premises and, pending the holding of new elections to the management board of the CNP-Togo, to take all necessary steps to enable the CNP-Togo to conduct its activities without hindrance (Case No. 3105, 375th Report of the Committee on Freedom of Association, paragraph 531). The Committee also notes the indications of the IOE and the CNP-Togo that: (i) the mediation procedure recommended by the Committee on Freedom of Association has not produced good results in the past due to a lack of will; and (ii) an objection was raised before the Credentials Committee as to the composition of the delegation of employers of Togo at the 2015 session of the International Labour Conference. The Committee expresses its *concern* that the CNP-Togo has been unable to carry out its activities for the defence and promotion of its members' interests since 2013, which constitutes a violation of *Article 3* of the Convention. ***The Committee urges the Government to take all the necessary measures to give effect, without any further delay, to the recommendations of the Committee on Freedom of Association on this subject, so as to, in conformity with the Convention, enable the CNP-Togo to carry out its activities.***

Article 2 of the Convention. Trade union rights of minors. In its previous comments, the Committee indicated that section 12 of the Labour Code, which recognizes freedom of association for minors over 16 years of age, unless their parents or guardians object, is not in conformity with *Article 2* of the Convention, and it requested the Government to take the necessary measures to ensure that minors who have reached the statutory minimum age for admission to employment (15 years of age under section 150 of the Labour Code) can exercise their trade union rights without the need for authorization from their parents or guardians. The Committee notes the Government's indications that the discussions concerning the revision of the Labour Code are under way, which means that the amendment of section 12 can be considered. ***The Committee hopes that the Government will report in the near future the revision of section 12 of the Labour Code as indicated, and requests it to provide any information in this regard.***

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: 1983)

Article 4 of the Convention. Compulsory arbitration. The Committee recalls that its previous comments concerned section 260 of the Labour Code, which provides that, in the event of persistent disagreement between the parties to collective bargaining on certain points in a collective dispute, the Minister of Labour may submit the matter to an arbitration board following the failure of conciliation. The Committee recalled that the provision in question is contrary to the principle of the autonomy of the parties and the principle of free and voluntary negotiation set out in *Article 4* of the Convention. The Committee recalls that compulsory arbitration is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention) essential services in the strict sense of the term and acute national crises. The Committee notes the Government's indication that the amendment of the section 260 is envisaged as part of the overall revision of the Labour Code. ***The Committee hopes that section 260 of the Labour Code will be amended as part of the ongoing revision of the Labour Code so as to bring it into full conformity with the Convention, and requests the Government to provide information on any developments in this regard.***

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

Trinidad and Tobago

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) on 31 August 2014 and 1 September 2015 on matters related to the application of the Convention. ***The Committee requests the Government to provide its comments in this respect.***

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015.

The Committee also notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3 of the Convention. Right of organizations to organize their activities freely and to formulate their programmes. In its previous comments, the Committee has been referring for a number of years to the need to amend or repeal the following sections of the Industrial Relations Act (IRA): (1) section 59(4)(a) concerning the majority required for calling a strike; (2) sections 61(d) and 65 concerning recourse to the courts by either party or by the Ministry of Labour to end a strike; and (3) section 67 (in conjunction with the second schedule) and section 69 concerning services in which industrial action may be prohibited.

The Committee notes that the Government indicates in its report that: (1) the Industrial Relations Advisory Committee was established in February 2012, with the mandate, as stated in section 81 of the IRA, to keep this Act under review; (2) it has already commenced its review of the IRA with a view to making proposals to the minister for its development and reform, including in particular the modification of any of the provisions thereof; and (3) while noting that it can avail itself of the technical assistance of the ILO, the Government proposes to do so as work of the Industrial Relations Advisory Committee proceeds and should the need arise. ***The Committee takes note of these indications and hopes that concrete measures will be taken in the near future to amend or repeal the abovementioned sections of the IRA. The Committee requests the Government to indicate in its next report any progress made in this respect.***

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

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

The Committee notes the observations submitted by the International Trade Union Confederation (ITUC) dated 1 September 2015.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 4 of the Convention. Representativeness for the purposes of collective bargaining. In its previous comments, the Committee has been referring to the need to amend section 24(3) of the Civil Service Act, which affords a privileged position to already registered associations, without providing objective and pre-established criteria for determining the most representative association in the civil service. The Committee notes that the Government indicates that the matter of amendment of section 24(3) is still under consideration, that it requires extensive continuing dialogue and that efforts will continue to be made to resolve the matter. The Committee recalls that, where there exists a trade union which enjoys preferential or exclusive bargaining rights, as in the current system, decisions concerning the most representative organization should be made by virtue of objective and pre-established criteria instead of simply giving priority to the one which was registered earlier in time, so as to avoid any opportunities for partiality or abuse. ***The Committee expresses the firm hope that the legislation, including section 24(3), will be modified in the near future so as to bring it into conformity with the principles of the Convention, and requests the Government to indicate any developments in this regard.***

In its previous comments, the Committee also referred to the need to amend section 34 of the Industrial Relations Act (IRA) in order to ensure that, in cases in which no trade union represents the majority of workers, the minority unions can jointly negotiate a collective agreement applicable in the negotiating unit, or at least conclude a collective agreement on behalf of their own members. The Committee notes the Government's indication that an Industrial Relations Advisory Committee was

established in February 2012 in accordance with Chapter 88:01 of the IRA for the purpose of keeping the IRA under constant review. The Government indicates that the Advisory Committee has commenced its review of the IRA with a view to making proposals for its development and reform, including the amendment of any of its provisions. The Committee notes that the Government states that it has noted that it can avail itself of the technical assistance of the Office and proposes to do so as the work of the Advisory Committee proceeds and should the need arise. ***The Committee expresses the hope that measures will be taken in the near future to amend the legislation so as to allow minority unions in the unit to bargain collectively, at least on behalf of their own members when there is no union that represents the majority of workers. The Committee requests the Government to communicate progress on these issues in its next report.***

Comments of the International Trade Union Confederation (ITUC). ***The Committee requests the Government to provide its observations on the ITUC's 2012 comments.***

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

Tunisia

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received in 2013 and 2014, as well as those received on 1 September 2015. The Committee notes that these observations mainly concern legislative issues that have already been raised by the Committee, but also acts of intimidation and threats made through anonymous calls to the Tunisian General Labour Union (UGTT) and its leaders. ***While noting the reply that the Government provided in 2014 on certain legislative issues, the Committee urges the Government to provide its comments on the serious allegations of threats against the UGTT and to indicate any measures taken to protect its leaders so that the union can carry out its activities without hindrance.*** The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature.

Articles 2 and 3 of the Convention. Legislative amendments. The Committee previously expressed the hope that in the framework of the legislative reforms that were to accompany the adoption of a new Constitution, the issues that had been raised in its comments for many years would be taken into account. The Committee notes that, in its 2014 and 2015 reports, the Government indicates that the new Tunisian Constitution, adopted on 26 January 2014, establishes the right to organize and that it is now exploring the possibility of bringing certain provisions of the Labour Code into conformity with the Convention. ***In this regard, while noting the explanations provided on certain provisions that had been addressed in its comments, the Committee is bound to remind the Government of the need to amend the following provisions of the Labour Code to give full effect to the Convention.***

Right of workers, without distinction whatsoever, to establish and join organizations. The Committee previously requested the Government to take the necessary measures to amend section 242 of the Labour Code, which provides that minors aged 16 years and over may belong to trade unions, if there is no opposition from their parent or guardian. The Committee notes that the Government once again reiterates that the protection put in place is prompted by legal considerations relating to the exercise of authority by the parent or guardian, in accordance with section 93bis of the Code of Obligations and Contracts. The Government also reiterates that section 242 of the Labour Code has not been challenged by the representative organization of workers. The Committee is bound to recall once again that any distinction on the basis of age with regard to trade union membership is contrary to Article 2 of the Convention. ***The Committee therefore once again requests the Government to take the necessary measures to amend section 242 of the Labour Code to ensure that minors who have reached the statutory minimum age for admission to employment (16 years under section 53 of the Labour Code) are able to exercise their trade union rights without authorization from their parent or guardian.***

Right of organizations to elect their representatives in full freedom. The Committee previously requested the Government to take the necessary measures to amend section 251 of the Labour Code so as to guarantee the right of workers' organizations to elect their representatives in full freedom, including from among foreign workers at least after a reasonable period of residence in the country. It notes the Government's reiteration that this is by no means a restriction on the right to organize of foreign nationals, who may freely join trade unions and exercise all the related rights. The Government nevertheless confirms that foreign nationals may not hold office in trade unions. ***The Committee is bound to recall that, in accordance with Article 3 of the Convention, national legislation must allow foreign workers access to the functions of trade union leadership, at least after a reasonable period of residence in the receiving country, and it once again requests the Government to take the necessary measures to amend section 251 of the Labour Code as indicated above.***

Right of workers' organizations to organize their activities and formulate their programmes. The Committee previously requested the Government to take the necessary measures to amend sections 376bis(2), 376ter, 381ter, 387 and 388 of the Labour Code. The Committee notes the Government's reiteration that the provisions in question are intended to allow employers to be informed of strikes and to engage in conciliation procedures with a view to preventing the dispute, and that the penalties set forth seek to prevent any anarchical recourse to strike action, which might jeopardize the future of the enterprise, the social climate or the interests of the country. With regard to the penalties to which strikers are liable in the event of an illegal strike, the Government indicates that it is for the court to assess the severity of the offences

committed and that it has full discretion to hand down a simple fine instead of a prison sentence. *The Committee requests the Government to review these provisions in consultation with the social partners concerned with a view to their possible amendment and to report any measures taken in this regard.*

With regard to section 376bis(2) of the Labour Code, the Government specifies that during the consultations conducted in 1994 and 1996 on the Labour Code reform, the representative organizations of employers and workers indicated that they wished to maintain this provision which, in their opinion, would allow the umbrella organization to always be informed prior to any strike or lockout, with a view to a more effective settlement of the dispute. The Government adds that the first-level trade unions often insist on the intervention of an umbrella organization to consolidate the exercise of the right to strike. In this regard, the Committee considers it useful to recall that the requirement to obtain the approval of a higher-level trade union organization prior to a strike would not in itself constitute a restriction on the freedom of the trade unions concerned to organize their activities if this requirement was the result of the free choice of the trade unions concerned, for example if it was set out in the statutes of the umbrella organization to which these trade unions freely adhered. However, the Committee is of the opinion that the existence of such a requirement in the national legislation, as in the present case, constitutes a violation of *Article 3* of the Convention. *The Committee therefore urges the Government to take the necessary measures to amend section 376bis(2) of the Labour Code to bring it into line with the principle recalled above.*

With regard to its previous comments on section 381ter of the Labour Code, the Committee notes the Government's reply indicating that the definition of essential services contained in this section, which takes up that of the ILO supervisory bodies, and the consensual approach used to determine minimum services with the social partners, have always made it possible to avoid the recourse to arbitration that is provided for. *The Committee requests the Government to indicate whether the decree provided for by this section of the Labour Code has been adopted.*

Right of workers' organizations to organize their activities and formulate their programmes without interference from the public authorities. With regard to the determination of the representativeness of the trade unions and the development, for this purpose, of objective criteria to determine the representativeness of the social partners in accordance with section 39 of the Labour Code, the Committee notes the information on the technical assistance provided by the Office in this regard, and particularly the organization of a tripartite technical meeting on trade union representativeness held in January 2014. The Committee further notes the Government's indication that a national tripartite committee chaired by the Minister of Social Affairs has met on several occasions to discuss this issue and that the Office continues to provide assistance through the preparation of a comparative study. *The Committee trusts that this technical assistance will promptly lead to the determination, in the framework of inclusive tripartite consultations, of objective criteria for trade union representativeness, and it encourages the Government to continue providing detailed information on this subject.*

Turkey

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

The Committee notes the observations of the Turkish Confederation of Employers' Associations (TİSK) received on 23 February 2015, as well as the observations of the TİSK and the International Organisation of Employers (IOE) received on 28 August 2015. It further notes the observations of the IOE received on 1 September 2015, which are of a general nature. The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015 and the Confederation of Public Employees' Trade Unions (KESK) received on 4 September 2015. Finally, the Committee notes the observations from the TİSK, the Confederation of Turkish Trade Unions (TÜRK-İŞ), the Confederation of Turkish Real Trade Unions (HAK-İŞ), the Confederation of Progressive Trade Unions of Turkey (DİSK), the Confederation of Public Servants' Unions (MEMUR-SEN), the Confederation of Turkish Public Employees' Union (Türkiye Kamu-Sen) and KESK which the Government sent with its report and which the Committee will consider as soon as it receives the translation.

Civil liberties. The Committee recalls that for a number of years it has been commenting upon the situation of civil liberties in Turkey. The Committee notes from the ITUC observations that five leaders of trade unions representing a wide range of workers, charged with inciting the public to illegally assemble and demonstrate, were acquitted by the Criminal Court of First Instance No. 28, in Istanbul on 24 March 2015.

The Committee further notes, from the latest observations of the KESK, serious allegations of numerous dismissals, harassment, retaliatory action, arrests and police assaults against the KESK and its members for the exercise of legitimate trade union activity. *The Committee requests the Government once again to provide information on the measures taken to ensure a climate free from violence, pressure or threats of any kind so that workers and employers can fully and freely exercise their rights under the Convention. The Committee requests the Government to provide detailed comments to the KESK observations in this regard.*

Article 2 of the Convention. *Right of workers, without distinction whatsoever, to establish and join organizations.* The Committee recalls that, in its previous comments, it had requested the Government to keep it informed of the steps

taken to review Act No. 4688, as amended by Act No. 6289, either through an amendment to the Act or through separate legislation, so as to ensure that senior public employees, magistrates and prison guards are afforded their basic rights to organize. The Committee notes the observations of the KESK, welcoming the Constitutional Court decisions of April 2013 and January 2014 which abolished certain restrictions on the right of public servants to organize, while denouncing the remaining restrictions that affected hundreds of thousands of public servants. ***The Committee once again requests the Government to take the necessary measures to review section 15 of Act No. 4688 as amended with a view to ensuring to all public servants the right to form and join organizations of their own choosing.***

Article 3. Right of workers' organizations to organize their activities and formulate their programmes. The Committee recalls that, along with the Committee on Freedom of Association, it has been requesting the Government to ensure that section 63 of Act No. 6356 was not applied in a manner so as to infringe on the right of workers' organizations to organize their activities free from government interference. The Committee notes with *interest* the information provided by the Government on a Constitutional Court judgment rendered on 2 July 2015 which found that the Council of Ministers' Decree under section 63 of Act No. 6356, suspending a strike in a glass-making company for 60 days on the grounds that it was disruptive to public health and national security, was in breach of the trade union rights guaranteed by article 51 of the Turkish Constitution. ***The Committee requests the Government to continue to provide information on the use of section 63 following the judgment of the Constitutional Court and any relevant court judgments.***

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: 1952)

The Committee notes the observations made by the Turkish Confederation of Employers' Associations (TİSK) and the International Organisation of Employers (IOE) received on 1 September 2014 and 28 August 2015. The Committee also notes the observations made by the Municipality and Private Government Employees' Union (BEM-BİR-SEN) received on 30 April 2014 and the Government's reply thereto; the observations from the All Municipality Workers' Trade Union of Turkey (TUM YEREL-SEN) received on 30 October 2014 and the Government's reply thereto; the observations from the International Trade Union Confederation (ITUC) received on 1 September 2014 and the Government's reply thereto; and the observations of the Confederation of Public Employees' Trade Unions (KESK) received on 1 September 2014 and the Government's reply thereto. The Committee further notes the Government's detailed replies to the Confederation of Progressive Trade Unions of Turkey (DİSK) observations received on 8 April 2013. It also notes the ITUC observations received on 1 September 2015. Finally, the Committee notes the observations from the TİSK, the Confederation of Turkish Trade Unions (TÜRK-İŞ), the Confederation of Turkish Real Trade Unions (HAK-İŞ), the DİSK, the Confederation of Public Servants' Unions (MEMUR-SEN), the Confederation of Turkish Public Employees' Union (Türkiye Kamu-Sen) and the KESK which the Government sent with its report and which the Committee will consider as soon as it receives the translation.

The Committee takes due note of the Government's detailed reply to the allegations of violations of collective bargaining rights and cases of anti-union dismissals submitted by the ITUC in 2014 and requests the Government to reply to the ITUC's more recent observations from 2015 alleging further violations of the Convention in practice.

Scope of the Convention. The Committee had previously requested the Government to clarify whether domestic workers were covered by the new legislation. The Committee notes the information provided by the Government, as well as by the TİSK and the IOE, in this regard and especially notes with *interest* the Government's indication that domestic workers enjoy the rights set out in the Act on trade unions and collective bargaining agreements (Act No. 6356) of 7 November 2012, and that a domestic workers' union was in fact registered on 13 February 2014 within the framework of the general works sector.

The Committee had also requested the Government to clarify whether the rights under the Convention had been afforded to prison guards. The Committee takes due note of the Government's indication that the recent Constitutional Court rulings extending the right to organize to the civilian personnel of the police did not include prison staff. The Government adds however that prison staff are covered by collective agreements concluded in the public service. The Committee recalls in this regard its 2012 General Survey on the fundamental Conventions, paragraph 168, in which it has indicated that the right to organize and to bargain collectively also applies to prison staff. ***The Committee requests the Government to indicate the manner in which workers' organizations representing prison staff may participate in negotiations of collective agreements covering their members.***

In its previous comments, the Committee noted that Act No. 6356 introduced a requirement for the publication of the application and withdrawal forms relating to trade union membership on the e-State gate and requested the Government to provide information on the measures taken or envisaged to ensure that the e-State gate did not create an obstacle for the exercise of the rights guaranteed by this Convention. The Committee takes due note of the Government's comments, as well as observations of the TİSK and the IOE, that the e-State system is simpler and easier than the earlier notary system, does not put a burden on either workers or their organizations, is free of charge and protects personal data. The Committee further notes the Government's confirmation that the information available on the e-State gate is not public and therefore not subject to abuse. The Penal Code criminalizes the recording of personal data on trade union affiliation, as well as obtaining and disseminating such data unlawfully.

Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination. The Committee once again recalls that the June 2013 Conference Committee on the Application of Standards had 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 the Government's indication that no system exists for collecting such data. The Committee also notes however the serious allegations of anti-union harassment raised by the KESK in relation to the Government's use of the Basic National Education Act and the Regulations on the appointment of the directors of institutes of education, to discriminate against its members. ***The Committee requests the Government to reply specifically to the most recent observations of the KESK in this regard. In the light of the continuing concerns raised, the Committee once again 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.***

The Committee notes with *interest* the clarification brought by the Constitutional Court in a judgment handed down on 22 October 2014 which raises the fine that shall be payable for unjustified dismissal and further grants the right for workers to initiate legal proceedings for reinstatement should they consider that they were dismissed on anti-union grounds.

Article 4. Collective bargaining. In its previous comments, the Committee noted that section 34 of Act No. 6356 provided that a collective work agreement may cover one or more than one workplace in the same branch of activity, which, it considered, appeared to limit the right of workers' and employers' organizations to freely determine how and at what level to carry out collective bargaining. The Committee notes the Government's indication that the Act has also introduced the possibility of concluding a "framework agreement" at the branch of activity level alongside enterprise level collective labour agreements. The Government adds that the use of this new means of bargaining and the experience to be gained will show the direction that the Turkish collective bargaining system might take in the future. ***The Committee therefore requests the Government to review the impact of section 34 of the Act and to consider, in consultation with the social partners, its amendment in a manner so as to ensure that it does not restrict the possibility of the parties to engage in cross-sector regional or national agreements. It requests the Government to provide information on the steps taken in this regard.***

The Committee recalls its previous comments in relation to section 35(2) of Act No. 6356 which states that the parties cannot extend or reduce the validity of a collective agreement once signed. In this regard, the Committee takes due note of the Government's indication that this provision does not restrict the right of the parties to a collective agreement to agree to make changes to its provisions, but rather restricts only the possibility of changing the agreement's duration with a view to recognizing rival trade unions' right to collective bargaining by imposing time limits to the duration of the agreement.

The Committee recalls that section 41(1) of Act No. 6356 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. Reiterating its long-standing concerns related to the double threshold for collective bargaining which requires on the one hand representation at the branch level and on the other hand majority representation at the workplace, the Committee expressed the firm hope that the thresholds would be revised and lowered in consultation with the social partners. The Committee notes with *interest* the Government's indication that Act No. 6356 was amended by Act No. 6645 of 4 April 2015 to provide the right to bargain collectively without meeting the abovementioned branch threshold for the following categories of trade unions: (i) trade unions which could not complete the transitional period; (ii) trade unions which fulfilled the 10 per cent threshold according to the statistics published in July 2009; and (iii) the abovementioned categories of trade unions which conclude labour agreements in other workplaces of the same branch of activity where they have a majority within one year after the entry into force of this provision. According to the statistics published by the Ministry of Labour and Social Security, the rate of unionization in the private sector rose from 9.21 per cent in January 2013 to 10.65 per cent in January 2015 and to 11.21 per cent in July 2015. According to the Government, this attests to the positive effects of the e-State gate.

Recalling the concerns that had been expressed by several workers' organizations in relation to the perpetuation of the double threshold, accompanied by new methods of data collection on representativity, the Committee trusts that the Government will continue to review this matter with the social partners concerned, including as regards the impact of the thresholds on collective bargaining coverage. The Committee requests the Government to provide information on the steps taken in this regard and statistics related to collective bargaining coverage in the country.

In its previous comments, the Committee had noted that sections 46(2), 47(2), 49(1), 51(1), 60(1) and (4), 61(3) and 63(3) provided for a variety of 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 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). The Committee requested

the Government to take the necessary measures to amend these provisions to avoid interference in the bargaining process. The Committee notes the Government's indication that these measures are designed to ensure the bargaining process is completed in 120 days and that there is no restriction on the continuation of the negotiations between parties during strike action. ***The Committee requests the Government to provide information on any use of these sections and to continue to review their application with the social partners concerned with a view to their eventual amendment, favouring collective bargaining where the parties so desire.***

As regards mediation, the Committee notes the Government's indication that the favoured situation is where the parties agree on a mediator from an official list and the parties are under no obligation to accept the mediator's proposals. ***The Committee requests the Government to provide information on any use of section 50(1) which permits a unilateral determination of the mediator where the parties have not been able to agree.***

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. ***Observing that the Government has not provided any information in this regard, the Committee once again requests it to provide information on the measures taken or envisaged to ensure a significant role for collective bargaining with public servants not engaged in the administration of the State.***

[The Government is asked to reply in detail to the present comments in 2017.]

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 1993)

The Committee notes the observations made by the Confederation of Public Employees' Trade Unions (KESK) received on 1 September 2014 and the Government's response thereto, as well as the observations from the KESK under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), received on 4 September 2015 touching upon some elements of this Convention. It further notes the observations of the Turkish Confederation of Employers' Associations (TİSK) on the application of the Convention received on 19 November 2014.

Article 4 of the Convention. Acts of anti-union discrimination. In its previous comments, the Committee, having noted that Act No. 4688 (Public Servants Employees' Unions Act) did not comport sufficiently dissuasive sanctions, had requested the Government to provide information on cases in which sanctions to enforce provisions prohibiting anti-union discrimination had been imposed. The Committee notes the Government's indication that such acts are penalized by section 118 of the Penal Code (Act No. 5237) which provides for penalties of imprisonment. The Government further refers to circulars that have been published on the non-obstruction of trade union activities and provides a copy.

As regards KESK's specific allegations that disciplinary inquiries are regularly carried out against its members and leaders, the Government states that all cases were brought before the courts on charges of terrorism and that none of the unionists have appealed to the Ministry of Labour and Social Security alleging that the investigations have taken place due to their trade union activity. The Committee further notes, however, a number of detailed allegations made by the KESK related to anti-union treatment, mobbing, dismissals and disciplinary actions, which it claims were targeted at its members in a variety of public services. ***The Committee requests the Government to provide specific information in reply to the KESK observations.***

Article 7. Procedures for determining terms and conditions of employment. The Committee notes with *interest* the Government's indication that following the Constitutional amendment adopted by the referendum on 12 September 2010, the right to conclude collective agreements was granted to public agents. The Government adds that, as a result, amendments were made to Act No. 4688 by Act No. 6289 of 11 April 2012 which ensures a system of free collective bargaining for public servants. While the KESK raises concerns about the use of compulsory arbitration, the Government indicates that such a system is only used once the procedures for collective bargaining have failed. ***The Committee requests the Government to provide information on the number of collective agreements concluded in the public service since the introduction of the amendments to Act No. 4688 and their overall coverage.***

Finally, with regard to the procedure of collective bargaining in the public service as regards public servants not engaged in the administration of the State, the Committee refers to its observation on the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

Uganda

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2005)

The Committee takes note of the observations of the International Trade Union Confederation (ITUC) received on 1 September 2014 concerning issues raised by the Committee as well as allegations of arrests during the 1 May 2013

celebrations. **The Committee requests the Government to provide its comments in this regard.** The Committee also takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

The Committee notes the Government's reply to the observations of the ITUC received in 2012 and 2013, relating to allegations of government interference in union elections, police intervention during a strike and restrictions to freedom of assembly imposed by the Public Order Management Act 2013. As to the allegations of interference in union elections, the Committee recalls that any intervention by the public authorities in trade union elections runs the risk of appearing to be arbitrary and thus constituting interference in the functioning of workers' organizations, which is incompatible with *Article 3 of the Convention*. As to the other allegations, the Committee notes that the Government indicates that it intends to regulate public gatherings and enforce section 5 of the Public Order Management Act 2013 for purposes of achieving harmony and peace in the country. The Committee observes that the Public Order Management Act 2013, which regulates the exercise of the rights to freedom of assembly and to demonstrate, establishes certain requirements (including timeframes for giving notice of the meetings and time limits during which public meetings can take place), some of which have been criticized by the ITUC. The Committee also notes that the Act provides that organizers of public meetings, who fail to comply with the requirements of the Act, commit an act of disobedience of statutory duty which is punishable under the Penal Code with imprisonment. The Committee recalls that: (i) the right to organize public meetings and processions constitutes an important aspect of trade union rights; (ii) the authorities should resort to calling in the police in a strike situation or demonstration only if there is a genuine threat to public order; (iii) no penal sanction should be imposed on workers for having carried out a peaceful strike or demonstration; and (iv) the implementation of the Public Order Management Act 2013 should not impair the exercise of the rights enshrined in the Convention. **The Committee trusts that the Government will ensure respect for these principles and, to that end, it requests the Government to discuss with the social partners concerned the application and impact of the Public Order Management Act 2013, and to provide information in this regard.**

Articles 2 and 3 of the Convention. Legislative matters. In its previous comments, the Committee requested the Government to take measures to amend or repeal various 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 that it is difficult to estimate the average duration of the registration procedure, and that 90 days is the maximum duration anticipated for the whole process to be completed before a certificate is issued to the applicant. **Recalling that registration procedures that are overly lengthy may constitute serious obstacles to the establishment of organizations (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 75), the Committee once again requests the Government to take the necessary measures to amend section 18 of the LUA so as to shorten the time frame for registration of a trade union.**
- Section 23(1) of the LUA (interdiction or suspension of union officers by the Registrar). The Committee notes that the Government indicates that: (i) *Article 4* of the Convention only prohibits the dissolution or suspension of workers' and employers' organizations, but not the removal of the officers of such organizations; (ii) the intention of section 23(1) of the LUA is to remove the officer in question to allow investigations to take place and justice to prevail; and (iii) therefore, according to the Government, there is no need for amendments. The Committee recalls once again that any removal or suspension of trade union officers, which is not the result of an internal decision of the trade union, a vote by members, or normal judicial proceedings, seriously interferes with the right of trade unions to elect their representatives in full freedom, enshrined in *Article 3* of the Convention. Provisions which permit the suspension and removal of trade union officers by the administrative authorities are incompatible with the Convention. The Committee further 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 therefore reiterates its request to 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). The Committee takes note of the Government's indication that it has contacted the trade unions so that they can express their views on this issue. **The Committee welcomes the consultations on this matter and requests the Government to take the necessary measures to amend section 31(1) in conjunction with such consultations 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 the Government's indication that steps are being taken to bring section 33 of the LUA into conformity with the Convention. **The Committee welcomes the**

Government's commitment to address this issue and requests it to provide information regarding the steps taken to repeal section 33 so as to guarantee the right of organizations to organize their administration.

- Section 29(2) of the LDASA (responsibility for declaring a strike illegal lies with the Government). The Committee notes that the Government indicates that the responsibility for declaring a strike illegal lies with the Labour Officer, who is an officer of the Government, and that therefore any action by such officer is an action of the Government. ***The Committee recalls once again that the responsibility for declaring a strike illegal should not lie with the Government, but with an independent body that has the confidence of the parties involved. The Committee requests the Government to take the necessary steps to amend this section of the Act in compliance with this principle.***

Concerning Schedule 2 of the LDASA (list of essential services), the Committee notes that the harmonization of the list of essential services in the LDASA with that in the 2008 Public Service Act (Negotiating, Consultative and Disputes Settlement Machinery) will be undertaken by the new Labour Advisory Board, which was appointed in October 2015. ***The Committee requests the Government to provide information on any developments in this respect.***

Finally, the Committee takes note of the Labour Disputes Arbitration and Settlement (Mediation and Conciliation) Regulations (2012), which are attached to the Government's report, and notes with *interest* that section 18 provides for an expeditious hearing in the case of disputes involving essential services.

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

The Committee notes the Government's reply to the observations of the International Trade Union Confederation (ITUC) of 2013, concerning collective bargaining difficulties in the education sector. The Committee notes that, according to information provided in the Government's report, the issues raised by the ITUC were resolved through dialogue and discussions between the Inter-Ministerial Task Force and the Uganda National Teachers' Union (UNATU).

The Committee notes the observations of the ITUC received on 31 August 2014. ***The Committee requests the Government to provide its comments in this regard, as well as on the 2012 observations of the National Organization of Trade Unions of Uganda (NOTU) (concerning anti-union discrimination practices and the need for a document of recognition delivered by the employers to engage in collective bargaining).***

Article 4 of the Convention. Promotion of collective bargaining. In its previous comments, after having requested the Government to take measures to recognize the right to collective bargaining to all public servants and public employees engaged in the administration of the State, the Committee noted with interest the 2008 Public Service Act (Negotiating, Consultative and Disputes Settlement Machinery) as well as the Government's indication that: (i) the Act had 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, had become operational; and (iii) guidelines were being formulated to assist ministries and local governments to form structures for collective bargaining at their level. The Committee notes that in its report the Government only indicates that the abovementioned guidelines have been formulated. ***The Committee once again requests the Government to ensure the effective application in practice of the collective bargaining rights accorded by law in the public service at least with respect to all public servants and public employees not engaged in the administration of the State. It also requests the Government to supply a copy of the guidelines issued in this respect and to provide information on the number of collective agreements concluded in the public service, and the number of workers covered.***

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 the 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. ***The Committee 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.***
- Sections 5(1) and (3) and 27 of the LDASA (referral of non-resolved disputes to compulsory arbitration by or at the request of any party). The Committee notes that the Government indicates that it does not find any justification in the Committee's comments on why these provisions should strictly relate to public employees engaged in the administration of the State and workers in essential services in the strict sense of the term. The Committee therefore reiterates that compulsory arbitration (that is, arbitration that is not requested by both parties concerned) may only be imposed in the case of disputes in the public service involving public servants engaged in the administration of the State (*Article 6 of the Convention*), or in essential services in the strict sense of the term (namely those services whose interruption would endanger the life, personal safety or health of the whole or part of the population), or in the case of acute national crisis. The Committee recalls in this regard that, with the exception of the abovementioned cases, arbitration imposed by legislation, or at the request of only one of the parties involved in the dispute is

contrary to the obligation to promote the full development and utilization of machinery for voluntary negotiation as enshrined in *Article 4* of the Convention. ***The Committee therefore once again requests the Government to take steps to amend these provisions so as to ensure that arbitration in situations other than those mentioned above can take place only at the request of both parties involved in the dispute.***

United Kingdom

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1949)

The Committee takes note of the comments of the Government on the 2013 observations of the Public Service Union (Unison) and Unite the Union. ***It further notes the observations of the Trades Union Congress (TUC) received on 1 September and 25 November 2015 which raises concerns about a number of legislative proposals presented by the Government in July 2015 and requests the Government to provide its comments thereon.*** The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Article 3 of the Convention. Right of workers' organizations to organize their activities and formulate their programmes. The Committee recalls its previous comments in which it requested the Government to carry out a review with the social partners of the issues raised by various workers' organizations in the country relating to the exercise and regulations of industrial action. The Committee observes that while an independent review was undertaken to look at the limited questions of alleged use of extreme tactics in industrial disputes and the effectiveness of the existing legal framework for preventing inappropriate or intimidatory actions in such disputes, the review was not charged to examine the various matters that had been raised by the workers' organizations in the country over recent years. The Carr Report resulting from the above limited review was published in October 2014 and served as a basis for certain proposed reforms set out in the Trade Union Bill presented in Parliament on 15 July 2015.

The Committee observes that the TUC raises a number of concerns in relation to the new government proposals, which it considers would infringe on the right of workers' organizations to carry out their activities without interference. The TUC refers in particular to new proposed ballot requirements for industrial action and additional procedural burdens, restrictions on picketing and increased supervisory powers, procedural requirements for the use of social media, the use of agency workers to replace strikers, restrictions on union political freedoms and greater overall control of trade unions through enhanced powers of the certification authority.

The Committee notes that, following the introduction of these proposals, the Government carried out a broad-based consultation related to controversial proposals for further requirements related to picketing. The Committee welcomes the Government's decision not to pursue certain of those proposals, including the proposals related to two weeks advance social media notification and annual reporting on industrial action. The November 2015 government response to the consultation on tackling intimidation of non-striking workers thus proposes to modify the Bill to clarify the limited extent of the scope of the picketing provision (section 9) and focus rather on strengthening the Code of Practice on Picketing to set out the rights and responsibilities of the parties clearly and to work with the police, the Advisory, Conciliation and Arbitration Service (ACAS) and other stakeholders to ensure that guidance fully reflects the practical steps necessary to ensure that picketing remains peaceful.

As regards the ballot requirements raised by the TUC, the Committee observes that two sets of additional requirements related to strike ballots are being proposed. Section 2 of the Bill introduces a new requirement of a 50 per cent participation quorum to be reached in strike ballots. In this regard, the Committee recalls in its 2012 General Survey on the fundamental Conventions, paragraph 147 that, while it has always stated that a quorum should be fixed at a reasonable level, it has consistently considered that a quorum of 50 per cent is indeed within such limits of reasonableness. The second requirement referred to by the TUC concerns the heightened conditions in important public services of support by 40 per cent of all workers (section 3 of the Bill), which effectively means a requirement of 80 per cent support where only the 50 per cent participation quorum has been met. The Committee notes that the following categories have been identified as important public services: health services, education of those aged under 17, fire services, transport services, decommissioning of nuclear installations and management of radioactive waste and spent fuel, and border security. While the Committee generally considers that a requirement of the support of 40 per cent of all workers to carry out a strike would constitute an obstacle to the right of workers' organizations to carry out their activities without interference, it further observes that a number of the services set out in section 3 fall within the Committee's understanding of essential services in the strict sense of the term or of public servants exercising authority in the name of the State, in which restrictions on industrial action are permissible. The Committee does however express **concern** that this restriction would also touch upon the entire primary and secondary education sector, as well as all transport services, and considers that such a restriction is likely to severely impede the right of these workers and their organizations to organize their activities in furtherance and defence of their occupational interests without interference. The Committee recalls in this regard that recourse might be had to negotiated minimum services for these sectors, as appropriate. ***The Committee requests the Government to review this matter with the social partners concerned with a view to modifying the Bill so as to ensure***

that the heightened requirement of support of 40 per cent of all workers does not apply to education and transport services.

The Committee further notes the TUC concerns that these changes come within a cumulated context of heavy procedural requirements for balloting, including the fact that balloting must be by postal voting only and that secret workplace voting and electronic voting are not allowed. The Committee further observes that Unison had raised similar concerns and that in one case referred to it, the employer challenged the confidentiality of postal voting. *The Committee invites the Government to review the ballot method with the social partners concerned with a view to its possible modernization while bearing in mind the rights and interests of all parties concerned.*

The Committee further observes the concerns raised by the TUC in relation to the proposal to revoke the regulation in the Conduct of Employment Agencies and Employment Businesses Regulations 2003 which prohibited the provision of agency workers to replace strikers. *The Committee requests the Government to review this proposal with the social partners concerned bearing in mind its general consideration that the use of striker replacements should be limited to industrial action in essential services.*

Finally, the Committee requests the Government to provide its comments on the other matters raised by the TUC, and in particular as regards: (i) the proposal to abolish dues check-off across all public sector organizations; (ii) the proposal for an opting-in clause (as opposed to an opting-out), with a limited time validity, for union member contributions to political funds accompanied by detailed reporting obligations; (iii) the remaining provisions on picketing; and (iv) the proposal to increase powers of the certification authority.

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

[The Government is asked to reply in detail to the present comments in 2016.]

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 1980)

With reference to its observation under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee notes the observations of the Trades Union Congress (TUC) received on 1 September and 25 November 2015 in relation to legislative proposals presented by the Government to Parliament on 15 July 2015 and requests the Government to provide its comments thereon.

Articles 6 and 7 of the Convention. Facilities enabling recognized representatives of public employees' organizations to carry out their functions promptly and efficiently and the encouragement of machinery for negotiation of terms and conditions of employment or other methods of participation for public employees' representatives. The Committee notes that the TUC raises concerns in relation to modifications to the provision of facility time and check-off facilities for the public service in sections 12 and 14 of the Trade Union Bill. The TUC further states that check-off arrangements are to be found in collective agreements and therefore the Government is proposing to invalidate existing collective agreements and to prevent future negotiation by providing clearly in section 14 for the prohibition of the deduction of union subscriptions.

In this regard, the Committee recalls that, in its 2013 General Survey, *Collective Bargaining in the Public Service: A way forward*, paragraphs 145 and 146, the Committee underlined in its chapter on trade union rights and facilities in the public administration the importance of providing appropriate means for the collection of trade union dues and time off without loss of wages. The Committee recalled that the bigger the undertaking or public institution, the greater the need to ensure that appropriate facilities are afforded. Moreover, the Committee considered that the granting of facilities such as paid time off to representatives of public employees' organizations can contribute to compliance with the regulations applicable to public institutions and to dialogue with the employer, and thus to the creation of an appropriate environment and the proper functioning of the administration or department concerned.

As regards the withdrawal of such facilities, in its 2013 General Survey, paragraphs 155 and 156, the Committee has indicated the following: in general, the Committee encourages the use of methods of application of Convention No. 151 that are based on tripartism, social dialogue and full and frank consultations between the social partners. This is particularly important with regard to legislation on industrial relations, including provisions concerning facilities to be afforded to workers' representatives, in order to ensure that the parties subscribe to the underlying principles and, thus, that the measures adopted are sustainable and are not contingent, in the civil service, on successive changes of government or administration. The unilateral withdrawal of facilities from public employees' organizations can seriously impair the normal functioning of such organizations. The larger the organization, in terms of the number of workers it represents and their sectoral and geographical coverage, the more the withdrawal of facilities can have harmful consequences. In this respect, the Committee on Freedom of Association has considered that the withdrawal of the check-off facility, which could lead to financial difficulties for trade union organizations, is not conducive to the development of harmonious industrial relations and should thus be avoided.

In light of the above, the Committee requests the Government to ensure that the public authorities concerned and the public employees' organizations are given the opportunity to jointly review sections 12 and 14 of the Trade Union Bill with a view to ensuring that the facilities granted to public employees' organizations are fully in line with Article 6 of the Convention and that already concluded collective agreements are not violated.

Jersey

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015.

The Committee also notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3 of the Convention. The Committee recalls that its previous comments referred to certain provisions of the Employment Relation Law (ERL) and its codes of practice concerning the exercise of the right to strike (right to secondary action and social and economic protests – see section 20(3) of the ERL and Code 2; picketing – Code 2; compulsory arbitration – sections 22 and 24 and Code 3; essential services – Code 2).

The Committee notes that in its report, the Government indicates that: (1) the insular authorities confirm that a review of the provisions of the ERL and its codes of practice continues to be included in the Minister for Social Security's programme of work; (2) the insular authorities regret that the review is still pending and hoped that progress would have been made; (3) the global economic downturn continues to have an impact in Jersey; (4) the delay is regretted; however the review will be undertaken as soon as resources allow it. The insular authorities are grateful for the previous comments of the Committee and confirmed that they will be given due account in the review; and (5) Jersey continues to have a very good industrial relations record; since the Employment (Jersey) Law 2003 came into force on 1 July 2005, there have been no claims to the Employment Tribunal of unfair dismissal or selection for redundancy on grounds of trade union membership.

In these circumstances, the Committee requests the Government to provide information in its next report on any development concerning the review of the ERL and its codes of practice, as well as on the comments previously made by the workers' organization Unite about the conditions for protected industrial action and the application by the courts of sections 3 and 20(2) of the ERL and Code 3.

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)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. Protection against acts of anti-union discrimination. In its previous comments, the Committee had noted that according to sections 77B and 77C of the Employment (Amendment No. 4) (Jersey) Law, 2009, the Tribunal does not have the power to compensate an employee for financial losses such as arrears of pay for the period between the dismissal and the order for reinstatement or re-employment. The Committee requested the Government to take the necessary measures in order to guarantee, in cases of anti-union dismissals: (1) the payment of arrears of pay, for the period between the dismissal and the order for reinstatement or re-employment; and (2) a compensation for the prejudice suffered. The Committee notes the Government's indication that, following public consultations in 2008, the Employment Forum, an independent consultation body including representatives of workers, employers and independent members, recommended to the Minister for Social Security that the Employment Tribunal should not have the power to compensate an employee for any financial losses, such as arrears of pay, for the period between the dismissal and the order for re-employment, until such a time as a review of the award-making powers of the Tribunal can be undertaken, which would include a review of how compensatory sums are calculated in other jurisdictions. Moreover, the Minister accepted the concern of the Employment Forum that, given that the equivalent financial compensation is not available to unfairly dismissed employees who are not seeking re-employment, the opportunity to receive additional compensation on these grounds may lead employees to seek re-employment as a matter of course, resulting in a reduced number of pre-hearing settlements. *The Committee invites the Government to pursue dialogue with the social partners in order to ensure that in cases of anti-union dismissals, workers reinstated by the judicial authority will be granted full compensation for loss of pay.*

Articles 2 and 4. Protection against acts of interference and promotion of collective bargaining. In its previous comments, the Committee had noted that there were no specific provisions protecting against acts of interference in the Employment (Jersey) Law (EL) or the Employment Relation Law (ERL), but that it was the Minister's intention to introduce via the ERL a positive duty to prohibit employers from "buying out" employees' rights in respect of union activities by inducing employees not to join a workers' organization, or to relinquish membership of such an organization. The Committee noted the Government's indication that the authorities continue to prepare the relevant provision. *The Committee requests the Government to provide information on any development in this regard.*

Moreover, the Committee had requested that Code 1 on the recognition of trade unions be amended in order to guarantee the right to collective bargaining of the most representative organization of the bargaining unit and to ensure that, where no union represents the majority of employees in a bargaining unit, collective bargaining rights are granted to all unions in the unit, at least on behalf of their own members. The Committee noted the Government's indication that Code 1 will be reviewed in relation to the Convention as part of the proposed wider review of the ERL and codes of practice. *The Committee requests the Government to provide information on any developments in this regard.*

The Committee noted that the authorities indicate that they regret that provisions to prohibit employer inducement and a review of the ERL and codes of practice are pending and that the global economic downturn continues to have an impact on Jersey; the review will be undertaken as soon as resources allow it. The Committee understands that this review would improve the protection against anti-union interference and collective bargaining rights.

The Committee expresses its hope, once again, that the Government will be in a position to indicate in its next report progress made with regard to reviewing the provisions of the ERL and the accompanying draft codes of practice so as to ensure that trade unions enjoy the full guarantee of the rights available under the Convention.

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

St Helena

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

Article 4 of the Convention. Collective bargaining in practice. The Committee notes the Government's indication that there are no collective agreements in force, as well as its information regarding the establishment of a tripartite Employment Rights Committee to advise the Governor in Council on labour matters such as the hourly remuneration rate. *The Committee, expressing its concern with this situation, requests the Government to take any necessary measures to encourage and promote the full development and utilization of collective bargaining in accordance with Article 4 of the Convention, and to provide information in this regard.*

Uruguay

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1954)

The Committee notes the observations of the International Organisation of Employers (IOE), the Chamber of Industries of Uruguay (CIU) and the National Chamber of Commerce and Services of Uruguay (CNCS) received on 1 September and 1 December 2015 on issues dealt with in this observation.

The Committee also notes the observations of the IOE received on 1 September 2015, which are of a general nature.

Article 3 of the Convention. Occupation of the workplace and the right of the management of the enterprise to enter the workplace in the context of a labour dispute. In its report, the Government indicates that occupation of the workplace, in accordance with the views of the Committee on Freedom of Association and the Committee, is an element of the right to strike, in so far as it is carried out peacefully. The Government emphasizes that, in the event of a conflict with the rights of the non-striking workers or the management of the enterprise, the judiciary operates under the residual jurisdiction of the civil courts, which have developed majority case law establishing prompt protection of the right to work by means of *amparo* procedures, which go beyond the views of the ILO supervisory bodies, and authorize not only entry into the workplace, but also its evacuation. The Government indicates that in March 2015, shortly after having taken up office, it concluded an agreement with the representatives of the workers (Inter-Trade Union Assembly – Workers' National Convention (PIT–CNT)) and of the employers (the CNCS and the CIU) with the objective of engaging in constructive dialogue on the issues raised in the report of the Committee on Freedom of Association in Case No. 2699, particularly regarding Act No. 18566 on collective bargaining. The Government indicates that, at the proposal of the employers' organizations, the issue of the occupation of workplaces will also be discussed. The Committee notes with *interest* this tripartite agreement and the dialogue process initiated on that occasion. The Committee notes that in their observations the IOE, CIU and CNCS indicate that, even though two meetings have been held as follow-up to this tripartite agreement, and they are awaiting the outcome of these negotiations, no progress was made and the violation of fundamental labour standards continues. The Committee also notes the Government's request to the ILO for the assistance of an expert in the work planned in tripartite settings over the coming months.

The Committee welcomes the tripartite agreement signed between the Government and the social partners in March 2015 and firmly hopes that it marks the beginning of a fruitful tripartite dialogue process in which, taking into account the comments made by the Committee on Freedom of Association and this Committee on the issue of occupation of the workplace, concrete measures are taken to bring law and practice into full conformity with the Convention. Noting with concern that the employers' organizations indicate that no progress was made since the signature of the tripartite agreement, the Committee requests the Government to provide detailed information on the development of the social dialogue and its results.

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

The Committee notes two observations received in March and November 2013, in which the National Trade Union of Women Caregivers of Uruguay provides information on the work situation of women foster caregivers for abandoned children. The trade union indicates that, despite the fact that the women caregivers have an employment relationship with the Uruguayan State, as they provide services for the Institute for Children and Adolescents (INAU), a public organization in Uruguay, the State does not recognize the employment-related dimension of the relationship, ignoring a series of basic workers' rights and arguing that the relationship linking the caregiver to the State is voluntary. The trade union emphasizes that, although the caregivers have no written employment contract, they are entitled to several work-related benefits, such as wages or remuneration, salary bonuses, seniority allowances, coverage by the health system and a taxable income for social security. However, other rights are not granted to them, such as annual paid leave, or insurance against industrial accidents or occupational diseases. The trade union's main demand is therefore for a regularization of the work situation of women caregivers. The Committee notes the Government's reply of 27 February 2015 in which it mentions that the foster caregivers are not public servants since they have not followed any of the legally established procedures for entrance into the public service and, owing to the type of tasks they perform, they are not part of a typical employment relationship. The Committee considers that, even if the women foster caregivers have no written contract with the INAU

and have not followed any of the legally established procedures for entrance into the public service, there is a relatively stable link between the caregivers and the INAU through the provision of a temporary care service for children and adolescents in exchange for an economic contribution from the state organization. The Committee recalls that all workers must be able to form or join trade unions and to collectively negotiate the conditions in which they perform their work. ***In this connection, the Committee requests the Government, in consultation with the National Trade Union of Women Caregivers of Uruguay, to take the necessary measures to ensure that the rights of women caregivers are properly guaranteed under the Conventions relating to trade union rights ratified by Uruguay.***

In addition, the Committee notes the observations of the International Organisation of Employers (IOE), the Chamber of Industries of Uruguay (CIU) and the National Chamber of Commerce and Services of Uruguay (CNCS) received on 1 September and 1 December 2015 relating primarily to Act No. 18566 (Act establishing the fundamental rights and principles of the collective bargaining system of September 2009). The employers' organizations recall in particular that, within the framework of Case No. 2699, the Committee on Freedom of Association requested the Government, in consultation with the most representative organizations of workers and employers, to take measures to amend the Act in question to ensure its full conformity with the principles of collective bargaining and the relevant Conventions ratified by Uruguay. The employers' organizations recall that, no legislative amendment has been made, but indicate that in March 2015 and on the new Government's initiative, a tripartite agreement was signed between the Ministry of Labour and Social Security and the workers' representatives (Inter-Union Assembly of Workers–Workers' National Convention (PIT–CNT)) and employers' representatives (CNCS and CIU) aimed at initiating a tripartite dialogue to overcome differences regarding Act No. 18566. The IOE, the CIU and the CNCS also state that even though two tripartite meetings have been held and they are awaiting the results of the negotiations, no progress was made and the violation of fundamental labour standards continues.

Article 4 of the Convention. Collective bargaining. With regard to the observations of the employers' organizations, the Committee recalls that in its previous comments it noted with interest the Government's decision to forward to National Parliament a bill to amend Act No. 18566. The Committee notes the Government's indication that: (i) on 4 March 2013, the executive power brought before National Parliament a bill introducing amendments to Act No. 18566 on collective bargaining but eventually the bill was not addressed by Parliament; (ii) in March 2015, only days after taking up its functions, the new Government signed an agreement with the workers' representatives (PIT–CNT) and employers' representatives (CNCS and CIU) aimed at initiating a constructive dialogue to overcome the differences regarding Act No. 18566; (iii) in the agreement the Government undertook to draw up a new bill to amend Act No. 18566; (iv) as follow-up to the agreement, tripartite meetings were held in which it was agreed that the main issues to be resolved are those mentioned in the report of the Committee on Freedom of Association on Case No. 2699; and (v) the Government proposed the participation of an external consultant who held various meetings with representatives of the social partners to gather their opinions on the possible alternatives that could be presented as a result of his or her work. The Committee notes with *interest* the tripartite agreement and the dialogue process which was initiated as a result thereof. The Committee also notes that the Government makes reference to a request for ILO technical assistance to support the work planned in a tripartite context over the coming months. Lastly, the Committee notes the information provided by the Government in relation to the matters raised in the Higher Tripartite Council meetings and the current status of collective bargaining in the wage councils.

The Committee welcomes the tripartite agreement concluded in March 2015 and firmly hopes that it will mark the beginning of a fruitful tripartite dialogue process in which, taking into account the comments made by the Committee on Freedom of Association and the present Committee, concrete measures will be taken to bring the law and the practice into full conformity with the Convention. The Committee emphasizes the importance that the parties concerned reach an agreement on the pending issues as soon as possible, as it is essential that the rules governing employment relationships are supported by the social partners. Noting with concern that the employers' organizations indicate that no progress was made since the signature of the tripartite agreement, the Committee requests the Government to provide detailed information on the development of the tripartite dialogue process undertaken with respect to Act No. 18566 on collective bargaining and on the bill being drawn up in this regard.

Uzbekistan

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

Article 4 of the Convention. Collective bargaining. The Committee recalls that for a number of years it has been requesting the Government to take the necessary measures to amend sections 21(1), 23(1), 31, 35, 36, 48, 49 and 59 of the Labour Code so as to ensure that the legislation makes it clear that, only in the absence of trade unions at the enterprise, the branch or the territory, can the authorization to bargain collectively be conferred on other representative bodies elected by workers. The Committee notes that, in its report, the Government states, on the one hand, that other representative bodies in enterprises must not interfere with the activities of trade unions in the exercise of their functions. However, on the other hand, the Government indicates that under the Labour Code both trade unions and other workers' representative bodies have the right to engage in collective bargaining, and that if there is more than one workers' representative body

they will form a unified representative body to engage in bargaining and jointly prepare and conclude a collective agreement. The Committee must once again recall that direct negotiation between the undertaking and its employees, bypassing sufficiently representative organizations where these exist, can be detrimental to the principle that negotiation between employers and organizations of workers should be encouraged and promoted. The Committee further notes that the Government informs that a Bill on Amendments and Additions to the Labour Code has been sent to the legislative assembly (*Oliy Majlis*). The Committee understands that the draft law does not foresee to amend the abovementioned provisions regulating collective bargaining. ***Regretting the lack of progress in this regard, the Committee once again requests the Government to take the necessary measures to amend the abovementioned sections so as to ensure that it is clear that only in the event where there are no trade unions at the enterprise, the branch or the territory, can an authorization to bargain collectively be conferred on other representative bodies. The Committee requests the Government to indicate the measures taken or envisaged in this respect.***

Collective labour disputes. The Committee had previously requested the Government to provide the relevant legislative texts establishing the procedure for settlement of collective labour disputes, as referred to in sections 33 and 281 of the Labour Code. The Committee had noted in the past the Government's indication that it was working on a draft law which would regulate collective labour disputes. With regard to interest disputes (relating to the establishment of a collective agreement or to the modification, through collective bargaining, of wages and other conditions of work contained in an existing collective agreement), the Committee had recalled that compulsory arbitration, including through the judicial procedure, in the case that the parties have not reached agreement, is generally contrary to the principles of collective bargaining. In the Committee's opinion, compulsory arbitration is only acceptable in certain specific circumstances, namely in relation to public servants engaged in the administration of the State (*Article 6 of the Convention*), essential services in the strict sense of the term and acute national crises. However, arbitration accepted by both parties (voluntary) is always legitimate. The Committee had recalled that, in all cases, before imposing arbitration, it is highly advisable that the parties be given every opportunity to bargain collectively, during a sufficient period, with the help of independent mediation. The Committee notes that the Government does not provide any information on the adoption of legislation regulating the settlement of collective labour disputes. ***The Committee firmly hopes that the legislation regulating the settlement of collective labour disputes and, in particular, interest disputes, will soon be adopted and that it will reflect the principles above. It requests the Government to provide information on all progress achieved in this respect, including a copy of the draft law or the text of the legislation, if adopted before the next reporting cycle. The Committee reminds the Government that it may avail itself of the technical assistance of the Office if it so wishes.***

[The Government is asked to reply in detail to the present comments in 2016.]

Bolivarian Republic of Venezuela

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1982)

The Committee notes the observations of the International Organisation of Employers (IOE) and of the Federation of Chambers of Commerce and Production of Venezuela (FEDECAMARAS), which were received on 3 September 2015; of the Confederation of Workers of Venezuela (CTV), received on 2 September 2015. ***The Committee requests the Government to send its comments on these observations.*** The Committee also notes the observations of the National Union of Workers of Venezuela (UNETE) received on 2 October 2015 as well as the reply of the Government thereon. The Committee also notes the additional observations from FEDECAMARAS, supported by the IOE, received on 30 October 2015, as well as the Government's reply thereon. The Committee notes the information in the Government's report on the observations sent by the IOE and FEDECAMARAS in 2014 concerning, inter alia, the detention for 12 hours of the president of the Venezuelan Confederation of Industrialists (CONINDUSTRIA), Mr Eduardo Garmendia, and the surveillance and harassment of the ex-president of FEDECAMARAS, Mr Jorge Roig.

The Committee notes that a complaint under article 26 of the ILO Constitution alleging non-observance of the Convention by the Bolivarian Republic of Venezuela, presented by a group of Employers' delegates to the 2015 session of the International Labour Conference, was declared admissible and is pending before the Governing Body.

The Committee notes the conclusions of the Committee on Freedom of Association concerning Case No. 2254 – in which the IOE and FEDECAMARAS are the complainants and also concerning Cases Nos 3016, 3059 and 3082 presented by trade union organizations.

Follow-up to the conclusions of the Committee on the Application of Standards at the 104th Session (June 2015) of the International Labour Conference

The Committee notes that in June 2015 the Committee on the Application of Standards of the International Labour Conference examined the application of the Convention by the Bolivarian Republic of Venezuela and formulated the following conclusions. The Committee urged the Government to: (i) comply without further delay with the conclusions of the tripartite high-level mission which had visited the Bolivarian Republic of Venezuela in January 2014 and the proposed plan of action; (ii) immediately cease acts of interference, aggression and stigmatization against FEDECAMARAS, its

affiliated organizations and their leaders perpetrated by the Government; (iii) end impunity for crimes committed, especially against workers in the construction sector, including by adopting a clear and efficient recruitment system; (iv) review the practice of providing lists of trade union members to the public authorities; (v) end the intervention of the National Electoral Council (CNE) in trade union elections; (vi) establish social dialogue without further delay through the establishment of a tripartite dialogue round table, under the auspices of the ILO, that is presided over by an independent chairperson who has the trust of all sectors and that duly respects the representativeness of employers' and workers' organizations in its composition; and (vii) report in detail to the Committee of Experts at its next session in November–December 2015.

The Committee notes that in the reports and conclusions of the Committee on Freedom of Association and the Committee on the Application of Standards, both bodies, when examining the information sent by the Government, took account of the report of the high-level tripartite mission which visited the country from 27 to 31 January 2014 with a view to examining all the pending issues relating to Case No. 2254 of the Committee on Freedom of Association (relating to acts of violence and intimidation against employers' leaders, serious deficiencies in social dialogue, including the lack of consultation on labour and social legislation, the promotion of parallel organizations, etc.) and a plan of action proposed by the mission in relation to the issues raised, which was approved by the Governing Body at its March 2014 meeting. The Committee observes with **concern** that the examination of the action taken to follow up the conclusions of both bodies and the abovementioned plan of action has not yet produced satisfactory results. The Committee notes that the Committee on Freedom of Association, in its reports of March and June 2015, expressed its deep concern at the lack of progress in relation to its recommendations and it took particular note of the new acts of intimidation and stigmatization alleged by the IOE and FEDECAMARAS against the latter organization and its leaders, including in April 2015. In their observations, the IOE and FEDECAMARAS emphasized that the Government continues its non-compliance with the recommendations made in 2015 by the high-level tripartite mission, the Committee and the Conference Committee on the Application of Standards, and still fails to implement the plan of action drawn up by the mission and approved by the Governing Body.

Civil liberties and trade union rights. Acts of violence and intimidation against employers' and workers' leaders and employers' organizations. With regard to the temporary abduction of employers' leaders Mr Ernesto Armando Villasmil, Luis Enrique Villegas Civira and Noel Vidal Álvarez Camargo, and also the injuries to Ms Albis Muñoz, ex-president of FEDECAMARAS, in October 2010, the Committee welcomes the information from FEDECAMARAS that one of the accused persons has been sentenced to imprisonment of 14 years and 8 months for abduction for a short period, murder and robbery, combined with criminal association; the ruling is based on admission of the facts by the accused. ***The Committee firmly hopes that the ruling on the second accused person (held in custody, according to the Government) in relation to the crimes committed will be handed down very soon and awaits that development.***

The Committee notes the observations of the CTV alleging that in April 2015, four years after the killing of Mr Tomás Rangel, the president of the Barinas State branch of UNETE, the trade union leader Mr Ramón Jiménez was murdered, and Mr José Salazar (a UNETE member) and Mr William Lizardo (president of the National Federation of Construction Workers (FETRACONSTRUCCIÓN, affiliated to the CTV) were injured.

The Committee notes the observations of UNETE concerning anti-union violence, in which the union has been repeating for years that between January and September 2012 a total of 65 trade unionists were murdered in the construction industry, and that there is widespread impunity, according to the report of the Venezuelan Observatory on Labour Disputes. The Committee notes that UNETE has not provided the names of these trade unionists or further details relating to the allegations.

The Committee notes the observations of the IOE and FEDECAMARAS that, apart from the accusations by the authorities and the smear campaign against FEDECAMARAS and its leaders accusing them of waging economic warfare against the Government, repressive measures are now being taken by the government intelligence services to deprive numerous enterprises' managers and leaders of employers' organizations of their freedom on the basis of accusations (especially since September 2014) of criminal conduct in the form of conspiracy, hoarding, boycotting or public intimidation, without due process or the right of defence. Specific cases are cited of employers' leaders who have been mentioned in recent conclusions of the Committee on Freedom of Association. Some of the individuals concerned are reportedly in prison. Furthermore, according to the IOE and FEDECAMARAS, the Government and in particular the President of the Republic have adopted an even more hostile tone in their statements against FEDECAMARAS, accusing it in the press and on television of acting against the Venezuelan people (highly aggressive texts are reproduced in the appendices sent by these organizations). The IOE and FEDECAMARAS also allege that the adviser to FEDECAMARAS of Lara State and president of the Engineers' Commission of Lara State was detained for making announcements regarding a possible crisis and is currently the subject of court proceedings.

The Committee notes the observations of the IOE and FEDECAMARAS from July 2015 alleging highly aggressive verbal attacks made by the President of the Republic and arrests, accusations and other acts of intimidation directed at employers' leaders, including the arrest on 24 July 2015 of Mr Fray Roca, employer leader affiliated to FEDECAMARAS, and president of the Venezuelan Federation of Liqueur and Allied Manufacturers (FEDELIF). The IOE and FEDECAMARAS also indicate that on 29 July 2015, against the background of forthcoming political elections, a court order was issued for the expropriation of land and buildings belonging to enterprises in the Yaguara industrial zone,

affecting thousands of employees and interfering with the supply of 12,000 tonnes of food; the pretext for the expropriation was the construction of social housing; and they consider that this is contrary to the recommendations of the high-level tripartite mission of 2014 and the ILO supervisory bodies.

The Committee notes the Government's statements that the president of CONINDUSTRIA, Mr Eduardo Garmendia, whose detention for 12 hours had been alleged the previous year, was summoned to the headquarters of the Bolivarian National Intelligence Service in connection with his statements to a newspaper on how the outbreak of the chikungunya disease would affect productivity; he was not detained and, as Mr Garmendia himself admitted, he received courteous treatment. As regards other allegations made by FEDECAMARAS in 2014, the Government denies that there was any surveillance or harassment of the then FEDECAMARAS president, Mr Jorge Roig, and it asks for further details and evidence. ***The Committee invites the IOE and FEDECAMARAS to send the additional information requested by the Government.***

As regards the killings of trade unionists, the Government states that the perpetrators of the murders of nine of them have been convicted and deprived of liberty, three cases are at the stage of oral and public hearings and one case is in the judicial investigation phase. As regards the case of the eight CIVETCHI workers, they admitted the accusations against them and are serving five years' imprisonment for criminal association and extortion. As regards the alleged cases of violence against employers' leaders Mr Noel Álvarez, Mr Luis Villegas, Mr Ernesto Villasmil and Ms Albis Muñoz, the Government reiterates that two citizens accused of abduction, robbery and attempted murder are in custody. As regards the verbal attacks in the media against FEDECAMARAS by senior state officials, the Government reiterates its recurrent statements concerning actions by FEDECAMARAS leaders in the past, adding that in spite of this no representative has been detained and that this organization has a long tradition of expressing views in public and issuing insults against representatives of the Government.

The Committee underlines the seriousness of the issues raised regarding acts of violence, verbal attacks by the highest authorities of the State and various forms of intimidation (temporary detention, criminal proceedings, expropriations against employers' leaders, and also acts of violence including the murders of trade union leaders and members). ***Under these conditions, recalling that the Government referred in its previous reports to the murder of 13 trade unionists and two workers since 2008, to the detention of the suspected perpetrators and also to the conclusions of a high-level tripartite round table in 2011 on violence in the construction industry, the Committee notes with deep concern the case of two trade unionists injured in Barinas four years after the killing of trade union leader Mr Tomás Rangel and requests the Government to provide information on the action taken as follow-up to the tripartite round table and also on the outcome of the judicial proceedings relating to the 13 murders referred to above. Furthermore, the Committee again invites the trade unions to supply the names of the 65 trade unionists who were allegedly victims of murder and full details of the circumstances of their death, including any indication of their anti-union nature. The Committee requests the Government to provide detailed information on the various cases of detention, intimidation and other acts of interference specified by the trade unions and by the employers' organizations, and the respective proceedings. The Committee draws the Government's attention to the principle that the rights of workers' and employers' organizations recognized by the Convention can only be exercised in a climate free from violence, intimidation and threats, particularly against persons or organizations engaged in the lawful defence of the interests of employers or workers within the framework of the Convention.***

Observations of employers' and workers' organizations on social dialogue. The Committee notes the allegations of the IOE and FEDECAMARAS concerning the lack of effective social dialogue with FEDECAMARAS, the most representative employers' organization in the country, which are summarized below. During the last 15 years, the systematic empowerment by the National Assembly (through an "Enabling Act") authorizing the President to issue decrees affecting the interests of the employers has destroyed the process of consultation with FEDECAMARAS. In 2014, for example, 50 decrees of this kind were issued, including on subjects such as dismissal and reinstatement and on 15 March 2015 recourse was had once again to an Enabling Act. Additionally, the IOE and FEDECAMARAS make reference to two isolated meetings that the authorities held with FEDECAMARAS that did not, however, give rise to effective dialogue or consultation. According to the IOE and FEDECAMARAS, the Government also claims that a tripartite round table would violate the Constitution and continues to assert that FEDECAMARAS is excluding itself from dialogue. According to these organizations, the Government also refers to the events of 2002 despite a public acknowledgement of error and apologies from FEDECAMARAS. They further add that apart from recent one-off meetings – whose outcome was nullified by subsequent measures taken by the authorities – the specific proposals made by FEDECAMARAS to the authorities to solve the financial problems of the various economic sectors, including proposals concerning reform of the exchange rate system and price controls, have received no reply. The IOE and FEDECAMARAS affirm that the proof of the willingness of FEDECAMARAS to engage in dialogue is that its new president met with the first vice-president of the National Assembly on 6 August 2015 and with the governors of two States of the Republic on 13 and 15 August 2015. However, some days later the President of the Legislative Assembly emphatically denied that the meeting in the Legislative Assembly had any importance.

In its latest communication of 29 October 2015, FEDECAMARAS states that, with regard to its written request dated 5 October 2015 in relation to the application of the Convention, the proceedings under way at the ILO and other problems affecting the employers, it held meetings with the Ministry of People's Power for the Social Process and Labour

on 8 and 14 October 2015. According to FEDECAMARAS, the ministry, for its part, indicated its willingness to resolve the cases relating to dismissals and to make progress on complying with the recommendations made by the ILO supervisory bodies, and also to evaluate any regulatory proposals that FEDECAMARAS might submit concerning the development and implementation of the Basic Act on labour and men and women workers (LOTTT). However, according to the IOE and FEDECAMARAS, only hours after the meeting held on 14 October 2015, the Government again failed to honour its commitments with regard to a consultation, unilaterally announcing a minimum wage increase, tax reform and changes in price-fixing regulations.

The Committee also observes that the observations from the CTV and UNETE show that the lack of social dialogue and consultation is also occurring in relation to the workers' sector.

As regards social dialogue, the Government states that protection mechanisms cannot be restricted to the most representative organizations of workers and employers on the basis of the number of members and the most trade union activity but must include the whole range of employers and workers, while the IOE wishes to impose a criterion of representativeness based solely on affiliation to FEDECAMARAS, which amounts to an act of discrimination. The Government adds that throughout the country consultations are held at all levels through extensive, participatory, inclusive and meaningful social dialogue. In addition, FEDECAMARAS has used non-attendance at consultation and round tables as a political strategy but this has not prevented hundreds of organizations affiliated to FEDECAMARAS from participating in inclusive social dialogue, also incorporating hundreds of small and medium-sized enterprises. Moreover, the National Assembly has promoted meetings with employers in the country with a view to reviving the economy. A number of FEDECAMARAS leaders have been pleased by the meetings of the Economic Conference for Peace and the round tables and meetings within the National Assembly with workers' and employers' organizations. As regards the 50 decree-laws of the President in the context of the 2014 Enabling Act, the Government states that this mechanism does not limit the mechanisms for consultation and dialogue with the various sectors involved.

The Committee notes the conclusions of the high-level tripartite mission (2014):

The mission highlights that the inclusive dialogue recommended by the Constitution of the Bolivarian Republic of Venezuela is fully compatible with the existence of tripartite social dialogue bodies and that any negative experience of tripartism in the past should not compromise the application of ILO Conventions concerning freedom of association, collective bargaining and social dialogue, or undermine the contribution made by tripartism in all ILO member States.

... Recalling, in keeping with the views expressed by the Committee on Freedom of Association, the need for and the importance of establishing structured bodies for tripartite social dialogue in the country and noting that no tangible progress has been made in that regard, the mission considers it essential for immediate action to be taken to build a climate of trust based on respect for employers' and trade union organizations with a view to promoting solid and stable industrial relations. The mission considers that it is necessary for the Government to devise a plan of action that includes stages and specific time frames for its implementation and which provides for:

... The establishment of a tripartite dialogue round table, with the participation of the ILO, that is presided over by an independent chairperson who has the trust of all the sectors, that duly respects the representativeness of employers' and workers' organizations in its composition, that meets periodically to deal with all matters relating to industrial relations decided upon by the parties, and that includes the holding of consultations on new legislation to be adopted concerning labour, social or economic matters (including within the framework of the Enabling Act) among its main objectives. The criteria used to determine the representativeness of workers' and employers' organizations must be based on objective procedures that fully respect the principles set out by the ILO. Therefore, the mission believes that it is important for the Government to be able to avail itself of the technical assistance of the ILO to that end.

The Committee recalls that it noted in its previous comments (2014) that the Government had not given effect to the conclusions of the mission or the corresponding recommendations of the Governing Body, and that there was no will to establish any tripartite bodies.

The Committee notes that in 2015 the authorities have held a number of isolated meetings with FEDECAMARAS but emphasizes that this is still far removed from being solid and ongoing social dialogue.

The Committee had already referred in the context of the high-level tripartite mission (2014) to the need for, and the importance of, establishing structured bodies for tripartite social dialogue in the country, which is fully compatible with the inclusive dialogue recommended by the Constitution of the Bolivarian Republic of Venezuela. ***While noting all the information provided, the Committee urges the Government, in accordance with the decision of the Governing Body in March 2014, to take immediately the necessary measures to establish the tripartite dialogue round table referred to in paragraph 54(2) of the mission's report and to ensure that its composition duly respects the representativeness of workers' and employers' organizations. In this respect, the Committee reminds the Government that it can request technical assistance from the Office. While awaiting the establishment of the dialogue round table, the Committee requests the Government to hold substantive consultations with representative organizations of workers and employers on all draft laws or regulations on matters within the competence of the parties. The Committee requests the Government to report any developments in this respect. The Committee expresses its concern at the repeated use of the laws of the Legislative Assembly that empower the President of the Republic to issue decree-laws on labour, economic and social matters affecting the organizations of workers and employers, which in practice do not result in consultation with FEDECAMARAS or workers' organizations critical of the Government's policy.***

Articles 2 and 3 of the Convention. Provisions of the legislation contrary to the exercise of trade union rights and the autonomy of organizations. With regard to the obligation imposed on trade unions to send the list of their members

to the National Registry of Trade Unions (section 388 of the LOTTT), the Government emphasizes that the purpose of this is to ensure the protection of those trade unionists who enjoy trade union immunity under the terms of section 419 of the LOTTT. The Committee finds this position unpersuasive because the aforementioned obligation applies to all union members and not just to the category mentioned by the Government and infringes the principle of confidentiality of union membership, which should only be communicated to the authorities with the consent of the members. Accordingly, the Committee emphasizes that it is for union members in administrative or judicial proceedings to assert their union membership when they are the subject of harmful discriminatory measures. The Committee stresses that this is particularly necessary in the context of extreme political polarization which exists in the country and which expresses itself in trade unions' varying support for government policies and especially where the employer is a public entity. ***Recalling that the Government can request the technical assistance of the Office in this regard, the Committee once again requests the Government, in consultation with the representative social partners, to take the necessary measures to amend section 388 of the LOTTT as indicated.***

With regard to the refusal to register most new trade union organizations as reported by UNETE and the need to align trade union constitutions to arbitrary legal requirements (for example, imposing the principle of proportional representation or imposing upon unions duties and purposes which are foreign to their nature) (sections 367 and 368 of the LOTTT), the Government states that this situation already existed in the previous legislation which was not questioned by the ILO and that the LOTTT was the result of popular consultation in which various trade unions and employers' organizations participated and which was endorsed by them. The Government supplies statistics on the registration of trade unions (443 per year, with a membership increase from 6 per cent in 1998 to 17 per cent at present, giving a total of over 2,300,000 unionized workers). The Committee emphasizes that sections 367 and 368 of the LOTTT infringe the principle of non-interference by the authorities in the internal affairs of trade union organizations. ***The Committee notes with concern the recent observations made by UNETE concerning obstacles and excessive delays regarding not only the registration of ten trade union organizations (which is still not settled) but also the 13 specific cases of refusal to register referred to by UNETE in its latest communication, and requests the Government to send its comments on this matter and to take the necessary measures, in consultation with the most representative workers' and employers' organizations, to amend sections 367 and 368 of the LOTTT.***

The Committee notes that the CTV confirms the relevance of the comments of the Committee on the interference of the National Electoral Council (CNE) in trade union elections, which delays or hampers such elections, as in the case of the Federation of Workers of Apure State (FETRAAPURE) or of the CTV itself (which, it is claimed, has not received any reply from the authorities since December 2013 concerning the changes to its trade union constitution, as has also been the case for most of its affiliated organizations).

As regards the alleged interference of the CNE, the Government repeats its previous statements supporting its position that, in cases where no trade union elections were held, thereby infringing the constitutional obligation in this respect, the union's executive committee cannot discuss collective agreements once its term of office has expired. The Government adds that the CNE is an autonomous and independent state authority which oversees the right to elect and be elected by the democratic and meaningful participation of the workers (in contrast to what happened in the past) in trade union election processes. As regards the reasons why the CTV congress was declared invalid by the CNE in 2001, the Government states that there were irregularities (according to the Government, the records of the CTV did not indicate the number of votes for each of the elected bodies, discrepancies were detected in the ballot records that were presented, and electoral material disappeared after the elections). The Committee observes that the Government has not responded to the allegations of the CTV concerning interference in 2013 in the free drafting of its trade union constitution.

On the matter of CNE autonomy, the Committee observes that in another part of its report the Government empowers the Electoral Authority, through the commissions established (such as the CNE), to receive and validate the ballot records from each trade union organization; the Government denies that sections 387, 395, 403 and 410 of the LOTTT restrict the free election of trade union representatives.

The Committee recalls that the CNE, while not a judicial body, settles the appeals made to it. ***Reiterating that trade union elections are an internal matter for the organizations themselves, in which the authorities, including the CNE, should not interfere, the Committee refers to its previous recommendations and requests the Government once again to take steps to: (i) establish in the provisions in force that appeals relating to trade union elections shall be decided by the judicial authorities; (ii) eliminate the principle that "electoral abeyance" incapacitates trade unions from collective bargaining; (iii) eliminate the requirement to notify the CNE of the electoral schedule; and (iv) eliminate the requirement to publish the results of trade union elections in the Electoral Gazette as a condition for their recognition.***

The Committee also once again requests the Government to take measures to amend the following provisions of the LOTTT, which restrict the right of trade unions to organize the election of their representatives in full freedom: (i) section 387, which makes the eligibility of leaders conditional upon having convened trade union elections within the prescribed time frame when they were leaders of other trade unions; (ii) section 395, which provides that the failure of members to pay their trade union dues shall not invalidate their right to vote; (iii) section 403, which imposes a system of voting that includes the "uninominal" election of the executive board and proportional representation; and (iv) section 410, which imposes the holding of a referendum to remove trade union officers. The Committee requests the Government to report any developments in this regard.

Article 3. Restrictions on the right of workers' organizations to organize their activities in full freedom. As regards the power of the Peoples' Ministry of Labour to determine the essential activities which must be maintained during a strike when the parties are unable to agree, the Government states that an appeal against this decision may be made to the judicial authority. As regards section 494 of the LOTTT concerning the appointment by the labour inspector of the members of the arbitration board in the event of a strike (in order to guarantee essential services), the Government indicates that such an appointment occurs when the parties are unable to agree.

As regards the issues raised by UNETE and the Independent Trade Union Alliance (ASI) concerning the Act for the Defence of Persons in Accessing Goods and Services and the Act on Fair Costs and Prices, the Government states that the purpose of these laws, and the offences that they address in protecting the people, is to guarantee economic consolidation of the socialist model; in this way it has been possible to tackle the economic warfare and begin to stabilize the country's economic situation. The Government states that such laws do not restrict the rights of the workers and that the right to strike is established in the Constitution and in the LOTTT (which also establishes the right of trade union immunity); what they do prohibit in general is boycotting that seeks to terminate the productive process of workplaces (which is not the case with strikes). The Committee wishes to emphasize that, because the articles of the laws in question are extraordinarily broad in scope, there are strong grounds for these laws to state expressly that they do not apply to strikes. The Committee highlights – as it did in its previous observation – the overly broad nature of the purposes of trade union organizations (and employers' organizations) set out in sections 367 and 368 of the LOTTT, which include many responsibilities that properly rest with the public authorities. **Accordingly, the Committee once again requests the Government to take the necessary measures, in consultation with the representative workers' and employers' organizations, to amend sections 367 and 368 of the LOTTT as indicated above, and to report any developments in this regard.**

The Committee also recalls its previous comments on the need for either a judicial or an independent authority, and not the Peoples' Ministry of Labour, to determine the areas or activities which may not be subject to stoppage during a strike on the grounds that they prejudice the production of essential goods or services which would cause damage to the population (section 484 of the LOTTT), and that the system for the appointment of the members of the arbitration board in the event of a strike in essential services should guarantee the confidence of the parties in the system as, under the current legislation, if the parties are not in agreement, the members of the arbitration board are selected by the labour inspector (section 494). **The Committee requests the Government to report any developments in this regard.**

Taking into account all the elements referred to in the observations of the organizations of workers and employers and in the Government's comments, the Committee concurs with the conclusions and recommendations of the Committee on the Application of Standards at the 104th Session of the Conference (June 2015), and with the consideration of the situation of the application of the Convention by the Committee on Freedom of Association in relation to Case No. 2254 as an extremely serious and urgent case. **The Committee urges the Government to implement without further delay the plan of action proposed by the high-level tripartite mission, approved by the Governing Body, and to comply with each of the conclusions adopted by the Committee on the Application of Standards in June 2015. The Committee firmly hopes that it will be able to observe significant progress in the near future in this respect and also with respect to the various requests made in the present observation. The Committee requests the Government to provide information in this regard.**

[The Government is asked to reply in detail to the present comments in 2016.]

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1968)

The Committee notes the observations on the application of the Convention received from the International Trade Union Confederation (ITUC) (1 September 2014), the National Union of Workers of Venezuela (UNETE) (1 September 2013, 4 September 2014 and 2 October 2015), the Confederation of Workers of Venezuela (CTV) (2 September 2015) and the Independent Trade Union Alliance (ASI) (30 August 2014). The Committee notes the Government's report and its replies to the observations made by the UNETE and by the CTV in 2013.

Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and interference. The Committee previously noted the adoption of the new Basic Act on labour and men and women workers (LOTTT) (Act No. 6076 of 7 May 2012) and considered that it contained provisions providing full protection for workers against acts of anti-union discrimination and interference, with sufficiently dissuasive sanctions. The Committee notes with **concern** the allegations made by various trade union organizations concerning many union leaders or members who have been dismissed or are being dismissed in various sectors, and relating to other damaging measures. The Committee notes the Government's indication that, for dismissals, judicial proceedings have to be instituted and that legal irremovability can be reversed if there are valid grounds. **In view of the large number of dismissals and other damaging measures allegedly affecting trade unionists, the Committee requests the Government to send information in this respect and to ensure that a tripartite dialogue is initiated with the most representative workers' and employers' organizations concerning the practical effectiveness of the legal protection against acts of anti-union discrimination and to supply information on its outcome.**

Article 4. Free and voluntary negotiation. The Committee observes that section 449 of the LOTTT provides that “discussion of proposals for collective bargaining shall take place in the presence of a labour official, who shall chair the

meetings”. The Committee notes the Government’s statements that: (i) this provision was already in the previous legislation, which was not questioned; (ii) the inspector is present as a mediator between the parties and the guarantor of minimum labour standards; and (iii) this provision would allow the parties to hold meetings and to negotiate without an official being present. The ITUC, for its part, criticizes section 449 of the LOTTT. The Committee considers that the presence of officials in the discussion of proposals for collective bargaining amounts to interference in the negotiations between the parties and is therefore contrary to the principles of free and voluntary negotiation and the autonomy of the parties. ***The Committee emphasizes once again the importance of amending this provision to bring it into full conformity with the abovementioned principles and requests the Government to indicate the measures taken or contemplated in this respect.***

Moreover, the Committee notes that section 450 concerning the registration of a collective agreement states that “the labour inspector shall verify its conformity with the applicable public order regulations, with a view to granting approval”. Section 451 concerning the granting of approval states that “if the labour inspector considers it appropriate, he or she shall make the appropriate observations or recommendations to the parties instead of granting approval, and such observations and recommendations must be complied with within the next 15 working days”. The Committee recalls that, in general terms, making the entry into force of collective agreements concluded by the parties dependent on their approval by the authorities is contrary to the principles of collective bargaining set out in the Convention. The Committee considers that provisions of this sort are only compatible with the Convention on condition that refusal of approval is restricted to cases in which the collective agreement contains flaws regarding its form or does not comply with the minimum standards laid down by the labour legislation. The Committee observes that while the Government states in its report that the concept of “public order” in relation to the approval of collective agreements is restricted to the cases indicated by the Committee, the ITUC criticizes sections 450 and 451 of the LOTTT. The Committee also observes that UNETE states that the issue of approval of collective agreements is a huge problem for the trade union movement because it is a prerogative of the Ministry of Labour, which may arbitrarily refuse approval; especially in negotiations in the public administration, the refusal to grant approval delays indefinitely the collective agreements already concluded by the parties; and such refusal is also used to put pressure on the workers to accept inferior conditions to those already agreed upon. The Committee notes that many cases of delay in the approval of collective agreements have already been settled. ***The Committee requests the Government to conduct a tripartite dialogue on the question of the application in practice of sections 450 and 451 of the LOTTT with a view to finding solutions to the issues raised and to provide information in this respect.***

Furthermore, the Committee notes that section 465 concerning mediation and arbitration states that, with regard to bargaining by branch of activity, “if conciliation is not possible, the labour official, at the request of the parties or on his or her own initiative, shall submit the dispute to arbitration unless the participating trade union organizations state their intention to exercise the right to strike”. The Committee further notes that section 493 states that “should a dispute be submitted to arbitration, an arbitration board composed of three members shall be established. One member shall be chosen by the employers from a list of three candidates submitted by the workers; another shall be chosen by the workers from a list of three candidates submitted by the employers; and the third member shall be chosen by mutual agreement. If no agreement is reached on nominations at the end of five successive days, the labour inspector shall designate the representatives”, which, in the Government’s view, ensures that the composition of the arbitration board enjoys the full confidence of the parties. The Committee notes the Government’s statements that arbitration on the initiative of the labour authority existed in the previous legislation and that the possibility of such arbitration only arises if conciliation has not been possible between the parties and no strike has been called; the Government adds that in order to ensure free and voluntary bargaining by the parties, it applies the principle of using arbitration on the initiative of the authorities only in exceptional cases, namely those where the extension or duration of a strike or other serious circumstances are an immediate danger to the lives or safety of all or part of the population, all of which is fully compatible with the essential constitutional objectives of the Venezuelan State. The Committee recalls that arbitration ordered by the authorities is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term and acute national crises. The Committee considers that the designation of members by the labour inspector does not ensure that the parties will have confidence in the board thus established. ***The Committee observes that the criteria referred to by the Government, including the exceptional nature of compulsory arbitration, largely coincide with the abovementioned principles but it considers that the Government’s statements should be set down in an official text (for example, a regulation or a circular). The Committee requests the Government, in consultation with the most representative workers’ and employers’ organizations, to take the necessary steps to draw up an official text to abolish arbitration on the initiative of the authorities (except in the cases referred to above) and to ensure that the composition of the arbitration board enjoys the confidence of the parties.***

Application of the Convention in practice. The Committee recalls that it requested the Government to provide statistical information on the collective agreements in force. The Committee notes the Government’s indication that 448 collective agreements (covering 1,153,587 workers) were signed in 2013, 499 (covering 266,670 workers) were signed in 2014, and 104 (covering 28,771 workers) were signed between January and July 2015. The Government rejects an allegation made by the CTV in 2012 that for the previous three years the vast majority of collective agreements in the public sector had ceased to be valid as a result of the application of “electoral abeyance” (delay in electing the trade union’s executive committee). The Government states in this respect that in the last three years 120 collective agreements have been approved in the public sector, and also that in cases of “electoral abeyance”, where executive committees are

prevented from bargaining, the terms of the previous collective agreements continue to apply. The Committee notes with **concern** that various organizations, in their observations on the application of the Convention, have complained about the intervention of the National Electoral Council (CNE) in trade union elections (a point covered in the Committee's observation on the application by Venezuela of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)), and that in a number of cases such intervention (or non-intervention) has obstructed the exercise of collective bargaining (according to the Government, 90 per cent of organizations are unaffected by this situation). ***The Committee requests the Government to promote a dialogue round table with the most representative trade union organizations with a view to ending these restrictions on the right to collective bargaining arising from the authorities' decision to invoke "electoral abeyance".***

The Committee notes the conclusions and recommendations of the Committee on Freedom of Association in Cases Nos 3016 and 3082, which were examined at the meetings of the Committee on Freedom of Association in March 2014 and June 2015, respectively, conclusions that are concerned with various aspects of the application of the Convention referred to in the present observation.

In addition, the Committee notes with **concern** the allegations made by the ITUC, UNETE, CTV and ASI concerning non-compliance with the collective agreements in force which, according to the UNETE, is systematic on the part of the Government in the public sector; a number of organizations highlight the non-observance of many clauses of the collective agreement of the leading oil company in the country (80 per cent of clauses, according to the ITUC) and in the chemical/pharmaceutical industry; the UNETE claims that it had been impossible to start negotiations for the Fifth Public Administration Framework Agreement, despite the fact that the draft proposals were submitted in 2008. The trade unions also highlight excessive delays and procrastination that can be attributed to the authorities in the collective bargaining processes. The ASI and the CTV also refer to cases of negotiation with minority or government-backed unions. The Committee notes the Government's statement that many cases of delay in bargaining have already been settled. ***The Committee requests the Government to launch a tripartite dialogue with the most representative workers' and employers' organizations on these matters, particularly in relation to excessive delays in collective bargaining, non-compliance with collective agreements, and the cumbersome nature of administrative procedures in cases of non-compliance. The Committee requests the Government to provide information in this respect.***

Yemen

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015.

The Committee also notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

Comments from employers' and workers' organizations. The Committee notes the comments made by the International Organisation of Employers (IOE) on the right to strike, in a communication dated 29 August 2012, which are dealt with in the General Report of the Committee. The Committee also notes the comments made by the International Trade Union Confederation (ITUC) in a communication dated 31 July 2012, alleging that, amidst the uprising and political conflict, there is only one official trade union organization and that the law is not conducive to trade union activities. The ITUC adds that striking teachers were dismissed, striking sanitation workers were injured, and that the offices of the Yemeni Journalists' Syndicates were attacked. ***The Committee requests the Government to provide its comments thereon.***

The Law on Trade Unions (2002). The Committee notes that the Government does not refer to the Law on Trade Unions in its report. In these circumstances, the Committee recalls its previous observations.

Article 2 of the Convention. In its previous comments, the Committee had indicated that the reference to the General Federation of Trade Unions of Yemen (GFTUY) made in sections 2 (definition of "General Federation"), 20 and 21, indicating that "All the general trade unions establish a General Federation entitled the General Federation of Trade Unions of Yemen" could result in making it impossible to establish a second federation to represent workers' interests. The Committee had noted in its previous comments that the Government indicated that: (1) it has never imposed any prohibition on trade union activities; (2) the law does not stipulate that affiliation to GFTUY is obligatory and there are many other general trade unions which are not in this federation, such as the Trade Union of Doctors, Trade Union of Pharmacists, Education Professions' Trade Unions, Journalists' Trade Union and Lawyers' Trade Union; (3) there is no monopoly in representation since, in the framework of social dialogue, the interlocutor is the most representative trade union; and (4) at the moment, the GFTUY is the most representative association of workers. While noting that the Government did not refer to the possibility of the general trade unions to form a federation different than the GFTUY, the Committee recalls that unification of the trade union movement imposed through state intervention by legislative means runs counter to the principle embodied in *Articles 2 and 11* of the Convention. ***In these circumstances, the Committee once again requests the Government to take the necessary measures to amend the Law on Trade Unions so as to repeal specific reference to the GFTUY, allowing workers and their organizations to establish and join the federation of their own choosing and to indicate the measures taken or envisaged in this regard in its next report.***

The Committee had noted the exclusion from the scope of the Law of employees of high-level public authorities and Cabinets of Ministers (section 4). The Committee had recalled that senior public officials should be entitled to establish their own organizations and that the legislation should limit this category to persons exercising senior managerial or policy-making responsibilities (see General Survey on freedom of association and collective bargaining, 1994, paragraph 57), and had requested the Government to indicate whether the categories of workers referred to in section 4 of the Law enjoy the right to establish and join trade unions. ***The Committee must once again reiterate the abovementioned request.***

Article 3. In its previous comments, the Committee had noted that section 40(b) provides that a trade union organization can organize a strike in coordination with a trade union organization of the highest level. The Committee had recalled that a legislative provision which requires that a decision by the first-level trade union to call a strike at the local level should be approved by a higher level trade union body, is not in conformity with the right of trade unions to organize their activities and to formulate their programmes. The Committee had requested the Government to clarify whether section 40(b) requires an authorization from the higher level trade union for a strike to be organized and, if that is the case, to take the necessary measures in order to amend the legislation so as to bring it into conformity with the Convention. ***The Committee must once again reiterate the abovementioned request.***

The draft Labour Code. The Committee recalls that in its previous comments it had noted that: (1) a draft Labour Code was under discussion and that several of its provisions were not in conformity with the Convention; (2) with the active participation of the ILO, it is working on the enactment of the new Labour Code; and (3) that the draft Code was referred to the Ministry of Legal Affairs, and will consequently be referred by the Ministry of Social Affairs and Labour to the Council of Ministers and afterwards to Parliament. The Committee notes that the Government indicates in its report that, due to the circumstances in Yemen since 2011, the House of Representatives has not held meetings for discussing and adopting new laws. ***The Committee hopes that the draft Labour Code will be adopted in the near future and that it will take into account its comments concerning the need to take the necessary measures to further amend or revise the following provisions:***

- **Article 2.** The need to: (1) ensure that domestic workers, the magistracy and the diplomatic corps, excluded from the draft Labour Code (section 3B(2) and (4)), may fully benefit from the rights set out in the Convention; and (2) consider revising section 173(2) of the draft Code so as to ensure that minors between the ages of 16 and 18 may join trade unions without parental authorization, and noted with interest the Government's intention to do so.
- The need to indicate whether foreign persons holding diplomatic passports and those working in Yemen on the basis of political visas, who are excluded from the scope of the draft Code under section 3B(6) and covered by the specific legislation, regulations and agreements on reciprocal treatment, can in practice establish and join organizations of their own choosing.
- **Article 3.** The need to provide a list of essential services referred to in section 219(3) of the draft Code, which empowers the Minister to submit disputes to compulsory arbitration, which will be issued by the Council of Ministers once the Labour Code is promulgated.
- The need to further amend section 211 of the draft Labour Code, which provides that strike notice must include an indication as to the duration of a strike to ensure that a trade union can call a strike for an indeterminate period of time.
- **Articles 5 and 6.** The need to withdraw section 172 from the draft Labour Code since it appears to prohibit the right of workers' organizations to affiliate with international workers' organizations and contradicts section 66 of the Law on Trade Unions which ensures the right to affiliate with international organizations and the current practice.

The Committee trusts that the present legislative reform will bring the national legislation into full conformity with the Convention, in accordance with the abovementioned comments, and requests the Government to indicate any development in this regard in its next report.

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: 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.

Articles 2 and 3 of the Convention. Protection against anti-union practices. While noting that the legislation provides for adequate protection against interference, the Committee recalls that for a number of years it has been requesting the Government to ensure that effective and sufficiently dissuasive sanctions that guarantee the protection of workers' organizations against acts of interference by employers or their organizations in trade union activities are expressly provided for in the national legislation. The Committee had noted that draft legislative amendments to the Labour Code were under way and that the Government would endeavour to add provisions on penal responsibility of employers committing acts of interference in trade union affairs in order to bring the legislation into conformity with the Convention. The Committee notes the Government's indication that the comments of the Committee would be taken into account when making amendments to the Act on Trade Unions and supplementing the Penal Code. ***The Committee once again requests the Government to indicate the progress made in this respect, and to provide copies of the amended legislative texts aimed at ensuring full respect for the rights enshrined in the Convention, as soon as they have been adopted.***

Article 4. Refusal to register a collective agreement on the basis of consideration of "economic interests of the country". The Committee had previously requested the Government to take the necessary measures to amend sections 32(6) and 34(2) of the Labour Code so as to ensure that refusal to register a collective agreement is only possible due to a procedural flaw or because it does not conform to the minimum standards laid down by the labour legislation, and not on the basis of consideration of "the economic interests of the country". The Committee had previously noted that the Government reiterated that it had adopted the Committee's proposal with regard to the amendment of the abovementioned section of the Labour Code. ***The Committee trusts that the legislative amendments requested in its previous observations will be fully reflected in the new legislation and once again requests the Government to provide a copy of the draft Labour Code as soon as the final version of it is available.***

Collective bargaining in practice. The Committee notes the comments submitted by the International Trade Union Confederation (ITUC) in its communication dated 31 July 2012, alleging notably that, in both the private and public sectors, many trade unions are not allowed to negotiate collective agreements. ***The Committee requests the Government to communicate its observations thereon.***

In its previous comments, the Committee had requested the Government to provide statistics on the number of workers covered by collective agreements in comparison with the total number of workers in the country and it had noted the Government's indication that the requested statistics on collective bargaining were available and would be sent in its subsequent reports. ***While noting that according to the Government trade unions exist in the public sector and that in the private sector trade unions have been established in certain institutions, the Committee expresses once again the firm hope that the Government will provide the statistics requested in its next report or at least the information available.***

Finally, the Committee requests the Government to indicate the legal provisions which guarantee the right to collective bargaining of public servants 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.

Zambia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

The Committee notes the Government's reply to the observations of the International Trade Union Confederation (ITUC) received in July 2012 concerning allegations of threats and intimidation of strikers in the mining sector. The Committee notes that the Government indicates that protests and strikes are allowed as long as they adhere to the Provisions of the Industrial and Labour Relations Act. The Committee also takes note of the ITUC's observations received on 1 September 2015, which concern allegations of dismissals of workers in the mining sector on grounds of participation in strikes. *The Committee requests the Government to provide further information on the specific allegations of the ITUC, including on the results of any investigations and judicial proceedings undertaken in relation to such matters.* The Committee also takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Revision of the Industrial and Labour Relations Act (as amended by the Industrial and Labour Relations (Amendment) Act, 2008). In its previous comments, the Committee had noted that the Industrial and Labour Relations (Amendment) Act No. 8 of 2008 (ILRA) had been adopted, but that most of the amendments previously proposed by the Committee had not been taken into account when reviewing the law. The Committee takes note that the Government indicates that it is currently reviewing all labour laws and that the Committee's comments regarding the ILRA will be taken into account in this review. The Committee also notes the Government's indication that an issue previously raised by the ITUC, namely that the Zambia Revenue Authority (ZRA) has consistently used delaying tactics to effectively deny recognition to the Zambia Union of Financial Institutions and Allied Workers (ZUFIAW), will also be addressed in the ongoing review of the labour laws.

The Committee once again recalls that measures should be taken to bring the following provisions of the ILRA, into conformity with the Convention:

Article 2 of the Convention

Section 2(e), which excludes from the scope of the Act, and therefore from the guarantees afforded by the Convention, workers in the prison service, judges, registrars of the court, magistrates and local court justices, and section 2(2), which accords the Minister discretionary power to exclude certain categories of workers from the scope of the Act.

Section 5(b) which provides that an employee can only become a member of "a trade union within the sector, trade, undertaking, establishment or industry in which the employee is engaged" since it limits trade union membership to workers in the same occupation or branch of activity. In this respect, the Committee recalls that such conditions may be applied to first-level organizations, on condition that these organizations are free to establish inter-professional organizations, and to join federations and confederations in the form and manner deemed most appropriate by the workers concerned.

Section 9(3) in order to shorten the period of registration of a trade union which is currently at a maximum of six months, constituting a serious obstacle to the establishment of organizations and amounting to denial of the right of workers to establish organizations without previous authorization.

Article 3

Section 7(3) which allows a labour commissioner to prohibit a trade union officer from holding office in any trade union for a period of one year if, following the commissioner's refusal to register the union, this union is not dissolved within six months. In this respect, the Committee recalls that an act, the nature of which is not such as to call into question the integrity of the person concerned and is not such as to be prejudicial to the performance of trade union duties, should not constitute grounds for disqualification from trade union office.

Section 21(5) and (6) which confers on the Commissioner the power to suspend and appoint an interim executive board of a trade union, as well as to dissolve the board and call for a fresh election.

Sections 18(1)(b) and 43(1)(a), under which a person, having been an officer of an employers' or workers' organization whose certificate of registration has been cancelled, may be disqualified from being an officer of a trade union if that person fails to satisfy the commissioner that she or he did not contribute to the circumstances leading to such cancellation.

Section 78(4), which limits the maximum duration of a strike to 14 days, after which, if the dispute remains unsolved, it is referred to the court; section 78(6)–(8), under which a strike can be discontinued if it is found by the court not to be "in the public interest"; section 78(1), under which, as interpreted by a decision of the industrial relations court, either party may take an industrial dispute to court; section 107, which prohibits strikes in essential services, defined too broadly, and empowers the Minister to add other services to the list of essential services, in consultation with the tripartite consultative labour council; and which empowers a police officer to arrest, without any possibility of bail, a person who is believed to be striking in an essential service and which imposes a fine and up to six months' imprisonment.

The Committee firmly hopes that the comments that it has been making for several years will be taken into account in the current review of the labour laws and that amendments will be adopted in the very near future following full and frank consultations with the social partners. The Committee requests the Government to provide information on any progress made in this respect and hopes that the amendments to the Act will be in full conformity with the

provisions of the Convention. The Committee also hopes that the issue of the recognition of the ZUFIAW by the ZRA will be effectively addressed in the ongoing review of the labour laws.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1996)

The Committee notes the Government's reply to the observations of the International Trade Union Confederation (ITUC) received in July 2012 concerning allegations of anti-union intimidation and harassment of workers, retaliation towards union representatives and anti-union dismissals. The Committee takes note that the Government indicates that anti-union harassment and intimidation of workers as well as retaliation towards union representatives are prohibited. The Committee also takes note of the ITUC's observations received on 1 September 2015, which also concern allegations of acts of anti-union discrimination, including harassment, intimidation and dismissal on grounds of trade union membership and participation in strikes. The Committee recalls that acts of harassment and intimidation carried out against workers or their dismissal by reason of trade union membership or legitimate trade union activities seriously violate the principles of freedom of association enshrined in the Convention. *The Committee trusts that the Government will take any necessary measures to ensure the respect of these principles, and requests it to provide further information on the matters raised by the ITUC, including on the results of any investigations and judicial proceedings undertaken.*

Articles 1–4 of the Convention. Protection against anti-union acts and promotion of free and voluntary collective bargaining. In its previous observations, the Committee had noted that the Industrial and Labour Relations (Amendment) Act No. 8 of 2008 (ILRA) had been adopted, but that most of its comments had not been taken into account when reviewing the law. The Committee notes that the Government indicates that it is currently reviewing all labour laws and that the amendments proposed by the Committee will be taken into account in this review. The Committee recalls its previous comments on the following provisions of the ILRA:

- Section 85(3) of the ILRA provides that the court shall dispose of the matter before it (including disputes between an employer and an employee, as well as the matters affecting trade unions and collective bargaining rights) within a period of one year from the day on which the complaint or application is presented to it. The Committee understands that, under section 85, the court has jurisdiction over the complaints of anti-union discrimination and trade union interference and recalls that when allegations of violations of trade union rights are concerned, both the administrative bodies and the competent judges should be empowered to give a ruling rapidly. *The Committee therefore requests the Government to take the necessary measures to shorten the maximum period within which a court should consider the matter and issue its ruling thereon.*
- Section 78(1)(a) and (c) and section 78(4) of the ILRA allow, in certain cases, either party to refer the dispute to a court or arbitration. The Committee notes that, in its report, the Government indicates that the ILRA provisions relating to arbitration cater for the involvement of both parties. While taking note of the point made by the Government, the Committee wishes to point out that its comments refer specifically to the fact that both parties involved in the dispute need to request the arbitration proceedings, for the latter to be voluntary. The Committee recalls that, in accordance with the principle of voluntary negotiation of collective agreements, arbitration imposed by legislation, or at the request of just one party is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term and acute national crises. *The Committee therefore requests the Government to give consideration to amending the above provisions so as to ensure that arbitration in situations other than those mentioned above, can take place only at the request of both parties involved in the dispute.*

The Committee firmly hopes that the comments that it has been making for several years will be taken into account in the current review of the labour laws and that the necessary amendments will be adopted in the very near future following full and frank consultations with the social partners. The Committee requests the Government to provide information on any progress achieved in this respect and hopes that the amendments to the Act will be in full conformity with the provisions of the Convention.

[The Government is asked to reply in detail to the present comments in 2016.]

Zimbabwe

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2003)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2014 and 1 September 2015, the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 31 August 2015, as well as the Government's reply to the ZCTU observations. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

**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 this 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.

The Committee also notes the report of the high-level technical mission of the Office that took place in February 2014, following the conclusions of the 2013 Conference Committee on the Application of Standards regarding the application of the Convention by Zimbabwe.

Trade union rights and civil liberties. The Committee recalls that it had previously asked the Government to keep providing 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 that the Government indicates that the Zimbabwe Human Rights Commission is now fully established and operational in terms of article 242 of the Constitution. ***The Committee requests the Government to provide detailed information on the Zimbabwe Human Rights Commission activities related to trade union rights.***

Regarding the request to 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 Government states that it has reiterated its assurances concerning the safety of Ms Hambira to the satisfaction of the ZCTU. The Committee further notes that the ITUC and the ZCTU last observations do not contain new allegations regarding the situation of Ms Hambira.

In its previous comments, the Committee had noted with concern the allegations submitted by the ITUC referring to incidents of obstruction of trade union activities by the police. While noting the Government's replies highlighting that the ZCTU was able to freely carry out its activities in 2014 and 2015, the Committee observes with **concern** that the ITUC and the ZCTU once again allege serious disruptions of trade union activities by the Government through the Zimbabwe Republic Police. The trade union organizations specifically refer to: (i) the ban of three ZCTU regional marches on 11 April 2015; (ii) the ban of a march organized on 8 August 2015 to protest against the dismissal of 20,000 workers as a result of a Supreme Court ruling; (iii) the disruption by the Police of the mentioned protest, leading to the arrest of seven people, including the ZCTU President Mr George Nkiwane and the Secretary-General Mr Japhet Moyo, each of them being then released the same day outside the city centre; (iv) the presence of police vehicles at the ZCTU offices from 8 to 13 August 2015 preventing union members from accessing the building; and (v) a new ban by the police on 22 August 2015 of a new protest against the mass dismissals mentioned above, leading to the presentation of a petition to the High Court which ordered the police not to interfere with the demonstration. In this respect, the Committee notes that the Government states that: (i) the ZCTU was able to carry out its demonstrations of 11 April 2015 as planned and the police withdrew its initial refusal with respect to demonstrations in two provinces; (ii) the proposed protest actions on 8 and 22 August 2015 coincided with events of high national significance, meaning that it was impractical for the police to provide the necessary support to the ZCTU; and (iii) in future, it may be more practical, without prejudicing the right of trade unions to determine their activities with reasonable freedom, if the ZCTU could agree with the police on possible dates for protest action.

The Committee recalls additionally that it 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. The Committee had welcomed the preparation of 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 and had requested to be informed on the validation and adoption of the two instruments. The Committee notes the Government's indication that the draft handbook is scheduled to be finalized and adopted at a forthcoming training of trainers activity for police officers on International Labour Standards. ***In view of the persisting allegations that trade union activities have been disrupted by the police, and recalling that permission to hold public meetings and demonstrations, which is an important trade union right guaranteed by the Convention, should not be arbitrarily refused, the Committee urges the Government to take the necessary steps for the early adoption and effective implementation of the mentioned handbook and code of conduct, ensuring that the police and security forces follow clear lines of conduct with regard to human rights and trade union rights. The Committee requests the Government to provide information in this respect.***

With respect to 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, the Committee notes the Government's indication

that two cases remain unclosed because, in spite of the Government's suggestions, the ZCTU did not withdraw its constitutional applications. ***The Committee trusts that no further charges are pending against the trade unionists and requests the Government to provide information on the outcome of the judicial proceedings.***

Labour law reform and harmonization. Following the Commission of Inquiry's recommendations, the Committee had requested the Government to provide information on the progress achieved in bringing the labour and public service legislation into conformity with the new Constitution and the Convention. In this respect, the Committee notes that the Government informs that: (i) the Labour Amendment Act No. 5 was promulgated in August 2015; (ii) the Labour Amendment Act repeals section 55(e) and (f) which placed limitations on the internal administration of trade unions; (iii) the main objective of the Act was essentially to deal with urgent issues following a Supreme Court judgment that legitimized termination of employment on notice; (iv) the Government and the social partners thus continue, through the Tripartite Negotiating Forum (TNF), to engage towards the finalization of the labour legislation harmonization process; and (v) in the case of the amendments of the Public Service Act, the Attorney General is in the process of producing the draft bill. The Committee also notes that the ITUC and ZCTU denounce that: (i) the Labour Amendment Act does not respect the 13 principles agreed by the tripartite partners in 2014 in order to guide the harmonization process of labour legislation; (ii) the Government has not aligned sections 51, 55, 104, 106, 107, 109, 110, 112 and 127 of the Labour Act to the Constitution and the Convention defying the recommendations of the Commission of Inquiry; (iii) several provisions of the Labour Amendment Act violate the rights enshrined in the Convention; and (iv) the other pieces of legislation, including the POSA have still not been aligned to the Constitution and the Convention despite agreement in the TNF to expedite the process of legislative harmonization. ***While noting the Government's reply to the ZCTU observations, the Committee, recalling the Commission of Inquiry's recommendations, requests the Government to take, in consultation with the social partners, all further steps necessary in order to bring the labour and public service legislation into conformity with the new Constitution and the Convention. The Committee hopes that it will be able to note progress in this respect in the near future.***

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations of their own choosing. In its previous comments, the Committee had requested the Government to take the necessary measures so as to ensure that prison and correctional services' employees enjoy the right to organize enshrined in the Convention. The Committee notes that the Government states that: (i) the prisons and correctional services are security services as defined by the new Constitution of Zimbabwe; (ii) article 65 of the Constitution expressly provides that members of the security services do not have the right to organize; and (iii) it is therefore the will of the people of Zimbabwe not to accord the right to organize to the prison and correctional services. In this respect, the Committee points out that according to Article 2 of the Convention, workers and employers without distinction whatsoever, shall have the right to establish and join organizations of their own choosing. The only exceptions to this principle that the Convention allows are set forth in Article 9(1), under which States may determine the extent to which the guarantees provided for in the Convention shall apply to the armed forces and the police. ***Recalling that the prisons and correctional services do not fall under the exception of Article 9(1) of the Convention, the Committee requests the Government to take the necessary steps to ensure that the employees of the mentioned services enjoy the right to organize. The Committee also requests the Government to provide information in this respect.***

Difficulties in registration of new unions. The Committee notes that the ITUC and the ZCTU allege that, in spite of the rights granted by the new Constitution, the registration of trade unions is still at the discretion of the registrar. ***The Committee requests the Government to provide its comments in reply to these allegations.***

Article 3. Right of workers' and employers' organizations to organize their administration. Promulgation of Labour Amendment Act No. 5 of 2015. The Committee welcomes the repeal by the Labour Amendment Act No. 5 of 2015 of section 55(e) and (f) of the Labour Act that placed limitations on salaries that may be paid to employees of trade unions and properties that may be purchased by such organizations. At the same time, the Committee recalls that the provisions of section 55 which, along with sections 28(2), 54(2) and (3), confer on the minister extensive powers to regulate trade union dues should also be amended so as to ensure respect for the freedom of employers' and workers' organizations to organize their administration. ***The Committee requests the Government to take the necessary steps to amend the abovementioned provisions and to inform on any progress achieved in this respect.*** In addition, the Committee notes that the ITUC and ZCTU denounce that: (i) new section 63(A) of the Labour Act introduced by the Labour Amendment Act violates Article 3 of the Convention as it gives broad powers to the registrar and the Minister of Labour to investigate and to take over the direction of an employment council (a bipartite body) if there is a belief of mismanagement; and (ii) new section 120 of the Labour Act broadens the powers of the Ministry of Labour to investigate trade union organizations and to appoint provisional administrators to manage the affairs of trade unions. Regarding the amendment to section 63(A) of the Labour Act, the Committee notes that the Government states that the broad responsibilities of employment councils, which conclude collective agreements applicable to entire economic sectors, require these bodies to be placed under central government supervision. With respect to the investigation powers granted to the Ministry of Labour by the new section 63(A) (applicable to bipartite employment councils) and section 120(2) of the Labour Act (applicable to workers' and employers' organizations) the Committee recalls that: (i) it had highlighted in its previous comments that the discretionary right of the authorities to carry out inspections and request information at any time entails a danger of interference in the internal administration of the trade union; and (ii) on that basis, both the

Commission of Inquiry and the Committee had requested the Government to take the necessary measures to amend section 120(2) of the Labour Act. ***Observing that new section 63(A) grants similar powers to the authorities with respect to the bipartite employment councils, the Committee requests the Government to take the necessary measures to amend both sections 63(A) and 120(2) of the Labour Act so as to ensure that the autonomy of employers' and workers' organizations is fully respected.***

In addition, the Committee observes that both the new section 63(A) of the Labour Act (applicable to employment councils) and the revised section 120 of the Labour Act (applicable to employers' and workers' organizations) provide that "pending determination by the Labour Court of an application to appoint an administrator, the Minister may appoint a provisional administrator who shall exercise all the powers of a substantive administrator until the provisional administrator's appointment is confirmed by the Labour Court". Recalling that, by virtue of *Article 3* of the Convention, public authorities shall refrain from any interference which would restrict the right of workers' and employers' organizations to organize their administration, the Committee points out that outside control of workers' and employers' organizations should only take place in exceptional cases, as a result of a judicial decision and should be carried out by a person appointed by the judicial authorities. ***The Committee therefore requests the Government to take the necessary steps to amend sections 63(A) and 120 of the Labour Act accordingly and to inform of any progress in this respect.***

Training activities related to the Convention. Recalling the importance granted by the Commission of Inquiry to the rule of law and the reinforcement of the independence of the judiciary in the country, the Committee notes the seminar on international labour standards jointly organized in September 2015 by the ILO and the Labour Court.

[The Government is asked to reply in detail to the present comments in 2016.]

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1998)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2014 and 1 September 2015, the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 31 August 2015, as well as the Government's comments on the ZCTU's observations.

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 this Convention and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), recommended that: the relevant legislative texts be brought into line with the Conventions; 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.

The Committee also notes the report of the high-level technical mission of the Office that took place in February 2014, following the conclusions of the 2013 Conference Committee on the Application of Standards regarding the application of the Convention by Zimbabwe.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. In its previous comments, the Committee had requested the Government to provide statistical information on the number of complaints relating to anti-union discrimination lodged with the competent authorities, number of complaints examined, sample judicial decisions issued, average duration of procedures and sanctions applied. The Committee notes that the Government states that: (i) according to section 65 of the new Constitution that recognizes freedom of association, redress for anti-discrimination acts should be sought in courts; and (ii) because of the lack of a labour market information system, it is however impossible to obtain detailed statistics on anti-union discrimination cases. In addition, the Committee notes that: (i) the Government's comments to the 2012 ITUC and ZCTU observations do not address the allegations of acts of anti-union discrimination contained in these communications; (ii) the 2014 and 2015 ITUC and ZCTU observations contain new allegations of specific acts of anti-union discrimination as well as the mention that there is no clear provision in the labour statute providing directly for the protection of trade union representatives; and (iii) in its reply to the 2015 ZCTU allegations of anti-union discrimination, the Government requests further information to be able to carry out further investigations. ***Observing with concern the absence of specific information regarding the protection granted in practice to workers subject to anti-union discrimination, the Committee requests the Government to make every effort to submit detailed elements in this respect and to reply to the ITUC and the ZCTU observations.***

Article 4. Promotion of collective bargaining. Labour law reform and harmonization. Following the Commission of Inquiry recommendations, the Committee had requested the Government to provide information on the progress achieved in bringing the labour and public service legislation into conformity with the Convention. In this respect, the Committee notes the Government's following statements: (i) article 65 of the Constitution adopted in May

2013 guarantees collective bargaining rights to all workers; (ii) the Government and the social partners are engaged, through the Tripartite Negotiating Forum (TNF) in the harmonization of the labour legislation with the Convention and the Constitution; (iii) while Labour Amendment Act No. 5 was promulgated in August 2015, it has not exhausted the process of harmonization of the legislation that is still ongoing; and (iv) noting the concerns raised by the ZCTU, the Government will, in the broader framework of the labour law reform process, engage in dialogue with the social partners with respect to certain provisions of the Labour Amendment Act. ***The Committee requests the Government to inform on the further steps taken, in consultation with the social partners to advance the harmonization of the labour and public service legislation with the Convention.***

Scope of collective bargaining. The Committee notes with **interest** the broad recognition of the right to collective bargaining by section 65 of the Constitution. At the same time, the Committee notes that the ITUC and the ZCTU allege that public servants still do not enjoy the right to collective bargaining despite the clear provisions of the Constitution. ***The Committee requests the Government to inform on the measures taken, both in law and practice, to ensure that the civil servants who are not engaged in the administration of the State effectively enjoy the right to collective bargaining. In this respect, the Committee recalls that the Government can avail itself of the technical assistance of the Office.***

Prior approval of collective agreements by public authorities. The Committee recalls that both the Commission of Inquiry and the Committee have requested the Government to take the necessary measures to repeal the provisions of the Labour Act which subject collective agreements to ministerial approval on the ground that the agreement is or has become unreasonable or unfair, having regard to the respective rights of the parties. In this respect, the Committee notes that the ITUC and the ZCTU allege that: (i) the Labour Act still submits collective agreements to a prior approval by public authorities; and (ii) new section 79(2)(b) of the Act provides that public authorities may refuse to register a collective agreement if it is contrary to “public interest”. Noting with **concern** the adoption of new section 79(2)(b), the Committee recalls that the discretionary power of the authorities to approve collective agreements is contrary to the principle of voluntary bargaining enshrined in *Article 4* of the Convention and that systems of prior approval are compatible with the Convention only where approval may be refused if the collective agreement has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation. ***The Committee therefore requests the Government to take the necessary measures to repeal section 79(2)(b) and (c) of the Labour Act and to provide information in this respect.***

[The Government is asked to reply in detail to the present comments in 2016.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 87** (Algeria, Angola, Argentina, Burundi, Cambodia, Central African Republic, Comoros, Congo, Croatia, Dominica, Ecuador, El Salvador, Gambia, Ghana, Grenada, Guyana, Haiti, Indonesia, Jamaica, Kuwait, Libya, Mauritania, Mexico, Mongolia, Montenegro, Mozambique, Netherlands: Aruba, Papua New Guinea, Peru, Philippines, Portugal, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Samoa, San Marino, Sao Tome and Principe, Serbia, Sierra Leone, Solomon Islands, Sri Lanka, Suriname, Switzerland, Timor-Leste, Togo, Turkey, United Kingdom, United Kingdom: Anguilla, Vanuatu); **Convention No. 98** (Central African Republic, Kuwait, Lebanon, Libya, Mauritania, Mongolia, Montenegro, Mozambique, Nigeria, Paraguay, Peru, Philippines, Romania, Samoa, San Marino, Senegal, Serbia, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Suriname, Timor-Leste, Togo, Tunisia, United Kingdom: Bermuda, United Kingdom: British Virgin Islands, Vanuatu); **Convention No. 135** (Austria, Burundi, Czech Republic, Democratic Republic of the Congo, Dominica, Mongolia, Sao Tome and Principe, United Kingdom, Uruguay); **Convention No. 151** (Albania, Sao Tome and Principe, Spain); **Convention No. 154** (Albania, Belize, Kyrgyzstan, Saint Lucia, San Marino).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 87** (Swaziland); **Convention No. 154** (Belgium).

Forced labour

Afghanistan

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 provisions of the Penal Code, under which prison sentences involving an obligation to perform labour may be imposed:

- sections 184(3), 197(1)(a) and 240 concerning, among others, the publication and propagation of news, information, false or self-interested statements, biased or inciting propaganda concerning internal affairs of the country which reduces the prestige and standing of the State, or for the purpose of harming public interest and goods; and
- section 221(1), (4) and (5) concerning a person who creates, establishes, organizes or administers an organization in the name of a party, society, union or group with the aim of disturbing and nullifying one of the basic and accepted national values in the political, social, economic or cultural spheres of the State, or engages in propaganda to promote or attract members to such organization, by whatever means, or who joins such an organization or develops contacts personally or through a third party with such an organization or one of its branches.

The Committee pointed out, referring to paragraphs 154 and 163 of its 2007 General Survey, *Eradication of forced labour*, that the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence. Sanctions, however, involving compulsory labour fall within the scope of the Convention when they enforce a prohibition of the peaceful expression of views or of opposition to the established political, social or economic system. A similar situation arises when certain political views are prohibited, subject to penalties involving compulsory labour, as a consequence of the prohibition of political parties or associations. *While noting the Government's indication that the matter will be reviewed, the Committee reiterates its hope that these penal provisions will be re-examined in light of the Convention, with a view to ensuring that no sanctions involving forced or compulsory labour may be imposed as a punishment for holding or expressing political or ideological views and that the Government will indicate, in its next report, the measures taken or envisaged to this end.*

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.

Azerbaijan

Forced Labour Convention, 1930 (No. 29) (ratification: 1992)

Articles 1(1), 2(1) and 25 of the Convention. Vulnerable situation of migrant workers in the construction sector, agriculture and domestic work. In its previous comments, the Committee took note of the comments made by the International Trade Union Confederation (ITUC), on a case of alleged transnational trafficking for labour exploitation in Azerbaijan, involving men from Bosnia and Herzegovina, Serbia and the former Yugoslav Republic of Macedonia. According to the allegations, in 2009 the alleged victims responded to an employment offer as construction workers in Azerbaijan by a company and, once in Azerbaijan, were not provided with any legal work permits, but only with tourist visas, having also to hand over their passports to their employer. The workers were allegedly obliged to live at the construction site, being strictly forbidden to leave, accommodated in very poor conditions, and subjected to threats and penalties, including physical punishment. The Government indicated that no complaint or communication from workers employed by the company regarding labour violations had been submitted to the Ministry of Labour and Social Protection, and that following a communication received from the non-governmental organization, the Azerbaijan Migration Centre, alleging violations of the rights of the workers concerned, an appropriate investigation had been undertaken by the State Labour Inspectorate, which did not confirm the allegations against the company.

The Committee notes the adoption of the Migration Code on 2 July 2013 (Law No. 713-IVQ), according to which employers cannot collect and keep the passports of migrant workers and stateless persons (section 63.6). Moreover, persons collecting, holding or hiding the passport and identification documents of migrant workers and stateless persons shall be liable in accordance with national law (section 82.5). The Committee further notes the report published on 23 May 2014 by the Group of Experts on Action against Trafficking in Human Beings (GRETA), concerning the application by Azerbaijan of the Council of Europe Convention on Action against Trafficking in Human Beings. The Committee notes that GRETA indicates that additional measures should be taken by the Government in order to enable legal migration for work in the country.

The Committee notes with *concern* that, according to reports made by GRETA, the United Nations Committee on Economic, Social and Cultural Rights (CESCR), the Office of the High Commissioner for Human Rights for the Universal Periodic Review and by the European Commission against Racism and Intolerance, Azerbaijan is increasingly becoming a country of destination for trafficking of migrants workers for the purpose of labour exploitation, in particular in the construction sector, and to a lesser extent in agriculture and domestic work. Migrants working in such sectors are faced with difficulties making them vulnerable to illegal employment practices and serious forms of abuse (E/C.12/AZE/CO/3,

A/HRC/WG.6/16/AZE/3 and CRI(2011)19). The Committee notes that, as indicated by GRETA in its report, the Government acknowledged the fact that labour exploitation can become a problem with the increase of migrant workers and the boom of the construction sector, in particular in the context of the First European Games organized in 2015 in Baku.

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 practices by employers, such as retention of passports, deprivation of liberty, late payment or underpayment of wages and physical and sexual abuse, as 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 workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour including trafficking in persons, in particular in the sectors at risk, such as construction, agriculture and domestic work. The Committee also urges the Government to take immediate and effective measures to ensure that complaints of forced labour from migrant workers are thoroughly investigated and promptly prosecuted, leading to effective and dissuasive sanctions against the perpetrators. Please provide information on the number of investigations, prosecutions and convictions concerning the exploitative employment conditions of migrant workers which amount to forced labour, and the specific penalties applied.***

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2000)

Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. In its previous comments, the Committee drew the attention of the Government to several provisions of the Criminal Code, enforceable with sanctions involving compulsory labour, in accordance with section 95 of the Code on the Execution of Sentences, which are worded in terms broad enough to lend themselves to application as a means of punishment for the expression of views opposed to the established political, social or economic system. The Committee therefore requested the Government to provide information on the application of the following sections of the Criminal Code:

- section 147, which provides that defamation, defined as “dissemination, in a public statement ... or through the mass media, of false information discrediting the honour and dignity of a person”, is punishable with correctional work or imprisonment, both involving compulsory labour;
- sections 169.1 and 233, read together with sections 7 and 8 of the Act on freedom of assembly, which provide that “organization or participation in a prohibited public assembly” and “organization of group actions violating public order”, respectively, are punishable with correctional work or imprisonment, both involving compulsory labour; and
- section 283.1 of the Criminal Code, which provides that “inflaming the national, racial or religious enmity”, is punishable with imprisonment, involving compulsory labour.

The Committee notes with ***regret*** that the Government has not provided information on the application in practice of the sections of the Criminal Code referred to above, and mainly reiterates the information previously provided to the Office. The Committee previously referred to two judgments handed down by the European Court of Human Rights in 2008 and 2010, which found that convictions based on section 147 of the Criminal Code, involving compulsory labour, constituted a breach of Article 10 of the European Convention on Human Rights, which protects freedom of expression (*Fatullayev v. Azerbaijan*, application No. 40984/07, judgment of 22 April 2010, and *Mahmudov and Agazade v. Azerbaijan*, application No. 35877/04, judgment of 18 December 2008). The Committee notes the Government’s indication that, as a result of these decisions, the Supreme Court has presented to Parliament proposals in order to repeal criminal responsibility for defamation, according to which defamation should only incur punishment in the form of a fine. The Committee notes that, as highlighted by the report of the Office of the High Commissioner for Human Rights in the framework of the Universal Periodic Review, the criminal defamation legislation remains in place which has in practice a chilling effect on freedom of expression and has contributed to widespread self-censorship in the country (A/HRC/WG.6/16/AZE/3). Moreover, the Committee notes that, although the Government requested the assistance of the European Commission for Democracy through Law (the Venice Commission) to draft a law on protection against defamation, the Government adopted amendments in 2013 to widen the scope of section 147 of the Criminal Code. These amendments introduce criminal liability for defamation committed “through a publicly displayed Internet information resource”, despite the Government’s commitment to decriminalizing defamation and the ongoing cooperation with the Venice Commission (CDL-AD(2013)024). The Committee notes that the first criminal conviction on charges of defamation online was handed down on 14 August 2013.

Furthermore, the Committee notes that, on 22 May 2014, the European Court of Human Rights handed down a judgment concerning a case of imprisonment on charges of “organizing public disorder” (section 233 of the Criminal Code), subsequently replaced by the more serious charge of “mass disorder” (section 220.1 of the Code), in which it stressed that the actual purpose of the impugned measures of imprisonment was to silence or punish an opposition politician for criticizing the Government and attempting to disseminate what he believed was the true information that the Government was trying to hide (*Ilgar Mammadov v. Azerbaijan*, application No. 151172/13, judgment of 22 May 2014).

In this regard, the Committee notes that, as highlighted by an important number of United Nations and European institutions and bodies, a growing tendency has emerged in recent years to apply various provisions of the Criminal Code as a basis for the prosecution of journalists, bloggers, human rights defenders and others who express critical opinions, under questionable charges which appear politically motivated, resulting in long periods of corrective labour or imprisonment, both involving compulsory labour (A/HRC/WG.6/16/AZE/3; Interim Resolution CM/ResDH(2014)183 adopted by the Committee of Ministers of the Council of Europe on 25 September 2014; CommDH(2013)14; CommDH(2015)5). In this regard, the Committee observes that the following provisions of the Criminal Code are often used for the following offences, all of which are punishable with corrective labour, deprivation of liberty or imprisonment, all involving compulsory labour: insult (section 148); embezzlement (section 179.3.2); illegal business (section 192); tax evasion (section 213); hooliganism (section 221); state treason (section 274); and abuse of office (section 308).

The Committee notes that, in September 2015, both the United Nations High Commissioner for Human Rights (OHCHR) and the European Parliament in its resolution of 10 September 2015, strongly condemned the unprecedented repression of civil society and independent voices in Azerbaijan who have been deprived of their liberty simply for exercising their right to freedom of expression, association or peaceful assembly, as well as for defending the rights of others, and thus urged the state authorities to end the practices of selective criminal prosecution and imprisonment of journalists, human rights defenders and others who criticize the Government (2015/2480(RSP) and OHCHR Press Release, 8 September 2015). In this regard, the Committee notes that the United Nations High Commissioner for Human Rights, together with several United Nations Special Rapporteurs and the Chair-rapporteur of the United Nations Working Group on Arbitrary Detention, as well as the Council of Europe Commissioner for Human Rights and the Organization for Security and Co-operation in Europe (OSCE) also indicated that they were alarmed at the wave of politically motivated repression of activists in reprisal for their legitimate activities, and condemned the politically motivated prison sentence of Ms and Mr Yunus to eight-and-a-half and seven years' imprisonment, respectively, as well as Ms Khadija Ismayilova to seven years' imprisonment on charges, inter alia, of state treason, illegal entrepreneurship, tax evasion and abuse of office (OHCHR Press releases, 8 September 2015, 20 August 2015 and 19 August 2014, OSCE Press releases, 1 September 2015 and December 2014).

Noting all this information with **deep concern**, the Committee once again draws the Government's attention to the fact that legal guarantees of the rights to freedom of thought and expression, freedom of peaceful assembly, freedom of association, as well as freedom from arbitrary arrest, constitute an important safeguard against the imposition of forced or compulsory labour as a punishment for holding or expressing political or ideological views, or as a means of political coercion or education (2012 General Survey on the fundamental Conventions, paragraph 302). ***The Committee therefore strongly urges the Government to take all necessary measures, in both law and practice, to ensure that no penalties involving compulsory labour may be imposed for the peaceful expression of political views opposed to the established system, for example by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. The Committee requests the Government to provide information on any progress made in this respect, as well as information on the subjects of the court decisions handed down under the provisions of the Criminal Code referred to above, indicating the penalties imposed.***

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

Belarus

Forced Labour Convention, 1930 (No. 29) (ratification: 1956)

Articles 1(1), 2(1) and 2(2)(c) of the Convention. Compulsory labour imposed by the national legislation on certain categories of workers and persons. The Committee notes with **regret** that, since its last comment on the application of the Convention by the Government, several new provisions have been introduced into the national legislation, the application of which could lead to situations amounting to forced labour, and are thus incompatible with the obligation to suppress the use of forced or compulsory labour in all its forms, as required by the Convention. In particular, the Committee draws the Government's attention to the following provisions which have been introduced into its national legislation.

1. *Compulsory labour imposed on workers in the wood processing industry.* The Committee notes the adoption of Presidential Decree No. 9 of 7 December 2012 on additional measures for the development of the wood industry, and more particularly section 1.2 which provides that an employee can only terminate his or her contract with the consent of the employer. As highlighted by the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in its concluding observations of December 2013, Presidential Decree No. 9 effectively takes away the right of workers in the wood processing industry to freely leave their jobs under the penalty of either having to pay back their benefits or to continue working until the required amount has been withdrawn from their salaries (E/C.12/BLR/CO/4-6). The Committee recalls that the effect of statutory provisions preventing termination of employment of indefinite duration by means of notice of reasonable length is to turn a contractual relationship based on the will of parties into service by compulsion of law, and is thus incompatible with the Convention (2007 General Survey, *Eradication of forced labour*, paragraph 96).

2. *Compulsory labour imposed on persons in socially vulnerable situations.*

- *Persons who have worked fewer than 183 days the previous year.* The Committee notes the adoption of Presidential Decree No. 3 of 2 April 2015 on the prevention of dependency on social aid, which provides that citizens of Belarus, foreign citizens and stateless persons permanently residing in Belarus who have not worked for at least 183 days in the last year, and thus have not paid labour taxes for the same period, are required to pay a special levy to finance government expenditure. Non-payment or partial payment of such a levy entails administrative liability in the form of a fine or administrative arrest with compulsory community service (sections 1, 4 and 14 of the Decree). The Committee notes that, in its observations on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), received on 31 August 2015, the Belarusian Congress of Democratic Trade Unions (BKDP) expressed concern at the use of compulsory community service in that regard. The Committee further notes that the United Nations Special Rapporteur on the situation of human rights in Belarus, in his report of April 2015, expressed concern about the impact of such a scheme on vulnerable persons in society and its contravention of international labour standards, which may lead to a further deterioration in employment conditions and to forced labour (A/HRC/29/43).
- *Persons interned in “medical labour centres”.* The Committee notes the adoption of Law No. 104-3 of 4 January 2010 on the procedures and modalities for the transfer of citizens to medical labour centres and the conditions of their stay, which provides that citizens suffering from chronic alcoholism, drug addiction or substance abuse who have faced administrative charges for committing administrative violations under the influence of alcohol, narcotics and psychotropic, toxic or other intoxicating substances may be sent to medical labour centres as a result of a petition filed in a court of law by the head of internal affairs (sections 4–7 of the Law). Such persons are interned in medical labour centres for a period of 12 to 18 months and have an obligation to work, and refusing to work results in punishment, such as solitary confinement, for up to ten days (sections 8, 18, 47 and 52 of the Law). The Committee notes that the CESC, in its concluding observations of December 2013, expressed its concern that persons interned in so-called “medical labour centres” are subjected to compulsory labour and urged the Government to abolish compulsory labour for these categories of persons and ensure that their right to freely chosen or accepted work and to just and favourable conditions of work are fully respected in practice (E/C.12/BLR/CO/4-6).
- *Parents whose children have been removed.* The Committee notes that Presidential Decree No. 18 of 24 November 2006 on supplementary measures for state protection of children from “dysfunctional families” authorizes the removal of children whose parents are leading “an immoral way of life”, or are chronic alcoholics or drug addicts, or in some other way unable to properly perform their obligations to raise and maintain children. Such parents who are unemployed or who are working but are unable to pay full compensation to the State for the maintenance of children in state childcare facilities are subject to a court ruling on employment, with an obligation to work (section 9.27 of the Code on Administrative Offences and section 18.8 of the Procedural Executive Code of Administrative Offences). Such a court ruling is a ground for dismissal of the person concerned from her or his previous place of work (section 44(5) of the Labour Code). Parents who avoid such work may be held criminally responsible, pursuant to section 174(2) and (3) of the Criminal Code, and shall be punishable by community service or corrective labour for a period of up to two years, imprisonment for up to three years, as well as restrictions or deprivation of freedom, all involving compulsory labour. The Committee notes that the CESC, in its concluding observations of December 2013, expressed its concern that a large number of children from socially vulnerable families are deprived of their family environment after parents have had their parental rights removed and that these parents are subjected to compulsory labour as a punitive measure, while having 70 per cent of their wages retained to compensate the child-rearing expenses incurred by the State (E/C.12/BLR/CO/4-6).

The Committee further notes that in Resolution 29/17 on the situation of human rights in Belarus, adopted on 26 June 2015, the United Nations Human Rights Council expressed deep concern at the continuing violations of human rights in Belarus, which are of a systemic and systematic nature, as well as the violations of labour rights amounting to forced labour (A/HRC/29/L.12). The Committee also notes the report of the United Nations Special Rapporteur of April 2015 referred to above, which indicates that the legal and administrative environment for the enjoyment of human rights has further deteriorated, in particular with regard to just and favourable conditions of work and the freedom to choose the workplace, and recommended that the Government amend or repeal legislation not in conformity with international labour standards in order to abolish forced labour and involuntary labour (A/HRC/29/43). Finally, the Committee notes the European Parliament Resolution of 10 September 2015 on the situation in Belarus, in which it calls on the Government of Belarus to respect the recommendations of the CESC on the abolition of elements of forced labour in the country (P8_TA-PROV(2015)0319). The Committee notes with **deep concern** these violations of human and labour rights amounting to forced labour in Belarus. **Noting the report of the United Nations Working Group on the Universal Periodic Review of 13 July 2015, according to which the Government has supported the recommendation to follow-up on the recommendations of the CESC regarding the elimination of all forms of forced labour (A/HRC/30/3), the Committee urges the Government to take all the necessary measures to repeal or amend the provisions in its national legislation which could lead to situations amounting to forced labour. The Committee requests the Government to provide information in its next report on any progress made in this respect, and particularly concerning Presidential**

Decree No. 3 of 2 April 2015 on prevention of dependency on social aid; Presidential Decree No. 9 of 7 December 2012 on additional measures for the development of the wood industry; Law No. 104-3 of 4 January 2010 on the procedures and modalities of transfer of citizens to medical labour centres and the conditions of their stay; and Presidential Decree No. 18 of 24 November 2006 on supplementary measures for state protection of children from “dysfunctional families”.

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

[The Government is asked to supply full particulars to the Conference at its 105th Session and to reply in detail to the present comments in 2016.]

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1995)

Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for the expression of political views or views opposed to the established political, social or economic system. In its previous comments, the Committee noted that violations of the provisions governing the procedures for the organization or holding of assemblies, meetings, street marches, demonstrations and picketing, established by Law No. 114-3 of 30 December 2007 on mass activities, are punishable by sanctions of imprisonment or the limitation of freedom, for the “organization of group actions violating public order” (section 342 of the Criminal Code), or with an administrative arrest (section 23.34 of the Code on Administrative Offences). The Committee noted that sanctions of imprisonment or limitation of freedom, as provided for in section 342 of the Criminal Code, both involve compulsory labour (sections 50(1) and 98(1) of the Criminal Enforcement Code). The Committee expressed the hope that measures would be taken to amend section 342 of the Criminal Code in order to ensure that no penalties involving compulsory labour may be imposed for the expression of political views.

The Committee notes the Government’s repeated indication in its report that section 15 of the Law on mass activities makes punishable violations of the provisions governing the procedures for the organization or holding of assemblies, meetings, street marches, demonstrations and picketing, but not participation in such actions. The Committee recalls that since opinions and views ideologically opposed to the established system are often expressed in various kinds of meetings, certain restrictions and prohibitions affecting meetings and gatherings, including various procedural requirements restricting the organization and conduct of such events, may give rise to political coercion. In so far as such restrictions and prohibitions are enforceable by sanctions involving compulsory labour, they are incompatible with the Convention. In this regard, the Committee refers to the discussions in the Conference Committee on the Application of Standards (CAS) in June 2013, 2014 and 2015 concerning the application by the Government of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and observes that, in its June 2015 conclusions, the CAS took note of the comments made by the Committee of Experts concerning the obstacles to the right to participate in peaceful demonstrations under the Law on mass activities and expressed deep concern that, ten years after the report of the Commission of Inquiry, the Government has failed to take measures to address most of its recommendations. In this regard, the Committee notes that, as highlighted by the report submitted to the Governing Body in March 2014 by the direct contacts mission which visited the country in January 2014, the Government has still not given consideration to recommendation No. 10, which requested it to amend the Law on mass activities (GB.320/INS/7). The Committee notes the Government’s indication that since 2010 only one judicial sentence under section 342 of the Criminal Code has been imposed. However, the Committee emphasizes with **deep concern** that no measure has been taken or envisaged to amend section 342 of the Criminal Code to ensure that no penalties involving compulsory labour may be imposed for the expression of political views opposed to the established system. The Committee further notes the adoption of section 369(2) of the Criminal Code, under which a person sentenced to administrative arrest for violations of the provisions governing the procedure for the organization or holding of assemblies, meetings, street marches, demonstrations and picketing, as defined by the Law on mass activities (pursuant to section 18.8 of the Procedural-Executive Code of Administrative Offences), who commits the same violation within one year can now be sentenced to imprisonment for up to two years, involving compulsory labour.

The Committee further notes that several other provisions of the Criminal Code, which are enforceable with sanctions involving compulsory labour, are worded in terms broad enough to lend themselves to application as a means of punishment for the expression of views opposed to the established political, social or economic system. In this regard, the Committee draws the Government’s attention to the following provisions:

- section 193(1) of the Criminal Code, which provides that persons participating in the activities of unregistered groups may be sentenced to imprisonment, involving compulsory labour;
- section 339 of the Criminal Code, which criminalizes “hooliganism” and “malicious hooliganism” and provides for sanctions of limitation of freedom, deprivation of freedom or imprisonment, all involving compulsory labour;
- sections 367 and 368 of the Criminal Code, which provide that persons “libelling the President” or “insulting the President” may be sentenced to limitation of freedom or imprisonment, both involving compulsory labour.

The Committee observes that various reports of the United Nations and the European Union state that the above sections of the Criminal Code are often used by the Government to discourage criticism. In this regard, the Committee notes with **deep concern** that the United Nations Committee against Torture (CAT) and the United Nations Special

Rapporteur on the situation of human rights in Belarus, as well as the European Parliament in its resolution of 10 September 2015 on the situation in Belarus, have expressed deep concern at the numerous and consistent allegations of serious acts of intimidation, reprisals and threats against human rights defenders and journalists, as well as cases of arbitrary detention involving compulsory labour for apparently political motives, including on suspicion of “hooliganism” or “malicious hooliganism”, more particularly in the period immediately preceding important political or social events (CAT/C/BLR/CO/4, A/HRC/26/44, A/HRC/29/43 and P8_TA-PROV(2015)0319). While taking due note of the release of six political prisoners on 22 August 2015, the Committee notes that the Government did not support any of the recommendations made in the framework of the Universal Periodic Review on 13 July 2015 concerning the review of cases of detention of individuals found to be deprived of their liberty for reasons which might be associated with the peaceful exercise of human rights and freedoms (A/HRC/30/3).

Noting that in Resolution 29/17 on the situation of human rights in Belarus, adopted on 26 June 2015, the Human Rights Council strongly urged the Government to put an immediate end to the arbitrary arrest, detention and harassment of human rights defenders, political opponents and journalists (A/HRC/RES/29/17), the Committee draws the Government’s attention to the fact that legal guarantees of rights to freedom of thought and expression, freedom of peaceful assembly, freedom of association, as well as freedom from arbitrary arrest, constitute an important safeguard against the imposition of forced or compulsory labour as a punishment for holding or expressing political or ideological views, or as a means of political coercion or education (2012 General Survey on the fundamental Conventions, paragraph 302). ***The Committee strongly urges the Government to amend or repeal the penal provisions referred to above (sections 193(1), 339, 342, 367, 368 and 369(2) of the Criminal Code), in order to ensure that no penalties involving compulsory labour may be imposed for the peaceful expression of political views or views ideologically opposed to the established system, for example by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. The Committee requests the Government to provide information in its next report on any progress made in this respect.***

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

[The Government is asked to reply in detail to the present comments in 2016.]

Belize

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1983)

The Committee notes with ***regret*** that the Government’s report has not been received. It is therefore bound to repeat its previous comments.

Article 1(c) and (d) of the Convention. Penalties involving compulsory labour as a punishment for breaches of labour discipline or for having participated in strikes. For many years, the Committee has been referring to section 35(2) of the Trade Unions Act, under which a penalty of imprisonment (involving an obligation to perform labour, by virtue of section 66 of the Prison Rules) may be imposed on any person employed by the Government, municipal authority or any employer in charge of supplying electricity, water, railway, health, sanitary or medical services or communications or any other service that may, by proclamation, be declared by the Governor to be a public service, if such person wilfully and maliciously breaks a contract of service, knowing or having reasonable cause to believe that the probable consequences will be to cause injury or danger or grave inconvenience to the community. The Committee has also noted that section 2 of the Settlement of Disputes (Essential Services) Act, Statutory Instrument No. 92 of 1981, declared the national fire service, postal service, monetary and financial services (banks, treasury, monetary authority), airports (civil aviation and airport security services) and the port authority (pilots and security services) to be essential services, and Statutory Instrument No. 51 of 1988 declared the social security scheme administered by the Social Security Branch an essential service.

The Committee has recalled in this respect that the imposition of sanctions involving compulsory labour as a punishment for breaches of labour discipline or for having participated in strikes is incompatible with the Convention. It has noted that section 35(2) of the Trade Unions Act refers not only to injury or danger but, alternatively, to grave inconvenience to the community, and applies not only to essential services, but also to other services, such as most employment under the Government or a municipal authority and most banking, postal and transport services.

The Government indicates in its report that one of the main tasks of the newly revived Labour Advisory Board is the revision of the national legislation, and that the Board has regrouped the legislation under revision into six topics, including trade unions’ rights. The Government also states that, although trade unions’ legislation has not yet been covered, the intention is to revise it in order to bring it into conformity with the international labour Conventions, and that the Committee’s concern regarding section 35(2) of the Trade Unions Act will definitely be taken into consideration. ***While taking due note of this information, the Committee trusts that the process of the revision of the Trade Unions Act will be completed in the near future, so as to ensure that no sanctions involving compulsory labour could be imposed as a punishment for breaches of labour discipline or for peaceful participation in strikes.***

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.

Brazil

Forced Labour Convention, 1930 (No. 29) (ratification: 1957)

The Committee notes the observations of the National Association of Labour Court Judges (ANAMATRA), received on 16 November 2015. ***The Committee requests the Government to provide its comments in this regard.***

Articles 1(1), 2(1) and 25 of the Convention. “Slave labour”. The Committee previously referred to the results achieved in combating slave labour, which has been a scourge in Brazil for many years, through the activities undertaken by specialist institutions such as the National Commission for the Eradication of Slave Labour (CONATRAE) and the Special Mobile Inspection Group (GEFM). It also noted the role of labour courts, which have convicted the perpetrators of this kind of exploitation and imposed fines and the payment of substantial compensation. The Committee encouraged the Government to maintain its efforts by continuing to take steps to strengthen the legal and institutional framework to combat slave labour.

(a) *Strengthening of the legal framework.* (i) *Constitutional amendment.* Referring to its previous comments, the Committee notes with **interest** the promulgation in June 2014 of Constitutional Amendment No. 81/2014, adopting a new wording for article 243 of the Constitution, providing for the expropriation of rural or urban property in which the use of slave labour has been identified and the consignment of this property to the agrarian reform and social housing programmes. The expropriation occurs without compensation of the owners and without prejudice to the application of other penalties established by law. The Committee considers that the adoption of this amendment to the Constitution, which has been under discussion in Parliament for many years, constitutes an important tool for combating forced labour inasmuch as it contributes to undermining the economic interests of those who exploit slave labour and helps to combat impunity. ***The Committee requests the Government to provide information on the expropriation rulings that have been handed down and on the steps taken to ensure that they are enforced. Please also to indicate whether the funds resulting from the expropriation of properties directly benefit the workers who have been victims of forced labour, thereby helping to prevent them becoming victims again.***

(ii) *Amendment of section 149 of the Penal Code, under which “reducing a person to a condition akin to slavery” is a criminal offence.* The Committee notes that, in the context of the discussion culminating in the adoption of the above constitutional amendment, the question of the criminalization of “slave labour”, as established by section 149 of the Penal Code, was the subject of discussion. The Government explains in its report that the full application of the new provision in the Constitution depends on the regulation in law of what the legislature understands by “exploitation of slave labour” for the purposes of expropriation.

The Committee recalls that it noted with interest that the purpose of the amendments made in 2003 to the wording of section 149 of the Penal Code was to adapt the legislation to national circumstances through the adoption of provisions describing in detail the various elements that constitute the crime of “reducing a person to a condition akin to slavery”. The Committee notes that a number of bills designed to amend section 149 of the Penal Code are under discussion in both the Chamber of Deputies and the Senate. ***The Committee therefore hopes that the Government will not fail to take the necessary steps to ensure that any new wording of section 149 of the Penal Code does not constitute an obstacle in practice to the action taken by the competent authorities to identify and protect victims of all situations of forced labour and to penalize the perpetrators of this crime in a prompt and adequate manner. The Committee strongly encourages the Government to consult the authorities which in recent years have been most heavily involved in combating “slave labour”, particularly the labour inspectorate, the Labour Prosecution Service, the labour courts and the Federal Prosecution Service.***

(iii) *Register of employers.* With regard to the list of individuals or entities found responsible, by a definitive administrative decision, for using labour under conditions akin to slavery (known as the “dirty list”), the Committee notes that, by a decision of 23 December 2014, the Federal High Court ordered, as a precautionary measure, the suspension of the publication of this list by the Ministry of Labour and Employment. This decision is a result of court action brought by an association of real estate companies claiming that the list was unconstitutional on the grounds, inter alia, that the existence and functioning of the list should be regulated by legislation, not by ministerial order. The Committee notes that, further to this precautionary measure, the Ministry of Labour and Employment adopted a new ministerial order (MTE/SEDH 2/2015) describing in detail the process whereby private entities are placed on or removed from the list, and also the manner in which the rights of defence and the principle of the right to be heard are ensured during the proceedings. Further to this order, the Federal Prosecution Service submitted an application to the Federal High Court to review its decision to suspend the list.

The Committee recalls that since 2004 this list had been updated regularly and published by the Ministry of Labour and Employment, and that the persons on the list were ineligible to receive any assistance, subsidies or public credit. The Committee also emphasizes that this list plays a fundamental role since it constitutes an information tool for society as a whole, but also for enterprises, which are thus better placed to monitor and supervise their supply chains. ***The Committee therefore strongly encourages the Government to continue taking all necessary measures to ensure that the list of individuals or entities found responsible for using labour under conditions akin to slavery is published regularly and in a transparent manner.***

(b) *Strengthening of the labour inspectorate.* The Committee notes that the GEFM has released nearly 50,000 workers from situations of slave labour since its first inspections in May 1995. In 2014, a total of 170 inspections were conducted in 284 workplaces, enabling the release of 1,674 workers. The Government indicates that 2013 was the first year when the number of workers identified in situations of slave labour in urban areas exceeded the number identified in rural areas. In 2014, civil construction topped the list of sectors where the labour inspectorate had identified the largest number of workers in situations of slave labour, followed by agriculture and livestock farming. In recent years, the states with the highest incidence of slave labour include Minas Gerais, Espírito Santo and São Paulo. The Committee recalls that the GEFM has demonstrated, as a result of its inter-institutional composition (labour inspectors and representatives of the Labour Prosecution Service, Federal Police and Federal Prosecution Service), that it is a vital link in the fight against slave labour, since its inspections enable it not only to release workers from situations of forced labour and secure compensation for them, but also to provide evidence for the civil and criminal prosecution of the perpetrators. The Committee notes that, according to the information supplied by the Government, the GEFM currently has only four teams responsible for the issue of slave labour, compared with eight in 2009 and five in 2010. ***The Committee trusts that the Government will not fail to take all the necessary steps to provide the GEFM with sufficient human and financial resources to be able to fulfil its mission throughout the country, especially as it currently comprises only four teams to intervene in all sectors affected by the scourge of forced labour.***

(c) *Imposition of effective penalties.* (i) *Penalties imposed by the labour inspectorate and labour courts.* In its previous comments, the Committee asked the Government to continue to support the action of the labour authorities in the suppression of slave labour (labour inspectorate, Labour Prosecution Service and labour courts). The Government recalls in its report the important role of the Labour Prosecution Service which, through public civil action, enables heavy fines to be imposed for violations of the labour legislation and, through collective public action, compensation to be awarded for the damage suffered by workers and also for the collective damage suffered by society. It confirms that, because substantial compensation has been awarded, as a result of these proceedings, it has proved to be an effective deterrent by making the exploitation of slave labour economically disadvantageous. However, the Committee observes that the Government does not provide any specific information on these judicial proceedings or the results thereof. ***The Committee therefore requests the Government once again to provide information on the steps taken to strengthen the means of action of the labour prosecution authorities and labour courts, on fines imposed and compensation awarded, and on the measures taken to ensure the payment in practice of these fines and compensation.***

(ii) *Criminal penalties.* The Committee notes the Government's acknowledgement that impunity remains a major challenge and that the action of the Federal Prosecution Service and Federal Judiciary is crucial in this respect. However, the Committee notes with *regret* that the Government has not sent any specific information on the rulings handed down by the Federal Judiciary, which has sole competence with regard to section 149 of the Penal Code. However, the Committee notes that, according to information on the website of the Prosecutor General, the Strategic Plan for the Federal Judiciary 2015–20, adopted in October 2014, includes among its priorities the judgment of criminal cases involving crimes connected with trafficking in persons and reducing a person to a condition akin to slavery, with the aim of issuing judgments by the end of 2015 on court cases transmitted to the Federal Judiciary up to 31 December 2012. The Committee observes an increase in the number of judicial proceedings based on section 149 of the Penal Code, rising from 83 in 2010 to 677 in 2013, with criminal cases increasing from 63 in 2010 to 152 in 2013. The Committee also observes that in 2012 a working group on modern slavery was established within the Federal Prosecution Service to discuss, inter alia, improved guidelines for criminal investigations with a view to improving the collection of evidence to initiate prosecutions and, where appropriate, bring the perpetrators to trial. The Committee recalls that, according to *Article 25* of the Convention, penalties must be really adequate and strictly enforced with regard to individuals responsible for exacting forced labour. It underlines the importance of these criminal penalties, which act as a deterrent and, together with financial penalties, constitute a key element in combating the perpetuation of forced labour. ***The Committee therefore requests the Government to supply information on the steps taken to ensure that individuals suspected of exacting forced labour are in practice put on trial and, if found guilty, that penal sanctions commensurate with the crime committed are imposed on them.***

(d) *Identification, protection and reintegration of victims.* The Committee notes the Government's indication that it continues to provide emergency aid and medium-term assistance for victims of forced labour in order to facilitate their reintegration (unemployment benefits corresponding to three minimum wage equivalents and priority access to the federal programme for income redistribution (*Bolsa Família*)). The Government also refers to the recruitment of workers in the rural sector, emphasizing that the public employment system can play a part in the prevention of forced labour by eliminating the role played by middlemen (*gatos*), and ensuring that workers are more clearly informed of their rights. Lastly, the Committee observes that in August 2015 a technical cooperation agreement was signed between various public entities (Ministry of Labour and Employment, labour inspectorate, judiciary, public prosecution service), whereby the latter undertake to establish a network for the protection of released workers with a view to their inclusion in the formal labour market by seeking public–private partnerships. ***The Committee requests the Government to continue providing information on the measures taken to reintegrate victims of forced labour and on the results achieved. Please also provide information on the action taken to make workers in the regions worst affected by forced labour more aware of the risks involved.***

Finally, the Committee recalls, in light of the above information, that action to combat forced labour, because of its complexity, necessitates coordinated and concerted action by numerous public authorities and also the involvement of civil society as a whole. ***The Committee therefore requests the Government to supply information on the coordination activities of the National Commission for the Eradication of Slave Labour (CONATRAE) and on the manner in which it evaluated the implementation of the actions provided for in the National Plan for the Eradication of Slave Labour.***

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

Burundi

Forced Labour Convention, 1930 (No. 29) (ratification: 1963)

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), received on 26 November 2015. The Committee also notes with ***regret*** that the Government's report has not been received. It expresses ***deep concern*** in this respect. It is therefore bound to repeat its previous comments.

Articles 1(1) and 2(1) of the Convention. 1. *Compulsory community development work.* The Committee previously 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 functioning of the "inter-municipality" system. 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 it. 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.

The Committee notes that the COSYBU submitted observations on the participation in and organization of compulsory community development work in 2008, 2012, 2013 and 2014. It stated that community work is decided upon unilaterally without the population being consulted and that the police are mobilized to close the streets and therefore prevent the movement of persons during this work. The COSYBU requested the Government to find a solution as soon as possible to ensure that the legislation specifically made a reference to the voluntary nature of participation in this work.

While noting that the Government previously indicated that the legislation does not provide for penalties to be imposed on persons who failed 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 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 for cultivation (Ordinances Nos 710/275 and 710/276 of 25 October 1979), as well as the need to formally repeal certain texts on compulsory cultivation, portage 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 has now been set out in the legislation, the Committee asks 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 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.

Congo

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2(2)(a) of the Convention. 1. *Work exacted under compulsory military service laws.* For many years the Committee has been drawing the Government's attention to the fact that section 1 of Act No. 16 of 27 August 1981 establishing compulsory military service is not in conformity with the Convention. Under this provision, national service is instituted for the purpose of enabling every citizen to participate in the defence and construction of the nation and has two components: military service and civic service. The Committee has repeatedly emphasized that work exacted from recruits as part of compulsory national service, including work related to national development, is not purely military in nature and is therefore contrary to *Article 2(2)(a)* of the Convention.

The Committee notes that the Government once again indicates that it is committed to repealing the abovementioned Act and this will be seen in practice in the revision of the Labour Code, which is in progress. ***The Committee again expresses the strong hope that when the Labour Code is revised, the necessary steps will be taken to amend or repeal the Act establishing***

compulsory military service so as to bring the legislation into conformity with the Convention. The Government is requested to supply information on any progress made in this respect.

2. *Youth brigades and workshops.* In its previous comments the Committee noted the Government's indication that Act No. 31-80 of 16 December 1980 on guidance for youth had fallen into disuse since 1991. Under this Act, the party and mass organizations were supposed to create, over time, all the conditions for establishing youth brigades and organizing youth workshops (type of tasks performed, number of persons involved, duration and conditions of their participation, etc.). The Committee once again notes the Government's indication that it is committed to repealing the abovementioned Act and this will be seen in practice in the revision of the Labour Code, which is in progress. ***The Committee expresses the strong hope that when the Labour Code is revised, the necessary steps will be taken to formally repeal Act No. 31-80 of 16 December 1980 on guidance for youth.***

Article 2(2)(d). Requisitioning of persons to perform community work in instances other than emergencies. For many years the Committee has been drawing the Government's attention to the fact that Act No. 24-60 of 11 May 1960 is not in conformity with the Convention in that it allows the requisitioning of persons to perform community work in instances other than the emergencies provided for under Article 2(2)(d) of the Convention, and provides that persons requisitioned who refuse to work are liable to imprisonment ranging from one month to one year.

The Committee again notes the Government's indication that this Act has fallen into disuse and may be considered as repealed, in view of the fact that the Labour Code (section 4) and the Constitution (article 26), which prohibit forced labour, annul all the provisions of national law which are contrary to them. The Government explains that, in order to avoid any legal ambiguity, a text will be adopted enabling a clear distinction to be made between work of public interest and the forced labour prohibited by the Labour Code and the Constitution. The Government also indicates that the practice of mobilizing sections of the population for community work, on the basis of the provisions of section 35 of the statutes of the Congolese Labour Party (PCT), no longer exists. Tasks such as weeding and clean-up work are carried out by associations, state employees and local communities on a voluntary basis, therefore without any compulsion involved. Moreover, the voluntary nature of work for the community will be established in the revision of the Labour Code in such a way as to clearly bring the national legislation into conformity with the provisions of the Convention. ***The Committee notes this information and hopes that appropriate measures will be taken to clarify the situation in both law and practice, especially by the adoption of a text enabling a distinction to be made between work in the public interest and forced labour.***

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.

Democratic Republic of the Congo

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Follow up to the discussion of the Committee on the Application of Standards (International Labour Conference, 103rd Session, May–June 2014).

The Committee notes the discussion held in the Conference Committee on the Application of Standards, as well as the observations made by the Confederation of Trade Unions of Congo (CSC) on the application of the Convention, received on 28 August 2014.

Articles 1(1), 2(1) and 25 of the Convention. Forced labour and sexual slavery in the context of the armed conflict. In its previous comments, the Committee noted the information provided by the CSC, the International Trade Union Confederation (ITUC) and the reports of several United Nations agencies confirming the persistence of serious violations of human rights committed by State security forces and various armed groups in the context of the armed conflict which has been raging in the Democratic Republic of the Congo. This information referred to cases of abduction of women and children with a view to their use as sexual slaves; the imposition of forced labour related to the illegal extraction of natural resources in many resource-rich areas, principally in Orientale Province, the Kivus and North Katanga; abductions of persons to force them to participate in activities such as domestic work, wood cutting, gold mining and agricultural production for the benefit of armed groups. While being 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 comply with the rule of law, the climate of impunity and the difficulties experienced by victims in gaining access to justice contribute to the continued perpetration of these serious violations of the Convention.

The Committee notes that, during the discussion of the application of the Convention by the Committee on the Application of Standards, the Government representative indicated that, with the support of the United Nations Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), the territories which had been under the control of armed groups have been taken back by the regular army, and that the Government had initiated legal proceedings and organized trials which had resulted in severe sentences being imposed on the perpetrators of these crimes. The Government representative also reaffirmed its commitment to prosecute those who had violated human rights and to bring an end to impunity, emphasizing that the acts referred to by the Committee were largely in the past. With support from international cooperation, the Government has deployed specialized police brigades, known as local brigades, to restore the authority of the State and thereby ensure the protection of the civilian population. While noting the difficulty posed by the situation and the efforts made by the Government, many speakers emphasize the need to intensify efforts to combat impunity and to ensure adequate protection for victims. The need to reinforce the labour inspection services, particularly in mining areas, was also emphasized.

The Committee notes that, in its communication of August 2014, while recognizing the efforts made by the Government to combat the massive violations of human rights, the CSC confirms that forced labour persists and remains a serious concern, as it is intensifying. The CSC refers, by way of illustration, to the events of July 2014 in Ituri (Orientale Province), where an armed group abducted women and children to subject them to sexual exploitation and forced labour in the extraction and transport of minerals. It adds that the measures to punish those responsible for these acts are neither firm nor effective, and impunity encourages the propagation of such practices.

The Committee also notes various reports by, among others, the Secretary-General of the United Nations, the United Nations Security Council and the United Nations High Commissioner for Human Rights in the context of the activities of his Office in the Democratic Republic of the Congo (A/HRC/27/42, S/2014/697, S/2014/698 and S/2014/222). The Committee notes that these reports recognize the efforts made by the Government to prosecute the perpetrators of human rights violations, including public officials. They however remain concerned at the human rights situation in the Democratic Republic of the Congo and by recurrent reports of violence, including sexual violence, perpetrated by armed groups and the national armed forces, particularly in the eastern provinces of the Democratic Republic of the Congo. The Security Council recalled in this respect that there must be no impunity for persons responsible for human rights violations. The High Commissioner emphasized that the justice system faces various challenges in investigating and prosecuting perpetrators of human rights violations, including the lack of resources and staffing and the lack of independence of military tribunals, where they exist, which is also problematic.

The Committee notes all of this information and urges the Government to step up its efforts to bring an end to the violence perpetrated against civilians with a view to subjecting them to forced labour and sexual exploitation. Considering that impunity contributes to the propagation of these serious violations, the Committee trusts that the Government will continue to take determined measures to combat impunity and will provide civil and military tribunals with appropriate resources with a view to ensuring that the perpetrators of these serious violations of the Convention are brought to justice and punished. The Committee also requests the Government to take measures to protect victims and for their reintegration.

Article 25. Criminal penalties. The Committee recalls that, with the exception of section 174(c) and (e) regarding forced prostitution and sexual slavery, the Penal Code does not establish appropriate criminal penalties to penalize 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). ***The Committee expresses the firm hope that the Government will take the necessary measures for the adoption in the very near future of adequate legislative provisions so that, in accordance with Article 25 of the Convention, effective and dissuasive criminal penalties can be applied in practice on persons exacting forced labour.***

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 formally repeal or amend the following legislative texts and regulations, which are contrary to the Convention:

- Act No. 76-11 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, all able-bodied adult persons who are not already considered to be making their contribution by reason of their 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 to 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;
- 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 Committee notes that the Government representative indicated on this subject in the Conference Committee on the Application of Standards that a Bill to repeal earlier legislation authorizing recourse to forced labour for purposes of national development was before the Parliament and that a copy of it would be provided once it had been adopted. The Committee notes the indication by the CSC in this regard that the Bill is not a priority for Parliament. ***The Committee trusts that the Government will be able to indicate in its next report the formal repeal of the legal texts noted above, to which it has been referring for many years and which the Government indicates are obsolete.***

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.

Dominica

Forced Labour Convention, 1930 (No. 29) (ratification: 1983)

The Committee notes with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1(1) and 2(1), (2)(a) and (d) of the Convention. National service obligations. Over a number of years, the Committee has been requesting the Government to repeal or amend the National Service Act, 1977, under which persons between the ages of 18 and 21 years are required to perform service with the national service, including participation in development and self-help projects concerning housing, school, construction, agriculture and road building, failure to do so being punishable with a fine and imprisonment (section 35(2)). The Committee observed that, contrary to the Government's repeated statement that the national service was created to respond to national disasters, the Act contained no reference to natural disasters, but specified the objectives of the national service, which "shall be to mobilize the energies of the people of Dominica to the fullest possible level of efficiency, to shape and direct those energies to promoting the growth and economic development of the State". The Committee pointed out that the above provisions are not in conformity with the present Convention and the Abolition of Forced Labour Convention, 1957 (No. 105), which specifically prohibits the use of forced or compulsory labour "as a means of mobilizing and using labour for purposes of economic development".

The Government indicates in its report that the item concerning the amendment of the legislation has been included in the Decent Work Agenda, and that the necessary measures will be taken to address the requests in relation to compliance with the Conventions with the technical assistance of the ILO. ***While having noted the Government's indications in its earlier reports that the National Service Act, 1977, has been omitted from the Revised Laws of Dominica, 1990, and that section 35(2) of the Act has not been applied in practice, the Committee trusts that appropriate measures will be taken in the near future in order***

to formally repeal the above Act, so as to bring national legislation into conformity with Conventions Nos 29 and 105 and that the Government will provide, in its next report, information on the progress made in this regard.

The Committee is 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.

Egypt

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

Article 1(a) of the Convention. Sanctions involving the obligation to work as a punishment for the expression of political views or views ideologically opposed to the established political, social or economic system. Since 1964, the Committee has been drawing the Government's attention to certain provisions under which penal sanctions involving compulsory prison labour (pursuant to sections 16 and 20 of the Penal Code) may be imposed in situations covered by Article 1(a) of the Convention, namely:

- section 178(3) of the Penal Code, as amended by Act No. 536 of 12 November 1953 and by Act No. 93 of 28 May 1995, regarding the production or possession with a view to the distribution, sale, etc. of any images which may prejudice the reputation of the country by being contrary to the truth, giving an inexact description, or emphasizing aspects which are not appropriate;
- section 80(d) of the Penal Code, as amended by Act No. 112 of 19 May 1957, in so far as it applies to the wilful dissemination abroad by an Egyptian of tendentious rumours or information relating to the internal situation of the country for the purpose of reducing the high reputation or esteem of the State, or the exercise of any activity which will prejudice the national interest;
- section 98(a)bis and (d) of the Penal Code, as amended by Act No. 34 of 24 May 1970, which prohibits the following: advocacy, by any means, of opposition to the fundamental principles of the socialist system of the State; encouraging aversion or contempt for these principles; constituting or participating in any association or group pursuing any of the foregoing aims, or receiving any material assistance for the pursuit of such aims;
- sections 98(b) and (b)bis, and 174 of the Penal Code concerning advocacy of certain doctrines;
- section 102bis of the Penal Code, as amended by Act No. 34 of 24 May 1970, regarding the dissemination or possession of means for the dissemination of news or information, false or tendentious rumours, or revolutionary propaganda which may harm public security, spread panic among the people or prejudice the public interest;
- section 188 of the Penal Code concerning the dissemination of false news which may harm the public interest;
- the Public Meetings Act (No. 14 of 1923), and the Meetings Act (No. 10 of 1914), granting general powers to prohibit or dissolve meetings, even in private places.

Moreover, the Committee previously noted that section 11 of Act No. 84/2002 on non-governmental organizations prohibits associations from performing activities threatening national unity, violating public order or calling for discrimination between citizens on the grounds of race, origin, colour, language, religion or creed. It also noted that sections 20 and 21 of Act No. 96/1996 on the reorganization of the press prohibit the following acts: attacking the religious faith of third parties; inciting prejudice and contempt for any religious group in society; and attacking the work of public officials. The Committee observed that the above provisions are enforceable with sanctions of imprisonment for a term of up to one year (section 76(1)(B) of Act No. 84/2002 and section 22 of Act No. 96/1996), which may involve an obligation to perform labour. The Committee urged the Government to take the necessary measures to bring the above legislation into conformity with the Convention.

The Committee notes the Government's indication in its report that Act No. 95 of 2003, which repealed Act No. 105 of 1980 concerning the establishment of state security courts, abolished the sanction of hard labour, and therefore the sanctions to which the Committee is referring have been amended, especially with respect to the above provisions.

The Government adds that Act No. 107 of 2013 on the right to public meetings and peaceful assemblies repealed Act No. 14 of 1923 on public meetings. Act No. 107 only punishes acts which violate the rules regulating the holding of meetings, processions and peaceful demonstrations. The Government further states that Act No. 10 of 1914 on assemblies only prohibits assemblies which threaten public peace. Moreover, the penalties specified in this Act do not include imprisonment, unless the persons assembled had weapons, caused any death, or inflicted intentional damage on public buildings and bodies, which reflects a violation of public peace. Finally, the Government indicates that there is a current trend for courts to impose financial fines as a penalty rather than imprisonment, and that it has not been informed of any judicial decisions that have been handed down on the issues raised above.

The Committee also notes the Government's indication that section 41 of Act No. 96/1996 on the reorganization of the press, as amended by Act No. 1 of 2012, specifies that detention shall not be authorized by the judge, pending investigation of press-related crimes. The Government adds that, subsequent to the 2012 amendment, section 20 of the Penal Code has also been amended to provide that the judge shall hand down a sentence of hard labour whenever the period of punishment exceeds one year. As the penalties imposed for the violations cited in section 11 of Act No. 84 of

2002, and also those set out in sections 20 and 21 of Act No. 96/1996, are for less than one year, they are not all relevant to the Convention.

The Committee notes the information provided by the Government with regard to the sentence of “hard labour”. It observes in particular the contradiction between the Government’s indication that Act No. 95 of 2003 has abolished sentences of hard labour, and section 20 of the Penal Code which establishes penalties of imprisonment with labour whenever the period of punishment exceeds one year. The Committee once again points out that the scope of the Convention is not restricted to sentences of “hard labour” or other particularly arduous forms of labour, as opposed to ordinary prison labour. The Convention prohibits the use of “any form” of forced or compulsory labour as a sanction, as a means of coercion, education or discipline, or as a punishment in respect of the persons within the ambit of *Article 1(a)* (2007 General Survey, *Eradication of forced labour*, paragraph 147).

The Committee notes the information provided by the Government with regard to the application of the above provisions of the Penal Code, the Meetings Act (No. 10 of 1914), Act No. 107 of 2013 on the right to public meetings and peaceful assemblies, Act No. 84/2002 on non-governmental organizations, as well as Act No. 1 of 2012 on the reorganization of the press. The Committee observes, however, that in its resolution (2014/2728 (RSP)) of 15 July 2014, the European Parliament strongly condemns and calls for the immediate end to all acts of violence, incitement, hate speech, harassment, intimidation or censorship against political opponents, protesters, journalists, bloggers, trade unionists and civil society activists by state authorities, the security forces and services, and other groups in Egypt (REP8_B(2014)0013_EN.doc).

The Committee also notes that in its recommendations of 24 December 2014, the Working Group on the Universal Periodic Review of the Human Rights Council recommends that the Government strengthen freedom of expression and the media so that all journalists can carry out their activities freely and without intimidation and those imprisoned in connection with their work can be released without delay. The Working Group also recommends that the Government amend Act No. 107 of 2013 on the right to public meetings and peaceful assemblies and review all laws on public assemblies, including the Meetings Act (No. 10 of 1914) (A/HRC/28/16).

In view of the above, the Committee notes with **deep concern** that despite the comments it has been making for a number of years, the above provisions of the Penal Code, the Meetings Act (No. 10 of 1914), Act No. 107 of 2013 on the right to public meetings and peaceful assemblies, Act No. 84/2002 on non-governmental organizations, as well as Act No. 1 of 2012 on the reorganization of the press, have not been amended to bring them into conformity with the Convention. The Committee once again recalls that restrictions on fundamental rights and liberties, including freedom of expression, may have a bearing on the application of the Convention if such measures are enforced by sanctions involving compulsory labour. Referring to its 2012 General Survey on the fundamental Conventions (paragraph 302), the Committee points out that the range of activities which must be protected from punishment involving compulsory labour, under *Article 1(a)* of the Convention, include 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, 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 finally emphasizes that the protection conferred by the Convention is not limited to the expression or manifestation of 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 therefore once again urges the Government to take the necessary measures to ensure that no prison sentences involving compulsory labour are imposed on persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. The Committee expresses the firm hope that the necessary measures will be taken to bring the above legislation into conformity with the Convention, and requests the Government to provide information on the progress made in this regard.***

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

Eritrea

Forced Labour Convention, 1930 (No. 29) (ratification: 2000)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, May–June 2015)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2015 concerning the application of the Convention. It also notes the observations of the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC) received, respectively, on 31 August and 1 September 2015. The Committee notes with **regret** that despite specific requests in this regard from the Committee of Experts and the Conference Committee, the Government has not provided a report.

The Committee notes that the Conference Committee discussed in detail the large-scale and systematic practice of imposing compulsory labour on the population for an indefinite period of time within the framework of the national service programme which encompasses all areas of civilian life and is therefore much broader than military service. The

discussions also highlighted that workers who refuse to carry out work within the framework of national service are faced with arbitrary arrest and detention and imprisonment in inhumane conditions. While noting the explanations provided by the Government relating to the ongoing border conflict, the absence of peace and stability that has affected the labour administration in the country, and the unpredictable weather conditions, the Conference Committee urged the Government to amend or revoke the Proclamation on National Service (No. 82 of 1995) and the Warsai Yakaalo Development Campaign of 2002 to bring to an end forced labour associated with the national service programme and to ensure the cessation of the use of conscripts in practice contrary to the provisions of the Convention, and to immediately release all imprisoned “draft evaders” who have refused to participate in compulsory conscription, which exceed the scope of the exception provided for in the Convention.

The Committee notes the report of the Commission of Inquiry on human rights in Eritrea established by Resolution 26/24 of the Human Rights Council of the United Nations. The Commission of Inquiry describes how, under the pretext of defending the integrity of the State and ensuring its self-sufficiency, Eritreans are subject to systems of national service and forced labour that effectively abuse, exploit and enslave them for indefinite periods of time. The Commission of Inquiry observes that the Government has unlawfully and consistently been using conscripts and other members of the population, including members of the militia, many beyond retirement age, as forced labourers to construct infrastructure and to pursue the aim of economic development and self-sufficiency of the State, thus indirectly supporting the continued existence of a totalitarian Government that has been in power for the past 24 years. The use of forced labour is so prevalent in Eritrea that all sectors of the economy rely on it, and all Eritreans are likely to be subject to it at some stage in their lives. The Government also regularly profits from the almost free work exacted from conscripts and detainees to obtain illegitimate financial gain when they are “lent” to foreign companies paying salaries to the Government that are considerably higher than the amounts paid by the Government to the workers (A/HRC/29/42 of 4 June 2015).

Finally, the Committee notes that in their observations both the IOE and the ITUC express concern at the situation and reiterate the requests made to the Government during the discussion in the Conference Committee. The ITUC emphasizes that the gravity and consequences of the use of forced labour under national service are enormous and do not only lead to the severe exploitation of workers but also to a humanitarian crisis with women and children being particularly victimized.

The Committee strongly urges the Government to take the necessary measures to ensure the application of the Convention in law and practice as requested by the Conference Committee and the Committee of Experts in its previous comments:

Articles 1(1) and 2(1) of the Convention. Compulsory national service. For a number of years, the Committee has been referring to section 3(17) of the Labour Proclamation of Eritrea (No. 118/2001), under which the expression “forced labour” does not include compulsory national service. The Committee noted that, under article 25(3) of the Constitution, citizens must complete their duty in national service. It also noted that, although the obligation to perform compulsory national service had been originally stipulated in 18 months (pursuant to the Proclamation on National Service, No. 82 of 1995), conscription of all citizens between the ages of 18 and 40 for an indefinite period was institutionalized with the introduction of the “Warsai Yakaalo Development Campaign” (WYDC), adopted by the National Assembly in 2002. In this connection, the Committee notes the Government’s statement that the obligation to perform compulsory national service is part of the normal civic obligations of citizens, and therefore falls within the scope of the exceptions provided for in the Convention, in particular: work or service exacted in virtue of compulsory military service laws and work or service exacted in cases of emergency.

With regard to the linkage between national service and work exacted under compulsory military service laws, the Committee notes the Government’s indication that any work or service exacted under section 5 of the 1995 Proclamation on National Service constitutes work of a purely military character. The Government states, however, that conscripts may also perform other duties, such as participating in the construction of roads and bridges. According to the Government, members of the national service have engaged in numerous programmes, mainly in reforestation, soil and water conservation, reconstruction, and activities aimed at improving food security. The Committee further notes that, according to abovementioned section 5, the objectives of national service include, inter alia, the creation of a new generation, characterized by love for work, discipline, ready to serve and participate in the reconstruction of the nation; and the development and strengthening of the economy by “investing in the development of peoples’ work as a potential wealth”.

The Committee recalls that, under *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. This condition, which aims specifically at preventing the call-up of conscripts for public works, has its corollary in *Article 1(b)* of the Abolition of Forced Labour Convention, 1957 (No. 105), which prohibits the use of forced or compulsory labour “as a method of mobilizing and using labour for purposes of economic development”. The Committee therefore draws the Government’s attention to the fact that work exacted from recruits as part of national service, including work related to national development, is not purely military in nature. The Committee also recalls that, in specific circumstances, such as in cases of emergency, conscripts may be called to perform non-military activities. However, in order to respect the limits of the exception contained in *Article 2(2)(d)* of the Convention, the power to call up labour should be confined to genuine cases of emergency, or force majeure, that is, a sudden, unforeseen happening calling for instant countermeasures. Moreover, the duration and extent of compulsory service, as well as the purpose for which it is used, should be limited to what is strictly required by the exigencies of the situation.

While noting the information provided by the Government, as well as its description of the factual situation in the country, which is referred to as a “threat of war and famine” situation, the Committee points out that the large-scale and systematic practice of imposing compulsory labour on the population for an indefinite period of time within the framework of the national service programme goes well beyond the exceptions provided for in the Convention. The extended obligations imposed on the population – as well as conscripts’ lack of freedom to leave national service, as stated by the Government – are incompatible both with Conventions Nos 29 and 105, which prohibit the use of forced or compulsory labour as a method of mobilizing and using labour for purposes of economic development. ***In light of the above considerations, the Committee urges the Government to take the necessary measures to amend or repeal the Proclamation on National Service, No. 82 of 1995 and the WYDC***

Declaration of 2002, in order to remove the legislative basis for the exaction of compulsory labour in the context of national service, and to address the incompatibility of these texts with both Conventions Nos 29 and 105. Pending the adoption of such measures, the Committee urges the Government to take concrete steps with a view to limiting the exaction of compulsory work or services from the population to genuine cases of emergency, or force majeure, and to ensure that the duration and extent of such compulsory work or services, as well as the purpose for which it is used, is limited to what is strictly required by the exigencies of the situation.

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 article 26 of the Constitution of Eritrea, certain fundamental rights and freedoms guaranteed under the Constitution may be limited in the interests of national security, public safety or the economic well-being of the country, for the prevention of public disorder, etc. It also noted that, under certain provisions of the Press Proclamation (No. 90/1996), violations of restrictions on printing and publishing (that is, printing or reprinting of an Eritrean newspaper or publication which does not have a permit; printing or disseminating a foreign newspaper or publication which has been prohibited from entry into Eritrea; publishing inaccurate news or information disrupting general peace – section 15(3), (4) and (10)), are punishable with penalties of imprisonment, which involve an obligation to work pursuant to section 110 of the Transitional Penal Code of 1991.

In this regard, the Committee notes the Government's repeated statement that no restrictions have been imposed on fundamental rights and freedoms thus far. It also notes the information provided by the Government with regard to legislative provisions which guarantee, for example, freedom of assembly and religion, as well as the right to a fair trial.

The Committee notes, however, that in her report of May 2014, the UN Special Rapporteur on the situation of human rights in Eritrea states that human rights violations such as infringements to freedom of expression and opinion, assembly, association and religious belief continue unabated. The Special Rapporteur highlights, for example, that over 50 people were arbitrarily arrested and detained in the aftermath of the attempted coup d'état in January 2013, and that these individuals remain incommunicado. She also points out that, to date, no information has been provided by the Government with regard to the situation of the 11 high-profile politicians and ten independent journalists who were arrested for publicly opposing the policy of the President in 2001 (A/HRC/26/45, paragraphs 20–22).

With reference to paragraph 302 of its 2012 General Survey on the fundamental Conventions, 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".* Therefore, the range of activities which must be protected from punishment involving forced or compulsory labour under this provision comprise 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. *In light of the above considerations, the Committee urges the Government to take the necessary measures to ensure that no prison sentences involving compulsory labour are imposed on persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. The Committee also expresses the firm hope that measures will be taken, in the context of the current legislative review process, to bring the above provisions of the Press Proclamation (No. 90/1996) into conformity with the Convention. Please provide information on the progress made in this regard.*

Article 1(b). Compulsory national service for purposes of economic development. The Committee refers to its comments concerning compulsory national service addressed to the Government under the Forced Labour Convention, 1930 (No. 29), in which it pointed out that the systematic and widespread conscription of the population in order to perform compulsory labour for an indefinite period of time within the framework of the national service programme is incompatible both with Conventions Nos 29 and 105, which prohibit the use of forced or compulsory labour as a method of mobilizing and using labour for purposes of economic development. *The Committee therefore urges the Government to take the necessary measures in order to eliminate, both in law and in practice, any possibility of using compulsory labour in the context of national service as a means of mobilizing labour for purposes of economic development.*

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.

Ethiopia

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for the expression of political or ideological views. The Committee previously noted that the following sections of the Criminal Code provide for sanctions of imprisonment, which involve compulsory prison labour by virtue of section 111(1) of the Code, in circumstances covered by *Article 1(a) of the Convention*:

- section 486(a): inciting the public through false rumours;
- section 487(a): making, uttering, distributing or crying out seditious or threatening remarks or displaying images of a seditious or threatening nature in any public place or meeting (seditious demonstrations); and
- sections 482(2) and 484(2): punishment of ringleaders, organizers or commanders of forbidden societies, meetings and assemblies.

The Committee also referred to the definition of terrorism under the Anti-Terrorism Proclamation No. 652/2009, under section 6 of which any person who “publishes or causes the publication of a statement that is likely to be understood by some or all of the members of the public to whom it is published as a direct or indirect encouragement, or other inducement to them, to the commission or preparation or instigation of an act of terrorism is punishable with rigorous imprisonment from ten to 20 years”. In this regard, the Committee noted that in 2010 the United Nations Universal Periodic Review (UPR) Working Group expressed concern at the Anti-Terrorism Proclamation which, due to its broad definition of terrorism, had led to abusive restrictions on the press (A/HRC/13/17). The Committee further noted that journalists and opposition politicians had been given sentences ranging from 11 years to life imprisonment under the Proclamation, and that numerous defendants were scheduled to appear before the courts on similar charges. The Committee therefore urged the Government to take measures to limit the scope of application of the Anti-Terrorism Proclamation and the above provisions of the Criminal Code in order to ensure that no sanctions involving compulsory labour can be imposed on those holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee notes the Government’s reiterated indication in its report that the peaceful expression of views or of opposition to the established political, social or economic system is not considered a crime in Ethiopia. The Government indicates that sections 482(2), 484(2), 486(a) and 487(a) of the Criminal Code do not criminalize such acts and that freedom of expression, thought and opinion are constitutionally recognized rights, which can only be limited through laws that aim to protect the well-being of the population, and the honour and reputation of individuals.

In this connection, the Committee observes that, on 18 September 2014, five United Nations human rights experts, including the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms, while acknowledging that confronting terrorism was important, urged the Government of Ethiopia to stop misusing anti-terrorism legislation to curb the freedom of expression and association in the country. The United Nations experts emphasized that, two years after they had raised the issue for the first time, numerous reports of the misuse of the Anti-Terrorism Proclamation indicate that the law is still being used “to target journalists, bloggers, human rights defenders and opposition politicians in Ethiopia” (UN press release, 18 September 2014).

The Committee once again points out that sanctions involving compulsory prison labour, are incompatible with *Article 1(a)* of the Convention where they enforce a prohibition of the peaceful expression of non-violent views or of opposition to the established political, social or economic system. The range of activities which must be protected from punishment involving compulsory labour under this provision include 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 peacefully seek to secure the dissemination and acceptance of their views. The Committee also recalls that, even if counter-terrorism legislation responds to the legitimate need to protect the security of the public against the use of violence, it can nevertheless become a means of punishing the peaceful exercise of civil rights and liberties, such as freedom of expression and freedom of association, where it is couched in vague and general terms. The Convention protects these rights and liberties against repression by means of sanctions involving compulsory work, including compulsory work as a consequence of a conviction in a court of law, and the limits which may be imposed on them by law need to be properly addressed.

In light of the above, the Committee requests the Government to take the necessary measures to limit the scope of application of the Anti-Terrorism Proclamation No. 652/2009 so as to ensure that no sanctions involving compulsory labour can be imposed on those holding or peacefully expressing political views or views ideologically opposed to the established political, social or economic system, and requests it to provide information on the steps taken to this end. The Committee trusts that the Government will not fail to provide information on the application in practice of sections 482(2), 484(2), 486(a) and 487(a) of the Criminal Code, in particular by providing copies of any court decisions handed down under these provisions which could define or illustrate their scope. The Committee requests the Government to provide information on the application in practice of section 613 of the Criminal Code which allows for the imposition of prison sentences of up to one year for defamation. The Committee also requests the Government to indicate the measures taken to ensure that no prison sentences, which involve compulsory prison labour, are imposed under this provision on persons for the expression of political views.

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

Guatemala

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1959)

The Committee notes the Government’s report and the observations made by the Guatemalan Union, Indigenous and Peasant Movement (MSICG), received on 3 September 2015.

Article 1(a), (c) and (d) of the Convention. Penal sanctions involving compulsory labour imposed for expressing opposition to the established economic and social system, for breaches of labour discipline or for participating in strikes. The Committee recalls that for many years it has been requesting the Government to amend sections 419, 390(2) and 430 of the Penal Code, as under these provisions prison sentences involving compulsory labour (in accordance with section 47

of the Penal Code) can be imposed to punish the expression of certain political views, as a means of labour discipline or for participation in a strike. Under the terms of section 419 of the Penal Code, “any public servant or employee who fails or refuses to carry out, or delays carrying out, any duty pertaining to his position or office, shall be punished with imprisonment of from one to three years”; under the terms of section 390(2), “any person committing an act intended to paralyze or disrupt an enterprise that contributes to the economic development of the country shall be punished with imprisonment of from one to five years”; and, finally, section 430 provides that “public servants, public employees and other employees or members of the staff of service enterprises who collectively abandon their jobs, work or service, shall be punished with imprisonment of from six months to two years. The penalties shall be doubled where such stoppage harms the public interest, and in the case of leaders, promoters or organizers of a collective stoppage”.

The Committee notes that the Government has not provided any information in its report on the measures taken to amend or repeal these provisions of the Labour Code. It refers to various provisions of the national legislation regulating prison work and indicates that work by convicted persons is part of their rehabilitation and cannot be considered to be of a compulsory nature. The Committee observes in this regard that, although section 65 of the Act on prison organization (Decree No. 33-2006) provides that during the treatment phase detainees *may* perform productive work, following authorization by the prison authorities, section 17 refers to work as “a right and a duty” and section 47 of the Penal Code provides that “work by detainees shall be *compulsory* and shall be paid.” ***Under these conditions, noting that, according to the Government, work by persons convicted to a sentence of imprisonment does not appear in practice to be of a compulsory nature, the Committee trusts that the Government will take the necessary measures to amend section 47 of the Penal Code accordingly.***

In this respect, the Committee recalls that sections 390(2) and 430 of the Penal Code have also been the subject of its comments in the context of its supervision of the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). It observes in this respect that, further to the complaint made under article 26 of the Constitution for non-observance by Guatemala of Convention No. 87, a roadmap was adopted by the Government in 2013 in consultation with the social partners. In this framework, the Government undertook to submit to the Tripartite Commission on International Labour Affairs draft texts of the necessary legislative reforms to ensure the conformity of the national legislation with Convention No. 87. ***The Committee therefore urges the Government to adopt the necessary measures with a view to amending or repealing the provisions of sections 419, 390(2) and 430 of the Penal Code to ensure, in accordance with Article 1 of Convention No. 105, that no person who participates in a strike or is in breach of labour discipline or opposes the established economic or social system may be penalized by a prison sentence involving compulsory prison labour.***

The Committee also notes that the Government has not replied to the allegations made in 2012, and reiterated in 2015, by the MSICG concerning the criminalization of social protest and trade union action. The MSICG referred to certain provisions of the Penal Code (and particularly section 256 of the Penal Code on the unlawful appropriation of property (*usurpación*)), which define the constituent elements of the offences that they criminalize in broad terms, such that conduct considered to be normal in the context of social protest, a strike or any other demonstration by society could be covered by these provisions and constitute a penal offence. ***The Committee once again requests the Government to provide information on this matter.***

Guyana

Forced Labour Convention, 1930 (No. 29) (ratification: 1966)

The Committee notes with *regret* that the Government’s report has not been received. It expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 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.

India

Forced Labour Convention, 1930 (No. 29) (ratification: 1954)

The Committee notes the observations made by the International Trade Union Confederation (ITUC) and the Garment Labour Union (GLU), received on 9 September 2015 and 22 October 2015, respectively, concerning the *Summangali* practice in the garment sector in Tamil Nadu affecting young women employed in spinning mills. The Committee also notes the observations made by the National Progressive Construction Workers Federation (NPCWF), received on 21 September 2015, concerning the failure of state governments to establish vigilance committees under the Bonded Labour System (Abolition) Act, 1976. ***The Committee requests the Government to provide its comments in this regard.***

Articles 1(1), 2(1) and 25 of the Convention. 1. *Bonded labour. Magnitude of the problem.* The Committee previously referred to the allegations made by the ITUC that bonded labour in agriculture and in industries like mining, brick kilns, silk and cotton production, and bidi making was likely to be affecting millions of workers across the country. The Committee requested the Government to undertake a national survey on bonded labour, involving the social partners and using any statistical methods it considers appropriate.

The Committee takes due note of the Government's indication in its report that such a national survey cannot be conducted using statistical tools adopted for the purpose of collecting data on a macro basis, but will require information to be collected by interviewing the affected persons about the nature of the exploitation and their service conditions in order to be able to identify whether they fall into the category of bonded labour. The Government reiterates that it has provided grants to state governments to conduct district-level surveys of bonded labour and that a large number of such surveys have already been conducted. The Committee notes the judgment handed down by the Supreme Court of India on 15 October 2012, a copy of which has been forwarded by the Government, which concludes that fresh surveys on bonded labour should be conducted every three years by all state governments through their district level and subdivisional vigilance committees, and that the findings of these surveys should be integrated in a computerized database available on all the websites concerned. Observing that many state governments previously reported "NIL status" for the existence of bonded labour, the Committee further notes that, the Supreme Court considers that the *Guidelines on the methodology for the identification of bonded labourers* published by the National Human Rights Commission (NHRC) should be followed by all state governments. ***Noting the Government's statement that it has already requested state governments to take appropriate action to implement the directives of the Supreme Court, the Committee once again urges the Government to prepare a nationwide survey on bonded labour, with the involvement of the social partners, by compiling, inter alia, the data collected from all the district-level surveys referred to above, conducted by all state governments. In the meantime, it requests the Government to provide a copy of all available district-level surveys conducted in this respect. The Committee trusts that the Government will provide information without delay on the magnitude of the problem of bonded labour in the country.***

Effective implementation of the legislative framework. In its previous comments, the Committee noted that the Bonded Labour System (Abolition) Act, 1976 (BLSA) establishes penalties for compulsion to render bonded labour, advancement of bonded debt and enforcement of any custom, tradition, contract, agreement or other instrument requiring any service to be rendered under the bonded labour system. ***Noting that the Government's report does not contain information in reply to its previous comments, the Committee again requests the Government to provide information on the measures taken or envisaged to ensure the proper functioning and effectiveness of the vigilance committees established by all state governments.***

Penal sanctions for the exaction of bonded labour. In its previous comments, the Committee noted the penalties of imprisonment for up to three years and a fine established under the BLSA 1976. The Committee notes the Government's repeated statement that the NHRC has been monitoring issues related to prosecutions and convictions under the BLSA 1976 and has handled complaints of alleged cases of bonded labour. The Committee notes the Government's indication that, in Odisha state, 48 cases were concluded with convictions in 2012 and 17 cases have been pending prosecution since 2006 and, in the Uttarakhand state, only one case is pending prosecution. The Committee notes with ***regret*** the lack of information in the Government's report on the penalties effectively applied, as well as on the number of prosecutions and convictions in alleged cases of bonded labour in the 33 remaining states and union territories which only report "NIL status". The Committee recalls that *Article 25* of the Convention provides that the exaction of bonded labour shall be punishable as a penal offence and it shall be an obligation of the State to ensure that the penalties imposed are really adequate and are strictly enforced. The Committee observes that the number of prosecutions and convictions concerning alleged cases of bonded labour referred to by the Government is very low in comparison to the important number of 297,413 bonded labourers who were identified and released and 277,451 who were rehabilitated up to 31 March 2013. ***The Committee urges the Government to take the necessary measures to strengthen the means of action of state authorities in order to ensure that cases of bonded labour are effectively prosecuted and that effective and sufficiently dissuasive penalties are applied to perpetrators of bonded labour. The Committee requests the Government to provide information on the number of prosecutions and convictions, as well as criminal penalties imposed under the BLSA 1976, and to supply copies of the relevant court decisions.***

2. *Forced labour of children. Legislative framework.* Further to its previous comments, the Committee notes with *interest* that the Protection of Children from Sexual Offences Act was adopted in May 2012 and that it strengthens the legal protection of children against sexual abuse and exploitation. The Committee notes the Government's indication that further amendments to the Child Labour (Prohibition and Regulation) Act, 1986 (CLPA), are currently being examined by Parliament in order to introduce a general prohibition of employing children below the age of compulsory education and children below 18 years in mines, explosives and the hazardous occupations determined in the Factories Act, and to establish strict penalties. The Committee notes the Government's statement that the adoption of the amendments to the CLPA 1986, referred to above, would enable India to ratify both the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182). The Committee further notes the Government's indication that inspections have been conducted at the central and state levels, but that no case of child labour was identified. While noting the Government's efforts to strengthen its legislative framework for the protection of children, the Committee notes with *regret* that there have been no prosecutions or convictions under the CLPA 1986. ***The Committee therefore requests the Government to take the necessary measures to ensure the effective application in practice of the CLPA 1986. In this regard, it asks the Government to provide information on the number of investigations and prosecutions, as well as the penalties imposed on perpetrators of forced labour of children. Please provide information on any developments concerning the adoption of the amendments to the CLPA 1986, referred to above.***

Compulsory labour of children in cotton production. In its previous comments concerning the observations received in 2010 from the Dakshini Rajasthan Majdoor Union (DRMU) containing allegations of widespread compulsory labour practices in cotton production in India, affecting migrant workers and children, in the states of Gujarat, Andhra Pradesh, Maharashtra and Tamil Nadu, the Committee noted the Government's indication that manufacturing of cotton is not banned under the CLPA 1986, but is covered by Part III of the corresponding regulations on the conditions of work of children. The Committee further noted the various legislative, rescue and rehabilitation measures implemented by the different state governments.

The Committee notes that, in its concluding observations of July 2014, the Committee on the Rights of the Child (CRC) reiterated its serious concern that, despite some efforts made by the State party, there are still a large number of children involved in economic exploitation, including child labour in hazardous conditions, such as mining, bonded labour in the informal sector and in agriculture (CRC/C/15/Add.228, CRC/C/IND/CO/3-4 and CRC/C/OPSC/IND/CO/1).

The Committee further notes the indication by the government of Gujarat that, as a result of bilateral meetings held with the bordering districts of the state of Rajasthan, check posts at suspected entry points of children migrating from Rajasthan have been established. These verifications are made by officers from the Labour and Employment Department two or three times during the three-month cotton season, and children travelling with their families are sent back to their native place. Regular inspections are also carried out in the cotton growing fields. The Committee notes that the government of Andhra Pradesh has conducted several awareness-raising programmes, with the assistance of ILO-IPEC, in order to eliminate child labour in cotton production. As a result of the inspections conducted, 47 children were found working in cotton production in 2011–12. The Committee further notes that the government of Maharashtra held awareness-raising activities concerning the compulsory labour of children and that the task force established under the CLPA 1986, composed by officers of the labour and women and child welfare departments, the police department and NGOs, have conducted 3,396 raids in suspected establishments leading to the arrest of 2,002 employers and the rescue of 5,321 children up to 31 March 2013. The Committee notes that no information has been provided on the compulsory labour of children in cotton production in Tamil Nadu. Further to its previous comments concerning the implementation of the National Child Labour Project (NCLP) scheme, under which child labourers were identified, rescued and enrolled in special schools before being mainstreamed into the formal education system, the Committee further notes the Government's indication that until now 7,311 special schools are operating within the NCLP, which benefited 967,000 children, who were mainstreamed into the formal education system. ***The Committee takes due note of the measures taken by the Government and encourages it to pursue its efforts, in particular within the framework of the NCLP scheme, to ensure that children working in cotton production are not engaged in hazardous work in Gujarat, Andhra Pradesh, Maharashtra, Tamil Nadu and other states concerned. It requests the Government to provide information on the number of prosecutions initiated, convictions and penalties imposed. It also requests the Government to provide information on the number of children rescued from forced labour in cotton production, and rehabilitated and socially integrated.***

3. *Culturally sanctioned practices involving sexual exploitation.* In its previous comments, the Committee referred to a communication received in 2007 from the ITUC concerning a culturally sanctioned practice known as "devadasi", under which lower caste girls were dedicated to local "deities" or objects of worship and once initiated as "devadasi" were sexually exploited by followers of the "deity" within the local community as they grew up. The Committee noted that the "devadasi" system constituted forced labour within the meaning of the Convention, since girls were dedicated as "devadasi" without their consent and were subsequently compelled to provide sexual services to the community under duress. The Committee also noted that several laws criminalize this practice and establish penalties of imprisonment of up to five years and a fine for those responsible for ceremonies and rituals of dedication, including the Karnataka Devadasis (Prohibition of Dedication) Act, 1982; the Maharashtra Devadasi Prohibition Act, 2005, and the

Devadasi Prohibition Rules, 2008; and the Andhra Pradesh Devadasi (Prohibition of Dedication) Act, 1988. However, the Committee noted that, despite the prohibition, the “devadasi” system and its regional variations continue to exist in practice.

The Committee notes with *interest* the adoption of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Ordinance (No. 1) of 2014, which provides, inter alia, that whoever, not being a member of a Scheduled Caste or Scheduled Tribe, performs or promotes dedicating a scheduled caste or a scheduled tribe woman to a deity, idol, object of worship, temple or other religious institution as a “devadasi” or any other similar practice shall be punishable with a fine and imprisonment for a term which shall not be less than six months, but which may extend to five years (section 3(i)(1)(k) of the Ordinance). The Committee further notes the updated information provided by the Government on the various rehabilitation programmes and measures being implemented in the states of Karnataka, Maharashtra and Andhra Pradesh in order to assist ex-“devadasis” and their children, including awareness-raising activities, health camps, pension schemes, skills development and training programmes, loans to take up various income-generating activities, assignment of land and construction of houses. The Government adds that, in the state of Andhra Pradesh, 8,852 “devadasis” have been rehabilitated so far. The Committee further notes that the government of Andhra Pradesh has constituted a One-Man Commission to study the situation of “devadasi” women and that their report and recommendations have been submitted to the Government. The Committee also notes that the National Commission for Women convened consultations with women’s commissions of Karnataka, Tamil Nadu, Andhra Pradesh and Telangana, and stressed the need to strengthen and effectively implement the law to tackle the “devadasi” system in the country, and asked the Government to make this report publicly accessible.

The Committee further notes that, in their concluding observations of July 2014, the Committee on the Elimination of Discrimination against Women (CEDAW) and the CRC expressed concern about the persistence of culturally sanctioned harmful practices such as, inter alia, the practice of “devadasi”, and the fact that the Government has not taken sufficient sustained and systematic action to modify or eliminate stereotypes and harmful practices (CEDAW/C/IND/CO/4-5 and CRC/C/OPSC/IND/CO/1). While noting the efforts made by the Government to legally ban the “devadasi” practice since the 1980s, the Committee notes with *concern* the persistence of this culturally sanctioned practice involving sexual exploitation. *The Committee therefore urges the Government to take the necessary measures to bring an end to the “devadasi” system in practice, including through enforcement of the legislation adopted in the different states. In this regard, the Committee requests the Government to provide information on the number of investigations, prosecutions and convictions concerning this culturally sanctioned harmful practice involving sexual exploitation, as well as the specific penalties imposed, including copies of the relevant court decisions. It also requests the Government to provide a copy of the report made by the One-Man Commission on the situation of “devadasi” women, specifying how the recommendations have been taken into account by the Government.*

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2000)

Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for the expression of political views or views ideologically opposed to the established system. For a number of years, the Committee has been referring to the following provisions of the Penal Code, under which penalties of imprisonment (which may involve compulsory prison labour under section 53 of the Penal Code, if an offender is sentenced to rigorous imprisonment at the discretion of the court exercised under section 60 of the Penal Code) could be imposed in circumstances falling within the scope of the Convention:

- section 124-A: sedition, i.e. bringing or attempting to bring into hatred or contempt or exciting disaffection towards the Government by words, either spoken or written, or by signs, or by visible representation, or otherwise;
- section 153-A: promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to the maintenance of harmony by words, either spoken or written, or by signs, visible representation or otherwise;
- section 153-B: imputations, assertions prejudicial to national integration, made by words, either spoken or written, or by signs, or by visible representation, or otherwise; and
- sections 295-A and 298: deliberate and malicious acts intended to outrage religious feelings by words, either spoken or written, or by signs, or by visible representation, or otherwise; or uttering words, etc., with deliberate intent to wound religious feelings.

The Committee once again notes the Government’s statement in its report that some of the above provisions (sections 124-A, 153-A, 153-B) refer only to imprisonment as such, and only two of them (sections 295-A and 298) provide explicitly for the imposition of punishment of either simple or rigorous imprisonment. The Committee nevertheless observes that, however, in both cases the court retains discretion under section 60 of the Penal Code to impose a sentence of rigorous imprisonment, and therefore a punishment involving compulsory labour.

The Committee notes the Government’s statement that high courts at the state and union territory levels have indicated that a small number of cases pertaining to the sections of the Penal Code referred to above have been registered. The Committee notes with *regret* that, although requested to do so in its previous comments, the Government does not

provide further information on the number and content of such cases nor on the sanctions applied, which does not enable the Committee to assess how the provisions of the Penal Code referred to above are applied in practice.

The Committee notes however from the website of the government of the state of Maharashtra that, on 27 August 2015, it issued a circular to police containing new guidelines with regard to section 124-A of the Penal Code, according to which sedition can be invoked against “whoever, by words, either spoken or written, or by signs or by visible representation, is critical of politicians or elected representatives belonging to the government”. The Committee notes that the circular was finally withdrawn as a result of protests from civil society and an order by Bombay High Court to withdraw it or issue a new circular. The Committee notes that several cases refer to sedition charges in states and union territories. It notes in this regard that, on 30 October 2015, the police in the state of Tamil Nadu arrested a folk singer under sedition charges for two songs that criticize the state government and that the singer was remanded in custody for 15 days.

The Committee further notes that the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on extrajudicial, summary and arbitrary executions considered that widespread deficiencies in the full implementation of the legal framework that guarantees fundamental freedoms in India, such as the Right to Information Act (RTI), at both central and state levels, have also adversely affected the work and safety of human rights defenders, especially those exposing mining corruption, environmental and poverty issues, land rights of marginalized communities and accountability concerns. While the enactment of the RTI in 2005 with the aim of ensuring access to information and transparency on violations of human rights, was a major achievement for India, the Special Rapporteurs were alarmed by reports of what is now commonly described as “right to information killings”. Twelve RTI activists were killed in 2010 and 2011 (A/HRC/19/55/Add.1 and A/HRC/23/47/Add.1).

The Committee notes that several United Nations bodies, as well as Special Rapporteurs, also refer to numerous allegations of arbitrary detention and violations of freedom of expression, peaceful assembly and association of human rights defenders and journalists under counter-terrorism legislation, such as: the National Security Act, 1980; the Unlawful Activities (Prevention) Act, 1963; the Armed Forces (Special Powers) Act, 1958; the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990; and the Chhattisgarh Special Public Safety Act, 2005. The Special Rapporteur on the situation of human rights defenders indicated that she was of the view that the broad and vague definitions of terrorism contained in these security laws had allowed the state apparatus to wrongfully target defenders (A/HRC/19/55/Add.1). In this regard, the Committee notes Opinion No. 45/2012 adopted by the Working Group on Arbitrary Detention concerning the arbitrary detention of a 15-year-old student under the Public Safety Act as a result of his alleged involvement in “anti-social activity aimed at disturbing public peace and tranquillity” (A/HRC/WGAD/2012/45). The Committee notes that, as a result, recommendations for the repeal of the Armed Forces (Special Powers) Act and the Armed Forces (Jammu and Kashmir) Special Powers Act were made by several United Nations bodies, as well as Special Rapporteurs (E/C.12/IND/CO/5, A/HRC/23/47/Add.1, A/HRC/26/38/Add.1, CEDAW/C/IND/CO/4-5 and A/HRC/19/55/Add.1). The Special Rapporteur on the situation of human rights defenders also recommended the repeal of the National Security Act, the Unlawful Activities Prevention Act and the Chhattisgarh Public Safety Act.

Noting all this information with **concern**, the Committee observes that the above provisions are worded in terms broad enough to lend themselves to being used as a means of punishment for the expression of views and, in so far as they are enforceable with sanctions involving compulsory labour, they fall within the scope of the Convention. The Committee draws the Government’s attention to the fact that legal guarantees of the rights to freedom of thought and expression, freedom of peaceful assembly, freedom of association, as well as freedom from arbitrary arrest constitute an important safeguard against the imposition of forced or compulsory labour as a punishment for holding or expressing political or ideological views, as a means of political coercion or education (see 2012 General Survey on the fundamental Conventions, paragraph 302). ***The Committee therefore urges the Government to amend or repeal the penal provisions referred to above (sections 124-A, 153-A, 153-B, 295-A and 298 of the Penal Code), as well as to ensure that the provisions of the National Security Act, 1980, the Unlawful Activities (Prevention) Act, 1963, the Armed Forces (Special Powers) Act, 1958, the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, and the Chhattisgarh Special Public Safety Act, 2005, are applied in such a manner that no penalties involving compulsory labour may be imposed for the peaceful expression of political views opposed to the established system, for example by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. The Committee requests the Government to provide information in its next report on any progress made in this respect. Pending the adoption of such measures, the Committee requests the Government once again to provide information on the application of these provisions in practice, including copies of any court decisions defining or illustrating their scope.***

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

Iraq

Forced Labour Convention, 1930 (No. 29) (ratification: 1962)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. The Committee notes with **interest** the adoption of Anti-Trafficking Law No. 28 of 2012. It notes in particular that the Law contains a detailed definition of the

constitutive elements of the crime of trafficking in persons, criminalizes trafficking in persons for sexual exploitation and forced labour, and establishes prison sentences of up to 15 years. Under section 2, a High Committee to Prevent Human Trafficking is also established to design plans and programmes to combat trafficking in persons. Finally, section 11 provides that victims of trafficking shall be provided with social, psychological and physical rehabilitation, as well as financial assistance and temporary shelter based on gender and age classification.

The Committee observes that, in its report of March 2015, the Office of the United Nations High Commissioner for Human Rights indicated that numerous interviews conducted with Yazidi women and girls who fled captivity from the Islamic State in Iraq and the Levant (ISIL) between November 2014 and January 2015 provided reliable information on killings, widespread and systematic enslavement, including the sale of women, rape, sexual slavery and inhumane and degrading treatment (A/HRC/28/18, paragraph 35).

The Committee further notes that in December 2015, the United Nations Human Rights Committee expressed concern about information that trafficking in persons and forced labour remain significant problems in Iraq. The Human Rights Committee recommended that the Government ensure that all cases of human trafficking and forced labour are thoroughly investigated; that perpetrators are brought to justice; and that victims receive full reparation and means of protection, including access to adequately resourced shelters. It should also adopt the measures necessary to guarantee that victims, in particular of trafficking for the purpose of sexual exploitation, are not punished for activities carried out as a result of having been subjected to trafficking (Advance unedited version, CCPR/C/IRQ/CO/5, paragraphs 31–32). *While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee urges the Government to take the necessary measures to prevent, suppress and combat trafficking in persons. In this regard, the Committee requests the Government to provide information on the application in practice of Anti-Trafficking Law No. 28 of 2012, indicating the number of investigations and prosecutions carried out, and the specific penalties applied. Finally, the Committee requests the Government to provide information on the measures taken to protect victims of trafficking.*

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

Japan

Forced Labour Convention, 1930 (No. 29) (ratification: 1932)

The Committee notes the Government's report, the observations of the All-Japan Shipbuilding & Engineering Union (AJSEU), received in September 2014, and the observations of the Labour Migrant Union, received in 2014 and 23 September 2015. The Committee also notes the additional information provided by the Government on 7 October 2015, which includes observations from the Japan Business Federation (NIPPON KEIDANREN) and the Japanese Trade Union Confederation (JTUC-RENGO).

Articles 1(1), 2(1) and 25 of the Convention. 1. *Victims of wartime sexual slavery or industrial forced labour.* The Committee recalls that it has been examining since 1995 the issues of wartime industrial forced labour and sexual slavery (so-called “comfort women”) during the Second World War. While recalling that it did not have power to order relief, the Committee expressed the firm hope that the Government would continue to make further efforts to achieve reconciliation with the victims, and that measures would be taken without further delay to respond to the claims being made by the aged surviving victims of wartime industrial forced labour and military sexual slavery.

The Committee notes that the AJSEU provides information on legal decisions in the Republic of Korea and China concerning wartime industrial forced labour. The AJSEU refers in particular to a decision of the Korean Supreme Court of Justice passed on 24 May 2012 which reversed the decisions of lower courts rejecting the demands for compensation by forced labour victims against two leading Japanese industries. Following this decision, the Retrial Courts (the Seoul and Pusan High Courts of Justice) ordered the companies to pay compensation to former victims of forced labour. The AJSEU indicates that regrettably the defendants filed an appeal to the Supreme Court of Justice, which means that plaintiffs who have since passed away will not know the outcome of their complaint. A number of law suits have been filed recently in relation to wartime industrial forced labour following the retrial judgment of the Supreme Court of Justice. The AJSEU further indicates that officials of these companies declared that they considered that the issue of compensation had been settled by the conclusion of the 1965 Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Cooperation between Japan and the Republic of Korea, for which reason they filed the appeal. The union considers that common awareness is developing that the issue should be solved for the sake of maintaining good relations with long-time business partners. The AJSEU believes that the issue should be settled while the victims are still alive and that the Government of Japan has the responsibility of ensuring good relations between its Asian neighbours and the people of Japan. The Union adds that a number of law suits have been filed against the Government of Japan and/or industries in China after the “First Middle Court” in Beijing accepted a complaint in this regard. Finally, the AJSEU points out that the issue of military sexual slavery continues to be examined by United Nations human rights bodies.

The Government indicates in its report that it has no intention of denying or trivializing the “comfort women” issue, which was a grave affront to the honour and dignity of a large number of women. The Government remains committed to the official position on this matter and has already expressed sincere apologies and remorse to the former “comfort women”. The people and Government of Japan cooperated to establish the Asian Women's Fund (AWF) in 1995 to

extend atonement from the Japanese people to the former “comfort women” and to ensure that their sincere feelings of apologies and remorse would reach the former “comfort women” to the greatest extent possible. The AWF gave atonement money from private sector donations to 285 women. The Government also refers once again to the letters of apologies and remorse signed by the Prime Minister, which were sent to the “comfort women” who received atonement money. The AWF also provided funds for medical and welfare support projects. After the completion of the last project in Indonesia, the AWF was dissolved in March 2007, but the Government has continued to implement follow-up activities. As part of this follow up, the Government reiterates that it entrusted the people who were involved in the AWF to implement visiting care activities and group counselling activities, which took place in 2015. The Government also points out that former “comfort women” who received or wanted to receive benefits from the AWF were subject to “harassment” from certain groups in the Republic of Korea. It was regrettable that not all the former “comfort women” benefited from the activities of the AWF owing to these circumstances. The Government considers that the efforts of the AWF should be recognized appropriately.

The Government adds that it has sincerely dealt with the issues of reparations, property and claims relating to the Second World War, including those related to the issue of “comfort women”, in accordance with its obligations under the San Francisco Peace Treaty. The issues of claims by individuals have been legally settled with the parties to these treaties, in particular the 1965 Agreement on the Settlement of Problems concerning Property and Claims and on Economic Cooperation between Japan and the Republic of Korea. In conclusion, the Government expresses concern at the dissemination of information and figures among the international community which lack corroborative evidence. The Government expresses the hope that Japan’s efforts are correctly recognized by the international community based on a correct recognition of the facts. Finally, the Government states that there were no court decisions regarding the “comfort women” and the “conscripted forced labourers” issues, nor any cases pending in Japanese courts between 2012 and 2015.

While observing the Government’s statement in reply to its earlier request for certain follow-up activities to be undertaken by the AWF to meet the “comfort women”, the Committee notes with **deep concern** that no concrete outcome has been achieved. ***The Committee expresses the firm hope that, given the seriousness and long-standing nature of the case, the Government will make every effort to achieve reconciliation with the victims, and that measures will be taken, without further delay, to respond to the expectations and claims made by the aged surviving victims of wartime industrial forced labour and military sexual slavery.***

Articles 1(1), 2(1) and 25 of the Convention. 2. *Technical Intern Training Programme.* The Committee recalls its previous comments on the Technical Intern Training Programme, which aims to develop the human and industrial resources of developing countries in order to ensure the transfer of industrial technology, skills and knowledge. Under this programme, foreign nationals can enter Japan as “interns” for one year and remain for another two years as “technical interns”. The programme is monitored by the Japan International Training Cooperation Organization (JITCO), under the supervision of the competent government organizations. It was revised in July 2010 with a view to strengthening the protection of interns and technical interns, particularly by granting them residence for “Technical Intern Training” for a maximum period of three years and the protection afforded by labour laws and regulations. In addition, dispatching organizations and receiving organizations and enterprises are prohibited from collecting deposits and penalty charges. The sanctions applicable to organizations found guilty of human rights abuses have been strengthened.

In its observations, the Labor Union of Migrant Workers considers that, despite the changes introduced in 2010, dispatching organizations continue to collect payments in the guise of pre-training or transport fees, which cause debts for interns and make them vulnerable to dismissal or expulsion, particularly as they are not permitted to change employer. The JTUC-RENGO indicates in this regard that 15.9 per cent of interns who have returned to their countries report that they were required to pay a deposit to the employment agency, with 78 per cent of those concerned saying that their deposit was not returned. The Labor Union of Migrant Workers refers to statistics of the Ministry of Health, Labour and Welfare which show violations of labour legislation by employers in the prefectures of Aichi and Gifu (imposition of overtime exceeding the legal limit, non-payment of wages, non-observance of occupational safety and health regulations and withholding of identity documents). The union also reports that the number of deaths among foreign interns is unusually high for persons who are young and healthy. Moreover, it cites a study conducted by the Administration Evaluation Bureau (AEB) of the Ministry of Internal Affairs and Communications that recommends better inspection of receiving organizations and enterprises and expresses reservations about the effectiveness of the supervision by JITCO in this respect. The study reports labour law violations committed by various receiving organizations and says that the interns are recruited in enterprises that have reduced their staff. Of the 846 entities employing interns, in 157 the number of interns makes up half of their staff, and 34 only employ interns. Lastly, the union indicates that while numerous violations are observed by the Labour Standards Inspection Office, few are referred to the Public Prosecutor’s Office.

In its reply, the Government indicates that the Immigration Bureau of the Ministry of Justice is working actively to monitor enterprises that receive interns. Any violation reported is notified to the enterprise and, where necessary, the right to receive new interns can be suspended for a period of five years. In 2014, notifications or suspensions were issued to 241 entities (compared to 230 in 2013 and 197 in 2012). Following inspections, guidance is provided to enterprises that are in violation of labour legislation, including in cases of forced labour, so that they rectify the situation. When serious violations are suspected, the Immigration Bureau works together with labour standards inspection offices, and the most serious cases are referred to the Public Prosecutor’s Office. In 2013, inspections were carried out and guidance provided to

2,318 workplaces. Violations of labour legislation were found in 1,844 cases, and 12 cases of serious violations were referred to the Public Prosecutor's Office. The Government also refers to the instructions that the Ministry of Health, Labour and Welfare has given to JITCO on conducting guidance visits and referring certain cases to the regional labour standards inspection offices. Between April 2014 and March 2015, JITCO carried out 7,210 visits and issued written guidance in 856 cases, requiring a report on the improvements made. Moreover, a Bill on technical intern training and the protection of technical interns was submitted to Parliament in March 2015. This Bill contains a series of measures, such as the establishment of a technical intern training organization, that would be able to conduct in situ inspections and manage a system to improve inspections through a mechanism of licences, records and authorizations for receiving entities. The Organization would appoint a focal point to receive reports from technical interns. With reference to the Bill, the JTUC-RENGO indicates that, while the proposed measures seek to protect technical interns and to "normalize" the programme, it needs to be ensured that these measures are implemented effectively and are effective before extending the programme to other occupations, as envisaged by the Government. In this regard, the Government indicates that the programme will only be extended to enterprises that meet certain criteria as an incentive to use the programme in an appropriate manner.

The Committee notes that, when examining the application of the International Covenant on Civil and Political Rights, the United Nations Human Rights Committee noted with concern that, despite the legislative amendments introduced to extend labour legislation to foreign technical interns, "there are still a large number of reports of sexual abuse, labour-related deaths and conditions that could amount to forced labour in the technical intern training programme" and it requested the Government to "consider replacing the current programme with a new scheme that focuses on capacity building" (CCPR/C/JPN/CO/6 of 20 August 2014).

Noting all this information, the Committee requests the Government to continue taking measures to strengthen the protection of foreign technical interns. Please also provide information on the adoption of the Bill on technical intern training and the protection of technical interns and on the measures taken in this context to strengthen the inspections carried out in enterprises that receive interns and to ensure that such interns have their rights protected and can effectively report the abusive situations to which they are subjected. The Committee also requests the Government to provide statistics on the number and nature of the violations reported, the number of cases that have led to prosecution and convictions, with an indication of the situations that gave rise to these convictions.

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

Kenya

Forced Labour Convention, 1930 (No. 29) (ratification: 1964)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

Articles 1(1) and 2(1) of the Convention. Compulsory labour in connection with the conservation of natural resources. For a number of years, the Committee has been referring to sections 13–18 of the Chief's Authority Act (Cap. 128), as amended by Act No. 10 of 1997, according to which able-bodied male persons between 18 and 50 years of age may be required to perform any work or service in connection with the conservation of natural resources for up to 60 days in any year. The Committee previously noted the Government's indication that sections 13–18 of the Chief's Authority Act referred to above had never been enforced and that the Chief's Authority Act would be replaced by the Administrative Authority Act. The Government states in its latest report that the Administrative Authority Bill which is intended to replace the Chief's Authority Act has been published and submitted to Parliament for debate and enactment. It also undertakes to communicate a copy of the new Act, once it is approved.

The Committee trusts that the Administrative Authority Act, which is intended to replace the Chief's Authority Act, will be adopted in the near future and that the legislation will be brought into conformity with the Convention and the indicated practice. It asks the Government to supply a copy of the Administrative Authority Act, as soon as it is adopted.

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.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1964)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

The Committee notes the adoption of the Constitution of Kenya, 2010, which contains provisions relating to the Bill of Rights (Chapter 4), including, in particular, provisions prohibiting slavery, servitude and forced labour (article 30), as well as provisions which guarantee freedom of expression (article 33) and freedom of the media (article 34), the right of peaceful assembly, demonstration and picketing (article 37) and the right to form a political party and to participate in its activities (article 38(1)).

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for expressing political views. Penal Code and the Public Order Act. For many years, the Committee has been referring to certain provisions of the Penal Code and the Public Order Act, under which sentences of imprisonment (involving compulsory labour under Rule 86 of the Prison Rules) may be imposed as a punishment for participating in certain meetings and gatherings or the publication, distribution or importation of certain kinds of publications. The Committee has been referring, in particular, to section 5 of the Public Order Act (Cap. 56), under which the police is entitled to control and direct the conduct of public gatherings and has extensive powers to stop or prevent the holding of public gatherings, meetings and processions (section 5 (8)–(10)), contraventions being punishable with imprisonment (sections 5(11) and 17), which involves compulsory labour. The Committee has been also

referring to section 53 of the Penal Code, under which printing, publishing, distributing, offering for sale, etc. of any prohibited publication is punishable with imprisonment; under section 52 of the Penal Code, any publication can be declared a prohibited publication, if it is necessary in the interests of public order, public morality or public health.

The Committee recalls that *Article 1(a)* of the Convention prohibits the use of “any form of forced or compulsory labour”, including compulsory prison labour, as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. Referring to paragraph 303 of its 2012 General Survey on the fundamental Conventions concerning rights at work, the Committee points out that the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite violence or engage in preparatory acts aimed at violence. But sanctions involving compulsory labour fall within the scope of the Convention if they enforce a prohibition of the peaceful expression of views or of opposition to the established political, social or economic system, whether the prohibition is imposed by law or by an administrative decision. Such views may be expressed orally or through the press or other communications media or through the exercise of the right of association (including the establishment of political parties or societies) or participation in meetings and demonstrations.

The Committee observes that the scope of the provisions of the Penal Code and the Public Order Act referred to above is not limited to violence or incitement to violence and may lead to the imposition of penalties involving compulsory labour as a punishment of various non-violent actions relating to the expression of views through certain kinds of publications and the participation in public gatherings.

The Committee therefore expresses the firm hope that the provisions of the Penal Code and the Public Order Act referred to above will be brought into conformity with the Convention (e.g. by limiting their scope to acts of violence or incitement to violence or by replacing sanctions involving compulsory labour with other kinds of sanctions, such as fines) and that the Government will soon be in a position to report on the progress made in this regard.

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.

Kuwait

Forced Labour Convention, 1930 (No. 29) (ratification: 1968)

The Committee notes the observations of the Confederation of Indonesia Prosperity Trade Union (KSBSI) and the Indonesia Migrant Worker Union (SBMI), received on 10 July 2015.

Articles 1(1) and 2(1) of the Convention. Freedom of domestic workers to terminate their employment. For a number of years, the Committee has been drawing the Government’s attention to the exclusion of migrant domestic workers from the protection of the Labour Code, and has requested the Government to take the necessary measures to adopt a protective framework of employment relations that is specifically tailored to the difficult circumstances faced by this category of workers. In this regard, the Committee previously noted the adoption of a certain number of decrees and ministerial decisions, including Decree Law No. 40/1992 and Ministerial Decision No. 617/1992 regulating the rules and procedures for obtaining licenses for the private recruitment agencies supplying domestic workers and similar workers, as well as Ministerial Decision No. 1182/2010, which defines the rights and obligations of each party in the recruitment contract (the agency, the employer, the employee).

The Committee notes that in their communications the KSBSI and the SBMI refer to a specific case of a migrant domestic worker who worked in Kuwait from 2003 until 2014, and who had been subject to forced labour practices, including physical abuse, harsh working conditions and passport confiscation. The KSBSI and the SBMI allege that more than 660,000 foreign domestic workers from Asia and Africa work in Kuwait. They generally migrate via recruitment agencies in their home countries that maintain relationships with agents in Kuwait. Most have agreed two-year contracts. The KSBSI and the SBMI also indicate that in 2009 embassies of labour-sending countries in Kuwait received more than 10,000 complaints from domestic workers about non-payment of wages, excessively long working hours without rest, and physical, sexual and psychological abuse. Many more cases of abuse probably remain unreported. Domestic workers have few avenues of redress. Kuwait’s labour law excludes domestic workers, while immigration laws prohibit them from leaving or changing jobs without their employer’s consent. Domestic workers who leave their job without their employer’s permission, even those fleeing abuse, may face immigration charges with criminal penalties, indefinite detention and deportation. Finally, the KSBSI and the SBMI emphasize that the major contributing factor to the vulnerability of domestic workers is Kuwait’s sponsorship system (*kafala*). The Aliens Residence Law of 1959, with its implementing regulations, remains the primary law establishing this system. According to the 1959 Law, sponsors decide whether a worker may change employer and can file paperwork with the immigration authorities to cancel a worker’s residence permit at any time.

The Committee notes the Government’s indication in its report that Law No. 68/2015 on employment of domestic workers has recently been adopted. The Committee duly notes that the Law provides for the respective obligations of the employer and the worker, particularly with regard to the model contract issued by the Ministry of the Interior in Arabic and English, hours of work, remuneration and rest time, as well as holidays. The Committee notes in particular that sections 12 and 22 of the Law expressly prohibit passport confiscation by the employer. It also notes that the contract between the employer and the domestic worker is concluded for a period of two years and can be renewed for a similar period, unless one of the two parties notifies the other at least two months before the end of the two-year contract. The Committee finally notes that domestic workers can file a complaint with the Domestic Labour Department and seek redress, for instance, for the non-payment of wages or for any other matter.

The Committee notes with *concern* the indications by the unions that migrant domestic workers are vulnerable to abusive practices and working conditions that may amount to the exaction of forced labour. *While recognizing that Law No. 68/2015 on employment of domestic workers constitutes a positive step towards improving the protection of migrant domestic workers, the Committee urges the Government to take the necessary measures to ensure that it is effectively applied. The Committee requests the Government to provide information on the application in practice of Law No. 68/2015, including a copy of the model contract issued by the Ministry of the Interior, as well as data on the number of domestic workers who have filed complaints with the Domestic Labour Department and the outcome of such complaints. With regard to the right of domestic workers to freely terminate their employment, the Committee requests the Government to indicate the manner in which migrant domestic workers are appraised of the right to terminate their two-year employment contract, with a two-month notice period, and to change employer or leave the country.*

Articles 1(1), 2(1) and 25. 1. *Trafficking in persons.* In its previous comments, the Committee requested the Government to indicate the measures taken or envisaged, in both law and practice, to prevent, suppress and punish trafficking in persons, including victim protection measures, as well as any intention to introduce penal provisions aimed specifically at the punishment of trafficking in persons. The Committee notes with *interest* the adoption of Law No. 91 of 2013 on trafficking in persons and smuggling of migrants, which aims to punish trafficking and related offences and provides for stringent penalties for offences related to trafficking in persons (15 years and a fine). *The Committee requests the Government to provide information on the application in practice of the Law on trafficking, indicating the number of investigations and prosecutions carried out, and the penalties applied. The Committee also requests the Government to provide information on the measures taken to protect victims of trafficking.*

2. *Penal sanctions for the exaction of forced labour.* In its earlier comments, the Committee observed that the national legislation examined previously provides only for pecuniary sanctions for the exaction of forced labour which should be punishable as a penal offence, with really adequate penalties. The Committee notes that the Government refers to several penal provisions, including: (i) sections 49 and 57 of Law No. 31 of 1970 amending the Penal Code; (ii) section 121 of the Penal Code prohibiting public officials or employees from forcing a worker to perform a job for the State or for any public body; and (iii) section 173 of the Penal Code, which provides for the imposition of penalties of imprisonment on anyone who threatens another person physically or damages his or her reputation or property with a view to forcing the victim to do something or to refrain from doing something. The Committee also notes that under section 185 of the Penal Code the enslavement, purchase or offering of a person is punishable by a term of five years of imprisonment and a fine. *The Committee requests the Government to provide information on the application in practice of the above provisions of the Penal Code, indicating the number of investigations, convictions and the penalties applied.*

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

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, under section 63 of the Penal Code), had been declared unconstitutional by the Constitutional Court in 2006. It also noted that a draft law on public meetings and assemblies had been prepared in 2008. It noted however that the scope of certain provisions of the draft law (sections 10 and 15) were not limited to acts of violence (or incitement to violence), armed resistance or uprising, but seemed 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. The Committee requested the Government to take the necessary measures to ensure that the provisions of the draft law on public meetings and assemblies of 2008 would be modified.

The Committee notes the Government's indication that the draft law on public meetings and assemblies has not yet been adopted, and that the Committee's comments with regard to the necessity to amend certain sections of the draft law will be given full consideration. *The Committee accordingly requests the Government to take the necessary measures without delay to bring the national legislation regulating public meetings and assemblies into conformity with the Convention in order to ensure that no prison sentences involving compulsory labour are imposed on persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. The Committee requests the Government to provide a copy of the law on public meetings and assemblies once it has been adopted.*

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

Lebanon

Forced Labour Convention, 1930 (No. 29) (ratification: 1977)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 communication from the International Trade Union Confederation (ITUC) dated 21 August 2013, 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 an 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 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 adequate and dissuasive penalties are applied to persons who subject these workers to conditions of forced labour. It asks the Government to supply 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 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.

Malawi

Forced Labour Convention, 1930 (No. 29) (ratification: 1999)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1(1) and 2(1) of the Convention. Debt bondage. In its previous comments, the Committee raised the issue of forced labour in tobacco plantations in response to allegations from various workers' organizations. It noted that the Government denied these allegations, stating that the labour inspectors of Malawi had never heard of such cases and that no forced labour complaint had been filed. The Committee also noted that, in its 2010 report for the periodic review of the General Council of the World Trade Organization (WTO) regarding trade policies of Malawi, the International Trade Union Confederation (ITUC) highlighted that in plantations, especially in tobacco farms, tenant labourers are exploited through an indebtedness system and coerced into labour by the landlords.

The Committee notes the Government's brief indication in its latest report that the Tenancy Labour Bill was discussed at Cabinet level and has been referred back to the Ministry of Labour for further revision. The Committee also notes the statement in the report of the UN Special Rapporteur on the right to food, of January 2014, that an estimated 300,000 tobacco tenant families live in extremely precarious situations in the country. The Special Rapporteur highlights that the incomes of tenant families depend on the quantity and quality of tobacco sold to the landowner in each harvest season and that, in some cases, families are left without any income once they reimburse loans covering their food requirements during the growing season (A/HRC/25/57/Add.1, paragraph 47). Referring also to the explanations contained in paragraph 294 of its 2012 General Survey on the fundamental Conventions, the Committee recalls that the manipulation of credit and debt by employers is still a key factor that traps vulnerable workers in forced labour situations. For example, poor agricultural workers may be induced into indebtedness through accepting relatively small but cumulative loans or wage advances from employers at times of scarcity. ***The Committee therefore reiterates its hope that the Government will take the necessary measures to expedite the adoption of the Tenancy Labour Bill with a view to strengthening the protection of tenant labourers against the debt mechanisms that may result in debt bondage. The Committee requests the Government to supply a copy of the law once it is adopted.***

Trafficking in persons. The Committee notes the Government's indication that a draft bill on human trafficking is ready to be submitted to Parliament. The bill would address issues concerning both internal and cross-border trafficking. The Government further indicates that it is carrying out activities to help sensitize courts, the police and communities on the issue of trafficking. The Committee also notes the Government's indication that cases of trafficking are currently prosecuted under provisions of the Penal Code, in cases of adult victims, and of the Child Care, Protection and Justice Act (2010), in cases of child victims.

The Committee notes, however, that the UN Human Rights Committee, in its concluding observations of July 2014, expresses concern about the delays in adopting specific anti-trafficking legislation, the prevalence of trafficking in the country and the lack of official data available on its extent. The UN Human Rights Committee also expresses regret regarding the lack of adequate programmes to protect and support victims (CCPR/C/MWI/CO/1/Add.1). ***The Committee accordingly requests the Government to take the necessary measures to ensure the adoption in the very near future of comprehensive legislation against trafficking in persons, including adequate sanctions allowing those responsible for trafficking to be prosecuted and punished. The Committee also requests the Government to provide information on the measures adopted with a view to protecting and assisting victims of trafficking. Finally, the Committee requests the Government to provide detailed information on the specific measures taken to prevent and combat trafficking in persons, as well as statistics on the number of cases of trafficking examined by the authorities and specific penalties applied.***

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.

Mauritania

Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, May–June 2015)

Articles 1(1), 2(1) and 25 of the Convention. Slavery and the vestiges of slavery. In its previous comments, the Committee urged the Government to take all the necessary measures to continue to combat slavery and its vestiges and to ensure that victims of slavery are effectively able to assert their rights. The Committee referred in this respect to the establishment of the Tadamoun Agency (the National Agency to Combat the Vestiges of Slavery) and the adoption in March 2014 of the roadmap to combat the vestiges of slavery. The Committee notes the discussion in June 2015 in the Committee on the Application of Standards of the International Labour Conference, the observations made by the General Confederation of Workers of Mauritania (CGTM), received on 28 August 2015, the observations of the International Trade Union Confederation (ITUC), received on 1 and 29 September 2015, and the Government's report and its reply to the observations of the CGTM and the ITUC, received on 9, 12 and 31 October 2015, respectively.

(a) *Effective application of the legislation.* The Committee previously emphasized that, despite the adoption of Act No. 2007/48 of 9 August 2007 criminalizing and punishing slavery-like practices, victims continue to face problems in asserting their rights with regard to both the administrative and the judicial authorities. Only one court ruling has been issued under this Act. In its report, the Government indicates that the 2007 Act was repealed by Act No. 2015-031 of 10 September 2015 criminalizing slavery and punishing slavery-like practices. The Committee observes that this new Act reproduces the main provisions of the previous Act, but defines in greater detail the elements that constitute slavery, the cession of persons, serfdom and debt bondage, while increasing the related penalties. In addition to empowering associations for the defence of human rights to denounce violations and assist victims, the Act henceforth provides for the possibility for those which have benefited from legal personality for at least five years to take legal action and be a party to civil proceedings (section 23). Section 20 provides for the establishment of collegial courts to hear cases of offences relating to slavery and slavery-like practices. Finally, section 25 provides that the courts are bound to maintain the compensation rights of victims. The Committee also notes the adoption on the same date of Act No. 2015-032

establishing legal aid, which sets up a system of legal aid to cover the costs normally borne by the parties for persons who are poor or with low incomes.

With regard to court cases, the Government indicates that 31 cases of slavery-like practices have been heard by the courts, which have resulted in one case of imprisonment (for two years), judicial review, fines, civil compensation for the victims and acquittals. The Tadamoun Agency has also been a party in civil proceedings in a number of cases relating to the exploitation of slavery. In its observations, the ITUC refers to reticence by the administrative and police authorities to investigate cases of slavery brought to their knowledge by associations. Similarly, the investigatory authorities have a tendency to shelve cases without follow up, and the judicial authorities to re-classify the facts to avoid the application of provisions criminalizing slavery.

The Committee observes that, although more cases are being brought to court, difficulties persist in obtaining the conviction of those responsible with the imposition of really dissuasive penal sanctions. The Committee recalls that, under the terms of *Article 25* of the Convention, States are under the obligation to ensure that the penal sanctions established by law for the exaction of forced labour are really adequate and are strictly enforced. It emphasizes in this regard that the victims of slavery are in a situation of great economic and psychological vulnerability which requires specific action by the State. *The Committee therefore trusts that the adoption of Act No. 2015-031 will be accompanied by specific measures demonstrating the Government's will to ensure its effective enforcement and that, for this purpose, the police, prosecutors and judges will be trained, their awareness raised and that they will be provided with adequate means to conduct investigations, gather proof and initiate judicial proceedings rapidly, effectively and impartially throughout the national territory. The Committee requests the Government to indicate the measures taken for the establishment of specialized collegial courts to hear cases of offences relating to slavery. Finally, the Committee requests the Government to provide information on the number of cases of slavery denounced to the authorities, the number for which an investigation has been conducted, the number which resulted in judicial action and the number and nature of the sentences imposed. Please also indicate the manner in which, in practice, victims of slavery are compensated for the damages suffered, in accordance with section 25 of the Act.*

(b) *Strategic and institutional framework to combat slavery.* The Committee previously welcomed the adoption in March 2014 of the roadmap to combat the vestiges of slavery, which contains 29 recommendations covering the legal, economic and social fields, as well as awareness raising, and it requested the Government to take appropriate measures for their implementation. In its report, the Government refers to the establishment of an Interministerial Technical Committee to follow up the implementation of the roadmap, under the direct supervision of the Prime Minister, as well as a technical follow-up commission. The Interministerial Technical Committee adopted a plan of action for the implementation of the recommendations. In this regard, the Government provides information on the progress made in the implementation of certain recommendations, and particularly on the awareness-raising campaigns conducted among target groups, civil society and religious leaders. Finally, the Government refers to a number of social and economic programmes developed by the Tadamoun Agency for the construction of school infrastructure in remote areas, the provision of drinking water, the construction of sanitary infrastructure and the building of social housing. According to the Government, these programmes, which benefit the most underprivileged categories of the population, generate employment and enable families to send their children to school. In this regard, the Committee notes that the ITUC regrets the focus by the Tadamoun Agency on poverty reduction to the detriment of other aspects of its mandate, and that trade unions and associations engaged in combating slavery are excluded from its activities.

The Committee notes all of this information and encourages the Government to continue implementing the recommendations of the roadmap and to provide detailed information on the activities undertaken in this respect by the Interministerial Technical Committee. The Committee also hopes that the Government will ensure that the necessary means are provided to the Tadamoun Agency in order to adopt the more immediate measures needed to combat forced labour such as awareness raising, as well as to combat the deep-rooted causes and factors which maintain persons in a situation of dependency, in which it is impossible for them to give free and informed consent to the work imposed upon them.

(c) *Assessment of the real situation with regard to slavery and awareness raising for society as a whole.* The Committee notes that both the CGTM and the ITUC emphasize in their observations that there still persist substantial and lasting practices of slavery which are anchored in traditions and culture. In the view of the CGTM, it is time for egalitarian and just social transformations to be introduced for all categories of society, and for the social partners, and society in general to be engaged in genuine promotional, awareness-raising and educational campaigns for citizens to combat systematically any form of forced labour. The ITUC considers that the refusal of certain authorities to recognize fully the existence of slavery by only referring to its vestiges is an obstacle to the eradication of slavery in Mauritania. It also describes the obstacles placed by the Government in the way of action by trade unions or associations combating slavery with reference to the intervention of the authorities to prevent the organization by the Free Confederation of Mauritanian Workers (CLTM) of an awareness-raising campaign, and the arrest of activists during another awareness-raising campaign.

The Committee recalls that, in view of the complexity of the phenomenon of slavery and its vestiges, the Government should take action in the framework of a global strategy covering the fields of awareness raising and prevention, cooperation with civil society, the protection and reintegration of victims, particularly through specific

programmes enabling them to escape from their situation of economic and psychological dependence, and the reinforcement of the capacities of the investigatory and judicial authorities with a view to the effective and dissuasive enforcement of the law. *The Committee urges the Government to continue taking all the necessary measures to mobilize all of the competent authorities and the whole of society to combat slavery and to provide information on this subject. It also encourages the Government to undertake research as a basis for making an assessment of the nature and prevalence of slavery in Mauritania in order to improve the planning of public interventions.*

Finally, the Committee hopes that, in line with the interest expressed by the Prime Minister in a communication to the Director-General of the ILO in February 2015, and as reiterated by the Government representative to the Conference, the Government will be able to benefit from ILO technical assistance.

Mexico

Forced Labour Convention, 1930 (No. 29) (ratification: 1934)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Institutional framework to combat trafficking. The Committee previously encouraged the Government to pursue its efforts to combat trafficking in persons, including through the implementation of the legal and institutional framework provided for in the 2012 General Act for the prevention, punishment and eradication of offences related to trafficking in persons and protection and assistance for the victims of such offences. The Committee notes the detailed information provided by the Government on the steps taken to combat trafficking. It notes in particular that the Inter-Ministerial Committee set up to prevent, penalize and eradicate trafficking in persons publishes an annual report every year, compiling the information received from the competent judicial, legislative and executive bodies in the following six areas: legislative progress, prevention and awareness raising; inter-institutional cooperation; protection of victims; penalization of the offence; and international cooperation. It emerges from these reports that a large number of activities have been developed throughout the country, including training and capacity-building workshops conducted by federal bodies such as the National Institute for Migration, the federal police, the national judiciary (more than 10,000 public servants have taken part) and federated entities (34,000 public servants affected), awareness-raising campaigns, and the dissemination of information materials to the general public aimed at certain sectors, such as tourism, as well as migrant workers through consulates abroad. The Committee also notes the adoption on 30 April 2014 of the second National Programme for the Prevention, Punishment and Eradication of Offences related to Trafficking in Persons and the Protection and Assistance for Victims. This Programme, which covers the period 2014–18, contains an assessment of the situation in the fight against trafficking, which highlights: the inadequacy of the preventive measures taken to combat this crime; the lack of consistency in the care, protection and assistance afforded to victims; shortcomings of the authorities empowered to conduct investigations and legal proceedings; and the lack of accountability and access to information. Based on this assessment, the National Programme has four strategic objectives, with types of intervention (79 in all), strategies and indicators for each. *The Committee hopes that the Government will continue taking the necessary measures to implement the four strategic objectives of the National Programme (prevention, protection of victims, effective penalization of the offence and accountability and access to information) and that it will regularly assess the measures taken in this context, in accordance with the provisions of sections 93 and 94 of the 2012 Act. Noting that, according to the assessment carried out in the framework of the National Programme, emphasis was placed on the issue of strengthening coordination and collaboration between the various institutions of the judicial, legislative and executive authorities, the Committee requests the Government to indicate the measures taken in this respect by the Secretariat of the Interior, as well as those taken to continue strengthening the capacities of the Inter-Ministerial Committee.*

2. Involvement of public servants in trafficking in persons. In its previous comments, the Committee referred to allegations of complicity and direct participation by law enforcement officers in trafficking in persons. In this regard, the Committee notes that the Government only provides statistics on the administrative penalties imposed on officials of the National Institute for Migration for disciplinary offences, such as abuse of authority, mistreatment and negligence, as well as explanations on the disciplinary procedures applicable to such officials. The Committee recalls that victims of trafficking in persons are often in a situation of considerable vulnerability. It is therefore crucial for them to be able to trust the authorities responsible for their protection. The Committee notes that the National Programme specifies that the Government should make transparency one of the main elements of the new relationship between the Government and society to ensure greater accountability and combat corruption. *The Committee trusts that the Government will take all the necessary measures to ensure that the appropriate administrative and criminal investigations are conducted and, where appropriate, that public servants who are found guilty are punished.*

3. Protection of victims. The Committee notes that the 2012 Act establishes in a detailed manner the rights and comprehensive protection that is to be afforded to victims (sections 59 to 83). It notes that, according to the 2014 activity report of the Inter-Ministerial Committee, 1,481 victims were identified (437 by federal authorities and 1,044 by state entities). Moreover, 1,108 operations were carried out, freeing 789 persons who were able to benefit from 20,328 protection and assistance measures. At the federal level, under the auspices of the Inter-Ministerial Committee, a Protocol has also been drawn up on the use of procedures and resources to rescue, assist and protect victims of trafficking, establishing specific guidelines for all the authorities involved from the identification of victims to their social

reintegration. *The Committee hopes that the Government will continue taking measures to ensure the safety and protection of victims of trafficking throughout the country, so that they are able to assert their rights before the competent authorities. Please also indicate the measures taken to promote the reintegration of victims, particularly Mexican victims returning to the country.*

4. *Article 25. Adequate and strictly enforced penalties.* In its previous comments, the Committee noted that the 2012 Act confers special powers to the Public Prosecutor's Office and the police to combat trafficking in persons and it requested the Government to provide information on the judicial proceedings under way and on the convictions that have been handed down under the Act. The Government indicates that the staff of the unit specializing in offences of violence against women and trafficking in persons (FEVIMTRA) within the Public Prosecutor's Office is regularly provided with training and that, between July 2014 and June 2015, 107 training activities were carried out by the Public Prosecutor's Office with a view to a more effective contribution to investigations and care for victims. The Government also indicates that, between June 2012 and June 2015, nine court rulings were issued under provisions of the Penal Code criminalizing trafficking, including seven convictions. In five cases, the court ordered the persons found guilty to provide redress for the prejudice suffered by the victim. Moreover, as of 30 June 2015, 73 criminal proceedings had been initiated under the 2012 Act. The Committee notes that the annual reports of the Inter-Ministerial Committee emphasize that one of the biggest obstacles to overcome is the impunity that surrounds the crime of trafficking in persons, despite the considerable increase in judicial proceedings in recent years as a result of the training activities undertaken, particularly at the federal level. *In the light of the complexity of the crime of trafficking in persons, the Committee requests the Government to continue taking the necessary measures to strengthen the capacities of the police, labour inspection and public prosecution authorities to improve identification of the victims of trafficking, both for sexual exploitation and labour exploitation, to conduct thorough investigations and to gather the evidence required to prosecute and, in accordance with Article 25 of the Convention, impose really adequate penalties. In this regard, the Committee requests the Government to indicate the measures taken to ensure greater coordination among the various state bodies in this area and to provide information on the judicial proceedings under way, the convictions handed down and the manner in which the victims have been compensated for the prejudice suffered.*

Morocco

Forced Labour Convention, 1930 (No. 29) (ratification: 1957)

Articles 1(1) and 2(1) of the Convention. Trafficking in persons. In its previous comments, the Committee noted the absence of provisions in the legislation explicitly criminalizing trafficking in persons, and accordingly it encouraged the Government to take the necessary measures for the adoption of comprehensive legislation to combat trafficking in persons.

The Committee notes the Government's indication that, during the course of 2014, a number of activities were undertaken in the field of trafficking in persons, including a study visit to France and Belgium to gain familiarity with systems for the identification, protection and assistance of victims of trafficking, a training workshop for judges and representatives of the ministerial departments concerned with trafficking, and information and awareness-raising campaigns.

However, the Committee notes that an appropriate legislative framework to combat trafficking in persons has still not been established, despite the recommendations made by the Special Rapporteur on trafficking in persons, especially women and children, during her visit in June 2013. The Committee notes that, according to the Special Rapporteur, there is no specific definition of trafficking in persons in the legislation and that, despite the existence of other relevant provisions on trafficking, such as in the Penal Code, significant gaps remain (A/HRC/26/37/Add.3, paragraph 24). The Committee also notes that a Bill to combat trafficking in persons has been formulated and is in the process of being adopted.

The Committee firmly urges the Government to take the necessary measures for the adoption of legislation to combat trafficking in persons and to provide a copy of the final text when it has been adopted. The Committee also requests the Government to provide information on the court proceedings initiated in cases of trafficking and, where appropriate, the penalties imposed.

Article 2(2)(d). Requisitioning of persons. For many years, the Committee has been drawing the Government's attention to the need to amend or repeal several legislative texts which authorize the requisitioning of persons and property to meet national needs (the Dahirs of 10 August 1915 and 25 March 1918, reproduced in the Dahir of 13 September 1938 and reintroduced by Decree No. 2-63-436 of 6 November 1963).

The Committee notes the Government's indication that the Constitution of 2011 establishes the principle of solidarity in bearing the burden arising out of cases of force majeure. The Government adds that the Dahirs of 25 March 1918 on civil requisitions and of 11 May 1931 on requisitions to maintain public security, tranquillity and health are only applicable in practice in cases of force majeure.

The Committee recalls once again that the texts referred to above exceed the scope of the exception provided for under Article 2(2)(d) of the Convention, under the terms of which powers of requisitioning, and therefore to impose

labour, should be limited to any circumstance that would endanger the existence or the well-being of the whole or part of the population. ***The Committee therefore urges the Government to take the necessary measures to ensure the repeal or amendment of the Dahir of 1938 in order to ensure the conformity of national laws and regulations with the Convention and with the practice described above.***

Article 25. Application of really adequate penal sanctions. For many years, the Committee has been drawing the Government's attention to the undissuasive nature of the penalties set out in section 12 of the Labour Code against persons requisitioning employees to perform forced labour against their will (a fine of between 25,000 and 30,000 dirhams (MAD) and, in the event of repeated offences, a fine of double that amount and imprisonment for between six days and three months, or one of these two penalties).

The Committee notes the Government's indication that only the public authorities can have recourse to powers of requisitioning to confront urgent needs of the population, and that no individual can exercise such powers. Furthermore, penalties are established in the Labour Code to prevent any attempt to requisition employed persons to carry out forced labour. The Government adds that the Committee's comments will be taken into consideration in the forthcoming revision of the Penal Code. It adds that labour inspectors have not reported any cases of the violation of the legislative provisions respecting forced labour, and that no rulings have been issued by the competent courts.

The Committee expresses its **concern** as to the lack of dissuasive nature of the penalties set out in section 12 of the Labour Code and recalls that a fine or a short prison sentence cannot be considered an effective penalty in view of the gravity of the offence, on the one hand, and the need for the penalties to be of a dissuasive nature, on the other. ***The Committee therefore hopes that, in the context of the current review of the Penal Code, the Government will take the necessary measures to criminalize forced labour so as to ensure that persons who have recourse to forced labour are liable to really adequate and dissuasive penal sanctions.***

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1966)

Article 1(a) of the Convention. Imposition of prison sentences involving the obligation to work as a punishment for expressing political views. Since 2004, the Committee has been drawing the Government's attention to certain provisions of the Press Code (sections 20, 28, 29, 30, 40, 41, 42, 52 and 53 of Dahir No. 1-58-378 of 15 November 1958, as amended by Act No. 77-00 of 3 October 2002) penalizing several press-related offences by sentences of imprisonment which, under the terms of sections 24, 28 and 29 of the Penal Code and section 35 of Act No. 23-98 on the organization and operation of prisons, involve the obligation to work in prison.

The Committee once again notes the Government's indication that the revision of the Press Code is still under way, and that provisions are envisaged to amend the sections that are not in accordance with the Convention. According to the Government, the new Code will set out the provisions of the new Constitution, including those establishing guarantees of the freedom and practice of journalism. The Committee notes this information. With reference to its 2012 General Survey on the fundamental Conventions, paragraph 302, the Committee recalls that sanctions involving compulsory labour, including compulsory prison labour, are not compatible with **Article 1(a)** of the Convention when they are used to punish a prohibition to express peacefully views opposed to or non-violent opposition to the established political, social or economic system. ***The Committee once again requests the Government to take the necessary measures without delay to bring its legislation into conformity with the Convention. In this regard, it hopes that the new Press Code will be adopted very soon and that it will abolish penal sanctions, and particularly sentences of imprisonment for press-related offences. Pending the adoption of such measures, the Committee requests the Government to provide information on the number of cases in which national courts have had recourse to the above provisions of the Press Code, and the sanctions imposed.***

Article 1(d). Imposition of prison sentences involving an obligation to work as punishment for having participated in strikes. For a number of years, the Committee has been drawing the Government's attention to section 288 of the Penal Code, under the terms of which any person who, through the use of threats or deception, causes or maintains, or endeavours to cause or maintain a concerted stoppage of work with the aim of forcing an increase or decrease in wages or jeopardizing the free exercise of industry or work, shall be liable to a sentence of imprisonment of from one month to two years. The Committee noted the Government's indication that a Bill regulating the right to strike is in the process of being adopted, and that the national courts have not had recourse to the provisions of section 288 of the Penal Code.

The Committee notes the Government's indication that a preliminary draft Basic Act on the exercise of the right to strike is under consultation with the economic and social partners, and that the revision of section 288 of the Penal Code is also envisaged as part of the current reform of the Penal Code. ***The Committee hopes that, in the framework of this process, the new legislative texts will be in conformity with the Convention, and that it will not be possible to impose sentences of imprisonment involving the obligation to work on workers for peaceful participation in strikes. The Committee requests the Government to provide copies of the new legislative texts when they have been adopted.***

Myanmar

Forced Labour Convention, 1930 (No. 29) (ratification: 1955)

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

For a number of years, the Committee has been examining this case and it is pleased to note the various positive developments that have occurred in Myanmar since its previous examination of the case in December 2012, including with regard to the application of this Convention.

Historical background

The Committee has, over a number of years, been following up the effect given to the recommendations of the Commission of Inquiry, appointed by the Governing Body in March 1997 under article 26 of the Constitution. In its recommendations, the Commission of Inquiry urged the Government to take the necessary steps to ensure that:

- the relevant legislative texts, in particular the Village Act and the Towns Act, be brought into line with the Convention;
- in actual practice, no more forced or compulsory labour be imposed by the authorities, in particular the military; and
- the penalties which may be imposed under section 374 of the Penal Code for the exaction of forced or compulsory labour be strictly enforced, which required thorough investigation, prosecution and adequate punishment of those found guilty.

Appointment of an ILO Liaison Officer

In 2002, an Understanding was agreed between the Government of Myanmar and the ILO that permitted the appointment of an ILO Liaison Officer in Myanmar who was tasked with supporting the Government in the elimination of forced labour, and monitoring forced labour policy and practice within Myanmar.

The Supplementary Understanding of 26 February 2007 – Extension of the complaints mechanism

In its earlier comments, the Committee referred to the Supplementary Understanding (SU) of 26 February 2007 between the Government and the ILO, which supplemented the earlier Understanding of 19 March 2002 concerning the appointment of an ILO Liaison Officer in Myanmar. The Committee noted, in particular, that the SU set out a complaints mechanism with the object “to formally offer the possibility to victims of forced labour to channel their complaints through the services of the Liaison Officer to the competent authorities with a view to seeking remedies available under the relevant legislation and in accordance with the Convention”. The Committee noted previously that the SU was extended for the fifth time on 23 January 2012 for a further 12-month period from 26 February 2012 until 25 February 2013. Since then, and in order to ensure the legal framework for the ILO’s renewed cooperation in Myanmar, the Committee notes that the SU has been extended on an annual basis and that at its 325th Session in October–November 2015, the Governing Body decided to extend the SU for a further 12 months from January 2016 (GB.325/INS/7).

2012 Memorandum of Understanding between the Government of Myanmar and the ILO

The Committee notes that in March 2012 a Memorandum of Understanding (MoU) was reached between the Government of Myanmar and the ILO, agreeing to a structured plan of action to implement a comprehensive joint strategy with the objective of achieving the elimination of all forms of forced labour by 2015.

2013 resolution concerning the measures on the subject of Myanmar adopted by the Conference

The Committee notes a resolution on ILO action regarding Myanmar adopted by the International Labour Conference (ILC) at its 102nd Session in June 2013. This resolution followed up the conclusions of the 317th Session of the Governing Body in March 2013. The Committee notes that the 2013 resolution, while noting that more remained to be done, was encouraged with the progress made by Myanmar in compliance with Convention No. 29. Considering that maintaining the remaining measures would no longer be necessary for the implementation of the recommendations of the Commission of Inquiry, the resolution discontinued the recommendation contained in paragraph 1(a) of the resolution adopted by the Conference under article 33 of the Constitution in June 2000, which had decided that the application of Convention No. 29 by Myanmar should be discussed at a special sitting of the Committee on the Application of Standards at future sessions of the ILC. The 2013 Conference resolution also discontinued the recommendation contained in paragraph 1(b) of the June 2000 Conference resolution, which called on the Organization’s constituents to review their relations with Myanmar and take appropriate measures to ensure that these relations could not be taken advantage of to perpetuate or extend the system of forced labour referred to by the Commission of Inquiry. Under the terms of the 2013 Conference resolution, the Office and the Government were requested to continue their commitment to the application of the 2007 SU, the March 2012 MoU and associated action plans for the elimination of all forms of forced labour by 2015, in coordination with the social partners in Myanmar. The resolution also invited the Governing Body to review the

situation in Myanmar on issues relating to ILO activities, including freedom of association, and the impact of foreign investment on decent working conditions in the country and, in this regard, requested the Director-General to submit a report at the March Governing Body sessions until the elimination of forced labour. The resolution further called on member States, as well as employers' and workers' organizations, and international organizations to support the efforts of the Government, with the assistance of the ILO, to eliminate forced labour in Myanmar and to further social justice in the country, including by making available necessary financial resources.

Ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182)

The Committee welcomes the ratification by the Government of Myanmar of Convention No. 182 on 18 December 2013. The Committee notes that the Government, in collaboration with the ILO, adopted the Myanmar Programme on the Elimination of Child Labour 2014–17 (My-PEC) with the aim of developing a comprehensive, inclusive and efficient multi-stakeholder response to reduce child labour and its worst forms in Myanmar.

Discussions in the Governing Body

The Governing Body continued its discussions on this case during its 317th Session in March 2013 (GB.317/INS/4/2), during its 320th, 321st and 322nd Sessions in March, June and November 2014 (GB.320/INS/6(Rev.), GB.321/INS/INF/1, GB.322/INS/INF/2), and during its 323rd and 325th Sessions in March and November 2015 (GB.323/INS/4, GB.325/INS/7). The Committee notes that, in the course of the discussion in October–November 2015, the Governing Body noted, in respect of progress made in the implementation of the Action Plan on the Elimination of All Forms of Forced Labour by 2015, that: (i) the number of complaints received under the complaints mechanism continues to be significant. In 2015, up to the end of August, a monthly average of 24.5 complaints, assessed as being within the mandate, were received which compares to a monthly average of 33 received during 2014; (ii) the actual use of forced labour is decreasing overall, which suggests that the continued receipt of a relatively high number of complaints still reflects a continued growth in both awareness of the right to complain and confidence to lodge a complaint; (iii) with the signing of ceasefire agreements between the Government and some 13 non-state armed groups, and with the successful negotiation towards a nationwide ceasefire agreement, a significant reduction in the use of forced labour in conflict-affected areas has been seen. However, reports continue to be received of the use of forced labour in areas not as yet subject to an agreed ceasefire (predominantly in Kachin and Northern Shan States) and in areas where there is ongoing civil unrest (in particular Rakhine State); (iv) a significant number of complaints continue to be received concerning the loss of land. While some of these fall outside the mandate of the forced labour complaints mechanism, a number that are accepted as being within the mandate concern the loss of land owing to failure of the landholder to undertake forced labour; (v) an increasing number of complaints are being received alleging forced labour in the private sector. These fall into three main categories: bonded labour (both adult and child); requirement to work excessive overtime (with or without compensation) at risk of losing the job; and trafficking for forced labour (including in domestic work). There continues to be a low level of awareness regarding the concept of forced labour in the private sector, with many people understanding it as a concept applicable only in the public sector; (vi) awareness raising with all sectors of society remains a critical requirement. Although considerable work has been undertaken in cooperation with the Government, social partners and civil society, levels of awareness of rights and responsibilities in respect of the use of forced labour and knowledge of the existence of the ILO and Government complaint mechanisms remain relatively low. To rectify this, the Government has committed to the continued broadcast of radio and television awareness-raising clips, and discussions are under way, but not yet finalized, on the placement of billboards in strategic locations identified as forced labour hotspots. Three DVDs have been developed on different aspects of forced labour, which are shortly to be distributed through the ILO voluntary facilitators' network for use in local awareness-raising/training activities. Negotiations with the Government continue on the adaptation of at least one of these DVDs into documentary format for potential television broadcast; and (vii) in respect of accountability, the report to the 323rd Session (March 2015) of the Governing Body indicated that some 274 prosecutions, resulting in punishments ranging from the issuance of formal reprimands, monetary fines, demotion, loss of service time against promotion and pension rights, dishonourable discharge or imprisonment, have been made against military personnel in response to complaints under the SU. Since then, notice has been received of the prosecution and conviction under summary trial of a further two commissioned officers and three other ranked personnel. The commissioned officers received reprimands, two of the other ranked personnel had a service reduction imposed and the third received a monetary fine. However, the ILO has still received no information concerning the criminal prosecution of any person under the forced labour provisions of the Ward or Village Tract Amendment Act 2012.

The Governing Body observed that considerable progress has been made, with recorded reductions in the actual use of forced labour since the Government took office in 2011, and particularly following the commencement of peace negotiations. Moreover, in response to the recommendations of the Commission of Inquiry, national legislation has been brought into compliance with the provisions of Convention No. 29, a public statement has been made at the highest level confirming the Government's political commitment to achieve the elimination of all forms of forced labour, an extensive Government–ILO awareness-raising activity has been undertaken and continues, assurances have been received as to the policy of full budget provision for the undertaking of public works, and a substantial number of military personnel have been held to account for their continued use of forced labour. However, complaints continue to be received under the Government–ILO complaints mechanism, including in respect of village- and township-level public works; awareness

levels and understanding of concepts remain relatively low; and there is no evidence of commitment to accountability for breach of the law, other than in the case of the military.

The Government's report

The Committee notes the information in the Government's report concerning the implementation of the SU complaints mechanism pursuant to which forced labour complaints are being resolved. The Government indicates that from March 2007 to 22 June 2015, 697 cases have been brought against military personnel in response to complaints under the SU. Of these cases, 628 concerned underage recruitment, 13 concerned forced labour, and two concerned other issues. The Government points out that 48 army officers and 271 other ranked officials were punished pursuant to the military rules in relation to underage recruitment and forced labour cases. Punishments ranged from the issuance of formal reprimands, monetary fines, demotion, loss of service time against promotion and pension rights, dishonourable discharge or imprisonment. The Committee further notes the information in the Government's report concerning the implementation in practice of the Action Plan for the Elimination of All Forms of Forced Labour in Myanmar by 2015, elaborated by the Government in cooperation with the ILO. The Government states that awareness-raising activities have been intensified in conformity with the Action Plan. In this connection, a total of 13 awareness-raising workshops on the elimination of forced labour have been conducted. Moreover, a total of 40 joint Ministry of Labour–ILO awareness-raising workshops were conducted across the country from July 2012 to August 2015. In addition, the General Administration Department under the Ministry of Home Affairs has issued instructions to the administrators of the regions and states to abide by the provisions of the Ward or Village Tract Administration Act, which prohibits the exaction of forced labour and makes it a criminal offence. Finally, the Government states that the Ministry of Defence and the United Nations Country Task Force on Monitoring and Reporting (CTFMR) signed, on 27 June 2012, an action plan to prevent and end the recruitment and use of children under 18 years of age in the armed forces (Tatmadaw). In this regard, the Committee notes the Government's indication that a total of 645 minors, who were recruited by Tatmadaw, were handed over to their parents between 2012 and 2015.

The Committee's concluding remarks

Regarding legislative developments, the Committee previously noted with satisfaction the adoption by Parliament of the Ward or Village Tract Administration Act of 24 February 2012 (as amended on 28 March 2012), which repealed the Village Act and the Towns Act of 1907 (section 37) and which makes the use of forced labour by any person a criminal offence punishable with imprisonment and fines (section 27A). However, the Committee notes that no action has been taken to amend article 359 of the Constitution (Chapter VIII – Citizenship, fundamental rights and duties of citizens), which exempts from a prohibition of forced labour “duties assigned by the Union in accordance with the law in the interest of the public”. In its earlier comments, the Committee observed that this exception permits forms of forced labour that exceed the scope of the specifically defined exceptions in *Article 2(2)* of the Convention and could be interpreted in such a way as to allow a generalized exaction of forced labour from the population. The Committee notes the Government's statement in its report that the 2008 Constitution, which has been ratified and promulgated through a national referendum with the approval of the people of Myanmar, will be amended as required. ***The Committee once again expresses the firm hope that the necessary measures will at last be taken with a view to amending article 359 of Chapter VIII of the Constitution in order to bring it into conformity with the Convention.***

Regarding the practical application of the Convention, the Committee welcomes the various measures undertaken by the Government, in collaboration with the ILO, aimed at the eradication of forced labour for men, women and children in practice. These measures include the undertaking of an extensive range of awareness-raising activities across the country, support for the continued use of the SU complaints mechanism to enable victims of forced labour to seek redress, as well as holding to account a substantial number of military personnel for their continued use of forced labour. While taking due note of the progress made towards the elimination of all forms of forced labour, the Committee observes that the use of forced labour continues in Myanmar. ***The Committee therefore fully endorses the conclusions concerning Myanmar made by the Governing Body and encourages the Government to pursue with vigour its ongoing efforts towards the elimination of forced labour in all its forms, in both law and practice, by fully implementing the recommendations of the Commission of Inquiry. It requests the Government to provide, in its next report, detailed information on the measures taken to that end and, in particular, on the measures taken to ensure that, in practice, forced labour is no longer imposed by the military or civil authorities, as well as the private sector. It also requests the Government to provide information on the measures taken to ensure the strict application of the national legislation, particularly the provisions of the Ward or Village Tract Amendment Act 2012, so that penalties for the exaction of forced labour under this law and the Penal Code are strictly enforced against perpetrators. The Committee also asks the Government to continue to provide information on: various practical measures aimed at the eradication of all forms of forced labour, such as the continuation and strengthening of awareness-raising activities; improvements in dealing with under-age recruitment by the military, including the release and reintegration of children, and the imposition of disciplinary and penal sanctions on military personnel; cooperation in the continued functioning of the SU complaints mechanism; and measures to budget adequate means for the replacement of forced or unpaid labour. The Committee reiterates the firm hope that all the necessary measures will be taken without delay to achieve full compliance with the Convention so as to ensure that all use of forced or compulsory labour in Myanmar is completely eliminated.***

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

Nepal

Forced Labour Convention, 1930 (No. 29) (ratification: 2002)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations from the International Trade Union Confederation (ITUC) of 31 August 2011 and 31 August 2012, as well as the Government's reply to these observations received on 5 December 2012.

Articles 1(1), 2(1) and 25 of the Convention. 1. *Trafficking in persons.* The Committee previously requested information on the application of the Human Trafficking and Transportation (Control) Act of 2007 in practice, as well as on the measures taken to prevent, suppress and punish trafficking in persons.

The Committee notes the statement in the ITUC's communication that the Government should take action to enforce the provisions of the Human Trafficking and Transportation (Control) Act of 2007. The ITUC also states that the legal framework should be reviewed to ensure that those involved in trafficking and forced labour can be effectively prosecuted and that the punishments are commensurate with the crimes committed.

The Committee notes the Government's statement that the Ministry of Women, Children and Social Welfare is reviewing the progress of the National Plan of Action (NPA) against trafficking in children and women, in close collaboration with development partners and other key stakeholders. The Government also indicates that it is implementing a country programme on trafficking in persons, in close collaboration with various NGOs, focusing on prevention, prosecution and protection mechanisms. However, the Committee notes with **concern** the absence of information in the Government's report on the application of the Human Trafficking and Transportation (Control) Act of 2007. The Committee further notes that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of 11 August 2011, expressed concern about the lack of effective implementation of the Human Trafficking and Transportation (Control) Act, 2007 (CEDAW/C/NPL/CO/4-5, paragraph 21). ***The Committee urges the Government to strengthen its efforts to combat trafficking in persons, including within the framework of the NPA against trafficking in children and women, and to provide information on the specific measures taken in this regard. It requests the Government to provide, in its next report, information on measures taken to enforce the Human Trafficking and Transportation (Control) Act of 2007 in practice, and on the impact achieved, particularly the number of investigations, prosecutions and convictions. Moreover, 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 specific penalties imposed on persons convicted under the Human Trafficking and Transportation (Control) Act, 2007.***

2. *Vulnerability of migrant workers to conditions of forced labour.* The Committee previously noted the ITUC's communication which outlined migrant workers' vulnerability to trafficking and forced labour. The Committee requested information on the measures taken to protect migrant workers from exploitative practices amounting to forced labour.

The Committee notes that the ITUC, in its more recent communications, expresses concern that recruitment agencies and brokers are involved in the trafficking of Nepalese migrant workers and their subsequent exploitation in conditions of forced labour. The ITUC refers to a study of returned migrant workers, which found that recruitment agencies were routinely involved in the trafficking of migrant workers: the majority of migrant workers interviewed for this study were deceived concerning a substantial aspect of their employment terms, and many faced high recruitment fees and subsequent debt, the confiscation of their passports, threats, physical and verbal abuse. The ITUC states that the Government has not taken appropriate action in its own jurisdiction to reduce and eliminate the incidence of forced labour and highlights that the effective enforcement of the Foreign Employment Act would significantly reduce migrant workers' vulnerability to forced labour. While the Foreign Employment Act regulates the activities of recruitment agencies, this Act is not effectively enforced to punish recruitment agencies who repeatedly violate the Act. The ITUC states that the Government has failed to adequately monitor and punish recruitment agencies for failing to comply with their responsibility under the Foreign Employment Act and that, despite widespread violations, only 14 recruitment agencies have been fined under the Act. The ITUC also indicates that, while in August 2012, the Government banned women under the age of 30 from migrating for domestic work in Kuwait, Qatar, Saudi Arabia and the United Arab Emirates, these bans are likely to have the unintended outcome of increasing risks for these women who will continue to seek work through informal routes. Furthermore, the ITUC states that the measures taken by the Government to combat trafficking have not addressed the wider problems of trafficking for labour exploitation which affects migrant workers. The ITUC further alleges that complaints and compensation mechanisms are largely inaccessible to most migrant workers. Lastly, the ITUC references a research study which indicated that the several heads of recruitment agencies admitted to paying bribes to government officials. The ITUC states that the Government must establish an independent body to carry out a prompt, thorough and impartial investigation into allegations of bribery and corruption relating to migration for foreign employment, including of government officials.

The Committee notes the Government's statement that, in collaboration with the ILO, the Ministry of Labour and Transport Management implemented a project entitled "Protection of Nepalese migrant workers from forced labour and human trafficking" from June 2009 until September 2011. The Government states that major accomplishments of this project include: (i) the translation and promotion of ILO Conventions related to forced labour; (ii) the revision of the foreign employment regulations; (iii) increased compensation for migrant workers who are victims; (iv) strengthening of the data and information system in the Department of Foreign Employment and Foreign Employment Tribunals; (v) trainings for the concerned government officials and stakeholders on issues of forced labour, human trafficking, the monitoring of recruitment of migrant workers and the role of labour attachés; and (vi) partnerships with the association of foreign employment recruitment agencies to promote ethical recruitment procedures and the implement its code of conduct. The Committee also notes the implementation of an ILO project entitled "Preventing trafficking of women and girls for domestic work" from November 2011 to June 2012. According to information from the ILO Special Action Programme to Combat Forced Labour (SAP-FL) of August 2012, results from this project include: (i) awareness raising on safe migration and trafficking as well as training to women and girls on these subjects; (ii) the production and distribution of 13,000 brochures and 9,000 posters on safe migration and the risks of human trafficking and forced labour for domestic work; (iii) the provision of training to governmental and non-governmental representatives on anti-trafficking; (iv) preliminary steps towards developing a skills-building programme to at-risk or former victims of trafficking;

and (v) training for law enforcement officials on countering trafficking for forced labour. Furthermore, the Committee notes that in its reply to the ITUC observations, the Government outlines a series of measures it has taken to protect migrant workers. These include awareness-raising measures; an action plan to highlight fraudulent activities in foreign employment; memoranda of understanding signed with major destination countries; as well as an effort to set up the scales of minimum wages of Nepalese migrant workers.

The Committee takes due note of the measures taken by the Government. However, the Committee notes that CEDAW, in its concluding observations of 11 August 2011, expressed concern about the situation of Nepalese women migrant workers and in particular, the fact that a large number of Nepalese women are undocumented, which increases their vulnerability to sexual exploitation, forced labour and abuse. It also expressed concern at the limited initiatives to ensure pre-departure information and skills training as well as the lack of institutional support both in Nepal and in countries of employment to promote and protect the rights of Nepalese women migrant workers (CEDAW/C/NPL/CO/4-5, paragraph 33).

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 therefore urges the Government to pursue its efforts to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour, including through the effective application of the Foreign Employment Act. The Committee requests the Government to provide, in its next report, information on the application of the Foreign Employment Act in practice, particularly the number of violations reported, investigations, prosecutions and the specific penalties applied. Expressing its concern at allegations of complicity of government officials, the Committee urges the Government to redouble its efforts to ensure that perpetrators of trafficking in persons and forced labour of migrant workers, and complicit government officials, are investigated and prosecuted and that sufficiently effective and dissuasive penalties are imposed in practice. Lastly, the Committee requests the Government to continue to provide information on steps taken in this regard, particularly 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 and to grant them access to justice, as well as to other complaints and compensation mechanisms.*

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.

Qatar

Forced Labour Convention, 1930 (No. 29) (ratification: 1998)

Complaint under article 26 of the ILO Constitution concerning non-observance of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81)

The Committee notes that at the 103rd Session of the International Labour Conference (ILC) in June 2014, 12 delegates to the ILC, under article 26 of the ILO Constitution filed a complaint against the Government of Qatar relating to the violation of Conventions Nos 29 and 81.

At its 322nd Session (November 2014), the Governing Body had before it a report by its Officers regarding the complaint. The complainants allege that the problem of forced labour affects the migrant worker population of roughly 1.5 million. From the moment migrant workers begin the process of seeking work in Qatar, they are drawn into a highly exploitative system that facilitates the exaction of forced labour by their employers. This includes practices such as contract substitution, recruitment fees (for which many take out large high interest loans) and passport confiscation. The Government of Qatar fails to maintain a legal framework sufficient to protect the rights of migrant workers consistent with international law and to enforce the legal protections that currently exist. Of particular concern, the sponsorship law, among the most restrictive in the Gulf region, facilitates the exaction of forced labour by, among other things, making it very difficult for a migrant worker to leave an abusive employer.

At its 323rd Session (March 2015), the Governing Body decided to request the Government to submit to the Governing Body for consideration at its 325th Session (November 2015), information on the action taken to address all the issues raised in the complaint. The Committee notes that, in light of the reports submitted by the Government, the Governing Body at its 325th Session (November 2015) decided to request the Government to receive a high-level tripartite visit, before the 326th Session (March 2016), to assess all the measures taken to address all the issues raised in the complaint, including the measures taken to effectively implement the newly adopted Law relating to the regulation of the entry and exit of expatriates and their residence. It also requested the Government to avail itself of ILO technical assistance to support an integrated approach to the annulment of the sponsorship system, the improvement of labour inspection and occupational safety and health systems, and giving a voice to workers. Finally, the Governing Body decided to defer further consideration on setting up a commission of inquiry until its 326th Session (March 2016).

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee notes the Government's report dated 4 September 2015, as well as the detailed discussion which took place at the 104th Session of the Conference Committee on the Application of Standards in June 2015 concerning the application of the Convention by Qatar. It also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2015.

Articles 1(1), 2(1) and 25 of the Convention. Forced labour of migrant workers. The Committee previously noted that, at its 320th Session (March 2014), the Governing Body approved the report of the tripartite committee set up to examine the representation made by the ITUC and the Building and Wood Workers' International (BWI) alleging non-observance of Convention No. 29 by Qatar. The tripartite committee concluded that certain migrants in the country might find themselves in situations of forced labour on account of a number of factors, such as contract substitution, restrictions on their freedom to leave their employment relationship or the country, the non-payment of wages and the threat of retaliation. The Governing Body adopted the tripartite committee's conclusions and called upon the Government to:

- review without delay the functioning of the sponsorship system;
- ensure without delay access to justice for migrant workers, so that they can effectively assert their rights;
- ensure that adequate penalties are applied for violations.

(a) *Functioning of the sponsorship system (kafala).* In its earlier comments, the Committee noted that the recruitment of migrant workers and their employment is governed by Law No. 4 of 2009 regulating the sponsorship system. Under this system, migrant workers who have obtained a visa must have a sponsor. This sponsor must do all the necessary paperwork to obtain the residence permit for the worker and, once the procedures for this permit are completed, the employer is obliged to return the passport to the worker. The Law forbids workers to change employer, and the temporary transfer of the sponsorship is only possible if there is a pending lawsuit between the worker and the sponsor. Furthermore, workers may not leave the country temporarily or permanently unless they have an exit permit issued by the sponsor. If the sponsor refuses to grant the worker an exit visa, a special procedure is provided for under the Law. The Committee took due note of the Government's indication that a bill has been drafted to repeal the system of sponsorship and to replace it by work contracts, and it expressed the hope that the new legislation on migrant workers would be drafted in such a way as to protect them against any form of exploitation, tantamount to forced labour.

The Committee notes that, in its conclusions adopted in June 2015, the Conference Committee urged the Government to abolish the *kafala* system and replace it with a work permit that allows the worker to change employer. It also urged the Government to work towards abolishing the exit permit system in the shortest possible time and, in the interim, to make exit permits available as a matter of right.

The Committee notes the ITUC's statement that, although the Government has been promising to repeal the *kafala* system and replace it with a contract system for a long time, no progress has been made on the approval or implementation of such a new Law. Moreover, workers will still be tied to the employer for up to five years under the new Law. It is already theoretically possible to change employer in case of exploitation by petitioning the Government, but this happens extremely infrequently. Furthermore, as reported by the Government to the Governing Body, there is a proposed release permit under the new Law, but it is not clear under what circumstances that permit can be obtained. Moreover, while another proposal suggests that workers may obtain an exit visa and leave the country within 72 hours, the employer may object and prevent workers from leaving.

The Committee notes Law No. 21 of 27 October 2015, which regulates the entry and exit of expatriates and their residence, and which will enter into force one year from the date of its publication in the *Official Gazette*, that is, on 27 October 2016. The Committee notes that, by virtue of sections 8 and 9 of Law No. 21, the competent authority shall issue a residence permit to an expatriate worker, and it is the employer who is responsible for completing the procedures relating to the residence permit and for returning the passport or travel document to the expatriate worker, except upon the written request of the worker. Moreover, section 22 allows for the temporary transfer of an expatriate worker to another employer if there is a pending lawsuit between the worker and the employer (section 22(1)), or if there is evidence of abuse by the employer (section 22(2)). The Committee also notes that, pursuant to section 21(1), an expatriate worker may transfer to another employer before the end of the labour contract with the approval of the employer, the competent authority and the Ministry of Labour and Social Affairs. The Committee notes that similar provisions already exist under Law No. 4 of 2009 regulating the sponsorship system. The Committee observes that the main new features of Law No. 21 consist of the following: (i) an expatriate worker may transfer to another employer immediately after the end of a contract of limited duration or after a period of five years if the contract is of unspecified duration (section 21(2)) without the employer's consent, whereas, under Law No. 4 of 2009, the worker could not return to work in Qatar for two years in the event that the sponsor refuses such transfer; and (ii) an expatriate worker shall notify the competent authority at least three days prior to the departure date (section 7(1) of Law No. 21 of 2015) while under Law No. 4 of 2009, the exit permit had to be signed by the sponsor. The Committee nevertheless observes that, even under the new Law, the employer may object to the departure from the country of the expatriate worker, in which case the latter shall have the right to appeal to an Appeals Committee (section 7(2) and (3) of Law No. 21 of 2015). The Committee further notes that the requirement by the employer to reimburse the recruitment fees incurred by the worker by virtue of section 20 of Law No. 4 of 2009 appears not to have been taken on board in Law No. 21 of 2015.

The Committee notes with *regret* that, pursuant to Law No. 21 of 2015, employers will continue to play a significant role in regulating the departure of their employees, and that Law No. 21 does not seem to foresee termination by the expatriate worker before the expiry of the initial contract (that is, with a notice period) without the approval of the employer, nor does it set out reasons and conditions for termination generally, other than in a few very specific cases. The Committee also notes the absence of information in the Government's report on the frequency of transfers to a new

employer under Law No. 4 of 2009, or the number of cases of passport confiscation. The Committee considers that a number of provisions of the new Law, which still places restrictions on the possibility for migrant workers to leave the country or to change employer, prevent workers who might be victims of abusive practices from freeing themselves from these situations. This also applies to the practice of withholding passports, which deprives workers of their freedom of movement.

The Committee requests the Government to take the necessary measures to ensure that Law No. 21 of 2015 is modified, as a matter of urgency, so as to provide migrant workers with the full enjoyment of their rights at work and to protect them from abusive practices and working conditions that may amount to forced labour, such as passport confiscation by employers, high recruitment fees, wage arrears and the problem of contract substitution. In this regard, the Committee expresses the firm hope that the legislation, once modified, will be applied effectively and will make it possible to:

- *suppress the restrictions and obstacles that limit the freedom of movement of migrant workers and prevent them from terminating their employment relationship in the event of abuse;*
- *authorize workers to leave their employment at certain intervals or after having given reasonable notice (in this regard, the Government is requested to provide information on the number of employment transfers that take place in practice);*
- *review the procedure for issuing exit visas;*
- *effectively enforce the legal provisions on the prohibition of passport confiscation (in this regard, the Government is requested to provide information on the number of cases of passport confiscation detected in practice);*
- *ensure that recruitment fees are not charged to workers, or that they are reimbursed subsequently by the employer if this is the case;*
- *ensure that contracts signed in sending countries are not altered in Qatar.*

The Committee also requests the Government to provide information on the number of violations detected and penalties applied.

(b) *Migrant domestic workers.* The Committee previously requested the Government to indicate the legislative and practical measures taken to provide effective protection for domestic workers.

The Committee notes that, in its conclusions adopted in June 2015, the Conference Committee urged the Government to ensure that domestic workers have equal labour rights.

The Committee notes the ITUC's observations that more than half of all women migrant workers in Qatar are employed in private homes. Migrant domestic workers are excluded from the legal frameworks which means that they are denied the protection provided to all other workers under the Qatar Labour Law and cannot lodge claims with the Labour Court or complain to the Ministry of Labour in the event that they are in an abusive or exploitative situation. The ITUC points out that abuse of domestic workers can involve physical and sexual abuse. Moreover, multiple investigations have revealed that migrant domestic workers are subject to forced labour conditions, with many having their passports confiscated and being denied wages, rest periods, annual and sick leave and freedom of movement.

The Committee notes the Government's indication that, although migrant domestic workers are not covered by the Labour Law, they are protected by general provisions of the national legislation. The Government also states that there is a bill on domestic workers which is currently being examined by the competent legislative authorities in Qatar.

In this regard, the Committee recalls the importance of taking effective action to ensure that the system of employment of 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, 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 therefore urges the Government to take the necessary measures, in law and practice, to ensure that migrant domestic workers are fully protected from abusive practices and conditions that could amount to the exaction of forced labour. The Committee requests the Government to provide information on the results of investigations into alleged force labour practices affecting migrant domestic workers, including their number, instances in which passports have been confiscated, wages denied and freedom of movement restricted. In this regard, the Committee expresses the firm hope that the draft bill on domestic workers will be in conformity with the provisions of the Convention and will be adopted in the very near future.*

(c) *Access to justice.* The Committee previously noted that, although the legislation provides for the establishment of different complaints mechanisms, workers seemed to encounter certain difficulties in using them. The Committee also noted that the Labour Relations Department of the Ministry of Labour and Social Affairs had been equipped with tablets to register complaints, available in several languages, and the number of interpreters had been increased. In addition, a free telephone line and email have been made available to workers so that they can lodge complaints, which are dealt with by a team specially trained for this task. Finally, an office had been set up within the court to help workers initiate legal proceedings and to assist them throughout the whole judicial process.

The Committee notes that, in its conclusions adopted in June 2015, the Conference Committee urged the Government to facilitate access to the justice system for migrant workers, including providing them with assistance with language and translation, the elimination of fees and charges related to bringing a claim, and disseminating information about the Ministry of Labour and Social Affairs. It also called for these cases to be processed expeditiously.

The Committee notes the ITUC's reference to the report of the United Nations Special Rapporteur on the independence of judges and lawyers which highlights obstacles to access to justice for migrant workers, especially in the construction industry and domestic service. These obstacles include language as a barrier to getting information and registering a complaint. Migrant workers also very frequently fear the police, institutions and retaliation from their employers.

The Committee notes the Government's statement that the Constitution of Qatar provides legal protection to migrant workers by granting them the right to have recourse to the courts. The Committee also notes the detailed information provided by the Government to the Governing Body in March and November 2015 on the various measures taken to assist migrant workers to have access to the available complaints mechanisms (GB.323/INS/8(Rev.1), Appendix II, paragraph 10, and GB.325/INS/10(Rev.), Appendix II, paragraphs 10 and 18). ***The Committee strongly encourages the Government to continue taking measures to improve the functioning of the available complaints mechanisms so that migrant workers can have rapid and effective access to these mechanisms with a view to enabling them, in practice, to approach the competent authorities and seek redress in the event of a violation of their rights or abuse, without fear of reprisal. It requests the Government to provide information on the number of complaints filed by migrant workers and their outcomes. The Committee also asks the Government to take the necessary measures to sensitize the general public and the competent authorities on the issue of migrant workers subject to forced labour and to educate employers on their responsibilities and obligations so that all the actors concerned are able to identify cases of labour exploitation, denounce them, and protect the victims. The Committee once again requests the Government to take the necessary measures to ensure that victims receive psychological, medical and legal assistance, and to provide information on the number of persons receiving such assistance from shelters or other institutions, as well as the number of shelters that exist for such purposes.***

(d) *Monitoring mechanisms for infringements of labour legislation.* The Committee previously noted that the Government had provided statistics on the number of judicial proceedings and sentences concerning wage arrears, holiday pay and overtime.

The Committee notes that, in its conclusions adopted in June 2015, the Conference Committee urged the Government to continue to recruit additional labour inspectors and increase the material resources available to them necessary to carry out their duties, in particular labour inspections in workplaces where migrant workers are employed.

The Committee notes the ITUC's statement that even though the number of labour inspectors increased from 200 to 294 and more interpreters were hired, this number remains insufficient as it is clear that there exist a large number of workplaces that have yet to be inspected, or inspected properly. Furthermore, it remains unclear whether inspectors have the training and resources to fulfil their tasks.

The Committee notes the Government's indication in its report that the inspectors of the Labour Inspection Department of the Ministry of Labour and Social Affairs, who are trained in the detection of violations and the drafting of infringement reports, carry out surprise and periodic inspection visits of undertakings. They initiate legal proceedings against undertakings found in violation. The Committee also notes the information provided by the Government to the Governing Body in November 2015 on the measures taken to strengthen the labour inspection services, particularly by expanding their geographical coverage, increasing the number of labour inspectors, raising their status and providing them with modern computer equipment. The Government also provides information on the total number of labour inspection visits carried out from January to August 2015, as well as the number of cases filed by workers concerning complaints related to travel tickets, end of service bonus holiday allowance and wage arrears (GB.325/INS/10(Rev.), Appendix II, paragraphs 11–16). With regard to the protection of wages, the Government refers to Law No. 1 of 2015 and Order No. 4 of 2015, which create a special wage protection unit in the Labour Inspection Department, to monitor the implementation of the wage protection system for workers and which establish the requirement for employers to pay wages directly by bank transfer. ***The Committee strongly encourages the Government to pursue its efforts to strengthen mechanisms to monitor the working conditions of migrant workers and to ensure that penalties are effectively applied for the infringements detected. In this respect, it calls on the Government to continue training labour inspectors and making them aware of the issues at stake, so that the inspectorate can identify and put an end to practices that increase the vulnerability of migrant workers and expose them to forced labour practices. Lastly, the Committee refers to the comments that it is making under the Labour Inspection Convention, 1947 (No. 81).***

(e) *Imposition of penalties.* The Committee previously asked the Government to provide information on the judicial proceedings instigated and the penalties applied to employers who impose forced labour.

The Committee notes that, in its conclusions, the Conference Committee urged the Government to ensure that adequate penalties are applicable in law for serious exploitation of workers, including the crime of forced labour as specified in the Penal Code, and penalties for violations of the Labour Law, and that these laws are effectively enforced.

The Committee notes the ITUC's reference to the 2014 report of the United Nations Special Rapporteur on the independence of judges and lawyers, according to which prosecution services are influenced by high-level persons and powerful businesses and have complete discretion as to whether cases are pursued. The Special Rapporteur also noted significant allegations of partiality and bias of judges, including allegations of discrimination against migrants in favour of Qataris. According to the ITUC, guaranteeing the effective enforcement of penalties for forced labour would be assisted by judicial reform of the type recommended by the Special Rapporteur.

The Committee notes with **concern** that, although the Government refers to provisions in the national legislation that guarantee the freedom of work and penalize the imposition of forced labour (section 322 of the Penal Code and Law No. 15 of 2011 on combating trafficking in persons), it does not provide any information on the judicial proceedings initiated on the basis of these provisions. In this respect, the Committee notes that the situation of migrant workers in Qatar has been examined by many United Nations bodies, which have all expressed their considerable concern at the large number of migrant workers who are victims of abuse (A/HRC/27/15 of 27 June 2014, A/HRC/26/35/Add.1 of 23 April 2014 and CEDAW/C/QAT/CO/1 of 10 March 2014). ***Recalling that the absence of penalties applied to persons imposing forced labour creates a climate of impunity that is likely to perpetuate these practices, the Committee expresses the firm hope that the Government will take all the necessary measures to ensure that, in accordance with Article 25 of the Convention, effective and dissuasive penalties are applied in practice to those who impose forced labour. In this regard, the Committee requests the Government to ensure that thorough investigations and prosecutions are carried out of those suspected of exploitation and to prevent those found guilty from recruiting migrant workers in the future. The Committee once again asks the Government to provide information on the judicial proceedings instigated and the penalties handed down.***

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

Syrian Arab Republic

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Articles 1(1), 2(1) and 25 of the Convention. Situations of forced labour arising from the armed conflict. Trafficking and sexual slavery. The Committee notes that, with reference to several United Nations agencies, cases of the abduction of women and children with a view to their sexual exploitation have been reported. In this regard, the Committee notes that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of July 2014, noted the adoption of the Prevention of Human Trafficking Act (Law No. 3/2010), which criminalizes human trafficking. The Committee notes, however, that the CEDAW expressed concern that trafficking in women and girls has increased during the conflict, and that they are at high risk of trafficking for purposes of sexual exploitation (CEDAW/C/SYR/CO/2, paragraph 33). The Committee also notes the reports submitted by the Independent International Commission of Inquiry on the Syrian Arab Republic to the UN Human Rights Council, in February and August 2015 (A/HRC/28/69 and A/HRC/30/48), according to which anti-Government armed groups have targeted women and children on the basis of their gender and religious beliefs, to be taken as hostages for use in prisoner exchanges. These include Yazidi women and girls who have been sold or gifted (and resold and regifted) to Islamic State of Iraq and Al-Sham (ISIS) fighters and tribal leaders in ISIS-controlled Syrian Arab Republic. Others are imprisoned in houses in towns and villages across the Syrian Arab Republic, where they are held in sexual slavery. ***While acknowledging the complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee urges the Government to take the necessary measures to put an immediate stop to these practices which constitute a serious violation of the Convention and to guarantee that the victims are fully protected from such abusive practices. The Committee recalls that it is crucial that appropriate criminal penalties are imposed on perpetrators so that recourse to trafficking or sexual slavery does not go unpunished. The Committee urges the Government to take immediate and effective measures in this respect, and to provide information on the results achieved.***

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

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

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. For 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 through the adoption of the new Penal Code. The Committee expressed the firm hope that, during the process of the adoption of the Penal Code, the Government would take all the necessary measures to ensure that persons who express views or opposition to the established political, social or economic system benefit from the protection afforded by the Convention and that, in any event, penal sanctions involving compulsory prison labour cannot be imposed on them.

The Committee notes the Government's indication that the Penal Code of the Syrian Arab Republic, which was promulgated by virtue of Legislative Decree No. 148 of 22 June 1949, specifies that persons who are guilty of political crimes shall be punished by sentences of detention instead of hard labour. Consequently, the imposition of labour on prisoners who are sentenced to a political crime is not feasible under Syrian law. Moreover, the situation on the ground shows that sentences of imprisonment with labour are not applied in practice in any of the prisons in the Syrian Arab Republic, even for those sentenced for a crime for which the penalty is hard labour. The Government adds that a draft legislative decree is currently being prepared to amend the Penal Code by deleting the following penalties (imprisonment with labour, hard labour for life and temporary hard labour).

However, the Committee notes the report of the Independent International Commission of Inquiry on the Syrian Arab Republic submitted to the United Nations Human Rights Council in February 2015 (Report of the Commission of Inquiry, 2015, paragraph 156), which indicates that journalists continue to be systematically targeted by government forces for documenting and disseminating information perceived to be supportive of the opposition or disloyal to the Government. Large numbers of journalists are still detained in Government-controlled detention centres, where they suffer disappearance and torture. An unknown number have died in detention. The Committee further notes that Resolution No. 29/16, adopted by the United Nations Human Rights Council in July 2015, strongly condemns all arbitrary detention of individuals by the Syrian authorities and demands the immediate release of all persons detained, including individuals affiliated with non-governmental organizations accredited by the Economic and Social Council, such as the Syrian Centre for Media and Freedom of Expression (A/HRC/RES/29/16, paragraph 5).

The Committee is therefore bound to express its *deep concern* at the current human rights situation in the country and recalls that restrictions on fundamental rights and liberties, including freedom of expression, may have a bearing on the application of the Convention, if such measures are enforced by sanctions involving compulsory labour. *While acknowledging the complexity of the situation on the ground, and the presence of armed groups and armed conflict in the country, the Committee urges the Government to take the necessary measures to ensure that no one who expresses political views or who peacefully opposes the established political, social or economic system can be sentenced to imprisonment under the terms of which compulsory labour would be imposed. The Committee trusts that the Government will take the necessary measures to bring its legislation and related practice into conformity with the Convention.*

Turkmenistan

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)

The Committee notes the report received from the Government. It also notes the communication from the International Trade Union Confederation (ITUC), received on 1 September 2015, as well as the Government's reply received in a communication dated 23 October 2015.

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.* In its previous comments, the Committee noted the Government's indication that articles 28 and 29 of the Constitution of Turkmenistan guarantee the right to freely hold and express opinions, as well as the right to hold meetings and demonstrations in the manner established by law. The Committee however noted that any violation of the established procedure for the organization of assemblies, meetings or demonstrations constitutes both an administrative and a criminal offence, punishable by a fine, administrative arrest or corrective labour (section 178(2) of the Code of Administrative Offences of 1984), or by corrective labour for up to one year or imprisonment for up to six months (section 223 of the Criminal Code). The Committee requested the Government to provide information on the application in practice of both provisions, while clarifying whether the imposition of an administrative arrest may involve the obligation to perform community work or any other form of compulsory work.

The Committee notes that the Government's report does not reply to these requests. Referring to its comments on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee however notes that a new Code of Administrative Offences was adopted on 29 August 2013 and that section 178(2) referred to above has been replaced by section 63 of the Code, which provides for a fine or administrative arrest in the case of any violation of the established procedure for the organization of assemblies, meetings or demonstrations. The Committee notes that section 233 of the Criminal Code remains unchanged and establishes sanctions of corrective labour or imprisonment, both involving compulsory labour. The Committee further notes that insult or defamation against the President is punishable by imprisonment for a period of up to five years and that libel against a judge, lay judge, prosecutor, investigator or the person conducting the inquiry is punishable by a fine, correctional labour of up to two years or imprisonment of up to five years (sections 176 and 192 of the Criminal Code). The Committee notes the adoption of the Internet Development and Services Law of 20 December 2014, and the concerns expressed in this regard by the representative on freedom of the media of the Organization for Security and Co-operation in Europe (OSCE) concerning imprecisely defined propaganda of violence or cruelty and the liability of Internet users for the truthfulness of all the information that they post, and the publication of materials which contain insults or defamation against the President (section 30(3) of the Law).

The Committee notes the ITUC's allegations that the Government denies freedom of association and expression and that human rights defenders act at great personal risk and anonymously to avoid harassment and reprisals.

The Committee further notes that the European Union, the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Human Rights Committee, the Committee against Torture, as well as several governments, in the framework of the Universal Periodic Review on Turkmenistan, have expressed concern at the severe restrictions on freedom of expression in the country and the consistent allegations of reported arbitrary arrests on criminal charges of human rights defenders and journalists, apparently in retaliation for their work (European Union, Press release of 17 June 2015 on "EU-Turkmenistan Human Rights Dialogue", CCPR/C/TKM/CO/1, CAT/C/TKM/CO/1, A/HRC/17/27/Add.1, A/HRC/WG.6/16/TKM/2, A/HRC/WG.6/16/TKM/3 and A/HRC/24/3). In this regard, the Committee notes that the United Nations Working Group on Arbitrary Detention adopted opinions in which it concluded in a number of cases that imprisonment constituted an arbitrary deprivation of liberty for having peacefully exercised the right to freedom of expression (A/HRC/WGAD/2014/40, A/HRC/WGAD/2013/22 and A/HRC/WGAD/2013/5).

The Committee strongly urges the Government to take the necessary measures, in both law and practice, to ensure that no penalties involving compulsory labour may be imposed for the peaceful expression of political opinion or views opposed to the established system. Pending the adoption of such measures, the Committee requests the Government to provide information on the application in practice of section 63 of the Code of Administrative Offences, sections 176, 192 and 233 of the Criminal Code and section 30(3) of the Internet Development and Services Law of 2014.

Article 1(b). Imposition of forced labour as a method of mobilizing and using labour for purposes of economic development. In its previous comments addressed to the Government under the Forced Labour Convention, 1930 (No. 29), the Committee noted that, in accordance with section 7 of the Law on the legal regime governing emergencies of 1990, in order to mobilize labour for the needs of economic development and to prevent emergencies, state and government authorities may recruit citizens to work in enterprises, institutions and organizations. The Committee considered that the notion of "needs of economic development" did not seem to satisfy the definition of "emergency" referred to in Convention No. 29 and is therefore incompatible with both Article 2(2)(d) of Convention No. 29 and *Article 1(b)* of Convention No. 105.

The Committee notes the Government's indication, in its report that the State of Emergency Act, the Emergency Response Act and the Law on preparation for and carrying out of mobilization in Turkmenistan do not mention the concept of "purposes of economic development", but that citizens may be employed in undertakings, organizations and institutions during mobilization in order to ensure that the country's economy continues to function and to produce goods and services that are essential to satisfy the needs of the State, the armed forces and the population, in case of emergency. The Committee also notes the Government's indication that section 19 of the Labour Code provides that an employer may require a worker to undertake work which is not associated with his or her employment in cases specified by law.

However, the Committee notes the ITUC's allegations in its observations, that in 2014 tens of thousands of adults from the public and private sectors were forced to pick cotton, and farmers were forced to fulfil state-established cotton production quotas, all under threat of a penalty. According to the ITUC, the President issues cotton production orders every year to regional governors, who face dismissal if they fail to meet the quotas. The governors assign responsibilities to district and city officials who, in turn issue orders to school administrators, other public institutions and businesses. Under the applicable legislation, the Government dictates the use of the land through farmers' associations, which may take away a farmer's right for "irrational and inappropriate use" of the land. Reporting to the President, the regional governors oversee the farmers' associations, which manage farmers, and local-level officials, who mobilize other citizens to harvest cotton. The ITUC further alleges that state-owned companies also maintain monopolies over cotton production. According to the ITUC, farmers regularly report being charged by these state-owned companies for services never provided or that gin managers record less volume and lower grade cotton than that delivered by the farmer.

The Committee further notes the ITUC's allegations that the Government forces public sector workers, including teachers, doctors, nurses and the staff of government offices, to pick cotton, pay a fine or hire a replacement worker, under threat of losing their jobs, having work hours cut or salary deductions. Administrators of state-owned banks, factories and government agencies allegedly force employees to sign a form indicating their awareness that they will "bear the responsibility" if they refuse to pick cotton, and some of them require payments from their staff so that they can hire people to pick cotton in their place. The Committee further notes that, according to the ITUC, for the 2014 cotton harvest, the Government also forced businesses from the private sector to contribute workers to pick cotton. Local authorities decided to limit the operating time for all markets and grocery stores, thus forcing owners of small businesses to close their store and pick cotton, while having to provide a form signed by the farmer as proof of their work in the cotton fields. The ITUC further alleges that some medium and large businesses were also forced to send employees to pick cotton, under the threat of extraordinary audit, finance department, tax inspection and fire inspections. Private bus owners were allegedly forced to contribute by transporting forced labourers to the cotton fields, without any compensation and under threat of confiscation of their licences by the police.

The Committee further notes that, according to the information available from the State News Agency of Turkmenistan, the President of Turkmenistan held several workshops with the regional governors in 2015 in order to

review the progress of the cotton harvest. The Committee notes in particular that, on 12 October 2015, the President expressed dissatisfaction with the slow pace of the cotton harvest and gave specific “instructions” to several regional governors in order to respect the “established schedule”, recommending in one case to “mobilise all available reserves”. The Committee further notes that, on 27 October 2015, the President received the “report on labour victory of cotton growers” from the Cabinet of Ministers in charge of the agricultural sectors and the heads of Ahal, Dashoguz, Lebap and Mary Velayat regions on the “fulfilment of the contractual obligations for cotton production”.

The Committee notes with **deep concern** the widespread use of forced labour in cotton production which affects farmers, businesses and private and public sector workers, including teachers, doctors and nurses, under threat of losing their jobs, salary cuts, loss of land and extraordinary investigations. The Committee recalls that, for the purposes of Conventions Nos 29 and 105, the terms “forced or compulsory labour” are defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. In this context, voluntary offer refers to the freely given and informed consent of workers to enter into an employment relationship, as well as their freedom to leave their employment at any time, without fear of retaliation or loss of any privilege. Accordingly, while temporary transfers of employment might be inherent to certain professions and activities, the Committee considers that the application in practice of provisions, orders or regulations allowing for the systematic transfer of workers for the performance of activities which are unrelated to their ordinary occupations (for example, the transfer of a health-care professional to perform agricultural work) should be carefully examined in order to ensure that such practice would not result in a contractual relationship based on the will of the parties turning into work by compulsion of law. The Committee also recalls that, although certain forms of compulsory work or service (such as work that is part of the normal civic obligations of citizens and minor communal services) are explicitly excluded from the scope of the forced labour Conventions, these exceptions do not include work with a certain quantitative significance and used for the purposes of economic development. ***The Committee therefore strongly urges the Government to take effective measures without delay to ensure the complete elimination of the use of compulsory labour of public and private sector workers in cotton farming, and requests the Government to provide information on the specific measures taken to this end, in both law and practice, and the concrete results achieved.***

The Committee further notes that the Human Rights Committee, the United Nations Country Team, as well as the Committee on the Rights of the Child (CRC), in its 2015 concluding observations, have observed that, while child labour is illegal, enforcement of the laws has to be improved taking into account the persistence of the involvement of children in cotton harvesting (CCPR/C/TKM/CO/1, A/HRC/WG.6/16/TKM/2, A/HRC/WG.6/16/TKM/3 and CRC/C/TKM/CO/2-4). ***In this regard, the Committee requests the Government to refer to its comments on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182).***

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

[The Government is asked to supply full particulars to the Conference at its 105th Session and to reply in detail to the present comments in 2016.]

Uzbekistan

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)

The Committee notes the Government’s report received on 26 October 2015. It also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, and the International Trade Union Confederation (ITUC), received on 3 September 2015, as well as the Government’s reply to both communications, received on 13 November 2015.

Article 1(b) of the Convention. Mobilization and use of labour for purposes of economic development in agriculture (cotton production). The Committee previously noted the allegations made by the IOE and the ITUC regarding the persistent use of state-sponsored forced labour of adults for purposes of economic development in cotton production. The Committee also noted that the Government refuted the allegations, indicating that workers called upon to participate in agricultural work are engaged through individual employment contracts, being paid for the work performed, in addition to receiving the wage for their usual jobs. The Committee noted that, according to the high-level mission report on the monitoring of child labour during the 2013 cotton harvest, although the focus was not on forced labour of adults, the monitors were in a position to note issues relating to: the recruitment of labour to harvest cotton; the potential of mechanization and its consequences on the labour market; and the realization of the fundamental rights of workers, including respect for the effective implementation of the present Convention. In this regard, the Committee noted the subsequent development and adoption in April 2014 of a Decent Work Country Programme (DWCP) for 2014–16 in cooperation between the Office, the social partners and the Government, which identifies measures to ensure that conditions of work and employment in agriculture, including in cotton farming, are in conformity with fundamental standards. To this end, the component of the DWCP on the application of Convention No. 105 establishes four performance indicators (a survey on working conditions in agriculture, including in the cotton-growing industry; national law and practice is reviewed and monitored; number of labour inspectors that demonstrate improved knowledge and skills to recognize forced labour practices; and number of roundtables held on forced labour both for the business community and for representatives of local government and administration, educational institutions, trade unions and the media).

The Committee notes that, in its observations received in September 2015, the IOE emphasizes that, since the adoption of the DWCP in 2014, the Government and the social partners in Uzbekistan, with the active support of the ILO, have been working to ensure the elimination of possible risks of forced labour in cotton fields. Referring to the round-table discussion held in August 2015 in Tashkent, in which the IOE was involved, it indicates that important discussions were held on the survey aimed at improving understanding of recruitment and retention practices in agriculture, and that the qualitative results demonstrated the presence of some risks of forced labour in cotton fields, often linked to the recruitment system and the lack of employment contracts. The IOE adds that, in the coming months, the ILO will continue with the quantitative part of the survey to better measure the extent of the risk of forced labour. The IOE indicates that it remains attentive to the results of the 2015 monitoring process on possible risks of forced labour, including on the measures taken to monitor the cotton harvest, strengthen record keeping in educational institutions, apply sanctions and further raise public awareness of this subject.

The Committee further notes that, in its observations received in September 2015, the ITUC indicates that, while the measures taken in the country, in cooperation with the ILO in the framework of the DWCP, have proved to be effective by and large in eliminating child labour in the cotton sector, it is concerned about the continued presence of forced labour practices and other violations of the workers' rights of adults during harvest periods. The ITUC adds that the modalities of the monitoring for the 2015 cotton harvest were discussed during the round-table discussion held in August 2015, in which it was involved, and that it looks forward to the results. The ITUC further expresses concern about the misapplication of section 95 of the Labour Code, as this provision has allegedly been used as a basis for the involuntary transfer of workers from their workplace to the cotton fields. It urges the Government to make sure that the Labour Code cannot be used by employers to transfer workers from their workplaces to implement work in areas not related to their employment occupation, and particularly in the cotton fields. The ITUC also urges the Government to intensify the implementation of the DWCP, in collaboration with the social partners and the ILO, as well as to ensure that no citizen is coerced by the Government to pick cotton under threat, that farmers are able to recruit labour, inter alia, by raising the price of raw cotton, and to ensure that any cases of forced labour reported by human rights activists are investigated and perpetrators duly penalized.

The Committee notes the Government's indication in its report that the components of the DWCP continued to be implemented in 2015. To this end, several round-table discussions were held in Tashkent in May, August and November 2015 with the social partners and the ILO. The Government refers to the Memorandum of Understanding signed on 14 October 2014 between the World Bank and the ILO, which provides for a Third Party Monitoring (TPM) of the use of child labour and forced labour during the 2015 cotton harvest, to be conducted by the ILO to assess any potential use of child and forced labour by the beneficiaries of World Bank projects in specific project areas. The Government indicates that to this end the Cabinet of Ministers adopted on 17 July 2015 a plan of measures "guaranteeing the voluntary recruitment of cotton pickers and the inadmissibility of work by minors and forced labour during the 2015 cotton harvest" with particular focus on the inadmissibility of engaging participants under the age of 18 years from schools, academic lyceums and professional colleges, as well as workers from health and education facilities. It adds that the Prime Minister addressed instructions to the Governors of all provinces to this end on 3 October 2015. The Committee notes the Government's indication that awareness-raising activities against child and forced labour were carried out resulting in 52,664 posters and 772 banners being displayed in prominent locations across the country. This also involved the distribution of relevant materials mentioning telephone hotline numbers, opened from 18 September 2015, which gave instructions on how cases of forced labour in the cotton harvest should be reported to the state labour inspectorate or to the Council of the Federation of Trade Unions of the Uzbekistan (CFTUU). A website was also established to raise the awareness of citizens concerning this Feedback Mechanism. The Government indicates that, from 15 September 2015, a legal clinic within the Coordination Council became operational to examine any complaint received on issues connected with forced labour. The Committee notes the Government's statement that, according to the results of the Feedback Mechanism, 155 communications were received and examined, including 39 from foreign sources and 15 from human rights defenders, and a great majority of them concerned rights at work. As a result, persons whose wages had been withheld were paid a total amount of 11,608,000 Uzbekistani som (UZS) and two persons were charged administratively and had to pay fines. The Government indicates that no act of coercion could be confirmed, in particular concerning any allegations of forced labour by civil servants or the requirement to pay another person to pick cotton. With reference to section 95 of the Labour Code, after recalling the measures taken to clarify its content, the Government observes that in practice some employers may have an incorrect interpretation of this provision and that the trade unions have proposed that information and awareness-raising activities shall be conducted. The Government adds that, in the context of the DWCP, work is currently under way on a quantitative survey of recruitment practices and conditions of work in agriculture in order to determine the risks of forced labour in cotton fields.

The Committee notes the report of 18 November 2015 of the TPM on the use of child labour and forced labour during the 2015 cotton harvest, which was conducted by the ILO for the World Bank. The monitoring took place between 14 September and 31 October 2015 in 1,100 sites located in the ten provinces where the World Bank supports projects, and 9,620 interviews were carried out with the objective of assessing the incidence of child labour and forced labour in the monitored areas. Training of the ten monitoring teams, each consisting of an ILO monitor and five national monitors, and briefings for stakeholders were conducted prior to and during the 2015 cotton harvest in the framework of the DWCP. The Committee welcomes the policy commitments adopted by the Government during the 2015 cotton harvest in the context

of the DWCP to carry out an awareness-raising campaign on the abolition and prevention of the use of forced labour during the cotton harvest, and not to recruit medical staff and teachers for the harvest. The Committee notes that, as highlighted in the TPM report, while awareness of child labour is already at a high level, awareness of forced labour is still at an early stage. Further nationwide efforts by the Government and the social partners will be needed to ensure that the population is sensitized, and that messages on forced labour are effectively understood, as participating in the cotton harvest is frequently seen as a patriotic duty, a communal service tradition or justified by section 95 of the Labour Code. The Committee further notes from the TPM report that, as a result of the commitments made by the Government, the Coordination Council established a Feedback Mechanism (FBM) with the assistance of the ILO and the World Bank to provide information and resolve any complaints about the use of forced labour during the 2015 cotton harvest. The Committee notes that some complaints of forced labour have been made to the FBM, but that its usage was very low. The Committee also notes that the Coordinating Council is undertaking an evaluation of the FBM and will share the results and the data gathered with both the World Bank and the ILO. It notes that, according to the TPM report, monitors visited 254 cotton fields and interviewed 1,456 cotton pickers, 263 farmers or brigade leaders and seven children in the fields. The Committee notes that the use of children in the cotton harvest has become rare, sporadic and socially unacceptable, even if ongoing vigilance is needed. The monitors observed that thousands of students over 18 years of age participated in organized harvesting supervised by teachers, but that their participation seems to have been voluntary. The TPM report indicates that large-scale organized recruitment for cotton picking took place, but that this recruitment takes different forms, depending on how the authorities decide to use the human resources at their disposal to meet their cotton quota. The Committee notes that, according to the report of the TPM, in a certain number of cases workers from both the public and the private sectors indicated that they were forced to pick cotton against their will or had to pay someone else to pick cotton. The Committee notes that, while monitors were told that workers voluntarily picked cotton in their own time for cash and rewards, they observed that the organized recruitment of large numbers of persons in such a short period of time carries certain risks linked to workers' rights and that certain indicators of forced labour were observed, such as the withholding of wages, abusive working and living conditions and excessive overtime.

The Committee also notes from the TPM report that monitors faced some difficulties as interviewees were more willing to say that they knew others who were told to pick cotton against their will, than to say they were in such a situation themselves. While monitors were able to gather documents, such as employment contracts and letters by students volunteering to harvest cotton, they were more commonly told that the documents were unavailable. There were also gaps in staff attendance registers. The Committee further notes the indication in the TPM report that consistent information was received from other sources that forced labour is more widespread than the monitoring process alone suggests, and that teachers and medical staff, as well as private businesses, reportedly more often claimed than detected by the monitors that they were picking cotton against their will or providing money or goods than detected by the monitors. In this regard, the Committee notes that, while acknowledging the measures taken by the State party to reduce forced labour of children under the age of 16 years in the cotton sector, the Human Rights Committee, in its concluding observations of July 2015, expressed concern at consistent reports indicating an increase in the use of forced labour of students and adults in the cotton and silk sectors (CCPR/C/UZB/CO/4).

The Committee welcomes the involvement of the Government and the social partners, in the context of the DWCP, which has had a positive impact on the use of child and forced labour in the 2015 cotton harvest. The Committee notes however that the TPM concludes that, while recent policy commitments not to recruit medical staff and teachers, combined with awareness-raising campaigns, have had an impact, this has not yet been sufficient to ensure that compulsory labour, or payment in lieu of such labour, is not practiced in these sectors, especially outside working hours. *Noting that the TPM concludes that further work is needed to mitigate the risk of, and to strengthen safeguards against the use of forced labour, particularly in assessing the real willingness of pickers to engage in the cotton harvest, the Committee strongly encourages the Government to continue cooperating with the ILO and the social partners, in the framework of the DWCP, to ensure that the recruitment and engagement of public and private sector workers, as well as students, particularly over the age of 18 years, in cotton farming is carried out in a manner compatible with the Convention. With regard to the Government's reference to an evaluation of the Feedback Mechanism undertaken by the Coordination Council, the Committee requests the Government to provide information on its outcome and on any measures taken as a result. The Committee once again 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 farming, and requests it to provide information on the measures taken to this end and the concrete results achieved, with an indication of the sanctions applied.*

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

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 29** (Albania, Angola, Armenia, Azerbaijan, Belarus, Belize, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cabo Verde, Chile, Comoros, Congo, Côte d'Ivoire, Croatia, Democratic Republic of the Congo, Djibouti, Dominica, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guatemala, Guinea, Guinea-Bissau, Haiti, Honduras, India, Islamic Republic of Iran, Iraq, Japan, Jordan, Kazakhstan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Lao

People's Democratic Republic, Lebanon, Liberia, Lithuania, Malawi, Mauritius, Morocco, Myanmar, Namibia, Nepal, Netherlands: Aruba, Nicaragua, Nigeria, Qatar, Rwanda, South Sudan, Syrian Arab Republic, Turkmenistan);
Convention No. 105 (*Afghanistan, Albania, Angola, Armenia, Azerbaijan, Bahamas, Barbados, Belarus, Belize, Bosnia and Herzegovina, Bulgaria, Burundi, Chile, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Dominica, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guinea, Guinea-Bissau, Honduras, India, Iraq, Israel, Kazakhstan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Lebanon, Liberia, Malawi, Mauritania, Mauritius, Namibia, Nepal, Netherlands: Aruba, Rwanda, Solomon Islands, South Sudan, Turkmenistan, Uzbekistan*).

The Committee noted the information supplied by the following States in answer to a direct request with regard to:
Convention No. 29 (*Luxembourg*); **Convention No. 105** (*Jordan*).

Elimination of child labour and protection of children and young persons

Angola

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. Noting the adoption of the new General Labour Act No. 7/15 of 15 June 2015, 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 specific issues raised in relation to the General Labour Act, and other matters raised in its previous comments.

Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children. The Committee previously noted the indication of the National Union of Angolan Workers (UNTA) that cases of child trafficking existed in the country. It also noted that the Committee on the Rights of the Child (CRC) expressed concern about the extent of the problem of sexual exploitation and trafficking of children. The Committee further noted that, although Angolan law criminalizes kidnapping, forced labour and bonded servitude, it does not prohibit trafficking in persons, including children. In this regard, the Committee noted that section 183 of the draft Penal Code (finalized in 2006) prohibited recruiting or receiving persons under 18 for the exercise of prostitution in a foreign country. The Committee observed that while the draft Penal Code prohibited some types of child trafficking, it did not prohibit the sale and trafficking of children for labour exploitation, nor internal trafficking.

The Committee notes that article 12 of the new Constitution of Angola (2010) states that the Government shall respect and implement the principles of the UN Charter on the basis of, inter alia, repudiating human trafficking. However, the Committee observes, that article 12 does not specifically prohibit and penalize human trafficking. The Committee notes the Government's statement in its report to the CRC of 26 February 2010 that trafficking is not defined in national legislation, and that the prevention and mitigation of the phenomenon requires, inter alia, legislative reform (CRC/C/AGO/2-4, paragraph 175). The Committee further notes the Government's statement in its reply to the list of issues of the CRC of 24 August 2010 that the draft Penal Code has been submitted to Parliament for discussion and approval (CRC/C/AGO/Q/2-4/Add.1, paragraphs 60 and 61). The Committee notes an absence of information in the Government's report as to whether this draft Penal Code has been modified to include internal trafficking or trafficking of children for the purpose of labour exploitation. ***The Committee urges the Government to take the necessary measures to ensure that provisions prohibiting both the internal trafficking of children under 18 years and their sale and trafficking for the purpose of labour exploitation are included in national legislation, and to establish penalties in this regard, as a matter of urgency.***

Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances. The Committee previously noted that section 184(1) of the draft Penal Code prohibits anyone from promoting, facilitating, permitting, using or offering a young person under 16 years of age for, among other things, pornographic photography, films or engravings. It reminded the Government that, by virtue of *Article 3(b)* of the Convention, each Member which ratifies the Convention shall prohibit the use, procuring or offering of a child under 18 years of age for the production of pornography or for pornographic performances.

The Committee notes an absence of information on this point in the Government's report. However, the Committee notes that the draft Penal Code is still under discussion by Parliament. ***The Committee therefore urges the Government to take the necessary measures to ensure that the forthcoming Penal Code includes a prohibition on using, procuring or offering of all persons under 18 years of age for the production of pornography or for pornographic performances, in conformity with Article 3(b) of the Convention. It requests the Government to provide a copy of the amended Penal Code, once adopted.***

Article 4(1). Determination of hazardous types of employment or work. In its previous comments, the Committee noted that Decree No. 58/82, which contained a comprehensive list of hazardous types of work prohibited for children under 18 years of age, was repealed by the General Labour Act of 2000 (Act No. 2/00). The Committee observed that while section 284(1) of Act No. 2/00 prohibits the employment of minors in hazardous work, pursuant to section 284(2), this prohibition only includes employment in theatres, cinemas, nightclubs, cabarets, discotheques and other similar establishments, or as traders or in publicity for pharmaceutical products.

The Committee observes that the prohibition of hazardous work for minors in section 284(2) of Act No. 2/00 appears to encompass only types of work which may harm the morals of children, and does not address types of work which may harm their health or safety. In this regard, the Committee once again reminds the Government that pursuant to *Article 4(1)* of the Convention, the types of work which, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned. With regard to types of work that may be harmful to the health and safety of children, the Committee notes the Government's statement in its report to the CRC of 26 February 2010 identifying cases of children engaged in hazardous activities and exploitative work such as work in high-seas fishing in the Namibe province, in diamond mines, in border localities, in markets and in bus terminals (CRC/C/AGO/2-4, paragraph 432). The Committee draws the Government's attention to Paragraph 3 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), which provides that in determining the types of hazardous work prohibited to minors, consideration should be given, inter alia, to: (a) work which exposes children to physical, psychological or sexual abuse; (b) work underground, underwater, at dangerous heights or in confined spaces; (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads; (d) work in unhealthy environments which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; and (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer. ***The Committee therefore requests the Government to take the necessary measures to ensure that the determination of the types of hazardous work prohibited to minors includes not only a prohibition against types of work that are harmful to a child's morals, but also a prohibition against types of work that are harmful to their health and safety, in conformity with Article 4(1) of the Convention. It hopes that, in this regard, the Government will take into consideration the types of work enumerated in Paragraph 3 of Recommendation No. 190.***

Article 5. Monitoring mechanisms. Labour inspection. The Committee previously noted the UNTA's indication that cases of children working in the informal sector had been reported. It also noted, in its comments under the Labour Inspection Convention, 1947 (No. 81), that most working minors are engaged in the informal economy.

The Committee notes the Government's statement, in its communication of 2 June 2009 regarding the comments of the UNTA, that efforts to monitor the informal sector are being made by the labour inspectorate and that provincial monitoring units are also involved in monitoring this sector. The Government further indicates that, despite efforts towards the formalization of this sector, the informal sector will not disappear any time soon. ***The Committee therefore requests the Government to take the necessary measures to strengthen and adapt the capacity of the labour inspection and provincial monitoring units to improve the monitoring of children working in the informal economy. It requests the Government to provide information on the measures taken in this respect with regard to combating the worst forms of child labour in the informal sector, and on the results achieved.***

Article 7(2). Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. Access to free basic education. The Committee previously noted the ILO-IPEC information that close to 44 per cent of all children in Angola do not attend school. It also noted that Angola was implementing, in collaboration with UNESCO, a National Plan of Action for Education for All (2001–15) (NPA EFA) and that measures had been taken within the framework of the reform of the education system.

The Committee notes the Government's statement in its reply to the list of issues of the CRC of 24 August 2010 that the Ministry of Education has developed a series of actions for the mid-term assessment of the NPA EFA (CRC/C/AGO/Q/2-4/Add.1, paragraph 35). The Committee also notes the Government's indication in its report to the CRC of 26 February 2010 that it has begun implementation of a literacy and catch-up strategy (2006–15), in partnership with UNICEF, which seeks to accelerate learning with the use of self-teaching and the certification of skills acquired in various contexts of formal and informal education (CRC/C/AGO/2-4, paragraph 354). The Government also indicates that the number of students attending primary school rose between 2004 and 2006, although, due to the lasting effects of armed conflict, the growth was higher in the inland provinces than in the coastal provinces, and that the gender disparity in enrolment rates persisted (CRC/C/AGO/2-4, paragraphs 338 and 339). The Government further indicates in this report that there are high student failure and drop-out rates in the country, and that due to familial poverty, only 37.2 per cent of all children who start the first grade will finish the sixth grade (CRC/C/AGO/2-4, paragraph 344).

In this regard, the Committee notes that the Committee on Economic, Social and Cultural Rights (CESCR), in its concluding observations of 1 December 2008, expressed its concern at the limited access to education for groups such as children from rural areas and poor families and girls. The CESCR also expressed its concern that budgetary allocations were not sufficient to meet the rising number of children of school age, and the lack of schools and trained teachers, particularly in remote areas and in slum settlements (E/C.12/AGO/CO/3, paragraphs 38 and 39). Considering that education contributes to preventing the engagement of children in the worst forms of child labour, the Committee expresses its **concern** that children from several vulnerable groups are less likely to attend and complete school. ***The Committee requests the Government to redouble its efforts, within the framework of the NPA EFA, to strengthen the functioning of the education system and to facilitate access to free basic education, particularly for children in remote areas and conflict affected regions, in addition, to children from poor families, rural areas and girls. The Committee also requests the Government to provide information on the outcome of the assessment of the NPA EFA, and the subsequent measures taken to strengthen this plan. Lastly, the Committee encourages the Government to pursue its efforts to provide informal educational opportunities and vocational training to children who are not enrolled in formal schooling.***

Clause (b). Removal of children from the worst forms of child labour and their rehabilitation and social integration. Child victims of trafficking and commercial sexual exploitation. The Committee previously noted the Government's indication in its report to the CRC in August 2004 (CRC/C/3/Add.66, paragraph 250) that the abduction of children began during the armed conflict and with the end of the conflict, a child protection programme was introduced whereby thousands of children were taken into hostels and camps for displaced persons and refugees, particularly girls who had been victims of sexual exploitation or slavery. The Committee also noted the ILO-IPEC information that the sexual and economic abuse of girls and boys, including the trafficking of children in certain parts of the country, had emerged as a problem. In this regard, the Committee noted that the Government had formulated the National Plan of Action and Intervention against the Sexual and Commercial Exploitation of Children (NPAI SCEC), which included the objectives of protecting and defending the rights of child victims of sexual and commercial exploitation and rehabilitating and preventing the social exclusion of these child victims.

The Committee notes the Government's statement in its report to the CRC of 26 February 2010 that the NPAI SCEC has not been implemented with the required efficiency (CRC/C/AGO/2-4, paragraph 189). The Government indicates in this report that the NPAI SCEC proved unsuitable for the current context, and that there is an urgent need to revise it (CRC/C/AGO/2-4, paragraph 432). The Government indicates that the National Childs Council (INAC) is in the process of evaluating the NPAI SCEC's implementation, with the goal of strengthening the strategy (CRC/C/AGO/2-4, paragraphs 432 and 412).

The Committee also notes the information in the Trafficking Report that while the Government mainly relies upon religious, civil society, and international organizations to protect and assist victims of trafficking, there has been an increase in the number of victims referred to these services by the Government. This report further indicates that, in partnership with UNICEF, the INAC operates 18 child protection networks, which serve as crisis centres for victims of trafficking and other crimes who are between the ages of 9 and 16, and that victims over 16 are referred to shelters run by the Organization of Angolan Women. ***The Committee strongly requests the Government to take immediate measures to revise and strengthen the NPAI SCEC to ensure its effective implementation, with child participation, particularly with regard to initiatives targeting child victims of commercial sexual exploitation. The Committee also urges the Government to redouble its efforts with regard to identifying child victims of trafficking and commercial sexual exploitation, and to ensure that identified victims are referred to appropriate services for their rehabilitation and social reintegration. It requests the Government to provide information on the results achieved.***

Clause (d). Identification of children at special risk. 1. Former child soldiers and children displaced as a result of the conflicts. The Committee previously noted that the CRC expressed deep concern that inadequate attention was being given to the plight of former child soldiers, particularly girls. The Committee also noted that the Special Representative of the Secretary-General for Children and Armed Conflict expressed concern over the large numbers and appalling conditions of internally displaced children. It noted the ILO-IPEC information that over 100,000 children were separated from their families as a result of war. In this regard, it noted that the Government had implemented a programme for the reintegration of demobilized minors in

eight provinces and that the Government adopted the Post-war Child Protection Strategy (PWCP), which was implemented from 2002 to 2006.

The Committee notes the Government's indication in its reply to the list of issues of the CRC of 24 August 2010 that, following the end of the war in 2002, the return and reintegration of people directly affected by the conflict (including displaced children and former soldiers) was a priority for the Government. The Government indicates that there were approximately 4 million displaced persons, of which 40 per cent were children (CRC/C/AGO/Q/2-4/Add.1, paragraph 38). The Government also indicates in its report to the CRC of 26 February 2010 that it is implementing a programme to return and resettle the displaced populations, refugees and other persons directly affected by the armed conflict, with special attention to children. The Government's report to the CRC also indicates that the Cabinda provincial government carried out a series of programmes to provide special services to children in the context of reintegrating the vulnerable groups directly affected by the armed conflict. This project to support the reintegration of vulnerable groups includes a training package in various vocational skills (such as cooking, sewing and embroidery), life skills based on micro-lending, child protection and primary health care (CRC/C/AGO/2-4, paragraphs 368 and 369). ***The Committee requests the Government to strengthen its efforts with regard to rehabilitating and reintegrating children affected by the conflict, including former child soldiers. It requests the Government to provide information on the number of children reached through the measures taken in this regard.***

2. *Street children.* In its previous comments, the Committee noted the Government's indication that the displacement of a large number of people during the armed conflict gave rise to the phenomenon of street children. The Committee also noted that the Government had set up hostels with the aim of getting these children off the streets, in addition to plans to build 600 regional reception centres for children in need of protection. However, the Committee noted a report indicating that at least 10,000 children work on the streets in the capital city of Luanda, and noted the Government's indication that street children are also found in other large cities, such as Benguela, Lobito, Lubango and Malang.

The Committee notes the Government's statement in its report to the CRC of 26 February 2010 that there has been a decrease in the number of children living on the street due to the relative improvement in the lives of the citizens, but that there remains a significant number of street children (CRC/C/AGO/2-4, paragraph 397). The Committee also notes the Government's indication in this report that efforts are made to reintegrate street children into their biological families, or to place them in foster families. This is done through the Family Tracing and Reunification Programme, which provides support to separated children in temporary institutions and reunites children with their families. The Government also indicates that while the factors contributing to the phenomenon of street children have not been eliminated, 1,545 street children have been picked up and hosted in Casa Pia de Luanda (a children's home), in an effort to reintegrate these children with their families. The Government further indicates that cooperation is ongoing between different governmental partners to implement programmes to develop and upgrade the private institutions in which street children are sheltered (including the provision of integrated education and vocational training programmes) (CRC/C/AGO/2-4, paragraphs 398–401).

The Committee further notes the Government's indication in its reply to the list of issues of the CRC of 24 August 2010 that some children working and living in the street were provided with social reintegration services: 239 street children in 2007, 240 such children in 2008 and 260 such children in 2009. Almost all of these children were boys (CRC/C/AGO/Q/2-4/Add.1, page 14). ***Recalling that street children are particularly vulnerable to the worst forms of child labour, the Committee requests the Government to redouble its efforts to protect street children from these worst forms, and to provide for their rehabilitation and reintegration. The Committee also requests the Government to provide information on the number of street child who have been provided with educational and vocational training opportunities in children's institutions.***

3. *Child orphans of HIV/AIDS and other vulnerable children (OVCs).* Following its previous comments, the Committee notes the information in the Government's report to the CRC of 26 February 2010 that the number of OVCs could reach approximately 200,000 by 2010 and that the number of OVCs in Angola is rising (CRC/C/AGO/2-4, paragraphs 263–264). The Government also indicates in this report that it began preparing, in 2007, a National Action Plan for OVCs due to HIV/AIDS, which includes strengthening family, community and institutional capacity to respond to the needs of OVCs, and an expansion of services and social protection mechanisms for these children (CRC/C/AGO/2-4, paragraphs 261 and 374). The Government further indicates that the number of survival grants given to OVCs is rising (CRC/C/AGO/2-4, paragraph 50). However, the Committee notes the Government's indication in its Country Progress Report to UNGASS of March 2010 that only 16.8 per cent of households with OVCs receive basic external support. ***The Committee recalls that OVCs are at an increased risk of being engaged in the worst forms of child labour and therefore urges the Government to take immediate and effective measures, within the framework of the National Action Plan for OVCs due to HIV/AIDS, to ensure that children orphaned by HIV/AIDS and other vulnerable children are protected from these worst forms. The Committee requests the Government to provide information on the concrete measures taken in this regard, and on the results achieved, particularly with regard to the percentage of households with OVCs receiving support services and grants.***

Application of the Convention in practice. Following its previous comments, the Committee notes the Government's statement in its report to the CRC of 26 February 2010 that children in Angola are involved in the worst forms of child labour, particularly in hazardous work (diamond mining and fishing), street labour and commercial sexual exploitation (CRC/C/AGO/2-4, paragraph 432). The Committee also notes the Government's information on this report that 20 child victims of trafficking were identified by law enforcement officials in 2007 and that there have been clear cases of child trafficking in the Zaire Province. The Government states in this report that child trafficking is difficult to control due to the vast border and that Angolan children are taken from the capital city of the country and brought to the DRC and that Congolese children are trafficked from Kinshasa into Angola (paragraphs 172–175). ***While noting the difficult situation prevailing in the country, the Committee expresses its deep concern at the situation of persons under the age of 18 working in the worst forms of child labour, and accordingly urges the Government to redouble its efforts to ensure in practice the protection of children from these worst forms, particularly trafficking, commercial sexual exploitation, use in illicit activities and hazardous work. It also requests the Government to take the necessary measures to ensure that sufficient data on these worst forms of child labour are available, and to provide information with its next report on the nature, extent and trends of the worst forms of child labour, the number of children covered by the measures giving effect to the Convention, the number and nature of infringements, investigations, prosecutions, convictions and sanctions. To the extent possible, all information provided should be disaggregated by sex and age.***

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.

Bahamas

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy. In its previous comments, the Committee noted that, according to a study carried out in June 2005 within the framework of the ILO and the Canadian International Development Agency (CIDA) Regional Child Labour Project and entitled "Review of child labour laws of the Bahamas – A guide to legislative reform" (ILO and the CIDA Regional Child Labour Project Study), the Ministry of Labour and Immigration had established a National Committee on Child Labour whose task is to make recommendations for a policy on child labour. ***Once again noting that the Government's report does not provide any information on this point, the Committee expresses the hope that a national policy on child labour will be elaborated in the near future. It once again requests the Government to provide information on any progress made to this end in its next report.***

Article 2(1). Scope of application. The Committee previously noted that section 50(1) of the Employment Act, 2001, provides that a child (any person under the age of 14 years) shall not be employed in any undertaking except as expressly provided in the First Schedule. It also noted that, according to the ILO and the CIDA Regional Child Labour Project Study, children were found working in a variety of activities that were suggestive of child labour. Moreover, the Committee noted that, according to the ILO and the CIDA Regional Child Labour Project Study, the Labour Inspectorate Unit does not have the human resource capability or the administrative framework to conduct the requisite inspection of workplaces for child labour, and that the majority of children work in the informal economy, which is not generally inspected by the inspectorate. The Committee noted the Government's indication that it would consult its relevant agencies on this point and that it had initiated the process of hiring additional labour inspectors. In light of the above, the Committee observed that the minimum age for admission to employment only applies to undertakings whereas the majority of children work in the informal economy. It reminded the Government 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 work is remunerated. ***Noting the absence of information in the Government's report on this point, the Committee once again expresses the hope that, in hiring additional labour inspectors, the labour inspection component concerning children working on their own account or in the informal economy will be strengthened. In this regard, it once again requests the Government to adapt and strengthen the labour inspection services in order to ensure that the protection established by the Convention is secured for children working in these sectors. The Committee requests the Government to provide information on any steps taken in this regard in its next report.***

Article 2(2) and (5). Raising the minimum age for admission to employment or work. The Committee previously noted that the minimum age for admission to employment or work specified by the Bahamas at the time of ratification was 14 years. The Committee also noted that section 50(1) of the Employment Act provided for the general prohibition of employing children under 14 years of age in any undertaking, save for certain exceptions.

The Committee notes that section 7(2) of the Child Protection Act provides that no child under the age of 16 shall be employed, save as is provided by subsection (3), which provides that a child under the age of 16 may be employed in any occupation in which his/her employment is sanctioned by any other law or prescribed under this Act. ***The Committee requests the Government to indicate whether it intends to raise the minimum age for admission to employment or work initially specified (14 years) to the age of 16, in accordance with the Child Protection Act, and amend the Employment Act in order to eliminate this discrepancy in the national legislation. If so, the Committee takes the opportunity 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.***

Article 2(3). Age of completion of compulsory schooling. The Committee noted that, by virtue of section 22(3) of the Education Act, the age of completion of compulsory schooling is 16 years. It also noted that, according to data from the UNESCO Institute for Statistics of 2005, the school enrolment rate at the primary school level is 92 per cent for girls and 89 per cent for boys, and at the secondary level 84 per cent for girls and 83 per cent for boys. Moreover, the Committee noted that, according to the 2008 Education for All UNESCO Report entitled *Education for All by 2015 – Will we make it?* (2008 EFA UNESCO Report), progress was made in attaining the EFA agenda. The Committee noted however that, according to the 2008 EFA UNESCO Report, the Bahamas is at risk of not achieving the EFA goal by 2015 because progress is too slow.

The Committee notes the absence of information in the Government's report on this point. ***Considering that compulsory education is one of the most effective ways of combating child labour, the Committee once again requests the Government to take the necessary measures to increase the school enrolment rate as well as completion rate at both the primary and secondary school levels in order to achieve the EFA goal by 2015, and to provide information on the results attained.***

Article 3(2). Determination of types of hazardous work. In its previous comments, the Committee noted that the national legislation did not contain a determination of the types of employment or work likely to jeopardize the health, safety or morals of young persons below 18 years of age. It also noted the Government's indication that it would address this issue in forecasted amendments to the Employment Act after consultation with representatives of employers' and workers' organizations. In this regard, the Committee noted that, according to the Government, it had arranged with the ILO Regional Office to establish a list of hazardous occupations as part of its Decent Work Country Programme.

The Committee notes the absence of information in the Government's report on this point. However, the Committee notes that a delegation of the Bahamas attended the ILO Subregional Workshop on the Elimination of Hazardous Child Labour for Select Caribbean Countries in October 2011. The Committee notes that this workshop aimed to enhance skills for the preparation of a list of hazardous work through internal consultations and collaboration. ***The Committee therefore urges the Government to take the necessary measures to ensure the adoption, in the near future, of legal provisions determining the types of hazardous work to be prohibited for persons under 18 years of age. The Committee also requests the Government to provide information on the consultations held with the organizations of employers and workers concerned with this subject.***

Article 7. Light work. The Committee previously noted that section 7(3)(a) of the Child Protection Act provides that a child under the age of 16 may be employed by the child's parents or guardian in light domestic, agricultural or horticultural work.

It requested the Government to provide information on the number of hours during which, and the conditions in which, light domestic, agricultural or horticultural work may be undertaken by children under the age of 16 years. The Committee noted the Government's indication that it would undertake to provide information to the Committee on the measures taken or envisaged in respect of provisions or regulations which would determine light work activities and the conditions in which such employment or work may be undertaken by young persons from the age of 12 years. ***Once again noting the absence of information in the Government's report on this point, the Committee urges the Government to take these measures in the near future in order to give effect to the Convention on this point. It once again requests the Government to provide any information on progress made in this regard.***

Article 9(1). Penalties. In its previous comments, the Committee noted that the Child Protection Act does not provide for penalties in case of contravention of section 7 of the Act regarding child labour. It requested the Government to indicate the legal provisions that prescribe penalties in case of violations of the Convention.

The Committee notes the absence of information in the Government's report on this point. It once again recalls that, by virtue of **Article 9(1)** of the Convention, all necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority, to ensure the effective enforcement of the provisions of this Convention. ***The Committee urges the Government to take measures to ensure that regulations provide for penalties in case of violation of section 7 of the Child Protection Act regarding child labour. 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 noted the Government's indication that some provisions of the Employment Act give effect to this Article of the Convention, particularly section 61(1) which lays down that every employer shall keep a register of wage payments and accounts in respect of each employee for a period of three years. The Committee observed that this provision of the Employment Act does not meet the conditions provided by **Article 9(3)** of the Convention. It also observed that the Child Protection Act does not include a provision requiring the keeping of registers or other documents by employers.

The Committee notes the Government's indication that, by virtue of section 71(a) of the Employment Act, employers are required to make, and keep for such period as may be prescribed after the work is performed, such records of the names, addresses, ages, wages, hours worked, annual vacations and other conditions of work of each of their employees as may be prescribed. By virtue of section 71(b), employers are required to furnish such information to the Minister of Labour if it is requested by the Minister. The Government also indicates that it is currently considering a proposal made by workers' organizations to amend section 71 of the Employment Act in order to allow a worker or his or her union representative to request his or her employer to provide the information contained in these records to the Minister of Labour. ***The Committee requests the Government to provide information on the progress made in amending section 71 of the Employment Act and to communicate a copy of the new section, once amended.***

Application of the Convention in practice. In its previous comments, the Committee requested the Government to provide information on the manner in which the Convention is applied in practice. ***Noting the absence of information on this point in the Government's report, the Committee once again requests it to provide information on the manner in which the Convention is applied in practice, including, for example, statistical data on the employment of children and young persons, especially regarding children working in the informal economy, as well as extracts from the reports of inspection services and information on the number and nature of contraventions reported and penalties applied. 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.

Plurinational State of Bolivia

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee notes the Government's report and also the detailed discussion that took place within the Committee on the Application of Standards at the 104th Session of the International Labour Conference in June 2015 concerning the application of the Convention by the Plurinational State of Bolivia. It also notes the joint observations of the International Organisation of Employers (IOE) and the Confederation of Private Employers of Bolivia (CEPB), which were received on 31 August 2015.

Article 2(1) of the Convention. Minimum age for admission to employment or work. Labour inspection. In its previous comments, the Committee noted that, under section 126(1) of the Children's and Adolescents' Code, the minimum age for admission to employment or work was 14 years, and that section 58 of the General Labour Act prohibited work by children under 14 years of age, which was in keeping with the minimum age specified by the Government at the time of ratifying the Convention. The Committee noted the observations submitted by the International Trade Union Confederation (ITUC) concerning the Government's adoption of the new Children's and Adolescents' Code on 17 July 2014, which amends section 129 of the previous Code to lower the working age for children to 10 years for self-employed workers and to 12 years for those in an employment relationship, under exceptional circumstances. The ITUC argued that these exceptions to the minimum age of 14 years are incompatible with the Convention's exceptions to the minimum age which are permitted for light work under **Article 7(4)**, and which do not permit children under the age of 12 years to work. The Committee also noted the ITUC's statement that allowing children to work as from the age of 10 years will inevitably affect their compulsory schooling, which in the Plurinational State of Bolivia comprises a 12-year period, namely at least until 16 years of age. The Committee noted the Government's indication that the new exceptions to the minimum age of 14 years, as set out under section 129 of the Code, can only be registered and authorized on condition that such work does not threaten children's rights to education, health, dignity or overall development.

The Committee notes the joint observations of the IOE and the CEPB, to the effect that the new Children's and Adolescents' Code is the result of an incorrect application of the Convention. They point out that the amendment was undertaken without prior consultation of the employers' and workers' organizations and that it goes against the minimum age for admission to work of 14 years, as specified by the Government when ratifying the Convention. The IOE and the CEPB also point out that the high level of the informal economy in the country (70 per cent) favours child labour, since it is not subject to labour inspection. They add that there is no child labour in the formal employers' sector. Lastly, they state that the Government needs to strengthen inspection services in both the formal and informal sectors.

The Committee notes the statement made by the Government representative of the Plurinational State of Bolivia to the Conference Committee, to the effect that the exceptions to the minimum age for admission to employment established by the new Code are provisional, with a view to overcoming this problem by 2020. He said that the Government was not contravening the Convention but was seeking to broaden protection of child workers, the Code being an exceptional measure that contributed to the application of the public policies aimed at eliminating child labour. He referred to the measures that had been adopted with the aim of protecting children: the right to receive a wage equal to the national minimum wage, the right to social security, the promotion of the right to education, and a 30-hour working week for work carried out for a third party by children between 12 and 14 years of age, including two hours per day devoted to study. The Government also indicates in its report that the Ministry of Labour, Employment and Social Welfare is applying the Convention through integrated, inter-sectoral routine or complaint-based inspections, conducted by the Department for the Protection of Children and Young Persons, to highlight the cases involving work by children under 14 years of age.

The Committee notes that the Conference Committee, while duly noting the positive results of the economic and social policies put in place by the Government, urged the Government to repeal the provisions of the legislation setting the minimum age for admission to employment or work, and to immediately prepare a new law, in consultation with the social partners, increasing the minimum age for admission to employment or work in conformity with the Convention. It also asked the Government to provide the labour inspectorate with more human and technical resources and also to provide training for labour inspectors, with a view to adopting a more efficient and concrete approach to applying the Convention.

The Committee once again *deeply deplores* the recent amendments to section 129 of the Children's and Adolescents' Code, which authorizes the competent authority to approve the work of children and young persons between 10 and 14 years of age on a self-employed basis and the work of children and young persons between 12 and 14 years of age for a third party. The Committee emphasizes once again that the objective of the Convention is to eliminate child labour and that it encourages the raising of the minimum age but does not authorize the lowering thereof, once it has been fixed. The Committee recalls that the Plurinational State of Bolivia fixed a minimum age of 14 years at the time of ratifying the Convention, and that the exceptions to the minimum age for admission to work or employment under the terms of section 129 of the Children's and Adolescents' Code are not in conformity with this provision of the Convention. Furthermore, the Committee notes with *deep concern* the distinction made between the minimum age for self-employed children, fixed at 10 years, and the minimum age for children engaged in an employment relationship, fixed at 12 years. As the Committee noted in its 2012 General Survey on the fundamental Conventions (paragraphs 550 and 551), it is of the firm view that self-employed children should enjoy at least the same legal protection, especially as many of them work in the informal economy and under dangerous conditions. Lastly, the Committee observes that, further to its 2012 comments on the Labour Inspection Convention, 1947 (No. 81), the Government indicates that there are 86 chief inspectors and labour inspectors (*Article 10*). The Committee observes that, according to the 2012 General Survey (paragraph 345), the limited number of labour inspectors has made it difficult for them to cover the whole of the informal economy and agriculture. The Committee therefore calls on governments to strengthen the capacity of the labour inspectorate to address child labour in the informal economy. *The Committee therefore strongly urges the Government to take immediate steps to ensure that section 129 of the Children's and Adolescents' Code of 17 July 2014 fixing the minimum age for admission to employment or work, including own-account work, is amended, in order to align this age to the one specified at the time of ratification, namely a minimum of 14 years, and bring it into conformity with the provisions of the Convention. It also requests the Government to take the necessary steps to reinforce the capacity of the labour inspectorate, particularly by increasing the number of inspectors and their technical capacities with regard to child labour, so as to ensure that the protection afforded by the Convention is also enjoyed by children working in the informal economy.*

Article 7(1) and (4). Light work. The Committee previously noted that sections 132 and 133 of the Children's and Adolescents' Code of 17 July 2014 permit children under the age of 14 years to work, subject to due authorization by the competent authority, under conditions which limit their working hours, do not endanger their life, health, integrity or image and do not interfere with their access to education.

The Committee notes the conclusions of the Conference Committee, according to which these amendments permit all children under 14 years of age to carry out light work without fixing a lower minimum age for admission to such work. The Committee recalls that, under the flexibility clauses in *Article 7(1) and (4)* of the Convention, national laws or regulations may permit the employment or work of persons between 12 and 14 years of age in light work which is not likely to be harmful to their health or development, and not such as to prejudice their attendance at school, their participation in vocational guidance or training programmes approved by the competent authority or their capacity to benefit from the instruction received. The Committee notes, however, that sections 132 and 133 of the Children's and

Adolescents' Code do not set a lower minimum age of 12 years, as required by *Article 7(4)*. ***The Committee once again urges the Government to take immediate measures to ensure that sections 132 and 133 of the Children's and Adolescents' Code of 17 July 2014 are amended in order to establish a lower minimum age of 12 years for admission to light work, in accordance with Article 7(1) and (4) of the Convention.***

Article 9(3). Keeping of registers. In its previous comments, the Committee noted that the national legislation did not contain provisions giving effect to the employer's obligation to keep registers. The Committee also noted that, pursuant to section 138 of the Children's and Adolescents' Code, registers for child workers are now required in order to obtain authorization for such work. The Committee observed that these registers include authorization for children between 10 and 14 years of age to work.

The Committee notes that there is no information on this subject in the Government's report. It draws the Government's attention to its comments under *Article 2(1)*, according to which authorization to work should not be granted for children below the age of 14 years. Furthermore, it reminds the Government that, in accordance with *Article 9(3)*, national laws shall prescribe the registers which shall be kept and made available by the employer containing the names and ages or dates of birth, duly certified, of persons whom he/she employs or who work for him/her and who are less than 18 years of age. ***The Committee therefore requests the Government to take the necessary steps to bring this provision of the Children's and Adolescents' Code into conformity with the Convention on these two points, and to provide recent statistics on child labour, disaggregated by age and sex.***

The Committee invites the Government to avail itself of ILO technical assistance in order to bring its law and practice into conformity with the Convention.

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

Brazil

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

Article 1 of the Convention. National policy and practical application of the Convention. The Committee previously noted the various measures taken by the Government for the elimination of child labour, including the setting up of a specific inspection scheme for the elimination of child labour within the Child Labour Eradication Programme (PETI) as well as the income transfer initiatives, such as the *Bolsa Família* programme. The Committee noted that although child labour had declined over the past years, there remained serious challenges.

The Committee notes from the Government's report that in 2013, the PETI was reformulated and implemented by Ordinance No. 63 of 2014 with the aim to strengthen the prevention and eradication of child labour through inter-sectoral strategic actions in areas with a high incidence of child labour. Accordingly, a total of 1,032 municipalities were identified as eligible for federal co-financing of the strategic actions of the PETI, 2014.

Moreover, in the first half of 2013, a total of 110,353 families with children and adolescents in child labour were registered for social and monitoring services within the Programme of Integral Attention to Families (PAIF). Furthermore, the child-care services provided to children removed from child labour by the Basic Social Protection Programme was expanded from 3,588 to 5,039 municipalities, covering 1,624,260 children of all age groups. In addition, the Committee notes from the ILO-IPEC project report of September 2013 on "Combating worst forms of child labour (WFCL) and promoting horizontal cooperation in selected countries of South America" that currently, the *Bolsa Família* programme serves 13.8 million families for a total of 50 million people. The Government report indicates that, in 2013, 310,753 families with children and adolescents in child labour received cash transfers through this programme.

The Committee further notes from the ILO-IPEC report for the project "Support to national efforts towards a child labour-free State, Bahia" of January 2013, that the Government designed and implemented the *Plan for overcoming extreme poverty – Brazil without misery*, aiming to withdraw 16.2 million Brazilians from extreme poverty through cash transfers and focusing on child labour as one of its priorities. This programme increased the reach of its income transfer programmes by including 1.3 million children and adolescents in the Family Grant conditional cash transfer programme (*Brazil Carinhoso*) and expanded the maximum number of children entitled to additional benefits from three to five per family.

Lastly, the Committee notes the following information from the ILO-IPEC project report of 2013 regarding the results achieved within the framework of ILO-IPEC activities in Brazil:

- Within the project "Support to national efforts towards a child labour-free State, Bahia 2008–13", 16,491 children who were withdrawn or prevented from child labour were rehabilitated through education; and a total of 16,465 families were covered by the Family Grant and Family Health Programmes.
- Within the project, "Combating WFCL and promoting horizontal cooperation in selected countries of South America 2009–13", a total of 8,525 children were withdrawn (3,047) or prevented (5,478) from child labour.
- Within the project, "Programme to reduce WFCL in tobacco-growing communities in Malawi and Brazil, 2012–15", during January 2012 to December 2013, a total of 2,143 children were prevented from child labour through

educational services or training opportunities, and 3,000 children were prevented through other non-education-related services.

The Committee welcomes the Government's information that the results of the national household surveys from 1992 to 2012 indicated a drastic reduction in child labour from 8.4 million children (between the ages of 5–17 years) in 1992 to 3.51 million children in 2012, indicating a reduction of 4.9 million (59 per cent) during this period. It notes, however, that according to the 2013 and 2014 national household surveys, although there was a further reduction in child labour in 2013, with 3.1 million children aged 5–17, working in 2014 an increase of 4.5 per cent has been noted, bringing the total number of children working to 3.3 million. *Taking due note of the concrete social protection measures and educational initiatives taken by the Government, the Committee requests it to pursue its efforts to ensure the progressive elimination of child labour in the country. It requests the Government to continue providing information on the measures taken in this regard, as well as to continue to provide statistical information on the results achieved, including through the implementation of the reformed PETI, 2014. It also requests the Government to provide information on the impact of the "Plan for overcoming extreme poverty – Brazil without misery" on eliminating child labour.*

Article 2(1). Scope of application. In its previous comments, the Committee noted that section 402 of the Consolidated Labour Act excludes from its scope, work by children and young persons in family enterprises, that is, in economic activities for the purpose of family subsistence and maintenance. It noted that a majority of children working under the minimum age were working either on a self-employed basis or on an unpaid basis in family enterprises.

The Committee notes the Government's information that the fight against child labour in Brazil, through regular inspections and specific programmes for the eradication of child labour, comprises both the formal and informal sectors, including family enterprises. In this regard, the Committee refers to its observation of 2013 under the Labour Inspection Convention, 1947 (No. 81), that 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 further notes from the ILO report of 2013 *Decent Work Country Profile – A sub-national perspective in Brazil*, that of the estimated 910,000 children under the age of 14 years working in agricultural establishments, 85.6 per cent of them work in family agriculture. *The Committee accordingly requests the Government to take the necessary measures to adapt and strengthen the capacity and reach of the labour inspectorate services so as to better identify instances of child labour in the informal economy and to guarantee the protection afforded by the Convention to children under the age of 16 years who are self-employed or working in family agriculture. The Committee requests the Government to provide information on the measures taken in this regard and on the results achieved.*

The Committee is raising other matters 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 requested the Government to intensify its efforts to combat the trafficking of children for labour and sexual exploitation.

The Committee notes the Government's information that in 2013, it launched the Second National Plan to Combat Trafficking of Persons (NAP 2013–16) which aims to prevent and control trafficking in persons as well as to provide protection and support to victims of trafficking. It also notes from the ILO–IPEC report on the project "Combating worst forms of child labour and promotion of horizontal cooperation in selected countries of South America" of September 2013 (ILO–IPEC Report, 2013) that within the framework of this project, the State of Mato Grosso approved a State Plan on Trafficking of Persons which includes action plans for combating the trafficking of children, especially girls, for sexual exploitation and the trafficking of children for forced labour including domestic work.

The Committee further notes the information from the United Nations Office on Drugs and Crime (UNODC) that in May 2013, the Ministry of Justice and the UNODC launched the Blue Heart Campaign against trafficking in persons in Brazil. Information from the UNODC further indicates that this campaign aims to mobilize society to denounce human trafficking via hotlines established in key regions. Moreover, according to a report from the International Organization for Migration (IOM), the IOM Regional Office for South America in cooperation with IOM Washington and the US Consulate General in Recife, organized a victim assistance anti-trafficking training at the Pernambuco State Police Academy in Recife. This training was aimed at enhancing the capacity to identify and assist trafficking victims by providing technical assistance to the State Centre for Combating Trafficking in Persons as well as other key counter-trafficking partners including service providers, police and prosecutors. *Noting the measures taken by the Government within the framework of the NAP 2013 and the State Plan on Trafficking of Persons of Mato Grosso, the Committee requests it to indicate how many child victims of trafficking have benefited from such measures. The Committee also requests the Government to provide information on the impact of the anti-trafficking training provided to the Pernambuco State Police, service providers and prosecutors with regard to the number of cases of child victims of trafficking identified and the number of children removed from this worst form of child labour and provided assistance.*

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Child domestic workers. The Committee previously noted that the List of the Worst Forms of Child Labour (Decree No. 6481 of 12 June 2008) included child domestic work as one of the types of activities prohibited to any person under 18 years of age. It also noted that, under section 6 of the Normative Instruction 77/2009 of the Secretariat of Labour Inspection (SIT), the inspectorate combats child domestic work by advising the general public in the course of their duties and forwarding complaints to the competent authorities, in addition to awareness-raising measures. However, noting that a significant number of children are engaged in domestic work, the Committee urged the Government to pursue its efforts to ensure that persons under 18 are not involved in this prohibited type of work, and to provide information on the impact of the specific measures taken in this regard.

The Committee notes that the Government's report does not contain information on any specific measures taken or envisaged to prevent children under the age of 18 years from engaging in domestic work. In this regard, the Committee notes from the ILO-IPEC publication entitled *Ending child labour in domestic work and protecting young workers from abusive working conditions, 2013*, that according to the 2011 Brazilian household survey, more than 250,000 children are involved in domestic work in third-party households, including 67,000 children in the 10–14 age group and 190,000 children aged 15–17 years. The Committee expresses its **concern** at the significant number of children engaged in domestic work which is prohibited for young persons under 18 in Brazil. **The Committee, therefore, urges the Government to take the necessary measures to ensure that persons under the age of 18 years are not involved in domestic work, in conformity with Decree No. 6481 of 2008. It requests the Government to provide information on the measures taken in this regard and on the results achieved in terms of the number of child domestic workers under 18 years who have been removed from this type of work and rehabilitated.**

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

Burundi

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes with **regret** that the Government's report has not been received. It expresses **deep concern** in this respect. It is therefore bound to repeat its previous comments.

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 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.

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 is therefore bound to repeat its previous comments.

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

Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). Forced recruitment of children for use in armed conflict. In its previous comments, the Committee noted with concern the use of children by the armed forces of the State as soldiers or helpers in camps, or to obtain information, as well as the low minimum age for recruitment into the armed forces. It noted that the Penal Code had been amended to provide improved protection for children against war crimes and that it now provides that the recruitment of children *under 16 years of age* in armed conflicts constitutes a war crime. It therefore requested the Government to take measures as a matter of urgency to amend the national legislation and prohibit the forced recruitment of young persons under 18 for use in armed conflict. The Committee also noted that, considering the relative calm experienced over most of the national territory since the Arusha Peace and Reconciliation Agreement of August 2000 and the Comprehensive Ceasefire Agreement, the Government had launched the implementation of a vast programme for the demobilization and reintegration of former combatants through three organizations, namely the National Commission for Demobilization, Reinsertion and Reintegration (CNDRR), the National Structure for Child Soldiers (SEN), and the ILO-IPEC project on "Prevention and reintegration of children involved in armed conflicts: An inter-regional programme".

The Committee refers to the Conference Committee on the Application of Standards which, in its conclusions, requested the Government to ensure that the perpetrators of the forced recruitment of children under 18 years of age by armed groups and the rebel forces were prosecuted and that sufficiently effective and dissuasive penalties were applied. ***Observing that the situation in Burundi remains fragile and that there is still a risk of child soldiers being recruited, the Committee requests the Government to take the necessary measures to ensure the protection of children under 18 years of age against forced recruitment for use in armed conflict, by ensuring thorough investigations and robust prosecutions of offenders, and that sufficiently effective and dissuasive sanctions are imposed in practice. It requests the Government to provide information on the progress achieved in this respect.***

Clause (b). Use, procuring or offering of children for prostitution. The Committee previously noted that, in its communication, the Trade Union Confederation of Burundi (COSYBU) had indicated that the extreme poverty of the population encourages parents to allow their children to engage in prostitution. It noted that, although the national legislation prohibits this worst form of child labour, the use, procuring or offering of children for prostitution remains a problem in practice.

The Committee notes the conclusion of the Conference Committee on the Application of Standards that, although the law prohibits the commercial sexual exploitation of children, it remains an issue of serious concern in practice. ***The Committee requests the Government to take immediate and effective measures on an urgent basis to ensure that persons who use, procure or offer a child under 18 years of age for prostitution are prosecuted and that sufficiently effective and dissuasive sanctions are applied in practice. It requests the Government to provide information on the number and nature of violations reported and penal sanctions applied.***

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 these worst forms and providing for their rehabilitation and social integration. 1. Child soldiers. In its previous comments, the Committee noted that, in the framework of the ILO-IPEC inter-regional project, the United Nations programme for demobilization, reintegration and prevention and the National Structure for Child Soldiers, thousands of children had been demobilized and socially reintegrated. The Committee noted that, according to the Government, all the children had been demobilized, except for those used by the armed movement FNL, which had not yet laid down its arms.

The Committee takes due note of the Government's indication that all the children who had been enrolled in the FNL have been reintegrated into civilian life and that many of them have returned to school. In this respect, in his Seventh Report on the United Nations Integrated Office in Burundi of 30 November 2010, the Secretary-General of the United Nations indicates that the reintegration of 626 children formerly associated with armed groups was successfully concluded on 31 July 2010 (S/2010/608, paragraph 48). Of these 626 children, over 104 have returned to school in their original communities and the others have been engaged in vocational training or income-generating activities.

However, the Committee notes that the Government representative at the Conference Committee on the Application of Standards indicated that combating poverty in Burundi was the basic problem preventing the successful social reintegration of demobilized child soldiers. ***With reference to the conclusions of the Conference Committee on the Application of Standards, the Committee strongly encourages the Government to continue adopting effective time-bound measures for the rehabilitation and social integration of children previously involved in armed conflict.***

2. Commercial sexual exploitation. The Committee previously requested the Government to take the necessary measures for the removal of children under 18 years of age from prostitution and for their rehabilitation and social integration. The Committee notes that, in the context of the National Programme of Action for the Elimination of the Worst Forms of Child Labour (PAN), prepared in collaboration with ILO-IPEC for the period 2010–15, one of the objectives is to reduce the vulnerability of children to the worst forms of child labour through the implementation of community development programmes including, among other elements, education and socio-economic reintegration of children engaged in or removed from the worst forms of child labour. ***The Committee requests the Government to provide information on the number of child victims of commercial sexual exploitation who have, in practice, been removed from this situation and provided with rehabilitation and social integration, particularly following the implementation of the PAN.***

The Conference Committee on the Application of Standards also expressed its serious concern that the number of children working on the streets remained high and that these children were exposed to various forms of exploitation. ***Recalling that street children are particularly exposed to the worst forms of child labour, the Committee strongly encourages the Government to pursue its efforts to protect them from the worst forms of child labour, to remove children from work in the streets and for their rehabilitation and social integration. It requests the Government to provide information on the impact of the PAN in this regard, as well as on the number of street children who are in practice removed from that situation and socially reintegrated through the action of protection and reintegration centres for street children.***

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.

Cambodia

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2006)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee takes note of the Government's reports dated 28 May 2015 and 1 September 2015 as well as of the detailed discussion which took place at the 104th Session of the Conference Committee on the Application of Standards in June 2015, concerning the application by Cambodia of the Convention. It also notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015.

Articles 3(a), 7(1) and (2)(a) and (b) of the Convention. Sale and trafficking of children and penalties. Effective and time-bound measures for prevention, assistance and removal. The Committee notes that, in its conclusions adopted in June 2015, the Conference Committee urged the Government to effectively enforce anti-trafficking legislation and provide information on the progress made in this regard, including on the number of investigations, prosecutions, convictions and penal sanctions applied. The Committee notes the detailed information provided by the Government on the measures taken to combat trafficking of children. According to this information, in 2014, the National Committee for Counter Trafficking (NCCT) withdrew 67 children below the age of 15 years and 36 young persons between 15 and 18 years of age from trafficking and provided them with rehabilitation and social integration services. In addition, an Action Plan 2014–18 was adopted by the NCCT in early 2015 which aims to contribute to the strengthening of law and policy; enhancing prevention and the criminal justice response to human trafficking; and protecting victims with gender- and age-appropriate support.

The Committee notes the statement of the ITUC that children in Cambodia continue to be exposed to trafficking for sexual and labour exploitation. Cambodian girls and ethnic Vietnamese girls from rural areas are trafficked to work in brothels, massage parlours and salons. Children from Vietnam, many of whom are victims of debt bondage, travel to Cambodia and are forced into commercial sex. Moreover, corruption at all levels of the Cambodian Government continues to severely limit the effective enforcement of the Law on Suppression of Human Trafficking and Sexual Exploitation. *While noting the various measures taken by the Government to combat the trafficking of children, the Committee strongly encourages the Government to ensure that the Law on Suppression of Human Trafficking and Sexual Exploitation is effectively applied. In this regard, it urges the Government to take the necessary measures to strengthen the capacity of law enforcement agencies, including through the allocation of financial resources, to combat the sale and trafficking of children under 18 years of age. The Committee also requests the Government to take the necessary measures to ensure that all perpetrators of the trafficking of children, including complicit government officials, are subject to thorough investigations and robust prosecutions, and that sufficiently effective and dissuasive penalties are imposed in practice. It further requests the Government to provide information on the number of investigations, prosecutions, convictions and penal sanctions applied in this regard. Finally, it requests the Government to continue to provide information on the number of child victims of trafficking who have been removed from sexual or labour exploitation as well as the number of children who have been rehabilitated and socially integrated, including through the Action Plan 2014–18.*

Articles 3(a) and 7(2) (a) and (b). Compulsory labour exacted in drug rehabilitation centres and effective and time bound measures for prevention, assistance and removal. The Committee previously noted from its 2014 observation under the Forced Labour Convention, 1930 (No. 29), concerning work exacted in drug rehabilitation centres, that the majority of persons in drug rehabilitation centres in Cambodia are not admitted voluntarily; and that there have been reports of persons in drug rehabilitation centres engaged in compulsory labour. In this respect, it noted with concern that according to the Committee on the Rights of the Child (CRC), in its concluding observations (CRC/C/KHM/CO/2-3, paragraph 38) in 2011, the mistreatment of persons in drug retention centres extended to children.

The Committee notes the Government's indication that children under the age of 18 years are not allowed in drug rehabilitation centres, but instead are sent to different organizations or orphanages for rehabilitation where they are not subject to any forced labour. The Committee observes that the Conference Committee recommended that the Government investigate and provide verifiable information on the extent to which forced labour, abuse and related practices occur in drug rehabilitation centres.

The Committee notes the statement made by the ITUC that the Government's claims that no children are detained in drug rehabilitation centres are simply not credible. The ITUC states that evidence indicates that 10 per cent of the detainees in the drug rehabilitation centres are children under 18, many of them are street children who do not use drugs but are instead confined in the centres following "clean the streets" operations. These children are subject to physical and mental abuse and are forced to work, including in the construction sector. *The Committee urges the Government to take the necessary measures to put in place safeguards, both in law and in practice, to ensure that children below the age of 18 years detained in drug rehabilitation centres or similar institutions are not subject to forced labour and other related*

practices. It requests the Government to provide information on the concrete measures taken in this regard, as well as to provide copies of the relevant texts governing children detained in drug rehabilitation centres.

Articles 3(d), 4(1) and 5. Hazardous work in sugar cane farms and the garment and shoe sector and monitoring mechanisms. The Committee notes the allegations made by the ITUC, in its most recent observations, that child labourers in Cambodia are engaged in hazardous work in agriculture, particularly in sugar cane farms, in work such as the handling and spraying of pesticides and herbicides and cutting, tying and carrying heavy bundles of sugar cane. The ITUC further states that children, particularly girls, work long shifts even during the night, often with dangerous machinery in garment and shoe factories. These children, who are underaged, often work with false identity papers in order to enable them to work. In this regard, the Committee notes that, the Conference Committee, in its conclusions adopted in June 2015, urged the Government to increase its efforts on preventing children from being exposed to the worst forms of child labour, including through increased labour inspections in the formal as well as in the informal economy. ***The Committee urges the Government to take the necessary measures to protect children under 18 years from being employed in hazardous work in the agricultural, garment and footwear sectors. In this regard, it requests the Government to strengthen the capacity and expand the reach of the institutions responsible for the monitoring of child labour in these sectors. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

Article 7(2)(a). Effective and time-bound measures. Preventing the engagement of children in the worst forms of child labour. Access to free basic education. The Committee previously noted the various measures taken by the Government to improve access to all levels of education, including through the National Strategic Development Plan (NSDP, 2014–18) which aims to expand access to early childhood, secondary and post-secondary education as well as non-formal, technical and vocational education. However, it noted that according to the Cambodia Labour Force and Child Labour Survey of 2012, a large portion of the children not attending school were in this situation because they could not afford to do so or could not access a nearby school. It also noted with concern that, according to the 2012 UNICEF statistics, the net attendance rate dropped significantly from primary to secondary school.

The Committee notes the Government's indication that the national education system is currently undergoing a deep reform by the Ministry of Education, Youth and Sport (MoEYS) in accordance with the NSDP 2014–18. It also notes that MoEYS has been implementing the third Educational Strategic Plan 2014–18, in which, the number of schools and students have significantly increased. The Government further indicates that according to the annual report 2014–15 of the MoEYS: (i) 31 out of 72 education policies have been implemented; (ii) the enrolment rate at primary school level has increased from 95.3 per cent in 2013–14 to 99.4 per cent in 2014–15; and (iii) the drop-out rate at the primary school level has declined from 10.5 per cent in 2013–14 to 8.3 per cent in 2014–15.

The Committee also notes from the UNESCO report *Education for all: Global monitoring report of 2015* that Cambodia has made considerable progress towards achieving gender parity in primary education. However, disparities increase at entry and completion of lower secondary school, indicating significant bottlenecks for girls. ***Considering that education contributes to preventing the engagement of children in the worst forms of child labour, the Committee strongly encourages the Government to pursue its efforts, within the framework of the NSDP 2014–18, to improve the functioning of the national education system by increasing the enrolment and completion rates and reducing drop-out rates at the secondary level, particularly of girls. It requests the Government to provide information on the concrete measures taken in this regard, and on the results achieved.***

The Committee encourages the Government to seek ILO technical assistance in its efforts to combat the worst forms of child labour.

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

Cameroon

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee takes note of the Government's report as well as the detailed discussion which took place within the Committee on the Application of Standards (CAS) at the 104th Session of the International Labour Conference in June 2015 concerning the application of Convention No. 182 by Cameroon. It also takes note of the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015, of the General Union of Workers of Cameroon (UGTC) received on 25 September 2015, of the Cameroon United Workers Confederation (CTUC) received on 29 September 2015, as well as of the Government's reply.

Articles 3(a), 5 and 7(1) of the Convention. Sale and trafficking of children, monitoring mechanisms and sanctions. The Committee previously noted the measures taken by the Government such as the monitoring carried out by the vice squad in liaison with Interpol, the setting up of a telephone helpline to receive complaints from the public, and the appointment of three officers to carry out investigations at any time. However, the Committee noted that, according to the

estimates of the 2012 study produced jointly by the Government and the “Understanding Children’s Work” programme (UCW 2012 study), between 600,000 and 3 million children are victims of trafficking in Cameroon.

The Committee notes the observations of the ITUC regarding the low level of application of Act No. 2005/015 concerning the trafficking of children, and the fact that no effective and dissuasive penalties are imposed in practice. The ITUC indicates that it was reported in 2013 that the Government had conducted ten investigations into the trafficking of children, which can hardly be seen as an adequate response given the scale of the problem. The Committee also notes the statement by the Government representative of Cameroon to the Conference Committee that Act No. 2005/015 has been repealed and replaced by Act No. 2011/024, which is broader in scope. The Government representative added that the low number of investigations was due to the small number of complaints made. The Committee reminds the Government that, under the terms of *Article 5* of the Convention, member States must establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to the Convention, irrespective of any complaints filed by victims. The Committee is bound to reiterate its **deep concern** at the large number of child victims of trafficking in Cameroon. ***The Committee, therefore, urges the Government to take the necessary measures to ensure that monitoring mechanisms are adequate for detecting cases involving the sale and trafficking of children. It also requests the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions are carried out of persons engaged in the sale and trafficking of children under 18 years of age, in particular by reinforcing the capacities of the authorities responsible for the enforcement of Act No. 2011/024, and to ensure that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to provide information on the measures adopted in this respect and on the results achieved.***

Article 3(b) and (c). Use, procuring or offering of a child for the production of pornography or for pornographic performances and for illicit activities. Further to its previous comments, the Committee notes the Government’s indication that the Bill enacting the Child Protection Code and the Bill enacting the Family Code have been incorporated into the Bill enacting the revised Civil Code (which is being finalized) and that this takes account of issues related to the use and procuring of children for the production of pornography or pornographic performances and for illicit activities. The Committee also notes that the Conference Committee urged the Government to adopt and implement the Child Protection Code, which has been pending for almost a decade, in order to prohibit the use, procuring or offering of children for illicit activities. ***Noting that the Government has been referring to the adoption of the Child Protection Code since 2006, the Committee urges the Government to take the necessary measures for the adoption of the Bill enacting the Child Protection Code incorporated in the Bill enacting the Civil Code in the very near future and to ensure that it contains provisions prohibiting the use, procuring or offering of a child under 18 years of age for the production of pornography or pornographic performances and for illicit activities, particularly the production and trafficking of drugs. Penalties corresponding to the aforementioned offences must also be established.***

Article 4(3). Periodic review and revision of the list of hazardous types of work. In its previous comments, the Committee noted that Order No. 17 of 27 May 1969 concerning child labour (Order No. 17) had been adopted over 30 years earlier. It reminded the Government that, under the terms of *Article 4(3)* of the Convention, the list of hazardous types of work must be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

The Committee notes the observations of the ITUC to the effect that some 164,000 children between 14 and 17 years of age are involved in hazardous work. The ITUC observes that Order No. 17 does not prohibit work underwater or work at dangerous heights, as in the case of children employed in fishing or banana harvesting. The Committee further notes the indication of the CTUC emphasizing that the Government refers to the same statement on the revision of the Labour Code, which has been under way for over 20 years, and stating that this situation is simply due to a lack of will on the part of the Government. The Committee notes the Government’s indication that the revision of the Labour Code is ongoing. Lastly, the Committee notes that the Conference Committee urged the Government to urgently revise, in consultation with the social partners, the list of hazardous types of work established by Order No. 17 in order to prevent the engagement of children under 18 years of age in dangerous activities, including work underwater or work at dangerous heights. ***The Committee, therefore, urges the Government to take the necessary steps to ensure the adoption as soon as possible of the legislative texts implementing the new Labour Code containing a revised list of hazardous types of work prohibited for children under 18 years of age, in consultation with the social partners.***

Article 6. Programmes of action and application of the Convention in practice. National Plan of Action for the elimination of the worst forms of child labour (PANETEC). The Committee previously noted that, according to the UCW 2012 study, over 1,500,000 children between 5 and 14 years of age, or 28 per cent of this age group, are working in Cameroon, often under dangerous conditions. Furthermore, 164,000 children between 14 and 17 years of age are forced to engage in hazardous work. The Committee noted the development of the PANETEC 2014–16.

The Committee notes the observations of the CTUC that the Government merely refers to the adoption of national plans of action and other national committees for combating child labour without producing any kind of report related to these plans and committees. The Committee notes that there is no information on the implementation of the PANETEC in the Government’s report. However, the Committee notes the Government’s statement that a national quadripartite committee for combating child labour has been established by Order No. 082/PM of 27 August 2014 in order to implement the PANETEC. The Government indicates that a capacity-building workshop for the members of the

PANETEC steering committee took place in April 2015, at which the members were given the necessary technical knowledge and tools to ensure effective implementation of the PANETEC. The Government also reports that it has made provision for the necessary material and financial resources, particularly through the state budget, to begin the awareness-raising process. However, the Committee observes that the PANETEC has received technical approval but has not yet been officially adopted. ***The Committee urges the Government to take immediate and effective measures to ensure that the PANETEC is officially adopted and implemented in the very near future and to provide information on the results achieved and its impact on the elimination of the worst forms of child labour.***

Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. 1. HIV/AIDS orphans. The Committee previously noted the large number of children who are HIV/AIDS orphans. It also noted the Government's indication that it had created care structures for children affected by or infected with HIV/AIDS.

The Committee notes the observations of the ITUC that HIV/AIDS orphans are at particular risk of becoming involved in the worst forms of child labour. The ITUC adds that these children often lack adequate family support and are obliged to engage in economic activity to meet their needs. The Committee notes the Government's indications that this issue is the subject of in-depth discussion within the National Committee for Combating Child Labour. The Government also indicates that care structures exist, such as the Chantal Biya reception centre, but are insufficient. It reports that the PANETEC provides for ongoing action, particularly via the Ministry of Public Health and the Ministry of Social Affairs, to establish care structures for HIV/AIDS orphans. Lastly, the Committee emphasizes that, according to UNAIDS estimates for 2014, some 310,000 children are HIV/AIDS orphans in Cameroon. ***Expressing once again its concern at the large number of children who are HIV/AIDS orphans, the Committee urges the Government to intensify its efforts to prevent the engagement of these children in the worst forms of child labour. It requests the Government to provide information on the measures taken and results achieved in the framework of the PANETEC, and on the number of HIV/AIDS orphans catered for by the care structures established for them.***

2. Child domestic workers. The Committee previously noted that a survey on child domestic work shows that there is a clear predominance of girls (70 per cent), with an average age of 15 years, and also dangerous conditions of work (for 85 per cent of the children). The survey also indicated that, although social services exist in Cameroon, the absence of an overall policy, aggravated by the lack of statistics, makes it difficult to assess precisely the impact of these services on child domestic workers. The shortcomings identified include the absence of public or private structures specifically dedicated to the protection of child domestic workers and the lack of a strategy for the elimination of child labour in domestic work.

The Committee notes the observations of the ITUC that child domestic workers are subjected to particularly arduous conditions and it denounces the lack of exhaustive and effective policies aimed at securing the abolition of the use of child labour in domestic work. The Committee notes the Government's indication that the issue of child domestic workers has been incorporated into the PANETEC. The Government also indicates that the labour inspection services could therefore, at any time, freely enter households to provide advice, monitor conditions or impose penalties. ***Considering that child domestic workers are particularly exposed to the worst forms of child labour, the Committee urges the Government to take effective and time-bound measures to protect children engaged in domestic work from the worst forms of child labour, and to provide the necessary and appropriate direct assistance for their removal and for their rehabilitation and social integration, particularly as part of the implementation of the PANETEC. It requests the Government to provide information on the results achieved and invites it to continue availing itself of ILO technical assistance in order to bring its law and practice into conformity with the Convention.***

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

Congo

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted that, according to ILO statistics for 2000, more than 960,000 children between 10 and 14 years of age (510,000 boys and 450,000 girls) were involved in economic activity. The Committee therefore asked the Government to take steps to improve this situation, especially by the adoption of a national policy designed to ensure the effective abolition of child labour.

The Committee notes with regret that the Government's report still does not contain any information on the adoption of a national policy designed to ensure the effective abolition of child labour. It notes the Government's indication that there are no inspection reports which provide any information on the presumed or actual employment of children in enterprises in Congo during the reporting period. However, the Committee notes that UNICEF statistics for 2005–09 reveal that 25 per cent of Congolese children are involved in child labour. Moreover, the Committee notes that, according to the information on the website of the National Centre for Statistics and Economic Studies (CNSEE) (www.cnsee.org), a national household survey (ECOM2) was conducted from February to May 2011. ***Expressing its concern at the large number of children working below the minimum age in the country, and given the lack of a national policy designed to ensure the effective abolition of child labour, the Committee once again urges the Government to take the necessary steps to ensure the adoption and implementation of such a policy as soon as possible. It requests the Government to provide detailed information in its next report on the measures taken in this respect. The Committee also requests the Government to provide a copy of ECOM2.***

Article 3(2). Determination of hazardous types of work. In its previous comments the Committee noted that section 4 of Order No. 2224 of 24 October 1953, which establishes employment exemptions for young workers, determines the nature of the work and the categories of enterprises prohibited for young persons and sets the age limit of the prohibition, prohibits the employment of young persons under 18 years in certain types of hazardous work and includes a list of such types of work. The Committee drew the Government's attention to the provisions of Paragraph 10(2) of the Minimum Age Recommendation, 1973 (No. 146), which invites the Government to re-examine periodically and revise as necessary the list of the types of employment or work to which *Article 3* of the Convention applies, particularly in the light of advancing scientific and technological knowledge.

The Committee notes the Government's indication that it is aware of the need to re-examine periodically and revise as necessary the list of the types of employment or work to which *Article 3* of the Convention applies. **Observing that Order No. 2224 was adopted more than 50 years ago, the Committee requests the Government to indicate whether it plans to take measures in the near future to revise the list of types of hazardous work established by Order No. 2224. It requests the Government to provide detailed information in this respect.**

Article 3(3). Admission to hazardous work from the age of 16 years. In its previous comments the Committee noted that, under section 5 of Order No. 2224, the employment of young workers under the age of 16 years in certain hazardous types of work is prohibited. In addition, under the terms of section 7 of the Order, labour and social legislation inspectors may require young workers to undergo a medical examination in order to determine whether the work in which they are employed exceeds their capacities. When it has been proven that the young worker is physically unfit for the work in which he is employed, he must be transferred to a post corresponding to his physical capacities or made redundant without any blame being attached to him. The Committee noted that the condition laid down by *Article 3(3)* of the Convention to the effect that the health, safety and morals of young persons aged between 16 and 18 years authorized to carry out hazardous work shall be protected, is met by the abovementioned provisions. However, it reminded the Government that *Article 3(3)* of the Convention also requires that young persons aged between 16 and 18 years shall receive specific instruction or vocational training in the relevant branch of activity. The Committee therefore requested the Government to provide information on the measures taken or envisaged to comply with this requirement.

The Committee notes the Government's indication that young persons between 16 and 18 years of age are never permitted to perform hazardous work in enterprises. However, the Committee observes that section 5 of Order No. 2224 prohibits certain hazardous types of work for children under 16 years of age, which implies that such work is permitted for young persons over 16 years of age. **The Committee therefore requests the Government to clarify whether Order No. 2224 is still in force. If so, it urges the Government to take the necessary steps to ensure that young persons between 16 and 18 years of age, who are permitted to perform hazardous work, receive specific instruction or vocational training in the relevant branch of activity.**

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.

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 expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

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 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.**

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 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 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.

Democratic Republic of the Congo

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. 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 into 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. 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). 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 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.

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 is therefore bound to repeat its previous comments.

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Forced recruitment of children for use in armed conflict. In its previous comments the Committee noted that section 187 of Act No. 09/001 of 10 January 2009 establishes a penalty of penal servitude of ten to 20 years for the enrolment or use of children under 18 years of age in the armed forces and groups and the police. The Committee noted that, according to the report of 9 July 2010 of the United Nations Secretary-General on children and armed conflict in the Democratic Republic of the Congo (S/2010/369, paragraphs 17–41), 1,593 cases of recruitment of children were reported between October 2008 and December 2009, including 1,235 in 2009. The report of the United Nations Secretary-General also indicated that 42 per cent of the total number of cases of recruitment reported have been attributed to the Armed Forces of the Democratic Republic of the Congo (FARDC). The Committee also noted with concern that, according to the Secretary-General's report, the number of incidents involving the killing and maiming of children had increased. In addition, a significant increase in the number of abductions of children was also observed over the period covered by the Secretary-General's report, mainly carried out by the Lords' Resistance Army (LRA) but in some cases by the FARDC. The Committee also observed that the Committee on the Rights of the Child (CRC), in its concluding observations of 10 February 2009 (CRC/C/COD/CO/2, paragraph 67), expressed grave concern that the State, through its armed forces, bears direct responsibility for violations of the rights of the child and that it had failed to protect children and prevent such violations.

The Committee notes the Government's indication that children under 18 years of age are not recruited into the armed forces of the Democratic Republic of the Congo. Nevertheless, the Committee notes that, according to the report of 23 April 2011 of the United Nations Secretary-General on children and armed conflict (A/65/820-S/2011/250, paragraph 27), many children

continue to be recruited and remain associated with FARDC units, particularly within former units of the *Congrès national pour la défense du peuple* (CNDP) incorporated into the FARDC. The report also indicates that, of the 1,656 children in the armed forces or groups who escaped or were released in 2010, a large proportion had been recruited to the FARDC (21 per cent) (paragraph 37). Moreover, despite the drop in the number of cases of children recruited into armed forces and groups in 2010, the report points out that former CNDP elements continue to recruit or to threaten to recruit children under 18 years of age from schools in North Kivu (paragraph 85). The Committee also notes that no judicial action has been initiated against the suspected perpetrators of forced recruitment of children, some of whom remain in the command structure of the FARDC (paragraph 88).

Furthermore, physical and sexual violence committed against children by the FARDC, the Congolese National Police and various armed groups continued to be a source of serious concern in 2010. The Committee notes in particular that in 2010, of the 26 recorded cases of killing of children, 13 were attributed to the FARDC. In addition, seven cases of maiming of children and 67 cases of sexual violence against children are alleged to have been perpetrated by FARDC elements during the same period (paragraph 87).

The Committee observes that despite the adoption of Legislative Decree No. 066 of 9 June 2000, concerning the demobilization and reintegration of vulnerable groups present within the fighting forces, and of Act 09/001 of 10 January 2009, which prohibits and penalizes the enrolment and use of children under 18 years of age in armed forces and groups and the police (sections 71 and 187), children under 18 years of age continue to be recruited and forced to join the regular armed forces of the Democratic Republic of the Congo and armed groups. The Committee expresses deep concern at this situation, especially as the persistence of this worst form of child labour results in other violations of children's rights, such as murder and sexual violence. ***The Committee therefore urges the Government to take measures as a matter of urgency to ensure the full and immediate demobilization of all children in the ranks of the FARDC and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed groups. With reference to Security Council resolution 1998 of 12 July 2011, which recalls "the responsibilities of States to end impunity and to prosecute those responsible for genocide, crimes against humanity and other egregious crimes perpetrated against children", the Committee urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of any persons, including officers in the regular armed forces, who forcibly recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice, pursuant to Act No. 09/001 of 10 January 2009. It requests the Government to provide information on the number of investigations conducted, prosecutions brought and convictions handed down against such persons in its next report.***

Clauses (a) and (d). Forced or compulsory labour and hazardous work. Child labour in mines. In its previous comments the Committee noted the statement by the Confederation of Trade Unions of the Congo (CSC) that young persons under 18 years of age are employed in mineral quarries in the provinces of Katanga and East Kasai. It noted that the United Nations Special Rapporteur, in her report of April 2003 on the situation of human rights in the Democratic Republic of the Congo (E/CN.4/2003/43, paragraph 59), noted that military units are recruiting children for forced labour, especially for the extraction of natural resources. The Committee observed that, although the legislation is in conformity with the Convention on this point, child labour in mines is a problem in practice and it, therefore, asked the Government to supply information on the measures which would be taken by the labour inspectorate to prohibit hazardous work by children in mines.

The Committee notes the Government's indication that action to strengthen the capacities of the labour inspectorate is planned in the context of the formulation and implementation of the National Plan of Action (PAN) for the elimination of child labour by 2020. The report also indicates that the Government has launched consultations with a view to gathering statistics on the application, in practice, of legislation relating to the prohibition on hazardous work in mines for children under 18 years of age. However, the Committee notes the UNICEF statistics included in the Government's report, which indicate that nearly 50,000 children are working in mines in the Democratic Republic of the Congo, including 20,000 in the province of Katanga (south-east), 12,000 in Ituri (north-east) and some 11,800 in Kasai (centre). Moreover, the Committee observes that, according to the information in the 2011 report on trafficking in persons, armed groups and the FARDC are recruiting men and children and subjecting them to forced labour for the extraction of minerals. According to the same document, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) report of January 2011 reports that a commander of one of the FARDC battalions makes use of the forced labour of children in mines in North Kivu. The Committee expresses its deep concern at the allegations that children under 18 years of age are used, especially by certain elements of FARDC, for the extraction of minerals in conditions similar to slavery and in hazardous conditions. ***The Committee therefore urges the Government to take immediate and effective measures, as a matter of urgency, to eliminate the forced or hazardous labour of children under 18 years of age in mines. It requests the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of offenders are carried out and that sufficiently effective and dissuasive penalties are imposed on them in practice. The Government is also requested to provide statistics on the application of the legislation in practice and also requests it to provide information on action to strengthen the capacities of the labour inspectorate planned in the context of the PAN.***

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. Child soldiers. In its previous comments, the Committee noted that, according to the report of the United Nations Secretary-General of 9 July 2010, the number of children released in 2009 more than tripled in comparison with 2008, particularly in the province of North Kivu (S/2010/369, paragraphs 30 and 51–58). Between October 2008 and the end of 2009, a total of 3,180 children (3,004 boys and 176 girls) left the ranks of the armed forces and groups or fled and were admitted to reintegration programmes. However, the Committee noted with concern that on many occasions the FARDC denied access to the camps to child protection institutions seeking to verify the presence of children in FARDC units and that the commanders refused to release children. The Committee also observed that there were many obstacles to effective reintegration, such as the constant insecurity and the continuing presence of former recruiters in the same region. The Committee further noted that the CRC, in its concluding observations of 10 February 2009 (CRC/C/COD/CO/2, paragraph 72), expressed concern at the fact that no provision has been made to assist several thousand child victims recruited or used in hostilities with rehabilitation and reintegration and that some of these children have been re-recruited for want of alternatives or assistance with demobilization. According to the report of the Secretary-General of 9 July 2010, girls associated with the armed forces and groups (around 15 per cent of the total number of children) rarely have access to reintegration programmes, with only 7 per cent receiving assistance through national disarmament, demobilization and reintegration programmes.

The Committee notes the information provided by the Government concerning the results achieved regarding the demobilization of child soldiers by the new structure of the Unit for the Implementation of the National Programme for

Disarmament, Demobilization and Reintegration (UE-PNDDR). It observes that more than 30,000 children have been separated from the armed forces and groups since the launch of the programme in 2004, including nearly 3,000 in 2009 and 2010. Moreover, 6,704 children removed from the armed forces and groups (1,940 girls and 4,764 boys) received support in 2010. However, the Committee observes that, according to the report of 23 April 2011 of the United Nations Secretary-General on children and armed conflict, only 1,656 children recruited to the armed forces or groups escaped or were released in 2010 (A/65/820-S/2011/250, paragraph 37). Of these, the vast majority fled and only a small minority were released by child protection institutions (paragraph 38). The Committee also notes with regret that, according to the aforementioned report, the Government has not been forthcoming in engaging with the United Nations on an action plan to end the recruitment and use of children by the FARDC (paragraph 27). The Committee further observes that, although more than 50 screening attempts were carried out by MONUSCO aimed at demobilizing children under 18 years of age who had been recruited to the FARDC, only five children were demobilized owing to the fact that FARDC troops were not made available for screening by MONUSCO. The Committee also notes that a large number of children released in 2010 stated that they had been recruited several times (paragraph 27) and that some 80 children who had been reunited with their families returned to the transit centres alone in North Kivu during November 2010 for fear of being re-recruited (paragraph 85). *The Committee therefore urges the Government to intensify its efforts and take effective, time-bound measures to remove children from armed groups and forces and ensure their rehabilitation and social integration, giving special attention to the demobilization of girls. It expresses the firm hope that the Government will adopt a time-bound plan of action in the very near future, in collaboration with MONUSCO, to put a stop to the recruitment of children under 18 years of age into the regular armed forces and to ensure their demobilization and reintegration. The Committee also requests the Government to continue to provide information on the number of child soldiers removed from armed forces and groups and reintegrated through appropriate assistance with rehabilitation and social integration. It requests the Government to provide information on this matter in its next report.*

Children working in mines. The Committee previously noted that a number of projects for the prevention of child labour in mines and the reintegration of these children through education were being implemented, aimed at covering a total of 12,000 children, of whom 4,000 were to be covered by prevention measures and 8,000 were to be removed from labour with a view to their reintegration through vocational training.

The Committee notes the Government's indication that efforts are being made to remove children working in mines from this worst form of child labour. The Government also indicates in its report that more than 13,000 children have been removed from three mining and quarrying locations in Katanga, East Kasai and Ituri as part of the work of the NGOs Save the Children and Solidarity Centre. These children were then placed in formal and non-formal education structures and also in apprenticeship programmes. However, the report also indicates that, in view of the persistence of the problem, much work remains to be done. *The Committee therefore requests the Government to intensify its efforts to prevent children under 18 years of age from working in mines and to provide the necessary and appropriate direct assistance for their removal from these worst forms of child labour and to ensure their rehabilitation and social integration. It requests the Government to provide information on the measures taken or contemplated in the context of the PAN and on the results achieved.*

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.

Dominica

Minimum Age Convention, 1973 (No. 138) (ratification: 1983)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2(2) of the Convention. Raising the initially specified age for admission to employment or work. Noting that the Government initially specified a minimum age of 15 years upon ratification, the Committee observes that the Education Act of 1997 provides for a minimum age for admission to work of 16 years of age. *In this regard, the Committee takes the opportunity 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. This allows the age fixed by the national legislation to be harmonized with that provided for at the international level. The Committee would be grateful if the Government would consider sending a declaration of this nature to the Office.*

Article 3(1). Minimum age for admission to hazardous work. The Committee previously noted that, according to section 7(1) of the Employment of Women, Young Persons and Children Act, no young person (under 18) shall be employed or work during the night in any public or private industrial undertaking, other than an undertaking in which only members of the same family are employed. However, the Committee observes that there is no other provision which prohibits the employment of young persons in work which is likely to jeopardize their health, safety or morals. *In this regard, the Committee requests the Government to take the necessary measures to ensure that the performance of hazardous work is prohibited for all persons under 18 years of age.*

Article 3(2). Determination of types of hazardous work. The Committee notes the Government's statement in its report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), in 2009 that the social partners will be consulted for the determination of the list of types of hazardous work. *Recalling that, pursuant to Article 3(2) of the Convention, the types of hazardous employment or work 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 provide information on any progress made with regard to the determination of the list of types of hazardous work to be prohibited for persons under 18 years.*

Article 7(3). Determination of types of light work. The Committee notes that while section 46(3) permits children from the age of 14 to be employed during school vacations (i.e. in light work), but observes that there does not appear to be a determination of the types of light work permitted for these children. In this regard, the Committee recalls that, pursuant to Article 7(3) of the Convention, the competent authority shall determine what light work is and shall prescribe the number of hours during which, and the conditions in which, such employment or work may be undertaken. *The Committee therefore requests the Government to provide information on any measures taken or envisaged to determine the hours during which and the*

conditions in which light work may be undertaken by children above the age of 14 during vacations from school, pursuant to Article 7(3) of the Convention.

Article 9(3). Keeping of registers. The Committee previously noted that section 8(1) of the Employment of Women, Young Persons and Children Ordinance provided for the keeping of registers or lists by the employer of all persons employed who are less than 16 years of age. In this regard, the Committee recalled that Article 9(3) of the Convention requires the keeping of such registers for all persons who are less than 18 years of age. ***Noting an absence of information on this point in the Government's report, the Committee once again requests the Government to take the necessary measures to ensure that registers be kept and made available by the employer in respect of all children under 18 years of age. It requests the Government to provide information on any measures taken in this regard.***

Application of the Convention in practice. The Committee notes the Government's statement in its report submitted under Convention No. 182 in 2009 that measures will be taken to broaden the existing mandate of the national inspectorate in order to cover child labour issues, in consultation with the social partners. ***The Committee requests the Government to provide information on the manner in which the Convention is applied in practice, including statistical data on the employment of children and young persons, extracts from the reports of inspections services and information on the number and nature of violations detected involving children and young persons.***

The Committee encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. The Committee invites the Government to consider technical assistance from the ILO to bring its legislation into conformity with the Convention.

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

Gabon

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3(a) of the Convention. Sale and trafficking of children and court decisions. In its previous comments, the Committee noted that, according to the information contained in a 2006 UNICEF report entitled "Trafficking in human beings, in particular women and children, in West and Central Africa", a number of children, particularly girls, are victims of internal and cross-border trafficking, for the purposes of work as domestic servants or in the country's markets. Children from Benin, Burkina Faso, Cameroon, Guinea, Niger, Nigeria and Togo are victims of trafficking to Gabon. The Committee noted that the Government had brought the national legislation relating to the sale and trafficking of children into line with the Convention. However, it observed that, according to the report of the UNICEF West and Central Africa Regional Office submitted to the United Nations Economic and Social Council during its second regular session in September 2010 (E/ICEF/2010/P/L.17, paragraph 21), even though policies and laws existed to protect children against trafficking and several structures had an operational mandate in this area, legislation was not regularly enforced and coordination was weak, and for this reason trafficking was a major threat to children in the country. It also noted that 11 court cases were in progress, most of which had been referred to the Office of the Public Prosecutor.

The Committee notes the Government's indication that decisions on the 11 court cases have not yet been handed down. The Committee also notes the Government's indication that a police operation was undertaken from 6 to 15 December 2010 with the collaboration of Interpol, during which over 38 presumed traffickers were arrested. The police forces also arrested two men of foreign nationality who were presumed to have engaged in trafficking in children. In January 2012, a woman of foreign nationality was arrested for the ill-treatment and forced labour of six children. The Government adds that prosecutions have been initiated in relation to all of these arrests.

The Committee notes that the United Nations Special Rapporteur on trafficking in persons visited Gabon in May 2012. The Committee notes the preliminary conclusions of the mission of the Special Rapporteur, in which she observes that it is alarming that up to now no case relating to trafficking has been judged by the criminal courts, which contributes to the impunity enjoyed by traffickers who engage in illicit and clandestine operations. The Special Rapporteur therefore recommends that the performance of the courts needs to be improved to ensure the rapid examination of cases of trafficking through regular sittings of the criminal court. The Committee expresses **concern** at the fact that the prosecutions of those who are presumed to be responsible for trafficking in children in Gabon do not appear to be dealt with by the national courts in good time. ***The Committee once again urges the Government to take the necessary measures to ensure the in-depth investigation and robust prosecution of persons who engage in the sale and trafficking of children under 18 years of age, in accordance with the national legislation in force and to ensure the speedy determination of trafficking cases in the courts. In this respect, it once again requests the Government to provide specific information with its next report on the application of the provisions relating to this worst form of child labour, including statistics on the number of convictions and penalties imposed, as well as copies of the court decisions relating to the cases referred to the Office of the Public Prosecutor.***

Article 5. Monitoring mechanisms. 1. Council to Prevent and Combat the Trafficking of Children. In its previous comments, the Committee once again requested the Government to provide information on the operation of the Council and the watchdog committees entrusted with preventing and combating trafficking in children.

The Committee notes the Government's indications that the Council to Prevent and Combat the Trafficking of Children is an administrative authority under the responsibility of the Ministry of Human Rights. In practice, the monitoring of the phenomenon of trafficking is ensured by a Monitoring Committee and watchdog committees. The Monitoring Committee is the national focal point to combat trafficking in children and is competent to assist the Council in its functions and for the implementation of its decisions. At the national level, the Monitoring Committee is entrusted with coordinating the formulation and implementation of the national strategy to combat trafficking in children. At the international level, the responsibilities of the Monitoring Committee include the establishment of bilateral cooperation and judicial assistance mechanisms for the protection of child victims of trans-border trafficking. The watchdog committees, which were created in 2004 in the context of the ILO/IPEC/LUTRENA project, are responsible for monitoring and combating trafficking in children for their exploitation within the country. The Monitoring Committee is the body responsible for planning and coordinating the activities of the watchdog committees in the seven provinces where they are currently operational. The watchdog committees are composed of two bodies,

namely: (1) the intervention unit, which is responsible for detecting and repressing trafficking in children; and (2) the support unit, which provides aid and assistance to child victims of trafficking. The Government adds that, in the context of the “Bana” operation in December 2010, around 20 children were identified and removed from trafficking as a result of the action of the watchdog committees.

The Committee takes due note of the structures that exist to combat trafficking in children. However, it notes that, in her preliminary conclusions on her mission to Gabon, the Special Rapporteur on trafficking in persons observes that the coordination of action against trafficking remains weak, particularly among public institutions and between the central administration and local communities. *The Committee, therefore, requests the Government to intensify its efforts to strengthen the capacity of the watchdog committees and their coordination with the Council to Prevent and Combat the Trafficking of Children and the Monitoring Committee, so as to ensure the application of the national legislation against trafficking in children for sexual or economic exploitation. It requests the Government to provide information on the progress achieved in this respect. It also asks the Government to continue providing information on the number of child victims of trafficking identified and protected by the watchdog committees.*

2. *Labour inspection.* The Committee noted previously that, under Decree No. 007141/PR/MTE/MEFBP of 22 September 2005, the labour inspector may immediately draw up a notification of any violations relating to the trafficking of children. It noted that the Conference Committee on the Application of Standards, in its conclusions in June 2007, asked the Government to strengthen the authority of the labour inspection services to enforce the law and to increase their human and financial resources. The Committee on the Application of Standards further asked the Government to ensure that regular inspections are carried out by the labour inspectorate. In this respect, the Committee noted that, under section 178 of the Labour Code, as amended by Ordinance No. 018/PR/2010 of 25 February 2010, labour inspectors are required to report any evidence of the exploitation of children for the purposes of labour. *Noting the absence of information on this point in the Government’s report, the Committee once again requests it to provide statistics on the number of violations reported by the labour inspectorate involving children under 18 years of age engaged in any of the worst forms of child labour, particularly in the informal sector. It also requests the Government to provide information on the measures taken to strengthen the capacity of the labour inspectorate in order to ensure that regular inspections are carried out.*

Article 7(2). *Effective and time-bound measures. Clause (b). Removing children from the worst forms of child labour and ensuring their rehabilitation and social integration. Reception centres and medical and social assistance for child victims of trafficking.* The Committee previously noted that the country has four reception centres, three in Libreville and one in Port-Gentil. Children removed from a situation of exploitation are given an initial medical examination a few days after their placement in a centre. Children who are ill are taken care of by doctors and, if necessary, are hospitalized. In addition, with a view to their rehabilitation and social integration, children are supervised by specialist teachers and psychologists and benefit from social and educational activity programmes and administrative and legal support in association with the Monitoring Committee and the watchdog committees. The Committee also noted that children removed from trafficking are, during their stay in the centres, enrolled free of charge, according to their age, in state schools in which they enjoy the same advantages as other children. Those who are no longer of school age are enrolled in literacy centres.

The Committee notes the information provided by the Government concerning the “National manual of procedures for the care of child victims of trafficking”, which sets out a series of procedures and duties required of all actors called upon to play a role in the return of child victims of trafficking to their country of origin or their social integration. The Government indicates that in 2011 the Monitoring Committee trained social workers with a view to providing them with sound knowledge of the rules contained in the manual on the identification and removal of victims of trafficking, and on their administrative and psycho-social care. The Government adds that the administrative authorities have identified around ten victims, who have received care in reception centres, and that ten children (one boy and nine girls) have been repatriated with the collaboration of their countries of origin. However, the Committee notes that, according to the Special Rapporteur on trafficking in persons, although the Government offers victims of trafficking access to reception centres, there is a discrepancy between those who need assistance and those who actually receive it in public reception centres, which only take in children under the age of 12 years. *The Committee, therefore, firmly encourages the Government to continue taking immediate and effective measures for the removal of child victims of sale and trafficking, and requests it once again to provide information on the number of children under 18 years of age who have in practice been removed from this worst form of child labour and placed in reception centres.*

Article 8. *International cooperation.* The Committee emphasized previously that, during the discussion which took place in the Conference Committee on the Application of Standards in June 2007, the Government representative indicated that consideration was being given to the possibility of taking steps to increase the number of police officers at land, maritime and aerial borders, using joint border patrols and opening transit centres at these borders. It noted that the Government had signed the Multilateral Regional Cooperation Agreement against the Trafficking of Children in West and Central Africa in July 2006 (the 2006 Regional Cooperation Agreement), and that a bilateral agreement relating to trafficking in children was being negotiated with Benin. The Committee requested the Government to continue providing information on the measures taken to give effect to the 2006 Regional Cooperation Agreement and expressed the hope that the bilateral agreement on trafficking in children with Benin would be concluded in the near future.

The Committee notes the absence of information on this point in the Government’s report. However, it observes that, although the Special Rapporteur on trafficking in persons, in her preliminary conclusions, welcomes the Government’s intention to sign bilateral agreements on trafficking in persons with several neighbouring countries, the conclusion of memoranda of understanding has not yet taken place in practice. The Special Rapporteur observes that, with a maritime border of over 800 kilometres and a porous frontier with three countries, Gabon is in need of sound cooperation with its neighbours to combat the phenomenon of trafficking. *The Committee, therefore, firmly encourages the Government to intensify its efforts to ensure that bilateral agreements on trafficking in persons, with Benin and other neighbouring countries, are concluded in the very near future, particularly with a view to strengthening the numbers of border police. It requests the Government to provide information in its next report on the progress achieved in this respect.*

Application of the Convention in practice. In its previous comments, the Committee noted that the lack of recent statistics on trafficking in children in the country was emphasized in the discussion in the Committee on the Application of Standards in 2007. In this respect, the Government representative indicated that the Government would carry out an analysis of the national situation concerning trafficking in children in Gabon and a mapping of trafficking routes and areas in which forced labour involving children was practiced would be carried out as soon as the necessary resources allowed.

The Committee notes the Government’s indication that it will present the study on the situation of trafficking in children as soon as it has been conducted. It also notes the Government’s indications that Decree No. 0191/PR/MFAS establishing a Child

Protection Indicators Matrix (MIPE) was adopted on 22 May 2012, with a view to creating a guidance tool for measures intended to help the Government to follow trends in the problems related to the rights of the child. This tool, which is one of the means used by the National Observatory of the Rights of the Child (ONDE), established by Decree No. 0252/PR/MFAS of 19 June 2012 organizing the social assistance and family protection implementation scheme, is intended to ensure the availability on a permanent basis in Gabon a database of precise statistics on child protection.

However, the Committee notes the remark by the Special Rapporteur on trafficking in persons, in her preliminary conclusions, that she had noted in Gabon the absence of a corpus of reliable national data for the determination of the prevalence rate, forms, trends and manifestations of trafficking in persons.

Observing that the Government has been referring to the study on the situation of trafficking in children in Gabon for several years, the Committee urges it to take the necessary measures to ensure that the study on the situation of trafficking in children in Gabon is undertaken in the very near future, and requests the Government to provide information in its next report on the progress achieved in this respect. The Committee also requests the Government to provide information on the activities of the ONDE and on the statistics gathered by the ONDE through the MIPE on children under 18 years of age engaged in the worst forms of child labour.

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.

Ghana

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Articles 3(d) and 6 of the Convention. Hazardous work in the agricultural sector, including cocoa farms. National Programme for the Elimination of Worst Forms of Child Labour in the Cocoa Industry (NPECLC). Further to its previous comments, the Committee notes the Government's information concerning its ongoing activities within the framework of the NPECLC, including the development of an action plan (2010–11). It further welcomes the development of the manual for agents of change in communities in Ghana, which was developed with ILO–IPEC assistance in 2014 to, among others, eliminate child labour in hazardous work in Ghana's cocoa farms. It notes, however, the statistical data contained in the manual, according to which most children aged 5–17 years engaged in labour in the country are found in the agricultural sector, with 23.3 per cent of the children covered (1,846,126) engaged in at least one hazardous activity with 10 per cent in cocoa-specific hazardous activities. The Committee notes with **concern** the significant number of children below 18 years of age engaged in hazardous conditions of work in the agricultural sector, including in the cocoa industry. *The Committee strongly requests the Government to continue to strengthen its efforts, including within the framework of the NPECLC, to eliminate this worst form of child labour. Moreover, noting that the action plan (2010–11) has expired, the Committee requests the Government to provide updated information concerning any new action plan, either envisaged or elaborated, and to submit a copy of any finalized text.*

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 the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. 1. *Trafficking.* In its previous comments, the Committee noted that ILO–IPEC was supporting a national programme which focused on, among others, the worst forms of child labour in traditional fishing. The Committee notes the Analytical Study on Child Labour in Lake Volta Fishing in Ghana, which was carried out in 2013 with ILO–IPEC assistance, which found that working children are engaged in hazardous fishing activities and are confronted with poor working conditions (for example, they do not receive wages and do not have contracts of employment). Among the children engaged in fishing activities, 11 per cent were aged 5–9 years and 20 per cent were aged 10–14 years. Furthermore, according to the data in the study, 47 per cent of children engaged in fishing in Lake Volta were involved in trafficking, 3 per cent were involved in bondage, 45 per cent were engaged in forced labour and 3 per cent were engaged in sex slavery. Finally, the Committee notes the Strategic Intervention and Action Plan Framework that has been proposed in the study. The Committee notes with **deep concern** the prevalence of children who have been trafficked or sold into fishing activities, or are otherwise engaged in hazardous fishing activities in the Lake Volta region. *It accordingly urges the Government to strengthen its efforts, including within the Strategic Intervention and Action Plan Framework, to ensure that these children are removed from the worst forms of child labour and provided with appropriate support services for their rehabilitation and social integration. It requests the Government to provide information on the implementation of measures in this regard, including on the number of child victims of trafficking who have been removed and rehabilitated, as a result of the measures taken.*

2. *Trokosi system.* In its previous comments, the Committee noted that, despite the Government's efforts to withdraw children from *trokosi* (a ritual in which teenage girls are pledged to a period of service at a local shrine to atone for another family member's sins), the situation remained prevalent in the country.

The Committee notes with **regret** that the Government's report provides no new information concerning its programmatic measures to prevent and remove children from the *trokosi* system. It notes that, under the National Plan of Action (NPA) for the Elimination of the Worst Forms of Child Labour (2009–15) (Issue 2.1.4), the Government aims to implement programmes to facilitate an attitudinal change with regard to traditional practices towards children's rights. It notes, however, that according to the Government's reply to the Committee on the Elimination of Discrimination against Women (CEDAW/C/GHA/Q/6-7/Add.1, paragraph 33) in 2014, despite its efforts, the *trokosi* practice remains prevalent

in the country. *The Committee urges the Government to strengthen its efforts to prevent the engagement of children into trokosi ritual servitude and to put an end to this traditional practice as a matter of urgency, taking account of the special situation of girls. It requests the Government to indicate the measures taken in this regard and the results achieved. It also requests the Government to provide information on the number of children under 18 years of age who are, in practice, removed from trokosi and rehabilitated.*

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 2016.]

Greece

Minimum Age Convention, 1973 (No. 138) (ratification: 1986)

Article 3(3) of the Convention. Authorization to carry out hazardous work from the age of 16 years. The Committee had previously noted that section 7(5) of Presidential Decree No. 62 of 1998 provides that, with the permission of the competent labour inspectorate and upon the employer's application, derogations from the prohibition of employment in work that are liable to prejudice the health, safety or development of young persons may be granted where such work is necessary for their vocational training. It also noted that, under the terms of section 2(c) of Presidential Decree No. 62 of 1998, the term "adolescent" means any young person of at least 15 years but less than 18 years of age who has ceased compulsory education. The Committee further noted the Government's indication that the employment of adolescents in dangerous work, as provided for by section 7(5) of Presidential Decree No. 62/1998, may only be permitted under certain conditions, such as the performance of these tasks under the supervision of the safety technician and/or labour physician or the protection and prevention services capable of ensuring the protection of these adolescents' health and safety. The Committee therefore urged the Government to take the necessary measures to bring its national legislation into conformity with *Article 3(3)* of the Convention by providing that no person under 16 years of age may be authorized to perform hazardous work under any circumstances.

The Committee notes with *regret* the Government's indication that no changes at the legislative or administrative level have been taken in this regard. The Committee once again reminds the Government that, according to *Article 3(3)* of the Convention, national laws or regulations or the competent authority may authorize employment or work as from the age of 16 years on 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. In this regard, the Committee must emphasize that the necessary measures should be taken to ensure that young persons below 16 years of age engaged in apprenticeship do not undertake hazardous work and that measures should be taken to raise the minimum age for admission to hazardous work to 16 years, even if the required protective conditions are adequately provided (see General Survey on the fundamental Conventions, 2012, paragraphs 380 and 385). *The Committee therefore once again urges the Government to take the necessary measures to ensure that the minimum age for the exemptions from the prohibition on the employment of young persons in hazardous work as laid down in section 7(5) of Presidential Decree No. 62/1998 be raised to at least 16 years so as to be in compliance with Article 3(3) of the Convention. It requests the Government to provide information on any progress made in this regard.*

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

Guatemala

Minimum Age Convention, 1973 (No. 138) (ratification: 1990)

The Committee notes the observations of the Trade Union of Workers of Guatemala (UNSITRAGUA) received on 22 October 2014.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted the statistics on child labour in Guatemala and expressed concern at the number and situation of children under 14 years of age who work. It noted the development by the Government, in collaboration with ILO-IPEC, of a *Roadmap to ensure that Guatemala is a country free from child labour and its worst forms*. The Committee noted that the labour inspection services had only detected two children under 14 years of age engaged in work. It therefore requested the Government to strengthen the capacity of these services.

The Committee notes the indications by UNSITRAGUA that the National Survey of Employment and Income (ENEI) of 2013 shows that 9.2 per cent of children between the ages of seven and 14 years are engaged in work, of whom 67 per cent work in agriculture. UNSITRAGUA adds that child labour in agriculture is invisible, as 11 per cent of child workers help their parents, are not therefore paid and have generally been working since the age of 8 years. It further indicates that the general labour inspectorate is reported to be tolerant in relation to child labour in agriculture. It notes in this respect that, according to the extract of the operational plan of the inspection services concerning child labour in agriculture, 1,999 enterprises were reported to have been inspected, of which 582 enterprises were listed under the heading "not applicable", without any indication of what that means. Moreover, out of a total of 96 enterprises which are not fulfilling their obligations, only 76 received warnings and no information is provided on the measures applied in the

20 remaining enterprises which were in breach of their obligations. UNSITRAGUA adds that there is reported to be a total of 224 labour inspectors, which is largely insufficient to cover all the enterprises that exist in the country. Finally, it refers to limited access to justice in the field of labour law, indicating that in 2013, of the 16,156 actions carried out by the inspection services, only 2,215 cases, or 14 per cent, were referred to the courts, and only 39 per cent of those cases resulted in convictions.

The Committee notes the Government's indication that 14 new labour inspectors have entered the Special Inspection Unit in response to the high number of children who work. It notes the extracts of the reports on the operational plans of the general labour inspectorate for 2013, provided by the Government. It observes that the labour inspection services detected the presence of 24 children under 14 years of age engaged in work in the fields of construction, rubbish collection, agriculture and establishments operating at night. The Committee also notes that the general labour inspectorate has developed an annual inspection plan by sector with a schedule for 2015, with the aim of inspecting all enterprises in which there could be child labour, and working jointly with the Worker Protection Unit (UPAT). While taking due note of the reports of the labour inspection services, the Committee observes that the information provided lacks detail concerning the headings referred to, the nature of the violations reported and the penalties imposed. Finally, the Committee notes that the Committee on Economic, Social and Cultural Rights, in its concluding observations of 2014 (E/C.12/GTM/CO/3, paragraph 20) expresses concern at the persistence of child labour in Guatemala, especially in agriculture and domestic services. While noting the measures adopted by the Government, the Committee notes with *concern* that a significant number of children under the minimum age for admission to employment are engaged in work in Guatemala. *The Committee once again urges the Government to intensify its efforts to ensure the progressive elimination of child labour. It continues to request 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, taking into account its important role in enforcing the application of the minimum age for admission to employment. The Committee also requests the Government to continue providing information on the results achieved through the implementation of the roadmap to ensure that Guatemala is a country free of child labour and its worst forms. Finally, it requests the Government to continue providing information on the manner in which the Convention is applied in practice, particularly based on statistics on work by children under 14 years of age, extracts from the reports of the inspection services and information on the number and nature of the violations reported and the penalties imposed.*

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Article 3(a) and 7(1) of the Convention. Sale and trafficking of children for commercial sexual exploitation and penalties. The Committee noted previously the adoption of Decree No. 9/2009 issuing the Act against sexual violence, exploitation and trafficking in persons. The Committee also noted the persistence of the problem of trafficking of children under 18 years of age for commercial sexual exploitation and allegations of the complicity of law enforcement officers with persons engaged in the trafficking of persons. The Committee noted that 106 cases relating to child victims of trafficking had been brought to the knowledge of the judicial authorities (out of 294 cases) between 2009 and 2012, with 38 rulings resulting in ten convictions.

The Committee notes the Government's indication that there is a General Labour Inspectorate Protocol for the detection and referral of cases of trafficking of persons, which is a tool for the identification, referral and denunciation of cases. It also notes that a letter of understanding was signed with UNICEF in July 2015 with a view to strengthening the competencies and capacities of judicial bodies in relation to children, young persons, the family and criminal offences. The Committee notes the statistics from the judicial authorities concerning the cases of trafficking of persons registered, namely a total of 125 cases in 2013 (including 24 girls and young women and 11 boys and young men), 119 cases in 2014 and 51 cases in 2015 (from January to June). The Government also reports 44 convictions in 2014 and 26 in 2015 (from January to June). The Committee further notes that, in its report on the Minimum Age Convention, 1973 (No. 138), the Government refers to statistics of the Attorney-General, according to which 380 minors were saved, including four victims of trafficking and one victim of sexual exploitation. The Committee however observes that the information provided by the Government does not systematically specify the number of rulings and convictions relating to the sale and trafficking of children under 18 years of age for commercial sexual exploitation and the officials complicit in these acts, and does not indicate the types of penalties imposed. The Committee also notes that, according to the 2014 Trafficking Report of the Human Rights Prosecutor, the Office of the Public Prosecutor identified 548 victims of trafficking, including 139 children and young persons (including 112 girls and young women), with the indication that 195 cases were not classified. The report also refers to 306 cases of denunciations of trafficking being opened between 2010 and 2014, including 98 in 2014. Of these cases, 79 per cent concern children and young persons and 52 per cent relate to the sexual exploitation of children and young persons. Finally, the Committee notes that, according to the 2013 report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/22/54/Add.1, paragraph 15), Guatemala is a source, transit and destination country for child victims of sexual exploitation and forced labour. *While noting the statistics on the application of Decree No. 9/2009, the Committee requests the Government to pursue its efforts to ensure that thorough investigations and robust prosecutions are carried out against the perpetrators of trafficking of children under 18 years of age for commercial sexual exploitation, and against officials who are complicit in such acts. It also requests the Government to continue providing detailed information, disaggregated by age and sex, on the number of*

investigations, prosecutions, convictions and sanctions imposed on persons engaging in the sale and trafficking of children under 18 years of age for commercial sexual exploitation.

Articles 3 and 5. *Worst forms of child labour and monitoring mechanisms. Clause (d). Hazardous types of work. Production and handling of explosive materials and products and labour inspection.* The Committee previously noted the measures taken by the Government to combat child labour in the fireworks sector. It also noted that the national legislation prohibits work by persons under 18 years of age in the manufacture, preparation and handling of explosive substances and products, and the production of explosives or fireworks. Finally, the Committee noted that the labour inspectorate had been obstructed in the discharge of its duties and that 16 cases of violations had been reported and referred to the labour tribunal. The Committee requested the Government to take immediate and effective measures to ensure that persons under 18 years of age are not engaged in the fireworks sector and to intensify its efforts to conduct inspections in all firework factories.

The Committee notes the Government's indications that Circular No. 09-2014 has been adopted for labour sub-inspectors, directors and departmental delegates to inform them of the verification procedures in the context of operational plans on child labour, warnings and the contact details of the national civil police force for support, in accordance with Ministerial Agreement No. 106-2011 (Rules of Procedure in the event of the obstruction of labour inspectors in the discharge of their duties). The Committee also notes the adoption of Circular No. 16-2005, which includes directives for the inspection plan for individuals and associations in which children and young persons are reported to be working, including in the worst forms of child labour or under inadequate conditions. The Government indicates in this regard that in 2012 a total of 11 children were detected in the manufacture, preparation and handling of fireworks and explosive substances, and two children in 2013. In 2014, the Government indicates that six warnings were issued. The Committee observes that 492 enterprises are indicated under the heading "not applicable", without the meaning of this heading being specified. **While noting the decrease in the number of cases of children engaged in the manufacture, preparation and handling of explosive substances and products, and in the production of explosives and fireworks at home, the Committee requests the Government to continue taking the necessary measures to ensure that persons under 18 years of age are not engaged in this sector. The Committee also requests the Government to provide information on the specific measures taken in this connection and the results achieved. Finally, it requests it to indicate the number of inspections carried out in this sector and the nature of the violations reported and the penalties imposed as a result of such inspections, with an indication of the meaning of the headings used in the operational plans.**

Article 6. *Programmes of action. National Plan of Action to Combat the Commercial Sexual Exploitation of Children.* In its previous comments, the Committee noted that the National Plan of Action to Combat the Commercial Sexual Exploitation of Children was being revised, but that the Social Welfare Secretariat was not able to implement the Plan of Action in view of the inadequacy of the budget allocated. The Committee requested the Government to provide information on the programmes of action developed in the context of the implementation of the Plan of Action.

The Committee notes the Government's indication that the activities envisaged in the Plan of Action have not been carried out. It notes the information contained in the 2013 Trafficking Report of the Human Rights Prosecutor, according to which the strategies set out in the Plan have been included in the Comprehensive Protection Policy and in the National Plan of Action for Children and Young Persons 2004–15, which includes the objective of evaluating the results of the National Plan of Action to Combat the Commercial Sexual Exploitation of Children, but that it has not yet been given effect (page 13). **The Committee therefore urges the Government to take immediate and effective time-bound measures to combat the commercial sexual exploitation of children under 18 years of age. It requests it to provide information on this subject.**

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 these forms of labour and ensuring their rehabilitation and social integration. Commercial sexual exploitation and trafficking for that purpose.* Further to its previous comments, the Committee notes the Government's indication that a Public Policy against Trafficking in Persons and the Comprehensive Protection of Victims 2014–24 has been drawn up by the Inter-institutional Committee to Combat Trafficking in Persons (CIT) and adopted by Executive Agreement No. 306-2014. This policy includes the strategic objectives of developing a plan for the implementation of effective prevention mechanisms, institutional management and coordination to provide care for victims. The Committee also notes the Inter-institutional Protocol for the care of victims of trafficking in persons drawn up by the Secretariat for Foreign Affairs and the Social Welfare Secretariat, which was approved by the Secretariat to Combat Sexual Violence, Exploitation and Trafficking in Persons (SVET). The Government adds that the department of Quetzaltenango has established a support programme for girls and young women who are victims of gender-based sexual violence, including care for young women who are victims of trafficking. The Committee further notes the Government's indication, according to its report on the application of the Forced Labour Convention, 1930 (No. 29), that the SVET has made available specialized temporary shelters for victims of trafficking and has participated in the activities undertaken, in the context of the roadmap to ensure that Guatemala is free of child labour, with the National Commission for the Eradication of Child Labour (CONAPETI). Finally, the Committee notes, from the information contained in the 2014 Trafficking Report of the Human Rights Prosecutor, the Alba-Keneth alarm system to prevent trafficking and protect children through the coordination of inter-institutional action for the identification and immediate relief of child victims. It notes that the Operational Unit of the Alba-Keneth alarm system in the Office of the Public Prosecutor recorded

17,443 alerts activated between 2011 and 2014, including 5,780 in 2014 (page 30). *While noting the measures adopted by the Government, the Committee requests it to continue its efforts to take effective and time-bound measures to prevent and remove children from the worst forms of child labour, and in particular to prevent them from becoming victims of commercial sexual exploitation or trafficking for that purpose. The Committee also requests the Government to provide the necessary and appropriate direct assistance for the removal of children from these worst forms of child labour. In this connection, the Committee requests the Government to provide information on the measures adopted or envisaged in the context of the implementation of the public policy to combat trafficking in persons and to guarantee comprehensive protection for victims (2014–24), the Interinstitutional Protocol and the roadmap.*

Article 8. International cooperation. Trafficking of children for commercial sexual exploitation. In its previous comments, the Committee noted that, while recognizing the conclusion of memoranda of understanding with neighbouring countries, undocumented foreign children, including victims of trafficking, are subject to deportation and must leave the country within 72 hours. The Committee also noted the Government's indication that an Interinstitutional Protocol for the repatriation of victims of trafficking had been adopted and that the SVET envisaged activities in this regard. While noting that the Protocol was not yet implemented in practice, the Committee requested the Government to indicate the measures taken for its implementation.

The Committee notes that the Government's report remains silent on this subject. The Committee observes that, according to the report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/22/54/Add.1, paragraph 107), the Government is examining a programme of protection and comprehensive assistance for the repatriation and reintegration of children intercepted by the United States and Mexican authorities. The Special Rapporteur also notes that the Government is working with El Salvador and Honduras for the adoption of the "Guardian Angels" programme aimed at improving the sharing of information and the protection of victims of trafficking in border areas. *The Committee therefore once again requests the Government to indicate the measures taken to ensure the rehabilitation and social reintegration of child victims removed from trafficking for commercial sexual exploitation in their country of origin, particularly under the programmes referred to above and in the context of the implementation of Inter-institutional Protocol for the repatriation of victims of trafficking and the activities of the SVET. It also requests the Government to indicate the number of child victims of trafficking who have been repatriated.*

The Committee invites the Government to avail itself of ILO technical assistance, particularly for the implementation of the activities of the CONAPETI and the SVET, with a view to bringing its law and practice into conformity with the Convention. In this regard, the Committee welcomes the ILO project financed by the Directorate-General for Trade of the European Commission in support of countries benefiting from the Generalized System of Preferences (GSP+) of the European Union with a view to the effective implementation of international labour standards, targeting four countries, including Guatemala.

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

Guinea

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Articles 3(a) and 4(1) and (3) of the Convention. *All forms of slavery or practices similar to slavery and determination and revision of the list of hazardous types of work. Sale and trafficking of children and hazardous work.* In its previous comments, the Committee noted the Government's statement that a Bill prohibiting child labour and trafficking is currently being prepared. The Government indicated that this new Bill includes provisions bringing the national legislation into conformity with the Convention with regard to hazardous work and, to that effect, the list of hazardous types of work has been reviewed in relation to the various sectors.

The Committee notes the Government's indication that the penal part of the Bill prohibiting child labour and trafficking has been referred to the Ministry of Justice to be incorporated in the new Penal Code recently adopted by the National Assembly. The Government also indicates that the part relating to the worst forms of child labour was examined by the Advisory Committee on Labour and Social Legislation at its April 2015 session. Lastly, it indicates that the list of hazardous work will be communicated once the Bill has been adopted. *The Committee urges the Government to ensure that the Bill prohibiting child labour and trafficking is adopted in the very near future. It requests the Government to provide a copy of the Bill once it has been adopted, including the duly revised list of hazardous types of work.*

Article 5. Monitoring mechanisms. Labour inspection. In its previous comments, the Committee noted that section 428 of the Children's Code of 2008 provides that persons violating the prohibition on employing children under 18 years of age in work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals (section 411), shall be liable to the corresponding penalties established in the Labour Code. The Committee also noted the Government's indication that since no labour inspection reports mention any cases of child labour, there have been no court rulings imposing penalties under the Labour Code.

The Committee duly notes section 137.7 of the new Labour Code (Act No. L/2014/072/CNT of 10 January 2014), which provides that any violation of the provisions of the chapter relating to child labour shall be penalized by the

criminal legislation in force. The Committee also notes the Government's indication that urgent measures are being taken to reinforce the capacity of the labour inspectorate to maintain adequate monitoring and detect children engaged in hazardous work and in the worst forms of child labour in general. The Government further indicates that an invitation was issued to the labour inspectorate to forward the reports, which will be communicated in the near future. However, the Committee notes with **concern** that, as indicated in its comments relating to the Labour Inspection Convention, 1947 (No. 81), published in 2015, the Government has not sent any labour inspection report since the one covering the October 1994–October 1995 period. In the same comments, the Committee expressed its concern at the persistent inadequacy of resources available to the labour inspectorate. The Committee further notes that the Committee on the Rights of the Child (CRC), in its concluding observations of 2013 (CRC/C/GIN/CO/2, paragraph 79), reiterated its concern at the large number of working children, particularly in the informal economy, agriculture, fishing and domestic work. ***The Committee, therefore, urges the Government to take immediate steps to reinforce the capacity of the labour inspectorate as a matter of urgency, so as to ensure adequate monitoring and detection of children under 18 years of age engaged in the worst forms of child labour, particularly in hazardous work and the informal economy. The Committee also requests the Government to provide extracts from labour inspection reports relating to the worst forms of child labour, particularly concerning children engaged in hazardous work in the informal economy.***

Article 7(1). Penal sanctions. The Committee previously noted that the Children's Code of 2008 establishes several penalties in relation to cases of the worst forms of child labour envisaged in *Article 3(a)–(c)* of the Convention. The Government indicated that no convictions had yet been handed down, even though there were cases of trafficking in persons before the courts.

The Committee notes with **concern** the Government's statement that there had still been no convictions handed down between 2011 and 2015, particularly in relation to the trafficking of children for sexual exploitation. The Committee notes the annual statistics for 2014 of the Office for the Protection of Gender, Childhood and Morality (OPROGEM), supplied with the Government's report, which refer in particular to 23 child victims of trafficking (15 boys and eight girls). The Committee notes that the CRC, in its concluding observations for 2013 (CRC/C/GIN/CO/2, paragraph 83), expressed its concern at the fact that prosecutions for the trafficking of children are rare despite the fact that the majority of trafficked victims in Guinea are children. Furthermore, referring to the 2012 General Survey on the fundamental Conventions, the Committee emphasizes that whatever penalties are laid down, they will only be effective if they are applied in practice, which presupposes that procedures exist for bringing violations to the attention of the judicial authorities, and that these authorities are strongly encouraged to apply such penalties (paragraph 639). ***The Committee, therefore, requests the Government to take the necessary steps to ensure that thorough investigation and robust prosecution of all persons committing violations of the Children's Code relating to the worst forms of child labour, and particularly the trafficking of children for sexual or labour exploitation. It requests the Government to provide information on the number and nature of violations, investigations, prosecutions, convictions and penalties imposed.***

Application of the Convention in practice. In its previous comments, the Committee noted the detailed statistics provided in the report on the 2010 National Survey on Child Labour and Trafficking (ENTE) relating to child labour and trafficking and also children's education. According to the results of the ENTE, out of a total of 3,561,160 children between 5 and 17 years of age, 43 per cent are economically active and 40.1 per cent (or 93.2 per cent of economically active children) are engaged in types of work that are to be abolished, namely in work that is likely to harm their school attendance, health or development.

The Committee notes the absence of any additional information in the Government's report on the application of the Convention in practice. Moreover, the Committee notes that the CRC, in its concluding observations for 2013 (CRC/C/GIN/CO/2, paragraph 79), expresses particular concern at the fact that children are working in mining, agriculture and fishing in hazardous conditions and are subjected to excessive hours of work. It adds that girls, sometimes barely 5 years of age, are employed as domestic workers and carry heavy loads, often for no pay, and are the target of psychological, physical and sexual violence. The Committee also observes that, according to the report *The twin challenges of child labour and educational marginalization in the ECOWAS region* [Economic Community of West African States], produced by the Understanding Children's Work programme (UCW 2014 report), 90 per cent of children employed in agriculture work on family farms (paragraph 36). It also mentions that over one third of all forestry/logging workers are children (paragraph 40). The Committee again expresses its **concern** at the large number of children under 18 years of age engaged in the worst forms of child labour, particularly hazardous work. ***The Committee urges the Government to take immediate steps to protect these children against the worst forms of child labour. It also requests the Government to provide statistics and other information on the nature, extent and trends of the worst forms of child labour, the number of children covered by the measures giving effect to the Convention, and the number and nature of violations, investigations, prosecutions, convictions and penalties imposed. All information should be disaggregated by age and gender, as far as possible.***

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

Guyana

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy for the elimination of child labour and national action plan. The Committee recalls that the Government has been reiterating its commitment to adopting a national policy designed to ensure the effective abolition of child labour in the country for nearly 15 years. The Committee also notes that, although the Government has undertaken a number of policy measures aimed to tackle child labour through education programmes, in particular under the ILO-IPEC project entitled "Tackle child labour through education" (TACKLE project) and under the Millennium Development Goals, it continues to indicate that a National Plan of Action for Children (NPAC) is under development. **The Committee accordingly urges the Government to strengthen its efforts to finalize the NPAC and to provide a copy of it in the very near future. Furthermore, noting the Government's indication that the National Steering Committee on Child Labour – which had initiated and drafted a national action plan to eliminate and prevent child labour – is no longer functioning, the Committee requests the Government to provide updated information on the measures taken or envisaged to finalize this process.**

Article 3(3). Authorization to work in hazardous employment from the age of 16 years. In previous comments, the Committee observed that section 6(b) of Act No. 9 of 1999 on the employment of young persons and children (hereafter, Act No. 9 of 1999) grants the Minister discretion to authorize, through regulations, the engagement of young persons between the ages of 16 and 18 years in hazardous work. The Committee also observed that, although sections 41 and 46 of the Occupational Safety and Health Act, 1997 (OSHA) aim to prevent young persons from undertaking employment activity that could impede their physical health or emotional development, the Government has identified difficulties in monitoring and enforcing those provisions. The Government accordingly indicated that Act No. 9 of 1999 will be amended to ensure that the protections afforded under the Act are extended to all young persons under the age of 18 years.

The Committee notes with **concern** that the Government's latest information provides no new information concerning the process of amending Act No. 9 of 1999, despite its repeated commitment over the years to do so. Rather, it states that no ministerial regulations have been issued and that the OSHA provisions ensure that young persons between 16 and 18 years who are employed in hazardous work receive adequate specific vocational training. The Committee notes, however, that the Committee on the Rights of the Child (CRC), in its concluding observations on the combined second to fourth periodic reports of Guyana in June 2013 (CRC/C/GUY/CO/2-4, paragraph 59(c)–(d)), noted the inadequate measures for monitoring and enforcing the OSHA provisions and that, notwithstanding reports of significant numbers of children involved in hazardous work, only three such cases had been reported to the Government's reporting mechanism.

The Committee draws the Government's attention in this respect to paragraph 381 of the 2012 General Survey on the fundamental Conventions, which stresses that compliance with *Article 3(3)* of the Convention requires that any hazardous work for persons from the ages of 16 to 18 years be authorized only upon condition that the health, safety and morals of the young persons concerned are fully protected and that they, in practice, receive adequate specific vocational training. **The Committee accordingly urges the Government to take measures to amend Act No. 9 of 1999 in the near future so as to ensure conformity with Article 3(3) of the Convention by providing adequate protection to young persons of ages 16 and above and to supply a copy of the amendments once they have been finalized. Moreover, noting the Government's indication that efforts are underway with the tripartite partners to include additional areas of work on the hazardous work list, the Committee requests the Government to supply a copy of this amended list once it becomes available.**

Article 9(3). Keeping of registers. In its previous report, the Committee noted that section 3(3), read in conjunction with section 3(2), of Act No. 9 of 1999 requires registers to be kept in places where young persons under the age of 16 years are employed, rather than 18 years as required under *Article 9(3)* of the Convention. **Noting the absence of information on this point, the Committee requests the Government to provide updated information on the process of amending section 3 of Act No. 9 of 1999 to bring it into conformity with the Convention and to supply a copy of the amendments once they have been finalized.**

Labour inspection and practical application of the Convention. The Committee recalls its previous comments which noted the results of the 2001 Multiple Cluster Indicator Survey identifying a high percentage of working children in the country. The Committee also noted the indication of the International Trade Union Confederation (ITUC) that labour inspectors fail to effectively enforce the applicable legislation and that child labour was particularly prevalent in the informal economy.

The Committee notes that the Government's latest report simply indicates that its labour inspectors routinely conduct workplace inspections and that there has been no evidence of child labour. Nevertheless, the Committee also notes the information contained in the Government's 2011 report to the UN Office of the High Commissioner for Human Rights (OHCHR) concerning a three-year programme which aims to, among others, strengthen the capacity of national and local authorities in the formulation, implementation and enforcement of the legal framework on child labour and which will include a focus on child labour in the informal economy. **The Committee accordingly requests the Government to continue to strengthen its efforts to combat child labour, including in the informal economy, and to provide information on the impact in this regard. Furthermore, noting the Government's indication in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that it is establishing a baseline survey on child labour, the Committee requests the Government to provide information concerning the results of the survey in its next report.**

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

Haiti

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2007)

The Committee notes that the Law No. CL/2014-0010 of 2 June 2014 on the fight against trafficking in persons has been adopted.

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. In its previous comments, the Committee noted that, according to the report of the United Nations Special Rapporteur on contemporary forms of slavery, a new trend has been observed with regard to the employment of children as domestic workers (designated by the Creole term *restavèks*). This consists of the emergence of persons who recruit children from rural areas to work as domestic servants in urban families and outside the home in markets. The Special Rapporteur noted that this new trend has caused many observers to describe the phenomenon as trafficking, since parents are now handing their children over to strangers, whereas previously they entrusted the children to relatives. The Committee noted the observations of the International Trade Union Confederation (ITUC) that smuggling and trafficking in children was continuing, particularly towards the Dominican Republic. The ITUC has gathered serious eyewitness reports of sexual abuse and violence, even including murder, against young women and young girls who have been trafficked, particularly by Dominican military personnel and expressed concern at the fact that there does not appear to be a law under which those responsible for trafficking in persons can be brought to justice and that a draft legislation was to be adopted by the Parliament.

The Committee notes with *interest* the adoption of Law No. CL/2014-0010 of 2 June 2014 on the fight against trafficking in persons. The Law provides that trafficking in children, meaning the procuring, enlistment, transfer, transportation, accommodation or reception of a child for the purposes of exploitation constitutes an aggravating circumstance giving rise to life imprisonment (sections 11 and 21). The Committee notes, however, that, according to its 2014 concluding observations (CCPR/C/HTI/CO/1, paragraph 14), the Human Rights Committee remains concerned about the continuing exploitation of *restavèks* children and the lack of statistics on, and results from, the investigations into the perpetrators of trafficking. Similarly, the Committee notes that, according to the 2015 report of the independent expert on the human rights situation in Haiti (A/HRC/28/82, paragraph 65 with reference to A/HRC/25/71, paragraph 56), the *restavèks* phenomenon is the consequence of the weakness of the rule of law and those children are systematically unpaid, subjected to forced labour, and exposed to physical and/or verbal violence. Their number was estimated at 225,000 by UNICEF in 2012. ***The Committee, therefore, urges the Government to take the necessary measures to ensure the effective implementation of Law No. CL/2014-0010, in particular in ensuring that in-depth investigations and effective prosecutions are completed with regard to perpetrators of trafficking of children under 18 years of age. The Committee also requests the Government to provide statistical data on the application of the law in practice, including the number and nature of the violations reported, investigations, prosecutions, convictions and the penal sanctions applied.***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Clauses (a) and (d) Forced or compulsory labour and hazardous work. Child domestic labour. In its previous comments, the Committee noted the situation of hundreds of thousands of *restavèk* children who are often exploited under conditions that qualify as forced labour. It noted that in practice many of these children, some of whom are only 4 or 5 years old, are the victims of exploitation, are obliged to work long hours without pay, face all kinds of discrimination and bullying, receive poor lodging and food and are often victims of physical, psychological and sexual abuse. In addition, very few of them attend school. The Committee also noted the repeal of Chapter IX of Title V of the Labour Code, relating to children in service, by the Act of 2003 for the prohibition and elimination of all forms of abuse, violence, ill-treatment or inhumane treatment of children (the Act of 2003). It noted that the prohibition set out in section 2(1) of the Act of 2003 covers the exploitation of children, including servitude, forced or compulsory labour, forced services and work which by its nature or the circumstances in which it is carried out is likely to harm the health, safety or morals of children, without however establishing penalties for violations of its provisions. The Committee noted that the repealed provisions included section 341 of the Labour Code, under which a child from the age of 12 years could be entrusted to a family to be engaged in domestic work. The Committee nevertheless observed that section 3 of the Act of 2003 provides that a child may be entrusted to a host family in the context of a relationship of assistance and solidarity.

The Committee noted previously that the Special Rapporteur, in her report, expressed deep concern at the vagueness of the concept of assistance and solidarity and considered that the provisions of the Act of 2003 allow the practice of *restavèk* to be perpetuated. According to the report of the Special Rapporteur, the number of children working as *restavèk* is between 150,000 and 500,000 (paragraph 17), which represents about one in ten children in Haiti (paragraph 23). Following interviews with *restavèk* children, the Special Rapporteur ascertained that all of them were given heavy workloads by their host families, which were often incompatible with their full physical and mental development (paragraph 25). Moreover, the Special Rapporteur was told that these children are often ill-treated and subjected to physical, psychological and sexual abuse (paragraph 35). Representatives of the Government and of civil society pointed out that cases of children being beaten and burnt were routinely reported (paragraph 37). The Committee noted that, in view of these findings, the Special Rapporteur described the *restavèk* system as a contemporary form of slavery.

The Committee notes the ITUC's allegations that the earthquake of 12 January 2010 resulted in an abrupt deterioration in the living conditions of the population of Haiti and increasingly precarious working conditions. According to the ITUC, an increasing number of children are engaged as *restavèk* and it is highly probable that their conditions have deteriorated further. Many of the eyewitness accounts gathered by the ITUC refer to extremely arduous working conditions, and exploitation is often combined with degrading working conditions, very long hours of work, the absence of leave and sexual exploitation and situations of extreme violence.

The Committee notes the Government's recognition that the engagement of *restavèk* children in domestic work is similar to forced labour. It once again expresses *deep concern* at the exploitation of children under 18 years of age in domestic work performed under conditions similar to slavery and in hazardous conditions. It once again reminds the Government that, under the terms of *Article 3(a) and (d)* of the Convention, work or employment by children under 18 years of age under conditions that are similar to slavery or that are hazardous comprise the worst forms of child labour and, under the terms of *Article 1*, are to be

eliminated as a matter of urgency. *The Committee requests the Government to take immediate and effective measures to ensure in law and practice that children under 18 years of age are not engaged as domestic workers under conditions similar to slavery or in hazardous conditions, taking into account the special situation of girls. In this respect, it urges the Government to take the necessary measures to amend the provisions of the national legislation, and particularly section 3 of the Act of 2003, which allow the continuation of the practice of restavèk. The Committee also requests the Government to take the necessary measures to ensure that in-depth investigations are conducted and effective prosecutions of persons subjecting children under 18 years of age to forced domestic work or to hazardous domestic labour, and that sufficiently effective and dissuasive penalties are imposed in practice.*

Article 5. Monitoring mechanisms. Child protection brigade. The Committee notes the ITUC's allegation that a child protection brigade (BPM) exists in Haiti protecting the borders. However, the ITUC indicates that the corruption of officials on both sides of the border has not been eradicated and that the routes for trafficking in persons avoid the four official border posts and pass through remote locations where more serious situations of abuse against the life and integrity of migrants probably occur.

The Committee notes the Government's indication that the BPM is a specialized police unit which arrests traffickers, who are then brought to justice. However, the Government adds that, during judicial inquiries, procedural issues are often used by those charged to escape justice. The Committee is bound to express **concern** at the weakness of the monitoring mechanisms in preventing the phenomenon of trafficking in children for exploitation. *The Committee requests the Government to take the necessary measures to strengthen the capacity of the BPM to monitor and combat trafficking in children under 18 years of age and to bring those guilty to justice. It requests the Government to provide information on the measures adopted in this respect and the results achieved.*

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. Sale and trafficking. In its previous comments, the Committee noted that, according to the United Nations Office on Drugs and Crime report of February 2009: *Global Report on Trafficking in Persons*, no system exists to provide the victims of trafficking with care or assistance, nor are there any reception centres for victims of trafficking. It also noted that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations (CEDAW/C/HTI/CO/7, 10 February 2009, paragraph 26), expressed concern at the lack of reception centres for women and girls who are victims of trafficking.

The Committee notes the ITUC's allegations that there is a public system of care and assistance for persons who are victims of trafficking. The reports gathered by the ITUC indicate that victims are referred to the police forces, which relay them to the Social Welfare and Research Institute (IBESR), which then places them in reception centres.

The Committee notes the Government's indication that a pilot social protection programme was envisaged, but that the earthquake of 12 January 2010 undermined the implementation of the programme. *The Committee urges the Government to take effective measures for the provision of the necessary and appropriate direct assistance for the removal of child victims of sale and trafficking and for their rehabilitation and social integration. In this respect, it requests the Government to provide information on the number of children under 18 years of age who are victims of trafficking and who have been placed in reception centres through the police forces and the IBESR.*

Clause (d). Identifying and reaching out to children at special risk. Restavèk children. In its previous comments, the Committee noted the existence of programmes for the reintegration of *restavèk* children established by the IBESR in cooperation with various international and non-governmental organizations. It noted that these programmes focus on reintegration in the family setting with a view to promoting the social and psychological development of the children concerned. However, it noted that the Committee on the Rights of the Child, in its concluding observations, had expressed deep concern at the situation of *restavèk* children placed in domestic service and recommended that the Government take urgent steps to ensure that *restavèk* children are provided with physical and psychological rehabilitation and social reintegration services (CRC/C/15/Add.202, 18 March 2003, paragraphs 56 and 57).

The Committee notes the ITUC's indications that it has been informed of initiatives for the reintegration of *restavèk* children implemented, among others, with the support of UNICEF and the International Organization for Migration (IOM). While welcoming these initiatives, the ITUC calls on the Government to ensure that these programmes continue to be combined with measures intended to improve the living conditions of the families of origin of the children.

The Committee notes the Government's indication that cases of the ill-treatment of children in domestic service are taken up by the IBESR, which is responsible for placing them in families for the purposes of their physical and psychological rehabilitation. However, the Government recognizes that there are still only a few such cases. *The Committee urges the Government to intensify its efforts to ensure that restavèk children benefit from physical and psychological rehabilitation and social integration services in the framework of programmes for the reintegration of restavèk children or through the IBESR.*

Article 8. International cooperation. Sale and trafficking of children. The Committee previously noted that the Ministry of Social Affairs and Labour, in cooperation with the Ministry of Foreign Affairs, was studying the problem of the exploitation of persons in sugar cane plantations in the Dominican Republic and of children reduced to begging in that country, and intends to engage in bilateral negotiations with a view to resolving the situation. It also noted that the CEDAW, in its concluding observations (CEDAW/C/HTI/CO/7, 10 February 2009, paragraph 27), encourages the Government "to conduct research on the root causes of trafficking and to enhance bilateral and multilateral cooperation with neighbouring countries, in particular the Dominican Republic, to prevent trafficking and bring perpetrators to justice".

The Committee notes once again that the Government's report does not contain information on this subject. *It once again requests the Government to provide information in its next report on the progress made in the negotiations for the adoption of a bilateral agreement with the Dominican Republic.*

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

Honduras

Minimum Age Convention, 1973 (No. 138) (ratification: 1980)

The Committee notes the observations of the Honduran National Business Council (COHEP), received on 28 August and 24 September 2015, supported by the International Organisation of Employers (IOE).

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted the measures taken to combat child labour, particularly in the context of the implementation of the Plan of Action for the Elimination of Child Labour (2008–15), and their results. The Committee also noted the Government's indication that 122 labour inspectors distributed among 17 regional offices are responsible for child labour, but that no violations had been reported in this field despite the high percentage of children working under the minimum age. The Committee requested the Government to take practical measures to reinforce the action of the labour inspectorate to prevent and combat child labour.

The Committee notes the joint observations of the COHEP and the IOE according to which new legislation on labour inspection is under discussion with the social partners with a view to remedying the inadequate numbers and lack of specialization, for example in the field of child labour, of labour inspectors in the Secretariat of Labour and Social Security. The Government indicates that the inspection and information services reported 170 inspections and 60 violations in the Department of Women and Young Workers at the central and regional levels in 2014, as well as 48 inspections in the central office between January and June 2015. However, the Committee notes with **concern** that, among the violations reported, the labour inspectorate has not reported violations relating to the Code for Children and Young Persons and the Regulations on child labour. Furthermore, with regard to the measures adopted in the context of the Plan of Action for the Elimination of Child Labour, the Committee notes the Government's indication that the activities covered by the Plan of Action have been incorporated into the public policy, entitled "Roadmap to make Honduras a country free from child labour". The Committee also notes that the Government has commenced work on the preparation of a new National Plan of Action for the Elimination of Child Labour 2016–20. It further notes that, in accordance with the revision of the Code for Children and Young Persons through Decree No. 35-2013 of 6 September 2013, new section 128 has extended the coverage of labour inspectors, who henceforth cover any workplace, including homes. However, it notes that, according to the household survey conducted by the National Statistical Institute in 2014, a total of 379,598 children between the ages of 5 and 17 years are engaged in work, or 15.3 per cent, which constitutes an increase in relation to 2013, when there were 328,000 working children. *Noting the information on the extension of the coverage of labour inspectors, as envisaged in the Code for Children and Young Persons, the Committee requests the Government to take the necessary measures for the adaptation and reinforcement of the capacities of the labour inspection services so as to ensure that the protection afforded by the Convention also covers children working in the informal economy. Further noting that new legislation on labour inspection is under preparation, it requests the Government to provide information on the progress achieved in this regard. The Committee also requests the Government to continue providing information on the manner in which the Convention is applied in practice, supported by statistics on work by children under 14 years of age, extracts from the reports of the labour inspection services and information on the number and nature of violations reported and the penalties imposed. Finally, it requests the Government to provide information on the implementation of the Plan of Action for the Elimination of Child Labour 2016–20, once it has been adopted.*

Articles 2(1) and (4). Scope of application and minimum age for admission to employment or work. The Committee noted previously that, under the terms of section 32(2) of the Labour Code, the authorities responsible for supervising work by persons under 14 years of age may authorize them to engage in an economic activity if they consider it indispensable for their subsistence or that of their parents or brothers and sisters, and provided that it does not prevent them from attending compulsory schooling. It also noted that, under the terms of section 2(1) of the Labour Code, agricultural and stock-raising undertakings that do not permanently employ more than 10 workers are excluded from the scope of the Labour Code. It also noted that, in accordance with sections 4 to 6, the Regulations on child labour of 2001 only apply to contractual labour relations. The Government indicated in this regard that a draft revision of the Labour Code had been prepared containing provisions to bring the national labour legislation into conformity with the international Conventions ratified by Honduras. The Committee requested the Government to take the necessary measures to bring the national legislation into conformity with the Convention.

The Committee notes the Government's indication that the harmonization of the Labour Code has been underway since 2004. The Committee recalls that, under the terms of *Article 2(1)* of the Convention, no one under the age specified shall be admitted to employment or work in any occupation, subject to the exemption set out in *Articles 4 to 8* of the Convention. It also recalls that the Convention applies to all branches of economic activity and covers all types of employment or work, whether or not they are performed within the framework of an employment relationship or a labour contract, and whether or not the employment or work is paid. *Observing that the Government has been referring to the revision of the Labour Code for over ten years, the Committee once again urges the Government to take the necessary measures to bring the Labour Code and the 2001 Regulations on child labour into conformity with the Code for Children and Young Persons of 1996 so as to ensure that no child under 14 years of age is authorized to work, including children working in agricultural and stock-raising undertakings which do not permanently employ more than ten workers, and those who work on their own account. It once again requests the Government to provide information on the progress achieved in this respect.*

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the observations of the Honduran National Business Council (COHEP), received on 28 August 2015, supported by the International Organisation of Employers (IOE).

Articles 3(a) and (b), and 7(1) of the Convention. Sale and trafficking of children for commercial sexual exploitation, use of children for prostitution and for the production of pornography or pornographic performances, and the penalties applied. In its previous comments, the Committee noted that the Office of the Public Prosecutor had received denunciations of the presumed economic exploitation of minors, child pornography and trafficking of persons. The Committee also noted that the Special Rapporteur on the sale of children, child prostitution and child pornography had called on the Government to increase its efforts to protect children from sexual exploitation. Finally, the Committee noted the adoption of the Act prohibiting trafficking of persons of 2012 and requested the Government to take the necessary measures to ensure its immediate and effective implementation in practice.

The Committee notes the Government's indications in its report that an Inter-institutional Commission on the Commercial Sexual Exploitation and Trafficking of Persons (CICEST) has been established with a budget of 2 million Honduran lempiras, with responsibility for coordinating prevention and protection at the national and international levels. In this regard, the Government reports that CICEST has established a telephone number to receive complaints and has undertaken communication campaigns. It has also reinforced the capacities of judicial officers and civil society through the establishment of local committees in various regions of the country. The Government also reports the establishment of the Directorate for Children, Young Persons and the Family (DINAF) through Executive Decree No. PCM 27-2014, the responsibilities of which include the protection of persons under 18 years of age. The Committee notes the statistics on the number of investigations and prosecutions conducted between 2010 and 2015, namely 25 cases investigated and 19 prosecutions concerning trafficking, and 45 investigations and 27 cases prosecuted for commercial sexual exploitation. While taking due note of these data, the Committee notes with **concern** the low number of convictions, namely five cases of trafficking and 31 cases of sexual exploitation out of a total of 407 child victims reported, without taking into account the number of cases which have not been reported. The Committee also notes that the Special Rapporteur on the sale of children, child prostitution and child pornography, in her follow-up report of 2014 (A/HRC/28/56/Add. 1), noted that, despite the absence of accurate and verifiable statistical data, the sale and sexual exploitation of children in Honduras remains widespread (paragraph 8). She also urged the Office of the Public Prosecutor to take a proactive approach to the investigation and criminal prosecution of offences and to reinforce the system of justice in the country (paragraph 24). In this respect, the Committee also notes that, according to the concluding observations of 2015 concerning 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/OPSC/HND/CO/1, paragraph 26), the Committee on the Rights of the Child (CRC) expressed serious concern at the impunity concerning offences covered by the Protocol, namely the sale and trafficking of persons under 18 years of age with a view to commercial sexual exploitation or their use for the purposes of prostitution, the production of pornography or pornographic performances. ***The Committee urges the Government to intensify its efforts to ensure that the sale and trafficking of persons under 18 years of age for commercial sexual exploitation or for their use in prostitution, the production of pornography or pornographic performances give rise to in-depth investigations and robust prosecutions and that sufficiently effective and dissuasive penalties are applied in practice. It requests the Government to continue providing detailed information on the number of investigations conducted, prosecutions and convictions applied.***

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. Trafficking and commercial sexual exploitation. Further to its previous comments, the Committee notes the Government's indications that a Plan of Action to Combat Commercial Sexual Exploitation and Trafficking of Persons 2015–20 is under preparation. The Government indicates that, in the context of the process of the provision of care to victims, the Office of the Public Prosecutor and the police refer child victims to the Immediate Response Team (ERI), which identifies the victim and the action needed for his or her comprehensive protection. Victims are then sent to protection centres, which offer them psychological and physical support, as well as the measures necessary for their social integration. The Government indicates that there are no specialized programmes or projects for victims of trafficking and commercial sexual exploitation, but that the necessary coordination is ensured with NGOs and civil society. It adds that, in the context of institutional support to combat trafficking of persons in Honduras, 197 victims of trafficking have been provided with care jointly by NGOs and the CICEST. The Committee observes that, in its concluding observations in 2015 (CRC/C/OPSC/HND/CO/1, paragraph 34), the CRC expressed concern that the Government does not have an adequate programme for the physical and psychological rehabilitation and social integration of child victims of sexual exploitation, who are only provided with care by civil society organizations. ***Recalling that the 2012 Act to combat trafficking, referred to above, contains exhaustive provisions on the protection, assistance and social rehabilitation of victims of trafficking and commercial sexual exploitation, the Committee requests the Government to take immediate and effective measures for the implementation in practice of action for the provision of comprehensive assistance to children and young persons who have been victims of commercial sexual exploitation and trafficking for that purpose. It requests the Government to provide detailed information on the number of children who have been removed from trafficking and commercial sexual***

exploitation and who have benefited from social rehabilitation measures, and the results achieved, particularly in the context of the National Plan of Action 2015–20.

Clause (d). Children at special risk. 1. Street children. Further to its previous comments, the Committee notes the establishment of the DINAF, with responsibility for the protection of children. It also notes the statement by the Government during the examination of its report by the Committee on the Rights of the Child, according to which 2014 statistics refer to 5,000 street children in Honduras and that a *zero begging* campaign has been conducted with a view to removing children from begging and helping their families to provide for their needs. It also notes new section 179-E of the Code for Children and Young Persons (as revised by Decree No. 35-2013, of 6 September 2013), under the terms of which any person who makes use of a child for purposes of begging shall be liable to imprisonment of from three to six years, and that aggravating circumstances include the victim being under 12 years of age or being a victim of trafficking. However, it notes that the Government's report does not contain information on the number of children who have been removed from the streets and who have benefited from rehabilitation and social integration measures. Similarly, the Committee notes that, in its concluding observations in 2015 (CRC/C/HND/CO/4-5, paragraph 81), the CRC deplores the lack of information on the situation of street children. ***The Committee urges the Government to take the necessary measures to protect street children from the worst forms of child labour and to provide information on the number of children removed from the streets and who have benefited from rehabilitation and social integration measures.***

2. Indigenous children. Further to its previous comments, the Committee notes the Government's indication that a study on indigenous children was prepared jointly with UNICEF in 2013. However, the Government does not provide any information in its report on the findings of the study, nor on the measures adopted to protect indigenous children from the worst forms of child labour. The Committee notes that, according to its concluding observations of 2015 (CRC/C/HND/CO/4-5, paragraph 77), the CRC expresses concern at the persistent practice of child labour, including its worst forms, among children of indigenous and African extraction. ***Recalling that the children of indigenous peoples are often the victims of exploitation, which takes on very diverse forms, and that these children are particularly exposed to the risk of becoming engaged in the worst forms of child labour, the Committee once again requests the Government to intensify its efforts to protect these children from the worst forms of child labour. In this regard, it requests the Government to take the necessary measures and to provide information on the results achieved in this field, particularly in the context of the study conducted with UNICEF.***

Clause (e). Special situation of girls. Child domestic workers. The Committee noted previously that a large number of children, mainly girls, are engaged in domestic work and it requested the Government to take effective measures in that respect. The Committee notes with *regret* that the Government's report does not contain any new information on this subject. It recalls that children engaged in domestic work, and mainly young girls, are often victims of exploitation, which takes on very diverse forms, and that it is difficult to supervise their conditions of employment. ***The Committee therefore requests the Government to take immediate and effective measures to protect children engaged in domestic work from the worst forms of child labour, taking particularly into account the special situation of girls. It once again requests the Government to provide information on the measures adopted and the results achieved in this field, with an indication of the number of children engaged in domestic work who have been removed from situations of the worst forms of child labour and have benefited from rehabilitation and social integration measures.***

Article 8. International and regional cooperation. Commercial sexual exploitation and trafficking for that purpose. Further to its previous comments, the Committee notes the Government's indication that the Office of the Public Prosecutor is a member of the Regional Coalition to Combat Trafficking and Smuggling of Persons, and of the Regional Commission, so as to provide and accelerate the exchange of information on the cases reported in the various countries. The Government adds that the unit responsible for combating commercial sexual exploitation and trafficking of persons has since 2012 repatriated five victims of trafficking, including three to Nicaragua and one to Mexico. The Committee notes the series of strategies to improve the effectiveness of the regional coordination to combat trafficking, in which Honduras participates, including the national and regional guidelines for the reinforcement of inter-institutional and international coordination to combat trafficking of persons, the regional strategy for comprehensive care and support for the victims of trafficking of persons, and the regional communication strategy to prevent trafficking of persons. ***The Committee requests the Government to provide detailed information on the results achieved in the framework of the implementation of these various agreements, and particularly on the number of children repatriated to their countries of origin.***

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

Indonesia

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted the information in the 2009 Indonesia Child Labour Survey that there were approximately 1.76 million children engaged in prohibited child labour in Indonesia. Most were employed in agriculture, including forestry, hunting and fishery (57 per cent of all working children aged 5–17). The Survey further indicated that while most working children still attended school, 20.7 per cent of persons under the age of 18 worked for more than 40 hours a week. The

Committee noted the Government's indication that it has undertaken activities to prevent children under the age of 15 from engaging in child labour, such as the Child Social Welfare Programme and the provision of tuition assistance to children who were withdrawn through the Reduction of Child Labour Programme. The Government has also been implementing a conditional cash transfer programme to improve educational access for children from poor families, with the reduction of child labour as a key indicator of the programme.

The Committee notes the Government's indication that a "Roadmap towards a child labour free Indonesia in 2022" (the Roadmap) has been adopted in 2014. The Roadmap, which is outlined in the Action Programme, is divided into three phases (2014–16, 2017–19 and 2020–22) with four priority programmes, including regulatory framework and law enforcement, education and training, social protection and labour market policies. The Government indicates that the first phase has started with activities such as incorporating the issues of child labour as a key performance indicator of the Ministry of Manpower and creating a child labour-free zone in the industrial area of Makassar. ***While taking due note of the measures taken by the Government, the Committee observes that there remain a significant number of children engaged in child labour in the country and therefore requests the Government to pursue its efforts to ensure that, in practice, children under the minimum age of 15 are not engaged in economic activities. It requests the Government to continue to provide information on the measures taken in this regard, and on the results achieved. The Committee calls on the Government to strengthen the labour inspectorate at the national and local levels to help monitor the situation of child labour. It also requests the Government to provide 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.***

Article 2(1). Scope of application. 1. Informal economy. The Committee previously noted the indication of the International Trade Union Confederation (ITUC) that child labour was widespread in Indonesia, taking place mostly in informal, unregulated activities, such as street vending and in the agricultural and domestic sectors. The Committee also noted that Act No. 13 of 2003 (Manpower Act) excluded from its application children who are engaged in self-employment or working without a clear wage relationship. It further noted the information from the 2009 Indonesia Child Labour Survey Report, that out of all working children between the ages of 5–12, 12.7 per cent were self-employed, and 82.5 per cent were unpaid family workers. However, the Committee noted that section 75 of the Manpower Act stipulates that the Government is under an obligation to make efforts to overcome problems concerning children who work outside of an employment relationship, and that these efforts should be specified with a government regulation. In this regard, the Committee noted that a draft government regulation, aimed at protecting self-employed children pursuant to section 75 of the Manpower Act, had been elaborated and was under discussion in the Ministry of Manpower.

The Committee notes the Government's statement that the Ministry of Manpower has established a unit for the supervision of the elimination of the worst forms of child labour (BPTA) outside an employment relationship. However, the Committee notes with ***regret*** that the draft regulation protecting children in the informal economy is still under discussion across ministries and sectors. The Committee must once again express its ***concern*** that the vast majority of children working under the minimum age do not benefit from the protection of the Manpower Act. ***The Committee therefore urges the Government to take the necessary measures to ensure the finalization and adoption of the draft regulation protecting children in the informal economy in the very near future. It requests the Government to provide a copy of this Act, once adopted. The Committee also requests the Government to provide information of the activities of the unit in charge of supervising children working outside an employment relationship.***

2. Domestic work. ***With regard to the protection of children engaged in domestic work, the Committee requests the Government to refer to its detailed comments under the Worst Forms of Child Labour Convention, 1999 (No. 182).***

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 (d). Hazardous work. Child domestic workers. The Committee previously noted the allegations of the International Trade Union Confederation (ITUC) that child domestic workers in Indonesia often suffered sexual, physical or psychological abuse. The Committee also noted the information from the 2010 report entitled *Recognizing domestic work as work*, that 81 per cent of domestic workers work 11 hours or more a day, and that being hidden from public scrutiny made these workers particularly vulnerable to exploitation and abuse. The Committee noted the Government's statement that a draft Act on the protection of domestic workers has been formulated and included in the Register of the National Legislation Programme for 2010–14. The Government indicated that it has made efforts to prevent children from becoming domestic workers, including measures taken by the Ministry of Social Affairs to reduce the vulnerability of children, and the Child Social Welfare Programme, which aims to protect children against all forms of exploitation and abuse.

The Committee notes the Government's indication in its report that the Ministry of Manpower Regulation No. 2 of 2015 regarding the protection of domestic workers has been issued. The Committee notes that section 4(b) of the Regulation prescribes that a domestic worker shall not be less than 18 years old. The Committee observes, however, that according to an ILO-IPEC project document, organizations of domestic workers were sceptical about this Regulation. They consider that the provisions of the Regulation are still below the standards of decent work for a domestic worker and demand the enactment of a comprehensive bill. According to this ILO-IPEC document, the Government prefers to engage

in a “step-by-step” approach by using the Regulation to push the local governments to enact local regulations to protect domestic workers and to eliminate child domestic labour. Moreover, the Committee notes that according to the ILO–IPEC Global Action Programme report, 35 participants from ministries, police, trade unions and civil society organizations (CSOs) developed a sectoral plan in March 2015 to eliminate child labour in domestic work in Indonesia. The plan is awaiting endorsement by the Government. The Committee also notes the ILO–IPEC 2013 study entitled *Child domestic workers in Indonesia: Case studies of Jakarta and Greater areas*, according to which there are approximately 437,000 child domestic workers (CDW) in Indonesia. The study also reveals that between 15 and 23 per cent of domestic workers are under the age of 18, with a higher prevalence among older children. CDW are disproportionately dominated by girls (approximately 85 per cent). Regarding the working conditions, the average working hours can range from nine to 16 hours, seven days a week; most of the CDW work in live-in conditions; and most employers of CDW are concentrated in Daerah Khusus Ibukota (DKI) Jakarta province. ***While taking due note of the adoption of the Ministerial Regulation, the Committee urges the Government to take the necessary measures to ensure that the draft Act for the protection of domestic workers is adopted, to ensure the comprehensive protection of children under 18 from hazardous domestic work. It requests the Government to take concrete measures to address the situation of child domestic workers, and to provide information on the results achieved, particularly in terms of the prevention and withdrawal of children from domestic work.***

Article 5. Monitoring mechanisms. Police and immigration officers. The Committee previously noted the Government’s indication that efforts had been made to strengthen the role of the police in combating the trafficking of children, including the establishment of a Women and Children’s Service Unit within the Republic of Indonesia National Police. It noted that many police and prosecutors remained unfamiliar with the anti-trafficking legislation and were reluctant or unsure of how to effectively use this legislation to punish traffickers, and that corruption continued to hinder anti-trafficking efforts. The Committee finally noted the information from ILO–IPEC that 18 provinces had established a task force to optimize the handling of the trafficking cases.

The Committee notes the information provided by the Government that, between 2008 and 2011, three perpetrators of child trafficking were sentenced to imprisonment from four to eight years. The Committee observes that, in the concluding observations of 2014 (CRC/C/IDN/CO/3-4, paragraph 75), the Committee on the Rights of the Child is very concerned about the high prevalence of trafficking within the State party and notes that the governmental Anti-trafficking in Persons Task Force is not sufficiently effective and that many districts are still not covered by the task force. ***Noting the limited number of convictions for child trafficking and the absence of information on measures taken, the Committee once again urges the Government to pursue its efforts to combat trafficking in children by ensuring that perpetrators of human trafficking are investigated and prosecuted and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to continue to provide updated information on the measures taken in this respect, and the results achieved, particularly the number of persons investigated, convicted and sentenced for cases of trafficking involving victims under the age of 18.***

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 assisting the removal of children from these worst forms. 1. Trafficking. In its previous comments, the Committee noted that, in collaboration with the ILO–IPEC, several initiatives had been undertaken to provide rehabilitation and reintegration services to child victims of trafficking. Nonetheless, the Committee noted information indicating that efforts to protect victims of trafficking remained uneven and inadequate in comparison with the scale of the country’s trafficking problem. The Government indicated that the Child Social Welfare programme aims to protect children from trafficking. Moreover, the Government reported that it is providing services for child victims of trafficking through the child social protection shelters, located in Jakarta and 27 other areas of Indonesia.

The Committee notes the Government’s indication that any identified child victim of trafficking would be covered by the rehabilitation programme, which is conducted in one of the 13 nursing/rehabilitation homes owned by the Ministry of Social Affairs across the country. The Government further indicates that those children are given education and training for six months before returning to their families or substitute families. Children could also be rehabilitated within families where a child would get assistance from a social worker. The Committee notes that the report of the Government does not provide information on the number of children rehabilitated. ***The Committee requests the Government to continue to take the necessary measures to prevent the trafficking of children under 18 years of age, and provide for their removal from such situations and subsequent rehabilitation. The Committee requests the Government to provide information on the results achieved, particularly the number of children reached through the measures taken by the Government.***

2. Commercial sexual exploitation of children. The Committee previously noted information from UNICEF that approximately 30 per cent of the women in prostitution in Indonesia are below the age of 18, with 40,000–70,000 Indonesian children being victims of sexual exploitation. It noted that child-sex tourism is prevalent in urban areas and tourist destinations. Regarding Regulation No. PM.30/HK.201/MKP/2010 on Guidelines on the Prevention of Sexual Exploitation of Children in Tourism, the Government indicated that it continues to disseminate prevention material on child sexual exploitation in the tourism sector, in cooperation with both private and public tourism stakeholders.

The Committee notes the Government’s statement that it has made efforts to withdraw child workers through the Family Hope Programme (PPA–PKH), including in the tourism sector. The Committee notes that, according to a report

conducted by the Understanding Children's Work programme entitled *The twin challenges of child labour and educational marginalization in the East and South-East Asia region* (the 2015 UCW report), the nature of commercial sexual exploitation in some areas has reportedly changed from children living in brothels to children living with their families and working out of hotels and other locations through arrangements facilitated by social media. Moreover, Indonesian children are also trafficked internally for commercial sexual exploitation at mining operations in the Maluku, Papua and Jambi provinces in the urban areas of Batam District, Riau Island and West Papua and for sex tourism in Bali (panel 4, page 21). The Committee further observes that in the concluding observations of 2014 (CRC/C/IDN/CO/3-4, paragraph 75), the Committee on the Rights of the Child is very concerned about the large number of underage children involved in sex work. ***Noting that there remains a significant number of child victims of commercial sexual exploitation, including in child-sex tourism, the Committee urges the Government to intensify its efforts to protect children under 18 years of age from this worst form of child labour. It requests the Government to continue providing information on the number of children who have been removed from commercial sexual exploitation and rehabilitated through the measures taken.***

3. *Children engaged in the sale, production and trafficking of drugs.* In its previous comments, the Committee noted that approximately 15,000 children were involved in the sale, production and trafficking of drugs in Jakarta. It also noted reports that as many as 20 per cent of drug users were involved in the sale, production or trafficking of drugs, suggesting that between 100,000 and 240,000 young persons might be involved in the drugs trade. However, the Committee noted that the Ministry of Social Affairs has engaged in cooperation with various governmental agencies to provide services and rehabilitation to children found to be in violation of the law, and that, through cooperation with the ILO-IPEC, many children had been removed from work involving drugs. Nonetheless, the Committee noted information from the Government that there had not been any significant progress made with regard to the prosecution of persons employing children in several of the worst forms of child labour, including drug trafficking, and that some cases were not taken to court. The Committee noted that the Ministry of Manpower and Transmigration was coordinating with the national police and the National Narcotics Agency concerning information on the involvement of children in the sale of drugs. The Government also referred to the Act on Child Protection of 2002, section 89 of which provides for penalties for persons who involve children in the production, sale and trafficking of drugs. The Committee, therefore, requested the Government to ensure the effective implementation of these provisions in practice.

The Committee notes the Government's statement that it has provided legal assistance to children involved in the production, sale and trafficking of drugs through child protection agencies. The Committee notes that the Government's report does not provide any further information regarding the application of section 89 of the Act on Child Protection of 2002 in practice. ***The Committee, therefore, urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of persons who involve children in the production, sale or trafficking of illicit drugs are carried out and that sufficiently effective and dissuasive sanctions are imposed in practice. It requests the Government to provide information on the measures taken, particularly the number of investigations, prosecutions and sanctions imposed.***

Clause (d). Identifying and reaching out to children at special risk. Children on fishing platforms. The Committee previously noted that more than 7,000 children were estimated to be engaged in deep-sea fishing in North Sumatra. It also noted several initiatives being implemented to prevent and remove children from being engaged in this hazardous form of work. However, the Committee noted information that offshore fishing platforms were an area where investigations and prosecutions for persons who employ children needed to be more effective. The Committee noted that the Government has engaged in various efforts to prevent the engagement of children in work on fishing platforms, including raising community awareness, cooperation with regional governments and collaboration with non-governmental organizations (NGOs). The Government indicated that in districts containing fishing platforms, action committees have been established under the action plan for the elimination of the worst forms of child labour. The Committee further noted that data on prosecutions and sanctions for those who employ children on fishing platforms is not available, and that the Government's efforts have focused on preventive education efforts.

The Committee notes the Government's statement that measures have been taken to ensure labour law enforcement through labour inspectors in cases of violations. However, the report of the Government does not provide any further information on the nature of the measures taken to protect children in hazardous work in the fishing industries, nor on the sanctions applied. The Committee recalls that, pursuant to *Article 7(1)* of the Convention, ratifying countries are required to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including through the application of appropriate sanctions. ***The Committee accordingly requests the Government to take the necessary measures to ensure that sufficiently effective and dissuasive penalties are applied in practice to persons who engage children in hazardous work on fishing platforms. The Committee once again requests the Government to provide information on the measures taken in this regard.***

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

Iraq

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Articles 3(a) and 7(1) of the Convention. All forms of slavery and practices similar to slavery. Compulsory recruitment of children for use in armed conflict and penalties. The Committee previously noted that the penalties for the offences related to the forced or compulsory recruitment of children for armed conflict as laid down under section 97 of the Coalition Provisional Authority (CPA) Order No. 89 of 2004, were very low. It also noted that according to the report of the United Nations Secretary-General of 26 April 2012 on Children and Armed Conflict in Iraq, armed groups such as Al Qaeda in Iraq (AQI) and the Islamic State of Iraq (ISIS) continued to recruit, train and use children, including girls to take part in hostilities, and that many children were killed and a number of children were abducted.

The Committee notes that the CPA Order No. 89 of 2004 has been repealed by the Labour Code of 2015. In this regard, it notes the Government's indication that it is endeavouring to promulgate a law which will bring to court any person who enlists children under 18 years of age in armed conflict. The Committee also notes the Government's statement that the country is experiencing some difficulties due to the entry of ISIS in several of its governorates. The Government indicates that the ISIS is using children as human shields, as spies and in explosions.

The Committee further notes from the report of the Secretary-General on Children and Armed Conflict of 5 June 2015 (A/69/926-S/2015/409) (report of the Secretary-General) that the United Nations verified the recruitment of at least 67 boys by ISIS and an unknown number of children were recruited by the pro-Government Popular Mobilization Forces in conflict areas. Boys as young as 10 years old were recruited and used by self-defence groups supporting Iraqi security forces and girls were also reportedly associated with Yezidi self-defence groups. According to this report, the United Nations recorded the killing of 679 children and injury to 505 others of which at least 87 children were killed and 211 injured in improvised explosive device and suicide attacks. Moreover, the Committee notes from the report of the Secretary-General that the lack of clear recruitment procedures, including age verification and disciplinary measures by Iraqi authorities, remains a cause of grave concern. The Committee *deeply deplores* the current situation of children affected by armed conflict in Iraq, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. It recalls 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. *While acknowledging the difficult situation prevailing in the country, the Committee strongly urges the Government to take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed forces and groups. It also urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of all persons, including members in the regular armed forces, who recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. The Committee finally urges the Government to take the necessary measures to ensure the adoption of the law prohibiting the recruitment of children under 18 years for use in armed conflict and expresses the firm hope that this new law will establish sufficiently effective and dissuasive penalties. It requests the Government to provide information on any progress made in this regard.*

Article 7(2). Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. Access to free basic education. Following its previous comments, the Committee notes the Government's information that it has finalized a project with UNESCO entitled "Teach a child" which aims to provide institutional and technical support to improve the quality and capacity of informal education. This project also aims to provide alternative education to more than 180,000 out-of-school children, including girls and children from rural areas and to integrate them into formal education through expedited education. In this regard, UNESCO, with the help of labour inspectors, has registered a number of children, including street children, for expedited education. Moreover, the Ministry of Education has implemented several awareness-raising measures targeting children at primary schools in the most deprived regions and with the highest drop-out rates in the governorate of Baghdad.

However, the Committee notes from the Multiple Indicator Cluster Survey of 2011, that 38 per cent of children among the age group of 12–17 years are out of school with a situation much worse for girls than boys. This report also indicates that according to the UNICEF supported Out-of-School Children's Study of 2013, the drop-out rate of girls from primary school stood at 19.4 per cent. The Committee further notes that the Committee on the Rights of the Child (CRC), in its concluding observations of March 2015, expressed concern that only half of secondary school-age children are attending school, as a consequence of schools being attacked and school children kidnapped on their way to school, and that a number of internally displaced and refugee children have no access to school (CRC/C/IRQ/CO/2-4, paragraph 72). The Committee expresses its *deep concern* at the large number of children who are deprived of education because of the climate of insecurity prevailing in the country. *Considering that education contributes to preventing children in the worst forms of child labour, the Committee urges the Government to take the necessary measures to improve access to free basic education of all children, particularly girls, children in rural areas and in areas affected by war. It strongly encourages the Government to redouble its measures to increase the enrolment, attendance and completion rates at primary and secondary level and to reduce school drop-out rates so as to prevent the engagement of children in the*

worst forms of child labour. Finally, the Committee requests the Government to indicate the number of out-of-school children who have benefited and who continue to benefit from the “Teach a child” project.

Clause (b). *Providing the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration.* 1. *Children in armed conflict.* The Committee notes that the Government’s report does not contain any information in relation to its previous comments concerning the measures taken to remove children from armed groups and ensure their rehabilitation and reintegration.

The Committee notes from the report of the Secretary-General that at least 391 children, including 16 girls, held in detention facilities were indicted or convicted of terrorism-related charges for their alleged association with armed groups. The Committee expresses **concern** at the practice of the detention and conviction of children for their alleged association with armed forces or groups. In this regard, the Committee must emphasize that children under the age of 18 years associated with armed groups should be treated as victims rather than offenders (see the 2012 General Survey on the fundamental Conventions, paragraph 502). ***The Committee, therefore, urges the Government to take the necessary measures to ensure that children removed from armed forces or groups are treated as victims rather than offenders. It also urges the Government to take effective and time-bound measures to remove children from armed forces and groups and ensure their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard and on the number of children removed from armed forces and groups and reintegrated.***

2. *Sexual slavery.* The Committee notes that the CRC, in its concluding observations of March 2015, abhorred the continuing sexual enslavement of children since the emergence of ISIS. The CRC noted with utmost concern the “markets” set up by ISIS in which they sell abducted girls after attaching price tags to them, and the sexual enslavement of children detained in makeshift prisons of ISIS (paragraph 44). The Committee also notes that the CRC, in its concluding observations of March 2015 to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC), also expressed deep concern at the high number of children remaining under the control of ISIS and the existence of “markets” where abducted children are sold among members of ISIS to serve as sexual slaves (CRC/C/OPSC/IRQ/CO/1, paragraph 18). The Committee further notes from the report of the Secretary-General that at least 1,297 children were abducted, including girls as young as 12 years, who were sold in ISIS-controlled areas for sexual slavery. ***The Committee urges the Government to take effective and time-bound measures to remove children under 18 years of age from sexual exploitation and ensure their rehabilitation and social integration. It requests the Government to provide information on specific measures taken in this regard as well as the number of children removed from sexual exploitation and rehabilitated.***

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

Ireland

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments.

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. The Committee previously noted that the Child Care Act protects children from the use of drugs but not from being used, procured or offered for the trafficking of drugs. The Committee notes that the Child Care (Amendment) Act of 2007 contains no provisions prohibiting the use, procuring or offering of a child for the production and trafficking of drugs. ***The Committee once again requests the Government to indicate whether legal provisions exist prohibiting the use, procuring or offering of a child for illicit activities, including the production and trafficking of drugs. If not, it requests the Government to provide information on the measures taken to this end.***

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.

Israel

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2005)

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Forced recruitment of children for use in armed conflict. In its previous comments, the Committee urged the Government to strengthen its efforts to ensure the elimination in practice of the use of children in armed conflict. It also requested the Government to take the necessary measures to ensure that thorough investigations and prosecutions are carried out and sufficiently effective and dissuasive penalties are imposed on persons who use children under the age of 18 years for armed conflict.

The Committee notes the absence of information in the Government’s report on this point. The Committee notes from the Report of the Secretary-General on Children and Armed Conflict, June 2015 (Report of the Secretary-General, 2015) that Palestinian and Israeli children continued to be affected by the prevailing situation of military occupation, conflict and closure. The ensuing violence had led to a dramatic increase in the number of children killed and injured with at least 561 children who were killed and 4,271 children injured. The Committee also notes that the Committee on the

Rights of the Child (CRC), in its concluding observations of July 2013 in connection to the follow up to the Optional Protocol on the involvement of children in armed conflict, expressed deep concern about the continuous use of Palestinian children as human shields and informants (14 such cases reported from 2010 to March 2013) by Israeli military forces and that almost all of those who used children as human shields have remained unpunished. The CRC further noted with deep concern that the Israeli soldiers have used Palestinian children to enter potentially dangerous buildings ahead of them or to stand in front of military vehicles in order to stop the throwing of stones against those vehicles (CRC/C/ISR/CO/2-4, paragraph 71). The Committee expresses its **concern** at the current situation of children affected by armed conflict. It recalls 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, therefore, strongly urges the Government to take immediate measures to put a stop, in practice, to the use of children under 18 years of age in armed conflict. It also urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of all persons, including members in the regular armed forces, who use children under 18 years of age in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to provide information on the number of investigations conducted, prosecutions brought and convictions handed down against such persons.***

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

Jamaica

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

Article 3(2) of the Convention. Determination of hazardous work. The Committee previously noted that a draft list of types of hazardous employment or work prohibited for persons below 18 years of age had been developed in consultation with the social partners. The Committee noted that this draft list contained 45 types of prohibited work. It also noted that the list of hazardous work would be included in the regulations of the new Occupational Safety and Health Act (OSH Act), when adopted.

The Committee notes the Government's indication that, pending adoption of the new OSH Act, improvements to the existing list have been made to make it more comprehensive. The Government indicates that the list will be provided as soon as it is available. ***Noting with regret that the Government has been compiling this list since 2006, the Committee urges the Government to take the necessary measures to ensure that the list of types of hazardous work prohibited for persons under 18 years of age is adopted and included in the regulations of the OSH Act in the near future. It requests the Government to provide a final copy of the list, once adopted.***

Article 7(3). Determination of light work. The Committee previously noted that section 34(1) and (2) of the Child Care and Protection Act permits the employment of a child between 13 and 15 years in an occupation included in a list of prescribed occupations, consisting of light work considered appropriate by the minister, and specifying the number of hours during which and the conditions under which such a child may be so employed. In this regard, the Government indicated that a draft list of occupations constituting light work was being examined by a panel consisting of safety inspectors, workers' and employers' representatives and would be included in the regulations of the new OSH Act. ***Noting the Government's indication that the list will be submitted as soon as it is available, the Committee urges the Government to take the necessary measures to ensure that the OSH Act, and its regulations containing the list of light work permitted for children, are adopted in the very near future.***

Article 9(1). Penalties and the labour inspectorate. The Committee previously noted that labour inspections are confined to the formal sector, and that labour inspectors have yet to detect any cases of child labour in the course of inspections. In this regard, the Committee noted the information from ILO-IPEC that the informal sector was one of the main sectors in which child labour occurs. However, the Committee noted the Government's indication that the draft OSH Act would replace the Factories Act and provide an improved framework for labour inspectors with regard to monitoring cases of child labour in sectors where they hitherto had limited powers, including the informal sector. The Government also indicated that the penalties under the draft OSH Act had been increased. The Committee noted that the new OSH Act would authorize labour inspectors to enforce the appropriate sanctions where a breach had been committed. The Committee noted however that labour officers' powers of inspection are limited to commercial buildings and factories, which greatly restricts their capacity to monitor child labour in the informal economy.

The Committee notes the information in the Government's report that, in the framework of the adoption of the new OSH Act, capacity-building workshops have been conducted for labour inspectors in order to provide an update on their new roles and responsibilities under the new Act. The Government indicates that it is now more than likely that the number of inspectors will be increased in response to the expected increase of inspections of workplaces. ***The Committee urges the Government to ensure the adoption of the provisions of the draft OSH Act which will enable labour inspectors to enforce appropriate sanctions. The Committee also requests the Government to redouble its efforts to ensure that adequate penalties are imposed for breach of the provisions giving effect to the Convention. It further requests the Government to continue to intensify its efforts to strengthen the capacity and expand the reach of the***

labour inspectorate, including through the allocation of additional resources, in preparation for the labour inspectorate's expanded role, pursuant to the draft OSH Act, in monitoring child labour in the informal economy.

Article 9(3). Registers of employment. The Committee previously noted that the available texts of legislation did not contain provisions requiring an employer to keep registers and documents of persons employed or working under him/her. However, it noted the Government's statement that the legal framework on this issue was being examined by the Ministry.

The Committee notes the Government's indication that the Child Care and Protection Act (CCPA) is being reviewed and will include provisions prescribing employers to keep records of children employed for artistic performances. It will also require from a person employing a child to notify and provide the Child Labour Unit of the Ministry of Labour and Social Security with relevant details in order to receive the grant of an exemption permit. The Committee recalls that, by virtue of *Article 9(3)* of the Convention, legislative provisions shall prescribe the registers which shall be kept and made available by the employer and which must contain 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, covering all sectors and activities, not only artistic performances. ***The Committee therefore requests the Government to take the necessary measures in the near future to ensure that the CCPA is amended to include provisions prescribing registers to be kept by employers hiring children under 18, in accordance with Article 9(3) of the Convention.***

Application of the Convention in practice. Following its previous comments, the Committee notes the Government's indication that the process of the development of a National Survey on Child Labour will start at the end of 2015–early 2016. The Government indicates that several quick and unscientific assessments (dipstick surveys) were conducted in parts of the country considered as “hotspots”, revealing notably that most of the working children are involved in domestic work (93 per cent) followed by agriculture and street/market activities. The Committee also notes that, according to the Multiple Indicator Cluster Survey conducted in 2011, 16.7 per cent of boys and 13.8 per cent of girls aged 5 to 11 years old were involved in child labour, as well as 11.6 per cent of boys and 9.7 per cent of girls aged 12 to 14. ***The Committee requests the Government to pursue its efforts to combat child labour, and to provide information on the measures taken in this regard. The Committee also requests the Government to continue its efforts to undertake a child labour survey, to ensure that sufficient up-to-date data on the situation of working children in Jamaica is available, including, for example, data on the number of children and young persons who are engaged in economic activities and statistics relating to the nature, scope and trends of their work.***

The Committee expresses the firm hope that the Government will take into consideration the Committee's comments while finalizing its draft legislation. The Committee invites the Government to consider availing technical assistance from the ILO to bring its legislation into conformity with the Convention.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

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 the Sexual Offences Act prohibits procuring any person to become a prostitute (section 18(1)(b)), and prohibits living off the proceeds of prostitution (section 23(1)(a)). However, the Committee observed that the Sexual Offences Act did not appear to prohibit the *use* of a person under the age of 18 for the purpose of prostitution, that is, by a client. The Committee also noted the Government's indication that two bills were debated by Parliament relating to sexual offences.

The Committee notes the Government's statement that sexual intercourse with a person under the age of 16 is prohibited and that any sexual relations with a child entail the maximum penalty of life imprisonment. The Government also indicates that a Sex Offenders Registry was established in 2014 under the control of the Department of Corrections. The Committee reminds the Government that a child is defined as a person under 18 years old in accordance with *Article 2* of the Convention and that *Article 3(b)* specifically prohibits the *use* of a child for prostitution, that is, by a client. ***The Committee, therefore, requests the Government to take the necessary measures to ensure that its legislation contains a prohibition on the use of a child under 18 years of age for the purpose of prostitution, in accordance with the Convention.***

Clause (c). Use, procuring or offering of a child for illicit activities, particularly the production and trafficking of drugs. The Committee previously observed that the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs, did not appear to be specifically prohibited by the relevant Jamaican legislation. It also noted that, in practice, children were used in Jamaica as drug couriers and for selling drugs. However, the Committee noted that the draft list of hazardous work prohibited for children did prohibit involving children in illicit activities and the drug industry, as well as more specific provisions prohibiting children from cultivating ganja and guarding ganja fields. The Committee also noted the information from the International Trade Union Confederation, that in the country, boys are used as drug couriers and dealers.

The Committee notes the Government's statement that provisions prohibiting the use of children in illicit activities will be included under the review of the Child Care and Protection Act as well as in the draft Occupational, Safety and Hazards Act (OSH Act). ***The Committee urges the Government to take the necessary measures to ensure the adoption of the provisions prohibiting the involvement of children in illicit activities and the drug industry, in the near future***

(whether in the Child Care and Protection Act or the OSH Act). The Committee also requests the Government to take measures to ensure that this offence is punishable with sufficiently effective and dissuasive penalties.

Article 4(1). Determination of hazardous work. With regard to the adoption of the list of hazardous types of work prohibited to children under 18 years of age, the Committee requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138). The Committee also draws the Government's attention to Article 4(1) of this Convention, according to which the types of work referred to under Article 3(d) must be determined by national laws or regulations or by the competent authority, taking into consideration relevant international standards, in particular Paragraph 3 of Recommendation No. 190.

Articles 5 and 7(1). Monitoring mechanisms, penalties and the application of the Convention in practice. Trafficking of children and child prostitution. The Committee previously noted that trafficking of children (particularly for the purpose of forced prostitution) and commercial sexual exploitation of children (especially in tourist areas) are a problem in Jamaica. The Committee noted that a National Task Force Against Trafficking in Persons (NATFATIP) is responsible for the implementation of the plan of action. The Committee finally observed that the number of reported cases of child trafficking appeared to be significantly higher than the total number of cases of trafficking that were investigated.

The Committee takes note of the National Plan of Action for Combating Trafficking in Persons 2012–15 attached with the Government's report. The Committee also notes the Government's statement that the Trafficking in Persons Act 2009 was amended in 2013, and prescribes aggravating circumstances and stiffer penalties when the victim of trafficking is a child, under section 4A(2)(l). The Government further reports that 35 investigations have been initiated, five persons arrested and two new prosecutions carried out. It also indicates that prosecutors, investigators, judges, labour inspectors, social workers and other public officials received training on trafficking in persons. In addition, 76 police officers attached to the Organized Crime Investigations Division (OCID) were also sensitized as well as line operators of the Office of the Children's Registry. Moreover, the Jamaica Constabulary Force developed Standard Operating Procedures for human trafficking and the Passport, Immigration and Citizenship Agency (PICA) has been sensitized to the distinction of treatment for victims of trafficking. The Committee takes note of the awareness-raising measures taken by the Government to prevent trafficking. In this regard, the Government states that the NATFATIP has entered into an agreement with the Jamaica Information Service, the Media and Public Relations Branch of the Government in order to provide a range of mass media public education content. While taking due note of these measures, the Committee observes that, according to its concluding observations of 2015 (CRC/C/JAM/CO/3-4, paragraph 62), the Committee on the Rights of the Child notes that the State party is a source, transit, and destination country for adults and children subjected to sex trafficking and forced labour and is concerned about reports of children being coerced to engage in commercial sex, including sex tourism, in the State party. *The Committee, therefore, requests the Government to continue to take measures to ensure, in practice, the protection of children from trafficking and commercial sexual exploitation. It requests the Government to ensure that thorough investigations and robust prosecutions of perpetrators of the trafficking and commercial sexual exploitation of children are carried out and that sufficiently effective and dissuasive sanctions are imposed in practice. It asks the Government to provide information on the measures taken in this respect, including through the implementation of the National Plan of Action for Combating Trafficking in Persons by the NATFATIP, and the results achieved, particularly the number of persons investigated, convicted and sentenced for cases of trafficking involving victims under the age of 18.*

Article 7(2). Effective and time-bound measures. Clause (b). Providing the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Child victims of trafficking and prostitution. Following its previous comments, the Committee notes that the National Plan of Action for Combating Trafficking in Persons provides for the establishment of mechanisms for the protection and care of victims with a focus on rescue, removal and reintegration. The Committee notes the information in the Government's report that a shelter is now functional for women and child victims of trafficking in accordance with the shelter guidelines approved by the Cabinet, where victims are provided with health services, social work aid, psychosocial care and training. The Government indicates that out of eight victims identified, one was a child, who was taken care of by the Child Development Agency (CDA) and states that the shelter currently houses one victim. *Noting the very limited number of child victims being assisted, the Committee requests the Government to intensify its efforts to take effective and time-bound measures to ensure the provision of appropriate services, including legal, psychological and medical services, to child victims of trafficking and commercial sexual exploitation, including child sex tourism, to facilitate their rehabilitation and social integration. It requests the Government to continue to provide information on measures taken in this regard, including the number of children reached through these initiatives.*

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

Jordan

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

Article 9(1). Penalties and labour inspection. Following its previous comments, the Committee notes the Government's information that several training sessions were provided to labour inspectors to improve their efficiency in

dealing with child labour issues. It also notes the Government's information that ten tablets were provided to labour inspectors to facilitate their mission and to enter information on inspection visits. The Government's report also indicates that the number of inspection visits had increased and specialized inspection visits of sectors employing children were carried out. In this regard, the Committee notes that during the total of 3,718 inspections undertaken, legal measures in accordance with section 77 of the Labour Code were taken with regard to 1,000 infringements related to child labour, in addition to 1,650 warnings of closure of undertakings, and 1,068 advice and guidance measures.

The Committee also notes from the ILO–IPEC Report of the Rapid Assessment on Child Labour in the Informal Sector in three governorates of Jordan, 2014 (Rapid Assessment report) that a recent campaign by the Ministry of Labour (MoL) found nearly 300 children working in, among other locations, restaurants, and on street coffee stalls with the MoL providing guidance to 18 institutions, issuing warnings to 56 others and, in some cases, fining the institution. It further notes from the Rapid Assessment report that the survey on child labour conducted in the three governorates focusing mainly on Syrian and Jordanian households indicates that the incidence of child labour appeared to be increasing, not only among Syrian refugees, but also among Jordanian nationals. Moreover, the Committee on the Rights of the Child, in its concluding observations of July 2014, expressed concern that thousands of children, mainly boys, are still working in the wholesale trade and agriculture sectors while a number of girls are engaged as domestic workers (CRC/C/JOR/CO/4-5, paragraph 57). The Committee notes, however, from the Rapid Assessment report that the 150 labour inspectors currently available is too small for effective coverage in all sectors, given the size of the country. In this regard, the Committee recalls its comments of 2014 made under the Labour Inspection Convention, 1947 (No. 81), that the Government adopted the Labour Inspection Strategy in 2012, aimed at strengthening and developing the labour inspection system as well as expanding the coverage of labour inspection services to reach the largest possible number of workplaces. ***The Committee therefore strongly encourages the Government to take the necessary measures, including within the framework of its Labour Inspection Strategy, to strengthen the capacity of the labour inspectorate and to expand the labour inspection services to all sectors, so as to ensure that children have the protection established by the Convention. It requests the Government to provide information on the measures taken in this regard, as well as 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.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 7(2) of the Convention. Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Refugee children. The Committee notes that according to the UNHCR–Jordan review of 2014, there were a total of 673,051 registered refugees (with 623,112 from Syria) by the end of December 2014 of which 50 per cent are children under the age of 18 years. The Committee notes from the ILO–IPEC report of the rapid assessment on: Child Labour in the Urban Informal Sector in three governorates of Jordan, 2014 that one in ten Syrian refugee children are engaged in child labour. This report also indicates that access to education constitutes a significant vulnerability among Syrians with an estimated 60 per cent of the school-age children not attending school. Moreover, the Committee notes that according to a report by UNICEF and Save the Children, close to half of all Syrian refugee children in Jordan are now the joint or sole family breadwinners with most of them involved in armed conflict, sexual exploitation and illicit activities including organized begging and child trafficking. The Committee finally notes from the ILO report entitled “ILO response to the Syrian Refugee crisis in Jordan and Lebanon”, of March 2014 that many refugee children are working in hazardous conditions in the agricultural and urban informal sector, street peddling or begging, with an estimated 30,000 child labourers in Jordan vulnerable to abuse and exploitation. The Committee expresses its ***deep concern*** at the situation and high number of Syrian refugee children in Jordan who are exposed to the worst forms of child labour, including in hazardous work. ***The Committee therefore urges the Government to take effective and time-bound measures to protect Syrian refugee children from the worst forms of child labour and to provide the necessary and appropriate direct assistance for their removal and for their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard.***

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

Kazakhstan

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Labour inspection and the application of the Convention in practice. General application. The Committee 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 also 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.***

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 Committee on the Rights of the Child (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 Maktaral 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.

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: 2003)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 Maktaral 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 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.

Kenya

Minimum Age Convention, 1973 (No. 138) (ratification: 1979)

Following the requests made to the Government of Kenya by this Committee and the Conference Committee on the Application of Standards at its 102nd Session (June 2013) to accept a mission to the country, the Committee notes with *interest* that an ILO direct contacts mission took place in Nairobi from 26 to 28 August 2014.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted the information provided by the Government representative of Kenya to the Conference Committee in June 2013 concerning the various efforts taken to improve the child labour situation through legislative and constitutional reforms, technical assistance and relevant projects and programmes, including "Tackling child labour through education" (TACKLE) and Support to the National Action Plan (SNAP) project implemented with the support of the ILO-IPEC. It noted, however, that the Conference Committee, in its conclusions of June 2013, 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. Additionally, the Committee noted 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 notes the Government's indication that it has established several social support programmes, including cash transfer programmes aimed at providing income security to vulnerable groups in society where children may be forced to drop out of school. It also notes that according to the report of the SNAP project of January 2014, a total of 8,489 children (4,687 girls and 3,802 boys) were prevented and withdrawn from child labour. The Committee further notes that the ILO-IPEC, through the Global Action Programme (GAP 11) has supported several activities including the carrying out of a situational analysis for child domestic workers in Kenya. Accordingly, a roadmap on strengthening the institutional and legislative framework for the protection of child domestic workers has been adopted. While noting the various measures taken by the Government, the Committee notes from the SNAP project report of 2014 that child labour remains a developmental challenge in Kenya that is linked to issues such as access to education, skills training and related services, social protection and the fight against poverty. ***The Committee therefore strongly encourages 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, including domestic work by children, in the country. It requests the Government to continue providing information on the measures taken in this regard, as well as the results achieved. In addition, the Committee requests the Government to take the necessary measures to make available updated statistical information on the employment of children and young persons in the country.***

Article 3(2). Determination of hazardous work. The Committee previously noted the Government's statement that the list of types of hazardous work prohibited to children under 18 years which had been approved by the National Labour Board would be incorporated into the Employment Act Regulations of 2013 and would be adopted soon. It requested the Government to ensure that the Regulations would be adopted in the near future.

The Committee notes with *satisfaction* that the fourth schedule of the Employment (General) Rules, adopted in 2014, contains a list of 18 sectors including 45 types of work prohibited to children under the age of 18 years (section 12(3) read in conjunction with section 24(e)). These sectors include: domestic work; transport; internal conflicts; mining and stone crushing; sand harvesting; miraa picking; herding of animals; brick making; agriculture (working with machinery, chemicals, moving and ferrying heavy loads); industrial undertaking, warehousing; building and construction work (earth digging, carrying stones, shoveling sand, cement, metalwork, welding, work at heights, in confined spaces and with risk of structural collapse); deep lake and sea fishing; matches and fireworks; tannery; urban informal sector and street work (begging); scavenging; tourism; and service work. The Committee further notes that according to section 16 of the Employment (General) Rules, any person who contravenes any of the provisions related to the employment of children, including the prohibition on employing children in the hazardous types of work listed in the fourth schedule, shall be punished with a fine not exceeding 100,000 Kenyan shillings (KES) (approximately US\$982) or to imprisonment for a term not exceeding six months or both. ***The Committee requests the Government to provide information on the application in practice of section 16 of the Employment (General) Rules of 2014, including statistics on the number and nature of violations reported and penalties imposed for the violations pursuant to sections 12(3) and 24(e).***

Article 7(3). Determination of light work. Noting the Government's statement that the regulations 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, the Committee expressed the firm hope that these regulations would be adopted soon.

The Committee notes with *interest* that according to section 12(4) of the Employment (General) Rules, a child between the ages of 13 and 16 may be employed in any light work contained in the fifth schedule which includes: work performed at school as part of the school curriculum; agricultural or horticultural work not exceeding two hours; delivery of non-bulk newspapers or printed materials; work in shops including shelf stacking; domestic hair dressing; light office work; car washing by hand in private residential settings; and work in a cafe or restaurant provided the nature of work is restricted to waiting on tables. Moreover, section 26 of the Employment (General) Rules prohibits children of 13 and 16 years of age from being employed in work which is likely to be harmful to the child's health and development or which would interfere with the child's education.

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 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 notes from the Report of the Ministry of Labour, Social Security and Services (Report of the MoLSS) to the ILO direct contacts mission visit of August 2014 that the rules and regulations concerning the participation by children below 18 years in advertising, artistic and cultural activities will be submitted to the Attorney General's Office for gazettment. According to this report, this regulation includes provisions related to contracts of employment, remuneration, hours of work, area of protection and offences and legal proceedings. ***The Committee expresses the firm hope that the regulations concerning the participation of children in artistic performances will be adopted in the near future. It requests the Government to provide a copy, once it has been adopted.***

Noting from the report of the MoLSS of its intention to seek ILO technical assistance in its efforts to combat child labour, the Committee encourages the Government to consider seeking technical assistance from the ILO.

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Articles 3(d), 4(1) and 7(2)(a) and (b) of the Convention. Hazardous work and effective and time-bound measures to prevent the engagement of children in, and to remove them from, the worst forms of child labour. Child domestic work. The Committee notes that section 12(3), read in conjunction with section 24(e) of the Employment (General) Rules of 2014, prohibits the employment of children under the age of 18 years in various types of hazardous work listed under fourth schedule of the Rules, including domestic work. The Committee also notes that the ILO-IPEC, through the Global Action Programme (GAP 11) has supported several activities, including the carrying out of a situational analysis for child domestic workers in Kenya. According to the GAP report of 2014, the situation analysis revealed that, children over 16 years of age, some of whom started working at 12–13 years, are involved in domestic work in Kenya. Many are underpaid and work for long hours averaging 15 hours per day and are subject to physical and sexual abuse. It further notes that according to the report entitled *Road Map to Protecting Child Domestic Workers in Kenya: Strengthening the Institutional and Legislative Response*, April 2014, there are an estimated 350,000 child domestic workers in Kenya, the majority of whom are girls between 16 and 18 years of age. The Committee notes with *concern* the large number of children under the age of 18 years who are involved in domestic work and are subject to hazardous working conditions. ***The Committee accordingly urges the Government to take the necessary measures to ensure that its new regulation on hazardous work is effectively applied so as to prevent domestic workers under 18 years of age from engaging in hazardous work. It also requests the Government to take effective and time-bound measures to provide the necessary and appropriate direct assistance to remove children engaged in domestic work from hazardous working conditions and ensure their rehabilitation and social integration. The Committee finally requests the Government to provide***

information on the measures taken in this regard and on the results achieved, in terms of the number of child domestic workers removed from such situation and rehabilitated.

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

Kuwait

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Article 3(2) of the Convention. Determination of hazardous work. In its previous comments, the Committee noted that, according to section 20(a) of the Labour Code of 2010, young persons aged from 15 to 18 years shall not be employed in industries or professions that are, by a resolution of the Minister of Labour, classified as hazardous or harmful to their health. It had requested the Government to provide information on the progress made by the Minister of Labour in elaborating such a resolution, after consultation with the organizations of employers and workers concerned.

The Committee notes with *satisfaction* that section 5 of Ministerial Order No. 196/a/2010 contains a list of about 25 types of hazardous work prohibited for children under the age of 18 years. This list includes: exposure to dangerous chemicals such as pesticides, cement and asbestos; work in quarries, drainage and sewage; manufacturing and handling explosives and fireworks; work with dangerous machines; drilling; extracting and refining oil and petrol; carrying, pushing or pulling heavy objects; work at high heights; work with lead, arsenic and benzene; work near furnaces; slaughtering of animals; and work with products listed as causing diseases. ***The Committee requests the Government to provide information on the application in practice of section 5 of Ministerial Order No. 196 of 2010, including statistics on the number and nature of violations reported and penalties imposed by virtue of section 20(a) of the Labour Code of 2010.***

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

Kyrgyzstan

Minimum Age Convention, 1973 (No. 138) (ratification: 1992)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted that according to the 2007 national child labour survey (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). 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 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.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2004)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 section 124(1) of the Criminal Code prohibits the trafficking of persons, and section 124(2) specifies that trafficking in persons under 18 is an aggravated offence. However, the Committee noted the Government's indication to the Committee on the Rights of the Child (CRC) that the victims of trafficking in Kyrgyzstan include women and children who were exploited in the sex industry in Turkey, China and the United Arab Emirates (May 2006, CRC/C/OPSC/KGZ/1, page 10). The Committee further noted that the CRC, in its concluding observations, expressed regret at the lack of statistical data, and the lack of research on the prevalence of national and cross-border trafficking and the sale of children (2 February 2007, CRC/C/OPSC/KGZ/CO/1, paragraph 9).

The Committee notes the information from ILO–IPEC that the Ministry of Foreign Affairs is developing a National Action Plan Against Human Trafficking for 2012–15. The Committee also notes the information from the report of the UN Special Rapporteur on violence against women, its causes and consequences, of 28 May 2010, that trafficking of women and children for sexual exploitation and forced labour continues to be a problem in the country (A/HRC/14/22/Add.2, paragraph 33).

The Committee must once again express its *concern* at the lack of data on the prevalence of child trafficking in Kyrgyzstan, as well as reports of the prevalence of this phenomenon in the country. *The Committee, therefore, requests the Government to pursue its efforts to adopt the National Action Plan Against Human Trafficking, and to provide information on the measures taken within this framework to combat the trafficking of persons under the age of 18, once adopted. The Committee also requests the Government to take the necessary measures to ensure that sufficient data on the sale and trafficking of persons under the age of 18 is made available. In this regard, the Committee once again requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied for violations of section 124 of the Criminal Code. To the extent possible, all information provided should be disaggregated by sex and age.*

Clause (b). Use, procuring or offering of children for prostitution. In its previous comments, the Committee noted that section 157(1) of the Criminal Code makes it an offence for a person to involve a minor in prostitution, while sections 260 and 261 of the Criminal Code make enticement into prostitution an offence. The Committee also noted the Government's indication that the number of street children and children in risk groups forced into prostitution was rising. Moreover, the Committee noted that the CRC, in its concluding observations, expressed concern that in a number of cases of child prostitution, investigations and prosecutions had not been initiated, and that child victims may be held responsible, tried and placed in detention (CRC/C/OPSC/KGZ/CO/1, paragraphs 17 and 21). The Committee expressed concern that child prostitution continues in part due to the lack of legal oversight, and that children who are the victims of commercial sexual exploitation risk being regarded as criminals.

The Committee notes the Government's statement that prostitution is one of the forms of child labour targeted by the Programme of Action by the Social Partners for the Elimination of the Worst Forms of Child Labour. However, the Committee also notes the information in the Report of the UN Special Rapporteur on violence against women, its causes and consequences, of 28 May 2010, that adolescent girls in the country are particularly vulnerable to commercial sexual exploitation in urban areas, with the majority of the girls involved coming from rural areas (A/HRC/14/22/Add.2, paragraph 35). *Noting the absence of information on the application in practice of the provisions of the Criminal Code relating to child prostitution, the Committee once again requests the Government to provide this information, in particular statistics on the number and nature of infringements reported, investigations, prosecutions, convictions and sanctions applied. It also requests the Government to take the necessary measures to ensure that children who are used, procured or offered for commercial sexual exploitation are treated as victims rather than offenders. Lastly, the Committee once again requests the Government to indicate whether the national legislation contains provisions specifically criminalizing the client who uses children under 18 years of age for the purpose of prostitution.*

Clause (d). Hazardous work. Children working in agriculture. The Committee previously noted that section 294 of the Labour Code prohibits the employment of persons under the age of 18 years in work with harmful and dangerous conditions (including in the manufacture of tobacco) and that a detailed list of occupations prohibited for persons under 18 years had been approved. Nonetheless, the Committee noted that the use of hazardous child labour in the agricultural sector was widespread, particularly in tobacco, rice and cotton fields, and that in rural areas, regulations prohibiting children from engaging in such work were not strictly enforced. In this regard, the Committee noted the statement in a 2006 report of the International Confederation of

Free Trade Unions (now the International Trade Union Confederation) entitled “Internationally recognized core labour standards in Kyrgyzstan” that some schools require children to participate in the tobacco harvest, and that the income from this goes directly to the schools, not the children or their families. This report also indicated that, in some cases, classes are cancelled and children are sent to the fields to pick cotton. The Committee further noted the information from ILO–IPEC that many of the children working in tobacco, rice and cotton fields in Osh and Jalalabat regions faced work-related risks including injuries resulting from the use of heavy equipment, lack of clean drinking water in the fields, exposure to toxic pesticides, insects and rodent bites, and hazards related to tobacco production (skin irritation and intoxication).

The Committee notes the Government’s statement that work in the fields is one of the forms of child labour targeted by the Programme of Action by the Social Partners for the Elimination of the Worst Forms of Child Labour. The Committee also notes the Government’s statement that 19.7 per cent of child labourers in the country are engaged in the agricultural sector. Furthermore, the Committee notes the continued implementation of a project aimed at eradicating child labour in the tobacco industry, developed by a non-governmental organization and carried out by trade union workers in the agro-industrial sector. The Government states that the goal of the project is to devise and introduce a mechanism for eliminating child labour in two pilot districts in the southern region of the country. Through the project, 1,123 families were given microcredit in 2011 and 131 mutual assistance groups were set up. The Government states that this project has enabled the removal of 3,142 children in the two districts from work in the tobacco industry. In addition, the Committee notes the information from ILO–IPEC of July 2012 that, through the project entitled “Combating Child Labour in Central Asia – Commitment becomes Action (PROACT CAR Phase III)”, action has been taken to address hazardous child labour in agriculture. For example, through an action programme to support the establishment of a child labour free zone in Chuy region, implemented by the Trade Unions of Education and Science Workers of Kyrgyzstan (TUESWK) during the period June 2011 to August 2012, 140 children (75 boys and 65 girls) were withdrawn from, or prevented from entering, hazardous child labour in agriculture and the urban informal sector. In addition, 15 children (six boys and nine girls) were withdrawn from hazardous child labour in agriculture in the first six months of 2012 through a school-based package of services, including non-formal education, reintegration into formal education, school supplies, monthly food baskets, extra-curricular activities, awareness raising, recreational activities and family counselling. ***Taking due note of the measures taken by the Government, the Committee urges the Government to pursue its efforts to ensure that persons under 18 years of age are protected against hazardous agricultural work, particularly in the cotton, tobacco and rice-growing sectors, and to provide information on the results achieved through the abovementioned initiatives. It also requests the Government to take the necessary measures to ensure the effective enforcement of regulations prohibiting children’s involvement in hazardous agricultural work, and to provide information on the steps taken in this regard, in its next report.***

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. Trafficking in children. The Committee previously noted a disparity between the number of trafficking victims identified and the number of victims receiving assistance, and it requested the Government to strengthen its efforts in this regard.

The Committee notes the information from the International Organization for Migration that it is implementing a project entitled “Combating Trafficking in Persons in Central Asia: Prevention, Protection and Capacity Building” in the country from 2009–12, which includes awareness raising and assistance for victims. The Committee also notes the implementation in Kyrgyzstan of the Joint Programme to Combat Human Trafficking in Central Asia of the ILO, the United Nations Development Programme and the United Nations Office on Drugs and Crime under the UN Global Initiative to Fight Human Trafficking, which includes support for the development of national referral mechanisms established between law enforcement agencies and civil society organizations. ***The Committee requests the Government to provide information on the measures taken, including through these projects, to provide the necessary and appropriate direct assistance for the removal of child victims of trafficking, and for their rehabilitation and social integration. It also requests the Government to supply information on the results achieved, including the number of victims of trafficking under the age of 18 who have benefited from repatriation and rehabilitative assistance.***

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.

Lebanon

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments.

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. The Committee notes the indication contained in the mission report of the tripartite inter-ministerial workshop carried out in February 2013, 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 requests 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.***

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.***

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.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 ILO 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, 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 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 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 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.

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 the Government's information that the draft Action Plan for the Elimination of Child Labour (APEC) was in the process of being adopted.

The Committee notes with *interest* that the APEC 2013–17 has been adopted by the Government. It notes that the overall objective of the APEC is to reduce the incidence of child labour to less than 1 per cent by 2016, while laying a strong policy and institutional foundation for eliminating all other forms of child labour in the longer term. **The Committee requests the Government to provide detailed information on the concrete measures taken within the framework of the APEC for eliminating child labour as well as the results achieved.**

Article 2(1). 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.

The Committee notes from the APEC document that the Labour Code Amendment Bill, which is in its final stage of adoption, addresses a number of child labour concerns, including strengthening the protection of children working in the informal economy as well as extending the labour inspection services to the informal economy. The Committee also notes that the Ministry of Labour and Employment, with ILO support, established a Child Labour Unit which will assist in the protection of children working in the informal economy. Moreover, the Committee notes the Government's information that in February 2015, the relevant ministries along with other NGOs undertook a mission to withdraw children working in the informal economy in the business hub of the Leribe district. Most of the children withdrawn were either enrolled at schools or reunited with their families. However, the Committee notes from the compilation report of November 2014, prepared by the Office of the High Commissioner for Human Rights for the Universal Periodic Review, that, according to the submissions made by the United Nations Country Team of Lesotho, children continued to work in domestic service, street vending and in agriculture (A/HRC/WG.6/21/LSO/2, paragraph 43). Moreover, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), in its List of Issues of September 2014, expressed concern about the high number of children engaged in animal herding, street trading, and domestic work (CMW/C/LSO/QPR/1, paragraph 29). ***The Committee accordingly strongly encourages the Government to strengthen its efforts to ensure that the protection afforded by the Convention is granted to children carrying out economic activities without an employment agreement, including self-employed children and children working in the informal economy. In this regard, it requests the Government to provide information on the activities undertaken by the Child Labour Unit to assist in the protection of children working in the informal economy, and the results achieved. The Committee also requests the Government to indicate any progress made with regard to the adoption of the Labour Code Amendment Bill which contains provisions protecting children working in the informal economy and extends labour inspection services to the informal economy.***

Article 2(3). Age of completion of compulsory schooling. The Committee previously noted that, according to the Education Act of 2010, the age of completion of compulsory education is 13 years in Lesotho, two years before a child is legally eligible to work (15 years). It also noted that the Government would make education compulsory up to the minimum age for employment of 15 years.

The Committee notes the Government's indication that the Ministry of Education, in collaboration with the Ministry of Social Development, is working to make education free and compulsory at the secondary level. The Committee once again 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, paragraph 371). ***Recalling once again that education is one of the most effective means of combating child labour, the Committee urges the Government to take the necessary measures to ensure compulsory education up to the minimum age of employment of 15 years. It requests the Government 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. It noted the Government's statement that a committee 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 was established to address the issue of apprenticeships.

The Committee notes the absence of information in the Government's report on this point. In this regard, the Committee once again 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 once again requests the Government to take the necessary measures, within the framework of the inter-ministerial 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.***

Application of the Convention in practice. The Committee notes the Government's information that the proposed labour force survey, which includes a child labour module, will be conducted and that the data related to child labour will be available in 2017. ***The Committee expresses the firm hope that the Government will take the necessary measures to conduct the labour force survey as proposed. It requests the Government to provide information on the results of the survey with regard to the situation of working children in Lesotho, 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 had requested the

Government to take the necessary measures to prohibit the use, procuring or offering of a child under 18 for illicit activities.

The Committee notes with *interest* that, according to section 45(b) of the Children's Protection and Welfare Act of 2011, a person who causes or allows a child (defined as a person under the age of 18 years pursuant to section 3 of the same Act) to be on any street, premises or place for the purposes of carrying out illegal hawking, gambling or other illegal activities shall be liable to a fine not exceeding 10,000 maloti (approximately US\$722) or imprisonment for a term not exceeding ten months or to both. ***The Committee requests the Government to provide information on the application of section 45(b) of the Children's Protection and Welfare Act, including the number of offences detected related to the use of children under 18 years for illegal activities and penalties applied.***

Clause (d). Hazardous work. Child domestic work. The Committee previously noted that girls performing domestic work face verbal, physical and, in some cases, sexual abuse from their employers, and that these children generally did not attend school. It also noted the Government's statement that it would consider promulgating regulations on domestic work to prohibit hazardous work in this sector to children under 18.

The Committee notes the absence of information in the Government's report. However, it notes from the compilation report of November 2014, prepared by the Office of the High Commissioner for Human Rights for the Universal Periodic Review that, according to the submissions made by the United Nations Country Team of Lesotho, children continued to work in domestic service (A/HRC/WG.6/21/LSO/2, paragraph 42). Moreover, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), in its List of Issues of September 2014, expressed concern about the high number of children engaged in domestic work (CMW/C/LSO/QPR/1, paragraph 29). ***The Committee therefore once again 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.***

Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk. Children engaged in animal herding. In its previous comments, the Committee noted that children engaged in animal herding often worked under poor conditions for long hours and during night, without adequate food and clothing, were exposed to extreme weather conditions in isolated areas, and did not attend school. It also noted that between 10 and 14 per cent of boys of school-going age were involved in herding, about 18 per cent of whom were not employed by their own family.

The Committee notes that the Government adopted guidelines for the agricultural sector, with special attention to herd boys. According to the guidelines, children under 13 years should not herd livestock, except under the supervision of parents, employers or an adult, while children under 15 years are prohibited from herding in remote areas. The guidelines also require that herd boys should be provided with adequate clothing to suit the extreme weather conditions, adequate food and medical assistance as well as safe and proper accommodation. Moreover, their working time shall not exceed more than 21 hours during school weeks and not more than 30 hours during school holidays, and night work is prohibited. ***The Committee urges the Government to take effective and time-bound measures to ensure that children who are engaged in hazardous work in animal herding are removed from this worst form of child labour and are rehabilitated and socially integrated. In this regard, it requests the Government to provide information on the implementation of the guidelines for the agricultural sector and the results achieved.***

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

Madagascar

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), which were received on 17 September 2013.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted that, according to the last National Survey on Child Labour (ENTE), more than one in four children in Madagascar between 5 and 17 years of age (28 per cent) work, namely 1,870,000 children. Most working children are in agriculture and fishing, where most of them are employed as family helpers. As regards children between 5 and 14 years of age, 22 per cent are working and 70 per cent attend school. The Committee also noted the allegations of the General Confederation of Workers' Unions of Madagascar (CGSTM) that many underage children from rural areas are sent to large towns by their parents to work in the domestic sector under conditions that are often dangerous. Moreover, these children have not necessarily completed their compulsory schooling. The Committee previously noted that the National Plan of Action against Child Labour in Madagascar (PNA) was in its extension phase in terms of staffing, beneficiaries and coverage (2010–15). The Government indicated that the workplan of the National Council for Combating Child Labour (CNLTE) for 2012–13 had been adopted. The Government also reported on a number of

projects, including the AMAV project against child domestic labour and the plan of action against child labour in vanilla plantations in the Sava region, which was implemented under the ILO–IPEC TACKLE project.

The Committee notes the observations of SEKRIMA stating that the practice of child labour persists in Madagascar. SEKRIMA also highlights a very high drop-out rate during the first five years of schooling.

The Committee notes the Government's indications that the PNA has partly been implemented by mobilization activities under the AMAV project, particularly in the Amoron'i Mania region, with the display of four "Red card against child labour" billboards, the distribution of flyers on combating child domestic labour and awareness-raising activities concerning revision of the *dina* (local convention) in order to incorporate the issue of child domestic labour. Moreover, a total of 125 children between 12 and 16 years of age were withdrawn from domestic labour and trained for the competition to obtain a diploma. The Government also indicates that each year it celebrates the World Day Against Child Labour as a means of mass awareness raising while continuing to display posters in working-class neighbourhoods and hold discussions with parents, local authorities and social partners. It also mentions that there are currently 12 Regional Councils for Combating Child Labour (CRLTEs). The Committee further notes that the capacities of various entities for combating child labour have been reinforced, namely 50 entities involved in vanilla production in the Sava region and 12 in the Antalaha region, 91 members of trade union organizations, 43 journalists and three technicians of the National Institute of Statistics. Lastly, the Committee notes the Government's indication that in 2014 the CNLTE revamped Decree No. 2007-263 of 27 February 2007 concerning child labour and Decree No. 2005-523 of 9 August 2005 establishing the CNLTE, its tasks and structure. Further to a study on hazardous work, 19 types of hazardous work were officially recognized in 2013 and incorporated into the Decree under adoption. While noting the measures taken by the Government, the Committee observes that the 2012 National Survey of Employment and the Informal Sector (ENEMPSI 2012) reveals that 27.8 per cent of children are working, namely 2,030,000 children. The survey also shows that 28.9 per cent of children between 5 and 9 years of age (83,000) and 50.5 per cent of children between 10 and 14 years of age (465,000) do not attend school. ***While welcoming the Government's efforts to improve the situation, the Committee urges the Government to intensify its efforts to ensure the progressive elimination of child labour. It requests it to provide information on the results achieved by the implementation of the PNA and also on the activities of the CNLTE and CRLTEs. It requests the Government to provide a copy of the revised version of Decree No. 2007-263, once it has been adopted.***

Article 2(3). Age of completion of compulsory schooling. In its previous comments, the Committee noted that, according to UNESCO, the age of completion of compulsory schooling is lower than the minimum age for admission to employment or work. The Committee observed that the official age of access to primary education is 6 years and the duration of compulsory schooling is five years, meaning that the age of completion of compulsory schooling is 11 years. The Committee noted the CGSTM's allegation that no changes had yet been made by the Government to resolve the problem of the difference between the age of completion of compulsory schooling (11 years) and the minimum age for admission to employment or work (15 years). The Committee noted the Government's indication that the Ministry of Education was pursuing its efforts so as to be able to take measures to resolve the gap between the minimum age for admission to employment or work and the age of completion of compulsory schooling.

The Committee notes the Government's indications that the Ministry of Education organized a "national education convention" in 2014 consisting of in-depth national consultations on the implementation of inclusive, accessible and high-quality education for all. However, the Committee notes with *regret* that the question of the age of completion of compulsory schooling has still not been settled and has remained under discussion for many years. It reminds the Government that compulsory schooling is one of the most effective means of combating child labour, and underlines the need to link the age for admission to employment or work to the age of completion of compulsory schooling, as established in Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). The Committee observes once again that, as stated in the 2012 General Survey on the fundamental Conventions, 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 (paragraph 371). ***Observing that the Government has been discussing this matter for ten years, the Committee urges the Government to take measures, as a matter of urgency, to raise the age of completion of compulsory schooling so that it coincides with the age of admission to employment or work in Madagascar. It requests the Government to provide information on the progress achieved in this respect.***

Article 6. Vocational training and apprenticeships. Further to its previous comments, the Committee notes the Government's indication that the Ministry of Employment, Technical Education and Vocational Training has prepared a bill on the national employment and vocational training policy (PNEFP) in collaboration with the ILO and in consultation with the social partners. The Government indicates that the bill is awaiting approval before being submitted to Parliament for adoption. ***The Committee requests the Government to take the necessary measures to speed up the adoption of the bill concerning apprenticeships and vocational training. It requests the Government to provide a copy of this legislative text once it has been adopted.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), which were received on 17 September 2013.

Articles 3(b) and 7(1) of the Convention. Worst forms of child labour; sanctions. Child prostitution. In its previous comments, the Committee noted that section 13 of Decree No. 2007-563 of 3 July 2007 concerning child labour categorically prohibits the procuring, use, offering or employment of children of either sex for prostitution. The Committee noted that section 261 of the Labour Code and sections 354–357 of the Penal Code, which are referred to in Decree No. 2007-563, establish effective and dissuasive sanctions for offences including the procuring or offering of a child for prostitution. However, the Committee observed that, according to the United Nations Committee on the Rights of the Child (CRC), child prostitution and sex tourism are on the increase in the country, notwithstanding the low number of investigations into and prosecutions for child prostitution.

The Committee notes the observations of SEKRIMA stating that the number of girls under the age of majority, some as young as 12 years old, engaged in prostitution is increasing, especially in the cities. SEKRIMA indicates that 50 per cent of prostitutes in the capital Antananarivo are minors, and 47 per cent engage in prostitution because of their precarious situation. Some 40 per cent of these girls are reportedly the victims of assault, sexual violence and gang rape, while 80 per cent prefer not to turn to the authorities for fear of reprisals. SEKRIMA also states that despite the law punishing sex tourism, child prostitution is still nowhere near being eliminated.

The Committee notes the Government's indication that it has strengthened the capacity of 120 entities engaged in tourism in Nosy Be and 35 in Tuléar with regard to sexual exploitation for commercial purposes. However, the Committee notes that there is no information on the number of investigations, prosecutions and convictions of perpetrators of commercial sexual exploitation. The Committee notes that the CRC, in its concluding observations of 2015 relating to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/MDG/CO/1), expressed deep concern that child sex tourism is growing and that the measures taken by the Government to combat this phenomenon are insufficient (paragraph 27). The CRC also expressed concern at the fact that thousands of children are victims of sexual exploitation for commercial purposes, of trafficking for domestic servitude and sexual exploitation, and that the number of prosecutions and convictions for offences covered by the Optional Protocol is extremely low, a situation that fosters impunity (paragraph 31). The Committee also observes that, according to the 2013 report of the United Nations Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/25/48/Add.2, paragraph 10), child prostitution in Madagascar has reached alarming levels and affects the whole country, particularly urban and mining areas and tourist resorts. The Committee therefore expresses its **deep concern** at the large number of Malagasy girls under 18 years of age who are engaged in prostitution, particularly in the form of sex tourism, and also at the lack of prosecutions and convictions of perpetrators. **The Committee therefore urges the Government to take the necessary steps to ensure that persons suspected of procuring, using, offering or employing children for prostitution are thoroughly investigated and robustly prosecuted and that penalties constituting an effective deterrent are imposed on them. It requests the Government to provide statistical information on the number and nature of violations reported, investigations, prosecutions, convictions and criminal penalties imposed in this respect.**

Clause (d). Hazardous work. Children working in mines and quarries. In its previous comments, the Committee noted the observations of the General Confederation of Workers' Unions of Madagascar (CGSTM) stating that children are working in precarious and often dangerous conditions in the Ilakaka mines and in stone quarries. The CGSTM also indicated that the worst forms of child labour are to be found in the informal sector and rural areas, which the labour administration is unable to cover.

The Committee notes that, according to the 2013 report of the United Nations Special Rapporteur on contemporary forms of slavery (A/HRC/24/43/Add.2, paragraphs 44–60), the work carried out by children in mines and quarries qualifies as a contemporary form of slavery owing to the debt bondage, forced labour and economic exploitation of those concerned, particularly unaccompanied children working in artisanal mining and quarries. The Committee notes that children work from five to ten hours a day, they take care of the transportation of blocks of stone or water and some boys dig mining holes 1 metre in circumference and between 15 and 50 metres deep, while others go down the holes to collect the earth. The children start working with their parents from 5 years of age while unaccompanied children start at 12 years of age. Furthermore, in stone quarries on the outskirts of the major towns, children between 3 and 7 years of age, often working in family groups, break stones and carry baskets of stones or bricks on their heads, working an average of 47 hours a week in cases where they do not attend school. Conditions are unsanitary and hygiene is poor. All the children are also exposed to physical and sexual violence and to serious health hazards, particularly because of contamination of the water, the instability of mining holes and the collapse of tunnels. **Noting with concern the situation of children working in mines and quarries, the Committee urges the Government to take the necessary steps to ensure that no children under 18 years of age can be engaged in work which is likely to harm their health, safety or morals. It requests the Government to provide information on the progress made in this respect and the results achieved.**

Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Street children. In its previous comments, the Committee noted the Government's indication that the Ministry of Labour and Social Legislation (MTLS) was continuing its programme of school enrolment and training for street children in the context of the Public Investment Programme for Social Action (PIP). It noted the CGSTM's allegation that the number of street children has increased in recent years and that the action taken by the Government to help them was still minimal. In reply, the

Government indicated that the programmes financed under the PIP aim to remove 40 children per year from the worst forms of child labour, or 120 children over three years.

The Committee notes the information supplied by the Government to the effect that the implementation of the PIP programmes has enabled 40 children per year to be withdrawn from the worst forms of child labour. However, the Committee notes that, according to the 2013 report on the sale of children, child prostitution and child pornography (A/HRC/25/48/Add.2, paragraph 36), although there are no specific data on the actual number of street children in Madagascar, the Special Rapporteur nevertheless witnessed the scale of the problem and quotes an estimated figure of about 4,500 street children in the capital Antananarivo. The Committee further notes that, in the 2014 UNICEF *analysis of the situation of mothers and children in Madagascar*, referred to a 2012 survey of 950 street children in Antananarivo, which indicated that most of these children are boys (63 per cent) who live from begging or garbage picking. According to the UNICEF report, girls living on the streets frequently become victims of sexual exploitation in meeting their subsistence needs or as a result of pressure from third parties. Others are engaged in domestic work, swelling the ranks of exploited child workers (page 110). ***Noting with concern the growing number of street children, the Committee requests the Government to take effective and time-bound measures to ensure the targeted implementation of the PIP programmes, and requests it to intensify its efforts to ensure that street children are protected from the worst forms of child labour, and are rehabilitated and integrated in society. It once again requests the Government to provide information on the results achieved in this respect.***

Application in practice. The Committee previously noted the detailed results of the 2007 National Survey on Child Labour (ENTE), according to which more than one in four Malagasy children between 5 and 17 years of age (28 per cent) are economically active, namely 1,870,000 children.

The Committee notes the Government's indications that a National Survey of Employment and the Informal Sector (ENEMPSI 2012), including statistics on child labour, was carried out with the support of the United Nations Development Programme (UNDP) and the ILO. The survey shows that 27.5 per cent of children are working, namely 2,030,000, of whom 30 per cent live in rural areas and 18 per cent in urban areas. Most children work in agriculture and fishing (88 per cent). Children working in urban areas are engaged in domestic work (10 per cent) and commerce (11 per cent). Moreover, 91 per cent of child workers have the status of an unpaid family helper. The ENEMPSI also indicates that 81 per cent of child workers between 5 and 17 years of age are engaged in hazardous work, namely 1,653,000 children. Agriculture, livestock farming and fishing account for the majority of children's work (89 per cent) and more than six out of ten working children have reported health problems resulting from their work in the last 12 months. The Committee also notes that a baseline study of child domestic labour covering three regions was conducted in 2012. The study reveals that child domestic labour is often a feature of the lives of poor rural families, who send their children to urban areas in response to their precarious situation. Child domestic workers may be forced to work up to 15 hours per day, most of them receive no wages, the latter being paid directly to their parents, in some cases they sleep on the floor and many are victims of psychological, physical or sexual violence. The Committee further notes that, according to the 2013 report on contemporary forms of slavery (A/HRC/24/43/Add.2, paragraph 81), the Special Rapporteur observed girls as young as 10 years of age working in slavery-like conditions. The Committee expresses its ***deep concern*** at the situation and number of children under 18 years of age forced to perform hazardous work. ***It urges the Government to intensify its efforts to eliminate these worst forms of child labour and requests it to continue providing information on any progress made in this respect and on the results achieved. The Committee also requests the Government to continue providing information on the worst forms of child labour including, for example, studies and statistical surveys on the subject and information on the nature, extent and trends of the worst forms of child labour, the number of children covered by the measures giving effect to the Convention, the number and nature of violations reported, investigations, prosecutions, convictions and criminal penalties applied. All information provided should, as far as possible, be disaggregated by age and sex.***

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 105th Session and to reply in detail to the present comments in 2016.]

Malawi

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. 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.***

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.

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 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.***

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: 1999)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 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 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 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.

Malaysia

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

Article 3(2) of the Convention. Determination of hazardous work. In its previous comments, the Committee noted the Government's indication that the Labour Department would hold consultations with the relevant authorities, such as the Department of Safety and Health, in order to determine the types of hazardous work to be prohibited to persons under the age of 18, pursuant to section 2(6) of the Children and Young Persons (Employment) Act of 1966 (CYP Act) as amended in 2010.

The Committee notes that the Government's report does not contain any information on this point. ***The Committee therefore urges the Government to take the necessary measures to ensure that the hazardous types of work prohibited to children under 18 years of age are determined in the near future, in consultation with the organizations of employers and workers concerned. It requests the Government to provide information on the progress made in this regard.***

Article 7(1). Minimum age for admission to light work. The Committee previously noted that section 2(2)(a) of the CYP Act allows children to be employed in light work which is adequate to their capacity in any undertaking carried on by their family, but observed that no minimum age for admission to light work had been specified. The Committee recalled that *Article 7(1)* of the Convention provides for the possibility of admitting young persons to light work activities only from the age of 13 years.

The Committee notes the Government's indication that the CYP Act of 1966 is currently being revised in order to incorporate a minimum age of 13 years for light work activities. ***The Committee expresses the firm hope that the necessary measures will be taken, in the near future, to amend the CYP Act to establish a minimum age of 13 years for light work activities. It requests the Government to provide information on the progress made in this regard.***

Application of the Convention in practice. The Committee previously noted the statement of the International Trade Union Confederation (ITUC) that child labour in Malaysia could be found primarily in rural areas in agriculture, where children often work along with their parents without receiving a salary. In urban areas, children work in restaurants, shops and small manufacturing units usually owned by family members. The ITUC further indicated that the Government does not collect statistical data on child labour. The Committee requested the Government to provide statistical data on the employment of children and young persons, including the number of children working under the minimum age of 15.

The Committee notes that the Government's report merely indicates that, in 2014, six employers employed children and young persons. ***Noting the absence of statistical information on child labour in the country, the Committee urges the Government to take the necessary measures to ensure that sufficient up-to-date statistical data on the situation of working children are made available, including data on the number of children and young persons below the minimum age of 15 who are engaged in economic activities, and information on the nature, scope and trends of their work. To the extent possible, this information should be disaggregated by sex and age.***

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 the Government to take measures to ensure that measures were adopted to prohibit the use, procuring or offering of a child under 18 years of age for the production of pornography or for pornographic performances.

The Committee notes the Government's statement that the provisions in the Child Act prohibit the use, procuring or offering of a child for pornographic performances. In this regard, the Committee notes the Government's statement that section 31(1)(b) of the Child Act of 2001 states that any person with the care of a child who sexually abuses the child or causes or permits him to be so abused, commits an offence and shall on conviction be liable to a fine not exceeding 20,000 Malaysian ringgit (MYR) or to imprisonment for a term not exceeding ten years, or to both. In this connection, the Committee notes that section 17(2)(c)(i) of the Child Act specifies that a child has been sexually abused if the child has taken part in any activity which is sexual in nature for the purposes of any pornographic, obscene or indecent material, photograph, recording, film, videotape or performance. ***The Committee requests the Government to indicate if the prohibitions contained in sections 31(1)(b) and 17(2)(c)(i) of the Child Act also apply to persons not having the care of a child.***

Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. The Committee previously noted that section 32 of the Child Act of 2001 punishes anyone who causes or procures or allows any person under 18 years of age to be on any street, premises or place for the purposes of "carrying out illegal hawking, illegal lotteries or gambling, or other illegal activities detrimental to the health or welfare of the child". The Committee also noted the Government's indication that the "other illegal activities detrimental to the health or welfare of the child" included the use, procuring and offering of a child for illicit activities, including the production and trafficking of drugs. The Committee requested information on the application in practice of section 32 of the Child Act.

The Committee notes the Government's statement that, to date, nobody has been charged under section 32 of the Child Act. The Government also refers to the Dangerous Drugs Act, 1952 (Act No. 234), section 39B(1) of which provides that any person, who, on his own behalf or on behalf of another person, traffics, offers to traffic or prepares to traffic a dangerous drugs shall be guilty of an offence and shall be punished upon conviction with death. The Government indicates that both of the offences under

the Child Act and the Dangerous Drugs Act can be tried together. The Government indicates that while children have been convicted under section 39B of the Dangerous Drugs Act, no death sentence has been applied to these children. The Committee, therefore, observes that, although children have been convicted of drug trafficking (under the Dangerous Drugs Act), it does not appear that any adult has been charged with the use, procuring or offering of a child for this offence under section 32 of the Child Act. *In this regard, the Committee recalls that children used by adults for the production and trafficking of drugs should be treated as victims, rather than offenders, and requests the Government to take measures to ensure that such children receive the services necessary for their rehabilitation and social reintegration. The Committee also requests the Government to strengthen its efforts to ensure that the prohibition on involving children in the trafficking of drugs is strictly enforced, and that any adult who uses, procures, or offers a child for this offence is punished with sufficiently effective and dissuasive penalties.*

Article 4(1). Determination of types of hazardous work. The Committee previously expressed the hope that the determination of types of hazardous work to be prohibited to persons below 18 years of age would be reviewed and adopted, pursuant to Article 4(1) of the Convention.

The Committee notes that, pursuant to the CYP Amendment Act, the CYP Act has been amended to include section 2(6), which states that for the purpose of section 2, “hazardous work” means any work that has been classified as hazardous based on the risk assessment conducted by a competent authority on safety and health as determined by the minister. *The Committee requests the Government to take the necessary measures, pursuant to section 2(6) of the CYP Act (as amended), to determine the types of work which constitute hazardous work prohibited to persons under the age of 18, following consultations with the organizations of employers and workers concerned.*

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. The Committee previously noted that Malaysia was considered primarily a destination country for victims of trafficking, and that while most of the victims of trafficking were women over 18 years of age, a number of girls between 14 and 17 years of age were also reported to be victims.

The Committee notes the information in the Government’s report that the Malaysian Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants has developed an action plan to combat the trafficking of children. The Government further indicates that, as of 22 June 2011, there had been 161 child victims of trafficking rescued under a protection order, and 106 children were placed at the Government Shelter Home. *The Committee requests the Government to provide information on the measures taken within the framework of the action plan to combat trafficking of children to provide for the removal, rehabilitation and social integration of child victims of trafficking. It also requests the Government to continue to provide information on the number of child victims of trafficking rescued and placed in the Government Shelter Home, as well as information on the services provided to these children for their rehabilitation and social reintegration, and where appropriate, their repatriation and family reunification.*

Article 8. International cooperation and assistance. Regional cooperation. The Committee previously noted the proposal for a Memorandum of Understanding (MoU) between Malaysia and Thailand to monitor trafficking and address the flow of young girls into Malaysia. The Committee also noted the statement in the Government’s report of 19 November 2008 to the Human Rights Council for the Universal Periodic Review that due to Malaysia’s porous borders, the influx of migrants, trafficked victims and refugees is increasing despite pledges by source States that they have taken progressive measures (A/HRC/WG.6/4/MYS/1/Rev.1, paragraph 94).

The Committee notes the Government’s statement that it has not yet finalized the draft of the MoU with Thailand. However, the Government indicates that currently, enforcement agencies exchange information to strengthen security between the two countries. The Committee also notes the information in the Government’s report submitted under the Forced Labour Convention, 1930 (No. 29), that one of the main goals of the National Action Plan on Trafficking in Persons (2010–15) is the development of local and international partnerships to combat trafficking in persons. *The Committee urges the Government to pursue its efforts, including through the National Action Plan on Trafficking in Persons (2010–15), to cooperate with the neighbouring countries, particularly Indonesia and Thailand, with a view to eliminating child trafficking for labour and commercial sexual exploitation as well as the involvement of child migrants in the worst forms of child labour.*

Application of the Convention in practice. Following its previous comments, the Committee notes the information in the Government’s report submitted under Convention No. 29 that as of May 2011, 25 persons had been charged with trafficking in children (under section 14 of the Anti-Trafficking in Persons Act of 2007). The Committee also notes the Government’s statement that between 28 February 2008 to 19 June 2011, 217 cases of sexual exploitation were recorded by the Royal Malaysian Police. The Committee observes that the Government does not indicate how many of these cases involved commercial sexual exploitation, or how many of the victims were under the age of 18. *The Committee, therefore, requests the Government to provide information on the number of cases of commercial sexual exploitation involving persons under the age of 18 detected by the Royal Malaysian Police. The Committee also requests the Government to continue to provide information on the number of cases of the trafficking of children detected and investigated in Malaysia, as well as statistics on the number of prosecutions, convictions and penalties applied to perpetrators. To the extent possible, all information provided should be disaggregated by sex and by age.*

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.

Mali

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments the Committee noted that nearly 2.4 million children between the ages of 5 and 14 years, or 65.4 per cent of children between 5 and 14 years of age, are engaged in work. In this respect, the Committee noted the adoption and validation of a programme of action for the formulation and conceptualization of the National Plan of Action for the Elimination of Child Labour in Mali 2011–20 (PANETEM), of which the first phase (2011–15) focuses on the elimination

of the worst forms of child labour (60 per cent of targeted children) and the second phase (2016–20) on the abolition of all forms of unauthorized child labour (40 per cent of targeted children). The Committee also noted the observations of the ITUC that 40 per cent of children between the ages of 5 and 14 years are engaged in hazardous forms of work.

The Committee notes the Government's indications that, in the context of objective 4 of the PANETEM advocating the reintegration of children removed from work, 130 children (including 65 girls) who were not at school or have dropped out of school have benefited from support for vocational training in Niono Cercle, and 95 children between 15 and 17 years of age in Sikasso Cercle. In addition, 228 children (114 boys and 114 girls) have been removed from the worst forms of child labour through vocational training services and 228 families with children have been informed and their awareness raised in 15 communes. While noting the measures taken by the Government, the Committee expresses its **deep concern** at the substantial number of children below the minimum age who are engaged in work, often under very dangerous conditions. **The Committee once again requests the Government to intensify its efforts to combat child labour, particularly through PANETEM, and requests it to provide information 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 observation by the ITUC that the legislation does not adequately protect children against child labour, because it does not provide for specific protection for children working in the informal economy, particularly in agriculture or domestic work. The ITUC added that there are a total of 54 labour inspectors in Mali, none of whom have received specialized training in child labour. In addition, labour inspectors are also responsible for settling disputes, including through conciliation, which makes it difficult for them to enforce effectively the legislation respecting child labour.

The Committee notes the Government's indication that labour inspectors are responsible for enforcing labour legislation in the formal and informal economies. It also notes that, in addition to conciliation for the resolution of labour disputes, labour inspectors are also responsible for enforcing the provisions of the Labour Code respecting child labour. The Government adds that, following the normalization and progressive return of the administration into the regions in the north of the country, labour inspectorates are now operational in these areas. Finally, it indicates that it is understood that the capacities of labour inspectors have to be reinforced in terms of intervention techniques in the informal economy and on matters relating to child labour. With reference to the 2012 General Survey on the fundamental Conventions, paragraph 345, the Committee observes that, in some cases, the limited number of labour inspectors has made it difficult to cover the whole of the informal economy. It therefore invites member States to strengthen the capacities of the labour inspectorate. **The Committee therefore once again urges the Government to strengthen its measures for the adaptation and reinforcement of the labour inspection services 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.**

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 in accordance with the Labour Code, the minimum age for the admission of children to employment in enterprises, even as apprentices, is *14 years*, and that Decree No. 96-178/P-RM of 13 June 1996, issued under the Labour Code, contains a list of 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. The Committee noted the Government's indication that the High Council of Ministers adopted a Bill in 2013 to amend Act No. 92–020 of 23 September 1992 issuing the Labour Code of Mali, with a view to bringing some of its provisions into conformity with ILO Conventions. The Government indicated that this Bill now establishes the age for admission to employment at 15 years and that the implementing texts of the Code will also be revised accordingly.

The Committee notes the Government's indication that, at the time that the present report was sent, the Government and the social partners had not yet completed consultations on the Bill to revise the Labour Code, which had been reopened at the request of the employers. **Once again 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 line with the Convention so as to prohibit work by children under 15 years of age, the Committee urges the Government to take the necessary measures to finalize the revision in the very near future. It once again 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 the age of completion of compulsory schooling in Mali is 15 years. It took due note of the measures adopted by the Government in relation to education, but observed that the school attendance rates for primary education remained fairly modest 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 the primary level. The Committee noted the observation of the ITUC that only 35.9 per cent of boys and 25.2 per cent of girls enter secondary education.

The Committee notes the Government's indication that the armed conflict has severely undermined the education system in the country in the northern regions, but that the return of the administration and the renewal of cooperation with education partners has enabled many schools to reopen in the regions of Mopti, Timbuktu and Gao. The Government adds that the Ministry of Labour has taken many measures through the ILO–IPEC project to combat child labour through

education, including the removal and reintegration of children in school, and the building of classrooms in the regions of Kayes, Ségou and Mopti. It further indicates that the Ministries of Education and Labour have launched a triennial project 2012–17 “Stop Child Labour – School is Better than Work”. The project is intended to eliminate child labour and enable all children under 15 years of age to have the right to high-quality full-time formal education. The Committee also notes the Government’s indication that an Interim Programme 2015–16 has been adopted and will soon be implemented and that the Government is intending to adopt a Ten-Year Education Development Programme (PRODEC II) before the end of the Interim Programme 2015–16, following the current evaluation of PRODEC I. Finally, the Government indicates that the implementation of the Interim Programme 2012–15 resulted in the achievement of a gross enrolment rate for primary education of 69.70 per cent and of 50 per cent for secondary education in 2012–13. The drop-out rate in primary education between 2011 and 2013 is reported to be 8.3 per cent. Based on the results of this Programme, the Committee observes a very broad disparity in these rates between regions. ***Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee urges the Government to intensify its efforts to improve the operation of the education system, particularly by increasing school enrolment rates, both for primary and secondary school, and by reducing the drop-out rate in all the regions of the country. In this regard, it requests the Government to provide information on the evaluation of PRODEC I and on the progress achieved and the results obtained through the implementation of the Interim Programme 2015–16 and PRODEC II.***

Article 3(3). Admission to hazardous types of work from the age of 16 years. The Committee previously noted 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 section D.189–33 of Decree No. 96-178/P-RM establishes the requirement to ascertain that young persons between the age 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. The Committee notes the Government’s indication that the draft texts issued under the Labour Code will be revised following the adoption of the revised Labour Code by the National Assembly. This revision is to include the conditions set out in *Article 3(3)* of the Convention.

The Committee notes the Government’s indication that the process of the revision of the Labour Code is continuing. ***The Committee urges the Government to take measures in the context of the revision of the implementing texts of the Labour Code to ensure compliance with the conditions set out in Article 3(3) of the Convention, and to provide information on the progress achieved in this regard.***

Article 7. Light work. In its previous comments, the Committee noted the Government’s indication that it undertook to amend section 189–35 of Decree No. 96-178/P-RM of 13 June 1996 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 the types of light work and the conditions for their performance. The Committee notes the Government’s indication that this will be done in the context of the global review of the implementing texts of the Labour Code.

The Government indicates that the process of revising the Labour Code is continuing. ***The Committee urges the Government to take immediate measures to bring the national legislation into line with the Convention and to regulate the employment of children in light work from the age of 13 years. For this purpose, it once again hopes that the Order respecting light work will be prepared and adopted in the very near future.***

The Committee also notes that the process of the revision of the Labour Code is continuing and once again urges the Government to intensify its efforts and to take the necessary measures to ensure that the overall revision of the Labour Code and its implementing texts does not fail to take into account the Committee’s detailed comments on the divergences that exist between the national legislation and the Convention, and that amendments will be made in this regard.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. 1. Forced or compulsory labour. Begging. In its previous comments, the Committee noted the existing of *talibé* boys originating from neighbouring countries, including Mali, brought to towns by Koranic teachers (*marabouts*). These children are kept in conditions of servitude and are obliged to beg on a daily basis. The Committee noted that the Penal Code provides that any person inciting a minor to beg shall be liable to a sentence of imprisonment of from three months to one year. The Committee also noted that Act No. 2012-023 increased the penalty for the organized exploitation of other persons for begging to a sentence of imprisonment of from two to five years and a fine of from 500,000 to 2 million Malian francs (CFA). However, the Committee noted that the practice of using children in Koranic schools for begging occurs in violation of the law. It noted the Government’s indications concerning the strengthening of the capacity of police officers, but observed that the Government did not provide any information on the prosecution and sentencing of persons, including *marabouts*, who force children into begging.

The Committee notes the Government’s indication that it does not have information on cases of judicial prosecution or court rulings issued under Act No. 2012-023. The Government adds that the enforcement of legal provisions respecting

begging requires a dose of political courage, as the practice of begging is very frequently linked to religion. The Committee once again observes that, although the legislation is in conformity with the Convention on this point, the use of *talibé children for purely economic purposes* remains a concern in practice. The Committee recalls that, under the terms of Article 7(1) of the Convention, the Government shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including through the application of penal sanctions. ***The Committee, therefore, once again urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions are carried out and that sufficiently effective and dissuasive sanctions are imposed upon marabouts who make use of children under 18 year of age for purely economic purposes. It requests the Government to provide information on the results achieved in this regard, through the provision of statistics on the number of convictions and the penalties imposed in cases involving child victims, particularly with regard to the application of the provisions of Act No. 2012-023.***

2. *Forced recruitment of children for use in armed conflict.* The Committee noted the observation of the International Trade Union Confederation (ITUC) that the intensification of armed conflict in Mali was accompanied by an increase in the recruitment of children as soldiers by the various rival parties operating in the north of the country. The Committee expressed its deep concern at the fact that this practice leads to serious violations of children's rights, including sexual violence, and the jeopardization of their health and safety.

The Committee takes due note of the fact that the Government signed a peace agreement with the armed groups on 15 May and 20 June 2015, respectively, resulting in a ceasefire on the ground, and that Annex 2 of the agreement provides for a process of disarmament, demobilization and reintegration. The Government adds that the internal rules of the Peace Agreement Follow-up Committee has been validated by the parties and that the Follow-up Committee for the Implementation of the Agreement and the National Commission for Disarmament, Demobilization and Reintegration will adopt an inclusive and coherent National Disarmament, Demobilization and Reintegration Programme accepted by all parties. The Committee, however, notes that according to the report of the Secretary-General on children and armed conflict (A/69/926-S/2015/409, paragraph 124), of 5 June 2015, 84 children were recruited and used by armed groups in 2014. According to the report, four children were detained for reasons of national security by the national armed forces, and were then released in accordance with the Protocol on the release and reintegration of children associated with the armed forces and armed groups of 1 July 2013. The Committee also notes that, according to the report of the Secretary-General to the Security Council on the situation in Mali of 11 June 2015 (S/2015/426, paragraph 32), 16 new cases of child recruitment by armed groups were registered, and among those recruited, 15 were arrested and detained by the Malian defence and security forces, some for four months. Ten of the children were released. With reference to the 2012 General Survey on the fundamental Conventions, the Committee emphasizes that these children must be treated as victims rather than offenders. It also recalls that it is important to ensure that child victims of this worst form of child labour receive appropriate assistance for their rehabilitation and social integration (paragraph 502). ***The Committee requests the Government to take the necessary measures to bring an end in practice to the forced or compulsory recruitment of children under 18 years of age by armed groups. It also requests it to implement the process of disarmament, demobilization and reintegration of all children associated with armed forces or armed groups in order to ensure their rehabilitation and social integration. Finally, the Committee requests the Government to take the necessary measures to ensure that persons forcefully recruiting children under 18 years of age for their use in armed conflict are prosecuted and penalized.***

Articles 3(d) and 7(2). Hazardous work and effective and time-bound measures. Children working in traditional gold-panning. Further to its previous comments, the Committee notes the observation of the ITUC that between 20,000 and 40,000 children are engaged in work in gold mines, some of whom are not even 5 years old. Children extract minerals from underground galleries and undertake the amalgamation of mercury and gold. During these operations, the children are exposed to unhealthy and dangerous conditions, which have a serious incidence on their health and safety. Many children suffer from headaches, pain in the neck, arms or back. Children are injured by landslides or tools, and they are exposed to the risk of serious bodily injuries when they work on unstable structures which might collapse at any moment.

The Committee notes the Government's indications that, in the context of the action to combat child labour in traditional gold-panning, a programme of action for the prevention, removal and social and vocational reintegration of children at risk of or victims of work in small traditional mines in the region of Sikasso (project ILO-IPEC/AECID) resulted in the prevention of 2,655 children (1,505 boys and 1,150 girls), the removal of 1,946 children (1,093 boys and 853 girls) and the reintegration of 709 children (412 boys and 297 girls). While taking due note of the measures taken by the Government in the framework of these projects, the Committee expresses its ***deep concern*** at the considerable number of children, some of whom are not even 5 years of age, who work in dangerous conditions in traditional gold-panning in Mali. ***The Committee urges the Government to intensify its efforts and to take effective and time-bound measures, within the framework of the National Plan of Action for the Elimination of Child Labour in Mali (PANETEM) or by other means, in order to remove children from the worst forms of child labour in traditional gold-panning, with a view to ensuring their rehabilitation and social integration. The Committee requests the Government to provide information on the progress achieved and the results obtained.***

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

Mauritania

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes the observations from the Free Confederation of Mauritanian Workers (CLTM) dated 29 August 2013 and from the General Confederation of Workers of Mauritania (CGTM) dated 28 August 2015, as well as the Government's report.

Article 1 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 collaboration with UNICEF, some 90,000 children under 14 years of age were working in the country.

The Committee notes the observations from the CLTM, to the effect that young children are working in hazardous conditions in agriculture, small-scale fishing, construction and garbage removal, including the children of slaves and former slaves. The CLTM also indicates that these children work throughout the day without any rest period, which causes them multiple health problems. The Committee duly notes the Government's indication that a National Plan of Action on the Elimination of Child Labour 2015–20 (PANETE–RIM) was adopted on 14 May 2015. It notes that the PANETE–RIM forms part of the implementation of the roadmap for combating the vestiges of slavery, Recommendation No. 17 of which is concerned with taking account of action against child labour in agreements signed between the State and international enterprises. The Government indicates that the National Plan of Action comprises five strategic components, namely: strengthening legal and institutional frameworks; building technical and operational capacity; raising awareness and increasing knowledge of child labour; implementing direct action to combat child labour in spheres and sectors of use and exploitation; and collaboration, coordination and partnership. The Committee further notes the observations of the CGTM to the effect that the social partners have been associated with the formulation and design of the PANETE–RIM. The Committee also notes the Government's indication that the setting up of 30 communal child protection systems in 10 *wilayas* (regions) has enabled care to be provided for 10,782 victims of child labour. However, it observes that, according to the "MICS4 – Multiple indicator cluster survey" finalized by the National Statistics Office in 2014 and quoted in the PANETE–RIM, 22 per cent of children between 5 and 14 years of age are involved in child labour. While noting the measures taken by the Government, the Committee is bound to express its **concern** at the situation of children working below the minimum age, often under hazardous conditions. ***The Committee therefore urges the Government to take the necessary measures to ensure the effective abolition of child labour and to provide information on the activities and results achieved through the implementation of the National Plan of Action on the Elimination of Child Labour 2015–20 (PANETE–RIM).***

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, with a minimum six-year period of schooling. However, the Committee noted a low enrolment rate in primary education and a very low enrolment rate in secondary education.

The Committee notes the Government's information to the effect that the Centre for the Protection and Social Integration of Children (CPISE) has enabled more than 1,000 children who had dropped out of school to resume their education. The Committee also notes the establishment of a unit within the Ministry of Education which has responsibility for dealing with out-of-school children, according to the UNICEF annual report for 2013 (page 17). However, the Committee notes the observations from the CLTM that the State is making no effort to create conditions conducive to ensuring schooling for children and an acceptable standard of living, pointing out that most *adwabas* (former slave villages) do not have a school or basic services. The Committee also notes that, according to the UNICEF report, non-attendance at school remains a major challenge in Mauritania. It also notes that, according to the 2015 joint report produced by the Government and ILO–IPEC on child labour in Mauritania, school wastage is one of the main reasons for the large number of children on the labour market in Nouakchott (page 20). While taking due note of the measures provided for in the PANETE–RIM, including support measures for the ZEP programme (concerning priority education areas) to reduce school wastage and increase the attendance rate (objective 4.2), the Committee notes with **concern** the persistence of low school attendance rates, especially at secondary level, according to UNESCO statistics for 2013, which indicate that the net primary school enrolment rate is 73.1 per cent, the net secondary school enrolment rate is 21.6 per cent, and the primary school completion rate is 64.1 per cent. ***Recalling that compulsory schooling is one of the most effective means of combating child labour, the Committee once again requests the Government to take the necessary measures, including as part of the implementation of the PANETE–RIM, to provide compulsory education until the minimum age for admission to employment, increasing the primary and secondary education enrolment rates and reducing the drop-out rate. The Committee requests the Government to supply information on any new developments in this respect.***

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 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 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 would be sent to the Office once they had been adopted.

The Committee notes the absence of information on this matter in the Government's report. ***Observing that a significant number of children are working below the minimum age for admission to employment in Mauritania, the Committee once again urges the Government to take the necessary measures, particularly in the context of the implementation of objective 1.2 of the PANETE-RIM, to bring the national legislation into line with the Convention and to regulate the employment of children of 12–14 years in light 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)

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 concerning the suppression of trafficking in persons. The Committee also observed that Mauritania appeared to be a country of origin for the trafficking of children for labour exploitation.

The Committee notes the lack of information on this matter in the Government's report. The Committee observes that the National Plan of Action for the Elimination of Child Labour 2015–20 (PANETE-RIM) identifies the presence of child victims of trafficking in Mauritania, including children who are victims of the vestiges of slavery, *talibé* children and foreign children (paragraph 2.4). ***The Committee 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 sexual or labour exploitation. Furthermore, the Committee again requests the Government to provide information on the application in practice of Act No. 025/2003 of 17 July 2003 concerning the suppression of trafficking in persons, including statistics on the number and nature of reported violations, investigations, prosecutions, convictions and criminal penalties imposed.***

2. Forced or compulsory labour. Begging. In its previous comments, the Committee noted that section 42(1) of Ordinance No. 2005-015 concerning the protection of children under criminal law provides that any person who causes a child to beg or directly employs a child to beg shall be liable to imprisonment of one to six months and a fine of 100,000 Mauritanian ouguiyas (MRO). The Committee noted the allegations of the General Confederation of Workers of Mauritania (CGTM) that teachers in religious schools force children to go onto the streets to beg, exposing them to crime and the risk of physical assault. Lastly, the Committee noted the statement of the United Nations Special Rapporteur on contemporary forms of slavery to the effect that a specialist police unit trained to work with children and the Ministry of the Interior monitor *madrasas* (religious schools) to ensure that children are not encouraged to go begging on behalf of their religious teachers.

The Committee notes the Government's indications that a survey conducted in Nouakchott in 2013 reveals that begging affects 3.57 per cent of children between 3 and 5 years of age, 5.95 per cent of children of 6 or 7 years of age, 14.29 per cent of children between 9 and 11 years of age, 27.38 per cent of children between 12 and 14 years of age and 9.25 per cent of children aged 15. The survey also shows that 90 per cent of child beggars are male and 61 per cent of children state that they are instructed to beg by their *marabout* (religious teacher). According to the PANETE-RIM, *talibé* children are exposed to dangers, spending most of their time on the streets and often unable to return home empty-handed since they will otherwise receive a beating from their master (paragraph 2.4). The Committee also observes that the particular situation of *talibé* children will be taken into account in the context of preventive actions and measures under objective 4.2 of the PANETE-RIM. However, the Committee notes that there is no information on the investigation and prosecution of *marabouts*. The Committee reiterates that, under the terms of *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 therefore once again urges the Government to take the necessary measures to ensure that marabouts who use children under 18 years of age for purely economic purposes are thoroughly investigated and prosecuted, and that adequate penalties constituting an effective deterrent are imposed on them. The Committee requests the Government to provide information on the number of talibé children who have been identified by the specialist police unit and the Ministry of the Interior. Lastly, it requests the Government to send a copy of the survey of talibé children conducted in 2013.***

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. The Committee previously noted the lack of information on the measures adopted by Mauritania to identify and protect children living or working on the streets.

The Committee notes the information from the Government to the effect that, as a result of the national child protection system established at the Ministry of Social Affairs, Children and the Family, a total of 5,084 out-of-school working children and child beggars have been placed in schools in the *wilayas* (regions) of Nouakchott, Dakhlet Nouadhibou and Assaba. However, the Committee notes the persistent presence of children engaging in begging,

according to the analysis of the child labour situation in Mauritania (*World Report on Child Labour 2015*, table 13, page 39), produced jointly by the Government and ILO–IPEC. ***The Committee requests the Government to continue providing information on the number of child victims of begging who have been removed from the streets and rehabilitated and integrated into society, particularly by the Centre for the Protection and Social Integration of Children (CPISE) or by the Ministry of the Interior. The Committee also requests the Government to indicate any other effective time-bound measures taken 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 or no schooling. The Committee noted the CGTM's allegations that domestic work involves 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 that many girls are forced into unpaid domestic service and are particularly vulnerable to exploitation.

The Committee notes that the Government provides no information on this matter in its report. However, the Committee notes the information contained in the PANETE–RIM, according to which child domestic workers account for 17.28 per cent of children covered by the survey and work more than 16 hours per day. The Plan of Action also mentions that most of these workers are girls who do not attend school and who work hidden from view, experiencing various problems, including abuse and rape and also unpaid wages (paragraph 2.4). The Committee also observes that, according to the 2015 survey relating to the legislative and institutional analysis of child labour in Mauritania, produced jointly by the Government and the ILO, domestic work is traditionally done by the daughters of former slaves and resembles the work previously done by their own enslaved mothers. The survey adds that girl domestic workers are systematically kept in poverty and most of them face abuse, exploitation and violence (page 8). The Committee is bound to express its **concern** at the situation of girl domestic workers. It reminds the Government that girls employed in domestic work are often the victims of exploitation and that it is difficult to monitor their conditions of employment because of the hidden nature of their work. It also reminds the Government that, under the terms of *Article 1* of the Convention, every member State must take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee therefore urges the Government to take effective and time-bound measures to ensure that children who are victims of exploitation in domestic work are removed from this worst form of child labour and are rehabilitated and integrated into society, particularly as part of the PANETE–RIM. The Committee requests the Government to provide information on progress made in this regard.***

Application of the Convention in practice. Further to its previous comments, the Committee observes that, according to the 2015 report on child labour, children work in sectors including mechanical engineering, fishing, agriculture, herding, small-scale commerce, as domestic workers or cart drivers. Moreover, the children work in hazardous conditions that are likely to harm their health, with most of them working on the streets and for long hours. The Committee notes that: child cart drivers are particularly exposed to traffic accidents; child dockers transport heavy loads that are harmful to their health; children are exposed to serious risks in mechanical engineering, including from the suspension of engines in garages; children in rural areas are exposed to the sun; some girls working in hotels and restaurants have been victims of rape; and children generally work the whole day without a break (pages 21–22). Furthermore, according to the PANETE–RIM, child shepherds under 10 years of age who take care of livestock wake early, go to bed late and work more than 16 hours per day exposed to dangers connected with that activity (paragraph 2.4). The Committee expresses its **concern** at the situation of children engaged in the worst forms of child labour, including hazardous work in Mauritania. ***The Committee urges the Government to take immediate and effective measures to ensure protection in practice for these children against the worst forms of child labour, particularly as part of the implementation of the PANETE–RIM. It also requests the Government to provide statistics on the nature, extent and trends of the worst forms of child labour, particularly in the informal economy. All information provided should, as far as possible, be disaggregated by sex and age.***

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

Mexico

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes with **interest** the ratification of the Minimum Age Convention, 1973 (No. 138), which will enter into force in Mexico on 10 June 2016.

Articles 3(a) and 7(1) of the Convention. Sale and trafficking, and penalties. In its previous comments, the Committee noted the statistics of the Special Prosecutor's Office dealing with violence against women and trafficking in persons (FEVIMTRA) concerning the number of investigations, convictions and penalties imposed. The Committee also noted the adoption in 2012 of the General Law to Prevent, Punish and Eradicate Crimes relating to Trafficking in Persons and to Protect and Assist the Victims of these Crimes, which criminalizes trafficking of persons under 18 years of age. It nevertheless expressed its concern at the small number, despite the extent of the phenomenon, of the convictions secured for trafficking of children under 18 years of age for their commercial sexual exploitation and at the allegations of complicity in trafficking on the part of public officials, and asked the Government to intensify its efforts to that end.

The Committee notes the statistics provided by the Government in its report, according to which FEVIMTRA launched 105 investigations from July 2014 to May 2015, 13 of which involved children under 18 years. The Committee notes the Government's information that two convictions imposing nine-year prison terms had been passed for cases of trafficking in persons under 18 years in the states of Chiapas and Puebla. ***Noting the small number of convictions, the Committee urges the Government to intensify its efforts to eliminate in practice the trafficking of children by ensuring that thorough investigations are carried out, and that sufficiently effective and dissuasive penalties are applied in practice against the persons committing those acts, including state officials suspected of complicity. It requests the Government to continue providing detailed information on the implementation of the 2012 Act against trafficking by the federal states including the number of reported violations, investigations, prosecutions, convictions and criminal penalties imposed in cases involving child and adolescent victims.***

Article 3(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 development of a federal database containing information on the number and nature of offences relating to prostitution, sexual exploitation and sex tourism involving persons under 18 years of age and noted the number of investigations and convictions relating to child prostitution and pornography. It also noted the concluding observations of the Committee on the Rights of the Child expressing concern at the high level of child sex tourism, especially in tourist areas.

The Committee notes in the statistics provided by the Government that, between July 2014 and May 2015, FEVIMTRA launched 33 preliminary investigations into cases of pornography involving children under 18 years. The Committee nevertheless notes that, according to its 2015 concluding observations (CRC/C/MEX/CO/4-5, paragraph 69), the Committee on the Rights of the Child was concerned about the high prevalence of sexual exploitation of children, including child sex tourism, and the general impunity enjoyed by perpetrators of crimes. ***The Committee therefore requests the Government to take the necessary measures to combat child prostitution and pornography, particularly by ensuring that thorough investigations are carried out and that sufficiently effective and dissuasive penalties are applied against the perpetrators of those acts. It requests the Government to continue providing information on the number of reported violations, investigations, prosecutions, convictions and criminal penalties imposed for crimes relating to child prostitution and pornography.***

Articles 3(d) and 4(1). Hazardous work and determination of hazardous types of work. In its previous comments, the Committee noted that the general age established for admission to hazardous and unhealthy kinds of work is 16 years. It noted the adoption of the Decree to reform the Federal Labour Law on work concerning child labour, which includes the list of hazardous labour, but noted that certain provisions were not in conformity with the Convention. The Committee requested the Government to ensure that hazardous work is prohibited for children under 18 years.

The Committee notes with ***satisfaction*** the adoption of the Decree reforming and repealing various provisions of the Federal Labour Law on child labour of 12 June 2015. Under section 175 of this Decree, it is prohibited to use children under 18 years in work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. Section 176 sets out the detailed list of 20 types of prohibited hazardous or unhealthy work. The Committee nevertheless notes that, according to the "Child labour" module published as part of the 2011 national survey of employment and occupation, 31.5 per cent of child and young workers between 5 and 17 years are exposed to risks in their work. ***The Committee encourages the Government to intensify its efforts to ensure that, in practice, children under 18 years are not engaged in work likely to harm their health, safety or morals, in accordance with sections 175 and 176 of the Decree. The Committee requests the Government to provide information on the number of violations detected and penalties applied in this regard.***

Article 6. Programmes of action. Trafficking. In its previous comments, the Committee noted that the Government had developed a number of protocols to align procedures for the investigation and prosecution of cases of trafficking, as well as to provide assistance to victims, the implementation of mechanisms to alert populations vulnerable to trafficking in persons, and various information and awareness-raising activities.

The Committee welcomes the implementation in 2014 of the national programme to prevent, punish and eradicate crimes relating to trafficking in persons and to protect and assist the victims of these crimes. The programme is based on 16 strategies and 79 intervention targets for the achievement of four objectives, including prevention of the crime of trafficking, comprehensive victim assistance and effective prosecution of perpetrators. ***The Committee requests the Government to provide information on the measures taken within the framework of the national programme to prevent, punish and eradicate crimes relating to trafficking in persons and to protect and assist the victims of these crimes, and particularly on the elimination of the sale and trafficking of children.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in, and removing them from, the worst forms of child labour, and ensuring their rehabilitation and social integration. Trafficking and commercial sexual exploitation. Further to its previous comments, the Committee notes the information from the Government according to which various activities to raise awareness of trafficking in persons have been carried out in different states and municipalities, particularly by the systems for the comprehensive development of the family to inform the population of the risks of trafficking and encourage people to file formal complaints. It also notes that the inter-institutional committees of the National Institute of Migration organized 386 awareness-raising activities in 2014, notably in the way of forums, information fairs, processions and workshops. The Health Secretariat also updated the protocol on

the care of child and adolescent victims of sexual exploitation. In addition, the Government mentions that the issues of prevention and care of child and adolescent victims of sexual exploitation and trafficking were addressed within the framework of the programme for comprehensive child development and protection. Preventive activities were also carried out in the form of interactive discussions and workshops on various themes and psychological, medical and legal assistance was offered. In this regard, the Committee notes the statistics provided by the state systems for the comprehensive development of the family from 2012 to 2015 on the number of children who benefited from the preventive actions and those at risk or victims of sexual exploitation who received assistance: the Government indicates that, in 2014, 155,344 children benefited from preventive actions, and 1,158 children at risk and 49 victims of sexual exploitation received assistance. ***The Committee encourages the Government to continue taking measures to remove children from trafficking and sexual exploitation for sexual purposes and to ensure their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this respect as well as on the results achieved in terms of the number of children removed from these worst forms of labour and subsequently rehabilitated and integrated into society.***

Article 8. International cooperation. In its previous comments, the Committee noted that, within the framework of the memorandum of understanding signed with El Salvador, Guatemala, Honduras and Nicaragua, specialized capacity-building activities were carried out to ensure the safe repatriation of unaccompanied children and young persons who are victims of trafficking. The Government also informed that the binational study on trafficking between El Salvador and Mexico was under way but not yet available.

The Committee notes the information provided by the Government according to which, within the context of the high-level security group (GANSEC) involving Mexico and El Salvador, El Salvador requested the Mexican intersectoral committee against trafficking in persons to establish close cooperation with the national council against trafficking of the Government of El Salvador. In addition, the Government indicates that both governmental authorities are in coordination and communication regarding a joint evaluation to revitalize the Memorandum Agreement for the protection of victims, especially women and children, of smuggling and trafficking. The Committee also notes that the National Migration Institute (INM), through the regional coalition against smuggling of persons and illegal trafficking of migrants, contributed towards the adoption of the *Manual on trafficking in persons for secretariats and ministries of foreign affairs of Central America and Mexico*. The Government also mentions that the INM, through federal offices, assists child victims of trafficking in opening an administrative migration procedure. These minors are supported by child protection agents who help them to return to their country of origin or regularize their situation in the country. While noting this information, the Committee observes that there are no details on the measures taken within the framework of the memorandum of understanding signed with other countries in the region. ***The Committee once again requests the Government to provide information on the measures taken and the results obtained within the framework of the memorandum of understanding signed with El Salvador, Guatemala, Honduras and Nicaragua. It once again requests the Government to provide a copy of the binational study on trafficking between El Salvador and Mexico.***

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

Mongolia

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted the adoption of the National Programme for the Elimination of the Worst Forms of Child Labour 2011–16 (the NAP-WFCL). It further noted the Government's indications that the amendment process concerning child labour has begun in respect of both the Labour Code, as well as the Criminal Code.

The Committee notes the Government's indication in its report that the National Committee on the Elimination of the Worst Forms of Child Labour has been established to implement the NAP-WFCL, comprised of specialists from different ministries and local officials, social partners and civil society organizations. The Government indicates however that the National Committee was inactive since 2011 due to the absence of donor support and limited resources allocated by the Government. It mentions that the National Committee was reactivated in 2015 with ILO–IPEC support under the Global Action Programme (GAP). The National Authority for Children (NAC) acts as the secretariat of the National Committee and also monitors the implementation of the NAP-WFCL. The Committee notes the outcomes of the NAP-WFCL indicated by the Government, including 694 cases of child labour identified, 141 cases of children who are vulnerable to child labour identified, 16 types of media coverage, four types of training, five types of events organized for the public and work with 25 government agencies, four non-governmental organizations, four business entities and five international organizations. The Government mentions that it has completed 32.5 per cent of the eight objectives of the NAP-WFCL which was evaluated unsatisfactory. The NAC sent a proposal to the Ministry of Labour to revise and improve the NAP-WFCL resulting in the adoption of Regulation A289/119. The Committee further notes the Government's indications that the draft revised Labour Law was considered by the Cabinet on 2 June 2015 and submitted to the Parliament, which will consider it at its fall session (October 2015 to January 2016). The Committee finally notes the Government's reference to the Understanding Children's (UCW) Work programme's report entitled: *The twin challenges of child labour and education marginalisation in East and South-East Asia region* (UCW report 2015), which

shows that child employment rose from 7 per cent in 2002–03 to 16 per cent in 2011. Moreover, according to this report, child labour is predominant in the agriculture sector with 85 per cent of working children. Finally, 21 per cent of children aged 5 to 14 years old are in rural areas, opposed to 3 per cent in urban areas. ***The Committee requests the Government to continue its efforts to implement the NAP-WFCL 2011–16 in order to ensure the progressive abolition of child labour and to continue to provide information on the measures taken and results achieved in this regard. The Committee also requests the Government to take the necessary measures to accelerate its legislative amendment process and to supply a copy of such legislation once it has been finalized.***

Article 2(1). Scope of application. Informal economy. In its previous comments, the Committee noted that the Labour Law excluded work performed outside the framework of a labour contract and self-employment from its scope of application. The Government indicated that it intended to revise the Labour Law to extend its scope of application.

The Committee notes the Government's indication that the new draft Labour Law prescribes a definition of employment relationship that covers all workers, not only those in the formal sector as in the current law. However, the Government indicates that section 4.1.1 of the draft Labour Law provides that "employment relations means relations that arise upon mutual agreement between an employer and an employee under which the employee performs certain work for remuneration under the management of the employer". The Committee notes that the definition provided in the new draft Labour Law does not cover work performed outside the framework of an employer/employee relationship or in the informal economy. ***The Committee therefore requests the Government to modify its draft Labour law so as to ensure that the protections provided are extended to children working outside of an employment relationship.***

Article 2(3). Age of completion of compulsory schooling. In its previous comments, the Committee had noted the contradictory provisions in various national laws which regulate the minimum age for admission to employment and the age of completion of education.

The Committee notes the Government's indication that its legislation provides for nine years of compulsory schooling starting from the age of 6. The Government indicates that, given that there is a possibility that a child starts working at the age of 15 years old instead of finishing school, the new draft Labour Law proposes a statutory minimum age for admission to employment that links with the age of compulsory schooling. The Government refers to section 92.1 of the draft Labour Law, according to which employment is prohibited to "(1) children less than 15 years of age and (2) those who have reached that age but who have not finished compulsory education". ***The Committee accordingly requests the Government to take the necessary measures to ensure that a provision linking the minimum age for admission to employment to the age of completion of compulsory schooling is included in the draft Labour Law and to accelerate its adoption in the very near future.***

Article 7(1) and (3). Light work and determination of light work activities. The Committee previously noted the Government's indication that the legislation concerning light work is included in the draft Labour Code regulations under section 90.10, which stipulates that regulations will determine light work and hours and conditions in which minors may be employed.

The Committee notes the Government's statement that there is no regulation on light work as yet. The Government indicates that, according to the NAC, light work refers to work that is not in the list of work prohibited to minors. It further mentions that the Ministry of Labour has also established a working group to work on this regulation. The Committee recalls that, under Article 7(3) of the Convention, the competent authority shall prescribe the number of hours during which, and the conditions in which, light work may be undertaken for persons 13 to 15 years of age. ***The Committee urges the Government to take the necessary measures to ensure that a provision regulating light work is adopted in the near future.***

Article 8. Artistic performances. The Committee previously noted that, under section 8.1 of the Law on the Protection of the Rights of the Child, a list of activities and performances which may adversely affect a child's health will be developed and approved by governmental officials responsible for health issues.

The Committee notes the Government's indication that there is no law or policy limiting age and work hours for children working in artistic performances yet. The Government mentions that the NAC has submitted recommendations under the NAP-WFCL to create regulations for children working in the circus. The Committee recalls that, Article 8 of the Convention allows exceptions to the specified minimum age of admission to employment or work for such purposes as participation in artistic performances only by permits granted by the competent authority in individual cases. ***The Committee therefore requests the Government to take the necessary measures in the near future to finalize its legislation establishing a system of individual permits to be granted for children under 15 years who work in activities such as artistic performances, and to limit the hours during which, and prescribe the conditions in which, such employment or work is allowed.***

Article 9(1) and (3). Penalties and keeping of registers. In its previous comments, the Committee had noted that the legislation concerning penalties for breach of laws relating to children's rights were ineffective. The Committee had also noted that the national legislation does not 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 noted the Government's indication that a draft of the revised version of the Criminal Code, which includes a criminal offence provision for persons employing children in the worst forms of labour, has been submitted to the Parliament. The Committee also noted that

section 90.9 of the draft regulations to the Labour Law prescribes that an employer must keep a record of “minor employees”.

The Committee notes the Government’s statement that employers are not yet required to register workers under the age of 18. The Committee also notes that the draft Criminal Code is currently being reviewed by the Parliament. *The Committee therefore requests the Government to take the necessary measures to ensure that the draft Criminal Code establishes sufficiently effective and dissuasive penalties. It also requests the Government to ensure that section 90.9 of the draft regulations to the Labour Law will require employer to keep a register containing the names, age (or date of birth) of all persons under the age of 18 years whom they employ.*

The Committee expresses the firm hope that the Government will take into consideration the Committee’s comments while finalizing its draft legislation. The Committee invites the Government to consider availing technical assistance from the ILO to bring its legislation into conformity with the Convention. In this regard, the Committee welcomes the ILO project financed by the Directorate-General for Trade of the European Commission to support the Generalised Scheme of Preferences (GSP+) beneficiary countries to effectively implement international labour standards targeting four countries and notably Mongolia.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Article 3 of the Convention. Worst forms of child labour. Clause (d). Hazardous work. Horse jockeys. In its previous comments, the Committee noted that, under the Law on National Naadam Festival, the lower age limit for children riding racehorses is established at 7. The Committee further noted the Government’s indication that the Law on National Naadam Festival has been amended to include new provisions to protect children, as well as its reference to the Mongolian National Standard (MNS 6264:2011) which sets out strict requirements on protective clothing for child jockeys. The Committee noted, however, the findings of the UN Special Rapporteur on extreme poverty which outlined reports regarding the continuing injuries and fatalities arising from the practice of using child jockeys. The Committee further noted the 12th Report on Human Rights and Freedoms in Mongolia by the National Human Rights Commission (2013), which found that despite the progress in regulating the use of protective clothing in MNS 6264:2011, the implementation of the standard is not effective; no action has been taken to protect the rights of child jockeys and the penalties contained in the regulations are inadequate.

The Committee notes the Government’s reference in its report to its fifth National Periodic Report to the Committee on the Rights of the Child according to which, around 10,000 children are used as child jockeys every year during the summer holidays. The Government states that 0.04 per cent of those children were reported to have been seriously or severely injured and provided with medical assistance. The Government also indicates that a child learns how to ride a horse at the age of 8 on average. With reference to the 2014 National Social Indicator Survey, the Government mentions that 5 per cent of all children aged from 4 to 15 were child jockeys for a minimum of one year (10 per cent of boys and 1 per cent of girls). The majority of child jockeys come from low-income families. Furthermore, half of the child jockeys interviewed reported to carry out bareback riding on their last race and 3 per cent were injured. It is common among child jockeys aged 10 to 15 to bareback ride (60 per cent). The Committee further notes the Government’s indication that, during the Naadam Festival in 2015, the Heads of Agencies for Special Protection (AIS) of Aimags and the capital city were instructed to ensure the respect of the standards safety equipment of child jockeys participating in the horse race. The Government indicates that, after public consultations, the authorities agreed to increase the age limit step by step. The Ministry of Population Development and Social Protection has proposed to the Parliament to increase the legal age from 7 to 9 years under the Law on National Naadam Festival. The Government further reports that 59 per cent of child jockeys were covered by an accident insurance. In 2013, the National Authority for Children (NAC) authorized the Recommendation on improving the insurance services of Horse Race Jockey Children of 23 June 2013.

The Committee notes that the NAC further conducted several activities in the framework of the implementation of the National Programme on the Elimination of the Worst Forms of Child Labour (NAP-WFCL), including the organization of a meeting with the lawyers’ association on banning winter horse races, monitoring and evaluation of the races on-site and giving instructions to rural horse race organizers. In 2015, the NAC also issued and submitted to the Parliament and the National Human Rights Institution, the Rules and Regulations on providing the safety of child jockeys during the horse races. It also conducted studies on the current situation of child jockeys and recommendations for a legislative Bill. The Government indicates that there have been no unannounced inspections yet. It also mentions that the access to a database on legal cases in Mongolia is quite limited and refers to one case of a severely injured 12-year-old boy against the owner of the horse.

The Committee also notes that ILO–IPEC and UNICEF are currently finalizing research on this issue aimed at outlining the potential hazards and risks to the physical health and overall development of the child. The Committee further takes note that, according to the ILO–IPEC report on the Global Action Programme (GAP), the Ministry of Labour decided to review and, as appropriate, to revise the list of jobs and occupations to be prohibited for minors under 18, which was adopted in 2008. While taking due note of the measures taken by the Government, the Committee observes that, according to the Understanding Children’s Work (UCW) programme’s report entitled *The twin challenges of child labour and education marginalisation in East and South-East Asia region* (the UCW report 2015), the Ministry of Health reported that more than 300 children injured during horse races were treated at the National Trauma Centre alone, in 2012.

The Committee emphasizes that *Article 3(d)* of the Convention specifically prohibits hazardous work to children under 18 years of age and that the Government is committed to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency, under *Article 1*. The Committee also recalls that Paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190) addresses the possibility of authorizing the employment or work of young persons as from the age of 16 under strict conditions that their health and safety be protected and that they receive adequate specific instruction or vocational training in the relevant branch of activity. ***Recalling that horse racing is inherently dangerous to the health and safety of children, the Committee urges the Government to take the necessary measures in law and in practice, to ensure that no child under 18 years of age is employed as a horse jockey. However, where such work is performed by young persons between 16 and 18 years of age, the Committee requests the Government to ensure that the protective measures referred to above are strictly enforced and that unannounced inspections are carried out by the labour inspectorate to ensure that those children between 16 and 18 years of age who continue to work as child jockeys do not perform their work under circumstances that may be detrimental to their health and safety.***

The Committee invites the Government to consider availing itself of technical assistance from the ILO to bring its legislation and practice into conformity with the Convention. In this regard, the Committee welcomes the ILO project financed by the Directorate-General for Trade of the European Commission to Support the Generalized Scheme of Preferences (GSP+) beneficiary countries to effectively implement international labour standards targeting four countries and notably Mongolia.

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

Morocco

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Article 2(1) of the Convention. Minimum age for admission to employment and application of the Convention in practice. 1. *Children working in informal artisanal activities and other sectors.* In its previous comments, the Committee noted the information sent by the International Trade Union Confederation (ITUC), according to which child labour was common in informal artisanal activities. It also noted that, according to the report entitled “Understanding children’s work in Morocco” (pages 19, 20, 22 and 23), some 372,000 children between 7 and 14 years of age, representing 7 per cent of the reference group, were engaged in work, while for the 12 to 14 age group, 18 per cent of children were economically active. According to this study, 87 per cent of working children were in rural areas, where they worked in agriculture. In urban areas, children were employed in textiles, commerce and repair work. However, the Committee observed that, under section 4 of the Labour Code, employers in purely traditional sectors, namely those involving manual work, with the assistance of their partners, ascendants and descendants, and with a maximum of five assistants, at home or in another place of work, for the purpose of manufacturing traditional products for commercial sale, are excluded from the scope of application of the Code. The Committee therefore concluded that children employed in informal artisanal activities, or formal artisanal activities involving five employees or fewer, do not enjoy the protection of the Labour Code and, consequently, do not benefit from the application of the minimum age of 15 years. The Committee noted the Government’s indication that a bill to determine the conditions of work and employment in activities of a purely traditional nature had been prepared in collaboration with the Department of Artisanal Activities and was in the process of being adopted. The bill includes a section prohibiting work for children under 15 years of age, in accordance with sections 143 and 153 of the Labour Code.

The Committee notes with *interest* the Government’s statement to the effect that the Bill concerning conditions of work and employment in activities of a purely traditional nature was examined by the Council of the Government on 25 December 2014. It further notes the statement that a survey of children’s work in small agricultural undertakings was conducted in 2013–14 in collaboration with ILO–IPEC. The Committee notes that, according to the information contained in the report on the aforementioned survey, of a total of 492 children featuring in the survey, the average age of children working in small agricultural undertakings is 14.3 years, with the over-15 age group accounting for nearly 57 per cent and the under-12 age group for 10 per cent of the total (page 90). It further notes that the average school drop-out age is 13 years (page 90). ***Recalling that the Convention applies to all sectors, including the informal economy, the Committee urges the Government to ensure that the Bill is adopted in the near future and to send a copy to the Office, once it has been adopted. It requests the Government to continue its efforts to combat child labour and requests it to provide information on the implementation of any relevant projects, and on the results achieved in terms of the progressive abolition of child labour, particularly in the artisanal and agricultural sectors.***

2. *Child domestic workers.* ***With regard to the issue of child domestic labour, the Committee requests the Government to refer to its detailed comments on the Worst Forms of Child Labour Convention, 1999 (No. 182).***

Article 9(1). Penalties. The Committee previously noted that section 151 of the Labour Code provides that the employment of a child under 15 years of age, in breach of section 143 of the Labour Code, shall be punishable by a fine of 25,000–30,000 dirhams (MAD) (US\$3,000–3,600), and that a repeat offence is subject to a term of imprisonment of six days to three months and/or a fine of MAD50,000–60,000 (US\$6,000–7,200). It nevertheless noted that sections 150 and 183 of the Labour Code provide for a fine of MAD300–500 (between US\$36 and 60) for breaches of section 147 of the

Labour Code (prohibiting the employment of children under 18 years of age in hazardous work) or section 179 (prohibiting the employment of children under 18 years of age in quarries or mines, or in work likely to hamper their growth). The Committee also noted that, before resorting to penalties, labour inspectors must give advice and information to employers on the dangers to which child workers are exposed. Under the terms of sections 542 and 543 of the Labour Code, a labour inspector who detects a violation of the safety and health provisions or regulations that poses an imminent risk to the workers' health or safety shall issue an order requiring the employer to take all the necessary measures immediately. If the employer refuses or fails to comply with the requirements of the order, the labour inspector shall immediately refer the matter to the president of the court of first instance, who may give the employer a deadline for taking all necessary steps to prevent the imminent danger and may order the closure of the establishment and determine, where appropriate, the necessary duration of the closure. The Committee observed that persons who have employed children in breach of the provisions giving effect to the Convention are not generally prosecuted if such employment is brought to an end.

The Committee notes the Government's indications that, in 2014, labour inspectors carried out 610 inspections in which they made 2,573 observations, issued 60 compliance notices and reported 42 offences. The Government indicates that these observations related to 112 children under 15 years of age who were to be removed definitively from work and 604 children between 15 and 18 years of age who were to be removed from hazardous work. Labour inspectors, who received a specific training on child labour, identified as focal points, removed 110 children under 15 years of age from work and 338 children from hazardous work. However, the Committee notes the lack of information on any penalties for persons committing such offences. The Committee also notes with *regret* the lack of information in the Government's report on any legislative amendments relating to penalties for violations of the ban on employing children under 18 years of age in hazardous work. The Committee recalls that the penalties envisaged in sections 150 and 183 of the Labour Code in relation to the employment of children under 18 years of age in hazardous work are still not sufficiently adequate and dissuasive to ensure the application of the provisions of the Convention respecting hazardous work, in accordance with *Article 9(1)* of the Convention, particularly when compared with the penalties envisaged in section 151 of the Labour Code, which are much more severe. ***The Committee therefore once again urges the Government to take the necessary measures to ensure that any person in breach of the provisions prohibiting the employment of children under 18 years of age in hazardous work is prosecuted and that sufficiently effective and dissuasive penalties are applied. It once again requests the Government to provide information on the type of violations of the Convention detected by the labour inspection services, the number of persons prosecuted for each type of violations and the penalties imposed, particularly in relation to the provisions giving effect to 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: 2001)

Article 3 of the Convention. Worst forms of child labour. Clauses (a) and (d). Forced or compulsory labour and hazardous work. Child domestic labour. In its previous comments, the Committee noted the statement by the International Trade Union Confederation (ITUC) that child domestic labour, performed under conditions of servitude, is common practice in the country, with parents selling their children, sometimes as young as six years of age, to work as domestic servants. The ITUC also previously indicated that some 50,000 children, mainly girls, were employed in domestic work in the city of Casablanca. The Committee noted that section 10 of the Labour Code prohibits forced labour and that section 467-2 of the Penal Code prohibits the forced labour of children under 15 years of age. It further noted that a Bill concerning domestic work had been adopted in June 2011 but with the entry into office of the new Government the validation process had been delayed, with the Bill withdrawn from Parliament and resubmitted to the Council of the Government in 2012 for in-depth examination. The Bill sets the minimum age for admission to this type of employment at 15 years, lays down conditions of work and establishes supervisory measures and penalties, which may include imprisonment for persons employing children under 15 years of age. The Committee further noted that a specific list determining hazardous types of work prohibited in the domestic work sector would be drawn up and adopted in conjunction with the future Act concerning the conditions of employment and work of domestic workers. Furthermore, the Committee noted that an initial qualitative and quantitative survey of girls under 18 years of age engaged in domestic work had been undertaken in the Greater Casablanca area, according to which nearly 23,000 girls under 18 years of age were working in that area as domestic workers, 59.2 per cent of whom were under 15 years of age. The survey revealed that many of these girls were victims of abuse.

The Committee notes the Government's information to the effect that the Bill concerning domestic work was adopted by the Chamber of Councillors on 27 January 2015 and is currently before the Chamber of Representatives for adoption. The Government indicates that the minimum age specified in the final version of the Bill is 16 years. The Government also states that the specific list determining hazardous types of work prohibited in the domestic work sector has been drawn up and will be circulated for approval after promulgation of the Bill. It also indicates that this list will be the subject of consultations with the social partners. The Committee also notes the Government's statement that the annual national labour survey conducted by the High Commission for Planning in 2013 reveals that 86,000 children are involved in child labour, including 6,000 in domestic work. However, the Committee points out that, according to the aforementioned survey, the stated number of children involved in child labour corresponds to the 7–15 age group and does not cover all working children. The Government further indicates that a study on the identification of unacceptable tasks

within domestic work was conducted in conjunction with the ILO in 2013–14, the results of which are due during the second half of 2015 and will be sent with the next report. While duly noting the recent progress in the process to adopt the Bill concerning domestic work, the Committee notes with *concern* that the Committee on the Rights of the Child (CRC), in its concluding observations of 14 October 2014 (CRC/C/MAR/CO/3-4, paragraph 64), observed that the authorities had not taken sufficient measures to remove girls, some only eight years old, from households where they are employed as domestic workers in precarious conditions. ***The Committee urges the Government to take the necessary steps to ensure that the abovementioned Bill and the list of hazardous types of work are adopted as a matter of urgency. The Committee also requests the Government to take immediate and effective measures against child domestic labour. Lastly, the Committee requests the Government to supply the results of the survey on domestic work. This information should be disaggregated by sex and age, as far as possible.***

Article 3(a). Trafficking of children. In its previous comments, the Committee noted that there was no national legislation relating to the trafficking of children.

The Committee notes the concluding observations of 14 October 2014 of the CRC, according to which the CRC noted with concern that Morocco remains a country of origin, destination and transit for children, primarily from sub-Saharan Africa and south Asia, who are subjected to forced labour, including as domestic workers, and also to trafficking for sexual exploitation and forced begging, two-thirds of victims of trafficking being children (CRC/C/MAR/CO/3-4, paragraph 68). The Committee also notes the information contained in the 2015 *Study on the trafficking of women and children in Morocco*, produced jointly by UN Women, Morocco and the Swiss Confederation, which refers to the existence of forced labour for boys in craft work and agriculture and also trafficking for sexual exploitation in the form of prostitution or pornography (page 97). Lastly, the Committee notes that, according to the report dated 1 April 2014 of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/26/37/Add.3, paragraph 25), a draft amendment to the Penal Code in relation to trafficking was expected to be in effect by 2015. ***The Committee, therefore, requests the Government to take the necessary measures to ensure the adoption of legislation prohibiting the trafficking of children and to send a copy of the legislation, once it has been adopted. The Committee also requests the Government to supply information on all steps taken to combat the trafficking of children, on the number of child victims of trafficking and the number of prosecutions of perpetrators of child trafficking.***

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 removing them from these worst forms, and ensuring their rehabilitation and social integration. Child prostitution and sex tourism. In its previous comments, the Committee expressed concern at the persistence of child prostitution and sex tourism involving young Moroccans and immigrants, particularly boys, despite the amendment to the Penal Code in 2003 making sex tourism a criminal offence. It noted the Government's indications that the scourge of the sexual exploitation of children remains unseen and unrecognized in Morocco, for which reason the Government is sparing no effort to address it. The Committee also noted that five child protection units (UPEs) have been set up since 2007 in Marrakech, Casablanca, Tangier, Meknès and Essaouira to ensure better medical, psychological and legal assistance for child victims of violence and ill treatment, including child victims of sexual and economic exploitation, and that hundreds of children have benefited.

The Committee notes the Government's statement that the National Action Plan for Children 2006–15 (PANE) establishes specific measures for protecting children against sexual exploitation. The Government indicates that the mid-term evaluation of PANE in 2011 recorded significant progress, such as the establishment of new public structures for the protection of child victims of sexual violence, including care units in courts and hospitals, support units within the Directorate-General for National Security, the UPEs, guidance and support units in schools, the ONDE telephone helpline and child reception areas in police stations. The Government also indicates that it established an Integrated Public Child Protection Policy in 2013, including with a view to protecting children against sexual exploitation. The Government indicates that in 2010 the operations of the three UPEs in Casablanca, Marrakech and Tangier were hindered by their lack of legal status and that the Ministry of Solidarity, Women, Family and Social Development (MSFFDS) established eight UPEs in Sidi Kacem, Oujda, Tétouan, Agadir, Beni Mellal and Salé, while reviving the UPE in Tangier and giving support to the UPE in Casablanca. The Committee also notes the 2014 *Study on sexual violence against children in Morocco* produced jointly by the National Human Rights Council, UNICEF and an NGO, according to which commercial sexual exploitation in Morocco persists but is largely undocumented. The Committee notes the Government's indication that the aforementioned study will provide improved guidance for future action. However, the Committee notes that, according to the study, the UPEs have not received the support they need to be effective (page 70). Lastly, the Committee notes that the CRC, in its concluding observations of 14 October 2014 (CRC/C/MAR/CO/3-4), expressed its concern at the growth in sex tourism (paragraph 40) and at the fact that no budget was allocated for the implementation of PANE, and regretted that the 2011 evaluation of PANE has not been given proper follow-up (paragraph 12), with a consequent failure to respond to the problem of sexual exploitation. ***While taking due note of the Government's efforts, the Committee urges the Government to adopt immediate and effective measures to combat the commercial sexual exploitation of children. The Committee also requests the Government to provide information on the implementation of the National Action Plan and the Integrated Public Child Protection Policy in relation to sexual exploitation and also information on the number of children who have been prevented from engaging in prostitution or withdrawn from it via the UPEs.***

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

Mozambique

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

Article 2(1) of the Convention. Scope of application. 1. *Children working on their own account and in the informal economy.* In its previous comments, the Committee noted that pursuant to sections 1 and 2 of the Labour Law No. 23/2007 (Labour Law), this Law only applies in the context of a labour relationship. It had noted the Government's indication that, in Mozambique, there is no specific regulation governing children who are working outside of an employment relationship, such as those working in the informal economy. In this regard, the Committee had noted the Government's statement in its report to the Committee on the Rights of the Child that informal trade is one of the most common forms of labour in which children are involved in Mozambique (CRC/C/MOZ/2, paragraph 356).

The Committee notes the Government's information that the labour inspectorate is competent in all legal employment relationships established between employers and employees. The Committee once again reminds 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. In this regard, referring to the General Survey of 2012 on the fundamental Conventions, paragraph 343, the Committee points out that child labour in the informal economy can be addressed through monitoring mechanisms, including through labour inspection. ***The Committee therefore requests the Government to take the necessary measures to ensure that all children, including self-employed children and children working in the informal economy, benefit from the protection laid down in the Labour Act. In this respect, it requests the Government to review the relevant provisions of the Labour Law in order to address these gaps as well as to take measures to strengthen the capacity and expand the reach of the labour inspectorate so as to enable it to monitor child labour in the informal economy. It requests the Government to provide information on the measures taken in this regard.***

2. *Domestic work.* The Committee previously noted section 4(2) of the Regulations on Domestic Work (Decree No. 40/2008) which prohibits domestic work by children under 15 years, while permitting children of 12 years to be hired for domestic work with the permission of a legal representative. The Committee requested the Government to take the necessary measures to ensure that no child under the age of 15 years is permitted to engage in domestic work, except under the specific conditions laid down in *Article 7* of the Convention for light work.

The Committee notes that the Government's report does not provide for a response to its previous comments. Observing that the Regulations on Domestic Work allow children of 12 years of age to be employed for domestic work, the Committee once again reminds the Government that pursuant to *Article 2(1)* of the Convention, no person under the minimum age (of 15 years) may be engaged in any economic activity, including in domestic work, with the exception of light work for children of at least 13 years of age that can only be carried out under conditions laid down in *Article 7* of the Convention. ***The Committee therefore urges the Government to take the necessary measures to ensure that no person under the age of 15 is permitted to engage in domestic work, except under the specific conditions laid down in Article 7 of the Convention for light work.***

3. *Rural work.* The Committee previously noted the Government's statement that the minimum age for admission to employment established in the Labour Law (of 15 years of age) applied to children working in rural work. It also noted the statement by the CRC, in its concluding observations, that child labour remained a common practice on commercial cotton, tobacco and tea plantations and on family farms where children may, for example, herd livestock (CRC/C/MOZ/CO/2, paragraph 79). The Committee further noted that according to the Multiple Indicators Cluster Survey (MICS) report, in rural areas, 25 per cent of children were engaged in child labour, compared to 15 per cent in urban areas. The Committee moreover noted that the proposal for an instrument on rural work was under discussion.

The Committee notes the Government's information that the regulation on rural labour is anticipated to be passed by 2019. ***Expressing its concern at the situation of children involved in child labour, especially in agriculture, the Committee once again requests the Government to take the necessary measures to ensure that the minimum age of 15 is applied in practice to this sector. It also requests the Government to provide information on the number of children under 15 years working in the rural sector. The Committee further requests the Government to provide information on any progress made with regard to the adoption of the regulation on rural work.***

Article 2(3). Age of completion of compulsory schooling. The Committee previously noted that the age of completion of compulsory schooling (13 years) was two years below the minimum age for admission to employment or work (15 years). The Committee accordingly requested the Government to consider raising the age of completion of compulsory education so as to coincide with that of the minimum age of 15 years for admission to employment or work.

The Committee notes the absence of information in the Government's report on this point. The Committee therefore once again emphasizes the desirability of linking the age of completion of compulsory schooling with the minimum age for admission to work, as provided for under Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). In cases where these two ages do not coincide, various problems can arise. 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, paragraph 371). ***The Committee therefore urges the Government to take the necessary measures to raise the age of completion of compulsory education to 15 years so as to coincide with that of the minimum age for admission to employment or work. It requests the Government to provide information on any progress made in this regard.***

Article 3(2). Determination of hazardous types of employment or work. The Committee previously noted the Government's statement that no measures had been adopted to determine types of dangerous work prohibited to persons aged under 18 years. It also noted the information from UNICEF indicating that hazardous labour activities involving children were mostly related to farm work either in the cotton or tobacco industries.

The Committee notes the Government's information that the hazardous work list has not yet been drawn up. However, the Government indicates that in 2014, labour inspectors underwent training from the ILO on how to develop a hazardous list. ***The Committee expresses the firm hope that the Government will take the necessary measures to develop and adopt a national list of types of hazardous work prohibited for persons under the age of 18, in accordance with Article 3(2) of the Convention. It requests the Government to provide information on any measures taken in this regard.***

Article 6. Vocational training and apprenticeship. The Committee previously noted that Chapter IV of the Labour Law regulates vocational training and apprenticeship. It noted that under section 248(3) of the Labour Law, enterprises or establishments may not admit minors under 12 years of age for apprenticeships. Noting the absence of information in the Government's report, the Committee once again reminds the Government that *Article 6* of the Convention authorizes work to be carried out by young persons within the context of an apprenticeship programme only from the age of 14 years. ***In this regard, the Committee once again requests the Government to take the necessary measures to ensure that no minor under 14 years of age is permitted to enter into an apprenticeship programme, in conformity with Article 6 of the Convention.***

Article 7(1). Minimum age for admission to light work. The Committee previously noted that, by virtue of section 21(1) of the Labour Law, an employment contract entered into directly with a minor between 12 and 15 years of age shall only be valid with the written authorization of the minor's legal representative. In this regard, the Committee had recalled that, pursuant to *Article 7(1)* of the Convention, national laws or regulations may only permit the employment or work of persons of 13 to 15 years of age on light work, provided that such work is not likely to harm their health or development, or 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. ***Noting an absence of information on this point in the Government's report, the Committee once again requests the Government to take the necessary measures to bring the Labour Law into conformity with Article 7(1) of the Convention by permitting children only from the age of 13 in light work.***

Article 7(3). Determination of light work. The Committee previously noted that, under section 26(2) of the Labour Law, the Council of Ministers shall issue a legal authorization establishing the nature and the conditions of work that may be performed, in exceptional circumstances, by minors of between 12 and 15 years of age. It also noted the Government's statement that children between the ages of 12 and 15 years may not be employed in work that is likely to be harmful to their health. The Committee further noted the statement in the Government's report that the light work referred to in the Labour Law has not been classified.

The Committee notes the absence of information in the Government's report on this point. The Committee once again reminds the Government that, pursuant to *Article 7(3)* of the Convention, the competent authority shall determine what constitutes light work and shall prescribe the number of hours during which, and the conditions in which, such employment or work may be undertaken. ***The Committee therefore once again requests the Government to take the necessary measures to regulate this work by determining the types of light work activities permitted for children between the ages of 13 and 15, including the hours during which, and the conditions in which, such employment or work may be undertaken.***

Article 9(3). Keeping of registers by employers. In its previous comments, the Committee noted that the Labour Law does not prescribe the registers to be kept by employers. It reminded the Government that under *Article 9(3)* of the Convention, national laws or regulations or the competent authority must prescribe the registers or documents concerning employees under the age of 18 and indicating their names and ages, which shall be kept and made available by the employer. ***Noting once again an absence of information in the Government's report on this point, the Committee requests the Government to take the necessary measures to ensure that national laws or regulations or the competent authority 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 under the age of 18 years who work for them, in conformity with Article 9(3) of the Convention.***

The Committee strongly encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. In this regard, 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: 2003)

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution, pornography or pornographic performances. The Committee previously noted that the national legislation does not prohibit the use, procuring or offering of a person under 18 years for prostitution, the production of pornography or for pornographic performances. It noted that section 63(1)(b) and (c) of the Child Protection Act requires the Government to adopt legislative or administrative measures to protect children against all forms of sexual exploitation, including prostitution and exploitation of children in pornography or pornographic performances.

The Committee once again notes with *regret* the Government's statement that no legislation has been passed recently. It reminds the Government that, under the terms of *Article 3(b)* of the Convention, the use, procuring and offering of a child under 18 years of age for prostitution, for the production of pornography or for pornographic performances constitutes one of the worst forms of child labour and that, under *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, urges the Government to take the necessary measures to ensure the adoption of legislation prohibiting the use, procuring and offering of a person under 18 years of age for prostitution, for the production of pornography or for pornographic performances in accordance with Article 3(b) of the Convention, as a matter of urgency. It requests the Government to provide information on the progress made in this regard.*

Clause (d). Hazardous work. Children in domestic work. The Committee previously noted that pursuant to section 3 of Act No. 23/2007 of 27 August 2007 (Labour Law), Regulations on Domestic Work (No. 40) were adopted on 26 November 2008, section 4(2) of which prohibits employers from employing a person under 15 years of age in domestic work. The Committee, however, observed that these regulations did not address the issue of hazardous domestic work by children. In this regard, the Committee noted that children, particularly young girls, engaged in domestic work, were often victims of exploitation, worked in dangerous situations up to 15 hours a day and were subject to physical abuse. The Government stated that it was difficult to supervise their conditions of employment due to the clandestine nature of such work.

The Committee notes that the Government's report does not contain any information on this point. *Noting with concern the situation of children working as domestic workers, the Committee urges the Government to take immediate and effective measures to protect these children from hazardous types of work. It requests the Government to provide information on the measures taken in this regard.*

Article 4(1). Determination of hazardous types of work. With regard to this point, the Committee requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138).

Article 7(2). Effective and time-bound measures. Clause (d). Reaching out to children at special risk. Orphans and other vulnerable children (OVCs). In its previous comments, the Committee noted the efforts taken by the Government to enhance the protection of vulnerable children such as: (i) the Basic Social Assistance Programme and the National Basic Social Security Strategy (ENSSB) which aim to provide financial assistance to households who have members who are not fit to work or who have orphaned children; (ii) the Action Plan for the Reduction of Absolute Poverty (PARPA II); (iii) a Multi-sectoral Plan for Orphans and Vulnerable Children (PACOV); and (iv) the establishment of a multi-sectoral technical group for vulnerable and orphaned children and child protection committees to support orphans and OVCs. However, noting with concern the large number of children orphaned as a result of HIV/AIDS, the Committee urged the Government to strengthen its efforts to ensure that such children are protected from these worst forms of child labour.

The Committee notes from the Government's report that a total of 452,868 and 361,309 households are currently benefiting from the Basic Social Security and Basic Social Subsidy programmes, respectively. It also notes the Government's information that the ENSSB is being revised in order to increase the coverage and impact of the basic social security interventions. Moreover, the Committee notes from the 2014 Global AIDS Response Progress Report for Mozambique (GARP Report) that since 2011 there has been a high level of political support for orphans and OVCs and an increase in the number of interventions. According to the GARP Report, at the community level, around 220,000 orphans and OVCs received support while more than 280,000 orphans and OVCs were provided support in partnership with NGOs and civil society. Moreover, this report indicates that school attendance among female orphans aged 10–14 increased considerably from 53.1 per cent in 2009 to 71.4 per cent in 2011. The Committee notes, however, that according to the UNAIDS estimates of 2014 there are 610,000 children below the age of 17 years who have been orphaned due to AIDS. *Recalling that orphans and other vulnerable children are at an increased risk of being engaged in the worst forms of child labour, the Committee requests the Government to pursue its efforts to ensure that such children are protected from these worst forms. It requests the Government to continue to provide information on the effective and time-bound measures taken in this regard, and on the results achieved.*

The Committee encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. In this regard, 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.

Namibia

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Article 3(2) of the Convention. Determination of types of hazardous work. The Committee previously noted that a list of types of hazardous work prohibited to children under 18 years was developed and awaiting approval from the Minister of Labour and Social Welfare. It also noted that regulations pursuant to section 3(5)(c) of the Labour Act of 2007 permitting the employment of persons of at least 16 years in hazardous work would be developed following the adoption of the list of hazardous work.

The Committee notes the Government's indication that the list of hazardous work is in its final stage of adoption. ***The Committee expresses the firm hope that the list of types of hazardous work prohibited to children under 18 years will be adopted in the near future. It requests the Government to provide a copy, once it has been adopted. It also requests the Government to indicate any progress made in the adoption of the regulations pursuant to section 3(5)(c) of the Labour Act.***

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 (b). Use, procuring or offering of a child for prostitution or for the production of pornography or for pornographic performances. The Committee previously observed that the prohibitions related to prostitution contained in national legislation (particularly in the Immorality Act 1988 and the Immoral Practices Act 1980) did not encompass the use, procuring or offering of persons under the age of 18 for the purpose of prostitution or pornography. It had noted the Government's indication that the draft Child Care and Protection Bill was in the process of being adopted.

The Committee notes with **satisfaction** that the Child Care and Protection Act, 2015 (CCP Act) which contains provisions prohibiting the use, procuring or offering of a child for the purpose of commercial sexual exploitation has been adopted by the Parliament. It notes that according to section 234(1)(c), a person may not use, procure, offer or employ a child (defined under section 1 as a person who has not attained the age of 18 years) for purposes of commercial sexual exploitation. According to section 234(7) of the CCP Act, any person who contravenes the above provisions shall be liable to a fine not exceeding 50,000 Namibian dollars (NAD) (approximately US\$3,567) or to imprisonment for a period not exceeding ten years or to both. ***The Committee requests the Government to provide information on the application in practice of section 234(1)(c) of the CCP Act with regard to the use, procuring or offering of a person under 18 years for prostitution.***

Clause (c). Use, procuring or offering of a child for illicit activities. In its previous comments, the Committee noted that national legislation did not appear to prohibit the use, procuring or offering of a child for illicit activities. It also noted that the 2007 ILO rapid assessment study entitled "Children used by adults to commit crimes (CUBAC) in Namibia" indicated that approximately one third of children involved in crimes had been used by adults to commit such crimes.

The Committee notes with **satisfaction** that pursuant to section 234(1)(e) of the CCP Act, a person who uses, procures, offers or employs a child for the purposes of production or trafficking of drugs shall be punished with penalties laid down under section 234(7), as indicated above. Moreover, it notes that the use, procuring, offering or employing of a child for begging is also an offence under section 234(1)(f). ***The Committee requests the Government to provide information on the application in practice of section 234(1)(c) and (f) of the CCP Act with regard to the use, procuring or offering of a person under 18 years for the production or trafficking of drugs and for purposes of begging.***

Article 4(1). Determination of types of hazardous work. With regard to the adoption of the list of hazardous types of work prohibited to children under the age of 18 years, the Committee requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138).

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

Nepal

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2(1) of the Convention. Scope of application. Children working in the informal economy. The Committee previously noted that the Child Labour Act of 2000, which prohibits the employment of children below 14 years as labourers (section 3(1)), does not define the terms "employment" and "labourer". It also noted the Government's indication that the Act does not adequately cover the informal sector. The Committee further noted the Government's indication that although labour inspections showed a negligible incidence of child labour in the formal sector, this phenomenon was more likely to be prevalent in the informal sector.

The Committee once again notes the Government's statement that it is very difficult to enforce the provisions of the Convention in the informal sector due to limited infrastructure and financial resources. The Committee also notes the information

in the Report on the Nepal Labour Force Survey (of 2008), produced by the Central Bureau of Statistics, in conjunction with the ILO and United Nations Development Programme (UNDP), that 82 per cent of working children who are under the minimum age are engaged in agricultural occupations, most of whom perform this work outside of a formal labour relationship and on an unpaid basis (page 139). Moreover, 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 Nepal of 1 and 3 February 2012 entitled “Internationally recognized core labour standards in Nepal” that formal employment agreements account for only 10 per cent of all employment relations, so the Child Labour Act is not enforced for 90 per cent of employment relationships. This report further indicates that working children are mainly found performing informal economic activity in quarries and mines, domestic servitude, agriculture and portering. **Recalling that the Convention applies to all branches of economic activity and covers all types of employment or work, the Committee encourages the Government to take measures to strengthen the capacity and expand the reach of the labour inspectorate to better monitor children working in the informal economy. It requests the Government to provide information on the measures taken in this regard and on the results achieved.**

Article 3(1) and (2). Minimum age for admission to hazardous work and determination of types of hazardous work. The Committee previously noted that sections 2(a) and 3(2) of the Child Labour Act prohibit the employment of persons under 16 years of age in any risky job or enterprise listed in the schedule, and that section 43(2) of the Labour Rules, 1993, also prohibits the employment of persons under 16 years on dangerous machines and in operations which are hazardous to their health. The Committee also noted the Government’s statement that the Child Labour (Prohibition and Regulation) Act, 2000, listed different jobs, occupations and work environments that are hazardous and therefore prohibited to children below 16 years. In this respect, the Committee recalled that *Article 3(1)* of the Convention provides that the minimum age for admission to any type of employment or work, which by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.

The Committee notes the Government’s reference to the interim Constitution of 2007, and observes that article 22(5) of the interim Constitution of 2007 prohibits employing a minor in factories, mines or in any other such hazardous work. However, the Committee observes that the term “minor” is not defined in this legislation. In addition, the Committee notes an absence of information in the Government’s report on measures taken to determine the types of hazardous work prohibited to children under the age of 18. **The Committee therefore requests the Government to provide information on the definition of the term “minor” in article 22(5) of the interim Constitution of 2007. Moreover, recalling that pursuant to Article 3(2) of the Convention, the types of hazardous employment or work 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 take the necessary measures without delay to determine the types of hazardous work which are prohibited for persons under 18 years.**

Article 3(3). Admission to types of hazardous work from the age of 16 years. In its previous comments, the Committee reminded the Government that *Article 3(3)* of the Convention only authorizes the employment or work of young persons between the ages of 16 and 18 years in hazardous work under specific conditions, namely 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.

The Committee notes that section 32A(1) of the Labour Act (as amended in 2000), states that minors (defined as persons between 16 and 18 pursuant to section 2(i)) shall not be engaged in work without adequate directives about the concerned working areas or vocational training. Section 32A(2) states that provisions shall be as prescribed regarding adequate directives about the concerned working areas or vocational training to be given to minors pursuant to section 32A(1). **The Committee requests the Government to indicate if provisions have been adopted concerning the required vocational training or instruction for persons between 16 and 18 as a precondition for work. Moreover, the Committee requests the Government to provide information on the measures taken to ensure that persons between 16 and 18 years are only permitted to perform hazardous types of work if their health, safety and morals are fully protected.**

Application of the Convention in practice. Following its previous comments, the Committee notes the Government’s statement that the Department of Labour has been making efforts to enforce the provisions of the Convention. The Government indicates that the Ministry of Local Development has begun a child-friendly local governance programme, which has the elimination of child labour as one of its main components. The Committee also notes that an ILO–IPEC project was launched in the country in 2011 in order to support the implementation of Nepal’s National Master Plan on the Elimination of Child Labour of 2011–20. The Committee further notes the Government’s statement that due to the awareness programmes implemented by the Government through Radio Nepal, there has been a decrease in child labour, as indicated in the Nepal Labour Force Survey. In this regard, the Committee notes the information in the Report on the Nepal Labour Force Survey that the percentage of children between the ages of 5 and 14 who were economically active has declined from 40.9 per cent in 1998–99 to 33.9 per cent in 2008.

Nonetheless, the Committee notes the information in the Report on the Nepal Labour Force Survey that there remain approximately 2,111,000 children between 5 and 14 who are economically active. This Report further indicates that 13.4 per cent of children between the ages of 5 and 9, and 52.7 per cent of children between the ages of 10 and 14, are economically active. In addition, the Committee notes that the Committee on the Elimination of Discrimination Against Women, in its concluding observations of 11 August 2011, expressed concern about the high rate of child labour in the country, particularly among girls between the ages of 8 and 14 (CEDAW/C/NPL/CO/4-5, paragraph 29). **The Committee therefore expresses its deep concern at the significant number of children under the minimum age who are engaged in child labour in Nepal, and urges the Government to pursue its efforts, including within the framework of the National Master Plan on the Elimination of Child Labour and in collaboration with the ILO–IPEC with child friendly, gender sensitive programming, towards the effective reduction and elimination of child labour. It requests the Government to continue to provide information on the measures taken in this regard, and on the results achieved. It also requests the Government to provide a copy of the National Master Plan on the Elimination of Child Labour, with its next report.**

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.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments.

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 noted that sections 2(a) and 16(1) of the Children's Act, 1992 prohibit the use or involvement of children under 16 years in an "immoral profession". Section 16(2) of the Children's Act prohibits taking, allowing someone to take, distributing or exhibiting a photograph for the purpose of engaging a child under 16 in an immoral profession. The Committee noted the Government's indication that appropriate amendments would be made to the existing legislation, including the Children's Act, after the elected constitutional assembly was formed and a fully fledged parliament started to function. The Committee requested the Government to provide a definition of the term "immoral profession" as used in the Children's Act.

The Committee notes the Government's statement in its report to the Committee on the Rights of the Child (CRC) in connection with the optional protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) of April 2008 that section 16 of the Children's Act prohibits the use or involvement of children in pornographic acts (CRC/C/OPSC/NPL/1, paragraph 182). However, the Committee observes that, pursuant to section 2(a) of the Children's Act, this prohibition only applies to children under the age of 16. ***The Committee therefore requests the Government to take the necessary measures to ensure that the Children's Act is amended to prohibit the use, procuring or offering of all children under 18 years of age for the production of pornography, in the very near future, and to provide information in its next report on developments in this regard.***

Clause (c). Use, procuring or offering of a child for illicit activities. Production and trafficking of drugs. The Committee previously noted that according to sections 2(a) and 16(4) of the Children's Act, it is prohibited to involve a child under 16 years in the sale, distribution or trafficking of alcohol, narcotics or other drugs. However, the Committee also noted the Government's statement that the Children's Act would be amended in a way consistent with this Convention once a new and fully fledged parliament starts to function. ***Noting once again the absence of information on this point in the Government's report, the Committee urges the Government to take the necessary measures to prohibit the use, procuring or offering of a child under 18 years for illicit activities, particularly the production and distribution of drugs, in accordance with Article 3(c) of the Convention.***

Use of a child for begging. The Committee previously noted that section 3 of the Begging (Prohibition) Act, 1962 makes it an offence to ask or encourage a child under 16 years to beg in a street, junction or any other place. The Committee also noted the Government's indication that the Begging (Prohibition) Act of 1962 would be amended in a way consistent with this Convention once the new and fully fledged parliament starts to function.

The Committee notes the information in the Government's report to the CRC in connection with the OPSC of April 2008 that there are instances of cross-border child trafficking for, inter alia, the purpose of begging (CRC/C/OPSC/NPL/1, paragraph 71). In this regard, the Committee recalls that the use, procuring or offering of children for illicit activities, including begging, constitutes one of the worst forms of child labour and should therefore be prohibited for all children under 18 years of age. ***The Committee requests the Government to take the necessary measures, in the near future, to ensure that the Begging (Prohibition) Act is amended to prohibit the use, procuring or offering of all persons under 18 years of age.***

Article 3, clause (d), and Article 4(1). Hazardous work and determination of types of hazardous work. The Committee previously noted that sections 2(a) and 3 of the Child Labour (Prohibition and Regulation) Act prohibit the employment of children under 16 years in hazardous work or enterprises listed in the schedule. In this regard, the Committee noted the Government's statement that the age of a "child" as mentioned in the above legislation needed to be raised to 18 years in order to make it consistent with the provisions of this Convention. It also noted the Government's indication that appropriate amendments would be made to the national legislation after the elected constitutional assembly was formed.

The Committee notes the Government's reference to the interim Constitution of 2007, article 22(5) of which prohibits employing a minor in factories, mines or in any other such hazardous work, but observes that the term "minor" is not defined in this legislation. Moreover, the Committee notes an absence of information in the Government's report on any measures taken to determine the types of hazardous work prohibited to children under the age of 18. ***The Committee therefore requests the Government to take the necessary measures, in the very near future, to ensure that no person under 18 years of age may be authorized to perform hazardous work, in conformity with Article 3(d) of the Convention. The Committee also requests the Government to take the necessary measures, after consultation with the organizations of employers and workers concerned, to include in the national legislation provisions determining the types of hazardous work to be prohibited to persons below 18 years of age in accordance with Article 3(2) of the Convention. It requests the Government to provide information on the progress made in this regard.***

Articles 5 and 7. Monitoring mechanisms and penalties. Trafficking. The Committee previously noted that, pursuant to the provisions of the Human Trafficking and Transportation (Control) Act, 2007, any person guilty of the trafficking of children within or outside of the country shall be liable to penalties of fines and imprisonment. The Committee requested the Government to provide information on the application of the Human Trafficking and Transportation (Control) Act, 2007 in practice, including the application of penal sanctions.

The Committee notes the statement in the Government's report that, as Nepal is one of the poorest countries in South Asia, and as it has an open border with India, some types of human trafficking have flourished. The Committee also notes that the Committee on the Elimination of Discrimination against Women, in its concluding observations of 11 August 2011, expressed concern at the lack of effective implementation of the Human Trafficking and Transportation (Control) Act, 2007 (CEDAW/C/NPL/CO/4-5, paragraph 21). Moreover, the Committee notes the Government's statement, in its report to the CRC for the OPSC of April 2008, that despite widely varied data on cross-border and in-country sale and trafficking of children (and women), the magnitude of the problem is high (CRC/C/OPSC/NPL/1, paragraph 68). ***The Committee therefore urges the Government to take immediate measures to strengthen its efforts to combat the trafficking of children under 18 years of age. It requests the Government to provide information on the number of cases of trafficking in children detected and investigated, as well as statistics on the number of prosecutions, convictions and penalties applied to perpetrators. To the extent possible, all information provided should be disaggregated by sex and by age.***

Labour inspectorate. The Committee previously noted the Government's statement that child labour in the organized sector is very rare. It also noted the Government's indication that, according to the data collected by the Central Children Welfare Committee (CCWC) under the Ministry of Women, Children and Social Welfare, a total of 22,981 cases of worst forms of child labour had been registered from 59 districts. The Committee requested the Government to provide information on the inspections carried out, including in the informal sector and on the number and nature of violations detected with regard to children under the age of 18 years.

The Committee also notes the information in the Government's report that 1,200 inspections by factory inspectors were carried out between 2009 and 2011. The Government indicates that no child labour was found in the formal sector through these inspections. The Committee further notes the Government's statement that the practices of the worst forms of child labour in domestic work, in mines, in the carpet industry and in rag picking remain a matter of great concern for the Government. *The Committee therefore urges the Government to intensify its efforts, including through strengthening the capacity and expanding the reach of the labour inspectorate, to combat the worst forms of child labour in the informal sector. It also requests the Government to provide any data collected by the CCWC regarding the number of cases registered related to the worst forms of child labour with its next report.*

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.

Netherlands

Aruba

Minimum Age Convention, 1973 (No. 138)

Article 3(2) of the Convention. Determination of types of hazardous work. In its previous comments, the Committee noted the Government's indication that the proposal to allow the Director of the Labour Department to determine the types of hazardous work was with the Department of Legislation for technical evaluation and revision. The Committee urged the Government to take the necessary measures to ensure that, following the approval of the Department of Legislation, the Director of the Labour Department determines the types of hazardous work at the earliest possible date.

The Committee notes with *satisfaction* that the Government adopted Ministerial Decree No. 78 of 2013 which contains a list of types of hazardous work prohibited to young persons under the age of 18 years. This list comprises work involving lifting or pulling heavy weights; working continuously in the same position; work involving contact with toxic, carcinogenic, mutagenic substances as well as explosives, irritants or corrosive substances; work with wild, poisonous or dangerous animals; slaughtering of animals; work in establishments providing alcohol; work with or near dangerous machines or equipment involving fire, explosion, electrocution, bottlenecks, harvesting, cutting; work under water; work with devices that have harmful non-ionizing electromagnetic radiation; work with compressed gases; work exposing children to high noise and vibration; work in environment causing a risk of collapse; work near power lines; and work in hospitals. *The Committee requests the Government to provide information on the implementation of Ministerial Decree No. 78, including the number and nature of violations regarding young persons engaged in hazardous work.*

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

New Zealand

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the Government's report. It also notes the comments made by Business New Zealand, as well as the comments made by the New Zealand Council of Trade Unions (NZCTU) and the Government's reply thereto.

Article 3(d) of the Convention. Hazardous work. Minimum age for admission to hazardous work. The Committee previously noted that, by virtue of section 54(d) of the Health and Safety in Employment Regulations of 1995 (HSE Regulations), hazardous work was prohibited for children under 15 years of age, but was not prohibited for all children under 18 years of age, as required under *Article 3(d)* of the Convention. It also noted the reference made by the NZCTU to the number of work-related accidents and injuries, some of which were fatal, caused to young persons under 18 years. The Committee further noted the Government's statement that while it shared the concerns raised by the NZCTU with regard to workplace injuries of children and young persons, which in some cases proved fatal, legislative protections existed to protect young persons. The Government stated that these legislative protections generally ensured that young people were not exposed to hazardous work and that employers had an obligation to ensure a healthy and safe working environment, as well as duties related to training and supervision.

However, the Committee noted that according to a report of the Department of Labour (DoL) entitled "School children in paid employment – A summary of research findings" of September 2010 (DoL report of 2010), a third of the secondary-school students surveyed indicated that their employers had not provided them with any information about workplace hazards. The DoL report of 2010 also indicated that children aged 15–16 were more likely to have had an injury than children aged 13–14 and that 20 per cent of working children of 16 years of age had an employment injury. In this regard, the Committee noted from the DoL report of 2010 that the legislative protections in place, which rely on the employer to protect children under the age of 18 from workplace hazards, did not, in practice fully and effectively protect children from hazardous work. The Committee further noted that the Committee on the Rights of the Child, in its concluding observations of 11 April 2011, expressed concern that children between the ages of 15 and 18 were allowed to work in dangerous workplaces (CRC/C/NZL/CO/3-4, paragraph 41). The Committee expressed its concern that children between 15 and 18 years of age were allowed, in law and in practice, to perform the types of work which are clearly hazardous.

The Committee notes the statement made by Business New Zealand that the Committee's conclusion that young persons in New Zealand are engaged in work that is clearly hazardous which is based solely on statistical evidence of accidents and injuries cannot be supported. Business New Zealand states that accidents and injuries happening in certain areas is probably not the reflection of the work but the fact that those are the areas in which most young people work.

The Committee notes the reference made by the NZCTU to the findings of the Youth 2000 National Youth Health and Wellbeing Survey (Youth'12 survey), conducted every 5–6 years and funded by the Health Research Council of New Zealand in order to provide up-to-date information to policy-makers, educators, health providers and communities working to improve the opportunities for healthy development for all young people in New Zealand. The NZCTU states that it is alarming that only 50.7 per cent of the school children in the Youth'12 survey indicated that their employer provided information regarding safety at work, while 10 per cent of school children stated that they have been injured at work. The Youth'12 survey also indicates that a total of 450 work-related injuries were reported in 2012 concerning children and young persons under 18 years, including 240 injuries to young persons aged 16–17 years; 155 injuries to young persons aged 14–15 years; and 55 injuries to children below 13 years of age. Moreover, the data of workplace fatalities from 2013–15 of WorkSafe New Zealand, which was established in December 2013 to be New Zealand's new workplace health and safety regulator with the aim of achieving a 25 per cent reduction in the incidence of workplace death and injury by 2020, indicates that of the 119 fatalities, 14 were children under the age of 18 with the majority occurring in the agricultural sector.

The Committee notes the Government's statement that although according to the existing law, the specific legal restrictions on certain types of work are only applicable to children under the age of 15, children between the ages of 16 and 18 are protected by the general requirements of workplace health and safety legislation, which provides protection to all workers, regardless of age. The Committee also notes from the Government's report that a new Health and Safety at Work Act is being enacted and new regulations on health and safety at work are being finalized. It notes, however, that no changes from the existing regulations with regard to the health and safety of children and young persons have been proposed.

The Committee notes with **deep concern** that children under 18 years of age continue to be engaged in work which is clearly harmful to their health and safety, as reflected by the injuries and fatalities suffered by children and young persons while engaged in such work. It notes with **regret** that the Government has not taken any specific measures, either in law or in practice, to prohibit the employment of children and young persons under the age of 18 years in hazardous work as required by the Convention. Moreover, the Committee notes that the Government has not taken any measures, in law or in practice, to provide for specific workplace health and safety measures for young persons between 16 and 18 years of age as recommended under Paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190). The Committee therefore once again draws the Government's attention to *Article 3(d)*, read in conjunction with *Article 2* of the Convention, which states that work which, by its nature and the circumstances in which it is carried out, is likely to harm the health, safety or morals of children *under 18*, constitutes one of the worst forms of child labour and that, by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to ensure the prohibition and elimination of the worst forms of child labour as a matter of urgency. The Committee also recalls that Paragraph 4 of Recommendation No. 190 addresses the possibility of authorizing the employment or work of young persons as from the *age of 16* under strict conditions that their health and safety be protected and that they receive adequate specific instruction or vocational training in the relevant branch of activity. In this regard, the Committee must emphasize that measures should be taken to raise the minimum age for admission to hazardous work to *16 years*, even if the required protective conditions are adequately provided (2012 General Survey on the fundamental Conventions (paragraph 380)). ***The Committee, therefore, once again urges the Government to take immediate and effective measures to comply with Articles 1 and 2 of the Convention, read with Article 3(d), to prohibit children under 18 years of age from engaging in hazardous and dangerous work. However, where such work is performed by young persons between 16 and 18 years of age, the Committee urges the Government to take the necessary measures to ensure that such work is only carried out in accordance with the strict conditions set out in Paragraph 4 of Recommendation No. 190, namely that the health and safety of such young persons be protected and that they receive adequate specific instruction or vocational training in that activity. The Committee requests the Government to provide information on the progress made in this regard.***

Article 4(1) and (3). Periodic revision of the types of hazardous activities prohibited to persons under 18 years of age. The Committee previously noted the Government's indication that children under 18 years cannot work in any restricted areas of licensed premises, such as bars, licensed restaurants or clubs. However, it also noted that, pursuant to sections 54–58 of the HSE Regulations 1995, only employees under 15 years of age are prohibited from working in a number of high-hazard workplaces, such as in construction, logging and tree-felling operations, in work where goods are being manufactured and prepared for sale, in work with any machinery, lifting heavy loads or performing other tasks likely to be injurious to the employee's health, night work and driving or riding any tractor or heavy vehicles. The Committee also noted the information from the Government's report that research indicated that children represent a significant proportion of farm injuries, with nearly one fifth of all injuries on farms occurring involving children aged 15 and younger. The Government indicated that the majority of child fatalities on farms, most typically with regard to children aged 10–14 years riding in vehicles to shift stock, and that this was being addressed through a safety campaign.

The Committee further noted that the DoL report of 2010 identified the construction, agriculture and hospitality industries as posing the most risk to young workers, as well as some other types of work which are dangerous to young persons: by volume, working in shops (including petrol stations and supermarkets) and working in restaurants, takeaway outlets and other eateries. These types of activities were the largest contributors to workplace injuries and accounted for 60 per cent of injuries to schoolchildren in regular part-time work. The Committee, therefore, requested the Government to take the necessary measures to periodically examine and revise the existing list of types of hazardous work, in consultation with the organizations of employers and workers concerned.

The Committee notes the reference by the NZCTU to a report by the Child and Youth Mortality Review Committee of 2014 which focused on deaths caused to children and young persons under 18 from quad bikes and motorized agricultural vehicles and suggested that a multifaceted approach, including legislative interventions, could be helpful in reducing quad bike deaths. The NZCTU states that hazardous work on farms, including riding and using quad bikes and agricultural machinery, must be restricted in the interests of the safety and welfare of children.

The Committee notes the Government's indication that it has been proposed by the Ministry of Business, Innovation and Employment that the new regulations on health and safety will carry over the existing Health and Safety Regulations of 1995, with an additional provision prohibiting work involving the use of hazardous substances in respect of young persons under 15 years. The Committee reminds the Government that, pursuant to *Article 4(1) and (3) of the Convention*, the types of work which, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children under 18, shall be determined by national laws or regulations, and that this list shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned. ***The Committee, therefore, requests the Government to take the necessary measures, during the finalization of the new regulations on health and safety, to review the list of types of hazardous work to be prohibited to children under 18 years, as provided for in Article 4(3) of the Convention, including measures to regulate the types of hazardous work identified by the Child and Youth Mortality Review Committee and in the DoL report of 2010, such as certain types of work in the agriculture, construction and hospitality industries.***

Article 5. Monitoring mechanisms and application of the Convention in practice. The Committee previously noted the Government's statement that the Department of Labour was continuing to investigate workplace practices relating to persons between 16 and 18 years of age engaged in hazardous work.

The Committee notes from the Government's report that the findings of the Youth'12 survey indicates that of the 10,000 secondary school students involved in part-time jobs who have been surveyed, one in ten students had been injured at the workplace. However, the Government indicates that there had been some serious technical issues that have affected the validity and usefulness of some of the results of this survey and hence it was not possible to correlate injury to where students were working. The Committee notes the information provided by the Government concerning the number of claims of work-related injuries by persons under 18 years of age. According to this data, in 2012 there were a total of 5,190 claims for work-related injuries, including 70 by under 14s; 150 by under 15s; 580 by under 16s; 1,500 by under 17s; and 2,900 by under 18s. ***Noting the significant number of work-related injury claims made by young persons under 18, the Committee requests the Government to provide information regarding subsequent investigations carried out concerning these accidents, violations detected, and penalties applied. The Committee also expresses the firm hope that the Government will undertake, in the near future, another survey on the health and well-being of students involved in part-time jobs so as to better understand their working conditions and health and safety outcomes. It requests the Government to provide information on the results of the survey which, to the extent possible, should be disaggregated by age and sex.***

Nicaragua

Minimum Age Convention, 1973 (No. 138) (ratification: 1981)

The Committee notes that the Government's report contains no reply to its previous comments. It hopes that the next report will contain full information on the matters raised in its previous comments.

Article 1 of the Convention. 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 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 (that is, 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 (see General Survey, 2012, 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.

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)

Article 3 of the Convention. Worst forms of child labour. Clause (d). 1. Hazardous work in agriculture. In its previous comments, the Committee 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. It also noted the information provided by the Government in its report as regards the measures undertaken to give effect to Ministerial Agreement JCHG-08-06-10, including special inspection services, with particular emphasis on the protection of children working in quarrying limestone. The Committee finally noted that according to the 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 worked in agriculture.

The Committee notes the Government's information in its report that inspections were conducted in 1,272 establishments covering all sectors of the economy, where 236 children were identified as working in hazardous conditions. The Government indicates that, further to those inspections 1,758 young persons benefited from protection measures about their rights at work. The Committee also notes the Government's information that a total of 3,975 agreements were signed with employers committing to not to use child labour and 1,691 certificates were issued to young persons so that their activities can be covered by the legal provisions addressing child labour. The Government also indicates that it has implemented specific inspection plans on child labour in the departments of Jinotega and Matagalpa, characterized by their high productivity of coffee. Finally, it mentions that it has conducted training workshops for 10,982 young workers on the legal framework on hazardous child labour. However, the Committee notes that the Government's report does not contain any information on the number of violations detected regarding hazardous work by young persons and on the penalties imposed. *The Committee requests the Government to continue to strengthen its efforts to ensure that children under 18 years of age employed in the agricultural sector are not engaged in hazardous work. In this regard, the Committee requests the Government to continue providing information on the application of Ministerial Agreement JCHG-08-06-10 in practice, including the number of inspections carried out, violations detected and penalties imposed.*

2. *Domestic work by children.* In its previous comments, the Committee noted the information provided by the Government 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. It also noted that since the adoption of the Act, 8,483 labour inspection visits were 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. Moreover, as a follow-up to the registration of children and young persons engaged in domestic work, the Government stated that five seminars were 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.

The Committee notes the Government's indication that 1,999 labour inspections were carried out at homes and identified 17 young persons engaged in domestic work. *The Committee requests the Government to continue its efforts to ensure the protection guaranteed by Act No. 666 of 2008 to children and young persons in domestic work as well as to provide information on the number of inspections carried out in this regard. Further, noting again an 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 violations detected and 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. In its previous comments, the Committee noted 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 noted 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 provided these children with educational, health care and recreational services and supplied young persons with tools (such as sewing machines, worktables, irons) with the objective of promoting self-employment and collective cooperation. *Noting the absence of information in the Government's report, the Committee once again 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 the agricultural sector 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 and application of the Convention in practice. In its previous comments, the Committee noted the Government's indication that child labour exists principally in the informal economy and that the scope of the new Labour Code does not cover own account work or work in the informal economy. In June 2014, the Conference Committee on the Application of Standards called on the Government to take the necessary measures to extend the scope of application of the Labour Code to this sector. It also called on the Government to strengthen labour inspection capacities in the informal economy and to broaden the scope of its activities, and to ensure that routine inspections are conducted so as to impose penalties on those found in breach of the Convention. The Committee also noted the Government's indication that labour inspectors encounter difficulties in detecting child labour in the informal economy due to its complexity and the inadequacy of their means of action. In this respect, the Ministry of Labour has provided all labour inspection departments with a vehicle and has increased their budget. The Government also reported that it is ready to facilitate the conduct of an institutional audit of labour inspection and to propose action to strengthen the capacity of labour inspection in the informal economy. Finally, the Committee noted that the National Statistical Institute (INS), with support from technical and financial partners, has undertaken a national survey on employment and the informal sector (ENESI). It noted that 50.4 per cent of children between 5 and 17 years of age are engaged in work in Niger (or around 1,922,637 children), of whom 1,187,840 children are involved in hazardous types of work.

The Committee notes the Government's indications that the Ministry of Employment, Labour and Social Security organized a meeting for managerial staff in February 2015 with a view to giving greater visibility to the action taken by the labour administration in Niger and the identification of the obstacles facing inspectors in their duties. It also notes the measures taken to reinforce labour inspection capacities, such as the current recruitment of new labour inspectors, the increase in the budgetary allowance for labour inspectorates and the establishment of new labour inspectorates. The Committee also observes that the ENESI 2012 survey shows that 40 per cent of jobs are in the informal economy, including 80 per cent of non-agricultural jobs. It further notes the Government's indication that the ENESI survey will make it possible to improve planning at both the strategic and operational levels to combat child labour. Finally, the Committee observes that, according to the analysis undertaken jointly by the Government and UNICEF in 2013 of the situation of women and children in Niger, based on an equity and human rights approach, in general nearly half (48 per cent) of children between the ages of 5 and 14 years of age are engaged in work. Moreover, one child out of two between the ages of 5 and 11 years (50 per cent) and 77 per cent of children between the ages of 12 and 14 are engaged in agricultural work and other activities in domestic work (page 70). The Committee once again expresses its **deep concern** at the number of children who have not reached the minimum age for admission to employment or work of 14 years who are compelled to work, often in hazardous conditions. ***The Committee urges the Government to take the necessary measures to eliminate work by children under 14 years of age, particularly in the informal economy. It requests the Government to continue strengthening labour inspection capacities and training so as to enhance direct interventions in the informal economy and requests it to provide information on the measures adopted and the results achieved in this respect.***

Article 2(3). Compulsory schooling. The Committee previously observed that the Conference Committee had noted the low school attendance rate and the high school drop-out rates which persist for a large number of children in Niger. Emphasizing the importance of free, universal and compulsory education in preventing and combating child labour, the Conference Committee urged the Government to strengthen its educational system, particularly by taking the necessary measures to ensure access to free basic education for all children under the minimum age, with the objective of preventing children under 14 years of age from working and reducing school drop-out rates. The Committee notes the Government's indication that it has adopted the Sectoral Educational and Training Programme (PSEF) 2014–24.

The Committee notes the Government's indication that the State's commitment in the field of education has been translated into objectives in an educational policy letter for the 2013–20 decade. The Government indicates that the PSEF includes measures to encourage school attendance by girls and children who do not have access to school. The Committee **deplores** that, according to UNESCO's latest 2013 estimates, the net school enrolment rate in primary education is only 63.5 per cent, and that the rate in secondary education is 18.5 per cent. ***Recalling that compulsory education is one of the most effective means of combating child labour, the Committee once again requests the Government to take the necessary measures to ensure compulsory education up to the minimum age for admission to employment through an increase in school attendance rates for primary and secondary education and a reduction in drop-out rates. The Committee requests the Government to provide information on any new developments 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: 2000)

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery and practices similar to slavery. Forced or compulsory labour. Begging. The Committee previously noted the indication by the International Trade Union Confederation (ITUC) that children are forced to beg in West Africa, including Niger. For

economic and religious reasons, many families entrust their children from the age of 5 or 6 years to a spiritual guide (*marabout*), with whom they live until they are 15 or 16 years of age (*talibé* children). During this period, the children are entirely under the responsibility of the *marabout*, who teaches them religion and, in return, requires them to carry out certain tasks, including begging. The Committee noted that a National Observatory to Combat Begging had been established. It also noted the adoption of a circular addressed to the various judicial authorities, calling 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 purely economic ends. In this regard, the Committee noted that there had been some cases of the arrest of *marabouts* presumed to use children for purely economic ends, but that in general they are released for lack of legal proof of their guilt.

The Committee notes the information provided by the Government that the National Agency to Combat Trafficking in Persons (ANTLP) has implemented a number of strategies to combat begging, including the dissemination of audiovisual sketches in all the national languages and the training of community media to understand the phenomenon. The ANTLP has also organized awareness-raising missions and advocacy meetings with local and customary authorities and *marabouts* in Agadez, Konni and Tahoua. In 2014, training seminars were organized for 30 magistrates from various courts throughout the country and for 30 judicial police officers. In addition, 60 traditional chiefs from Dosso, Tahoua and Tillabéry were made aware of begging and 60 *marabout* preachers will be trained to raise the awareness of the population through community radios. The Government indicates that it has engaged in an operation to identify and bring beggars installed on public roads back to their villages, and to facilitate their social and vocational rehabilitation. It also reports that section 97 of Ordinance No. 2010-086 provides for the establishment of a special compensation fund for victims that is managed by the ANLTP. However, the Government adds that there are enormous obstacles of a sociocultural nature, which may undermine the effective application of provisions criminalizing begging. While taking due note of the measures adopted by the Government, the Committee notes with **concern** that the statistics provided by the Government still do not report any convictions of *marabouts* who have used children for purely economic ends. ***The Committee once again urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions are carried out and sufficiently effective and dissuasive penalties imposed on marabouts who use children under 18 years of age for purely economic ends. In this regard, the Committee requests the Government to continue taking the necessary measures to reinforce the capacities of the law enforcement agencies. The Committee also requests the Government to continue taking 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 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 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 production chain, whether in gypsum mines or salt quarries, sometimes performing small tasks to facilitate their parents' work on site 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 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 directions to take this prohibition into account when drawing up mining agreements. However, the Committee notes the Government's indication that no convictions have yet been handed down in this respect. It further noted that the review and modification of the list of hazardous types of work had been 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 finally noted 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 types of work, and the categories of enterprises prohibited for children, shall be determined by regulation.

The Committee notes the Government's indication that the new regulatory part of the Labour Code is under discussion in the Government and will take into account the issue of hazardous types of work. ***Noting with regret that the revised list of hazardous types of work has been under discussion since 2009, 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 on the progress achieved in this regard. It also once again requests the Government to provide a copy of the amended list of hazardous types of work once it has been adopted.***

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. 1. Street children. In its previous comments, the Committee noted that the Committee on the Rights of the Child had expressed concern at the number of children begging in the streets.

The Committee notes that the Government adopted a National Policy for the Integrated Development of Young Children (DIJE) and a Framework Document on Child Protection (DCPE) in 2013 enabling social protection entities to provide better care for young children. The Committee also notes the Government's indication that the Judicial and Preventive Education Services (SEJUP) have been established to take responsibility for street children, where they are

received by host families further to an order issued by a juvenile court. However, the Committee notes that, according to the 2015 report of the Special Rapporteur on contemporary forms of slavery (A/HRC/30/35/Add.1, paragraph 85), the number and human resources, including in terms of specialized skills, of the 34 SEJUPs seem to be insufficient and they are said to be more adapted to children in conflict with the law. The Special Rapporteur also notes that the Government has acknowledged that the number of street children in urban areas, particularly in Niamey, has reached alarming proportions and refers to an estimate of over 11,000 street children (paragraph 62). ***Observing that street children are particularly vulnerable to the worst forms of child labour, the Committee once again urges the Government to take effective and time-bound measures to protect them and to ensure their rehabilitation and integration in a targeted manner. It once again requests the Government to provide specific information on the results achieved.***

2. *Children in domestic work.* The Committee notes the information provided by the Special Rapporteur on contemporary forms of slavery (A/HRC/30/35/Add.1, paragraphs 67–70), according to which a high number of economically active children are engaged in domestic work in Niger (58.2 per cent), with the rate being even higher for children between the ages of 5 and 11 years (65.5 per cent), who are mainly girls who leave rural areas to go to cities to escape poverty. The Special Rapporteur observes that these domestic workers are often subject to physical, verbal and sexual abuse and discrimination, are paid very little, if at all, work long days, can be physically and socially isolated and have no weekly rest period or vacations. ***Considering that child domestic workers are particularly exposed to the worst forms of child labour, the Committee requests the Government to take effective and time-bound measures to protect children engaged in domestic work from the worst forms of child labour, provide the necessary and appropriate direct assistance for their removal from child labour and to ensure their rehabilitation and social integration. The Committee requests the Government to provide information on the results achieved in this regard.***

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 (EMTE), 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 worst forms of child labour in practice, and particularly from hazardous types of work. It once again requests the Government to provide information on the progress achieved in this respect.***

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

Nigeria

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

Article 2(1) of the Convention. Scope of application. 1. *Self-employment and work in the informal economy.* The Committee previously noted that by virtue of section 91 of the Labour Act, a worker is a person who has entered into an oral or written contract with an employer. Accordingly, it reminded the Government that the Convention applies to all types of work or employment regardless of the existence of a contractual relationship and requested it to provide information on the measures taken or envisaged in this regard.

The Committee notes that according to section 2 of the Labour Standards Bill of 2008 (Labour Standards Bill), the Act applies to all employees. An “employee”, according to section 60 of the Bill, means any person employed by another under oral or written contract of employment whether on a continuous, part-time, temporary or casual basis and includes a domestic servant who is not a member of the family of the employer. This again implies that children working outside a formal labour relationship, such as children working on their own account or in the informal economy are excluded from the provisions giving effect to the Convention. In this regard, the Committee notes from the document on National Policy on Child Labour, 2013, that child labour is more prevalent in the informal sector which includes crafts/artisanal work and street-related activities as well as in semi-formal sectors which includes activities in commercial agricultural plantations, domestic and hospitality services, the transport industry and garments manufacturing. In this regard, referring to the General Survey of 2012 on the fundamental Conventions concerning rights at work (paragraph 343), the Committee points out that child labour in the informal economy can be addressed through monitoring mechanisms, including through labour inspection. ***The Committee therefore requests the Government to take the necessary measures to ensure that all children, including self-employed children and children working in the informal economy, benefit from the protection laid down in the Labour Act. In this respect, it requests the Government to review the relevant provisions of the Labour Standards Bill in order to address these gaps as well as to take measures to strengthen the capacity and expand the reach of the labour inspectorate to the informal economy with a view to ensuring such protection in this sector.***

2. *Minimum age for admission to work.* The Committee previously noted with concern the various minimum ages, some of them too low, prescribed by the national legislation.

The Committee notes that according to section 8(1) of the Labour Standards Bill, no child (defined as persons under the age of 15 years (section 60)), shall be employed or work in any capacity, except where he/she is employed by a member of his/her family on light work of an agricultural, horticultural or domestic character. The Committee observes

that section 8(1) of the Bill is in conformity with *Article 2(1)* of the Convention (by establishing a minimum age of 15 years as specified at the time of ratification). ***The Committee expresses the firm hope that the Labour Standards Bill which establishes a minimum age of 15 years for employment or work is adopted in the near future. It requests the Government to provide information on any progress made in this regard.***

Article 3(2). Determination of hazardous work. The Committee previously noted that neither the Labour Act of 1990 nor the Child Rights Act of 2003 provided for a comprehensive list of types of hazardous work, to be prohibited to children under 18.

The Committee notes from a report entitled, *List of Hazardous Child Labour in Nigeria, 2013*, by the Federal Ministry of Labour and Productivity that, a study was conducted to identify and determine the most hazardous conditions to which children under 18 years are exposed in various occupations in Nigeria. The study identified certain hazardous types of work including agriculture (cocoa and rice farming), quarrying, artisanal mining, traditional tie and dye, processing of animal skin, domestic services, scavenging and recycling collection, street work, begging, construction and transport works. The Committee further notes the information from the ILO–IPEC report of 2014 that the final list of hazardous work has been validated by the National Steering Committee and is currently awaiting official endorsement. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the list of types of hazardous work prohibited to children under 18 years will be finalized and adopted in the near future. It requests the Government to provide information on the progress made in this regard and to supply a copy, once it has been adopted.***

Article 6. Apprenticeship. The Committee previously noted that section 49(1) of the Labour Act permitted a person aged 12 to 16 years to undertake an apprenticeship for a maximum period of five years while section 52(a) and (e) empowered the Minister to issue regulations on the terms and conditions of apprenticeship.

The Committee observes that although sections 46 and 47 of the Bill of 2008 lays down the terms and conditions for entering into a contract of apprenticeship, it does not specify a minimum age for apprenticeship. ***Recalling that Article 6 of the Convention authorizes work to be carried out in enterprises within the context of an apprenticeship programme by persons of at least 14 years of age, the Committee requests the Government to take the necessary measures to ensure that children under the age of 14 years are not permitted to undergo an apprenticeship programme. In this regard, the Committee expresses the firm hope that the necessary amendments to the Labour Standards Bill will be adopted in order to bring it into conformity with Article 6 of the Convention. It requests the Government to provide information on any progress made in this regard.***

Article 7(1). Minimum age for admission to light work. The Committee previously observed that the Labour Act did not provide for a minimum age for admission to light work.

The Committee notes that section 8 of the Labour Standards Bill, while allowing the employment of children under the age of 15 years in light work of an agricultural, horticultural or domestic character, does not indicate the lower minimum age at which such work may be permitted. In this regard, the Committee notes that according to the Multiple Indicator Cluster Survey Report of 2011 (UNICEF–National Bureau of Statistics, Nigeria), 47 per cent of children aged between 5 and 14 years are engaged in child labour. The Committee, therefore reminds the Government that, according to *Article 7(1)* of the Convention, national laws or regulations may permit children aged 13 to 15 years to perform 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 accordingly requests the Government to take the necessary measures to establish a minimum age for admission to light work, in conformity with Article 7(1) of the Convention.***

Article 7(3). Determination of light work. In its previous comments, the Committee observed that the conditions in which light work activities may be undertaken and the number of hours during which such work may be permitted were not clearly defined in the Labour Act. It also observed that the maximum working hours of eight hours a day prescribed under section 59(8) of the Labour Act would necessarily prejudice the attendance of young persons below the age of 15 years at school or vocational orientation or training programmes as laid down under *Article 7(1)(b)* of the Convention.

The Committee notes that the Labour Standards Bill does not contain any provision regulating the employment of children in light work. The Committee therefore once again draws the Government’s attention to Paragraph 13(b) of the Minimum Age Recommendation, 1973 (No. 146), which states that, in giving effect to *Article 7(3)* of the Convention, special attention should be given to the strict limitation of the hours spent at work in a day and in a week, and the prohibition of overtime, so as to allow enough time for education and training, for rest during the day and for leisure activities. ***The Committee accordingly requests the Government to take the necessary measures to regulate the employment of persons between 13 and 15 years of age in light work, by determining the number of hours during which, and the conditions in which, light work in the agricultural, horticultural and domestic sectors may be undertaken, as well as the types of activities that constitute light work. It requests the Government to provide information on the measures taken in this regard.***

Application of the Convention in practice. The Committee notes from the ILO–IPEC report of 2014 that within the ECOWAS-II project, 37 activities were implemented in Nigeria, including capacity-building activities for the Child

Protection Network and the State Steering Committees on Child labour; sensitization campaigns against child labour in the informal economy, particularly in market places in the States of Ogun, Abeokuta, Abuja and Ibadan; and school-based awareness campaigns. The ILO–IPEC report also states that a baseline survey on child labour in artisanal and small-scale mining conducted in 2011 in seven states indicated an increasing involvement of children in these sectors. The Committee further notes that according to a report entitled, “the Twin Challenges of child labour and educational marginalization in the ECOWAS region” by *Understanding Children’s Work*, a joint ILO–UNICEF–World Bank interagency research cooperation project, among the ECOWAS countries, Nigeria has the largest number of 5–14 year olds in child labour with 10.5 million children involved in child labour. The Committee notes the measures taken by the Government. However, it notes with **deep concern** the large number of children under the minimum age for admission to employment who are working in Nigeria. ***The Committee urges the Government to strengthen its efforts to ensure the progressive elimination of child labour. It requests the Government to provide information on the manner in which the Convention is applied in practice, including, updated statistical data on the employment of children and young persons, especially regarding children working in the informal economy, as well as extracts from the reports of inspection services and information on the number and nature of violations detected and penalties applied. To the extent possible, this information should be disaggregated by age and sex.***

The Committee expresses the hope that the Government will take into consideration the Committee’s comments while finalizing the Labour Standards Bill. It further expresses the firm hope that the revised Bill will be adopted in the near future. The Committee invites the Government to consider availing technical assistance from the ILO to bring its legislation into conformity with the Convention.

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

[The Government is asked to supply full particulars to the Conference at its 105th Session and to reply in detail to the present comments in 2016.]

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

Article 3(a) and 7(2) clause (b) of the Convention. All forms of slavery and practices similar to slavery and effective and time-bound measures. Compulsory recruitment of children for armed conflict and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. The Committee notes from the report of the Secretary-General to the Security Council of 5 June 2015 (A/69/926-S/2015/409) that increased reports were received of children, both boys, and girls being recruited and used by Boko Haram in support roles and in combat. Children were reported to be used as human shields, and as suicide bombers, particularly girls as young as 13 years. There were reports of children joining the Civilian Joint Task Force and other vigilante groups, voluntarily or forcibly, and used to man checkpoints, gather intelligence and participate in armed patrols. More than 500 young women and girls were reported to be abducted from their homes and schools and were subjected to forced labour, physical and psychological abuse and forced marriages to fighters of Boko Haram. This report also indicates that a large number of children were killed and maimed during Boko Haram raids in villages, targeted public places and schools. Education authorities in the north-east recorded the killing of 314 school children between 2012 and 2014. During this period, 59 secondary school boys were shot or burned to death in their dormitory during a night time attack, while a suicide bomber, disguised in a school uniform, killed at least 47 children and injured 117 others in Potiskum. The Committee **deeply deplores** the current situation of children affected by armed conflict in Nigeria, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. ***The Committee, therefore, strongly urges the Government to take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed groups. It also urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of all persons, who forcibly recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to take effective and time-bound measures to provide for their rehabilitation and social integration and to provide information on the measures taken in this regard and on the results achieved.***

Article 7(2) clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. Following its previous comments, the Committee notes from a report entitled, *Global Initiative on Out-of-School Children, Nigeria Country Study* by UNICEF that several social protection policies and activities are being implemented in Nigeria with support from UNICEF including: (i) the School Feeding Programme (SFP); (ii) bursary and scholarship grants to indigenous families having children of school age; (iii) the Primary Health Care Programme for poor and vulnerable children which would impact positively on school enrolment and attendance rates; and (iv) the conditional cash transfer programme under the National Poverty Eradication Programme which has ensured that 100,000 children who would have been out-of-school are retained in school. In this regard, the Committee notes from the *Nigeria EFA Review Report 2000–14* by the Federal Ministry of Education (EFA Review Report) that the total enrolment rates in primary schools increased from 21,857,011 in 2009 to 24,071,559 children in 2013; the total enrolment in junior secondary schools increased from 3,107,287 in 2009 to 4,219,679 children in 2013; and the number of primary schools and junior secondary schools between 2009 and 2013, rose from 58,595 to 61,305 and from 10,410 to 11,874 respectively. The Committee notes, however, that according to the UNESCO EFA Global monitoring report of 2013, Nigeria has approximately

10.5 million children out of school. The Committee notes with *concern* the high number of children who are not attending school. *While noting the measures taken by the Government, the Committee urges the Government to intensify its efforts to improve the functioning of the education system and to facilitate access of all children to free basic education. In this regard, the Committee requests the Government to take the necessary measures, to increase the school enrolment rates at the primary and secondary levels and to decrease the school drop-out rates. It requests the Government to provide information on the concrete measures taken in this regard and to provide updated statistical information on the results obtained, particularly with regard to reducing the number of out-of-school children at the primary and secondary levels.*

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

Syrian Arab Republic

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

Application of the Convention in practice. The Committee previously noted with concern the number and situation of children under the minimum age of 15 years who were engaged in economic activity and urged the Government to strengthen its efforts to improve the situation.

The Committee notes that the Government's report does not contain any information in this regard. The Committee notes, however, that the ongoing conflict in the Syrian Arab Republic has had an alarming impact on children. It notes that according to the UNICEF report of March 2014, entitled: *Under Siege – The devastating impact on children of three years of conflict in Syria*, since March 2013, the number of children affected by armed conflict in Syria has more than doubled from 2.3 million to 5.5 million, the number of children displaced inside Syria has crossed 3 million, and the number of child refugees living in neighbouring countries has reached more than 1.2 million. The Committee also notes that according to the ILO report of 2013 entitled "ILO Response to the Syrian Refugee Crisis in Jordan", child labour among Syrian refugees was identified as an issue of concern in the very first joint UN-government needs assessment of Syrian refugees entering Jordan. The Committee further notes from a report of the United Nations High Commission for Refugees of November 2013 (UNHCR, 2013) that a UNHCR survey of Syrian refugee children in Jordan and Lebanon found that children as young as 7 years are working long hours for little pay, often in dangerous or exploitative conditions. Nearly one in two refugee households surveyed relied partly or entirely on income generated by a child. The Committee expresses its *deep concern* at the situation of children in Syria who are affected by the armed conflict. *While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee urges the Government to take immediate and effective measures to improve the situation of children in Syria and to protect and prevent them from child labour. It requests the Government to provide information on the measures taken in this regard.*

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

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Forced recruitment of children for use in armed conflict. The Committee notes from the Report of the Secretary-General on children and armed conflict to the United Nations (UN) Security Council, January 2014 (Report of the Secretary-General, January 2014) that the Syrian Arab Republic adopted a series of legislative reforms such as Law No. 11/2013 which criminalizes all forms of recruitment and the use of children under the age of 18 years by armed forces and armed groups, including taking part in direct combat, carrying and transporting weapons or equipment or ammunition, planting explosives, standing at checkpoints or carrying out surveillance or reconnaissance, acting as human shields or assisting and/or serving the perpetrators in any way or form.

However, the Committee notes the information contained in the Report of the Secretary-General to the UN Security Council on children and armed conflict, May 2014 (A/68/878-S/2014/339) (Report of the Secretary-General, May 2014) that numerous armed groups in Syria, including the Free Syrian Army affiliated groups (FSA), the Kurdish People Protection Units (YPG), Ahrar al-Sham, Islamic State in Iraq and Sham (ISIS) and other armed groups are reportedly recruiting and using children for logistics, handling ammunition, manning checkpoints and as combatants. Most children with FSA affiliated groups, some as young as 14 years of age indicated that they had received weapon trainings and were paid 4,000–8,000 Syrian pounds (SYP) per month. The Committee also notes from the Report of the Secretary-General, January 2014, that there have been reports of the use of children, both girls and boys between the ages of 10 and 12, as human shields by the Government forces. This report further indicates that more than 10,000 children are estimated to have been killed since the outset of the conflict in 2011.

The Committee further notes from the report submitted by the Independent International Commission of Inquiry on the Syrian Arab Republic to the UN Human Rights Council, February 2015 (Report of the Commission of Inquiry, 2015), that ISIS has instrumentalized and abused children on a scale not seen before in the Syrian conflict. It has established "cubs camps" across areas under its control, where children are taught how to use weapons and trained to be deployed as suicide bombers. According to this report, ISIS is also reported to have abducted children, including girls, and detained and subjected them to harsh punishments. While many of them were executed for being members of other armed groups,

some of them as young as 10 years old were used as executioners. Moreover, the YPG is also reported to have abducted children and accepted children, including girls, into their ranks for roles that involve direct participation in hostilities. The Committee *deeply deplores* the current situation of children affected by armed conflict in Syria, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. It recalls 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 therefore strongly urges the Government to take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed forces and groups. 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 genocide, crimes against humanity and other egregious crimes perpetrated against children”, the Committee urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of all persons, who forcibly recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice, pursuant to Law No. 11 of 2013. It requests the Government to provide information on the number of investigations conducted, prosecutions brought and convictions handed down against such persons.***

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. The Committee notes from the Report of the Commission of Inquiry, 2015, that with approximately 5,000 schools destroyed in the Syrian Arab Republic the resulting sharp decline in children's education continues to be a matter of great concern among the population. This report also indicates that more than half of Syrian school-aged children, up to 2.4 million, are out of school as a consequence of the occupation, destruction and insecurity of schools. The Committee further notes that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of July 2014, expressed concern at the increase in the already high rate of girls dropping out of school as well as the challenges faced by children, especially girls in besieged areas or in areas out of the control of the State party in accessing programmes aimed at the continuation of education (CEDAW/C/SYR/CO/2, paragraph 39). The Committee is, therefore, bound to express its *deep concern* at the large number of children who are deprived of education because of the climate of insecurity prevailing in the country. ***While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee urges the Government to take effective and time-bound measures to improve the functioning of the educational system in the country and to facilitate access to free basic education for all Syrian children, especially in areas affected by armed conflict and giving particular attention to the situation of girls. It requests the Government to provide information on concrete measures taken in this regard.***

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. 1. Child soldiers. The Committee notes the information contained in the Report of the Secretary-General, January 2014, that the United Nations is currently supporting the Ministry of Social Affairs to develop a strategy to prevent and end the association of children with armed forces and groups. Moreover, according to the Report of the Secretary-General, May 2014, the Government established an inter-ministerial committee on children and armed conflict in September 2013. The Committee further notes from this report that the General Command of the YPG issued a command order in October 2013 condemning and prohibiting the recruitment of children. The Committee notes, however, from a Report from the UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict, 13 March 2015, that the recruitment and use of children in armed conflict in Syria has become common and that a great majority of the children recruited are trained, armed and used in combat. ***The Committee, therefore, urges the Government to take effective and time-bound measures to remove children from armed forces and groups and ensure their rehabilitation and social integration. It also requests the Government to provide information on the measures taken in this regard and on the number of child soldiers removed from armed forces and groups and reintegrated.***

2. Sexual slavery. The Committee notes from the Report of the Commission of Inquiry, 2015, that, during August 2014, ISIS abducted hundreds of Yazidi women and girls, most of whom were sold as “war booty” or given as “concubines” to ISIS fighters. This report also indicates that dozens of girls and women were transported to various locations in Syria, including Al Raqqa, Al Hasakah and Dayr az Zawr, where they were kept in sexual slavery. ***The Committee urges the Government to take effective and time-bound measures to remove children under 18 years of age who are victims of forced labour for sexual exploitation and ensure their rehabilitation and social integration. It requests the Government to provide information on specific measures taken in this regard, and the number of children removed from sexual exploitation and rehabilitated.***

Clause (d). Identifying and reaching out to children at special risk. Internally displaced children and refugees. The Committee notes from the Report of the Secretary-General, January 2014, that, by early 2013, there were 3 million children displaced and in need of assistance inside the Syrian Arab Republic and over 1.1 million Syrian child refugees living in neighbouring countries. This report further indicates that the recruitment of children by armed groups from refugee populations in neighbouring countries is a matter of particular concern. The Committee also notes from the Report

of the Commission of Inquiry, 2015, that children separated from their communities, and often from their families and parents, are at risk of being targeted and instrumentalized in the armed conflict. *Observing with concern that internally displaced children and refugees are 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 protect these children from the worst forms of child labour. It requests the Government to provide information on the measures taken in this regard and on the results achieved.*

The Committee is raising other matters 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 expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

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 are 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. 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.***

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. 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.***

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 north-east 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. 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.***

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 memoranda of understanding (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, reinforcing 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 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.

Uzbekistan

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2008)

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, as well as the Government's report received on 26 October 2015.

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). It noted with interest the adoption of a Decent Work Country Programme (DWCP) 2014–16, which contains components on the application of the Convention and the Minimum Age Convention, 1973 (No. 138), as well as their corollary indicators: (i) demonstrated improved knowledge on child labour issues; (ii) legislative and institutional changes in child labour, including the revision of the hazardous child labour list; (iii) results of the national child labour monitoring; and (iv) cases of good practice on child labour. The Committee also noted that one of the priorities of the DWCP is to ensure that conditions of work and employment in agriculture, including in the cotton-growing industry, will be in conformity with the fundamental Conventions.

Moreover, the Committee noted that monitoring took place from 18 September to 25 October 2014, carried out by monitoring units composed of representatives of Government, trade unions, the Chamber of Commerce and the Council of Farmers which undertook rotating visits covering nearly 40,000 kilometres, including 172 rural districts and towns and 711 sites with potential risks (consisting of 316 vocational training colleges and academic lyceums and 395 farms). The Committee recalls the results of this monitoring, which are set out in detail in its previous comment and which found 49 observations of children in the cotton fields, mostly older children. The Committee further noted that directors of 11 professional colleges in five districts and two heads of farms and six brigadiers were held administratively responsible for the violations of child labour and were charged with fines. The Committee observed that although some children continued to be engaged in the cotton harvest, progress was made towards the full application of the Convention and requested the Government to continue to strengthen its efforts to ensure the effective implementation of national legislation prohibiting compulsory labour and hazardous work by children below the age of 18 years.

The Committee notes that, in its most recent comments, the IOE notes positively the rapid development in the country towards a complete eradication of child labour. The IOE further expresses the hope that the cooperation between the ILO and the Government of Uzbekistan on the eradication of child labour will continue and that ILO technical assistance in monitoring, training and follow-up will be ensured in the coming years.

The Committee notes that a Third Party Monitoring (TPM) of the Use of Child Labour and Forced Labour during the 2015 cotton harvest, which was agreed to by the Uzbek partners, World Bank and the ILO at the round table held in Tashkent in March and August 2015, was conducted by the ILO from 14 September to 31 October 2015. The Committee notes from the TPM report of November 2015 that the authorities have taken a range of measures to reduce the incidence of child labour and make it socially unacceptable. Trainings and briefings for stakeholders were conducted prior to and during the harvest, which is a continuation of the work started between the ILO and its partners in Uzbekistan in 2013 and embodied in the DWCP. The TPM report also indicates that awareness on the unacceptability of using children under 18 years for the cotton harvest is high and that the use of children in the cotton harvest has become rare and sporadic.

According to the TPM report, ten monitoring teams, each consisting of an ILO monitor and five national monitors, visited 1,100 sites located in ten provinces and conducted 9,620 interviews. The monitors interviewed seven children found in the cotton fields, of which six were aged 16–17 years and reported five observations of children picking cotton. Monitors did not report any empty classes or significant absences in the pupil attendance registers. The Committee further notes from the TPM report that the Coordination Council on Child Labour established a Feedback Mechanism (FBM) which contains telephone hotline numbers which were displayed on the awareness-raising posters and publicity. The FBM receives allegations and investigates grievances while providing redress in some cases. The Committee welcomes the policy commitments undertaken by the Government regarding the prevention and elimination of the use of child labour during the cotton harvest. It notes with *interest* that these commitments have had a significant impact. The Committee considers that these measures should be maintained and kept under review so as to achieve maximum impact, especially among 16–17 year old children. *The Committee therefore requests the Government to continue 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 requests the Government to continue to implement the DWCP in collaboration with the ILO, and with the participation of the Coordination Council as well as to continue its measures 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.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 138** (Angola, Armenia, Barbados, Belize, Plurinational State of Bolivia, Brazil, Burundi, Cabo Verde, Congo, Croatia, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Gabon, Gambia, Georgia, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Haiti, Honduras, Indonesia, Iraq, Israel, Jordan, Kazakhstan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Malaysia, Mauritania, Republic of Moldova, Morocco, Mozambique, Namibia, Nepal, Netherlands: Aruba, Niger, Nigeria, Solomon Islands, South Sudan, Syrian Arab Republic); **Convention No. 182** (Angola, Armenia, Bahamas, Barbados, Belarus, Belize, Brazil, Brunei Darussalam, Burundi, Cabo Verde, Cambodia, Cameroon, Congo, Croatia, Democratic Republic of the Congo, Djibouti, Dominica, Equatorial Guinea, Gabon, Gambia, Georgia, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Indonesia, Islamic Republic of Iran, Iraq, Ireland, Israel, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mexico, Republic of Moldova, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands: Aruba, Nicaragua, Niger, Nigeria, Solomon Islands, South Sudan, Syrian Arab Republic, Thailand, Timor-Leste, Uzbekistan).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 90** (Guinea); **Convention No. 138** (Belarus, Germany, Italy, Montenegro, Netherlands); **Convention No. 182** (Germany, Iceland, Italy, Japan, Latvia, Lithuania, Netherlands, Norway).

Equality of opportunity and treatment

Afghanistan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the Government's indication that a tripartite consultative group met to discuss labour law reform, with a view to making working conditions better for all, including women, and that draft Regulations have been finalized and sent to the Ministry of Justice. The Committee notes, however, that the report provides no information regarding whether the tripartite consultative group addressed specifically the issue of equal remuneration for men and women for work of equal value. ***The Committee therefore asks the Government, once again, to provide information on the activities and recommendations of the tripartite consultative group with respect to the principle of equal remuneration for men and women for work of equal value and on reducing the wage gap.***

Equal remuneration for work of equal value. Legislation. The Committee notes the Government's indication that Afghanistan's Decent Work Country Programme covers the principle of equal remuneration for work of equal value. However, the Government does not give any specific information on measures taken or envisaged to include provisions in the Labour Law which would reflect the concept of equal remuneration for "work of equal value". The Committee recalls the importance of providing for the right of men and women to receive equal remuneration for "work of equal value" in order to allow a broad comparison between jobs performed by men and women that may be different but nonetheless of equal value, and that legislative provisions that do not give expression to the concept of "work of equal value" hinder progress in eradicating gender-based pay discrimination. The Committee also recalls that the definition of remuneration should include not only the ordinary, basic or minimum wage or salary but also any additional emoluments whatsoever, payable in cash or in kind, as stipulated in *Article 1(a) of the Convention*. ***The Committee therefore asks the Government to take steps to adopt specific legislative provisions explicitly providing for equal remuneration between men and women for work of equal value and to provide information on the progress made in this regard.***

Public service. The Committee notes the Government's indication that a salary scale has been established in Annex I of the Civil Servants Law, taking into consideration the social situation as well as the national economic development, and the financial situation of the Government. The Committee draws the Government's attention to the fact that the method used to set salary scales must be free from gender bias and that it is important to ensure that there is no direct or indirect discrimination in the selection of factors for comparison, the weighing of such factors and the actual comparison carried out. ***In order to better assess the method used to establish the salary scales in the public service, the Committee asks the Government to provide detailed information concerning the method and factors used to determine salary scales for public service employees, and to forward the latest version of the Civil Servants Act as well as its annexes.***

Raising awareness of the principle of the Convention. The Committee welcomes the Government's efforts to continue raising awareness of the principle of the Convention through various measures including organizing training programmes for government officials, workers, employers, judges and civil society, disseminating material on equal remuneration for women and men and organizing workshops for the gender units of ministries on women workers' rights under the Labour Law. ***The Committee asks the Government to continue providing information on awareness-raising activities carried out to promote the principle of the Convention, including information on the impact of such activities on reducing the gender pay gap. Please also provide information on the content of the training offered to government officials, workers, employers, judges and civil society.***

Statistics. ***The Committee asks the Government to provide statistics on the earnings of men and women by sector and occupation, and any statistics or analysis on the gender pay gap.***

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 is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Legislation. In its previous comments, recalling that the prohibition of discrimination in section 9 of the Labour Law is very general, the Committee urged the Government to take the opportunity of the labour law reform process, including in the context of the Decent Work Country Programme, to amend the law to prohibit direct and indirect discrimination covering all the grounds listed in *Article 1(1)(a)* of the Convention, namely race, colour, sex, religion, political opinion, national extraction and social origin, as well as any other grounds determined in consultation with employers' and workers' organizations, in accordance with *Article 1(1)(b)* of the Convention. The Committee recalls that the pillar on economic and social development of the National Action Plan for Women of Afghanistan (NAPWA) 2007–17 contains the strategy to improve women's economic status, and the strategy to increase the quality of education for women; in this context, the NAPWA also aims at reviewing the labour law to meet international standards. ***The Committee asks the Government to ensure that in the process of labour law reform, direct and indirect discrimination is expressly defined and prohibited, covering all the grounds listed in Article 1(1)(a) of the Convention, as well as any other grounds determined in consultation with employers' and workers' organizations, in accordance with Article 1(1)(b) of the Convention, covering all aspects of employment and occupation. Please provide information on concrete steps taken in this regard, and specific information on the role of the social partners in the labour law reform process.***

Civil service. The Committee recalls section 10(2) of the Civil Servants Law of 2008, prohibiting discrimination in recruitment based on the grounds of sex, ethnicity, religion, disability and physical deformity. The Committee recalls that, where legal provisions are adopted to give effect to the principle of the Convention, they should include at least all the grounds of discrimination specified in *Article 1(1)(a)* of the Convention (General Survey on fundamental Conventions, 2012, paragraph 853). It also recalls that, under *Article 1(3)* of the Convention, "employment" and "occupation" also include access to vocational

training and terms and conditions of employment. *The Committee asks the Government to indicate any measures taken or envisaged to provide protection against discrimination for civil servants based on at least all the grounds enumerated in the Convention and in all aspects of employment and occupation. Recalling section 5 of the Labour Law providing for the scope of application, and noting that the Government's report does not contain information in this regard, the Committee again asks the Government to clarify whether the provisions of the Labour Law are applicable to civil servants covered under the Civil Servants Law and, if so, to specify the interrelationship between section 9 of the Labour Law and section 10(2) of the Civil Servants Law.*

Article 5(1). Special measures of protection. Work prohibited for women. The Committee recalls the Government's previous indication that the list of physically arduous or harmful work prohibited for women to be established under section 120 of the Labour Law was still under preparation. 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, 2012, paragraph 840). *The Committee again urges the Government to ensure that, in the process of the labour law reform, any restrictions on the work that can be done by women are strictly limited to maternity protection.*

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.

Bangladesh

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1998)

The Committee notes the observations of the Bangladesh Employers' Federation (BEF) submitted by the Government with its report.

Article 1(a) of the Convention. Definition of remuneration. The Committee recalls that section 2(xlv) of the Labour Act, excludes particular aspects of remuneration from the definition of "wages", including in-kind emoluments such as accommodation. The Committee also recalls that section 345 of the Labour Act provides that in determining wages or fixing minimum rates of wages the principle of equal wages for male and female workers for work of "equal nature or equal value" shall be followed. The Committee notes both the Government's and the BEF's indication that the principle of equal wages for work of equal value is realized through the establishment of relevant laws and the Minimum Wage Board, and that there is no discrimination on the ground of sex. The Committee notes, however, that neither the Government nor the BEF have addressed its request concerning the need to expand the definition of remuneration for the Government to be in full compliance with the principle of equal remuneration for work of equal value. The Convention sets out a broad definition of remuneration, which includes not only "the ordinary, basic or minimum wage or salary" but also "any additional emoluments whatsoever ... whether in cash or in kind" (*Article 1(a)*). The use of "any additional emoluments whatsoever" requires that all elements that a worker may receive for his or her work, including accommodation, are taken into account in the comparison of remuneration. Such additional components are often of considerable value and need to be included in the calculation. Otherwise much of what can be given a monetary value arising out of the job would not be captured (see General Survey on fundamental Conventions, 2012, paragraphs 686–687 and 690–691). *The Committee requests the Government once again to take steps to broaden the scope of application of section 345 of the Labour Act to include all aspects of remuneration, and to provide specific information in this regard. In the meantime, the Committee once again requests the Government to examine the extent to which the principle of equal remuneration for men and women for work of equal value is being applied in practice in relation to those aspects of remuneration which are excluded from the definition of "wages" under section 2(xlv) of the Labour Act, and to provide information on the steps taken in this regard.*

Articles 1 and 2. Assessment of the gender pay gap. The Committee recalls the findings of the 2008 ILO study "The gender wage gap in Bangladesh" and the findings of the 2007 wage survey carried out by the Bangladesh Bureau of Statistics, both of which show a wide and persistent gender pay gap. The Committee notes that the Government repeats its previous indication that there is no gender pay gap in the formal sector, without providing any statistics or other information on the earnings of men and women in the public and private sectors. The Committee notes that the Government repeats its acknowledgement that pay gaps exist in the informal sector and in unorganized small enterprises, and that the Government and media have assumed a promotional role to reduce this gap. The Committee also notes the observation by the BEF that it acknowledges that there are gender pay gaps in the small and "irregular" economies that are not subject to labour inspection, and that enforcing labour laws to small and irregular employers may result in women losing their jobs. The Committee notes the 2012 Decent Work Country Programme report on Bangladesh, which indicates that as of 2010, the labour participation rate of women is 35.98 per cent as compared to 82.51 per cent of men, and that only 7.7 per cent of these women participated in the formal economy versus 14.6 per cent of men (Bangladesh Decent Work Country Programme 2012–15, November 2012, page 4). In light of the fact that 92.3 per cent of working women are in the informal economy, the Committee wishes to stress that the principle of the Convention applies to all workers, including workers in the informal economy. It also recalls that in order to develop and implement appropriate measures in countries that have large informal economies, more information regarding the extent of pay differentials in the informal economy, as well as underlying factors perpetuating such differentials are needed, as well as more proactive measures to raise awareness to promote the principle of the Convention (General Survey on the fundamental Conventions, 2012,

paragraph 665). *The Committee requests the Government to take the initial steps to address the gender pay gap in the informal economy, which is the collection, analysis and systematization of information such as statistical data disaggregated at least by sex, branch of activity, and occupation or occupational group, on the nature and extent of the gender pay gap in the informal economy. The Committee also requests the Government for more information on measures taken to identify and address underlying factors perpetuating the gender pay gap in the informal economy, including studies and other measures taken to reduce the gender pay gap in this sector. The Committee also requests the Government to continue providing specific information on measures taken with a view to the effective implementation of the principle of equal remuneration for men and women for work of equal value in the formal sector, including detailed information on the contents of any training and awareness-raising activities, as well as on any relevant judicial or administrative decisions.*

Article 2(2)(b). Minimum wages. The Committee recalls its previous request to the Government regarding the undervaluation of the minimum wages in sectors predominately employing women, as well as regarding the use of gender-neutral terminology in defining jobs in wage orders. The Committee notes the Government's indication that it is aware of the minimum wage situation of female-dominated industrial sectors, and that accordingly the minimum wage of the ready-made garments industry (RMG) has been revised more frequently than other industries, seeing the minimum rise from 3,000 Bangladeshi taka (BDT) to BDT5,300 in 2013. In this regard, the Committee reiterates its previous comment that, where minimum wage rates are set by occupation, it must be ensured not only that the same wage rates apply to men and women performing a specific occupation, but also that the wage rates for female-dominated occupations are not set at a lower level than the wage rates for male-dominated occupations where the work done is of equal value. The Committee further notes that the reach of comparison between jobs performed by men and women should be as wide as possible, in the context of the level at which wage policies, systems, and structures are coordinated (General Survey on the fundamental Conventions, 2012, paragraph 698). Finally, it notes that the Government recognizes that gender-neutral terminology should be used by the Minimum Wages Board to avoid gender bias in determining wages in female dominated sectors. *The Committee requests the Government to continue to provide information on the developments with respect to the coverage and rates of minimum wages. Specifically, it requests the Government to provide more information regarding measures taken or envisaged to objectively compare wage rates that apply to female- and male-dominated occupations, ensuring that in determining minimum wage rates for sectors or occupations in which women are predominantly employed, the work being undertaken is not being undervalued. Regarding the use of gender-neutral terminology in defining jobs and occupations in wage orders, the Committee invites the Government to engage with ILO's technical assistance so that any sex-specific terminology in minimum wage orders may be addressed in a comprehensive manner.*

Enforcement of wage determination machinery. The Committee recalls asking the Government for information regarding measures taken for the effective implementation of section 345 of the Labour Act, which provides that in determining wages or fixing minimum rates of wages the principle of equal wages for male and female workers for work of "equal nature or equal value" shall be followed. It notes the Government's indication that the Department of Inspection for Factories and Establishments (DIFE) possesses the mandate to enforce provisions related to payment of wages in the Labour Act, that the Department of Labour provides training about payment of wages to representatives of employers, workers, and the Government through its industrial relations institutes (IRI) and labour welfare centres, including through a fixed course entitled "Wages: Payment of wages". It also notes the Government's indication that awareness-raising seminars and workshops have been organized for lawyers, judges and high-level officials, as well as its invitation to the ILO to engage with the Government for future technical assistance regarding wage fixing and related areas. *The Committee requests the Government to provide more information on the mandate of the DIFE to enforce provisions related to payment of wages, including detailed information regarding the inspectors themselves such as the scope of their individual mandates as well as any training programmes they may go through that would enable them to effectively enforce the principle of equal remuneration for work of equal value between men and women in factories and establishments. The Committee also requests the Government to provide a copy of the training material for the course "Wages: Payment of wages" that is taught in the IRIs and the labour welfare centres, highlighting sections in the course that promote the principles of the Convention. It requests the Government to provide the training material used for awareness-raising seminars for judicial and governmental officers as well. Welcoming the Government's invitation to the ILO for the provision of technical assistance in this area, the Committee hopes that such assistance will be provided in the near future and will cover the principle of equal remuneration for men and women for work of equal value.*

Article 4. Cooperation with workers' and employers' organizations. The Committee notes the Government's indication that wage determination in Bangladesh is conducted through at least three systems: the Wage Commission for the officers and employees employed by the Government; the Wage and Productivity Commission for public sector enterprises; and the Minimum Wages Board for workers employed in the private sector. It also notes the Government's indication that all three systems are tripartite in constitution. Regarding the wage-setting process of public sector employees, the Government indicates that workers are consulted via structured questionnaires and other data collection procedures, after which data is collected from selected workers, union members, and members of management. The Committee also notes the Government's indication that the Department of Labour provides training to social partners regarding relevant provisions in the Labour Act. *The Committee requests the Government to provide more detailed*

information regarding the wage setting process in the three entities mentioned above, such as for example, information solicited from workers' and employers' associations throughout the wage-setting process and how that information is used as wages are ultimately determined. The Committee also requests detailed information on how the principle of equal remuneration for work of equal value is promoted with the work of the tripartite committees and within the context of the training provided by the Department of Labour to social partners.

***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
(ratification: 1972)***

The Committee notes the observations of the Bangladesh Employers' Federation (BEF) which are included in the Government's report.

Articles 1 and 2 of the Convention. Prohibition of discrimination. The Committee recalls that it has been raising concerns regarding the absence of legislative provisions prohibiting discrimination in employment and occupation based on all the grounds listed in *Article 1(1)(a)* of the Convention, with respect to all aspects of employment and occupation as defined in *Article 1(3)* of the Convention, and covering all workers. It notes the Government's acknowledgement that it is the Government's responsibility to guarantee equality of men and women in all spheres of life. The Committee notes however that the Government repeats its indication that the Constitution sufficiently provides such protection along with legislative provisions that, while not explicitly prohibiting discrimination, provide "safeguards for women and children". In this regard, the Committee notes that the BEF highlights section 345 of the Bangladesh Labour Act of 2006 (BLA), which provides "[i]n determining wages or fixing minimum rates for any worker, the principle of equal wages for male and female workers for work of equal nature or value shall be followed and no discrimination shall be made in this respect on the ground of sex". The BEF also refers to rule 14 of the Minimum Wages Rules that also provides for the protection of the principle of equal remuneration for work of equal value. Regarding the Government's indication that the Constitution sufficiently provides protection against discrimination in employment and occupation, the Committee repeats that general equality and non-discrimination provisions in the Constitution, although important, have generally not proven to be sufficient to address specific cases of discrimination in employment and occupation (see General Survey on the fundamental Conventions, 2012, paragraph 851). The Committee also recalls its previous comment in which it noted in particular that the main non-discrimination provision of the Constitution is aimed at ensuring that the State does not discriminate. The Constitution does not address the situation of the private sector and does not prohibit all the grounds of discrimination enumerated in *Article 1(1)(a)* of the Convention. Regarding the BEF's indication, the Committee highlights that while the cited provisions of the BLA afford the protection granted by the Equal Remuneration Convention, 1951 (No. 100), they do not provide the necessary protection against discrimination in employment and occupation based on all the grounds listed in *Article 1(1)(a)* of the Convention, since only "sex" is protected under those provisions. Finally, the Committee notes that neither the Bangladesh Labour (Amendment) Act of 2013 (Act No. 30 of 2013) nor the Bangladesh Labour Rules of 15 September 2015 (S.R.O. No. 291-Law/2015) have taken into account the Committee's previous comments. ***The Committee once again requests that the Government takes concrete steps to amend, in the near future, the Labour Act of 2006, so as to include a prohibition of direct and indirect discrimination, on at least all the grounds enumerated in Article 1(1)(a) of the Convention, with respect to all aspects of employment, and covering all categories of workers, including domestic workers, and to report on the progress made in this regard. In addition, the Committee requests the Government to provide more information on measures taken to ensure the principles of the Convention are reflected in future Bangladesh Labour Rules. Finally, the Committee reiterates its request to the Government to indicate how the protection of men and women workers against discrimination in employment and occupation is ensured in practice, in particular for those categories of workers excluded from the scope of the BLA.***

Gender equality. The Committee recalls its previous request to the Government to indicate the measures taken to promote gender equality in employment and occupation. It notes the Government's indication that due to positive measures, women have entered into traditionally male-dominated sectors, as well as the indication that the Ministry of Women and Children Affairs has been running special projects for training, education, welfare, safety and protection of women and children. It also notes that the Ministry of Labour and Employment has established six technical training centres for women to undergo vocational training. The Committee notes however that the report does not provide further details on the work of these centres nor on measures taken under the National Development Policy of 2011 and the National Education Policy of 2010. From the Government's report to the Committee on the Elimination of Discrimination against Women of 27 May 2015, the Committee notes that the enrolment rate of girls in technical and vocational education is still only around 27 per cent, and that the proportion of women working in the public sector remains at 10.98 per cent (CEDAW/C/BGD/8, 27 May 2015, paragraphs 80 and 166). The Committee notes that the Government has not provided detailed information on the activities of the Rural Development and Cooperative Division, or regarding microcredit support to women for small-scale agricultural businesses. It does note, however, that sections 169(2) and 189(3) of the Bangladesh Labour Rules of 15 September 2015 establish a 10 per cent quota for women in the executive committee of a trade union if women make up 20 per cent or more of the workers' workplace or workplaces, as well as the election of women in the Participation Committees that is proportionate to the number of women in each workplace. ***The Committee requests the Government to continue to provide information on the measures taken to promote gender equality in employment and occupation, and on the results achieved. In particular, the Committee requests the Government to provide information regarding: (i) the specific activities of the Ministry of Women and Children***

Affairs; (ii) the content of the training provided by the Women's Technical Training Centres, indicating how it is ensured that access to education and vocational training for women is not limited in practice due to stereotyped assumptions regarding women's roles and capabilities; (iii) the measures implemented under the National Development Policy of 2011 and the National Education Policy of 2010, as well as the activities of the Rural Development and Cooperative Division; and (iv) the immediate steps taken or envisaged to ensure that women have access to jobs in the public sector on an equal footing with men, including in senior management positions.

Sexual harassment. The Committee recalls that section 332 of the BLA prohibits conduct towards female workers that is indecent or repugnant to their modesty or honour, and the guidelines on sexual harassment included in a High Court judgment in 2009. The Committee also notes the Government's indication that in the context of the ILO technical assistance project "Promoting gender equality and preventing violence against women at the workplace" undertaken between 2010 and 2012, awareness-raising activities to reduce sexual and non-sexual harassment of women in the workplace, targeting government officials, managers, trade union leaders and workers, were scheduled. The Committee also notes the Government's indication that, in cooperation with workers' and employers' organizations, it has enacted appropriate laws, and adopted policies and mechanisms concerning sexual harassment. However, the Government does not provide any details in this regard, nor is information provided regarding the consideration of this issue in the context of the review of the draft Bangladesh Labour Rules. ***The Committee requests the Government to provide specific information on the measures taken or envisaged to ensure the implementation of the High Court's guidelines on sexual harassment in the private and public sectors. The Committee also requests the Government to provide information on the progress made in enacting specific legislation on sexual harassment and in amending section 332 of the BLA. The Government is also requested to take measures to raise the awareness of workers, employers and their organizations regarding the rights, obligations and procedures with respect to sexual harassment in employment and occupation, and to provide specific information on progress made in this regard.***

Article 5. Special measures of protection. The Committee recalls that the restrictions set out in sections 39, 40 and 42 of the BLA, which relate specifically to adolescent workers, also apply to women since section 87 of the BLA provides that "[t]he provisions of sections 39, 40 and 42 shall apply to a woman worker as they apply to an adolescent worker". In response to the Committee's observation that these provisions are gender biased with respect to women's capabilities and aspirations, the Government indicates that, on the contrary, sections 39, 40, 42 and 87 of the BLA were enacted to protect the "weaker section" of society. In addition, the Government repeats its previous argument that 90 per cent of women are Muslim and therefore wear a sari, making it impossible for them to work safely with dangerous or moving machines. In this respect, the Committee notes that the BEF, like the Government, does not consider section 87 of the BLA to be discriminatory because women should not be compelled to wear the same light work clothes as men and would revolt if asked to do so. While noting the Government's and the BEF's explanations, the Committee reiterates its concern that such limitations are based on stereotyped assumptions, equating women with adolescents in need of heightened protection, and are likely to impact negatively on women's employment opportunities. The Committee recalls 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, and that it may be necessary to examine what other measures are necessary to ensure that women can access these types of jobs on an equal footing with men (see General Survey, 2012, paragraph 840). The Committee notes that the Government once again provides no information regarding the legislative review which was expected to address these provisions. ***The Committee once again requests the Government to take steps to review and amend sections 39, 40, 42 and 87 of the BLA, with a view to ensuring that women are able to access employment on an equal footing with men as opposed to the current situation which only ensures their access to employment on an equal footing with adolescents, and that any limitations or restrictions applying to women are strictly limited to maternity protection and breastfeeding.***

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)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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.

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

Burundi

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

The Committee notes with *regret* that the Government's report has not been received. It expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

The Committee notes the observations communicated on 26 September 2014 by the Trade Union Confederation of Burundi (COSYBU) that reiterate its previous observations, according to which, as the Committee requests, section 73 of the Labour Code should be amended so as to reflect fully the principle of the Convention.

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 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: 1993)

The Committee notes with *regret* that the Government's report has not been received. It expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

The Committee notes the observations communicated on 26 September 2014 by the Trade Union Confederation of Burundi (COSYBU) on the application of the Convention. The COSYBU reiterates its observations 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 once again 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.*

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 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.

Cambodia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1999)

Article 1(a) of the Convention. Definition of remuneration. In its previous comments, the Committee noted that the definition of “wage” set out in section 103 of the Labour Law of 1997 excludes health care, legal family allowance, travel expenses and benefits granted exclusively to help the worker do his or her job, and thus is narrower than the definition of remuneration under the Convention. The Committee had also noted previously the Government’s indication that Notification No. 230/2012 of the Ministry of Labour and Vocational Training provides for more benefits for workers in garment and footwear industries, including transportation and accommodation allowances. The Government also stated that it was not considering amending the Labour Law. The Committee notes that the Government’s report does not contain information in reply to its previous comments. It recalls that the purpose of the broad definition of “remuneration”, in particular the reference to “any additional emoluments whatsoever”, enshrined in *Article 1(a)* of the Convention is to capture all elements that a worker may receive for his or her work including additional allowance paid in kind (see General Survey on the fundamental Conventions, 2012, paragraphs 686, 690–691). ***The Committee requests the Government to indicate how the principle of equal pay for work of equal value enshrined in the Convention is applied in practice. It encourages the Government to take steps to amend the Labour Law in order to bring it in line with Article 1(a) of the Convention and report on any progress made in this regard.***

Article 1(b). Work of equal value. The Committee recalls that section 106 of the Labour Law provides for equal wages for workers for “work of equal conditions, professional skill and output ... regardless of their origin, sex or age”, which is narrower than the principle set out in the Convention. It also recalls that the concept of “work of equal value” under the Convention not only encompasses equal remuneration for workers who work under equal conditions, professional skill and output, but also allows for the comparison of jobs that are of an entirely different nature, but which are nevertheless of equal value (see General Survey on the fundamental Conventions, 2012, paragraph 677). The Committee notes that, once again, the Government’s report does not contain information in this respect. ***Recalling the importance of giving full legislative expression to the concept of “work of equal value”, in order to address effectively direct or indirect pay discrimination that results from the undervaluing of work performed predominantly or exclusively by women, the Committee once again 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. It hopes that progress will be made in the near future, and requests the Government to provide specific information on the concrete steps taken in this regard.***

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

Central African Republic

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1964)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments.

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 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: 1964)**

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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.***

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.

Chad

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) **(ratification: 1966)**

Article 1(1)(a) of the Convention. Grounds of discrimination. The Committee notes that, according to the Government, the new draft Labour Code has been validated by the High Committee for Labour and Social Security and will be forwarded to the Council of Ministers in the near future. The Government adds that the Committee's comments have been taken into account and that the draft text has been amended accordingly. ***The Committee hopes that the Government will soon be in a position to report on the adoption of the new Labour Code and requests it to ensure that it contains provisions explicitly prohibiting any direct or indirect discrimination based, as a minimum, on all the grounds enumerated in Article 1(1)(a) of the Convention, including national extraction and social origin, at all stages of employment and occupation. The Committee requests the Government to provide a copy of the Code as soon as it has been adopted, and of any implementing texts with respect to non-discrimination and equality in employment and occupation.***

Discrimination based on sex and equality of treatment between men and women. With reference to its previous observation, the Committee notes the Government's acknowledgement that section 9 of Ordinance No. 006/PR/84 of 1984, which gives the husband the right to object to his spouse's activities, is completely outdated. The Committee also notes the Government's indication that it will take measures to repeal this provision, which no longer corresponds to current realities. With regard to discrimination against women in practice, the Government indicates that occupational segregation between men and women is, among other factors, due to the high levels of illiteracy and social rigidity. ***The Committee once again requests the Government to take the necessary measures to formally repeal section 9 of the Ordinance of 1984 and to combat actively stereotypes and prejudices concerning the vocational capacities and aspirations of men and women. The Committee also requests the Government to carry out awareness-raising activities for parents and the population as a whole concerning the need for girls and boys to go to and remain in school, and to promote the access of girls and women to a broader range of training courses and occupations, particularly those that are traditionally male.***

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

Comoros

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2004)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. National policy. Equality of opportunity and treatment of men and women. The Committee notes that the Government recognizes in its report that significant measures are needed to improve the situation of women with regard to employment, education, literacy and vocational training, and that access to traditional bank credit is very difficult for women. The Committee also notes the concluding observations of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), which express concern at the persistence of attitudes based on patriarchal values and deep-rooted stereotyping with regard to the roles and responsibilities of women and men in the family and society (CEDAW/C/COM/CO/1-4, 8 November 2012, paragraphs 21–22). The Committee notes that the Government's report does not contain any information on the National Policy on Gender Equity and Equality (PNEEG), adopted in 2008, or its plan of action. ***The Committee requests the Government to take the necessary steps to remove the obstacles to women's participation in employment and the various occupations and to promote their access to credit and resources, including measures to combat stereotyping and prejudice towards women, and to provide information on any measures taken in this regard. The Government is also requested to provide information on the measures taken to implement the PNEEG and the subregional gender policy and strategy of the Indian Ocean Commission adopted by the governments of the countries of the region in April 2009, or any other policy adopted more recently on this matter, and the results achieved in employment and occupation.***

Equality of opportunity and treatment irrespective of race, colour, religion, political opinion, national extraction and social origin. The Committee recalls that, under Article 2 of the Convention, member States that ratify the Convention undertake to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation. It also recalls that the implementation of a national equality policy presupposes the adoption of a range of specific measures, which often consist of a combination of legislative and administrative measures, collective agreements, public policies, affirmative action measures, dispute resolution and enforcement mechanisms, specialized bodies, practical programmes and awareness raising (see General Survey on the fundamental Conventions, 2012, paragraphs 848–849). ***In the absence of information on this point, the Committee once again requests the Government to indicate the measures taken or contemplated to declare and pursue a national policy designed to promote equality for all in respect of employment and occupation, without any distinction made on the basis of race, colour, religion, political opinion, national extraction or social origin.***

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.

Congo

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. Protection against discrimination. Legislation. For many years the Committee has been emphasizing the gaps in the Labour Code and the General Public Service Regulations as regards protection of workers against discrimination, since these texts cover only some of the grounds of discrimination listed in Article 1(1)(a) of the Convention and only certain aspects of employment, such as wages and dismissal. The Committee notes the Government's indications that the preliminary draft of a new Act amending and completing certain provisions of the Labour Code, which is currently being prepared, prohibits discrimination on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, at all stages of employment and occupation. It further notes that the preliminary draft has been sent to the social partners in order to receive their comments before the meeting of the National Labour Advisory Committee. ***Recalling that, where legal provisions are adopted to give effect to the principle of the Convention, these should cover at least all the grounds of discrimination listed in Article 1(1)(a) of the Convention and be concerned with access to vocational training, access to employment and particular occupations, and also conditions of employment (Article 1(3)), the Committee requests the Government to take the necessary steps to ensure the adoption of the preliminary draft of the new Act amending and***

completing the Labour Code and the amendment of the General Public Service Regulations in order to ensure full protection against discrimination for workers in the public and private sectors, to supply information on the status of the legislative process to this end and to send a copy of the legislative texts once they have been adopted. The Committee also requests the Government to consider the possibility of requesting technical comments from the ILO on the draft legislation before it is 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.

Croatia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1991)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 2 and 3 of the Convention. Gender equality in employment and occupation. The Committee recalls section 11 of the Gender Equality Act concerning the adoption of action plans for promoting and ensuring gender equality. The Committee notes the Government's indication that guidelines for the application of section 11 were sent to all the parties concerned and that, until mid-2010, all ministries, central state offices and many legal entities predominantly owned by the Government had produced their respective action plan proposals.

With regard to women's entrepreneurship, the Committee notes that strengthening women's entrepreneurship has been set as one of the key activities and measures in the newly adopted National Policy for Gender Equality 2011–15. The Committee also notes the Government's indication that the Ministry of Economy, Labour and Entrepreneurship has been conducting a project entitled "Women Entrepreneurship", and that a total of 1,001 grants were approved amounting to 10,540,000 Croatian kuna (HRK) (approximately US\$1,734,928) in 2010. The Committee also notes the Government's indication that the measures defined in the National Policy for Gender Equality aim at promoting the employment of women in the information and communications technology sector, which according to the Government will contribute to the elimination of occupational segregation in the area. The Committee further notes the Government's indication that the National Employment Promotion Plan 2011–12 has as key priorities increasing the level of employability and the rate of labour market participation of women with low or inadequate education, and women belonging to national minority groups. As regards education, the Committee notes the Government's indication that the rate of girls enrolling in the industrial and artisan school programmes increased in comparison to 2007 and reached 36.3 per cent. The number of female students in 2009 who enrolled in public colleges and who completed their university education also increased to 56.3 per cent, and 58.6 per cent, respectively. The "Implementation Activities Plan of the Economic Recovery Programme" of the Government also aims at increasing interest of the students in maths and natural sciences which have traditionally been considered "male fields". As regards the public sector, the Committee notes the Government's indication that a total of 22,980 women and 29,862 men were employed in the Government in 2009, and the share of women rose to 43.49 per cent in 2009; the rate of women in state administration's managerial positions increased to 3.2 per cent in 2009. ***The Committee asks the Government to provide information on the measures taken to promote women's access to a wider range of jobs, including posts of responsibility and management positions, both in the private and the public sectors, and to provide them with a wider choice of educational and vocational opportunities, and their impact. The Committee also asks the Government to provide more specific information on the number and proportion of female civil servants and civil service employees in posts of responsibility.***

Equality of opportunity and treatment in employment and occupation of the Roma. The Committee notes the measures taken in 2009 and 2010, pursuant to the National Programme for the Roma and the Action Plan for the Decade of Roma Inclusion, 2005–15, relating to the employment and training of persons belonging to the Roma national minority. The Committee recalls the Government's indication that the main obstacle for members of the Roma to access employment is their low level of education. The Committee notes the Government's indication in this respect that 824 Roma children engaged in pre-school education in the years 2009–10, and 4,435 Roma children were engaged in primary education at the beginning of the school year 2010–11, both of which showed an increasing trend compared to previous years. A database on the integration of members of the Roma national minority in the education system has also been developed. In addition, the Ministry of Science, Education and Sport has encouraged the involvement of Roma children in pre-school education, including through sharing of costs paid by parents. The Government also indicates that the adoption of the National Curriculum for Pre-School Education and General Mandatory and Secondary Education in July 2010, in combination with the external evaluation of Roma educational results, would make it possible to adequately assess problems and improve the education of the Roma. With regard to Roma women, the Committee notes the Government's indication that a research study entitled "The lives of Roma women in Croatia with focus on the approach to education" was conducted, which aimed at raising awareness in the Roma community and in society as a whole concerning the problems Roma women were facing with regard to access to education.

With regard to the employment service, the Government indicates that 4,553 members of the Roma community were registered in 2010, although the Government also indicates that due to a tendency of the Roma not to disclose their Roma identities, and due to the fact that the employment service does not collect unemployment rates disaggregated by ethnicity, there is a problem in establishing a database of unemployed Roma. The Government further indicates that the Roma have been provided with assistance in drafting their job profiles and developing individual plans on job search, and that the employment of the Roma for a period of 24 months is subsidized. ***The Committee asks the Government to provide information on the measures taken to ensure equal access to education, including pre-school education, for Roma children, without discrimination. The Committee also asks the Government to strengthen its efforts to promote employment opportunities and to ensure equal treatment of the Roma in employment and occupation, including by adopting specific measures concerning the employment of Roma women. Please also provide specific information on the impact of the assistance concerning job search provided for the Roma by the employment service.***

Article 3(d). Access of minorities to employment under the control of a national authority. The Committee notes the adoption of the Action Plan for the Implementation of the Constitutional Law on the Rights of National Minorities for the period 2011–13, which includes the adoption of a long-term civil service employment plan with the goal of 5.5 per cent share of persons

belonging to national minorities in the total number of civil servants. The Government has adopted the Civil Servants Employment Plan for persons belonging to national minorities for the period 2011–14. The Committee also notes the Government's indication that persons belonging to national minorities are given priority in employment in state administration. In regional and local self-government units, only municipalities and cities where the rate of national minorities exceeds 15 per cent of the total population, and counties where the rate of national minorities exceeds 5 per cent, are obliged by law to adopt civil service recruitment plans. The Committee further notes the Government's indication that a study on the share of national minorities in the public sector was conducted in the year 2011, which showed that no under-representation of national minorities was observed in five counties covered by the study, namely Osijek-Baranja, Vukovar-Srijem, Bjelovar-Bilogora, Sisak-Moslavina and Istria. *The Committee asks the Government to provide information on the following:*

- (i) *the efforts made by the Government to promote and ensure access by members of national minorities to public employment in the framework of the Civil Service Employment Plan;*
- (ii) *the progress made in achieving recruitment targets concerning minorities; and*
- (iii) *the current ethnic and gender composition of the civil service.*

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.

Czech Republic

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1993)***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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

In its previous comments, the Committee noted the discussion that took place in the Conference Committee on the Application of Standards in June 2010 and the resulting conclusions of the Conference Committee, which addressed the following issues: (1) the anti-discrimination legislation; (2) the outstanding issues with regard to the follow-up to the representations under article 24 of the ILO Constitution (November 1991 and June 1994) regarding Act No. 451 of 1991 (the Screening Act); and (3) the situation of the Roma in employment and occupation. The Committee also noted that an ILO mission has taken place from 26–29 April 2011 and recommended inter alia that the tripartite constituents consider taking advantage of the envisaged revision of the Labour Code to include the list of prohibited grounds of discrimination currently in the Employment Act so as to ensure legal clarity and certainty concerning protection against discrimination in all areas of employment and occupation. The Committee also notes the observations from the Czech-Moravian Confederation of Trade Unions (CM KOS) attached to the Government's report.

The anti-discrimination legislation. The Committee recalls that the Labour Code of 2006 (Act No. 262/2006) prohibits all forms of discrimination in labour relations but does not specify any prohibited grounds, unlike the previous Labour Code which prohibited discrimination on the basis of sex, sexual orientation, racial or ethnic origin, nationality, citizenship, social background, family background, language, health condition, age, religion or confession, property, marital or family status, family responsibilities, political or other conviction, membership of or activity in political parties or movements, trade union or employers' organizations. However, the Anti-Discrimination Act (No. 198/2009 Coll.) prohibits direct and indirect discrimination based on race, ethnic origin, nationality, sex, sexual orientation, age, disability, religion, belief or worldview. In addition, the Employment Act (No. 435/2004) prohibited any form of direct or indirect discrimination of persons exercising their right to employment on the same grounds as the former Labour Code, before its amendment by Act No. 367/2011. In this respect, the Committee notes that, according to the Government, this amendment replaced the list of prohibited grounds of discrimination by an explicit reference to the Anti-Discrimination Act. It also notes the Government's indication that section 16 of the Labour Code was amended by Act No. 365/2011 Coll. which supplemented the provisions on equal treatment and prohibition of discrimination also with an explicit reference to the Anti-Discrimination Act. The Committee notes that the Government reiterates its position that the Anti-Discrimination Act has to be read in conjunction with the Charter of Fundamental Rights and Freedoms and international agreements which are directly applicable in the country according to the Constitution. It also notes the Government's indication that the grounds of family responsibilities, marital status, pregnancy and parenthood may be covered by the ground of sex in the Anti-Discrimination Act, and that employees' representatives are protected against discrimination by section 276 of the Labour Code. The Committee notes that as a result of the new legislative framework, workers are explicitly protected against discrimination only on the basis of race, ethnic origin, nationality, sex, sexual orientation, age, disability, religion, belief or opinions, as provided by the Anti-Discrimination Act to which both the Labour Code of 2006 and the Employment Act now refer, thereby omitting the grounds of political conviction and membership or activity in political parties, trade unions or employers' organizations which were previously expressly covered by the former Labour Code and the Employment Act. The Committee notes that the CM KOS indicates that it maintains its long standing observations regarding the limitation of the protection of workers against discrimination. The CM KOS indicates that this protection was further limited due to the amendment of the Employment Act in 2011 that removed the list of prohibited grounds of discrimination from its provisions and therefore the organization considers that the current legislation and practice are not in compliance with the Convention.

The Committee notes the Government's indication that the State Labour Inspection Office issued leaflets for the public dedicated to the issue of discrimination. It notes however that these leaflets only mention the grounds of race, ethnic origin, nationality, sex, sexual orientation, age, disability, religion, belief or worldview. The Committee notes the Government's indication that further to the recommendations of the ILO mission, discussions are currently being held between the Ministry of Labour and Social Affairs, the Government Commissioner for Human Rights and the Ombudsperson to determine the appropriate means to ensure the enforceability and legal clarity and certainty concerning the right to non-discrimination, including with regard to legal procedures available to workers.

Noting the recent legislative developments, the Committee asks the Government to take the necessary measures to ensure the protection of workers against discrimination in training, recruitment, terms and conditions of employment, on the basis of all the grounds that were previously covered by the labour legislation. It also asks the Government to monitor closely the application of the Anti-Discrimination Act and the Charter of Fundamental Rights and Freedoms specifically in the field of employment and occupation as well as the application of the Labour Code and the Employment Act in practice, particularly with regard to the possibility for workers to assert their right to non-discrimination and to obtain compensation, and to ensure that they provide adequate protection against discrimination based on at least all the grounds enumerated in Article 1(1)(a) of the Convention. The Committee asks the Government to take the necessary measures to ensure that the material designed to foster awareness of the legal provisions on discrimination among workers, employers and their organizations, as well as labour inspectors, judges and other public officials dealing with non-discrimination and equality, indicates clearly the grounds of discrimination that are prohibited under the legislation, including those covered by the Charter of Fundamental Rights and Freedoms, and provide details on the procedure to follow. In this regard please also provide information on the number and nature of any administrative or judicial decisions applying and interpreting the legal provisions on discrimination in the field of employment and occupation, including the remedies provided and the sanctions imposed.

Discrimination on the basis of political opinion. The Screening Act. In its previous comments, the Committee noted that the Conference Committee has strongly urged the Government to amend or repeal the Screening Act without further delay in so far as it violated the principle of non-discrimination on the basis of political opinion. The Committee also noted that detailed information was provided to the ILO mission to clarify the scope of application of the Screening Act, according to which the Act applies to limited categories of persons occupying managerial positions in the public service and state enterprises, and that work was under way to adopt a new Act on Civil Service. The Committee understands from the Government's report that in the draft Act on Civil Service which is still under preparation, there remains a reference to the current provisions of the Screening Act as one of the "additional prerequisites" for a management position in the civil service, a high level position or a position of head of office of a regional self-government unit. The Government indicates that the Screening Act will not apply to "other employees", as defined by the draft Act on Civil Service and excluded from its scope, performing auxiliary or manual work at public authorities or to employees supervising these workers. Further to the adoption of the Act on Civil Service, the list of persons subject to the Screening Act will be amended, using the same terminology. *Recalling that political opinion may be taken into account as inherent requirements only for certain posts involving special responsibilities directly concerned with developing government policy, the Committee requests the Government to provide information on the measures taken to clearly specify and define the functions in respect of which screening would be required in the Act on Civil Service and provide a copy of this Act once it has been adopted as well as a copy of the Screening Act once it has been amended. Noting the information provided in the Government's report in this respect, the Committee requests the Government to continue to provide information on the application of the Screening Act, indicating specifically the positions for which a screening certificate was requested and issued, and the responsibilities directly concerned with developing government policy. Please provide statistical information on the number of certificates issued and the appeals lodged against a positive certificate.*

The situation of the Roma in employment and occupation. The Committee noted in its previous comments that the Conference Committee remained concerned that the measures taken aimed at the social inclusion of the Roma had not yet led to verifiable improvements and urged the Government to take measures to develop improved means to monitor the situation of the Roma, including through the collection and analysis of appropriate data. The Committee welcomes the detailed statistics provided by the Government on the estimated numbers of members of the Roma community, disaggregated by region and sex. The Committee also notes the results of the 2011 national census according to which only 5,199 persons declared themselves as Roma whereas in 2010 the number of people in the Roma community was estimated at 183,000. The Committee notes that according to the statistics provided the estimated number of people from the Roma community registered by the Labour Office is quite low in comparison to the total Roma population (38,456 including 18,146 women). The Committee notes the detailed information provided by the Government regarding numerous projects and programmes of the Active Employment Policy and the reform of public employment services. The Committee notes with interest the approval of a comprehensive Strategy for Combating social exclusion for the period 2011–15 in September 2011, to support the social inclusion of people in "socially excluded localities" in which mainly members of the Roma community live. According to the strategy, approximately 80,000 persons are concerned by social exclusion in the country, 70,000 of which are from the Roma community. This Plan of Action which was prepared by the Agency for Social Inclusion, includes 77 measures in the fields of education, employment, housing, social services, family policy, healthcare, security and regional development, and will be implemented by the Government Commissioner for Human Rights. With regard to education, the Committee notes that the measures envisaged, including financial measures, aim at reforming the current educational system to end segregation and transform the system of schools established for pupils with mild mental disabilities. They also include measures to end discriminatory criteria for admission of children into public kindergartens which reduced the availability of such facilities for children from socially disadvantaged families, and measures to support inclusive education. The Committee also notes that 65 per cent of the persons from socially excluded localities receive social benefits and 75 per cent of them are non-active or unemployed and 11 per cent have occasional employment. The employment measures encompass the development of specific mechanisms to find employment, the implementation of a gradual employment scheme from the public service to the free labour market, the development of local employment networks and the implementation of tools for flexible employment and incentives for employers. *Welcoming the numerous measures envisaged in the Comprehensive Strategy for Combating Social Exclusion (2011–15) to address comprehensively social exclusion and school segregation, which affects disproportionately the members of the Roma community, the Committee requests the Government to provide information on its implementation of the measures with regard to education, training, employment and occupation, in particular with regard to Roma girls and women, and the results thereof. In this regard, it requests the Government to continue to assess the impact of the measures taken and to ensure that any progress made in the education and employment situation of the Roma population is not reversed by the economic downturn or the lack of appropriate funding, including with respect to the activities of the Government Commissioner for Human Rights and the Agency for Social Inclusion. The Committee requests the Government to take appropriate measures to address stereotypes and prejudices regarding the capabilities and preferences of the Roma and to promote respect and tolerance between all sections of the population. Please also provide information on the implementation and results of the "Ethnic Friendly Employer" scheme.*

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.

Democratic Republic of the Congo

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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.***

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: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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, and section 8(8) of Act No. 81/003 of 17 July 1981, 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 Government 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.

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

Denmark

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)

Statistics on equality of opportunity and treatment. The Committee welcomes the detailed disaggregated statistics provided by the Government which show that in 2013 the employment rate of persons of Danish origin was 73.8 per cent (75.2 per cent for men and 72.4 per cent for women), compared to an employment rate of 47.7 per cent for immigrants from non-Western countries (52.9 per cent for men and 42.9 per cent for women) and an employment rate of 52.2 per cent for the descendants of immigrants from non-Western countries (52.3 per cent for men and 52.1 per cent for women). The statistics also show a much higher unemployment rate for immigrants from non-Western countries (13.2 per cent for men and 14 per cent for women), compared to Danish nationals (5.6 per cent for men and 5.5 per cent for women). The Committee notes that the Government adopted various measures aimed at increasing the labour force participation of immigrants and at combating discrimination and promoting diversity. In particular, the Committee notes the adoption in November 2012 of “a strengthened integration policy”, including initiatives to improve employment among immigrants, and the adoption of Act No. 1115 of 23 September 2013 consolidating Act No. 1035 on integration, which provides for a three-year introduction programme for immigrants, including career guidance and qualification, a trainee programme and wage subsidies. The Committee also notes that the Government’s National Reform Programme 2015 and the Government Plan of 2015 include new integration initiatives aiming to ensure that refugees and immigrants obtain employment as soon as possible. The Committee further notes that a four-party agreement on integration focusing on strengthening immigrants’ language skills and knowledge about vocational education was signed in June 2014 between the Government (Ministries of Employment and Education), Local Government Denmark, the Confederation of Danish Employers (DA) and the Danish Confederation of Trade Unions (LO). *The Committee requests the Government to continue providing information on the initiatives undertaken and the results achieved to improve the employment situation of men and women immigrants and their descendants from non-Western countries, irrespective of race, colour, religion or national extraction, including through the various integration initiatives. Please provide information on the participation of men and women immigrants in the introduction programme, including the provision of career guidance, training and wage subsidies, and their integration into the labour market. It also requests the Government to continue providing statistical information on employment and unemployment rates, disaggregated by sex and, to the extent possible, by origin. Please also provide information on the implementation of the four-party agreement and its impact on improving access to employment and vocational training for persons with a migration background.*

Dominican Republic

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1964)

Article 1(1) of the Convention. Discrimination on the grounds of colour, race or national extraction. For a number of years, the Committee has been referring to discrimination against Haitians and dark-skinned Dominicans and recalls that in 2014 the Conference Committee on the Application of Standards referred to Ruling No. TC/0168/13 of the Constitutional Court of 23 September 2013, which retroactively denied Dominican nationality to foreign nationals and children of foreign nationals. The Committee recalls that this measure particularly affected Haitian nationals and Dominicans of Haitian descent. The Committee noted the Government’s adoption of the National Plan for the regularization of foreign nationals (hereinafter, the Regularization Plan) (Decree No. 327-13 of 20 November 2013) and of Act No. 169-14 of 23 May 2014, which both have the aim of resolving the situation of Dominicans of Haitian descent. The Committee notes the Government’s indication in its report that Haitians are considered as migrant workers and as such are covered by the Labour Code, including the provisions protecting them against any distinction made on the

grounds of race, sex, religion or any other condition. The Government adds that 288,466 persons of 23 nationalities availed themselves of the Regularization Plan. This total included 20,365 persons registered who lacked any kind of documentation, 95,164 who held passports, 69,997 who possessed identity cards and 102,940 who were registered on the basis of their birth certificates. The Government also indicates that there is no special mechanism for dealing with complaints of discrimination relating to persons of Haitian origin or Dominicans of Haitian descent, but that the latter are covered by the same mechanisms established in the Labour Code for all workers. However, the Committee observes that the information supplied does not show how many Haitians or undocumented individuals of Haitian descent were registered in the context of the Regularization Plan. The Committee further notes that the International Organization for Migration (IOM) published other figures in September 2015, according to which only 100,000 of the persons registered in the Regularization Plan have received documentation and 130,000 identity documents are still pending. According to the IOM, however, 98 per cent of the registered persons are Haitians. ***The Committee requests the Government to send further information on the Regularization Plan clearly indicating the number of migrant workers whose situation has been regularized. The Committee also requests the Government to take steps to ensure that the migration status or lack of documentation of workers of Haitian descent does not exacerbate the vulnerability of these workers to discrimination. The Committee furthermore requests the Government to send detailed information on any complaints of discrimination, including pay discrimination in employment, made by workers of Haitian descent or dark-skinned Dominicans, the action taken, penalties imposed and compensation awarded.***

Sexual harassment and mandatory pregnancy testing to obtain or keep a job. For a number of years, the Committee has been referring to the persistence of discrimination based on sex, particularly mandatory pregnancy testing and sexual harassment. In its previous comments, the Committee asked the Government to take steps to incorporate in the legislation, including in the current revision of the Labour Code, provisions that prohibit and adequately penalize both quid pro quo and hostile environment sexual harassment, and also mandatory pregnancy testing. The Committee notes the Government's reference to Act No. 16-92 of 29 May 1992, which prohibits the employer from taking any actions against a worker that can be considered as sexual harassment or failing to support or intervene should such actions be taken by its representatives. The Government also refers to the Labour Rights Guide: Equal Opportunities and Non-Discrimination of 2013, which states that in the event of sexual harassment the worker can terminate the employment contract under section 47 of the Labour Code. The Committee recalls that legislation under which the sole redress available to victims of sexual harassment is termination of the employment relationship does not afford sufficient protection for victims of sexual harassment, since it in fact punishes them and could dissuade victims from seeking redress (see General Survey on the fundamental Conventions, 2012, paragraphs 791 and 792). The Committee further observes that the Government does not refer to pregnancy testing for obtaining or keeping a job. The Committee ***deplores*** the requirement by employers of pregnancy testing to obtain or keep a job, which constitutes a serious form of discrimination based on sex. ***The Committee urges the Government to take the necessary steps to provide adequate protection for victims of sexual harassment that is not limited to the possibility of terminating the employment contract and to adopt legal provisions that define and expressly prohibit both quid pro quo and hostile work environment sexual harassment. The Committee also urges the Government to take the necessary measures without delay to establish the explicit prohibition in law of mandatory pregnancy testing to obtain or keep a job. The Committee requests the Government to send information on any progress made in this respect, and also on complaints made in relation to sexual harassment and mandatory pregnancy testing, the follow-up action taken, penalties imposed and redress awarded.***

The Committee notes the request for technical assistance addressed by the Government to the Office concerning the various questions that are pending in relation to the application of the Convention. ***The Committee hopes that the technical assistance will be provided in the near future.***

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

[The Government is asked to report in detail in 2016.]

Ecuador

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1957)

Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation. The Committee notes with ***regret*** that for more than 20 years it has been referring to the need to amend section 79 of the Labour Code providing for equal remuneration for equal work, which is more restrictive than the principle set out in *Article 1(b)* of the Convention, which refers to work of "equal value". The Committee observes that the Government has not sent any information on the progress made with respect to the adoption of the new Labour Code. 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 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 of an entirely different nature 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 General

Survey on the fundamental Conventions, 2012, paragraphs 669, 673 et seq.). *The Committee urges the Government, within the framework of the reform of the Labour Code, to amend section 79 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.*

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
(ratification: 1962)

Article 1 of the Convention. The Committee notes with *interest* that 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, were repealed by the Basic Act on the social and solidarity economy and the social and solidarity financial sector of 11 May 2011. The Committee observes, however, that the Government has not sent any information on progress made with regard to the adoption of the new Labour Code. *The Committee requests the Government to take the necessary measures to include a provision in the new Labour Code 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 Government refers to article 331 of the Constitution, which prohibits harassment or violence against women at work and indicates that the Committee's observations will be taken into account in any reform of the Labour Code. The Committee recalls that 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 the fundamental Conventions, 2012, paragraphs 789–794). *The Committee once again requests the Government to take the necessary measures to include a provision in the Labour Code defining and clearly prohibiting sexual harassment. It requests the Government to consider including a requirement for employers to adopt measures to prevent sexual harassment in the workplace. The Committee also requests the Government to provide information on any other measures adopted with a view to preventing sexual harassment. It further requests the Government to provide information on the number of complaints of sexual harassment at work that have been brought before the administrative or judicial authorities, the penalties imposed and compensation awarded, and also copies of the most relevant rulings issued.*

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

Fiji

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2002)

Article 1(b) of the Convention. Work of equal value. Legislation. The Committee recalls that section 78 of the Employment Relations Promulgation (ERP) of 2007 does not give full legislative expression to the principle of the Convention as it restricts the comparison of remuneration to men and women holding the “same or substantially similar qualifications” employed in the “same or substantially similar circumstances”. The Committee notes the Government's indication that a bill to amend the ERP is before the Parliamentary Standing Committee on Justice, Law and Human Rights. However, the Committee notes with *regret* that the proposed amendments to section 78 continue to restrict equal remuneration to “persons of the same or substantially similar qualifications employed in the same or substantially similar circumstances”. The Committee recalls that equal pay legislation should not only provide for equal remuneration for equal, the same or similar work, but should also address situations where men and women perform different work, requiring different qualifications and involving different circumstances, that is nevertheless work of equal value (see General Survey on the fundamental Conventions, 2012, paragraph 673). *The Committee urges the Government to take these comments into account and make the necessary changes to section 78 of the ERP so as 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 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: 2002)

The Committee notes that the Government's report does not reply to the issues raised in the Committee's previous observation. It must therefore repeat its previous comments.

Follow-up to the conclusions of the Conference Committee on the Application of Standards (International Labour Conference, 100th Session, June 2011)

In its previous observation and in the absence of a report, the Committee recalled that a discussion has taken place in the Conference Committee on the Application of Standards in June 2011. In the resulting conclusions, the Conference Committee urged the Government to ensure that the principles contained in the People's Charter for Change, Peace and Progress adopted in 2008 were translated into concrete action, and called upon the Government: (i) to amend or repeal all racially discriminatory laws and regulations, including the Education (Establishment and Registration of Schools) Regulations, 1966; (ii) to effectively address discriminatory practices; and (iii) to ensure equality in employment, training and education for all persons of all ethnic groups. The Conference Committee also addressed the right of government employees to non-discrimination and equality in employment, as well as the low labour force participation of women, and asked that measures be taken. The Conference Committee also noted concerns regarding the difficulty in exercising the right to freedom of association in the country, and called on the Government to establish the conditions necessary for genuine tripartite dialogue, with a view to addressing the issues related to the implementation of the Convention. ***The Committee notes that the Government has not replied to the latter point and asks the Government to provide specific and detailed information in this regard.***

Article 1(1) of the Convention. Protection against discrimination. Public service. Legislation. The Committee recalls that further to the adoption of the Employment Relations (Amendment) Decree 2011 (Decree No. 21 of 2011) on 13 May 2011, government employees, including teachers, were excluded from the scope of the Employment Relations Promulgation of 2007 (ERP) and thus from its non-discrimination provisions. As regards employees excluded, and in general persons employed in the public service, the Committee welcomes the adoption of the Public Service (Amendment) Decree 2011 (Decree No. 36 of 2011) on 29 July 2011, which inserts in the Public Service Act 1999 new Parts 2A and 2B respectively on Fundamental Principles and Rights at Work and Equal Employment Opportunities. The Committee notes that section 10B(2) prohibits, in all aspects of employment, discrimination based on ethnicity, colour, gender, religion, national extraction and social origin, omitting however, political opinion. The Committee notes that section 10C on prohibited grounds of discrimination, whether direct or indirect, also refers to all the grounds of *Article 1(1)(a)* of the Convention except for political opinion. The Committee recalls that where legal provisions are adopted to give effect to the principle of the Convention, they should include at least all the grounds of discrimination specified in *Article 1(1)(a)* of the Convention. ***The Committee requests the Government to take the necessary measures to include political opinion among the prohibited grounds of discrimination listed in the Public Service Act 1999. The Committee also requests the Government to indicate how public service employees and applicants to public service employment are protected against discrimination based on political opinion in practice.***

The Committee recalls that the Conference Committee noted that section 3 of Decree No. 21 of 2011 prohibits any action, proceeding, claim or grievance "which purports to or purported to challenge or involves the Government ..., any Minister or the Public Service Commission ... which has been brought by virtue of or under the [Employment Relations Promulgation]" and that it urged the Government to ensure that government employees had access to competent judicial bodies to claim their rights and to adequate remedies. ***While noting the Government's indication regarding the jurisdiction of the High Court to hear any application for judicial review of the decisions of the Public Service Commission concerning termination of government employees, the Committee asks the Government to provide detailed information on the procedure and means of redress available to workers excluded from the scope of the ERP, alleging discrimination in employment or occupation which purport to challenge or involve public authorities. The Government is requested to provide information on the number of complaints submitted, the grounds invoked, the remedies granted and the sanctions imposed.***

Article 1. Equal access to education and vocational training. In its previous comments, the Committee noted that the education system was to undergo an extensive reform and requested the Government to indicate whether the Education (Establishment and Registration of Schools) Regulations, 1966, which provide that in the admission process preference may be given to pupils of a particular race or creed, was still in force. According to the Government's report, a draft Education Decree that will repeal the Education Act and all its subordinate legislation, including the 1966 Regulations, is being prepared. The Committee recalls in this regard that access to education and to a wide range of vocational training courses is of paramount importance to achieving equality in the labour market (General Survey on fundamental Conventions, 2012, paragraph 750). ***The Committee trusts that the Government will take the necessary measures to ensure the equal access of boys and girls, men and women from all ethnic groups to education and vocational training, and asks the Government to provide information on the measures taken to implement the reform of the educational system, including the adoption of the new Education Decree, and the results achieved. It requests the Government to clarify whether under section 26(3) of the draft Education Decree, the grounds of race, age, disability or religion can still be invoked, possibly in combination with other grounds, as one of the reasons to deny admission to school and to specify the grounds, if any, on the basis of which admission may be denied. The Committee reiterates its previous request for statistical information on the number of schools still applying race or creed as an admission requirement as well as the number of pupils enrolled in these schools.***

Article 2. National policy to promote equality of opportunity and treatment irrespective of race, colour and national extraction. In its previous comments, the Committee noted the adoption on 15 December 2008 by the National Council for Building a Better Fiji (NCBBF) of the Peoples' Charter for Change, Peace and Progress, which aims to build a society based on equality of opportunity for all Fiji citizens and on peace. It further noted that the Charter also contains specific measures concerning indigenous peoples and their institutions and that a number of recommendations were made by the NCBBF, such as the need to promulgate legislation prohibiting discrimination based on race, religion and sexual orientation, as well as legislation protecting the rights of ethnic minority groups (Indians, Pacific Islanders, Chinese, European and landless Fijians), especially with a view to improving access to land. As far as implementation is concerned, the Committee notes from the Government's report that racial and inappropriate categorization and profiling in government records are being removed, the education system is being reformed and the name "Fijian" is to be applied to all citizens of Fiji while the name "i-Taukei" is used to designate indigenous Fijians who represent around 60 per cent of the population of Fiji. ***The Committee requests the Government to continue to provide information on the concrete measures taken to implement the Peoples' Charter for Change, Peace and Progress with a view to prohibiting and eliminating discrimination, in particular racial discrimination, and to promote equal opportunities for all, including minority groups, in relation to access to education, vocational training, employment and various occupations. The Government is requested to provide information on any action or programmes undertaken by the Ministry for i-Taukei Affairs to promote equality in employment and occupation, including awareness-raising campaigns promoting tolerance between all components of the population.***

Affirmative action. The Committee notes the Government's indication that it has decided to replace the old affirmative action scheme in favour of indigenous peoples by a new "action scheme across all the races based on a means test" as part of the

reform undertaken to develop and implement inclusive, non-discriminatory and non-race based policies towards the goal of common citizenry. It further notes that scholarship schemes that used to be race-based have been discontinued. ***The Committee requests the Government to provide detailed information on the new action scheme envisaged and its implementation in the fields of education, vocational training, employment and occupation, indicating how it intends to remedy de facto inequalities, redress the effects of past discriminatory practices and promote equal opportunities for all. Please specify if the new scheme provides for monitoring and assessment mechanisms.***

Gender equality. The Committee notes the statistics regarding the participation rate of women on a number of bodies, such as the Employment Relations Advisory Board (29 per cent), the National Occupational Safety and Health Advisory Board (13 per cent) and the Wages Councils (20 per cent). The Government states that it aims to reach a participation rate of 30 per cent of women on employment and industrial relations bodies. The Committee further notes that the statistical data on the labour force provided by the Government are not disaggregated by sex and therefore do not give sufficient information on the participation of women and men in the labour market. The Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), while welcoming the new Women's Plan of Action (2010–19), again expressed concern at the persistence of practices and traditions, as well as strong patriarchal attitudes and deep-rooted stereotypes, regarding the roles, responsibilities and identities of women and men in all spheres of life. The Committee notes CEDAW's concerns about the insufficient financial and human resources allocated to the national machinery for the advancement of women, as well as regarding the high number of women in the informal economy with no social security or other benefits and the unequal de facto situation of rural women in terms of access to land and credit (CEDAW/C/FJI/CO/4, 30 July 2010, paragraphs 6, 16, 17, 20, 21, 28, and 30). ***The Committee requests the Government to provide detailed information on the concrete measures taken to promote effectively gender equality in employment and occupation, in the framework of the new Women's Plan of Action or otherwise, including measures taken to address gender stereotypes and improve the access of women to occupations traditionally held by men, through education and training, as well as measures taken to improve the access of women to land and credit. It also requests the Government to indicate the measures taken to increase the participation of women on employment and industrial relations bodies, and the results achieved.***

Article 3(d). Promoting equality in employment under the control of a public authority. The Committee notes that in its most recent concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) drew the Government's attention to the under-representation of minorities in public services and to the need to assess the reasons for this phenomenon and address it effectively (CERD/C/FJI/CO/18-20, 31 August 2012, paragraph 12). ***While noting the Government's general statement that all ministries are implementing the Equal Employment Opportunity Policy, the Committee requests the Government to provide information on concrete measures taken to ensure equality of opportunity and treatment of men and women from all ethnic groups in employment in the public service. Please also provide up-to-date statistics on the representation of men and women, from all ethnic groups, in the different categories, levels and grades in the public service.***

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.

Gambia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2000)

The Committee notes with ***regret*** that the Government's report has not been received. It expresses ***concern*** in this respect. It is therefore bound to repeat its previous comments.

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 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.

Guyana

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Legislation. Since 1998, the Committee has been referring to the need to amend section 2(3) of the Equal Rights Act No. 19 of 1990 which provides for "equal remuneration for the same work or work of the same nature" in order to bring it into conformity with the provisions of the Convention and align it with the Prevention of

Discrimination Act No. 26 of 1997, which both provide for the principle of equal remuneration for work of equal value. The Committee notes with *regret* that no progress has been reported by the Government in this respect. The Committee considers that the coexistence of the two different concepts in the current legislation has the potential to lead to misunderstanding in the application of the principle of the Convention. The Committee recalls that once the area of wages becomes a matter for legislation, full legislative expression should be given to the principle of the Convention (see General Survey on the fundamental Conventions, 2012, paragraph 676). ***The Committee asks the Government to provide concrete information on the implementation of the Convention and in particular on the measures adopted to amend section 2(3) of the Equal Rights Act No. 19 of 1990 with a view to bringing it into conformity with the principle of the Convention and aligning it with the Prevention of Discrimination Act No. 26 of 1997 so as to remove legal ambiguities.***

Considering the ambiguity in the legislation and concerned about misunderstandings regarding the scope and meaning of the principle of equal remuneration for work of equal value, the Committee has been asking the Government to organize training activities and awareness-raising campaigns concerning this principle for labour inspectors and judges, as well as workers' and employers' representatives. The Committee notes that once again no information has been provided by the Government on any measures adopted in this respect, and stresses that a clear and accurate understanding of the concept of equal value is essential if the equal pay principle is to be effectively promoted and enforced. In its 2012 General Survey on the fundamental Conventions, the Committee emphasized 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 and others by men. 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, 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, 2012, paragraph 673). ***The Committee therefore urges the Government to take the necessary measures to address misunderstandings on the principle of the Convention, including through activities to raise awareness among labour inspectors, judges and workers' and employers' representatives on the scope and meaning of the principle of equal remuneration for work of equal value. It asks 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 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.

Kazakhstan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 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: 1999)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Follow-up to the discussion of the Conference Committee on the Application of Standards (International Labour Conference, 103rd Session, May–June 2014)

The Committee notes the discussions of the Conference Committee on the Application of Standards in May–June 2014. The Committee notes that the Government's report has not been received.

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. Section 7(2) also includes a number of additional grounds, as envisaged in Article 1(1)(b) of the Convention (including age, physical disability, tribe and membership in a public association). The Committee notes that during the discussions on the application of the Convention at the Conference Committee, the Government indicated that race is generally understood to be inseparable from skin colour, but that further consultations will be held with representatives of the central state authorities and with the social partners

with a view to resolving the issue of colour as a ground of discrimination. The Committee recalls that, when legal provisions are adopted to give effect to the principle of the Convention, they should include at least all the grounds of discrimination enumerated in Article 1(1)(a) of the Convention. ***The Committee encourages the Government to carry out the consultations planned in order to adopt legislation prohibiting discrimination on the ground of colour in employment and occupation and to provide information on any progress made in this respect. The Committee further requests the Government to provide detailed information on the measures taken to ensure effective protection against discrimination based on the grounds of the Convention, including colour.***

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 notes Resolution No. 1220 of 28 October 2011, provided by the Government, which contains an updated list of prohibited jobs for women and sets out the weight limits for manual lifting and moving by women. The Government indicated to the Conference Committee that the list had been updated four times in 20 years, the latest in 2011. The Government further indicated that the prohibitions do not restrict employment but serve to protect motherhood and women's health, in particular taking into account that the level of automation in manufacturing in the country is lower than in the rest of Europe. The Committee notes that the list contains 299 prohibited occupations some of which include operation of weightlifting machines and bulldozer machines. While the Committee understands that these measures are motivated by the wish to protect women's health and safety, it 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 of men and women in employment and occupation. The Committee further recalls that special measures for the protection of women should be limited to maternity protection in the strict sense. Moreover, 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, paragraph 840). ***The Committee urges the Government to take the necessary steps to review the current list of occupations prohibited to women with a view to ensuring equal opportunities and equal protection of health and safety for both men and women, and provide information on the progress made in this regard. Please also include information on the measures taken to consult workers' and employers' organizations and the results of such consultations.***

Equality of opportunity between men and women in employment and occupation. The Committee notes, from the statistics on women's employment provided by the Government to the Conference Committee for the first quarter of 2014, that women represented 48.6 per cent of the employed population, and 56.2 per cent of the unemployed. The statistics indicate that women's participation was 54.6 per cent in the civil service, 31 per cent in industrial production, 26 per cent in construction, 47 per cent in agriculture, forestry and fishing, 60 per cent in finance and insurance, 50 per cent in the professional, scientific and technical sectors and 74 per cent in education. The Government further indicated that the "Roadmap for employment to 2020" includes mechanisms to combat the crisis and also targets women. The Committee previously noted the Law of 2009 on State Guarantees on Equal Rights and Equal Opportunities of Men and Women and the Strategy for Gender Equality 2006–16 which has among its objectives achieving equal representation of men and women in the executive and legislative bodies and in decision-making positions, developing women's entrepreneurship, and increasing women's competitiveness in the labour market. ***The Committee requests the Government to indicate the specific measures taken, particularly in the framework of the Law of 2009 on State Guarantees on Equal Rights and Equal Opportunities of Men And Women, the Strategy for Gender Equality 2006–16 and the "Roadmap for employment to 2020" to promote and ensure equality of opportunity and treatment for women in employment and occupation in a wide range of jobs, including high-level jobs and those with career prospects. Please provide information, including statistics disaggregated by sex, on the impact of these measures on the participation of women in the labour market (private and public sectors). Please also provide information on the distribution of women and men in the various vocational training courses and in education.***

Workers with family responsibilities. The Committee 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. Sections 188 and 189 provide that fathers have the right to child-feeding breaks and to part-time work only with respect to children without a mother. The Committee notes that the Government indicated to the Conference Committee that Law No. 566-IV of 17 February 2012, amending and supplementing the Labour Code for the purpose of combining employment with family responsibilities, introduces amendments to section 189 of the Labour Code making it possible, with mutual consent, for the father to work also part time. Regarding the amendment of sections 187 and 188 of the Labour Code, the Government indicated that these require further study in collaboration with the social partners. The Committee notes the ratification by Kazakhstan of the Workers with Family Responsibilities Convention, 1981 (No. 156), on 17 January 2013. ***The Committee hopes that the Government will take the necessary measures, in consultation with the employers' and workers' organizations, to amend sections 187 and 188 of the Labour Code, so as to grant the entitlements on an equal footing to both women and men, and requests the Government to provide information on any developments in this regard.***

Equality of opportunity and treatment of ethnic and religious minorities. The Committee notes that the Government indicated to the Conference Committee that no statistics are available on the labour market participation of men and women from ethnic and religious minorities. The Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) recommended that the Government take effective measures to increase the representation of non-Kazakh ethnic groups in the civil service, including by limiting the requirement for mastery of the Kazakh language only to positions where it is essential (CERD/C/KAZ/CO/6-7, 17 March 2014, paragraph 9). ***The Committee asks the Government to indicate the specific measures taken to promote equality of opportunity in employment and occupation of ethnic and religious minorities and improve the representation of non-ethnic Kazakhs in the public service. Please provide information on the occupational requirements of the public service, in particular the language requirements. The Committee further requests the Government to take the necessary steps to collect and analyse data on the distribution of men and women belonging to ethnic or religious minorities in the public and private sectors disaggregated by branch of activity and occupation.***

Enforcement. The Committee notes the information provided by the Government concerning the activities carried out by the labour inspectors, as well as the 200 special investigations undertaken in 2013 concerning discrimination. ***The Committee requests the Government to continue to provide information on measures taken to monitor compliance with the relevant legislation and any violations detected by the labour inspectors, as well as any court or administrative decisions relating to the principle of the Convention including any remedies provided and sanctions imposed.***

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

Republic of Korea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1998)***

The Committee notes the observations, received on 4 September 2015, from the International Organisation of Employers (IOE) and the Korean Employers' Federation (KEF), and the observations by the KEF submitted by the Government with its report.

Follow-up to the conclusions in the Conference Committee on the Application of Standards ***(International Labour Conference, 104th Session, May–June 2015)***

The Committee notes the conclusions and the ensuing discussion that took place in the Conference Committee on the Application of Standards in June 2015, including the written information provided by the Government. It also notes that the observations of IOE and the KEF reiterate their statements made in the Conference Committee. While noting that the Government had taken various measures to review, update and enact legislation to address labour market inequalities and to reduce challenges relating to discrimination, the Conference Committee considered that long-standing concerns in relation to the application of the Convention regarding migrant workers, gender-based discrimination and discrimination relating to freedom of expression, needed to be addressed. The Conference Committee, in particular, urged the Government to review, in consultation with workers' and employers' organizations, the impact of the new regulations regarding workplace flexibility and, if necessary, make adjustments to programmes to ensure appropriate protection of the foreign worker labour force. It also urged the Government to ensure that the rights of migrant workers are properly enforced regarding workplace changes and working hours, including through regular workplace inspections and annual reports. Concerning the protection against discrimination based on the grounds of gender and employment status, in particular with respect to non-regular workers, including women working part time and short term, the Conference Committee urged the Government to review, in consultation with workers' and employers' organizations, the impact of reforms and continue to submit relevant data so as to evaluate if the protection was adequate in practice. Further, with respect to the promotion of equality of opportunity and treatment of men and women in employment, it urged the Government to continue to monitor the participation of women in the labour market and provide relevant data and information. Concerning possible discrimination against teachers on the basis of political opinion, the Conference Committee urged the Government to provide more detailed information on this issue so as to allow a solid assessment of the compliance of the related laws and practice with the Convention. The Conference Committee further invited the ILO to offer and the Government to accept technical assistance to accomplish the recommendations. Regarding the follow-up given to matters relating to the workplace flexibility of migrant workers and their protection from discrimination on the grounds enumerated in *Article 1(1)(a)* of the Convention, discrimination against non-regular workers, and equality of opportunity and treatment of men and women in employment and occupation, the Committee refers to its direct request.

Article 1 of the Convention. Discrimination on the basis of political opinion. In its previous observation, the Committee expressed concern regarding the prohibition of pre-school, primary and secondary school teachers from engaging in political activities. The Committee recalls that the protection against discrimination on the basis of political opinion implies protection in respect of the activities of expressing or demonstrating opposition to established political principles and opinions and also covers discrimination based on political affiliation. In order to come within the scope of the exception provided for in *Article 1(2)* of the Convention, the criteria on which the exception is based must correspond in a concrete and objective way to the inherent requirements of a particular job (see General Survey on the fundamental Conventions, 2012, paragraphs 805 and 831). The Government reiterates that the Constitution mandates political neutrality of public officials and of education (*Articles 7(2)* and *31(4)*), and that relevant national legislation prohibits public officials from engaging in political activities, in favour of a political party or a politician. The Committee notes the undisputed facts that teachers were subject to disciplinary measures for engaging in political activities. In this respect, the Government provides information that, out of the 97 teachers, 16 had been the subject of disciplinary measures, which included reprimands for 13 teachers and wage cuts for three teachers.

The Committee notes the Decision of the Constitutional Court (2011Hun-Ba, 2011Hun-Ga18, 2012 Hun-Ba18 (combined), 28 August 2014) provided by the Government. In its reasoning, the Court considered the distinction between primary and secondary school teachers, who are prohibited from political activities, and college professors, who are not. The reason given by the Court for the distinction was that the college students have the ability to make up their own minds without being influenced by professors whereas primary and secondary school students are impressionable and may be influenced by the teaching staff's expressed political inclination. In so far as the prohibition on political activities in the classroom is concerned, the school is concerned that distinction may meet the requirements of *Article 1(2)* of the Convention in that it constitutes an inherent requirement of the job. However, in so far as political activities outside of the school and unrelated to teaching are concerned, a prohibition of such political activities does not constitute an inherent requirement of the job. Therefore, disciplinary measures against teachers who engage in such activities constitute discrimination on the ground of political opinion, contrary to the Convention. ***The Committee urges the Government to take immediate measures to ensure that elementary, primary and secondary school teachers enjoy protection against***

discrimination based on political opinion regarding activities outside the classroom and the school and unrelated to teaching, as provided for in the Convention, and are not subject to disciplinary measures for such reasons.

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

Nigeria

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)

The Committee notes with **deep regret** that the Government does not address the Committee's previous Observation in its report. It must therefore repeat its previous observation, which reads as follows:

Article 1 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 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.

Pakistan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

The Committee notes the observations by the Pakistan Workers Confederation (PWC), received on 11 November 2013

Legislative developments. The Committee notes the 18th Constitutional Amendment, which devolved the power to enact laws related to labour from the Federal Parliament to the provincial governments. It further notes that existing federal laws remain in force until provincial laws are enacted and that a tripartite consultation committee has been established at the federal level to facilitate the implementation of the Convention by provincial governments. ***The Committee requests the Government to provide information on any development in this respect, in particular on the measures adopted by the tripartite consultation committee with regard to the adoption by the provinces of legislation for the implementation of the Convention.***

Article 2(2)(a) of the Convention. Legislation. Definition of remuneration. The Committee notes the Khyber Pakhtunkhwa Government's Payment of Wages Act (2013), section 2(xiv), which defines wages as including all basic pay and statutory and non-statutory allowances, but excludes any contribution paid by the employer to any pension fund or provident fund, any travelling allowance or the value of travelling concession, any sum paid to defray special expenses, any annual bonus or any sums payable on discharge. The Committee recalls that *Article 1(a)* of the Convention provides a broad definition of remuneration which includes not only the ordinary, basic or minimum wage or salary, but also "any additional emoluments whatsoever payable directly or indirectly by the employer to the worker and arising out of the worker's employment". The definition also captures payments or benefits whether received regularly or only occasionally. It covers among others cost-of-living allowances, dependency allowances, travel allowances, housing and residential allowances, vacation allowances as well as allowances paid under social security schemes financed by the undertaking or industry concerned (see General Survey on the fundamental Conventions, 2012, paragraphs 686, 687 and 690). ***In order to fully apply the principle of equal remuneration for men and women for work of equal value, the Committee requests the Government to ensure that the Government of Khyber Pakhtunkhwa takes into account all the elements included in the definition of "wage" in section 2(xiv) of the Payment of Wages Act, as well as any other additional emoluments whatsoever.***

Equal remuneration for work of equal value. The Committee notes that section 26 of the Khyber Pakhtunkhwa Government's Payment of Wages Act (2013) provides that "there shall be no discrimination on the basis of gender, religion, sect, colour, caste, creed, ethnic background in the wages and other benefits for work of equal value." ***The Committee requests the Government to provide information on the implementation of the Khyber Pakhtunkhwa Government's Payment of Wages Act (2013) and its impact on the elimination of the gender wage gap. The Committee further requests the Government to provide information on measures taken to ensure that any new labour laws enacted***

by the other provinces give full expression to the principle of equal remuneration for men and women for work of equal value, allowing comparisons of jobs which are of an entirely different nature, but which are nevertheless of equal value, and that this principle applies both in the public and the private sectors, as well as to all aspects of remuneration, as broadly defined in Article 1(a) of the Convention.

Article 2(2)(b). Minimum wages. The Committee recalls that in its previous observation it had requested the Government to ensure that the setting of minimum wages was free from gender bias. The Committee notes in this respect that section 10 of the Minimum Wages Notification (2012) issued by the Khyber Pakhtunkhwa Government's Minimum Wages Board stipulates that "An adult female worker shall get the same minimum wages as a male worker receives for work of equal value." The Committee notes that section 18 of the Khyber Pakhtunkhwa Government's Minimum Wages Act (2013), which enumerates the prohibited grounds of discrimination for the purposes of the Act, does not include sex. The Committee recalls that there is a tendency to set lower wage rates for sectors predominantly employing women and, due to such occupational segregation, particular attention is needed in setting sectorial minimum wages to ensure that the rates fixed are free from gender bias. ***The Committee requests the Government to indicate how these two provisions are articulated in order to ensure that minimum wage setting in the province of Khyber Pakhtunkhwa is free from gender bias. The Committee further requests the Government to provide information on measures taken to ensure that the setting of minimum wages by other provinces is free from gender bias.***

Articles 2 and 3. Objective job evaluation. The Committee notes that according to the PWC, most employers do not utilize objective job appraisal schemes. The Committee notes that in its report, the Government refers to the work of the Provincial Women Development Departments, which includes awareness campaigns as well as workshops leading to the preparation of gender responsive policies. It notes that the Provincial Women Development Departments have also established task forces to monitor organizations to ensure the payment of equal remuneration. ***The Committee encourages the Government to take measures to ensure that objective job appraisals on the basis of work performed are integrated into the new provincial labour legislations and to provide information on any developments in this regard, including measures taken by the Provincial Women Development Departments in developing and implementing objective job appraisal mechanisms for use in both 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: 1961)

The Committee notes the observations by the Pakistan Workers Confederation (PWC), received on 10 November, 2013, concerning discrimination against women, who concentrate mainly in the informal sector and the lack of enforcement of labour legislation.

Article 1 of the Convention. Legislation. Prohibition of discrimination. The Committee notes the 18th constitutional amendment, which devolved the power to enact laws related to labour from the federal Parliament to the provincial governments. It further notes that existing federal laws remain in force until provincial laws are enacted and that a tripartite consultation committee has been established at the federal level to facilitate the implementation of the Convention by provincial governments and that the drafting of the Employment and Service Conditions Act has been concluded at the federal level and sent for consideration to the provincial governments. The Committee notes the series of legislation adopted by the Khyber Pakhtunkhwa Provincial Government in 2013 that prohibit discrimination on the basis of different grounds. In this regard, the Committee notes with *interest* that the ground of caste has been included in the list of prohibited grounds of discrimination by this province. The Committee notes, however, that political opinion and national extraction are not included as prohibited grounds of discrimination. It is not clear either if the legislation applies to all aspects of employment, namely vocational training, access to employment and to particular occupations, and terms and conditions of employment as provided for in *Article 1(3)* of the Convention. The Committee highlights that clear and comprehensive definitions of what constitutes discrimination in employment and occupation are instrumental in identifying and addressing the many manifestations in which it may occur (see General Survey on the fundamental Conventions, 2012, paragraph 743). ***The Committee requests the Government to take the necessary measures to ensure, including through the tripartite consultation committee established at the federal level, that all new labour laws adopted by the provinces include provisions expressly defining and prohibiting direct and indirect discrimination, in all aspects of employment and occupation, for all workers, on all the grounds set out in Article 1(1)(a) of the Convention including political opinion and national extraction. The Committee also requests information on any development in this regard.***

Sexual harassment. The Committee notes the Government's indication that in the framework of the implementation of the Harassment at the Workplace Act (2010), ombudspersons have been appointed at both federal and provincial levels and that Women Development Departments are responsible for awareness-raising programmes. The Committee further notes the enactment by the Government of Punjab of the Punjab Protection Against Harassment of Women at the Workplace Act, 2012. ***The Committee requests the Government to provide information on the implementation of the Protection Against Harassment of Women at the Workplace Act (2010) and the Punjab Protection Against Harassment of Women at the Workplace Act, 2012 and any other relevant legislation adopted by the other provinces so as to protect men and women equally against sexual harassment. Finally, the Committee requests***

information on the number and nature of complaints lodged and the remedies provided and sanctions imposed, and asks the Government to provide more information regarding the content of public awareness campaigns on sexual harassment conducted by provincial Women Development Departments.

Article 2. Equality of opportunity and treatment between men and women. The Committee notes that according to the Labour Force Survey 2012–13, female participation in the Pakistan labour market remains low at 21.5 per cent of the total workforce, and that only 28.3 per cent of these women work in the formal sector. The Committee further notes that in its concluding observations, the Committee on the Elimination of Discrimination against Women highlights the low participation of women in the formal sector, depriving women of access to social security and benefits (CEDAW/C/PAK/CO/4, of 1 March 2013, paragraph 29). In this regard, the Committee notes that the Provincial Government of Punjab has adopted the Punjab Fair Representation of Women Act of 2014, which includes measures such as quotas, to give fair and proportionate representation to women in workers' bodies and public entities. The Punjab Women Empowerment Package of 2012 provides for measures such as a 10 per cent quota for public service employment, education in science and technology, and establishment of day care centres and transport facilities for female employees. Besides, the National Vocational and Technical Training Commission provides training to both men and women. The Committee also notes that the Government indicates that the Domestic Workers (Employment and Rights) Bill (2013) is under consideration by Parliament, and that the Sindh Industrial Relations Act (2012) has included agriculture and fisheries sectors into the formal economy in that province. ***The Committee requests the Government to provide more information, including statistics, on the impact of these measures in the participation of women in the labour market and their transfer from the informal to the formal economy. The Committee further requests the Government to continue to take specific measures to enhance the participation of women in the labour market. It also requests the Government to provide information on any development in the adoption of the Domestic Workers (Employment and Rights) Bill (2013).***

Equality of opportunity and treatment in employment and occupation of minorities. The Committee recalls its previous requests to provide information on the progress made in implementing the quota for employment of minorities under Office Memorandum No. 4/15/94-R-2, dated 26 May 2009. The Committee notes the Government's indication that the Punjab Province has implemented a 5 per cent quota for minority members in the public sector. The Government further indicates that similar provisions are being implemented in other provinces. ***The Committee requests the Government to provide information on the concrete impact of the quotas established at federal and provincial level on the employment of non-Muslim minorities. It requests that this information include statistical information on the number of minority workers employed, disaggregated by sex, sector and minority group. The Committee further requests the Government to provide information on measures taken by the federal tripartite committee to facilitate this process. Finally, the Committee requests the Government to provide information detailing who is considered to belong to the Scheduled Castes, including whether they are non-Muslim.***

Discrimination based on social origin. The Committee recalls its previous comments regarding the persistent de facto segregation and discrimination against Dalits, and the need to take effective measures toward the elimination of such discrimination in employment and occupation. In this regard, the Committee noted previously that some legal provisions adopted by the Khyber Pakhtunkhwa Provincial Government in 2013 prohibit discrimination based on caste. ***The Committee requests the Government to provide information on the impact of the prohibition of discrimination, including statistics disaggregated by caste and sex on the employment of Dalits in the Khyber Pakhtunkhwa Province. The Committee also requests the Government to provide information on other measures adopted by the federal Government and the provinces to prohibit discrimination against Dalits and promote their inclusion in the labour market, including through the federal tripartite committee.***

Discrimination based on religion. The Committee recalls its comments expressing concern regarding section 298C of the Penal Code ("blasphemy laws") that singles out members of the Ahmadi minority, as well as the practice of requiring Muslims applying for a Pakistani passport to sign a declaration to the effect that the founder of the Ahmadi movement is an impostor, which has the effect of denying the Ahmadi minority from obtaining passports identifying them as Muslims. The Committee notes in the Government's report the general statement that laws in Pakistan do not discriminate against religious beliefs. ***The Committee urges the Government to take immediate steps to amend its discriminatory legal provisions and administrative measures, and to actively promote respect and tolerance for religious minorities, including the Ahmadi, and to provide information on any progress made in this regard. The Committee once again requests the Government to provide information on the access to employment situation of religious minorities, including those defined in section 260(3)(b) of the Constitution.***

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

Panama

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1958)

The Committee takes note of the observations of 2 September 2014 by the International Organisation of Employers (IOE) and the National Council on Private Enterprise (CONEP).

Wage gap and occupational segregation. In its previous comments the Committee requested the Government to take concrete steps in the area of education, training and vocational training in order to broaden job opportunities for women and narrow the marked occupational segregation in the labour market and reduce the gender pay gap. The Committee takes note of the information supplied by the Government on the measures for training in non-traditional activities and occupations, such as electricity, crane operating, technology and carpentry. It observes, however, that there is no information on the numbers of persons trained disaggregated by sex. The Committee also notes that in their observations, CONEP and the IOE point out that in wage fixing, account is taken not of the workers' sex but of economic activity, occupation and size of enterprise. However, the Committee notes that the statistics compiled by the National Institute of Statistics and Census (INEC) show persistent and marked sex-based occupational segregation (in 2013 taking into account the whole active population: construction, men 21.8 per cent and women 1.9 per cent; education, men 3.6 per cent and women 10.6 per cent; social and health related services, men 1.6 per cent and women 7.6 per cent; household activities, men 1.3 per cent and women 10.7 per cent). Similar disparities are reflected in the significant wage gap. For example, at management level, in 2013 the average monthly salary was 973.6 Panamanian balboas (PAB) for men and PAB952 for women; among professionals, scientists, and other intellectuals the average monthly salaries for men and women were PAB1,019 and PAB884 respectively; for plant and machinery operators the wages were PAB583 and PAB489 respectively; for middle-grade technicians and professionals they were PAB736 for men and PAB666 for women. The statistics also show a larger proportion of men in the highest salary grades (in management jobs paying over PAB 3,000 monthly men account for 16.7 per cent and women for 13.3 per cent; in professional, scientific and technical jobs men account for 13.2 per cent and women for 3.2 per cent; in middle-grade technical and professional jobs men account for 5.1 per cent and women for 1 per cent). ***The Committee requests the Government to take practical measures for the education and vocational training of women in all sectors of occupation, including those traditionally occupied by men, in order to broaden the employment opportunities for women and enhance their prospects for advancement and promotion in their respective occupations. The Committee requests the Government to provide information on these matters and on any other practical measures taken to reduce the present wage gap and attenuate its impact.***

Article 1(b) of the Convention. Work of equal value. The Committee has for more than 20 years referred to the need to amend section 10 of the Labour Code, which provides "for equal pay for work in the service of the same employer, performed in the same job, working day, conditions of efficiency and seniority", in order fully to align it with the principle of equal remuneration for men and women for work of equal value. The Committee also recalls that article 67 of the Political Constitution likewise provides that "an equal salary or wage shall be paid for work carried on in the same conditions, regardless of the person performing it, without exception and without distinction as to sex, nationality, age, race, social class, or political or religious ideas". Section 4 of the Constitution provides that the Republic of Panama respects international labour standards. The Committee notes the establishment of a harmonization committee under the Tripartite Agreement of Panama, concluded in February 2012 between CONEP, National Council of Organized Workers (CONATO) and the National Confederation of United Independent Unions (CONUSI), with the cooperation of the ILO. The Government indicates that the abovementioned committee is responsible for harmonizing the legislation with ratified Conventions. The Committee nonetheless observes that, according to the Government, there have been no changes as regards the harmonization of article 67 of the Constitution and section 10 of the Code since they are not incompatible with the principle of the Convention, their aim being equality. The Committee recalls in this connection that the concept of "work of equal value" lies at the heart of the fundamental right to equal remuneration for men and women for work of equal value, and the promotion of equality. Owing 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", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value. The Committee recalls that insistence on factors such as "equal conditions of work, qualifications and output" may be used as a pretext for paying women lower wages than men. Although factors such as skill, responsibilities, effort and working conditions are clearly relevant in determining the value of work, when examining two jobs the value need not be the same for each factor – determining value is about the overall value of the job when all the factors are taken into account (see the 2012 General Survey on the fundamental Conventions, paragraphs 673 et seq.). ***The Committee requests the Government to take the necessary measures to align its legislation with the principle of the Convention and in particular to amend section 10 of the Labour Code so that it fully reflects the principle of equal remuneration for men and women for work of equal value. The Committee requests the Government to provide information on any developments in this regard and points out that it may avail itself of technical assistance from the Office.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1966)

The Committee notes the observations submitted by the International Organisation of Employers (IOE) and the National Council of Private Enterprise (CONEP) in their communication of 31 August 2014, in which they refer to the

manner in which enterprises apply the Convention, particularly as regards the awareness-raising and training measures implemented by enterprises in connection with gender equality and HIV.

Articles 1 and 2 of the Convention. Gender discrimination. In its previous observation, the Committee asked the Government to provide information on the measures adopted or envisaged to ensure that women on temporary contracts are not placed in situations in which they are more vulnerable to discrimination on grounds of pregnancy and maternity. The Committee notes that the Government provides no information on any specific measures adopted or envisaged to ensure the protection of this category of women workers. While recognizing that, in terms of duration, temporary contracts for pregnant workers or mothers are subject to the same conditions as temporary contracts for other workers, the Committee is of the view that this group of women workers in particular is more vulnerable to discrimination. The Committee recalls in this connection that any distinctions in employment and occupation on grounds of pregnancy or maternity are discriminatory because, by their very nature, they affect only women, and that the protection afforded by the Convention covers all workers without distinction, including workers on temporary contracts. ***The Committee requests the Government to take the necessary steps to ensure that women workers on temporary contracts have adequate protection against discrimination on the grounds of pregnancy or maternity. It requests the Government to send information on the measures taken in this regard.***

Articles 2 and 3. Access to education and vocational training for women from groups that are vulnerable to discrimination. In its previous observation, the Committee referred to the high-school drop-out rate of pregnant teenagers and the significant illiteracy rate among rural and indigenous women and requested the Government to take the necessary steps to ensure that these groups of women, who are the most vulnerable to discrimination, have access to education and vocational training. With regard to indigenous women, the Committee notes the information sent by the Government on the material assistance and allowances granted which have led to a drop in school drop-out rates. The Government recognizes that it is indigenous women who have the greatest difficulty in entering education, but asserts that women complete their schooling more successfully than men, as evidenced by their lower failure rate. The Committee takes note of the agreements that INAMU has signed with other national institutions and international cooperation agencies to develop economic independence and training for indigenous and rural women. It also observes that while the Government provides statistical information showing increased participation by indigenous peoples in education, the information is not disaggregated by sex. With regard to access to education for pregnant teenagers, the Committee notes the information sent by the Government, including statistics, showing a decrease in the number of drop-outs in recent years as a result of the legal prohibition on sanctions or obstacles to the right to education. The Committee again emphasizes the importance of providing occupational guidance and of taking active measures to promote access to education and training, free from considerations based on stereotypes or prejudices, for men and for women (see General Survey, 2012, paragraph 750). ***The Committee requests the Government to continue to take measures to pursue the reduction in the school drop-out rate of pregnant teenagers and to ensure access to education and vocational training for rural and indigenous women so as to lower the illiteracy rate and promote their access to better job opportunities. The Committee requests the Government to send information, including statistics disaggregated by sex, on the impact of the measures taken.***

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

Philippines

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1960)***

Article 1 of the Convention. Legislative developments. The Committee recalls its long-standing comments urging the Government to introduce the necessary legal measures to ensure that women are protected against discrimination in all aspects of employment, including hiring. The Committee notes Senate Bill No. 429, an Act Expanding the Prohibited Acts of Discrimination Against Women on Account of Sex, Amending for the Purpose Articles 135 and 137 of the Labor Code, which is still pending approval by the Senate. The Bill inserts a new section 135(c) declaring unlawful “giving preference to a male employee over a female employee in the hiring process, whether through notices, announcements, or advertisements for employment and apprenticeship or in the actual recruitment, hiring or employment of workers where the particular job can be equally handled by a woman”. Further, pursuant to new section 135(d), “favoring a male employee over a female employee with respect to dismissal of personnel or the application of the first in-first out or other retrenchment policy of the employer” shall also be unlawful discrimination. Section 137 of the Labor Code would also be amended to prohibit employers from denying women the benefits of employment or other statutory benefits under the laws by reason of gender. ***The Committee firmly hopes that progress will be noted soon in the adoption of Senate Bill No. 429 so as to ensure effective legal protection against discrimination based on sex in hiring and security of employment in accordance with the Convention, and requests the Government to provide information on any developments in this respect.***

Discrimination on the basis of sex. The Committee notes with *satisfaction* the adoption of Republic Act No. 10151, An Act Allowing the Employment of Night Workers of 26 July 2010. Section 1 of the Act repeals section 130 of the Labor Code (the ban on the employment of women in night work), replacing it with section 158, which ensures that

an alternative to night work is made available to women workers before and after childbirth for at least 16 weeks; and for additional periods, where a medical certificate is produced stating their necessity for the health of the mother or child.

Articles 2 and 3. Access of women to employment and vocational training. The Committee notes from the 2014 *Gender Statistics on Labor and Employment* (Philippine Labor Statistics Authority) the persistence of occupational gender segregation with women concentrated in low-paid industries and occupations. Furthermore, women tend to be over-represented in service activities, such as activities of households as employers of domestic personnel, and undifferentiated goods and services-producing activities of households for own use (89.3 per cent women); education (73.8 per cent women); other service activities (71.7 per cent women); and human health and social work activities (64.5 per cent women); while men tend to be concentrated in agriculture and industrial activities, such as construction (97.8 per cent men); transportation and storage (96.4 per cent men); fishing (90.9 per cent men); and mining and quarrying (90.8 per cent men). In family-operated farms or businesses, women comprise 56.6 per cent of unpaid family workers, while men comprise 75.9 per cent of paid workers.

The Committee recalls that providing vocational guidance and taking active measures to promote access to education and training, free from considerations based on stereotypes or prejudices, is essential to broaden the range of occupations from which men and women are able to choose, and to address occupational segregation. The Committee notes that the gender statistics on labour and employment further show that in 2013, 53.5 per cent of graduates from school-based and non-school-based Technical Vocational Education and Training (TVET) in 2013 were women. It notes, however, from the 2011 Impact Evaluation Study of TVET that women were concentrated in vocational training leading to traditionally female jobs. In TVET programmes which assess and provide certification for enrollees, women represented only 0.05 per cent of those certified in the maritime industry, 2.8 per cent in construction and 3.8 per cent in the automotive industry; conversely, in health, social and other community development services (where occupations include beauty care, caregiving, customer services, massage therapy and other traditionally female areas of work), 89 per cent of those certified were women. The Committee notes that strategies under the Women's Empowerment, Development and Gender Equality (WEDGE) Plan 2013–16 prioritize addressing occupational gender segregation by providing female scholarships for college, technical and vocational courses not traditionally taken by women. The Government also reports measures taken by the Philippine Commission on Women (PCW) to promote the economic empowerment of women, including the GREAT Women Project: Economic Empowerment of Women through Enhanced Technology-Based Community Training Program, which resulted in Gender Sensitivity and Entrepreneurship Modules now included in TVET curricula. ***Recalling that for a number of years it has been raising concerns regarding the over-representation of women in low-skilled and low-income jobs, the Committee requests the Government to step up its efforts to address gender segregation in occupation and vocational training, and to promote women's access to a wider range of jobs, in particular higher-paid jobs and jobs offering career advancement. In this regard, the Committee requests the Government to provide specific information on the impact of the measures adopted, including by the PCW, to promote women's access to, and participation in, training in industries traditionally dominated by men, including information on the number of female scholarships, take-up rates and in which areas training is provided to women under the WEDGE Plan 2013–16 and the GREAT Women Project. Please include data on the number of men and women enrolled, assessed and certified in TVET programmes, disaggregated by industry, as well as data on the employment of men and women in the various economic sectors and occupations.***

Article 3(d). Application in the public sector. The Committee notes the very general information relating to the practical application of the Merit Promotion Plan, Republic Act No. 7041 (requiring publication of posts in the public sector), Memorandum Circular No. 3, series 2001 (creating Personal Selection Boards for public appointments), and Civil Service Resolution No. 98-463 (banning discrimination on the basis of gender, religious or political affiliation, minority or cultural extraction or social origin in respect of employment and occupation). The Government adds that exemption from Republic Act No. 7041 does not necessarily indicate that the principle of equal employment opportunity does not apply. The Government further states that Memorandum Circular No. 3 provides for equal opportunity when selecting candidates for appointment and prohibits discrimination on grounds of gender, civil status, disability, religion, ethnicity or political affiliation. ***Recalling the important role of the State in ensuring the application of the principle of the Convention, the Committee once again requests the Government to indicate specifically how the principle of the Convention is applied in practice to the primarily high-level positions exempted from the publication requirement in Republic Act No. 7041. It reiterates its request to the Government to provide detailed information on the practical application of Memorandum Circular No. 3 and Resolution No. 98-463, and their impact on ensuring equal access to employment in the public sector, irrespective of race, colour, sex, religion, national extraction, political opinion and social origin. The Committee also requests the Government to provide an illustrative sample of procedures and criteria provided for in Merit Promotion Plans.***

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

Qatar

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1976)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

At its 324th Session (June 2015), the Governing Body adopted the recommendations of its tripartite committee set up to examine a representation alleging non-observance by Qatar of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), made under article 24 of the ILO Constitution by the International Trade Union Confederation and the International Transport Workers' Federation, concerning complaints of direct and indirect discrimination against women employed by Qatar Airways, a state-owned flag carrier. In so doing, it entrusted the Committee of Experts with following up the matters raised in the representation.

The Committee notes that, although the Governing Body had requested the Government to submit information on the measures taken in this regard in its next article 22 report on the application of the Convention, the report submitted by the Government for its current session does not provide any response to the requests of the Governing Body. Considering that the time elapsed between the adoption of the recommendations by the Governing Body (June 2015) and the deadline for submitting reports under article 22 of the ILO Constitution (1 September) might have been too short for the Government to report significant progress on the implementation of the recommendations, the Committee wishes to recall that the matters that it is following up, at the request of the Governing Body, deal with: (i) discrimination on the grounds of pregnancy (paragraph 32 of the tripartite committee's report); (ii) provision of suitable alternative employment for pregnant employees who are temporarily unfit to fly (paragraph 35 of the report); (iii) prohibition in the Qatar Airways code of practice for women employees to be dropped off or picked up from the company premises accompanied by a man other than their father, brother or husband (paragraph 36); (iv) authorization by Qatar Airways to get married (paragraph 40); (v) rules governing rest periods (paragraph 42); (vi) ensuring that the application of rules and policies does not create or contribute to creating an intimidating working environment (paragraph 46); and (vii) effectiveness of enforcement mechanisms in case of discrimination (paragraph 48).

The Committee urges the Government to take into account the action requested by the Governing Body on the matters raised above in order to ensure that the employees of Qatar Airways enjoy the protection provided for in the Convention. It therefore requests the Government to submit detailed information on the measures taken or envisaged in this regard in its next article 22 report on the application of the Convention.

Article 1 of the Convention. Legislative developments. Since the entry into force of the 2003 Constitution of Qatar (article 35) and of Labour Law No. 14 of 2004 (sections 93 and 98), the Committee has been noting that they both fall short of effectively prohibiting discrimination on all the grounds of the Convention, and particularly those of political opinion, national extraction and social origin, and only protect against discrimination in certain aspects of employment. It has also noted that several categories of workers are excluded from the Labour Law of 2004, including domestic workers.

The Committee notes the Government's indication that the Labour Law of 2004, along with Law No. 8 of 2009 on human resource management for state employees, does not discriminate against women at work, and that the laws do not specifically discriminate between women and men other than through special measures benefiting women, such as maternity protection. Nevertheless, according to the statistics provided by the Government in its report, for the first quarter of 2015, the percentage of the economically active Qatari male adult population was 64.7 per cent, while the rate for female adults was 35.3 per cent. It also notes the Government's indication that no complaints have been filed by workers with regard to obtaining vocational training, guidance or equal access to occupations. In this regard, the Committee wishes to point out that there is no society without discrimination and therefore continued measures are required to eliminate it. Where no cases or complaints, or very few, are being lodged, this is likely to indicate a lack of an appropriate legal framework, a lack of awareness of rights, a lack of confidence in or absence of practical access to procedures, or fear of reprisals. The fear of reprisals or victimization is a particular concern in the case of migrant workers. The lack of complaints or cases could also indicate that the system of recording violations is insufficiently developed (see General Survey on the fundamental Conventions, 2012, paragraph 870).

The Committee notes the Government's indication that the National Development Plan (2011–15), which aims to increase women's participation in the labour market, includes a project to improve labour legislation for this purpose. It also notes the Government's indication that a draft law regulating domestic workers has been submitted for review by the competent authorities with a view to bringing it into line with the Domestic Workers Convention, 2011 (No. 189). The Government adds that generally domestic workers are governed by bilateral agreements signed by the Government and labour-sending countries, to which model contracts are generally annexed.

The Committee however notes that no specific information is provided on the practical measures taken to address discrimination based on all the grounds set out in the Convention, and particularly political opinion, national extraction and social origin with respect to all aspects of employment and occupation. In this regard, the Committee recalls that, where legal provisions are adopted to give effect to the principle of the Convention, they should include at least all the grounds of discrimination specified in *Article 1(1)(a)* of the Convention. The Committee further notes that there is a need

for comprehensive legislation containing explicit provisions defining and prohibiting direct and indirect discrimination on at least all of the grounds set out in the Convention, and in all aspects of employment and occupation, in order to ensure the full application of the Convention (see General Survey on the fundamental Conventions, 2012, paragraph 854). *In the continued absence of a clear legislative framework addressing protection against discrimination in employment and occupation, the Committee once again strongly urges the Government to take the necessary measures to ensure that all workers without distinction whatsoever are protected in law and practice against discrimination with respect to all the grounds covered by the Convention, including political opinion, national extraction and social origin. In this regard, the Committee requests the Government to provide specific information on how protection against discrimination on the grounds covered by the Convention is ensured in practice with respect to access to vocational training and guidance, access to employment and particular occupations, including recruitment, as well as all terms and conditions of employment. Specifically, the Committee requests information, among others, on the progress made or envisaged in:*

- *amending sections 93 and 98 of Labour Law No. 14 of 2004 to incorporate political opinion, national extraction and social origin;*
- *passing legislation to improve women’s participation in the labour market as part of the implementation of the National Development Plan (2011–15); and*
- *adoption of draft legislation on domestic workers that is in line with Convention No. 189.*

The Committee also requests the Government to submit copies of some of the bilateral agreements referred to above, including the attached model contracts.

Sexual harassment. Since 2006, the Committee has been referring to the insufficiency of the legislative framework to ensure the prohibition and effective protection against sexual harassment in the workplace, in particular for female domestic workers who are particularly vulnerable to this kind of sex discrimination. The Committee notes the Government’s indication that sections 279 to 289 of the Penal Code punishes “crimes of honour”, and section 291 provides for sanctions against any person who “offends a woman’s modesty”. The Committee recalls that Decision No. 7 of 22 August 2005 of the Minister of Civil Service Affairs and Housing does not explicitly refer to sexual harassment, and that the Government indicated that the Law on Criminal Procedures specifies that legal enforcement officers are under the obligation to accept complaints of crimes committed including sexual harassment, and to refer them immediately to the Public Prosecutor. The Committee notes the Government’s indication that two complaints related to sexual harassment have been filed with the National Human Rights Committee (NHRC), and that while one case has been suspended (lack of evidence), one case is currently being examined. The Committee recalls that addressing sexual harassment only through criminal proceedings is normally not sufficient due to the sensitivity of the issue, the higher burden of proof and the fact that criminal law generally focuses on sexual assault or “immoral acts” and not on the full range of behaviour that constitutes sexual harassment in employment and occupation (see General Survey on the fundamental Conventions, 2012, paragraph 792). *The Committee once again requests the Government to take the necessary steps for the adoption of legal provisions expressly defining and prohibiting both quid pro quo and hostile environment sexual harassment at work against men and women workers in the public and private sectors, including domestic workers, and providing for effective mechanisms of redress, remedies and sanctions. The Committee further requests the Government to provide information on any progress made in this regard, on the measures taken to raise awareness of sexual harassment and existing avenues of redress, including for domestic workers, as well as on the number of complaints filed with the NHRC or any other competent authorities, the sanctions imposed, and remedies provided.*

Articles 1 and 2. Non-discrimination of migrant workers. Practical application. Noting that the vast majority of economically active workers in Qatar are non-Qatari (according to the statistics collected by the Ministry of Development, Planning and Statistics, 93.8 per cent of the active population was non-Qatari in 2012), the Committee has been referring since 2009 to the existing limitations on the possibility for migrant workers to change employer under the sponsorship system (*kafala*). The Committee recalls in particular the requirement to obtain the permission of the sponsor, as a result of which migrant workers face increased vulnerability to abuse and discrimination, including, but not limited on the grounds enumerated in the Convention such as, race, colour, religion, national extraction and sex. Specifically, it has noted that filing a lawsuit or bringing a complaint to establish abuse by the employer is a requirement for being granted permission to change workplace, but migrant workers who suffer abuse and discriminatory treatment may refrain from bringing complaints out of fear of retaliation. The Committee has also noted that the adoption of Act No. 4 of 2014 amending section 37 of Labour Law No. 14 imposes fees in the case of a “change of occupation”, which also deters migrant workers from bringing complaints. As such, the Committee has considered that allowing migrant workers to change employer, when subject to discrimination on the grounds enumerated in the Convention, may assist in avoiding situations in which they become vulnerable to abuse. In this regard, the Committee notes Act No. 21 of 27 October 2015, regulating the entry and exit of expatriates and their residence, which will enter into force in October 2016 and will repeal Act No. 4 of 2009. It wishes to refer the Government to its comments under the Forced Labour Convention, 1930 (No. 29), concerning the main features of this new legislation. In that comment, the Committee observes that Act No. 21 of 27 October 2015 does not seem to allow the transfer of an expatriate worker to another employer immediately after the end of a contract of limited duration or after a period of five years, without the employer’s consent, if the contract is of unspecified duration (section 21.2); similarly, under the new law, the employer may object to the departure from the country of an expatriate worker, in which case the latter has the right to appeal (sections 7.2 and 7.3). Consequently, the Committee notes with

regret that pursuant to Act No. 21 of 2015, employers will continue to play a significant role in regulating the departure or transfer of migrant workers. *Noting that the new law does not abolish the sponsorship system, as indicated in the Government's report, the Committee once again requests the Government to remove the restrictions and obstacles that limit the freedom of movement of migrant workers and prevent them from terminating their employment, and to allow appropriate flexibility for migrant workers, especially domestic workers, to change employer when subject to discrimination on the grounds enumerated in the Convention. The Committee urges the Government to take the necessary measures to ensure that Act No. 21 of 27 October 2015 is modified before its entry into force in October 2016. In addition, the Committee requests the Government to:*

- *provide copies of the new labour contracts utilized by recruiters and employers when recruiting migrant workers, as well as information on the measures adopted or envisaged by the Government to ensure that these contracts conform to the principle of the Convention;*
- *provide information on the number and nature of complaints relating to cases of discrimination in employment submitted by migrant workers, including domestic workers, to the Labour Relations Department, the Human Rights Department and the NHRC, and to include any remedies provided or sanctions imposed. Please provide a copy of any relevant decisions by these institutions; and*
- *provide information on the measures taken or envisaged to protect migrant workers from discrimination in employment and occupation prior to the expiry of their initial contract.*

Article 2. Equality between men and women in employment and occupation. Noting that, as of 2012, women only constituted 12.78 per cent of the economically active population, the Committee requested the Government in its previous comment to provide information on the measures taken or envisaged to promote equality of opportunity and treatment for men and women in employment and occupation and to combat stereotypical views of the jobs that are appropriate for men and women. It also noted that, in its concluding observations, the Committee on the Elimination of Discrimination Against Women (CEDAW) expressed concern at “the persistence of deeply entrenched traditional stereotypes regarding the roles and responsibilities of women and men in the family and in society, which overemphasize the role of women as caregivers” (CEDAW/C/QAT/CO/1, 10 March 2014, paragraph 21).

The Committee notes the Government's list of programmes completed by the Family Development Department during 2014–15, and specifically one training programme focused on organizational management and a study on the future increase of nurseries and kindergartens. It also notes the statistical information provided by the Government on the participation of men and women, which indicates that women's participation in non-agricultural work has fallen to 12.8 per cent in 2013, from 15 per cent in 2006. The Committee notes the Government's indication that the overall labour participation rate of women remains at nearly 13 per cent of the working-age population. It also notes that, of those who are not economically active, 65 per cent of women work in the household, while 73 per cent of men are engaged in studies.

The Committee recalls that stereotyped assumptions regarding women's aspirations and capabilities, their suitability for certain jobs or their interest or availability for full-time jobs, continue to lead to the segregation of men and women in education and training, and consequently in the labour market (see General Survey on the fundamental Conventions, 2012, paragraph 783). It also recalls that the primary obligation of States that have ratified the Convention is to declare and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation, and that this policy must be effective. *The Committee requests the Government to provide detailed information on the measures taken or envisaged to promote equality of opportunity and treatment for men and women in employment and occupation. It specifically requests the Government to provide information on the measures taken or envisaged to combat stereotypical views of the jobs that are appropriate for men and women, as well as measures to assist the transition of women into the economy such as, for example, vocational training to gain access to a wide range of paid occupations and employment, especially those with opportunities for advancement and promotion. In this regard, the Committee also welcomes the plan to increase the number of nurseries and kindergartens, and requests more information on the implementation of the plan. The Committee also requests the Government to continue providing up-to-date statistics, disaggregated by sex and social origin, concerning the participation of men and women in the various sectors of economic activity and at each level of the various occupations, in both the private and the public sectors, as well as statistics on the participation of both Qatari and non-Qatari women in education and vocational training.*

Enforcement. The Committee recalls its previous request to the Government to provide information on the activities of the Labour Inspection Department, as well as details of the complaints submitted to the Human Rights Department, the Labour Relations Department and the NHRC, or any other administrative or judicial authorities. The Committee notes the Government's indication that the Labour Inspection Department has not found any violations relating to discrimination in employment and occupation, and that no such complaints have been submitted to the Human Rights Department, the Labour Relations Department or the NHRC. In this regard, the Committee once again highlights the role of labour inspection in monitoring equality and diversity in the workplace and recalls the importance of training labour inspectors to increase their capacity to prevent, detect and remedy instances of discrimination. The Committee refers in this respect to its comments concerning the application of the Labour Inspection Convention, 1947 (No. 81). *The Committee once again requests the Government to provide information on the activities carried out by the Labour*

Inspection Department, including the number and nature of the violations detected relating to discrimination in employment and occupation, and the outcome of these activities. It also requests the Government to provide information on the measures taken or envisaged to train labour inspectors to increase their capacity to prevent, detect and remedy instances of discrimination. The Committee further requests the Government to continue providing information on the number and nature of complaints related to cases of discrimination in employment and occupation brought to the Human Rights Department, the Labour Relations Department and the NHRC, or any other administrative or judicial authorities, the remedies provided and the sanctions imposed. Please provide copies of the relevant decisions of these institutions and authorities.

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

Saint Lucia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1983)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(a) of the Convention. Definition of remuneration. The Committee recalls that the Equality of Opportunity and Treatment in Employment and Occupation Act, 2000, contains no definition of the term "remuneration". The Committee notes the adoption of the Labour Code (Amendment) Act No. 6 of 2011, which amends section 95 of the Labour Code of 2006 to include the definition of "total remuneration" as "all basic wages which the employee is paid or is entitled to be paid by his or her employer in respect of labour performed or services rendered by him or her for his or her employer during that period of employment". The Committee notes that section 2 of the Labour Code, continues to exclude overtime payments, commissions, service charges, lodging, holiday pay and other allowances from the definition of wages. The Committee recalls that the Convention sets out a very broad definition of "remuneration" in *Article 1(a)* which includes not only "the ordinary, basic or minimum wage or salary" but also "any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment" (see General Survey on the fundamental Conventions, 2012, paragraph 686). ***The Committee asks the Government to take the necessary measures to further amend section 95 of the Labour Code in order to ensure that at least for the purposes of the application of the principle of the Convention the concept of remuneration covers not only the basic wages, but also any additional benefit or allowance arising out of the worker's employment.***

Different wages and benefits for women and men. The Committee notes with **regret** that despite the Government's previous announcement in this respect, the Labour Code (Amendment) Act No. 6 of 2011 does not repeal the existing laws and regulations establishing differential wage rates for men and women, nor does it revoke the Contract of Service Act which provides for different ages for men and women with respect to entitlement to severance pay. ***The Committee urges the Government to take measures without delay to ensure that all laws and regulations are repealed which contain differential wages for men and women, as well as the Contract of Service Act, which provides for different ages for men and women with respect to entitlement to severance pay. The Committee requests the Government to provide information on any development in this regard.***

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.

Saint Vincent and the Grenadines

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

Article 1 of the Convention. Work of equal value. The Committee notes with **regret** the Government's indication that there has been no progress regarding the matter of amending section 3(1) of the Equal Pay Act of 1994, which provides for "equal pay for equal work" and is therefore not in conformity with the principle of equal remuneration for men and women for work of equal value. ***The Committee requests the Government once again to take steps to amend section 3(1) of the Equal Pay Act without further delay in order to ensure that the legislation provides for equal remuneration for men and women for work of equal value, as specified in the Convention; and to provide information on any progress achieved in this regard.***

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

South Africa

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2000)

Article 1 of the Convention. Equal remuneration for work of equal value. The Committee notes with **interest** that following the adoption of the Employment Equity Amendment Act of 2013 that amends the Employment Equity Act of 1998, a new paragraph was added to section 6 of the Employment Equity Act of 1998 (EEA as amended) which establishes that a difference in terms and conditions of employment between employees performing the same or substantially the same work or work of equal value is unfair discrimination. The Committee also notes with **interest** the adoption of the Employment Equity Regulations of 1 August 2014 and the Code of good practice on equal pay/remuneration for work of equal value of 1 June 2015 that also refer to work of equal value. The Committee also notes that the Code of practice provides for a definition of remuneration which includes "any payment in money or in kind, or

both made or owing to any person in return for working for another person, including the State”. *The Committee requests the Government to provide information on the practical application of the EEA as amended, the Employment Equity Regulations, 2014, and the Code of good practice on equal pay/remuneration. Please provide specific information on the concrete impact of these legislative measures in the application of equal remuneration between men and women for work of equal value and the obstacles and difficulties encountered.*

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) **(ratification: 1997)**

Legislation. The Committee notes with *interest* the adoption of the Employment Equity Amendment Act, 2013, amending the Employment Equity Act, 1998, as well as the Employment Equity Regulations, 2014, and the Code of Good Practice on Equal Pay/Remuneration for Work of Equal Value of 1 June 2015. The Committee notes the Government’s indication that the main purposes of the amendments to the Employment Equity Act, 1998, are to be more specific on the principle of equal pay for work of equal value and to strengthen the compliance and enforcement mechanisms in the Act, including by increasing fines. The Committee notes that section 6(1) of the Employment Equity Act, 1998, as amended in 2013, includes in the list of unfair grounds of discrimination, a provision on discrimination on the basis of arbitrary grounds; that the burden of proof in relation to unfair discrimination has now been made clearer for both listed and arbitrary grounds, and that the Commission for Conciliation and Arbitration is now available to arbitrate on discrimination cases, including sexual harassment cases. *The Committee requests the Government to provide information on the implementation in practice of the Employment Equity Act, 1998, as amended in 2013, the Employment Equity Regulations, 2014, and the Code of Good Practice on Equal Pay/Remuneration for Work of Equal Value with respect to the aspects covered by the Convention. The Committee also requests the Government to provide information on any other arbitrary ground considered by administrative or judicial decisions, as well as any discrimination cases addressed by the Commission on Human Rights, the Commission for Employment Equity, the Labour Court and the Commission for Conciliation and Arbitration with respect to the principle of equality and non-discrimination in employment and occupation.*

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

Syrian Arab Republic

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1957)

The Committee notes the Government’s statement that it is committed to uphold the Constitution and international law. The Committee recalls that this Convention is one of the fundamental human rights Conventions.

Articles 1 and 2 of the Convention. Legislative developments. The Committee recalls that section 75(b) of the Labour Law 2010 defines “work of equal value” as “work that requires equal scientific qualifications and professional skills, as attested by a work experience certificate”, which may unduly restrict the application of the principle of equal remuneration for work of equal value provided for in 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 notes the Government’s indication that the purpose of section 75(b) is to clarify the meaning of section 75(a) in law and in practice and does not negate the possibility of comparing jobs requiring different qualifications and skills, which are nonetheless of equal value. *The Committee requests the Government to provide information on the practical application of section 75 of the new Labour Law, including any administrative or judicial decisions, confirming the possibility to compare jobs performed by men and women 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 regarding concrete measures taken to determine the nature, extent and causes of inequalities in remuneration that exist in practice. The Government reiterates in this regard that no complaint on discrimination in remuneration has been registered in the private sector and that in the public sector, there are no cases of discrimination in remuneration between men and women; and no judicial findings have been handed down in this regard. The Committee recalls that where no cases or complaints, or very few, are being lodged, this may indicate a lack of an appropriate legal framework, lack of awareness of rights, lack of confidence in or absence of practical access to procedures, or fear of reprisals. The lack of complaints or cases on discrimination in remuneration could also indicate that the system of recording violations is insufficiently developed (see General Survey on the fundamental Conventions, 2012, paragraph 870). *The Committee once again urges the Government to undertake measures to assess and 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 such inequalities. The Committee further requests the Government to raise awareness, among the competent authorities and among workers and employers and their organizations, of the relevant legislation, and to enhance the capacity of the competent authorities, including judges, labour inspectors and other public officials, to identify and address cases of unequal pay, and to examine whether the applicable substantive and procedural provisions, in practice, allow claims to be brought successfully.*

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 to 3 of the Convention. Non-discrimination and equality of opportunity and treatment for men and women in employment and occupation. The Committee notes the absence in the Government's report of any new information on the measures taken to promote women's participation in employment and occupation and vocational training, and to address occupational segregation, as well as persisting stereotypes concerning women's role in society hindering their participation in the labour market. The Committee notes the information in the most recent report of the Independent International Commission of Inquiry on the Syrian Arab Republic on the impact of the armed conflict on the lives of women and girls, including a rise in the number of women heads of households, who are often the primary caregivers and providers of their families (A/HRC/30/48, of 13 August 2015). It further notes that the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW), in its concluding observations, expresses concern at the persistence and exacerbation of deep-rooted attitudes and stereotypes with respect to women's roles and responsibilities in the family and society, and at the precarious situation of rural women, whose rights to productivity, livelihood and access to land are regularly violated in the conflict. At the same time, CEDAW notes the action taken by the Government to secure salaries and jobs for women employed in governmental institutions and to implement income-generating projects and vocational training programmes for women heads of households affected by the conflict (CEDAW/C/SYR/CO/2, 18 July 2014, paragraphs 21, 41 and 43). *While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee notes the impact of the conflict on the lives of women and girls, in particular rural women, and women heads of households, and urges the Government to take all the necessary measures to address discrimination, including harassment and gender-based violence against women, which affect their rights under the Convention. The Committee urges the Government to take the necessary measures to address the precarious situation of women heads of households and rural women, including measures to promote their equal access to economic opportunities, as well as their access to land and resources to carry out their occupations.*

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

The former Yugoslav Republic of Macedonia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) **(ratification: 1991)**

Legislative developments. The Committee notes with *interest* the adoption of the new Law on Equal Opportunities for Women and Men, 2012. In accordance with article 2, this Law aims to establish equal opportunities and equal treatment for men and women in various fields, including the economic, social and education fields and in the public and private sectors. Articles 7 and 8 provide for the adoption of temporary special measures to overcome an existing structural gender inequality, including through positive and promotional measures. *The Committee requests the Government to provide information on the concrete measures taken for the general implementation of this Law and its impact on the achievement of gender equality in both the public and the private sectors. It also requests the Government to provide information on any special measures taken under articles 7 and 8 to achieve equality in employment and occupation and any special protective measures in favour of certain categories of persons.*

Sexual harassment. The Committee also notes with *interest* that article 3(3) of the new Law expressly prohibits sexual harassment in the public and private sectors, and that sexual harassment is defined, in article 4(7), as being any type of unwanted behaviour of a sexual nature creating an intimidating or hostile atmosphere. *The Committee requests the Government to confirm that the law covers both quid pro quo and hostile environment sexual harassment at work. It also requests the Government to provide information on the practical measures taken to prevent and address sexual harassment in employment and occupation. The Government is also requested to provide information on any instances of sexual harassment addressed by the competent authorities, including any relevant administrative or judicial decisions and the sanctions imposed.*

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

Trinidad and Tobago

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

Articles 1 and 2 of the Convention. Assessing and addressing the gender pay gap. The Committee notes from the statistics provided by the Government on the average monthly income by sex and occupational group that in 2012 the gender pay gap between men and women ranged from 10 per cent (for technician and associate professionals) to 41.8 per cent (for service and shop sales workers). The statistics concerning the average monthly income by sex and industry also show a gender pay gap in favour of men (except in construction), ranging from 1.7 per cent in the transport, storage and communication industry to 50 per cent in the sugar industry in 2010. The Committee welcomes the increase of the

national minimum wage as of January 2011, and recalls that women generally predominate in low-wage employment, and that a uniform national minimum wage system helps to raise the earnings of the lowest paid, which has an influence on the relationship between men and women's wages and on reducing the gender pay gap (see General Survey of the fundamental Conventions, 2012, paragraphs 682–685). *Noting that in its report, the Government commits to addressing the gender pay gap and occupational gender segregation, the Committee requests the Government to provide information on the concrete steps taken and the progress made in this regard. Please continue to provide detailed statistical data on the earnings of men and women according to occupational group and industry, as well as information on the minimum wage.*

Equal remuneration for work of equal value. Legislation. The Committee recalls that the Equal Opportunity Act, 2000, contains no specific provisions regarding equal remuneration for men and women for work of equal value. The Government indicates that, in giving effect to the Act, the courts would treat unequal remuneration for men and women for work of equal value as sex-based discrimination. It further indicates that the Equal Opportunity Commission (EOC) acknowledges that the concept of “work of equal value” lies at the heart of the fundamental right to equal remuneration for men and women for work of equal value and the promotion of equality. While noting the Government's indications, the Committee would like to recall that only prohibiting sex-based wage discrimination is normally not sufficient to implement effectively the principle of the Convention as it does not capture the concept of “work of equal value”. *The Committee once again 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 and to provide information on any progress in this regard.*

Collective agreements. Since 2000, the Committee has been asking the Government to provide information on the progress made in removing sex discriminatory clauses from collective agreements. The Committee notes that the report once again contains no information in this respect. The Committee notes with *regret*, however, that in the new collective agreement on wages and conditions of service for hourly, daily and weekly rates employees employed in the Port-of-Spain Corporation for 2011–13, sex-specific terminology remains in use to describe a category of workers in the schedule of wage rates which are not gender-neutral (for example, greaseman, batteryman, watchman, handyman, charwoman, female scavenger, labourer (female), labourer (male), etc.). The Committee wishes to recall that, in specifying different occupations and jobs for the purpose of fixing wage rates, gender-neutral terminology should be used to avoid stereotypes as to whether certain jobs should be carried out by a man or a woman (see General Survey, 2012, paragraph 683). *The Committee asks the Government to indicate how it is ensured that, in determining wage rates in collective agreements, the principle of equal remuneration for men and women for work of equal value is effectively taken into account by the social partners and applied, and the work performed by women is not being undervalued in comparison to that of men who are performing different work and using different skills but that is overall of equal value. The Committee also asks the Government to provide information on the progress made in removing sex discriminatory clauses from collective agreements, and to take steps, in collaboration with the employers' and workers' organizations, to promote the use of gender-neutral terminology in referring to the various jobs and occupations in the collective agreements.*

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1970)

Article 1(1)(a) of the Convention. Discrimination based on sex. For nearly 20 years, the Committee has been expressing concern about the discriminatory nature of several provisions providing that married female officers may have their employment terminated if family obligations affect the efficient performance of their duties. In this regard, the Committee welcomes the Government's indication that Regulation 57 of the Public Service Commission Regulations was revoked in 1998 and Regulation 58 of the Statutory Authorities Service Commission Regulations was revoked in 2006. The Government also indicates that Regulation 52 of the Police Commission Regulations, which provides that the appointment of a married female police officer may be terminated on the ground that her family obligations are affecting the efficient performance of her duties, will be put before the Police Service Commission for consideration. The Committee further recalls the potentially discriminatory impact of section 14(2) of the Civil Service Regulations, which requires a female officer who marries to report the fact of her marriage to the Public Service Commission. *The Committee requests the Government to take the necessary steps to revoke Regulation 52 of the Police Commission Regulations to eliminate this long-standing discriminatory provision, and to provide information on any progress made in this regard. The Committee also requests the Government to provide information on the measures taken to amend section 14(2) of the Civil Service Regulations to eliminate any potentially discriminatory impact, for example by requiring notification of name changes for both men and women.*

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

Turkey

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1967)

The Committee notes the Government's report, as well as the observations from the Turkish Confederation of Employer Associations (TİSK) received on 1 September 2014 which were supported by the International Organisation of

Employers (IOE). The Committee also notes the observations from the Confederation of Public Employees Trade Unions (KESK) received on 1 September 2014 and the reply from the Government received on 12 November 2014. Furthermore, the Committee notes the observations from the Confederation of Turkish Trade Unions (TÜRK-İŞ), the Confederation of Turkish Real Trade Unions (HAK-İŞ) and the KESK, as well as of the TİSK, which were attached to the Government's report.

Job segregation and gender wage gap. The Committee notes that, according to TÜRK-İŞ, employers may be exonerated from applying statutory provisions in certain sectors with a high proportion of women, such as the textile industry, food sector and tourism, where workers are paid "in accordance with the work performed". TÜRK-İŞ further indicates that, due to lack of education, women occupy unskilled low-paid jobs. The Committee also notes that KESK indicates that flexible and insecure forms of employment are widening the gender wage gap and perpetuating the gender-based division of labour within the family. The Committee also notes that, according to the country profile prepared in 2013 for the use of the European Commission "The current situation of gender equality in Turkey", the female employment rate between 2002 and 2012 increased from 22.7 per cent to 28.7 per cent. However, horizontal segregation is more pronounced than in the European countries for both sectors and occupations, even though the rate of tertiary education attainment of women in Turkey has increased from 6.6 per cent in 2002 to 10.6 per cent in 2012. According to the study, the figures show a gender-typical distribution of fields of study with most Turkish women being present in health and welfare (61.0 per cent). The Committee further notes that, according to the statistics provided by the Government the wage gap is 19.4 per cent among professionals; 7.4 per cent among technicians and subsidiary professionals; 7.4 per cent among clerks, service and sales workers; 16.6 per cent among craftsmen; and 24.1 per cent among plant and machine operators and assemblers. ***The Committee requests the Government to ensure that all sectors, including those where women are most represented, apply the legislation in force with respect to wages. The Committee further requests the Government to continue to take proactive measures to address gender job segregation, including through the promotion of women's studies and vocational training in sectors where men are predominantly occupied in order to increase women's participation in the labour market. Please provide statistics on men and women's occupation by sector and occupation disaggregated by sex.***

Articles 1 and 4 of the Convention. Equal remuneration for men and women workers for work of equal value. Training and awareness raising with the cooperation of the workers' and employers' organizations. In its previous comments, the Committee urged the Government to carry out specific activities to improve understanding and raise awareness of the principle of the Convention. The Committee notes that the Government refers to the establishment of the Platform for Equality at work established in 2013 with the aim of reducing the gender equality gap, with the participation of enterprises. In April 2013, 78 companies became members of the Platform and signed a Declaration of Equality at Work, one of its objectives being "equal pay for equal work". The Government also refers to the Gender Equality in Working Life Award which has the objective of rewarding enterprises that implement equal pay. The Government also indicates that between 2009 and 2013, 26 training sessions were held. The Committee recalls in this respect that according to section 5(4) of the Labour Act "Differential remuneration for similar jobs or for work of equal value is not permissible" and that is in conformity with the Convention that provides for "equal remuneration for men and women workers for work of equal value". The Committee recalls that the concept of "work of equal value" which is provided for in section 5(4) of the Labour Act 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 and that it 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 once again urges the Government to carry out, in consultation with workers' and employers' organizations, specific activities, to improve understanding and raise awareness of the principle of the Convention. Please ensure that these are not restricted to equal pay for equal work but refer to "work of equal value", and to provide information thereon.***

Article 3. Objective job evaluation. In its previous comment, the Committee noted the information from TİSK on the training and use of objective job evaluation by its affiliates. The Government had also indicated that the draft Turkish Code of Obligations which included provisions regarding the Convention was being discussed by the General Assembly. The Committee notes that the Government's report contains no new information in this regard. Moreover, TİSK indicates that the work initiated continued throughout 2014. ***Recalling the importance of developing and implementing objective job evaluation methods to address persistent gender pay gaps, the Committee requests the Government to take specific steps, without delay, to promote such methods as envisaged in Article 3 of the Convention, in the public and the private sectors. The Committee also requests the Government to provide information on any development concerning the draft Turkish Code of Obligations to ensure that equal remuneration for men and women for work of equal value is made an explicit objective of any job evaluation.***

Labour inspection and enforcement. The Committee notes that the Government's report contains no new information in this regard. The Committee stresses once again the fundamental role of labour inspectors in the implementation of the principle of the Convention, as well as of section 5(4) of the Labour Act and highlights in this respect the importance of providing adequate training to labour inspectors. ***The Committee requests the Government once again to take the necessary measures for the collection and publication of information on the specific nature and outcome of discrimination and equal remuneration complaints examined by the labour inspectors. It further requests the Government to ensure that labour inspectors are aware of the principle of the Convention and to provide***

information on any measures or activities carried out to address gender equality and especially equal remuneration for work of equal value by the Turkish Human Rights Institution and the Ombudsman Institution recently established.

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

***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
(ratification: 1967)***

The Committee notes the Government's report of 2014, as well as the observations of the Turkish Confederation of Employer Associations (TİSK) received on 1 September 2014, which were supported by the International Organisation of Employers (IOE). The Committee also notes the observations of the Confederation of Public Employees Trade Unions (KESK) received on 1 September 2014 and the reply from the Government, received on 12 November 2014. Furthermore, the Committee notes the observations of the Confederation of Turkish Trade Unions (TÜRK-İŞ), the Legal Workers' Trade Union Confederation (HAK-IS), KESK and TİSK, which were attached to the Government's report.

Articles 1 and 2 of the Convention. Discrimination based on political opinion. For many years, the Committee has been requesting the Government to provide information on the practical application of the Anti-Terrorism Act and the Penal Code in cases involving journalists, writers and publishers expressing their political opinions. In this regard, the Committee notes that TÜRK-İŞ reiterates that hundreds of journalists have been arrested or convicted because of their views and that they also face lawsuits due to their political opinions. The Committee notes with **deep regret** that once again the Government has not provided any information on this issue. ***The Committee requests the Government to take all the necessary measures without delay to ensure that no journalist, writer or publisher is restricted in the exercise of their employment and occupation because of their political opinions. The Committee once again requests the Government to provide information on the practical application of the Anti-terrorism Act and the Penal Code in cases involving journalists, writers and publishers, as well as on all the cases brought before the courts against them, indicating the charges brought and the outcome.***

Discrimination in recruitment and selection. For a number of years, the Committee has been referring to the fact that section 5(1) of the Labour Code, which prohibits any discrimination based on language, race, sex, political opinion, philosophical belief, religion and sect, or similar reasons in the employment relationship, does not prohibit discrimination at the recruitment stage. In this regard, the Committee also noted that section 122 of the Penal Code provides for penal sanctions for those responsible for discrimination, but that, according to TİSK's observations, victims could not claim compensation. The Committee notes that the Government only indicates that, following the adoption of a decree in February 2014, disability has been included as one of the grounds of discrimination protected under section 5(1) of the Labour Code. ***The Committee once again requests the Government to take the necessary measures to ensure that victims of discrimination in recruitment and selection have access to adequate procedures and remedies, and to provide information thereon. The Government is also requested to provide information on the number, nature and outcome of criminal proceedings under section 122 of the Penal Code.***

Article 2. Equality of opportunity and treatment for men and women. The Committee has been referring to the need to promote gender equality and to increase women's participation in the labour market, including in those jobs and occupations mainly carried out by men. The Committee notes the information provided by the Government on the adoption of legal provisions establishing various incentives for the employment of women and for the inclusion of rural women workers in the social insurance scheme. The Government also refers to various projects and programmes, including vocational training programmes aimed at the inclusion of women in the labour market, and to the National Employment Strategy which has the objective, among others, of raising the labour force participation rate of women to 41 per cent by 2023. Furthermore, the Government refers to the adoption of Act. No. 6356 of 2012 on trade unions and collective bargaining under which trade unions have to consider gender equality in their activities. The Committee notes TİSK's indication that, as a result of the support provided to employers in those sectors employing women, their employment rate rose from 26.2 per cent in 2008 to 30.8 per cent in 2013. However, according to TİSK, this rate is still very low due to: (i) the lack of adequate levels of education and vocational training for women, who are mainly trained in occupations that are socially accepted as being specific to women; (ii) women are limited to childcare and housework due to gender stereotypes; and (iii) the absence of adequate childcare facilities. The Committee also notes that HAK-IS, TÜRK-İŞ and KESK refer to the impact of gender stereotypes on the labour market participation of women and the lack of adequate work-life balance and childcare facilities. TÜRK-İŞ and HAK-IS also indicate that the low rate of unionization of women hinders the effective enforcement of their rights. TÜRK-İŞ further indicates that new forms of flexible employment, such as homework, part-time work and temporary work, do not contribute to increasing women's labour market participation, as they perpetuate gender stereotypes and deprive women of social security. The Committee notes, from the statistics provided by the Government, the significant gender segregation persisting in the country, with women more represented in sectors such as education and care. The Committee notes that the impact of some of these training programmes is low with only 914 women employed out of 9,856 women trained. The Committee recalls that providing vocational guidance and taking active measures to promote access to education and training, free from considerations based on stereotypes or prejudices, is essential in broadening the range of occupations which men and women are able to choose. ***The Committee requests the Government to continue taking measures, including in the framework of the National Employment Strategy, to promote the access of women to adequate education and***

vocational training, and to a wider range of jobs and occupations, and to provide information on specific improvements in this regard. The Committee further requests the Government to take measures for the provision of childcare facilities to facilitate the participation of women in the labour market, and to carry out awareness-raising activities to combat gender stereotypes. Please provide information in this regard. With respect to Act No. 6356, the Committee requests the Government to provide information on its implementation and, in particular, copies of collective agreements that refer to the above issues.

Dress code. The Committee has been referring for a number of years to the fact that the general prohibition of head coverings could have a discriminatory effect on women with regard to their access to university education. The Committee notes that the Government refers to article 5 of the Regulation on Dressing Code of Civil Servants Working at Public Institutions. ***The Committee requests the Government to provide further information on the implementation of this new regulation and to indicate if it also applies to women students at university.***

Civil service. In its previous comments, the Committee requested the Government to take proactive measures to: encourage women's participation in the civil service; address any allegations of gender discrimination in the civil service; ensure that men and women can effectively participate on an equal footing in examinations for positions in the civil service; and provide statistics disaggregated by sex on participants in these examinations. The Committee notes the Government's indication that the number of women working in the civil service is 991,817, while the number of men is 1,670,562. It further indicates that the number of women in management posts has increased from 480 in 2008 to 595 in 2014. However, the Committee notes that KESK refers to different situations of discrimination of civil servants (the recording in personnel files of inappropriate data, discriminatory use of promotion and appointments, and of the rewards system) and to the lack of adequate sanctions in the event of discrimination. The Committee notes in this regard that no concrete information has been provided by the Government on these issues. ***Noting the low participation of women in the civil service, the Committee once again requests the Government to take proactive measures to encourage women's participation in the civil service, to ensure that both men and women can participate in examinations for positions in the civil service on an equal footing and to address any allegations of gender discrimination. The Committee requests the Government to provide concrete information on any developments in this regard.***

Noting KESK's allegations concerning discrimination against Kurdish or Muslim Alevi civil servants on the basis of their ethnic origin or religion through, among others, the recording of inappropriate data in their personnel files, the Committee requests the Government to provide its comments in this respect. It also requests the Government to provide information on the measures taken concerning the Committee's previous comment related to security investigations into candidates for the civil service.

Enforcement. ***Noting that the Government provides no information in this respect, the Committee once again requests the Government to provide information on the complaints dealt with by the labour inspectorate related to the implementation of section 5 of the Labour Code, as well as the cases brought before the judicial authorities, the outcome of such cases, the remedies granted and sanctions imposed.***

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

United Arab Emirates

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

Articles 1 and 2 of the Convention. Work of equal value. Legislation. The Committee recalls that section 32 of Federal Act No. 8 of 1980 on Regulation of Labour Relations only provides for equal remuneration between men and women for the same work, which is narrower than the concept of "equal value" provided for in the Convention. The Committee notes the Government's indication that the draft legislation is still under examination but that the proposed amendment (section 33) provides that "a woman shall be entitled to equal remuneration with a man, if she performs work of equal value. Any discrimination which is likely to weaken equal opportunity or jeopardize the equality of women in obtaining and continuing in a job; or in enjoying her rights shall be prohibited. For the purpose of this section, the dismissal of a female worker because of change in family status; pregnancy; delivery; or maternity shall be prohibited". ***Recalling that it has been raising this issue for a number of years, the Committee trusts that the draft amendment will soon be adopted and will reflect fully the principle of equal remuneration for men and women for work of equal value, in accordance with the Convention, and requests the Government to provide information on the progress made in this regard.***

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)

Articles 2 and 3 of the Convention. National policy on equality of opportunity and treatment. The Committee recalls the high number of non-nationals in the total population, and the need to adopt a national equality policy to promote equality of opportunity and address discrimination in employment and occupation on the grounds set out in the Convention covering all workers, both nationals and non-nationals. It also recalls that the constitutional equality provisions cover "citizens without distinction as to race, nationality, religious belief or social status" (article 25), but do

not apply to acts of discrimination by private employers. The Committee previously welcomed the proposed amendments to Federal Law No. 8 of 1980 on the Regulation of Labour Relations to prohibit more explicitly discrimination in employment and occupation, but noted that the scope of protection was limited to workers with equal experience and qualifications, but only in respect of access to or the retention of employment, or the enjoyment of their rights. Other draft amendments related specifically to discrimination against women. Considering the important number of foreign workers among the population, the Committee considers that, as part of the national equality policy, there is a need to adopt more comprehensive provisions defining and explicitly prohibiting discrimination on at least all the grounds set out in the Convention (namely race, colour, sex, religion, national extraction, political opinion and social origin) and in all aspects of employment and occupation in order to ensure the full application of the Convention to all workers. ***Noting that the proposed legislation is still under examination, and in the absence of further information, the Committee urges the Government to make every effort to ensure that the amended Law on the regulation of Labour Relations includes a specific provision defining and explicitly prohibiting both direct and indirect discrimination on all the grounds set out in Article 1(1)(a) of the Convention covering all workers and all aspects of employment and occupation. Please continue to provide information on the revision process of Federal Law No. 8 of 1980.***

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

United Kingdom

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1971)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Enforcement. The Committee notes the adoption in July 2013 of the Employment Tribunals and Employment Appeal Tribunal Fees Order 2013 which introduces a requirement to pay a fee to issue proceedings in the employment tribunals. The Committee notes from statistics compiled by the Ministry of Justice that since the introduction of these fees, the number of discrimination claims has dropped considerably, in particular, those related to equal pay issues. The Committee notes that comparing the period from October to December 2013 (the first quarter after fees were introduced) with the period October–December 2012, 83 per cent fewer equal pay claims were accepted by the employment tribunals. The Committee notes that the decreasing trend has continued. The Committee understands that the introduction of fees has been challenged before the judicial authorities. The Committee considers that the establishment of high fees to file claims on discrimination may constitute an obstacle to the enjoyment of the rights embedded in the Convention, particularly as this affects mainly those most disadvantaged and vulnerable to discrimination. ***The Committee asks the Government to take the necessary measures to ensure that all workers are able, in practice, to effectively assert their rights before the courts. In this regard, the Committee asks the Government, based on the existing statistics concerning the steep reduction of complaints concerning discrimination filed before the employment tribunals, to review the existing fees established by the Employment Tribunals and Employment Appeal Tribunal Fees Order 2013 and to continue to provide statistical information on the evolution of the filing of equal pay claims. Please provide information on the judicial decision concerning the claim filed before the judicial authorities concerning the employment tribunal fees.***

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.

Gibraltar

Equal Remuneration Convention, 1951 (No. 100)

Articles 1 and 2 of the Convention. Assessing and addressing the gender remuneration gap. The Committee notes from the Employment Survey Report 2013 published by the Statistics Office that the gender pay gap slightly decreased but remains significant. Based on average monthly earnings for full-time employees, the gender pay gap decreased from 27 per cent in 2009, to 26 per cent in 2013. With respect to average weekly earnings for full-time employees, the gap decreased from 33 per cent in 2009, to 32 per cent in 2013. The Committee notes from the Employment Survey Report the persistent vertical and horizontal occupational gender segregation which exists in Gibraltar where, for example, in 2013, women represented only 26 per cent of the managers and senior officials employed on a full-time basis while they represented 69 per cent of the administrative and secretarial workforce. The Committee also notes from the Government's report that the Ministry for Enterprise, Training and Employment set up a Research Department, tasked with the production of detailed statistics on the composition of the workforce, by age, gender and skills and by economic sector. ***The Committee requests the Government to take the necessary measures to address the persistent gender remuneration gap, including measures promoting women's access to a wider range of jobs with career prospects and higher pay, and to provide information on any measures taken in this regard. The Committee also asks the Government to provide detailed statistics, disaggregated by sex on the earnings of men and women and on the gender remuneration gap, in all sectors of the economy, as well as any study undertaken by the Research Department identifying the underlying causes of such gap.***

Legislation. The Committee notes that section 31 of the Equal Opportunities Act, 2006, allows men and women to bring equal pay claims against their employers using comparators employed by the same employer or by any "associated employer" in Gibraltar. The Committee recalls that the application of the Convention's principle is not limited to comparisons between men and women in the same establishment or with the same or associated employer. 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. Ensuring a broad scope of comparison is essential for the application of the principle of equal remuneration given the continued prevalence of occupational sex segregation in the country (see General Survey on the fundamental Conventions, 2012, paragraphs 697–699). ***The Committee requests the Government to consider reviewing section 31 of the Equal Opportunities Act, 2006, to ensure that the right to equal remuneration between men and women for work of equal value is not restricted to the same or associated employer. In the meantime, the Committee once again requests the Government to provide specific information regarding the application in practice of section 31 of the Act, including any administrative or judicial decisions relating to equal remuneration for men and women for work of equal value.***

Articles 2 and 3. Application of the principle in the public sector. The Committee notes the Government's indication that the public sector has specific salary scales and job descriptions which apply irrespective of gender and therefore apply the principle of equal remuneration for men and women for work of equal value. In this regard, the Committee wishes to draw the Government's attention to the fact that the adoption and application of wage scales without distinction based on sex 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 and the establishment of the wage scales, including the under-evaluation of the work performed mainly by women, or may come from 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 requests 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 any objective job evaluations have already been undertaken or are envisaged in the public service.***

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

Viet Nam

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

Articles 1 and 2 of the Convention. Legislative developments. Definition of remuneration and work of equal value. The Committee notes with *interest* that the new Labour Code (Law No. 10/2012/QH13 of 18 June 2012) includes the principle of equal payment of wages without discrimination based on gender for employees performing work of equal value (section 90(3)) and provides for a definition of wages that includes “remuneration” based on the work or position, “wage allowances” and “other additional payments” (section 90(1)), but is silent about payment in kind. The Committee points out that *Article 1(a)* of the Convention sets out a very broad definition of “remuneration” which includes not only “the ordinary, basic or minimum wage or salary” but also “additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the workers’ employment”. ***The Committee requests the Government to indicate whether payment in kind would be covered by section 9(3) of the new Labour Code and to provide information on its implementation and enforcement. The Committee further requests the Government to provide information on any measures taken or envisaged to raise awareness of these provisions among workers, employers, their respective organizations and enforcement public officials, as well as any administrative or judicial cases in this respect.***

Assessing and addressing the gender wage gap. The Committee notes the results of the labour force survey (second quarter of 2014) published by the General Statistics Office of Vietnam, according to which the overall gender wage gap in average monthly earnings of workers is 9.3 per cent. The Committee notes the detailed information provided by the Government with respect to measures taken to implement the National Strategy on Gender Equality (2011–20), through the strengthening of capacity building; the drafting, implementation and monitoring of gender equality legislation, awareness-raising activities; and the development of a gender database and advisory and support services. ***While noting these important developments with respect to the promotion and implementation of gender equality, the Committee requests the Government to indicate how these measures have an impact on reducing the persistent gender wage gap and to provide specific information on any measures taken or envisaged to address underlying causes. The Committee once again requests the Government to collect and provide more specific statistical data, disaggregated by sex, on the distribution of men and women in different sectors of economic activity, occupational categories and positions and their corresponding earnings both in the private and public sectors.***

Enforcement. The Committee notes from the Government's report that the Ministry has conducted many training courses on labour laws, including on equal remuneration for work of equal value, for labour inspectors and others officials. It further notes that there has not been any administrative and judicial case concerning equal remuneration for men and women. Regarding the latter point, the Committee recalls that where no cases or complaints, or very few, are being lodged, this is likely to indicate a lack of an appropriate legal framework, a lack of awareness of rights, lack of confidence in, or absence of, practical access to procedures, or fear of reprisals (see General Survey on the fundamental Conventions, 2012, paragraph 870). ***The Committee asks the Government to continue to provide information on the training offered to judges, inspectors and other labour officials, as well as awareness-raising measures provided to***

social partners. It further requests the Government to provide information on any violations of the principle of the Convention detected by, or brought to the attention of, the labour inspectorate services, the sanctions imposed and the remedies provided.

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

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1997)

Legislative developments. The Committee notes with *interest* that section 8(1) of the newly amended Labour Code (Law No. 10/2012/QH13 of 18 June 2012) extends the number of prohibited grounds of discrimination. Specifically, regarding the grounds enumerated in *Article 1(1)(a) of the Convention*, the new Labour Code adds “colour” to the previously prohibited grounds of gender, race, social class, belief or religion.

Regarding the grounds enumerated in *Article 1(1)(b) of the Convention*, the Committee welcomes the addition in the new Labour Code of “marital status,” “HIV status,” “disabilities”, and “establishing, joining a trade union or participating in trade union activities”. ***The Committee requests the Government to provide information on the implementation and enforcement of the expanded grounds of discrimination set out in section 8(1) of the amended Labour Code, including any measures taken or envisaged to raise awareness of these provisions among workers, employers and their respective organizations, as well as public enforcement officials, and any administrative or judicial complaints submitted to the relevant authorities in this respect., disaggregated by the type of alleged discrimination.***

Article 1 of the Convention. Discrimination based on colour and national extraction. The Committee recalls its previous request to the Government to take practical measures to ensure the application of the Convention with respect to equality of opportunity and treatment irrespective of political opinion, national extraction and colour. In this respect, the Committee notes that, although section 8(1) of the Labour Code of 2012 now includes colour as a prohibited ground of discrimination, it continues to omit “political opinion” and “national extraction”. In this regard, while the Committee notes the Government’s indication that Decree No. 95/2013/ND-CP of 22 August 2013 establishes penalties for administrative violations on the grounds of discrimination, as defined in section 8(1) of the Labour Code, it emphasises that this Decree does not apply to the grounds of political opinion and national extraction. ***The Committee requests the Government to provide information on the application of Decree No. 95/2013/ND-CP of 2013 with regard to acts of discrimination on the basis of colour, as well as any other measures taken to ensure equality of opportunity and treatment irrespective of colour. The Committee also once again requests the Government to provide information on any practical measures taken to ensure the full application of the Convention in relation to equality of opportunity and treatment irrespective of political opinion and national extraction.***

Discrimination based on religion. The Committee recalls its previous request to the Government to provide details of legislative measures that prohibit discrimination in employment and occupation on religious grounds. The Committee notes the Government’s indication that article 24 of the Constitution and section 8(1) of the Labour Code of 2012 include religion as a prohibited ground of discrimination. The Government adds that Decree No. 95/2013/ND-CP of 22 August 2013 imposes fines for acts of discrimination on grounds of religion, and that Decree No. 92/2012/ND-CP of 8 November 2012 provides details regarding the implementation of Ordinance No. 21/2004/PL-UBTVQH11 of 29 June 2004, which prohibits discrimination on religious grounds. However, the Committee notes that section 6(1)(a) of Decree No. 92/2012/ND-CP provides that, in order to obtain registration, the activities of a religious organization must not be in violation of sections 8(2) and 15 of Ordinance No. 21/2004/PL-UBTVQH11. Section 8(2) of the Ordinance prohibits the abuse of the right to belief and religious freedom in contravention of national laws and policies while section 15 provides that religious activities shall be ceased if they adversely affect the unity of the people or national cultural traditions. In this regard, the Committee recalls Directive No. 01/2005/CT-TTg concerning protestantism, adopted by the Prime Minister on 4 February 2005, prohibits attempts to force people to follow or to abandon a religion. The Committee notes that taken together the three laws allow for scenarios in which a worker, with a religious belief not recognized by the Government, may face discrimination by the employer in employment and occupation. In this regard, the Committee recalls that the Convention protects the expression and manifestation of religion, and that appropriate measures need to be adopted to eliminate all forms of intolerance (see General Survey on the fundamental Conventions, 2012, paragraph 798). ***The Committee requests the Government to provide information on the application in practice of Ordinance No. 21/2004/PL-UBTVQH11, Directive No. 01/2005/CT-TTg and Decree No. 92/2012/ND-CP, including information on the measures taken or envisaged to ensure that workers or employers with unrecognized religious views are not subject to discrimination in employment or occupation.***

Discrimination based on social origin. The Committee notes that the Labour Code includes “social class” as a ground of discrimination that may have a narrower meaning than the ground of “social origin” contained in *Article 1(1)(a) of the Convention*. In this regard, the Committee recalls that discrimination and lack of equal opportunities based on “social origin” refer to situations in which an individual’s membership of a class, socio-occupational category or caste determines his or her occupational future, either because he or she is denied access to certain jobs or activities, or is assigned only certain jobs (see General Survey on the fundamental Conventions, 2012, paragraph 802). ***The Committee requests the Government to clarify how it interprets the term “social class”, and whether in its view this term is consistent with the term “social origin” as provided for in the Convention.***

Article 3 of the Convention. Sexual harassment. The Committee notes with *interest* that section 8(2) of the Labour Code of 2012 prohibits sexual harassment at the workplace. Section 37 of the Labour Code provides for the right of an employee to unilaterally terminate a contract on the grounds of sexual harassment, and sections 182 and 183 specifically prohibit sexual harassment against domestic workers. However, the Committee also notes that the amended Labour Code still does not provide a definition of sexual harassment. In this regard, the Committee notes that a Code of Conduct on Sexual Harassment in the Workplace was developed in May 2015 by the tripartite Industrial Relations Committee with the support of the ILO, which defines both quid pro quo and hostile environment sexual harassment, as well as the term “workplace”. The Committee also notes that the Code of Conduct applies to all companies in both the public and private sectors, regardless of size, and aims to help employers and workers develop their own sexual harassment policies or regulations. The Committee notes the Government’s indication that Decree No. 04/2005/ND-CP of 11 January 2005 provides guidance on the enforcement provisions for sexual harassment contained in the previous Labour Code and defines the rights and obligations of the complainant and the person being complained against, the jurisdiction, procedures and enforcement of appeal decisions. It notes, however, that an equivalent Decree providing equivalent interpretation for the revised Labour Code has not been submitted by the Government. ***The Committee requests the Government to provide information on the implementation and enforcement of sections 8(2), 37, 182 and 183 of the Labour Code of 2012, including any measures taken or envisaged to raise awareness of these provisions among workers, employers and their respective organizations, as well as public enforcement officials, along with any administrative or judicial complaints submitted to the relevant authorities in this respect. It also requests the Government to provide specific information on the measures taken or envisaged to facilitate the application of the Code of Conduct on Sexual Harassment in the Workplace by workers and employers in both the public and private sectors, as well as information on any progress made in this regard.***

Restrictions on women’s employment. The Committee recalls its request to the Government to take steps to ensure that protective measures restricting women’s employment are limited to maternity protection. The Committee notes the provisions cited by the Government regarding maternity protection, but also notes section 160 of the Labour Code of 2012, which prohibits the employment of female workers on work that is harmful to parenting functions, as specified in the list of types work issued by the Ministry of Labour, Invalids and Social Affairs (MLISA), that is work that requires regular immersion in water and regular underground work in mines. It notes the Government’s indication that the MLISA issued Circular No. 26/2013/TT-BLDTBXH on 18 October 2013 which lists 77 job categories in which women are prohibited from working. In this regard, the Committee reiterates that protective measures for women should not go beyond maternity protection, as those aimed at protecting women generally because of their sex or gender are often based on stereotypical perceptions of their suitability, capabilities and appropriate role in society and are contrary to the Convention, and thus constitute obstacles to the recruitment and employment of women. The Committee wishes to point out once again that provisions relating to the protection of persons working in harmful or dangerous jobs should be aimed at protecting the health and safety of both women and men at work. ***The Committee requests the Government to provide information on the application of section 160 of the Labour Code of 2012, including a list of occupations prohibited under section 160(2) and (3), in addition to the occupations designated in Circular No. 26/2013/TT-BLDTBXH of 2013. The Committee once again requests the Government to take measures to ensure that future revisions of the above Circular limit its restrictions to women who are pregnant or breastfeeding.***

Articles 3 and 5. Prohibition of discriminatory recruitment practices based on sex, and special measures. The Committee recalls its request to the Government on the measures taken to curb discriminatory practices affecting women in recruitment, such as giving preference to male job applicants and discouraging female applicants by establishing requirements prohibiting marriage and pregnancy during a certain period following recruitment. In this regard, the Committee notes sections 8(1), 153 and 154 of the Labour Code of 2012, which prohibit discrimination based on gender and require the Government and employers to create employment opportunities for woman employees and to promote gender equality in recruitment. It also notes Decree No. 85/2015/ND-CP of 1 October 2015, which contains detailed provisions for the implementation of these sections, as well as specific provisions to improve the working conditions and health-care services available to women employees. The Committee especially welcomes the specific measures outlined in section 5(1)(b) of the Decree, which provides that the State shall ensure equal rights for men and women employees in recruitment through preferential treatment and tax reduction schemes. Section 5(2)(a) provides that the State shall encourage employers to “prioritize females in recruitment and assignment if the job is suitable for both males and females and the applicant is qualified”. The Committee also notes the Government’s indication that section 25(2) of Decree No. 95/2013/ND-CP of 22 August 2013 establishes a fine of between 5,000,000 and 10,000,000 Vietnamese Dong (VND) for acts of discrimination against, inter alia, gender and marital status, and that section 18 of the Decree specifies sanctions for the violation of provisions regarding women workers. ***The Committee requests the Government to provide information on the implementation and enforcement of sections 8(1), 153 and 154 of the Labour Code of 2012, as supplemented by Decree No. 85/2015/ND-CP of 2015, including any measures taken or envisaged to raise awareness of these provisions among workers, employers and their respective organizations, as well as public enforcement officials. The Committee also requests the Government to provide detailed statistical information on the application of sections 18 and 25(2) of Decree No. 95/2013/ND-CP of 2013, and any administrative or judicial complaints submitted to the relevant authorities in this respect.***

Article 4. Measures affecting individuals who are justifiably suspected of, or engaged in, activities prejudicial to the security of the state. The Committee recalls its previous comments in which it noted that persons upon whom a ban under section 36 of the Penal Code has been imposed have the right to appeal the decision within 15 days of the date of conviction, and that the courts had issued various rulings banning persons from holding certain posts, practising certain occupations or doing certain jobs. The Committee recalls the Government's previous indication that in practice bans can be imposed when a court judges that the continuation of the work by the convicted person may cause a danger for society, and that this could be the case in about 100 acts criminalized by the Penal Code, such as acts infringing the life, health or dignity of a person, acts infringing the freedom of citizens, drug-related crimes, acts infringing public order and security or acts interfering with justice. The Committee notes the Government's brief reply referring the Committee to aggregated statistics on the numbers of court cases dealing with different types of labour disputes. The Committee notes, however, that this information does not reply to its previous request. ***The Committee therefore repeats its earlier request to the Government to provide information related to the rulings banning persons from holding certain posts, practising certain occupations or doing certain jobs; the offences in connection with which such bans have been imposed; and the number and nature of the appeals lodged and their outcomes.***

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

Yemen

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

Article 3(a) of the Convention. Legislation. The Committee recalls that article 5 of the Labour Code provides for the right and the duty to work without discrimination on the grounds of sex, age, race, colour, creed or language. It further recalls that it has been stressing for many years the importance of declaring and pursuing a national equality policy covering all the grounds enumerated in the Convention. The Committee notes that the Government is currently revising the Labour Code. ***The Committee accordingly requests the Government to take the opportunity of the current revision of the Labour Code to explicitly prohibit direct and indirect discrimination based on at least all of the grounds of the Convention, including political opinion, social origin and national extraction, with respect to all aspects of employment and occupation and all workers.***

Article 2. National Equality Policy. The Committee recalls that, with a view to achieving the elimination of discrimination in employment and occupation, States are required to develop and implement a multifaceted national equality policy. The implementation of the policy presupposes the adoption of a range of specific and concrete measures, including in most cases the need for a clear and comprehensive legislative framework, and ensuring that the right to equality and non-discrimination is effective in practice. Proactive measures are required to address the underlying causes of discrimination and de facto inequalities resulting from deeply entrenched discrimination (see General Survey on the fundamental Conventions, 2012, paragraph 732). ***The Committee asks the Government to take steps to develop and implement a national equality policy to address discrimination and promote equality in the public and private sectors, at least with respect to race, colour, sex, religion, political opinion, national extraction and social origin. The Government is asked to provide information on any measures taken in this respect.***

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

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 100** (Angola, Bahamas, Barbados, Belize, Burundi, Cambodia, Central African Republic, Chad, Comoros, Congo, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Ecuador, Eritrea, Fiji, Gambia, Guyana, Haiti, Kazakhstan, Nigeria, Pakistan, Panama, Paraguay, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Serbia, Sierra Leone, Singapore, South Africa, Swaziland, Syrian Arab Republic, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Turkmenistan, Uganda, United Arab Emirates, United Kingdom, United Kingdom: Gibraltar, Viet Nam, Yemen); **Convention No. 111** (Afghanistan, Angola, Bahamas, Bangladesh, Barbados, Belize, Burundi, Cambodia, Central African Republic, Chad, Comoros, Congo, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Equatorial Guinea, Eritrea, Fiji, Gambia, Guyana, Haiti, Republic of Korea, Kyrgyzstan, Nigeria, Pakistan, Panama, Paraguay, Philippines, Qatar, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sierra Leone, South Africa, Swaziland, Syrian Arab Republic, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Turkmenistan, Uganda, United Arab Emirates, Viet Nam, Yemen); **Convention No. 156** (San Marino).

Tripartite consultation

Algeria

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1993)

Article 5 of the Convention. Effective tripartite consultations. The Committee notes that the Government's report contains no reply to its previous comments in which the Government was invited to provide precise information on the tripartite consultations held on the matters relating to international labour standards set out in *Article 5(1)* of the Convention. The Government reiterates in its report that organizations of employers and workers are informed of all matters relating to ILO activities through the communication of all relevant documents and that meetings are held regularly between the Government and the social partners. The Government also recalls the economic and social growth pact adopted on 3 February 2014. ***The Committee requests the Government to provide precise information on the content and outcome of tripartite consultations held on all matters concerning international labour standards covered by the Convention.***

Antigua and Barbuda

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2002)

Article 5 of the Convention. Effective tripartite consultations. The Committee notes that the Government's report does not contain information on the tripartite consultations held on matters related to the Convention. ***The Committee once again requests the Government to provide detailed information on the activities of the National Labour Board on matters regarding international labour standards covered by the Convention. It also once again requests the Government to include detailed and updated information on the tripartite consultations held concerning each of the matters related to international labour standards covered by Article 5(1) of the Convention.***

Article 5(1)(b). Submission to Parliament. The Government indicates in its report that all instruments adopted by the Conference were submitted to the relevant authority for action. ***The Committee refers to its observations on the obligation to submit and once again requests the Government to report on the effective consultations held with respect to proposals made to the Parliament of Antigua and Barbuda in connection with the submission of the instruments adopted by the Conference, including indications of the date on which the instruments were submitted to Parliament.***

Article 5(1)(c). Examination of unratified Conventions and Recommendations. The Government reiterates, as it did in 2014, that it notes the comments made by the Committee with regard to the examination of unratified Conventions. ***The Committee refers to its previous comments and urges the Government to provide updated information on the re-examination of unratified Conventions with its social partners, in particular: (i) the Labour Inspection (Agriculture) Convention, 1969 (No. 129), which is deemed a governance Convention; (ii) the Holidays with Pay Convention (Revised), 1970 (No. 132), (which revises the Weekly Rest (Industry) Convention, 1921 (No. 14)), and the Holidays with Pay (Agriculture) Convention, 1952 (No. 101), to which Antigua and Barbuda is a State party; and (iii) the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), (which revises the Seafarers' Identity Documents Convention, 1958 (No. 108)), that has also been ratified by Antigua and Barbuda.***

[The Government is asked to reply in detail to the present comments in 2016.]

Burkina Faso

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2001)

The Committee notes the observations of the National Confederation of Workers of Burkina (CNTB), received on 25 August 2015, the Government's report and its reply to the CNTB's observation received on 4 November 2015.

Article 5 of the Convention. Effective tripartite consultations. The Committee notes with *interest* the adoption of Decree No. 2015-971/PRESTRANS/PM/MFPTSSS/MEF of 10 August 2015 on the establishment, composition, functions, organization and operation of the Advisory Commission on International Labour Standards (CCNIT) with a view to the application of the provisions of the Convention. In its reply to the CNTB's observations, the Government specifies that a decree on the nomination of CCNIT members is being drafted. ***The Committee welcomes the progress made by the Government in the implementation of the Convention and hopes that the next report will contain detailed information on the content and outcome of the tripartite consultations held on each of the matters relating to international labour standards covered by the Convention.***

Burundi

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 5 of the Convention. Effective tripartite consultations. 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) transmitted 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 its office was opened in Bujumbura. 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 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) of the Convention).* 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 Committee hopes that the Government will make every effort to take the necessary action in the near future.

China

Hong Kong Special Administrative Region

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (notification: 1997)

The Committee notes the observations made by the Hong Kong Confederation of Trade Unions (HKCTU), received on 1 September 2015, and the Government's reply thereon, received on 3 December 2015.

Article 5 of the Convention. Effective tripartite consultations. The Government indicates in its report that the Labour Advisory Board's (LAB) Committee on the Implementation of International Labour Standards (CIILS) was consulted on all the reports to be submitted under article 22 of the ILO Constitution and on all replies to the Committee's comments. Moreover, the Committee notes that reports under the Migration for Employment Convention (Revised), 1949 (No. 97), the Labour Relations (Public Service) Convention, 1978 (No. 151), and this Convention have been supplied to the HKCTU at its request. The Committee takes note of the LAB's report covering the period 2013–14. *The Committee requests the Government to continue to provide up-to-date information on the consultations held on the matters concerning international labour standards covered by the Convention.*

Operation of the consultative procedures. The HKCTU again expresses its concern with respect to ineffective consultations indicating that it is still being excluded from the consultative process. The Government reiterates that effective consultations are carried out in the Hong Kong Special Administrative Region, China, with representatives of employers and workers serving on the LAB and its committees on an equal footing. Moreover, members from different trade unions including the HKCTU have been appointed to participate in some of the LAB committees to provide advice on labour matters. *The Committee requests the Government to continue to provide detailed information on the efforts undertaken together with the social partners in order 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), including measures taken in the near future to ensure the HKCTU's meaningful participation in the consultative process.*

Democratic Republic of the Congo

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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

Djibouti

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2005)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 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)

The Committee notes the observations made by the National Business Association (ANEP), received on 1 September 2015.

Article 2 of the Convention. Adequate procedures. Effective tripartite consultations. In reply to the observations of ANEP and the International Organisation of Employers (IOE) in September 2014 on the work of the Higher Labour Council, the Government indicates in its report that the establishment of the Presidential Commission on Labour Matters is one of the actions intended to bring the executive authorities closer to the working class by creating a space for discussion, without it replacing the established tripartite mechanisms. The Government adds that the tripartite consultation

procedure has been changed and that the documents are sent to all the confederations and federations that are active at the time of the consultation, with the mechanism remaining for consultation between employers and the executive. The Government also refers to the consultations held through this procedure in 2014 and 2015 in relation to the activities of the ILO, the items on the agenda of the International Labour Conference and reports on the application of ratified Conventions. In its new observations, ANEP indicates that, as a result of the fact that the Higher Labour Council is not functioning, interaction between the Government and the social partners is no longer effective, with the result that the exchange of information has run up against serious obstacles or, at least, has become irrelevant. ***With respect to the consultation procedures described by the Government, the Committee notes that the Higher Labour Council has not been operating for over two years and regrets that the central social dialogue body in the country has not met during that period. The Committee trusts that the obstacles that exist in this respect will be resolved rapidly so that tripartite consultations can be held in practice on matters relating to international labour standards.***

Article 3(1). Election of representatives of the social partners to the Higher Labour Council. The Government indicates that, in the context of the efforts made to designate worker representatives for the Higher Labour Council, more than 16 meetings have been held since June 2014. It adds that the various trade union federations and confederations called for analysis of the proposed agreement and that they would inform the Ministry of Labour and Social Welfare of their decision. As of June 2015, no communication had been received on this subject. The Government explains that it is examining the possibility of establishing a procedure for the election of trade unions so that the participation criteria allow an organized election process in accordance with the legislation and the Convention. ANEP expresses the view that the Government has not made efforts to reactivate the Higher Labour Council and adds that reports on ratified Conventions are not sent out before their transmission to the Office. The Committee refers to the conclusions and recommendations of the Committee on Freedom of Association in Case No. 3054 (324th Report, June 2015), and the conclusions of the Conference Committee on the Application of Standards (104th Session, June 2015) on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) by El Salvador. The Committee also refers to its observation on Convention No. 87 and recalls that in Case No. 3054 in June 2015 the Committee on Freedom of Association emphasized the need for the Higher Labour Council to be constituted as a matter of urgency based on the criterion of representativeness of organizations so that its functions may resume (324th Report, June 2015, para. 329). ***The Committee once again requests the Government and the representatives of employers and workers to promote and reinforce tripartism and social dialogue so as to facilitate the operation of procedures which ensure the holding of effective tripartite consultations. The Committee hopes that it will be able to note progress in the operation of the Higher Labour Council and in other procedures through which the tripartite consultations required by the Convention are held.***

Article 5(1)(b). Tripartite consultations on the submission to the Congress of the Republic of the instruments adopted by the International Labour Conference. The Committee notes the undertaking by the Government to pursue the process of the submission of the pending instruments adopted by the Conference and the establishment of a high-level commission composed of the Ministry of Labour and Social Welfare and the Ministry of Foreign Affairs. ***The Committee requests the Government to provide information on the tripartite consultations held on the proposals to be submitted to the Legislative Assembly with regard to the submission of the 54 instruments adopted by the Conference between 1976 and 2012.***

[The Government is asked to reply in detail to the present comments in 2016.]

Gabon

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1988)

The Committee notes the observations made by the Trade Union Congress of Gabon (CSG), received in July 2015, concerning the organization of occupational elections. ***The Committee requests the Government to provide its comments in this respect.***

Tripartite consultations required by the Convention. The Government indicates in its report that Conventions Nos 142, 155, 176, 177, 179, 181, 184 and 185 were duly submitted to the competent authorities for ratification. Furthermore, the Government states that the only tripartite meeting held during the period covered by the report was concerned with consultations on the revision of the Labour Code. ***The Committee requests the Government to supply updated information on the tripartite consultations held on all matters related to international labour standards covered by the Convention, such as the questions arising out of reports on the application of ratified Conventions and the re-examination of unratified Conventions with its social partners and to indicate the nature of any reports or recommendations issued.***

Guatemala

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1989)

Articles 2 and 5 of the Convention. Effective tripartite consultations. The Committee notes that in reply to its request in the previous comments to further expand the tripartite consultations required by the Convention, the Government indicates in its report that in October 2014, the Ministry of Labour and Social Welfare published in the press and on its website an invitation to legally constituted employers' and workers' organizations and the most representative industrial, agricultural, commercial and financial entities to nominate candidates for election to the Tripartite Committee on International Labour Affairs for the period 2014–16. According to the Government, in 2013 the Tripartite Committee held 34 meetings and in 2014 a total of 21 meetings. Between January and August 2015 the Tripartite Committee held eight meetings. Among other activities relating to the International Labour Organization, the Tripartite Committee had the opportunity in 2013 to examine draft amendments to the Labour Code and other relevant laws that the ILO's supervisory bodies had requested. In 2014, the Tripartite Committee examined the proposal to ratify the Domestic Workers Convention, 2011 (No. 189), and the labour-related aspects of the trade agreements with the United States. *The Committee requests the Government to continue to provide information on the tripartite consultations held in the Tripartite Committee on International Labour Affairs and on other initiatives taken to hold the consultations on international labour standards required by the Convention.*

Ireland

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1979)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 5 of the Convention. Effective tripartite consultations. The Government stated in its 2012 report that it continued to comply with the Convention, as outlined in previous reports. The Committee noted in this regard that the previous report had been received in October 2005. *The Committee requests 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, and questions arising out of the report to be made on the application of Conventions.*

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

Jamaica

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1996)

Article 5 of the Convention. Effective tripartite consultations. The Committee notes from the report that, in addition to the Domestic Workers Convention, 2011 (No. 189), the Occupational Safety and Health Convention, 1981 (No. 155), is being considered by the Labour Advisory Committee (LAC). It also notes that the LAC met on a yearly basis in 2012–14 and, since the start of 2015, there have been three LAC meetings. The Government reiterates that the matters relating to *Article 5* of the Convention are not usually individually addressed at LAC meetings. The Government adds that, from time to time, particular issues concerning international labour standards are addressed by different members of the LAC, although not in the committee setting. *The Committee requests the Government to provide detailed information on the content and outcome of the tripartite consultations held by the LAC on each of the matters listed in Article 5(1) of the Convention, including replies to questionnaires concerning items on the agenda of the International Labour Conference and comments on proposed texts to be discussed by the Conference, proposals to be made to Parliament in connection with the submission of instruments adopted by the Conference, and questions arising out of reports to be made on the application of ratified Conventions under article 22 of the ILO Constitution.*

Madagascar

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)

Articles 2 and 5 of the Convention. Effective tripartite consultations. The Committee notes the information provided by the Government in reply to the previous comments, and the observations of the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE), received in September 2014. The Government indicates that the representatives of employers and workers in the National Labour Council (CNT) will be determined by means of an order in accordance with Decree No. 2011-490 of 6 September 2011 on trade union organizations and representativeness. The Committee notes that, while awaiting that order, meetings have been organized by the Ministry of Labour to facilitate the

application in practice of Articles 2, 3 and 5 of the Convention. It notes with *interest* that it has been agreed by common accord with workers' and employers' organizations that all reports to be submitted to the Office under articles 19 and 22 of the ILO Constitution will be communicated to the social partners; it will then be their responsibility to organize themselves for the inclusion of their observations; and the social partners may, where necessary, send their observations directly to the Office. *The Committee requests the Government to provide detailed information on the manner in which the representatives of employers and workers have been chosen for the purposes of the procedures provided for in the Convention (Article 3). It also requests the Government to provide information on the subjects and outcome of the tripartite consultations held on each of the items set out in Article 5(1).*

Malawi

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1986)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Tripartite consultations required by the Convention. 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.*

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

Nigeria

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

The Committee notes with *regret* that the Government's report has not been received. It expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

Consultations with representative organizations. 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 hopes 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.

Peru

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2004)

Article 5 of the Convention. Effective tripartite consultations. The Committee notes the Government's reply to the observations made in 2014 by the Autonomous Workers' Confederation of Peru (CATP) and the Single Confederation of Workers of Peru (CUT) regarding the tripartite consultations required by the Convention. The Government describes the activities of the National Labour and Employment Promotion Council (CNTPE) in relation to the discussion of a national employment policy (2011), the increase in the minimum wage (2012), the analysis of the international economic situation and its impact on the Peruvian economy (2013) and the national social security policy (2014). As to consultations on the possible ratification of the Domestic Workers Convention, 2011 (No. 189), the Government indicates that the employers proposed exploring the possibility of ratifying Convention No. 189 at the CNTPE, and the four trade union confederations supported its ratification. However, following bipartite consultations, the employers concluded that Convention No. 189 should not be ratified, while the workers continue to advocate its ratification. The Government considers that the tripartite consultations on this matter have been completed. It also indicates in its report that the meetings of the CNTPE resumed in April 2015 and that Legislative Resolution No. 30312 of 5 March 2015 approved the ratification of the Maternity Protection Convention, 2000 (No. 183). ***The Committee requests the Government to continue providing information on the consultations held on each of the matters relating to the international labour standards set forth in the Convention.***

Sao Tome and Principe

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1992)

Article 5 of the Convention. Effective tripartite consultations. In reply to the Committee's previous comments, the Government indicates in its report that all measures intended to improve the labour market are discussed with the social partners in the National Council for Social Dialogue. The Government adds that all the measures taken to ensure compliance with international labour Conventions are reported to the social partners. The Committee recalls that, to give effect to the Convention, effective consultations have to be held with the social partners on each of the matters relating to international labour standards enumerated in *Article 5(1)* of the Convention (questionnaires concerning items on the agenda of the International Labour Conference, submission to the National Assembly of the instruments adopted by the Conference, re-examination of unratified Conventions and of Recommendations, questions arising out of reports to be made on the application of ratified Conventions, proposals for denunciation). ***The Committee once again requests the Government to provide detailed information on the effective tripartite consultations held on the matters relating to international labour standards covered by the Convention.***

[The Government is asked to reply in detail to the present comments in 2017.]

Serbia

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2005)

Articles 2 and 5 of the Convention. Effective tripartite consultations. The Committee notes the Government's report received in November 2014 and the observations made by the Union of Employers of Serbia and the Confederation of Autonomous Trade Unions of Serbia (CATUS), transmitted by the Government. The Committee also notes the observations made by the Trade Union Confederation "Nezavisnost", received in August 2014, and the Government's response which was received in December 2014. In its observations, Nezavisnost warns of the consequences of the absence of social dialogue and non-compliance with ILO Conventions in Serbia, adding that a set of laws has been enacted in breach of the procedure laid down in legislation and of the Convention. Nezavisnost also states that it was not informed about whether the Government had prepared its report on the application of the Convention, nor whether the Government had asked the social partners for comments on its report. The Union of Employers of Serbia states that, in spite of the fact that the regulatory framework and proclaimed support to social dialogue is in place, effective tripartite consultations between the Government and the social partners have not been regular and steady practice, but rather a matter of choice for individual ministries. It adds that not all the laws authorizing the ratification of ILO Conventions have been submitted to consultation, such as the Labour Clauses (Public Contracts) Convention, 1949 (No. 94), which was ratified in December 2014. CATUS indicates that Serbia needs to consider unratified ILO Conventions and embark upon the ratification of those that may improve and advance workers' rights and position, improve occupational safety and health standards and place environmental protection at a higher level. CATUS is also of the view that representative trade unions should be consulted on which of the Conventions should be ratified. In its reply to the observations made by Nezavisnost, the Government indicates that the 2014 reports on the application of ILO Conventions were communicated at a later date to the social partners, on 6 October 2014, due to the enactment of the Law Amending the Labour Code,

which was adopted on 29 July 2014. Moreover, the Government states that the social partners, including the Union of Employers of Serbia, Nezavisnost and CATUS, have always been involved in the working groups tasked with the development of labour legislation. In its report, it adds that all pieces of legislation governing labour and welfare are regularly communicated to the Social and Economic Council. *The Committee requests the Government to provide specific information on the tripartite consultations held on the matters concerning international labour standards covered by the Convention (Article 5(1)). Please indicate the nature of any reports or recommendations made as a result of the consultations. The Committee also requests the Government to continue to provide information on the activities of the Social and Economic Council on the matters covered by the Convention.*

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 expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

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.

Swaziland

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1981)

Articles 2 and 5 of the Convention. Effective tripartite consultations. The Government indicates in its report that the National Steering Committee on Social Dialogue had been meeting on a monthly basis since February 2010; however, on 28 March 2014, workers' organizations had notified the Government that they were withdrawing from all tripartite structures. The Committee notes from the Government's most recent report received in October 2015 that the National Steering Committee on Social Dialogue was established with effect from 1 August 2015 by way of Legal Notice No. 120 of 2015. It also notes from the report that the social partners indicated at the Labour Advisory Board meeting of 22 October 2015 that there is a need to ensure that the provisions of the Convention are applied, especially with regard to the inclusion of representatives from employers' and workers' organizations in the tripartite structures, as more trade union federations would be registered in the future. In the view of workers' organizations, the principle of "most representative" was not being followed. The Government indicates that it was concluded that the Labour Advisory Board would devise a formula in this regard and advise the Minister for Labour and Social Security accordingly. *The Committee requests the Government to provide detailed information on the content and outcome of the tripartite consultations held on the matters regarding international labour standards covered by the Convention. It also requests the Government to provide information on the measures taken to select the most representative organizations of employers and workers in the tripartite bodies discussing international labour standards (Article 3).*

Article 5(1)(c) and (e). Prospects of ratification of unratified Conventions and proposals for the denunciation of ratified Conventions. In reply to the previous comments regarding the possible denunciation of the Recruiting of Indigenous Workers Convention, 1936 (No. 50), the Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64), the Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65), and the Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 (No. 104), as well as the prospects of ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Government indicates that there has been no conclusion of the discussions of these Conventions since tripartite structures had not been operational. The Government adds that the Safety and Health in Mines Convention, 1995 (No. 176), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), will be included in the agenda of the Labour Advisory Board for necessary action with a view to submitting these two instruments to the competent authorities for ratification. *The Committee requests the Government to continue to provide information on any developments occurring in a tripartite context regarding the ratification of up-to-date Conventions and the denunciation of outdated Conventions.*

Turkey

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1993)

The Committee notes the Government's report and the observations made by the Turkish Confederation of Employers' Associations (TİSK), the Confederation of Turkish Trade Unions (TÜRK-İŞ) and the Confederation of Public Employees' Trade Unions (KESK), transmitted by the Government.

Article 5 of the Convention. Effective tripartite consultations. The Government indicates in its report that the Economic and Social Council, the Labour Assembly and the Tripartite Consultation Board are the most important social dialogue mechanisms put forward in the framework of the Convention. The Committee notes that the Tripartite Consultative Board has discussed legislative bills during its meetings. In 2013 and 2014, discussions were held on regulations for the implementation of temporary employment relationships via private employment agencies; however, an agreement could not be reached among the social partners. In its observations, referring to the single meeting of the Tripartite Consultation Board held in 2012 when more sessions are usually held per year, TİSK indicates that it would have been of benefit if the Board, whose purpose is to meet to carry out effective consultations, had been convened more frequently when legislation profoundly affecting working life was passed. TİSK indicates that the Government has taken initial steps in connection with the Private Employment Agencies Convention, 1997 (No. 181), and that it is planning to introduce statutory provisions, in cooperation with the social partners in the Tripartite Consultation Board, to allow private employment agencies to establish temporary employment relationships. TÜRK-İŞ and KESK are of the view that the Tripartite Consultation Board did not carry out any effective work on fundamental issues in the period under review, adding that legislative bills were prepared without taking into account the views of the workers' organizations. KESK further indicates that the Government made no effort to consult the social partners on the application of ILO Conventions (*Article 5(1)(d)*). ***The Committee requests the Government to provide specific information on the tripartite consultations held within the Tripartite Consultative Board on the matters concerning international labour standards covered by the Convention (Article 5(1)). The Committee refers to its comments on the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), and invites the Government to provide information on consultations relating to the re-examination of unratified Conventions, such as the Private Employment Agencies Convention, 1997 (No. 181) (Article 5(1)(c)).***

Bolivarian Republic of Venezuela

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

The Committee notes that a complaint under article 26 of the ILO Constitution alleging non-observance of the Convention by the Bolivarian Republic of Venezuela, made by a group of Employer delegates to the International Labour Conference in 2015, was declared receivable and is pending before the Governing Body.

The Committee notes the observations made jointly by the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) and the International Organisation of Employers (IOE), received on 2 September 2015, and the additional observations received on 29 October 2015. The Committee notes the Government's reply, received on 22 November 2015. The Committee also notes the observations by the Confederation of Workers of Venezuela (CTV), received on 1 September 2015, and of the National Union of Workers of Venezuela (UNETE), received on 2 October 2015. ***The Committee requests the Government to provide its comments in this respect.***

Articles 2, 5 and 6 of the Convention. Effective tripartite consultations. In its previous comments, the Committee requested the Government to provide specific information on the consultations held on each of the matters relating to international labour standards which come within the scope of the Convention. The Committee notes the Government's indication in its report that it has a broad and inclusive conception of social dialogue and that participation mechanisms must not be confined merely to the most representative organizations. The Government refers to the consultations held within the framework of the Economic Peace Conference (April 2014) and the Productive Power Anzoátegui Expo 2015, which benefited from the participation of many employers. The Government gives assurances that each year it transmits the reports on the application of ratified and unratified Conventions, the report forms, reports, surveys and instruments from the Office and the International Labour Conference, for consultation with the workers' and employers' organizations in the country. The Committee observes that FEDECAMERAS and the IOE are of the view that the most representative organization of employers in the country continues to be ignored by the Government. FEDECAMERAS and the IOE indicate that the meetings referred to by the Government do not constitute a consultation or an executive dialogue mechanism. There are no real structural dialogue bodies in the country to facilitate a healthy exchange of ideas or the achievement of consensus. According to FEDECAMERAS and the IOE, the Government is still failing to comply with the request made by the high-level tripartite mission which visited the Bolivarian Republic of Venezuela (27–31 January 2014) to formulate a plan of action aimed at setting up a tripartite dialogue round table. FEDECAMERAS adds that it is not seeking exclusive dialogue, but only demands that it be included within the broad consultations that the Government claims that it is conducting within the constitutional parameters of the country. The Committee notes the indication by the

CTV that the Government has refused to establish any type of tripartite consultation on subjects relating to the world of work in the country. The CTV observes that labour legislation, and particularly the fixing of the minimum wage is carried out unilaterally. Similarly, UNETE emphasizes the lack of dialogue and consultation in the country. ***The Committee regrets that there has not been progress in social dialogue and urges the Government to take measures in this respect. The Committee requests the Government to provide updated information on the effective consultations held on each of the subjects relating to international labour standards that come within the scope of the Convention, and on the procedures envisaged for the holding of such consultations. The Committee reiterates its request to the Government to indicate the manner in which 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 matters are being addressed directly to the following States: **Convention No. 144** (Argentina, Bahamas, Dominica, Greece, Guinea, Guyana, Honduras, Hungary, Iceland, India, Indonesia, Iraq, Israel, Japan, Jordan, Kazakhstan, Kenya, Republic of Korea, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lesotho, Liberia, Lithuania, Malaysia, Mali, Mauritius, Mexico, Republic of Moldova, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Nepal, Netherlands: Aruba, Netherlands: Sint Maarten, New Zealand, Nicaragua, Pakistan, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Senegal, South Africa, Syrian Arab Republic, Trinidad and Tobago, Uganda).

Labour administration and inspection

Angola

Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)

Legislation. The Committee notes the adoption of Act No. 7/15 of 15 June 2015, enacting the General Labour Act, which repeals the General Labour Act of 2000 in its totality.

Reform of the labour inspection system. *Noting that the Government's report does not reply to its previous comments on this subject, the Committee once again requests the Government to provide information on the measures taken in the context of the reform of the labour inspection system. The Committee requests the Government to identify in particular the steps that have been taken to give effect to the recommendations made in the context of ILO technical assistance in relation to the implementation of the legislative reforms, including: (1) the adoption of the draft conditions of service of the General Labour Inspectorate; (2) the need to secure the enforcement of legal provisions (Articles 3(1), 16 and 17 of the Convention); (3) the conditions of service of labour inspectors (remuneration and career prospects, in accordance with Article 6); and (4) the requirement to notify labour inspectors of industrial accidents and cases of occupational disease (Article 14).*

Article 3 of the Convention. Additional functions assigned to labour inspectors. Mediation. The Committee notes that section 275 of the new General Labour Act entrusts labour inspectors with the function of mediating in disputes between employers and workers. The Committee recalls that the principal functions of labour inspectors are set out in Article 3(1) of the Convention and do not include mediation. The Committee refers to paragraphs 72 to 74 of its 2006 General Survey on labour inspection, and emphasizes that the time and energy required for that function are liable to be to the detriment of the discharge of the principal duties of labour inspectors. *The Committee therefore encourages the Government to take the necessary measures to ensure that labour inspectors are relieved in law and practice of the functions assigned to them in the field of mediation so that they can devote themselves fully to the discharge of their principal functions, as set out in Article 3(1) of the Convention.*

Inspection of foreign workers. *In the absence of a reply from the Government on this subject, the Committee once again requests the Government to specify the role of labour inspectors with regard to foreign workers who are not legally entitled to remain in the country, and the means by which it is ensured that these workers can obtain their entitlements acquired in the course of their working relationship.*

Articles 4 and 11. Supervision and control of the labour inspection system by a central authority, human and financial resources, and means of action and transport facilities available to the inspection services. In its previous comments, the Committee noted that the General Labour Inspector is the central inspection authority. The Committee indicated its understanding that the expenses related to inspection activities were assumed, to some extent, by the General Secretariat of the Ministry of Public Administration, Employment and Social Security, as well as by provincial governments. *In the absence of a reply to its previous request on this subject, the Committee once again requests the Government to specify how the central inspection authority ensures that inspection offices, especially local offices, have the human resources, equipment and office furnishings necessary, and the necessary transport facilities for the discharge of inspection duties in accordance with the needs of each province. It also requests the Government to specify the measures taken for the reimbursement to labour inspectors in the various provincial inspectorates of all travelling and incidental expenses necessary for the discharge of their duties.*

Article 18. Appropriate penalties. The Committee notes that the terms of section 308 of the General Labour Act provide that violations of labour legislation are punishable by fines to be imposed in accordance with the law implementing this provision. The implementing law determines the minimum and maximum amounts of fines, identifies which body is responsible for their imposition and the criteria for their level and the conditions for their prescription. *The Committee requests the Government to provide the implementing text for this provision.*

Article 21. Annual inspection report. The Committee notes with *interest* the annual inspection reports communicated by the Government for 2011, 2012, 2013 and 2014, and the report for the first quarter of 2015. It notes that these reports contain information, in particular, on: the number of inspectors by category; the number of inspections and the number of workplaces inspected by sector; the number of contraventions by subject; the number of infringement reports; the number of industrial accidents by their gravity and by sector; and the number of occasions on which technical information and advice has been provided. *The Committee requests the Government to ensure that the annual inspection reports also contain information on cases of occupational disease, in accordance with Article 21(g) of the Convention.*

Bangladesh

Labour Inspection Convention, 1947 (No. 81) (ratification: 1972)

The Committee recalls the discussion in the Committee on the Application of Standards (CAS) of the International Labour Conference at its 103rd Session (May–June 2014) on the application of the Convention.

Following the request made by the CAS, the Committee notes that a direct contacts mission to Bangladesh took place from 18 to 20 October 2015, and that the mission has prepared a report on the follow-up to the 2014 conclusions of the Conference Committee concerning the application of the Convention.

Legislative developments. The Committee notes that the Bangladesh Labour Rules implementing the revised Labour Act (BLR, 2015) were published in the *Official Gazette* on 15 September 2015. The Committee makes observations on the relevant parts of these Rules under the Articles of the Convention referred to below.

Articles 2, 3(1)(a) and (b), 5(a), 13, 17 and 18 of the Convention. Inspection activities to improve occupational safety and health (OSH) standards in the ready-made garment (RMG) sector. The Committee previously noted the various activities and programmes being undertaken by the Government and the social partners with ILO support, as well as those being implemented with other actors, to improve OSH standards in factories in the RMG sector.

It notes the Government's indication in its report that, as of September 2015, a total number of 3,407 RMG factories had been subject to fire, electrical and structural inspections (1,333 by the national initiative, 1,274 by the group of retailers and apparel brands, ACCORD, and 800 by the group of retailers and apparel brands, ALLIANCE). The review panel established by the Department of Inspection for Factories and Establishments (DIFE) to follow up on the recommendations made in consequence of these initiatives ordered the closure of 34 factories, and the partial closure of 49 factories (following inspections of 110 factories). The Committee notes from the information contained in the direct contacts mission report that doubts exist as to whether the public authorities responsible for fire, electrical and structural safety have the human resources and capacities required to take over from the private initiatives – ACCORD and ALLIANCE – once their mandate expires in 2018. In this regard, the Committee notes from the information provided in the Government's report that initiatives are under way to increase the number of inspectors within the public bodies responsible for building safety (the capital development authorities (RAJUK)) and fire safety (Department of Fire Service and Civil Defence (DFSCD)).

Inspection activities in sectors other than the RMG sector, including construction. The Committee notes that following the Committee's previous request the Government has indicated in its report that in 2015 the construction sector has been one of the priority sectors for inspection due to the high number of occupational accidents within it. In this regard, the Committee also notes, however, that the information contained in the Government's report provided following the direct contacts mission in October 2015 suggests that inspection activities continue to be focused on the RMG sector. The Committee further notes that the direct contacts mission report indicates that the informal sector, which accounts for 87 per cent of the workforce of the country (according to a DIFE 2015 report), is not covered by labour inspections at all.

The Committee requests the Government to provide detailed information on the labour inspection activities disaggregated by sector on an annual basis (including statistics relating to the workplaces in the different sectors and the number of workers employed therein, the number on labour inspections carried out, the violations detected and the penalties imposed, the statistics of occupational accidents and diseases, including deaths resulting from these accidents and diseases etc.).

Cooperation of the labour inspectorate and other public or private institutions engaged in similar activities. In relation to the Committee's previous request concerning coordination between the labour inspection services and public and private initiatives, the Committee welcomes the Government's reference in its report to: (i) the development of common minimum standards (devised by the Bangladesh University of Engineering and Technology (BUET) with the assistance of the ILO) for assessing the fire, electrical and structural integrity of RMG factories across public and private initiatives; (ii) the coordination of fire and structural inspections by the High-Level National Tripartite Committee on Fire Safety and Structural Integrity; (iii) the regular coordination meetings between the DIFE, DFSCD and RAJUK; and (iv) the use of a unified checklist by the relevant public bodies, including the DIFE and DFSCD. ***The Committee requests the Government to continue to provide information in this regard.***

Article 3(2). Additional functions entrusted to labour inspectors. The Committee previously noted that the new subsection 124(a) of the Bangladesh Labour Act (BLA), as amended, entrusts the Chief Inspector or any other officials authorized by the Chief Inspector to act as mediator and conciliator in claims concerning outstanding payments or benefits. The Committee notes that Rule 113 of the newly adopted BLR, 2015 makes further provision in this regard.

The Committee once again recalls that *Article 3(2)* of the Convention provides that any further duties entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. Moreover, it draws the Government's attention to the guidance contained in Paragraph 8 of the Labour Inspection Recommendation, 1947 (No. 81), which provides that the functions of labour inspectors should not include acting as conciliator or arbitrator in proceedings concerning labour disputes. ***The Committee therefore once again requests the Government, in particular in view of the limited human resources available to the labour inspection services, to take the necessary steps to ensure that, in accordance with Article 3(2), any other duties entrusted to labour inspectors do not interfere with the performance of their primary duties. In this regard, consideration should be given to entrusting the mediation and conciliation of individual labour disputes to another public body.***

Articles 6 and 7. Status and conditions of service of labour inspectors. Training of labour inspectors. The Committee notes with *interest* the Government's indication that, from January 2014 to August 2015, all labour inspectors have been trained in relation to labour law, inspection techniques and OSH.

The Committee also notes from the information contained in the direct contacts mission report that the retention of labour inspectors is problematic. This appears to be because labour inspectors fall outside the career civil service. In this regard, it notes from the direct contacts mission report that a number of recently recruited labour inspectors left the DIFE, after having been trained, to take up work with other government services. The Committee further notes the statements made by the DIFE that it intends in the future to directly recruit labour inspectors to posts outside the career civil service (and not via the Civil Service Commission). ***The Committee requests the Government to take the necessary steps to ensure that labour inspectors are brought within the career civil service so as to provide them with the same level of protection and career prospects as other public servants. In this regard, it requests the Government to review the professional profiles and grades of labour inspectors and ensure that they reflect those of public servants exercising similar functions, such as tax inspectors or the police. The Committee requests the Government to continue to provide information on the training of labour inspectors, following the adoption of the BLR, 2015. The Committee requests the Government to give specific attention, in the design of the training programmes for labour inspectors on freedom of association, to its comments under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), so as to ensure that all training is carried out in full conformity with that Convention.***

Articles 10 and 11. Strengthening of the human and material resources of the labour inspectorate. The Committee previously noted the steps that had been taken to strengthen and restructure the labour inspectorate, including by the proposed threefold increase of the Department's human and budgetary resources and the recruitment of 88 additional labour inspectors.

The Committee notes the Government's indication that the number of approved labour inspection posts has been increased to 575, and that 230 labour inspectors have been recruited since 2013, bringing the total number of labour inspectors to 283 (187 specializing in general working conditions, 28 specializing in health, and 35 specializing in safety). It further notes the Government's indication that the vacant positions are in the process of being filled. In this regard, it notes from the information contained in the direct contacts mission report that the Public Service Commission has been asked to recruit 154 additional labour inspectors. The Committee also recalls the Government's previous commitment to raising the total number of labour inspectors to 800.

The Committee welcomes the improvement in the transport facilities (including through the provision of 160 motorcycles, 15 minibuses and one jeep) and the computer and office equipment available to labour inspectors, referred to by the Government. ***Welcoming the progress made with the recruitment of additional labour inspectors, the Committee expresses the firm hope that the Government will, without further delay, fill all of the 575 labour inspection posts that have already been approved, and recruit an adequate number of qualified labour inspectors taking account of the number of workplaces liable to inspection. In this regard, it requests the Government to provide a concrete timeline for the filling of the 575 positions that have been approved and for the recruitment of the 800 labour inspectors it has previously committed itself to. It also asks the Government to provide information on the efforts undertaken to increase the number of labour inspectors specializing in OSH.***

The Committee further requests the Government to provide a detailed description of the material resources available to the labour inspection offices (i) at the central level, and (ii) within the 23 districts (office space, telephones, computers, Internet connections, photocopiers, measuring devices, etc.), including the transport facilities available.

Articles 12(1), 15(c) and 16. Inspections without previous notice. Duty of confidentiality in relation to complaints. The Committee notes from the information provided in the Government's report that only 668 of the 25,525 labour inspections carried out in 2014 were unannounced. The Committee notes that the limited number of unannounced inspections may undermine the effectiveness of such inspections in identifying safety and health problems that may otherwise remain concealed or undiscovered. The Committee refers to paragraph 263 of its 2006 General Survey on labour inspection, where it emphasizes the importance of unannounced visits, especially in cases where the employer may be expected to attempt to conceal a violation, by changing the usual conditions of work, preventing a witness from being present or making it impossible to carry out an inspection. In this context, the Committee previously noted that the BLA, as amended, does not contain any legal requirement to refrain from disclosing the identity of the author of a complaint or from indicating that an inspection has taken place in consequence of a complaint. The Committee also recalls its previous observations on the need to carry out a sufficient number of random labour inspections without prior notice to enable labour inspectors to effectively discharge their obligation to treat as confidential the source of any complaint. The Committee is of the view that in the current situation, where only 2.5 per cent of all inspections are unannounced, the establishment of a link between the inspection and the existence of a complaint can readily be made, and confidentiality is, in consequence, undermined. ***The Committee once again requests the Government to take appropriate steps to enshrine in law a requirement that the existence of a complaint and its source are kept confidential. The Committee also requests the Government to ensure that a sufficient number of unannounced labour inspections are undertaken and requests that the Government provide information on any practical measures taken in this regard.***

Articles 17 and 18. Legal proceedings, effective enforcement and sufficiently dissuasive penalties. The Committee previously noted that following the 2013 amendments to the BLA, the maximum fine that could be imposed for a general violation of the BLA had been increased from 5,000 Bangladesh Taka (BDT) to BDT25,000 (approximately from US\$65 to US\$325), and that the maximum period of imprisonment for obstruction of an inspector had been increased to six months. In this context, it noted the ITUC's indication that the enforcement of the law remained a serious

challenge for a number of reasons. These included the absence of any power in the hands of a labour inspector to impose a fine and the need to report all cases of non-compliance to the courts, the insufficiency of legal staff employed by the Ministry of Labour and Employment or the DIFE and the low level of fines which are too negligible to be dissuasive.

In relation to the Committee's request for information on the number of violations detected, the Committee further notes from the statistics provided by the Government that 1,110 cases were referred to the labour courts. The Committee notes that no information is available on the outcome of these cases. However, the Committee understands from the direct contacts mission report that sentences of imprisonment are rarely, if ever, imposed. The Committee further notes that the Government once again refers to the increase in the level of fines for certain provisions of the BLA following the 2013 amendments, but it does not provide information on any measures envisaged to further increase and enhance the effective imposition of these fines, notwithstanding the very low level of fines available. ***The Committee once again requests the Government to provide information on the measures introduced or envisaged to ensure that penalties for labour law violations are sufficiently dissuasive and that fines are effectively enforced.***

The Committee requests the Government to continue to provide information on the number of violations detected, and the number of cases filed with the labour courts. It also requests the Government to provide details on the areas to which these violations relate (OSH, freedom of association, child labour, etc.) and their outcome (the number of convictions in relation to the infringements reported, the amount of any fine imposed, etc.).

In this context, the Committee also requests the Government to specify how many legal staff are working at the DIFE with responsibility for the enforcement of the violations detected, and to clarify whether labour inspectors have the power to issue fines themselves or whether they have to submit all cases of non-compliance to the labour courts.

Articles 2, 4 and 23. Labour inspection in EPZs. The Committee previously noted that the Bangladesh Export Processing Zones Authority (BEPZA) remained responsible for ensuring the rights and privileges of the workers of enterprises operating in EPZs, and that 60 counsellors were dedicated to this function. In this regard, it noted the observations of the ITUC that counsellors undertook limited grievance handling but that there was no labour inspection system in EPZs. It also noted the conclusions of the CAS, according to which the Government should prioritize the amendments to the legislation governing EPZs, so as to bring the EPZs within the purview of the labour inspectorate. The Committee further noted that a separate draft Labour Act for EPZs had been prepared, and notes that this draft has been sent to the Ministry for vetting before being sent to Parliament for adoption. In its previous comment, the Committee noted the observations of the ITUC, according to which the draft Labour Act for EPZs gives rise to a number of concerns. These include the fact that labour inspection and enforcement in EPZs remain vested with the BEPZA and that the powers and functions of the EPZ Labour Courts and the EPZ Labour Appellate Tribunal established under the draft Labour Act for EPZs are severely restricted in comparison with courts under the BLA.

The Committee also notes that the Government indicates, in response to the question concerning the activities of the staff responsible for the enforcement of the rights of workers, that in 2014, 160 cases were brought to the labour courts and 70 were settled. However, no further details are provided concerning, in particular, the subject matter of the cases concerned. The Government further indicates that conciliators and arbitrators in EPZs are responsible for dealing with unfair labour practices, but the Government has not provided information on the number of cases dealt with by them. The Committee also notes the information contained in the direct contacts mission report that there are no fines for labour law violations provided for in the current legislation applicable to EPZs (the 2010 EPZ Workers Welfare Association and Industrial Relations Act (EWWIRA) and the 1989 Bangladesh BEPZA Instructions (1 and 2)). It also notes the statement made by one employer, as referred to in the direct contacts mission report, that no workplace inspections were taking place in EPZs. The Committee expresses ***deep concern*** that EPZs continue to be excluded from labour inspection. ***The Committee once again requests the Government to provide information on the measures taken to bring the EPZs within the purview of the labour inspectorate.***

It requests the Government to provide detailed information on the activities carried out within EPZs to ensure that workers' rights are secured (including on the violations detected and the legal provisions to which they relate, the number of cases referred to the courts and the penalties imposed). The Committee also once again requests the Government to provide statistics on the number and nature of industrial accidents and cases of occupational diseases in EPZs and where they are recorded.

Articles 2, 4 and 23. Labour inspections in Special Economic Zones (SEZs). The Committee notes from the direct contacts mission report that the Government proposes to establish Special Economic Zones (SEZs). ***The Committee requests the Government to confirm that the provisions of the BLA and the BLR, 2015, in so far as they relate to labour inspection, will apply to such areas.***

Articles 20 and 21. Publication and communication to the ILO of an annual labour inspection report. The Committee previously noted with interest the launching of a publicly accessible database system on fire, electrical and building inspections in the RMG sector. It notes the information in the direct contacts mission report that this database will also contain information on labour inspections and working conditions.

The Committee welcomes the Government's indication, in reply to its previous requests, that efforts are being made to establish a register of all workplaces liable to inspection and of the workers employed therein, and that an annual labour inspection report is currently being prepared and should be published soon. In this regard, it also notes the information in

the direct contacts mission report that efforts are being made to establish an improved and more efficient system of data collection and analysis through the development of a computer-based reporting mechanism and the recruitment of staff for the collection, compilation and updating of data. Moreover, a revised labour inspection checklist, which takes account of the legal requirements in the BLR, 2015, should improve the collection of relevant data.

The Committee trusts that the annual inspection report will be communicated soon, and that it will contain information on all the subjects listed in Article 21(a)–(g). It requests the Government to report in detail on the concrete steps taken to establish a register of all workplaces liable to inspection and of the workers employed therein, as well as the other measures described above to improve the collection of inspection data. The Committee requests the Government to continue to avail itself of the technical assistance from the Office for this purpose.

[The Government is asked to reply in detail to the present comments in 2016.]

Plurinational State of Bolivia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1973)

The Committee takes note of the observations produced jointly by the International Organisation of Employers (IOE) and the Confederation of Private Employers of Bolivia (CEPB), received on 31 August 2015.

The Committee observes that some of the questions raised by the two organizations are related to issues that it has addressed in its previous comments. The IOE and the CEPB assert that: (i) the inspection service lacks efficiency, since inspectors fail in their obligation to provide information and advice to employers and workers; (ii) there is no recruitment system that ensures job stability for inspectors and job tenure depends on changes in the staff holding the highest level posts in the Ministry of Labour, Employment and Social Welfare (MLESW); (iii) there is no involvement of experts and technical specialists; (iv) the number of labour inspectors is well below what is needed to cover the number of workplaces that should be inspected and the number of workers employed in them; and (v) labour inspectors' offices show major deficiencies. The IOE and the CEPB also indicate that they know neither the recruitment requirements for inspectors, nor the introduction and training process that inspectors undergo on taking up their duties. *The Committee requests the Government to send its comments on these matters.*

The Committee further observes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Recommendations made under the FORSAT–ILO multilateral technical cooperation project. In its previous comments the Committee noted that the most noteworthy contributions of this project (which lasted until April 2007) as far as labour inspection was concerned, were the proposals relating to: the updating of the Labour Inspection Regulations; the separation of labour inspection functions from those of conciliation and mediation; reports on inspection work; periodical inspection summaries; inspection records and inspection orders; work stoppage orders; notification of violations and proposed penalties; and an analysis of the situation regarding penalties. The project also included proposals for improving the MLESW's business register, the exchange of information and cooperation between institutions. The Committee expressed the hope that the Government would be in a position to report measures implemented to define a legal and structural framework, as well as working methods and procedures with a view to developing an effective inspection system. However, it notes the Government's statement that since the end of the project, there has been no progress in this regard. *The Committee requests the Government to indicate the measures taken to follow-up the recommendations made in the context of the abovementioned project, and to provide information on any measures taken or envisaged to define a legal and structural framework and determine working methods and procedures with a view to developing an effective inspection service.*

Articles 19, 20 and 21 of the Convention. Periodical reports and publication and communication of an annual report on the work of the inspection services. In its previous comments the Committee noted that the regional and departmental authorities have to prepare monthly reports that are submitted to the General Directorate of Labour and Occupational Health and Safety, but that, up to the present, no annual report had been published because data collection and registration are done manually, making it difficult to process the information in a timely manner. The Committee notes that in the context of the "Bolhispania" cooperation agreement to improve the inspection system, concluded by the Spanish International Cooperation for Development Agency (AECID) and the MLESW, Employment and Social Welfare, the latter's departmental offices were provided with several computers, printers and other electronic equipment in 2009. The Committee hopes that the Government will dedicate this equipment for the use in recording and processing the data needed to prepare the annual inspection report. *It requests the Government to provide information on any progress made in the publication and communication to the ILO of an annual report on the work of the inspection services within the time limits and in the form prescribed by Articles 20 and 21 of the Convention and, in particular, on the results of the formalities undertaken to obtain technical assistance from the Office with a view to implementing and designing an electronic system for labour inspection activities, in accordance with the wish expressed by the Government.*

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.

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1977)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 6(1) and (2), 12(1) and 24 of the Convention. Cooperation among institutions to ensure the physical safety of labour inspectors in the performance of their duties in the agricultural sector and enforcement of penalties for obstructing

inspectors in the performance of their duties. The Committee notes the Government's statement that inspection visits in remote rural regions (such as El Chaco) encountered problems when certain employers blocked them with a show of weapons. The Committee notes that, under section 7(3) of Resolution No. 346 of 28 November 1987, approving the labour inspection regulations, the labour inspectorate may request cooperation from the law enforcement authorities in the performance of its duties. It also emphasizes that, under *Article 24* of the Convention, adequate penalties shall be provided for by national laws and enforced not only for violations of legal provisions enforceable by labour inspectors, but also for obstructing labour inspectors in the performance of their duties. ***The Committee requests the Government to provide information on the measures taken with a view to strengthening the authority necessary to labour inspectors in agriculture in their relations with employers and workers in the sector. It also requests the Government to indicate the measures taken by law enforcement authorities to protect inspectors during their visits to certain agricultural undertakings where their physical safety is not guaranteed, and to provide information on the investigations opened and action taken against the authors of such acts, including measures taken in accordance with Article 24 of the Convention.***

Articles 6(1), 15 and 21. Lack of adequate logistical resources and transport facilities to meet the needs of labour inspectors in agriculture. The Government makes reference to difficulties in carrying out inspection visits in agricultural undertakings owing to the lack of suitable vehicles and logistical resources, especially in the El Chaco and Amazon regions. The Committee recalls that, under *Article 15* of the Convention, the competent authority shall make the necessary arrangements to make available to labour inspectors in agriculture local inspection offices suitably equipped in accordance with the requirements of the service, accessible to the persons concerned, in so far as possible, and located so as to take account of the geographical situation of the agricultural undertakings, and of the means of communication (*paragraph 1(a)*) and the transport necessary for the performance of their duties in cases where suitable transport facilities do not exist (*paragraph 1(b)*). The Committee emphasizes the crucial importance of providing labour inspectors with suitable transport facilities, since their mobility is essential for the fulfilment of their duties, particularly in agricultural undertakings, which are by nature located far from urban areas and are often spread over an area without public transport. ***The Committee therefore requests the Government to take the necessary measures to evaluate these needs and to submit them to the financial authorities with a view to giving effect to the requirements of the Convention. The Committee requests the Government to provide information in its next report on any measures taken in this connection and on the results obtained.***

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.

Brazil

Labour Inspection Convention, 1947 (No. 81) (ratification: 1989)

The Committee notes the observations made by the National Union of Labour Inspectors (SINAIT), received on 1 April 2014 and 31 October 2014, and the Gaucha Association of Labour Inspectors (AGITRA), received on 7 April 2014. The Committee also notes the joint observations of the National Confederation of Industry (CNI) and the International Organisation of Employers (IOE), received on 1 September 2015.

Articles 3(1), 10, 16 and 21(e) of the Convention. Number of labour inspectors for the effective discharge of the functions of the system of labour inspection. In its previous comments, the Committee requested the Government to indicate whether there was any specific initiative under way to increase the number of budgeted labour inspection posts and to provide up-to-date information on the number of labour inspectors and their geographical distribution, the distribution of assignments and duties among labour inspectors, both in central and regional offices, and the number and geographical distribution of the workplaces liable to inspection and the workers employed therein.

The Committee notes that the CNI and IOE indicate that the legislation is in line with the Convention and, moreover, that the Ministry of Labour and Employment (MTE) establishes directives for labour inspectors through a large number of administrative provisions. There is nevertheless still room for improving the system in order to achieve a balance between needs, legislation and the role of inspectors.

The Committee notes that the SINAIT and AGITRA allege in their observations that the number of labour inspectors (*auditores fiscais do trabalho*) posts established by law is inadequate and does not meet the requirements of *Article 10* of the Convention or remotely meet the needs of such a large country confronted with forms of labour akin to slave labour and child labour, deaths caused by work-related accidents and occupational diseases. They also state that not even the number of labour inspectors established by law is respected. Recent studies estimate that more than 5,000 additional inspectors are needed.

The Committee notes that, in its reply to the observations of the two organizations, the Government recognizes that increasing the number of labour inspectors is an important step towards adequately meeting the demands of society, guaranteeing the rights of workers, protecting the health and lives of workers and reducing the high costs of social security and costs related. The Government indicates that the MTE sent the Ministry of Planning, Budget and Management (MPPG) Notice No. 002/14 on the need to increase the number of labour inspection posts, as well as Notice No. 97/2014 requesting 800 labour inspection posts to be filled. The MPPG replied that authorization to fill the vacancies first required the adoption of the 2015 Annual Budget Bill, and that the MPPG is not responsible for the Bill's legislative passage. As to increasing the number of labour inspectors, the MPPG also replied that it is for the legislature to approve the MTE's initiative to create new posts, as the number of inspectors needed (4,500) exceeds the number authorized by law (3,644). The Government hopes that through the gradual increase in the number of labour inspectors, taking into account the present budgetary constraints, it will be possible to address the shortage progressively.

The Government also indicates in its report that the MTE and the labour inspection secretariat have made efforts to increase the number of inspectors in every region by holding new competitions. In 2013, a competition was launched to fill 100 vacancies, and the successful candidates have already taken up their posts. The MPPG has received new requests to authorize further competitions to fill the available vacancies. The Government also reports that a bill to create 1,406 new labour inspection posts is before the National Congress.

The Committee notes that, according to the table contained in the Government's report, there were 2,629 labour inspectors as of the end of April 2015. The Committee notes the measures envisaged and adopted by the Government to progressively increase the number of labour inspection posts and to fill the vacancies within the current limit authorized by the law. ***The Committee requests the Government to continue taking steps to strengthen the number of labour inspectors with a view to optimizing coverage of inspection needs.***

Article 6. Conditions of service of labour inspectors. The Committee notes the indications of the SINAIT that a considerable number of inspectors have left the Ministry to take up posts with better salaries in other public or private entities. ***The Committee requests the Government to provide its comments on this matter. The Committee further requests the Government to provide detailed information on the remuneration of labour inspectors in different categories. It also requests the Government to provide information on the level of remuneration of labour inspectors in relation to other public servants exercising similar functions.***

Article 11. Financial and other resources and material conditions of work of labour inspectors for the effective discharge of their duties. In its previous comments, the Committee requested the Government to provide information on the transport facilities at the disposal of labour inspectors and their geographical distribution, as well as the accessibility of labour inspection offices, any developments in any improvements in the working conditions of inspectors in decentralized units.

The Committee notes that the SINAIT emphasizes the precarious nature of the facilities, furnishings, computer equipment and vehicles at the disposal of labour inspectors. Labour inspectors are obliged to cover their travel expenses for the inspection of enterprises, as the allocated daily allowance does not even cover the cost of fuel. There are vehicles that are broken down, not serviced and deteriorating in garages.

The Committee notes the Government's indication that in 2014 approximately 8.5 million Brazilian reais (BRL) (equivalent to approximately US\$2.245 million) were spent on investments and improvements in the facilities of decentralized units. Regarding means of transport, the Government indicates that labour inspectors can use either their own vehicles, in which case they receive a fixed transport allowance, or the available official vehicles or public transport. The legislation also establishes that the free passage of labour inspectors and occupational safety and health officials must be granted upon the presentation of their accreditation (including via toll roads). The Government indicates, however, that the vehicles it provides have not been renovated and it recognizes the difficulties it has in providing the financial resources necessary for the renovation and servicing of vehicles. The labour inspection secretariat is nevertheless looking at ways of resolving the problem, for example by outsourcing transport services.

With regard to material means and office equipment, the Government indicates that the labour inspection secretariat has purchased computers, printers and scanners for the use of inspection staff. The Committee notes the measures adopted to improve the working conditions of labour inspectors. ***The Committee requests the Government to continue providing information on any measures adopted to give full effect to Article 11 of the Convention.***

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

Burundi

Labour Inspection Convention, 1947 (No. 81) (ratification: 1971)

The Committee notes with ***regret*** that the Government's report has not been received. It expresses ***deep concern*** in this respect. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU) received on 26 September 2014. It also refers to the observations of the 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 (PRODIAP) 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 near future.

Colombia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

The Committee previously noted the discussions in the Committee on the Application of Standards (CAS) at the 103rd Session of the International Labour Conference (May–June 2014) on the application of the Convention.

The Committee notes the observations made by the Confederation of Workers of Colombia (CTC) received on 29 August 2015, and the observations made by the General Confederation of Labour (CGT) and the Single Confederation of Workers of Colombia (CUT), both received on 2 September 2015, indicating that the measures referred to by the Government to strengthen the labour inspection services have been without concrete results and are still insufficient to achieve the effective protection of labour rights. It further notes the joint observations made by the International Organisation of Employers (IOE) and the National Employers Association of Colombia (ANDI), received on 1 September 2015, highlighting the progress made in various areas with regard to labour inspection. *The Committee requests the Government to provide its comments in relation to these observations.*

The Committee notes the Government's commitment to continue strengthening the labour inspection system and its reference to the National Development Plan for 2014–18. The plan includes the strengthening of the labour inspection system as one of the objectives of the national policy at the highest level, with the purpose of contributing to the formalization of labour relationships, the respect of freedom of association rights and the increase in the affiliation and protection in the social security system.

Articles 10 and 16 of the Convention. Number of labour inspectors exercising functions within the meaning of the Convention. Number of labour inspections. In its previous comment, the Committee noted the Government's indication that the number of approved labour inspection posts had increased from 424 in 2010 to 904 in 2014, and that the number of labour inspectors appointed had increased from 530 in August 2013 to 715 in November 2014. The Committee notes with *concern* from the statistics provided by the Government that the number of labour inspections has decreased from 10,253 in 2011 to 8,037 in 2014. However, the Committee notes with *interest* the Government's indications in its report that the number of labour inspectors has further increased from 715 in November 2014 to 826 in September 2015. It also notes the Government's indications that the remaining posts should soon be filled. *The Committee requests the Government to provide information on the progress made with filling the approved labour inspection posts. It also requests the Government to continue to provide information on the number of labour inspections undertaken and to provide an explanation for the decrease in the number of labour inspections between 2011 and 2014.*

Articles 11(1)(b) and 15(a). Transport facilities and the principle of the independence and impartiality of labour inspectors. The Committee previously observed that section 3(2) of Act No. 1610 of 2013, which enables labour inspectors to seek logistical assistance from employers or workers to gain access to workplaces liable to inspection, where conditions on the ground so require, is inconsistent with the provisions of the Convention, and contrary to the impartiality and authority that are necessary for inspectors in their relations with employers and workers. In this regard, the Committee notes the Government's indications submitted under the Labour Inspection (Agriculture) Convention, 1969 (No. 129) the Government has prepared a draft decree partially modifying section 3(2) Nr. 5 of Law No. 1610 of 2013 which would allow public sector entities to enter into inter-institutional agreements between territorial directorates to facilitate the transport of labour inspectors where necessary. *The Committee trusts that the abovementioned draft decree will soon be issued, and requests the Government to communicate a copy of it once it has been issued. In this respect, it also once again encourages the Government, for the purpose of legal certainty, to consider amending section 3(2) of Act No. 1610 by excluding the possibility of labour inspectors to seek logistical assistance from employers or workers to gain access to workplaces liable to inspection.*

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

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1976)

The Committee notes the observations made by the Confederation of Workers of Colombia (CTC) received on 29 August 2015 and the observations made by the General Confederation of Labour (CGT) and the Single Confederation of Workers of Colombia (CUT), both received on 2 September 2015. It also notes the joint comments made by the

International Organisation of Employers (IOE) and the National Employers Association of Colombia (ANDI), received on 1 September 2015. ***The Committee requests the Government to provide its comments in relation to these observations.***

The Committee notes the Government's reference to the signature of a Memorandum of Understanding in June 2015 between the ILO and the Government to promote decent work in agriculture, through the formalization of labour relationships, the promotion of employment and the promotion of compliance with fundamental principles and rights at work. ***The Committee requests the Government to provide information on the steps taken to implement the objectives of the Memorandum of Understanding, and the role of the labour inspection services in agriculture in this regard.***

Articles 1–27 of the Convention. Effective functioning of the labour inspection system in agriculture. In its previous comments, the Committee urged the Government to introduce the necessary measures to strengthen the labour inspection services in agriculture.

The Committee notes the Government's reference in its report to a number of measures that have resulted in the strengthening of the labour inspection system as a whole, including in agriculture. Referring to its comments under the Labour Inspection Convention, 1947 (No. 81), the Committee notes the progress made in several areas concerning labour inspection, which also affect the application of this Convention. They include, in particular: the increase in the number of labour inspectors from 530 in August 2013 to 826 in September 2015 (*Article 14*); the efforts made to improve the financial resources of the labour inspectorate and the allocation of a special budget for transport facilities and travel expenses (*Article 15*); the measures to improve the effective enforcement of sufficiently dissuasive sanctions for labour law violations, including through the training of labour inspectors in this regard (*Articles 22 and 24*); and the publication and communication to the ILO of the 2013 annual report on the work of the labour inspection services which also contains information on the work of the labour inspection services in agriculture (*Articles 26 and 27*). The Committee further notes from the statistics provided in the 2013 annual labour inspection report that, of the 10,438 labour inspection visits undertaken in 2013, 523 labour inspection visits were undertaken in the agricultural sector (including livestock production and fishing). It also notes the number of formalization agreements concluded (six agreements benefiting 284 workers) since the initiation of the formalization policy of the Government, and the sanctions imposed for illegal forms of labour subcontracting in 2014.

The Committee notes that the Government has not replied to the previous observations of the CUT concerning the insufficient number of labour inspectors and labour inspections in rural areas to cover agricultural enterprises (*Articles 14 and 21*), the focus on conciliation of labour disputes in rural areas rather than the conduct of actual inspection visits, and the lack of administrative support staff (*Article 6(3)*); the lack of training concerning the specific risks involved in agricultural work to effectively protect the rights of workers (*Article 9*); and the lack of adequate premises and resources in the regions, including the lack of transport facilities to undertake inspections at remote farms (*Article 15*). The Committee recalls that, in accordance with *Article 6(3)*, any further duties which may be entrusted to labour inspectors in agriculture 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 for inspectors in their relation with employers and workers.

The Committee requests the Government to provide information on the specific steps taken to improve the effective functioning of the labour inspection system in agriculture (including the allocation of labour inspectors in regions outside capital areas, the recruitment of administrative staff, the training of labour inspectors in agriculture, etc.). It requests the Government to take measures to ensure that labour inspectors focus principally on the inspection of workplaces and on taking the necessary action. In this regard, the Committee also requests the Government to consider entrusting the function of conciliation to another body, and to provide information in this regard. The Committee also requests the Government to provide detailed information on the activities of the labour inspection services in agriculture as of 2014 (including the number of inspection visits carried out, the number of violations detected and the penalties imposed in this sector including the legal provisions to which they relate, etc.) and to include this information in the annual report on the work of the labour inspection services in agriculture.

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

Comoros

Labour Inspection Convention, 1947 (No. 81) (ratification: 1978)

The Committee notes with *regret* that the Government's report has not been received. It expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

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.***

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 expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

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 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.

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.

Costa Rica

Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

The Committee notes the observations of the Confederation of Workers Rerum Novarum (CTRN), received on 2 September 2015. *The Committee requests the Government to provide its comments in this regard.*

The Committee also notes the Government's reply to the previous observations of the CTRN, dated 30 August 2012.

Articles 3, 10, 11 and 16 of the Convention. *Need to remove conciliation from the functions of labour inspectors so that they can discharge the duties prescribed by the Convention, and adequacy of the number of labour inspectors and means of transport for the needs of the inspection services.* The Committee recalls the recommendation in the 2012 needs assessment of the ILO concerning the availability of a database to which the inspection services have access containing useful data, such as workplaces liable to inspection. In its 2012 observations, the CTRN alleged that the number of labour inspectors is insufficient in view of the increasing volume of work, that the great majority of inspectors in provincial and cantonal inspection services dedicate at least 40 per cent of their working time to cases related to conciliation and that

inspectors perform work of an administrative nature in view of the lack of personnel to carry out such work. The CTRN also alleged that there were infrequent inspections, a shortage of means of transport and inadequate office equipment for the use of inspectors.

In reply, the Government indicates that the country has a system of inspection that is in conformity with the provisions of the Convention. There has been an increase in inspections following the separation of inspection and conciliation into different offices. The Government also refers to the activities carried out in the framework of the Plan of Priority Action to Strengthen Labour Inspection in relation to the administration of the Labour Information and Case Administration System (SILAC). It also notes that in the 2013 Plan of Action priority has been given to improving the SILAC with a view to ensuring that the information they contain is as comprehensive as possible, and to the development of an application to import data from databases of workplaces that are available in other institutions.

With regard to changes in the number of labour inspectors, the Committee notes the Government's indication that, as a result of the adoption of Directive No. 023-H-2015 on the freezing of staffing levels, the Ministry of Labour and Social Security (MTSS) issued a circular indicating that vacancies in the Ministry arising due to retirement or other reasons have to be filled through internal competitions with a view to maintaining the number of officials in the Ministry. The Committee notes that in 2014 there were 100 inspectors in six regional departments, and that there were 98 in 2015 in the same number of regional departments. It also notes that a total of 13,435 initial inspections were carried out in 2014 for a total of 80,691 employers.

Emphasizing that, in the absence of data on workplaces liable to inspection and the workers engaged therein, it is impossible to assess the adequacy of the numbers of labour inspectors in relation to inspection needs, the Committee refers the Government to its 2009 general observation and requests it to take the necessary measures to promote and develop cooperation with other government bodies and public or private institutions (tax services, chambers of commerce, social security bodies, etc.) in possession of relevant data with a view to the establishment and regular updating of a register of workplaces liable to inspection. The Committee also requests the Government to take the necessary measures to remove the function of mediation from labour inspectors and as far as possible relieve them from other duties of a purely administrative nature so that they can devote themselves to the discharge of their inspection duties and the provision of information and advice, as set out in the Convention.

Article 12(1)(a) and (b). Right of free access of inspectors to workplaces. For many years, the Committee has emphasized the need for the national legislation, and particularly section 89 of the Basic Act on the Ministry of Labour, to be brought into conformity with Article 12(1)(a) of the Convention. The Committee notes from the information provided by the Government that no measures have been adopted in this regard. *The Committee encourages the Government to take the necessary measures to amend the legislation in the near future so that labour inspectors are authorized to enter freely and without notice, at any hour of the day or night, any workplace liable to inspection, even if work is not carried on by night, and requests it to provide information on any developments in this regard.*

Articles 12(2) and 15(c). Notification to the employer of the presence of the inspector when carrying out an inspection and the principle of confidentiality. In its previous comments, the Committee recalled that since 2004 it has been requesting the Government to adopt the necessary measures to ensure that the legislation authorizes inspectors to refrain from notifying their presence to the employer or to his or her representative during an inspection where they consider that such notification may be prejudicial to the discharge of their duties. The Government indicates that there have been no changes in this regard in the Handbook of Legal Procedures of the Labour Inspectorate. *The Committee hopes that the Government will ensure that the legislation is supplemented with a provision in this respect and requests it to provide copies of any relevant texts. Also reiterating that, in the cases of inspections based on a complaint or denunciation, the fact that the inspector indicates the scope and objectives of the inspection at the outset, as indicated in the Handbook of Procedures referred to above, is an obstacle to the principle of confidentiality set out in Article 15(c) of the Convention, the Committee once again requests the Government to take the necessary measures to amend the Handbook of Procedures to take these observations into account.*

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

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1972)

The Committee takes note of the observations of the Confederation of Workers Rerum Novarum (CTRN) received on 2 September 2015. *The Committee requests the Government to send its comments thereon.*

The Committee also notes the Government's reply to the CTRN's previous observations of 30 August 2012.

Articles 15(1)(a) and 21 of the Convention. In its 2012 observations the CTRN said that inspection visits in the sector needed to be better planned so that visits to farms with seasonal production coincided with sowing and harvesting periods, when workers are present. The CTRN emphasized the need to provide labour inspectors whose work takes them to farms with basic tools such as boots, gloves and masks. The Committee notes that the Government has sent no comments on these allegations. *The Committee requests the Government to take the necessary measures to ensure that inspection offices are equipped with the tools and accessories that labour inspectors need to perform their duties in the*

agricultural sector. It also asks the Government to take the necessary steps to ensure that inspection visits to undertakings with seasonal production are scheduled during sowing and harvesting periods.

Croatia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1991)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 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 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.

Cuba

Labour Inspection Convention, 1947 (No. 81) (ratification: 1954)

The Committee notes the observations of the Independent Trade Union Coalition of Cuba (CSIC), received on 1 September 2015, and the Government's reply.

The CSIC alleges that no independent organization has been consulted by a labour inspectorate and that the fact that the Workers' Central Union of Cuba (CTC) is legally authorized to carry out labour inspections independently, constitutes another mechanism of control and repression of workers. In the CSIC's view, the statistics on occupational diseases and accidents are unreliable. Although the labour legislation defining and regulating labour inspection is in compliance with international standards, this conformity is far from being reflected in practice. The CSIC alleges that the inspections to which self-employed workers are subject are a mechanism for repression, financial and tax penalties, and corruption, as confirmed by countless testimonies.

The Government indicates, in response to the allegations of the CSIC, that collaboration exists between officials of the labour inspectorate and employers and workers or their organizations, in accordance with the provisions of the Labour Code and its regulations, which demonstrates conformity with *Article 5* of the Convention. It indicates that trade union organizations only conduct inspections to supervise and ensure compliance with occupational safety and health standards, as provided for in the Labour Code and supplementary legislation. They are not a mechanism for exercising repression of workers. The Government rejects the allegations that the statistics on occupational accidents and diseases are unreliable, and specifies that Legislative Decree No. 281 of 2011 establishes the principles for the organization and operation of the Government Information System. It also provides that the National Statistics and Information Office is responsible for the methodical management of information and application of the state policy on statistics. Information is updated on a quarterly and yearly basis. The Government also rejects the statement that it harasses self-employed workers. This form of non-state activity, which is a source of employment, was approved by the Guidelines for the Revolutionary Economic and Social Policy and, in 2013, Resolutions Nos 41 and 42, regulating this type of employment, were issued by the Ministry of Labour and Social Security. The Labour Code also contains regulations on this subject. Legislative Decree No. 315 of 2013 on individual violations of the regulations governing self-employment, specifies the violations, the measures applicable to offenders and the authorities empowered to impose them. ***The Committee requests the Government to provide information on the inspection visits concerning self-employed workers and where appropriate, on the violations reported and the penalties imposed.***

Articles 12 and 15(c) of the Convention. Limitation of the principle of the right of labour inspectors to enter freely workplaces that are liable to inspection and the principle of confidentiality. In its previous comments, the Committee noted that sections 11 and 12 of the 2007 Regulations on the National Labour Inspection System require that, for all inspections employers must be provided with an inspection order containing certain information, including the purpose of the inspection. In this regard, the Committee requested the Government to adopt measures to ensure that the legislation is brought into conformity with *Article 12(1)*, in conjunction with *Article 15(c)*, of the Convention. The Committee notes with **satisfaction** that Decree No. 326 of 12 June 2014 issuing the Regulations under the Labour Code, repeals the above regulations.

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

Democratic Republic of the Congo

Labour Inspection Convention, 1947 (No. 81) (ratification: 1968)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 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.

Djibouti

Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63) (ratification: 1978)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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

Labour Inspection Convention, 1947 (No. 81) (ratification: 1978)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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/04/5e 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.

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

Dominica

Labour Inspection Convention, 1947 (No. 81) (ratification: 1983)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3, 6, 7, 10 and 16 of the Convention. Numbers, conditions of service and functions of labour inspection staff. Number of labour inspection visits. The Committee notes from the Government's report that the Labour Department cannot increase its staff and that inspectors operate in all areas of labour administration. The Government also declares that every attempt is made to ensure that inspectors are professional in their conduct. *The Committee requests once again the Government to indicate the criteria and process for the recruitment of labour inspectors, and to specify the training activities provided to them upon their entry into service and in the course of employment. Please also indicate how it is ensured that the conditions of remuneration and career development of labour inspectors reflect the importance and specificities of their duties, and take into account personal merit.*

The Committee asks the Government to provide information on the time and resources spent on mediation/conciliation of industrial disputes in relation to their primary duties of inspection established under this Convention. It asks the Government to take the necessary measures to ensure that, in accordance with Article 3(2), any duties which may be entrusted to labour inspectors in addition to their primary functions shall not be such as to interfere with the effective discharge of the latter. It also asks the Government to provide information on the measures taken to ensure that all workplaces are inspected as often and as thoroughly as necessary in line with Article 16 of the Convention.

Article 15. Duty of confidentiality. Referring to the Committee's previous comments on this issue, the Committee notes from the Government's report that there has not been any change in legislation to give effect to this Article of the Convention and that the issue is to be addressed by the Industrial Relations Advisory Committee. The Government also reports that the department and labour inspectorate have always maintained strict confidentiality. *The Committee once again requests the Government to take steps to ensure that the legislation is supplemented so as to give full effect to Article 15 of the Convention and to keep the Office informed of all progress in this respect and to send copies of any relevant draft or final texts.*

Articles 5(a), 17, 18, 20 and 21. Cooperation with the justice system and enforcement of adequate penalties. Publication and content of an annual report. The Committee notes from the Government's report that steps will be taken to improve the quality of the annual report on inspection services. *The Committee hopes that the Government will make every effort to ensure that an annual report on the work of the labour inspection services is elaborated and published and that it contains information on all the items listed in Article 21 of the Convention, notably, statistics of inspection visits, violations and penalties imposed as well as industrial accidents and cases of occupational disease.* The Committee draws the Government's attention in this regard to the guidance provided in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81) as to the type of information that should be included in the annual labour inspection reports.

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

Ecuador

Labour Inspection Convention, 1947 (No. 81) (ratification: 1975)

Article 4 of the Convention. Organization and efficient functioning of the system of labour inspection. Supervision and control of the system by the central authority. The Committee notes the information in the Government's report that, under Executive Decree No. 500 of 26 November 2014, the Ministry of Labour Relations was renamed the Ministry of Labour. It also notes that the document on the comprehensive inspection management system (SGI) project, of May 2015, prepared by the Ministry of Labour, demonstrates a lack of strategic support for inspections, a lack of standard criteria for conducting comprehensive inspections and imposition of penalties, a failure to adequately follow up and close the inspection process, and insufficient planning. The Committee also notes that the Government has not provided the updated organizational plan of the labour inspection system which identifies its central authority. The Committee recalls the importance of placing the labour inspection system under the supervision and control of a central authority for the development and implementation of a standard labour inspection policy throughout the country, and for the consistent application of labour legislation. *The Committee requests the Government to specify the central authority under which labour inspection is placed. It also requests the Government to ensure that the labour inspection system introduces the necessary measures to remedy the problems raised in the SGI project in the context of the functions of supervision and control of the inspection system under Article 4 of the Convention.*

Articles 19, 20 and 21. Periodic reports and preparation, publication and transmission of an annual report on the work of the inspection services. In its previous comments, the Committee noted the progress made in terms of the installation of systems for the various provincial branches of the Ministry and in the system for the registration of

information relating to labour inspections (SINACOI). It hoped that the progress made would enable the local inspection offices to register and process the necessary data for the preparation of periodic reports, and that these reports would in turn enable the central inspection authority to prepare and publish an annual inspection report. The Committee notes the statistics provided by the Government on the inspections carried out in 2014, the number of inspectors, regional offices and provincial branches, and the number of industrial accidents by sector. It also notes the information on the amount of fines imposed. The Committee nevertheless emphasizes that the information is not sufficient for an assessment of the extent to which labour legislation in workplaces liable to inspection has been implemented, and that it does not meet the requirements of an annual report as set out in *Article 21* of the Convention. The Committee recalls that in order for the central authority to supervise and control the functioning of the services under its authority, it must receive regular information regarding their activities. This information should be provided to it by means of periodic reports, the form and content of which should be determined by the central authority itself, in accordance with *Article 19*. Under *Article 20*, the central authority should, in turn, publish an annual general report and communicate to the ILO within the time limits set out therein on the work of the inspection services which should address the points mentioned in *Article 21*. ***The Committee requests the Government to take the necessary measures to collect and compile data with a view to the preparation, by the local inspection offices, of periodic reports, and so that, on the basis of that data, an annual inspection report can be prepared and transmitted to the ILO, in accordance with Articles 19, 20 and 21 of the Convention. The Committee reminds the Government that it may avail itself of the technical assistance of the Office for this purpose, if necessary.***

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

El Salvador

Labour Inspection Convention, 1947 (No. 81) (ratification: 1995)

The Committee takes note of the observations of the Trade Union of Men and Women Workers of the Ministry of Labour and Social Welfare (SITRAMITPS), received on 11 February 2013.

Articles 6 and 15(a) of the Convention. Legal status, conditions of service and probity of labour inspectors. Public authorities' consideration of the function of inspectors. The Committee notes that the SITRAMITPS alleges non-observance of *Article 6* of the Convention and clauses 10 and 30 of the collective agreement signed with the Ministry of Labour and Social Welfare. It also alleges aggressive and demeaning treatment on the part of the administrative authority towards labour inspectors. The SITRAMITPS further asserts that labour inspectors have been branded as corrupt yet none of them have been summoned before the courts for behaviour of this kind, and that they have been ridiculed because of their low wages. Lastly, it alleges that there have been intimidating transfers and unpaid suspensions as well as changes of location and posts. ***The Committee notes these allegations with concern and requests that the Government send its comments on the matter.***

Status and conditions of service. The Committee recalls that in its previous comments, it asked the Government to provide information on any progress made as regards recognizing labour inspectors as public officials, and assuring them of stability of employment and career prospects. The Government indicates in its report that since 2013, labour inspectors have been covered by the system of payment established in the Wages Act, which guarantees them stability of employment. It further understands from the explanations provided by the Government that labour inspectors are public servants covered by the Civil Service Act, which provides that they may not be relieved of their duties or dismissed, except on the grounds and through the procedures established by law. It further notes the Government's indications that the Civil Service Act provides for the selection to the public service and the eligibility for promotion based on merits and the aptitude of candidates.

However, the Committee also notes that section 4 of the Civil Service Act establishes that any person who is appointed under the contract system and who provides services of a permanent nature that pertain to the functioning of public institutions (except for those expressly excluded by the same provision on careers in the administration), shall be included in careers in the administration and entitled to promotion or advancement as provided in section 33 of the Civil Service Act. ***The Committee requests the Government to provide information on the number of labour inspectors that enjoy the status of public servants, and those that are appointed under the contract system. The Committee also requests the Government to specify the nature and duration of the contracts of labour inspectors who are covered by the contract system (i.e. whether they have permanent contracts, or whether they are employed under fixed-term contracts). It further requests the Government to specify the conditions of service of labour inspectors that are public servants and those that are appointed under the contract system. Please also provide information on the level of remuneration of labour inspectors in relation to other public servants exercising similar functions.***

Articles 12(1)(a)(b) and (2), and 17. Freedom of labour inspectors to enter workplaces, notification of presence and discretion to decide on the treatment of infringements. In its previous comments, the Committee noted that draft amendments to the Act on the Organization and Functions of the Labour and Social Security Sector (LOFT) introduced to bring it into line with the provisions of the Convention were under examination by the Higher Labour Council. The Committee requested that the Government take the necessary measures to ensure that the draft amendment of the LOFT was adopted in the near future and reflected the points raised. The Committee notes that in its report the Government

indicates that the preliminary draft of the Act to Regulate the Labour Sector and Social Welfare, which is to replace the LOFT, is under examination by the Labour and Social Welfare Committee of the Legislative Assembly. The Committee observes that the abovementioned draft, attached to the Government's report, does not reflect the comments the Committee has been making for several years on the need to adopt legislation to provide a basis in law for the rights of labour inspectors in accordance with the Convention (*Articles 12(1)(a)*), *12(1)(b)*, *12(2)* and *17*). ***The Committee invites the Government to ensure that the draft of the Act to be adopted to replace the LOFT is in conformity with the provisions of the Convention referred to above and takes into account the Committee's comments. It requests the Governments to report on all developments in this regard.***

Articles 19, 20 and 21. Periodical reports and annual inspection report. The Committee recalls that for many years it has been asking the Government to take the necessary steps to give effect to *Articles 20* and *21* of the Convention. In its previous comments, it expressed the hope that the measures adopted to improve the electronic case management system (SEMC) would help the local inspection offices in the preparation of the periodical reports on the results of their activities and that such reports would be used as a basis for the annual inspection report to be published and transmitted to the ILO. The Committee takes special note of the tables sent by the Government showing the most frequent breaches of the Labour Code and the General Act on Risk Prevention, the charts on inspections and re-inspections and the number of workers covered by them, on the fines imposed and their amounts. The Government also reports that the system suffered an irreversible breakdown and could no longer be used and that only early this year did the new system, the National Labour Inspection System (SMIT), come into operation. ***While noting this information, the Committee requests the Government to take all necessary measures to enable the central inspection authority to publish an annual report on the work of the labour inspection services that contains the information set out at Article 21(a)–(g) of the Convention, and to ensure that the report is transmitted to the Office within the time limits set in Article 20. The Committee also requests that the Government send copies of the periodical report produced by the local inspection offices.***

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

[The Government is asked to reply in detail to the present comments in 2016.]

Ghana

Labour Inspection Convention, 1947 (No. 81) (ratification: 1959)

Articles 10, 11 and 16 of the Convention. Human resources and material means of the labour inspectorate. The Committee recalls that it previously noted the Government's reference to the shortage of human resources and material means including vehicles, as well as to its plans to increase the number of the labour inspection staff and to improve the material means of the labour inspectorate. In this regard, it notes the Government's renewed commitment to take measures to improve the human resources and material means of the labour inspectorate. ***Recalling the importance of taking concrete steps for the strengthening of the capacity of the labour inspectorate to enable labour inspectors to fulfil effectively both their functions under the Convention, the Committee strongly encourages the Government to identify and allocate the financial resources necessary to meet the most urgent priorities for the improved functioning of the labour inspection system, and to take the necessary measures to ensure that the labour inspection services have at their disposal an adequate number of labour inspectors and the necessary material resources (including transport facilities) to enable them to effectively carry out their duties. In this respect, the Committee requests the Government to describe in detail the current situation of the labour inspection services in terms of the human resources and material means available and to indicate any steps taken with a view to improve this situation.***

Article 12(1)(a). Right of labour inspectors to enter freely workplaces liable to inspection. In its previous comments, the Committee has asked the Government to take the necessary measures to amend section 124(1)(a) of the Labour Act 2003 No. 651 to extend the right of labour inspectors to freely enter workplaces to periods outside working hours. The Government indicates that it is currently working on measures to ensure that the relevant legislation is in conformity with the requirements in *Article 12(1)(a)*. ***The Committee requests the Government to provide concrete information on the steps taken to amend the abovementioned section of the Labour Act so as to ensure labour inspectors' right of free entry to workplaces liable to inspection irrespective of the working hours therein.***

Articles 3, 17, 18 and 21(e). Enforcement of the legal provisions relating to the conditions of work and the protection of workers. The Committee previously noted that the Government referred, in reply to the Committee's request for the effective enforcement of the legal provisions, to the means of social dialogue, persuasion and diplomacy, and to the means of conciliation at the national and enterprise levels. In this regard, the Committee notes that the Government once again refers to conciliation as a means to achieve compliance with the legal provisions, but that it still fails to supply the requested information on violations reported by labour inspectors and the fines imposed. The Committee would like to recall that it emphasized, in paragraph 280 of its 2006 General Survey on labour inspection, that while it is true that the credibility of any inspectorate depends to a large extent on its ability to advise employers and workers on the most effective means of complying with the legal provisions within its remit, it also depends on the existence and implementation of a sufficiently dissuasive enforcement mechanism.

The Committee also notes that the Government has not provided a reply in relation to the Committee's previous request concerning the revision of penalties for the violation of labour law provisions, which according to the

Government's previous indications is undertaken by the judiciary on an annual basis. ***Emphasizing the need to ensure that violations of the legal provisions shall be liable to prompt legal proceedings where necessary, the Committee once again requests the Government to provide statistical information relating to the number of violations detected, as well as the relevant number and amount of penalties imposed. The Committee also requests the Government, once again, to provide information on the revision of penalties for labour law provisions so that they remain dissuasive in the event of monetary inflation.***

Articles 20 and 21. Annual report of the labour inspection services. The Committee notes that once again, no annual report on the work of the labour inspection services has been received by the Office. It also notes that the Government once again refers, as it has done since 2009, to measures to publish and communicate to the ILO an annual report on the work of the inspection system. ***The Committee once again strongly encourages the Government to take measures that will facilitate the establishment, publication and communication to the ILO of an annual report containing the information required by Article 21(a)–(g). In any event, the Committee requests the Government to communicate, with its next report, statistics on the number of labour inspectors, the number and frequency of inspection visits carried out, and the number of workers covered by such visits.***

The Committee requests the Government to report on any concrete steps taken in this regard, and reminds it that it may avail itself of ILO technical assistance for the collection of statistics and the publication of annual labour inspection reports as provided for under the Convention.

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

Greece

Labour Inspection Convention, 1947 (No. 81) (ratification: 1955)

The Committee notes the observations of the Union of Occupational Safety and Health Inspectors received on 9 December 2013 and of the Greek Association of Labour Inspectors (GALI) received 10 December 2013, and the reply of the Government to these observations in its report. The Committee also notes the observations made by the Union of Occupational Safety and Health Inspectors received on 14 November 2014.

The Committee notes the information provided by the Government in response to the Committee's previous request concerning the training activities provided to labour inspectors, including in the area of gender equality and the activities of labour inspectors relating to the protection of disabled workers (*Articles 3(1)(a) and 7 of the Convention*).

Technical assistance. Follow-up to the labour inspection needs assessment established by the ILO in 2012. The Committee previously noted with interest the establishment of a Special Action Plan (SPA) for the strengthening of the Greek Labour Inspectorate (SEPE) based on the recommendations made in the 2012 ILO labour inspection needs assessment. It also noted that the GALI expressed concern with regard to the discontinuation of the work of the five working groups to implement the 17 actions in the SPA. In this regard, the Committee notes the Government's indications in its report that the working groups have completed their work in August 2013 as planned. The Government further emphasizes that all actions for the strengthening and restructuring of the SEPE were based on the activities of the working groups and that relevant actions were also incorporated in the labour inspection programme for 2014–20. The Government indicates that it intends to continue availing itself of technical assistance for the strengthening of the SEPE.

In this regard, the Committee also notes the observations made by the Union of Occupational Safety and Health Inspectors, pointing to several areas of non-compliance with the Convention and a lack of progress in implementing the recommendations made in the 2012 ILO needs assessment, including among other things: the development of a sound enforcement policy (*Articles 3(1)(a), (b) and 17 of the Convention*); the insufficient cooperation between the SEPE and other government authorities, such as the judicial authorities, social security authorities, police, etc. (*Article 5(a)*); the insufficiency of the training provided to labour inspectors (*Article 7(3)*); the lack of discretionary power of labour inspectors due to the obligation to impose predetermined fines without the possibility to take into account the specificities of the case (*Article 17(2)*); and the lack of legal protection of labour inspectors against threats and violence in the performance of their duties which have increased during the economic crisis (*Article 18*). Further allegations of the Union of Occupational Safety and Health Inspectors are treated in relation to the relevant Articles below. ***The Committee requests the Government to provide its comments in relation to the observations of the Union of Occupational Safety and Health Inspectors. Please also provide information on the content of the labour inspection programme for 2014–20 and the follow-up given to the recommendations in the 2012 audit, including information on how the implementation of the objectives in this programme have contributed to the improved application of the Convention.***

Articles 3, 4, 6, 10 and 16 of the Convention. Restructuring of the labour inspectorate. The Committee previously noted that the GALI and the Union of Occupational Safety and Health Inspectors expressed fears that some plans of the Government might lead to the downgrading of the labour inspectorate.

Concerning the organizational structure of the SEPE in the context of the broader restructuring of the public administration, the Government refers to Presidential Decree No. 113/2014 governing the Statute of the Ministry of Labour, Social Security and Welfare (MLSSW). The Government explains that, in accordance with this Decree, the SEPE continues to fall under the direct responsibility of the Minister of MLSSW and is headed by the Executive Secretary who

was appointed in December 2013. In response to the concerns raised by the Union of Occupational Safety and Health Inspectors in this regard, the Government emphasizes that Act No. 4144/2013 only provides for the possibility to suspend and not to abolish labour inspection departments, and that provisions are being made for the transfer of competences to other organizational units to avoid problems in the provision of services. It further notes the Government's indications in relation to the abovementioned observations of the Union of Occupational Safety and Health Inspectors that the decision to abolish nine posts in the labour inspectorate was taken in the framework of job reductions in the whole public sector. The Committee also notes the indications of the Government that 829 posts are foreseen in the revised organizational chart of the SEPE.

In this regard, the Committee also notes the observations made by the Union of Occupational Safety and Health Inspectors that: the abolition of seven local safety and health inspection services resulted in the reduction of the protection of workers in these regions and increased travel expenses; the organizational reorganization resulted in insufficient financial management, legal and technical support for the labour inspection services; and the number of labour inspectors and support staff of the SEPE is insufficient, and continues to decrease with currently about 700 employees working at the SEPE, and with labour inspectors spending a substantial amount of their working time on secretarial duties. ***The Committee requests the Government to provide its comments in relation to the observations of the Union of Occupational Safety and Health Inspectors. Please provide detailed information on the total number of labour inspectors and support staff and their distribution throughout the territorial structures of the labour inspectorate. The Committee also requests the Government to provide information on the total number of labour inspections undertaken by the labour relations directorates and the OSH directorates since 2011 (by specifying the number of inspections in the different regions of the country).***

Article 3(1)(a), (b) and (2). Labour inspection activities in the area of undeclared work and illegal employment, including in relation to foreign workers. The Committee notes that the Government continues to provide detailed information in relation to the numerous activities undertaken by the SEPE to combat undeclared work and illegal employment. In this regard, the Committee also recalls the findings in the 2012 ILO labour inspection needs assessment, indicating that OSH inspections are used to combat illegal work, which may divert resources and have a negative impact on the protection of the safety and health of workers. In this context, it also notes that the Union of Occupational Safety and Health Inspectors indicates that the obligation of OSH inspectors to perform inspections with regard to undeclared work, including the control of foreign workers in an irregular situation does not come within their mandate, may affect the performance of their main tasks in view of the different nature of these tasks, and raises ethical and practical concerns as to the relations of labour inspectors with foreign workers in an irregular situation. Concerning inspections with regard to the legal situation of foreign workers, the Government reiterates that labour inspectors control the same legal provisions irrespective of the workers concerned. The Committee notes that the Government has not provided the requested information concerning the specific role of labour inspectors in granting foreign workers their due rights. ***The Committee requests the Government to provide information on the measures it is taking to ensure that the functions relating to the control of undeclared work do not negatively impact on the functions of labour inspections in relation to the control of the application of the legal provisions relating to the protection of workers, including their safety and health. In this regard, the Committee requests the Government to provide detailed information on the total number of labour inspections since 2011 (by specifying the number of OSH inspections and those relating to undeclared work). The Committee once again requests the Government to specify the role and activities of labour inspectors in relation to foreign workers, where they are found to be in an irregular situation (facilitating the filing of complaints and the institution of proceedings, informing foreign workers about their rights to claim their outstanding wages before the civil courts, notification to the immigration authorities, etc.). Please also provide information on the number of cases in which foreign workers in an irregular situation have been granted their due rights (number of cases in which foreign workers have been paid outstanding wages and benefits) or where their situation has been regularized.***

Article 11. Material resources of the labour inspectorate. Reimbursement of expenses incurred by labour inspectors in the exercise of their duties. The Committee notes the Government's indications that, from January to July 2014, the budget of the SEPE increased by €2.67 million due to the fact that 20 per cent of the fines imposed for administrative sanctions now constitute budget revenue of the SEPE. It notes with *interest* the Government's indications that 60 additional vehicles have been made available to the labour inspection services.

While the Committee notes the indications of the Government that section 80 of Act No. 4144/2013 and a Joint Ministerial Decision published in 2014 now regulate the reimbursement of travel cost payment to labour inspectors. It also notes the observations made by the Union of Occupational Safety and Health Inspectors that the majority of travel expenses are not covered, as reimbursement is limited to five inspection visits per month and €20 per inspection visit, whereas the objective for every labour inspector is to undertake at least 24 inspection visits per month.

The Committee further notes the observations made by the Union of Occupational Safety and Health Inspectors that: between 2009 and 2014, there has been a reduction in the budget by €4.3 million (from €28 million to €23.7 million); the number of travel facilities is insufficient despite the purchase of 60 additional vehicles; and that labour inspectors are not provided with the personal protective equipment required for inspections in high-risk workplaces. ***The Committee requests the Government to provide its comments in relation to the observations of the Union of Occupational Safety and Health Inspectors. It requests the Government to take the necessary measures to ensure that labour inspectors are***

reimbursed all expenses incurred in the performance of their duties, and that they are provided with the required personal protective equipment to ensure their protection against risks to their safety and health during the performance of their duties. Please also provide information on the budget allocated to the labour inspection services, and describe the availability of transport facilities throughout the territorial structures of the labour inspection services.

Guinea

Labour Inspection Convention, 1947 (No. 81) (ratification: 1959)

Article 3 of the Convention. Additional duties of labour inspectors. In its previous comments, the Committee noted with concern that labour inspectors are responsible for various tasks, such as dispute settlement, supervision of union elections, the negotiation of social claims, the study of the internal rules of enterprises and job classifications, which make up a significant part of their programme of work, at the expense of their main duties, specified in *Article 3(1)* of the Convention. The Committee notes that, in its report, the Government does not provide a reply to its previous request to: (i) relieve the labour inspectors from these additional duties; and (ii) draw a clear distinction between the duties of labour inspection and those of labour administration. It also notes that when the new Labour Code was adopted in 2014, the Government did not take the opportunity to relieve labour inspectors of the duty of conciliating individual and collective labour disputes (section 513.6 of the new Labour Code). ***The Committee therefore once again requests the Government to provide information on the measures taken or envisaged to relieve labour inspectors progressively of functions other than those provided for in Article 3(1) of the Convention, i.e. the enforcement of the legal provisions relating to conditions of work and the protection of workers.***

Article 7. Training of labour inspectors. The Committee welcomes the information provided by the Government concerning the preparation of an inspection manual with ILO assistance. It also notes the Government's intention to train new officials attached to labour inspection and its reiteration of its request for technical assistance with a view to developing and implementing a training programme for labour administrators, controllers and inspectors. ***The Committee requests the Government to provide information on progress made to ensure the training of labour inspection staff. It hopes that the Office will provide the technical assistance requested by the Government.***

Articles 10 and 11. Labour inspection resources. Further to its numerous comments in which it noted that labour inspectors had only scant resources to perform their functions, the Committee notes with **concern** the Government's indications relating to the drastic reduction in the operational budgets and the repercussion on the provision of resources for the labour inspection services. The Committee also notes that in its 2013 second-quarter report, attached to the Government's report, the general labour inspectorate refers to difficulties relating to human, financial and material resources, which have an impact on the performance of its main duties. ***While recognizing the Government's budgetary constraints, the Committee firmly hopes that the Government will take all necessary measures to guarantee to the labour inspection services the human, financial and material resources necessary for the effective discharge of their functions and requests it to provide information on any measures taken or envisaged in this regard. It also requests the Government to provide statistics on the material and logistical means available to the labour inspectors for the performance of their duties, particularly the local offices equipped for this purpose, transport facilities and/or the arrangements for the reimbursement of expenses for work-related travel where there are no adequate public transport facilities.***

Articles 20 and 21. Annual labour inspection report. The Committee notes the 2013 report of the general labour inspectorate, attached to the Government's report, which provides statistics on the staff of the labour inspection, and on the activities relevant to inspection duties and other duties for which labour inspectors are responsible. The Committee notes, however, that the labour inspection report contains no statistics of workplaces liable to inspection, the number of workers employed therein, violations committed and penalties imposed, or the number of industrial accidents and occupational diseases registered. It also notes that the statistics provided on the activities of the inspection services cover only three of the eight regional inspectorates in the country and do not provide an overview of the number of inspection visits carried out. ***While noting the efforts of the Government to provide an annual inspection report, in accordance with Article 20 of the Convention, the Committee encourages the Government to adopt all necessary measures to ensure the collection and publication in the annual labour inspection report of all the information required under Article 21 of the Convention, and to provide a copy of these reports to the ILO on a regular basis. Moreover, noting that the Government's report is silent on this matter, the Committee requests the Government to indicate all measures taken or envisaged with a view to mapping the workplaces liable to inspection and to enter them into a register with at least an indication of their geographical location.***

Guinea-Bissau

Labour Inspection Convention, 1947 (No. 81) (ratification: 1977)

The Committee notes with **regret** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 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.

Guyana

Labour Administration Convention, 1978 (No. 150) (ratification: 1983)

The Committee notes with *regret* that the Government's report has not been received. It expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

Article 5 of the Convention. Functions of the tripartite Committee. In the Committee's previous request, the Government was asked to indicate the functions of the tripartite committee chaired by the Minister of Labour, as well as those of the six subcommittees to which it referred in its 1999 report. The Government states in reply that this question was dealt with comprehensively under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). While the Committee has not found the information requested in the Government's report, it wishes nevertheless to emphasize that the tripartite consultations referred to in that instrument are distinguished clearly by virtue of their purpose – activities of the International Labour Organization – from the tripartite consultations referred to in *Article 5*, which concern the various areas of national labour policy. ***The Committee therefore once again requests the Government to indicate the functions of the tripartite committee chaired by the Minister of Labour, as well as those of the subcommittees referred to in its report received in 1999, and to report to the Office any other arrangements made, at the national, regional and local levels, to ensure the consultation, cooperation and negotiation provided for by Article 5. It would be grateful if the Government would also provide copies of any reports or extracts of reports relating to the work of these various tripartite bodies, their purpose and their results.***

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.

Haiti

Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), which were received on 31 August 2015.

The Committee notes that, according to the CTSP, the labour inspectorate is present only in Port-au-Prince and a few towns in the country and barely covers 5 per cent of enterprises in the country, mainly in the textiles industry. The CTSP claims that hotels, restaurants, petrol stations and shops are never inspected, and also denounces the lack of resources, particularly transport facilities, made available to labour inspectors. It also asserts that labour inspectors are underpaid and some of them have not been paid for two years, which places them in a vulnerable situation with regard to any attempted corruption on the part of employers. The CTSP alleges that the recruitment of labour inspectors follows a policy of "cronyism", with disregard for the academic qualifications required to perform this duty. It also alleges that the labour inspectorate puts psychological pressure on workers to prevent them from defending their rights. In conclusion, the CTSP considers that labour inspection is non-existent in the country and that action is needed to rectify the situation. ***The Committee requests the Government to send its comments on this matter.***

The Committee also notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Aware of the difficulties faced by the Government and the efforts which the latter must make to create the necessary conditions for application of the Convention, the Committee reminds the Government that it may avail itself of technical assistance from the ILO if it so wishes, including support for seeking the necessary resources in the context of international cooperation with a view to the progressive establishment of a labour inspection system which meets the requirements of the Convention. The Committee requests the Government to provide information on any formal steps taken to this end.

Articles 3, 12, 13, 15, 16, 17 and 18 of the Convention. Discharge of primary duties of the labour inspectorate. Further to the Committee's previous comments, the ITUC [International Trade Union Confederation] stresses the need to reform the

Labour Code, especially section 411, which stipulates that labour inspectors shall provide employers and workers with technical information and advice “where necessary”.

The Committee notes the Government’s proposal to modify the expression “where necessary” in section 411 as part of the revision of the Labour Code, which is due to take place with technical support from the ILO, with a view to harmonizing the Labour Code with the international labour Conventions ratified by Haiti. The Government also emphasizes that, despite the wording of section 411 of the Labour Code, inspections have been conducted regularly over the last three years in Port-au-Prince and certain departments of the country.

The Committee recalls that the role of the labour inspectorate must not be limited to reacting to requests from workers or employers, and that inspections of workplaces, whether scheduled or not, should be conducted as often and as thoroughly as necessary throughout the country (*Article 16*), in order to enable the labour inspectorate to discharge its primary duties, as provided for in *Article 3(1)*. The Committee notes that the effectiveness of the inspection system and the credibility of inspectors for employers and workers depends largely on the manner in which inspectors exercise their prerogatives (right to enter workplaces, direct or indirect powers of injunction, reporting infringements, initiating proceedings, etc.) and meet their obligations (such as displaying probity and observing confidentiality), as established by *Articles 3, 12, 13, 15, 17 and 18 of the Convention*.

The Committee requests the Government to keep the Office informed of any progress made regarding the revision of section 411 of the Labour Code, so that the provision of technical information and advice to employers and workers is recognized as a permanent function of the labour inspectorate in conformity with Article 3(1)(b).

The Committee also requests the Government to supply detailed information together with statistics on the planning and implementation of systematic inspections throughout the country, including in the export processing zones, and also their results (identification of infringements or irregularities, technical advice and information, observations, injunctions, notices of infringement, legal proceedings initiated or recommended, penalties imposed and enforced), and to indicate any obstacles to the full application in practice of the prerogatives and obligations of labour inspectors.

Finally, the Committee requests the Government to send a copy of the report form on violations and of some of such reports which have already been completed.

Article 6, 8, 10 and 11. Human and material resources available to the labour inspectorate. The Government refers to the obstacles encountered in the application in practice of the Convention which, according to its report, are numerous: inadequate numbers of labour inspectors in view of the number, nature and size of workplaces liable to inspection and the complexity of the provisions of the Labour Code in force; lack of logistical resources; insufficient budget resources for paying reasonable salaries to labour inspectors; lack of mobile resources to facilitate the transportation of inspectors and enable them to fully perform their duties; premises inaccessible to certain persons (especially persons with disabilities).

According to the ITUC, the labour inspection services continue to lack the resources to be fully operational and show deficiencies in terms of supervision on the ground.

The Committee requests the Government to supply detailed information on the measures taken or envisaged, including having recourse to international financial aid, to obtain the necessary funds to build the capacities of the labour inspection system, especially by increasing the number of labour inspectors and the material and logistical resources available to the labour inspectorate.

The Committee also refers to paragraph 209 of its 2006 General Survey on labour inspection. While being fully aware of the problems faced by the Government, it is bound to emphasize the importance that it places on the treatment of labour inspectors in a way that reflects the importance and specific features of their duties and takes account of personal merit. ***The Committee requests the Government to indicate all the measures taken or envisaged to improve the status and conditions of service of inspectors, so that they correspond to the conditions of public officials performing comparable tasks, such as tax inspectors.***

Articles 5(a) and 21(e). Effective cooperation with other government departments and with employers’ and workers’ organizations. The ITUC underlines the need to provide statistics that make it possible to assess any cooperation and procedures for such cooperation with other government departments and with employers’ and workers’ organizations. The Government, for its part, refers to cooperation between the labour inspectorate and other government departments, such as the National Office for Old-Age Insurance (ONA), the Office for Occupational Accident, Sickness and Maternity Insurance (OFATMA), the Office for the Protection of Citizens (OPC), and also civil society organizations for the defence of human rights. ***The Committee requests the Government to provide details of this cooperation and its impact on the effectiveness of the action of the labour inspectorate, with a view to the application of the legal provisions relating to conditions of work and the protection of workers while engaged in their work.***

The Government also refers to cooperation between the labour inspectorate and the labour tribunal, to which files are referred for the imposition of penalties provided for by the law further to a report of non-compliance. The Committee recalls its general observation of 2007, in which it stressed the importance of measures enabling effective cooperation between the labour inspection system and the justice system, in order to encourage due diligence and attention in the treatment by judicial bodies of violations reported by labour inspectors, and in the disputes concerning the same fields which are submitted directly to them by workers or their organizations. ***The Committee requests the Government to provide statistics on the follow-up to reports of infringements submitted by the labour inspectorate to the judicial bodies and to state whether measures have been taken or envisaged to strengthen cooperation between the labour inspectorate and the justice system, for example by the creation of a system for the registration of judicial decisions accessible to the labour inspectorate, to enable the central authority to use this information to achieve its objectives, and to include them in the annual report, in accordance with Article 21(e) of the Convention.***

The Committee also requests the Government to indicate the measures taken or envisaged to strengthen collaboration between the labour inspectorate and employers’ and workers’ organizations (Article 5(b)), including in the construction sector, which, in the opinion of the Government constitutes a priority for the revival of the country. The Committee recalls the guidance given in Paragraphs 4–7 of the Labour Inspection Recommendation, 1947 (No. 81), regarding collaboration between employers and workers in relation to safety and health.

Article 7(3). Training of inspectors. Further to the Committee’s comments on this subject, the ITUC notes certain gaps in the area of training, whereas the Government refers to a number of training courses in 2008 and 2011 with the support of the ILO and international donors. ***The Committee requests the Government to indicate the measures taken or envisaged to develop***

a training strategy, and to provide information on the frequency, content and duration of training given to labour inspectors, and also on the number of participants and the impact of this training on the effective performance of labour inspection duties.

Article 14. Notification and registration of industrial accidents and cases of occupational disease. The Committee notes the comments of the ITUC on the need to provide data on this subject and the information provided by the Government according to which industrial accidents are notified to the general inspectorate of OFATMA. ***The Committee requests the Government to describe in detail the system for the notification of industrial accidents and cases of occupational disease and to indicate the measures taken or envisaged following the earthquake, in order to collect and supply statistics on this subject, including in the construction sector.***

The Committee urges the Government, as a preliminary stage in the preparation of an annual inspection report and in order to evaluate the situation of the labour inspection services in terms of their needs, to compile an inventory and register of industrial and commercial workplaces liable to inspection (number, activity, size and geographical situation) and of the workers employed in them (number and categories), and to keep the Office informed of any progress made in this field.

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

Honduras

Labour Inspection Convention, 1947 (No. 81) (ratification: 1983)

Follow-up to the conclusions in the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee notes the discussion in the Conference Committee on the Application of Standards (CAS) on the application of this Convention by Honduras.

The Committee notes the joint observations of the International Organisation of Employers (IOE) and the Honduran National Business Council (COHEP), received on 28 August 2015. It also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2015.

The Committee notes that the discussion in the CAS concerned the need to strengthen the labour inspection system, including through: legislative reforms, the availability of sufficient financial, human and material resources, including transport facilities; the conduct of a sufficient number of routine inspection visits throughout the country; the establishment of targeted inspection plans; the capacity building and training of labour inspectors; the need to grant labour inspectors adequate conditions of service, including sufficient remuneration to ensure their impartiality and independence from any improper external influences; the need to give effect in practice to the principle of free access of labour inspectors to workplaces; and the need to increase the penalties for labour law violations, including the obstruction of labour inspectors, and ensure their application through effective enforcement mechanisms.

Plan of action to strengthen the labour inspection system. The CAS noted the information provided by the Government relating to a national plan of action to strengthen the labour inspection system. The CAS noted that this plan includes several initiatives, such as increasing the number of labour inspectors to 200 by 2016, and improving the financial and material resources of the labour inspection services. Taking into account the discussion, the CAS requested the Government to consider including the following among its planned reforms: professionalizing labour inspection staff; making inspection tasks more specialized; pursuing a multidisciplinary approach; increasing the wage budget and improving logistics; and ensuring that penalties for breaking the law are increased so as to be dissuasive and are determined through pre-established, objective procedures that guarantee all parties the right to a fair hearing; substantially increase the number of inspectors, particularly in areas which are underserved at present, and ensure that they are provided with the material resources needed to carry out their work; develop a proactive inspection plan to focus on sectors where there are regular violations of labour legislation, including the informal sector, agriculture and *maquilas*; continue receiving technical assistance from the ILO in order to overcome the remaining legal and practical obstacles to applying the Convention. ***The Committee requests the Government to provide information on how the abovementioned issues have been included in the plan of action to strengthen the labour inspection system. It also requests the Government to provide information on the progress made with the implementation of the objectives in this plan.***

Legislative reform. The Committee notes from the discussions in the CAS that the Government intends, in consultation with the most representative workers' and employers' organizations, to reform the Labour Code, and to enact a labour inspection act. It notes from the observations made by the IOE and the COHEP that the relevant consultation procedure is under way, and that the Government intends to seek ILO technical assistance with regard to the final version of the draft Labour Inspection Act. ***The Committee welcomes these developments and requests the Government to keep it informed of progress made in this regard.***

Article 6. Adequate conditions of service of labour inspectors, including sufficient remuneration to ensure their impartiality and independence from any improper external influences. The Committee notes that the discussions in the CAS concerned the need to grant labour inspectors adequate conditions of service, including sufficient remuneration to ensure their impartiality and independence from any improper external influences and that the CAS requested the Government to consider the increase of the wage budget of labour inspectors.

In this regard, it notes the Government's indications that: (i) the professional profile, salary scale and categorization of labour inspections posts (that is, junior inspectors, senior inspectors and chief inspectors) has been established; (ii) the

draft Labour Inspection Act provides for selection criteria for labour inspectors in competitive exams and promotion, including academic qualifications and seniority; and (iii) improvements in the remuneration of labour inspectors in the budget of the labour inspectorate for 2016 are already provided for. The Committee also notes the Government's indications concerning the creation of new positions (so-called technical auditors in charge of performance management) which shall be responsible to evaluate the performance of labour inspectors, which includes the investigation of complaints made against them. ***The Committee requests the Government to provide detailed information on the remuneration of labour inspectors in the different categories. It also requests the Government to provide information on the level of remuneration of labour inspectors in relation to other public servants exercising similar functions, such as tax inspectors. With regard to the recruitment of staff responsible for the evaluation of the performance of labour inspectors, the Committee requests the Government to provide further information on the proposed system for investigating complaints made against labour inspectors (legal basis, cases in which a complaint may be received, methods used, scope of investigations, right of labour inspectors to be heard, etc.). Please also provide information on the consequences for labour inspectors if a complaint is found to be justified.***

Article 7. Recruitment and training of labour inspectors. The Committee notes that the discussion in the CAS concerned the selection and training of labour inspectors, and their qualifications and functions in relation to occupational safety and health (OSH). It recalls that the CAS requested the Government to consider the professionalization and specialization of labour inspection staff, and the introduction of a multidisciplinary approach. ***The Committee requests the Government to describe the recruitment procedure of labour inspectors (the body responsible for their recruitment, the qualifications and skills that are being tested, and the methods used (such as written examinations, job interviews, etc.)). Please also provide information on the training provided to labour inspectors (number of participants and subjects covered, such as OSH, ethics in the inspection profession, establishment of non-compliance reports, etc.)).***

Articles 10 and 16 of the Convention. *Number of labour inspectors and the conduct of a sufficient number of routine visits throughout the country.* The Committee recalls that the CAS requested the Government to substantially increase the number of labour inspectors, particularly in areas which are underserved at present, and noted the Government's commitment to increase the number of labour inspectors to 200 by 2016. In this regard, the Committee notes the observations made by the ITUC, according to which the number of labour inspectors is insufficient and concentrated in the capital area and main business centre, as well as the observations made by the IOE and the COHEP, that there is a lack of labour inspectors specializing in OSH. The Committee also notes the different indications made by the Government and the ITUC in relation to the number of labour inspectors (141 and 119 labour inspectors, respectively). In this regard, the Committee notes the Government's indications in its report that the budget for the recruitment of additional staff (including 38 labour inspectors, four chief inspectors, two assistants to the chief inspectors, six technical auditors in charge of performance management and one chief technical inspector) has been approved and that efforts are being undertaken to provide for a geographic distribution that would enable the conduct of labour inspections with the necessary frequency and thoroughness throughout the country.

With regard to a sufficient number of labour inspection visits, the Committee recalls its previous comments in which it noted with regret that between 2005 and 2013, the great majority of inspection activities had focused on inspections as a result of complaints. In this regard, the Committee notes from the statistical information provided by the Government that this trend continued in 2014, with 12,193 labour inspections carried out as a result of a complaint and only 7,103 regular inspection visits carried out in that year. The Committee recalls that the CAS requested the Government to consider the development of a proactive inspection plan to focus on sectors where there are regular violations of labour legislation, including the informal sector, agriculture and *maquilas*. In this regard, the Committee notes the Government's indications that a strategic plan for labour inspection in 2016 is in the process of being established, and that a series of inspections in the *maquila* sector will be initiated in October 2015. ***The Committee requests the Government to provide information on the progress made with the recruitment of labour inspectors that the Government has committed to undertake. In this regard, the Committee requests the Government to provide clarification with regard to the number of labour inspectors currently working within the labour inspection services (including information on their job title, professional grade, geographical distribution, etc.)).***

In addition, the Committee requests the Government to communicate a copy of the 2016 strategic plan once it has been approved, and provide information on the priority areas for inspection. It requests the Government to continue to provide detailed information on the number of routine labour inspections and the inspections carried out as a result of a complaint. If possible, these statistics should be aggregated by region and sector concerned.

Article 11. Adequate financial and material means, including transport facilities. The Committee notes that the CAS requested the Government to take measures to ensure the allocation of adequate material resources, including transport facilities to the labour inspection services. It notes that issues that were discussed in the CAS included those previously raised by this Committee, such as the need of the parties to pay for the transport of inspectors, depriving workers who lack such means from access to inspection services.

In this respect, the Committee notes the information provided by the Government in its report that the budget has been approved for the purchase of four vehicles for the exclusive use of the labour inspectorate (which will be distributed among the four principal cities). While the Committee notes the Government's reference to a lack of resources, it also notes the observations made by the ITUC that the lack of resources was no acceptable excuse, as the Government had

benefited from various international cooperation projects. *The Committee requests the Government to provide information on the measures taken to improve the transport facilities of the labour inspectorate. It further requests the Government to provide information on the percentage of the national budget allocated to the labour inspection services, and to describe the material conditions throughout the territorial inspections services, including the transport facilities available to the different labour inspection services throughout the territory.*

In addition, it requests the Government to ensure that the costs incurred during labour inspections are reimbursed, and requests the Government to provide detailed information on the fulfilment of this obligation in practice, including on the number of cases in which costs were reimbursed, and the relevant amount paid to labour inspectors.

Articles 17 and 18. Need to increase the level of penalties for labour law violations, including the obstruction of labour inspectors, and ensure their application through effective enforcement mechanisms. The Committee notes the discussions in the CAS on the need to increase the level of penalties for labour law violations, including the obstruction of labour inspectors, and to ensure their application through effective enforcement mechanisms. It notes from the observations made by the ITUC that the level of penalties for labour law violations has not been updated since 1980, and that the penalties in force are negligible (for example, a fine for OSH violations ranges from US\$2.40 to a maximum of \$24, and a fine for not paying the minimum wage ranges from \$4.80 to \$48). Moreover, according to the trade union, in most cases, the labour inspectorate will close a case when a fine is paid in complete disregard as to whether the labour violations that gave rise to the fine were corrected or the workers provided with an effective remedy.

Concerning the enforcement of penalties for labour law violations, the Committee notes the observations made by the ITUC that the Government had repeatedly failed to enforce its labour law through its labour inspection and judicial system. In this regard, it notes the Government's indications that the draft Labour Inspection Act provides for penalties that are more dissuasive, including with regard to the obstruction of labour inspectors. The Committee also notes the statistics provided by the Government on the sanctions imposed in 2014 (3,082 violations detected, and 306 sanctions imposed (without indicating the legal provisions to which they relate) in the amount of 935,000 Honduran Lempira (HNL) (approximately \$42,340). *The Committee requests the Government to provide information on the measures taken to ensure that penalties for breaking the law are sufficiently dissuasive, and provide a copy of the amended legislative provisions once they have been adopted. The Committee also requests the Government to provide an explanation for the discrepancy in the number of violations detected (3,082) and the number of cases in which a violation was imposed (306). The Committee requests the Government to continue to provide information on the number of penalties detected, the sanctions imposed and the amount of the fines collected, specifying the areas to which they relate (OSH, child labour, non-payment of wages, termination of employment, etc.).*

Technical assistance for the establishment of an audit on the functioning of the labour inspection system. The Committee notes that the ILO technical assistance requested by the Government to conduct an audit of the performance of the labour inspectorate is scheduled to be conducted shortly. *The Committee requests the Government to provide information on the outcome of this audit, and any measures taken to follow-up on the recommendations made therein.*

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

Hungary

Labour Inspection Convention, 1947 (No. 81) (ratification: 1994)

The Committee notes the observations made by the workers' representatives of the Tripartite National ILO Council of the Ministry of Social Affairs and Labour, which were included in the Government's report, and the Government's reply to these observations.

Legislation. The Committee notes the Government's indications that Act LXXV of 1996 on labour inspection was amended several times during the reporting period. *It requests the Government to provide a copy of Act LXXV of 1996 in its current version.*

Articles 3(1)(b), 7, 9 and 13 of the Convention. Labour inspection functions in the area of technical information and advice. Training. Activities aimed at the prevention of industrial accidents and cases of occupational disease. Association of duly qualified technical experts and specialists. The Committee notes the information provided by the Government in reply to its previous requests concerning the application of *Articles 3(1)(b), 7, 9 and 13.*

Articles 10 and 16. Number of labour inspectors and effectiveness of the labour inspection system. The Committee previously noted a significant decrease in the total number of labour inspectors from 696 to 538 between 2008 and 2011 (in 2011, there were 200 occupational safety and health (OSH) inspectors and 338 labour inspectors entrusted with labour matters). In this regard, the Committee notes the Government's indications that the number of labour inspectors further decreased by about 200 during the reporting period. It notes that according to the statistics provided by the Government, the total number of labour inspectors was 401 in 2013 (that is, 149 OSH inspectors and 252 labour inspectors entrusted with labour matters). It notes that the Government indicates that this decrease is due to changes in the mandate of labour inspectors and the re-organization of the labour inspection services, and that the number of labour inspectors was determined on the basis of the duties they have to perform.

The Committee notes the reiterated observations made by the workers' representatives of the Tripartite National ILO Council concerning the insufficient number of labour inspectors. They consider that this number is too low in comparison to the number of approximately 600,000 workplaces liable to inspection, especially in view of the number of industrial accidents, and that this compromises the efficiency of inspections, as is evidenced by the number of industrial accidents and the number of violations detected. The Committee notes that the Government indicates, in reply to these observations, that despite the decrease in the number of labour inspectors, labour inspections have become more efficient because they are now focused on the priorities as determined in the annual labour inspection plans. The Government further indicates that the increase in the number of violations detected is a result of the enhanced efficiency of labour inspections. ***The Committee requests the Government to provide statistical information from 2010 on the number of inspection visits carried out, the number of workplaces covered and the workers concerned by these inspections, statistics of violations detected and penalties imposed and statistics of industrial accidents and occupational diseases. Noting the Government's indications that the number of labour inspectors was determined on the basis of the duties they have to perform, the Committee requests the Government to provide more details on the corresponding evaluation of the needs of the labour inspection system in terms of human resources.***

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

India

Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)

The Committee notes the observations made by the International Trade Union Confederation (ITUC) received on 1 September 2015.

Follow-up to the conclusions of the Committee on the Application of Standards (CAS) of the International Labour Conference (104th Session, June 2015)

The Committee notes the discussion in the CAS and the request by the CAS for detailed information in relation to the issues that were discussed. The Committee notes the statistics provided by the Government in its report, in reply to the requests of the CAS, but observes with **concern** that most of the questions raised by that Committee remain unanswered.

Legislative reforms and scope of application of the Convention. The Committee previously noted the observations made by the Centre of Indian Trade Unions (CITU) concerning the proposed amendments to the scope of numerous labour laws which, according to the CITU, would exclude a great number of workers from the basic labour laws currently in force. In this regard, the Committee notes the Government's indications in its report that the objective of the consolidation of 44 labour laws into four to five Labour Codes is to remove legal uncertainty and that, rather than excluding workers from the purview of the labour laws, it is proposed to expand the coverage of various labour laws. The Committee notes that the Government has not provided the detailed information requested by the CAS to provide explanations concerning the scope and purpose of all current proposals to amend labour laws and regulations that impact upon the system of labour inspection at the central and state levels. However, it notes the concern expressed by the ITUC that the legislative bills introduced as of 2014 have far-reaching consequences for labour inspection. Welcoming the fact that technical assistance has been sought from the ILO in relation to some draft labour laws in the ongoing legislative reform, the Committee also reminds the Government of the request made by the CAS to ensure, in consultation with the social partners, that the amendments to the labour laws undertaken at the central or state levels comply with the provisions of the Convention. ***In accordance with the request made by the CAS, the Committee requests the Government to provide explanations concerning the scope and purpose of all current proposals to labour laws and regulations that impact upon the system of labour inspection at the central and state level. Referring to its previous observations under Articles 12(1)(a) and 18 in relation to the Factories Act (Powers of Inspectors) and the Dock Workers (Safety, Health and Welfare) Act, the Committee hopes that, in the context of the current legislative reforms, the Government will take measures to ensure that the right of labour inspectors to enter workplaces freely without previous notification is explicitly provided for, and penalties are established that are sufficiently dissuasive to ensure the effective application of the legal provisions relating to conditions of work and the protection of workers.***

Articles 12, 16 and 17 of the Convention. ***Labour inspection reform, including the implementation of a computerized system to randomly determine the workplaces to be inspected.*** The Committee notes the information provided by the Government that: (i) a computerized system, which will randomly decide which labour inspector will go to which factory, has been introduced; (ii) that this system is based on objective criteria concerning risk assessments; and (iii) by December 2014, this inspection scheme had resulted in almost 11,200 inspections. The Committee notes that the Government has not replied to the allegations of the CITU that, under this system, labour inspectors will no longer have the power to decide on the premises they will inspect. However, the Committee notes the Government's indication that inspections as a result of complaints and serious matters will be included in a mandatory inspection list.

In relation to this system, the Committee also notes the concerns raised by the ITUC that the Labour Code on Wages Bill, 2015, provides for a web-based inspection schedule based solely on self-certification, complaints and lists of defaulters. The inspection system will provide a randomized allocation of sites to inspect. The trade union indicates that, under this new scheme, employers will be notified in advance of the inspection and penalties may only be imposed after

an inspector has issued a written order and given the employer additional time to comply. The ITUC further indicates that the decision to rename inspectors as facilitators also implies that enforcement is not part of the objectives of the labour inspection system. *The Committee requests the Government to provide its comments in relation to the observations made by the ITUC. The Committee also requests the Government to provide information on the number of labour inspections, specifying whether they were undertaken as a result of computer-based generation, a complaint or included in a list of workplaces that are known for infringing labour law provisions. In this regard, please also provide information on the criteria used for the generation of decisions with respect to labour inspections. The Committee requests the Government to indicate whether labour inspections may be undertaken at the initiative of labour inspectors where they have reason to believe that a workplace is in violation of legal provisions and to provide relevant statistical data in respect of the same (Article 12(1)(a) and (b)). The Committee also requests the Government to provide information on the measures taken, in law and practice, to ensure that the labour inspections may be undertaken without prior notice (Article 12(1)(a)) and that labour inspectors have the discretion under Article 17(2) of the Convention to initiate prompt legal proceedings, where required.*

Articles 2, 4 and 23. Labour inspection in special economic zones (SEZs) and the information technology (IT) and IT-enabled services (ITES) sectors. The Committee previously noted the Government's indication that very few inspections had been carried out in the SEZs and in the IT and ITES sectors.

Concerning labour inspection in SEZs, the Committee notes that the Government has not provided the detailed information on labour inspections in SEZs, although information in relation to the application of ten laws in three SEZs (Noida SEZ, Visakhapatnam SEZ and Mumbai SEEPZ SEZ) has been provided. In this regard, it notes the Government's reiterated indications that there are no separate labour laws for SEZs, and that SEZs are subject to labour inspection. While enforcement powers may be delegated to the Development Commissioner (a senior government employee) under the Special Economic Zones Rules, 2006, this has only been done in certain cases, and this does not weaken the enforcement of the labour law in any manner. In this regard, the Committee notes the observations made by the ITUC that trade unions in SEZs are largely absent in view of anti-union discrimination practices and that working conditions are poor, and that enforcement powers have been delegated to the Development Commissioners in several states, and that their central function is to attract investment.

Concerning the enforcement of labour laws in the IT and the ITES sectors, the Committee notes the indications of the Government that, in addition to returns submitted by the employers under various labour laws, inspections are carried out through labour inspection visits. However, it notes that no statistics on labour inspections carried out in this sector have been provided. *The Committee once again requests the Government to provide detailed statistical information on labour inspections in all SEZs (including on the number of SEZs and the number of enterprises and workers therein, the number of inspections carried out, offences reported and penalties imposed, and industrial accidents and cases of occupational disease reported). It also once again requests the Government to specify the number of SEZs in which enforcement powers have been delegated to Development Commissioners. In accordance with the request made by the CAS, the Committee requests the Government to review, with social partners, the extent to which delegation of inspection powers from the Labour Commissioner to the Development Commissioner in SEZs has affected the quantity and quality of labour inspections, and communicate the outcome of this review. Please also provide information on the number of workplaces in the IT and ITES-enabled services, and the inspections carried out in this sector.*

Articles 3(1), 10, 16, 20 and 21. Information on the activities of the labour inspection services to determine their effectiveness and coverage of workplaces by labour inspection in the central and states sphere. The Committee previously noted the Government's indications that the Ministry of Labour and Employment was considering the re-examination of labour laws in order to ensure a "hassle-free" industrial environment and reduce unnecessary interference by inspection staff ("Ending Inspector Raj"), and that steps were being taken to make the system of inspection mostly complaints-driven. The Committee notes that the Government reiterates that the "Ending of Inspector Raj" does not mean an "end of the inspection system", but is intended to refer to an end to malpractices in the current inspection system and that there is no intention to reduce the monitoring of compliance with labour laws. The Committee also previously noted that most states did not have internal instructions preventing labour inspections. In this regard, the Committee notes that the Government stresses that there have been no serious imbalances in the number of inspections between different states.

The Committee notes that, once again, no annual report on the work of the labour inspection services has been communicated to the ILO. Moreover, it notes that the Government has not provided the detailed statistical information requested by the CAS, covering at the central and state levels all the matters set out in *Article 21* (including the number of staff of the respective labour inspectorates), which would allow an assessment as to whether *Articles 10* and *16* of the Convention are being applied. While noting the information provided by the Government on the activities of the labour inspection services at the central and state levels aggregated in relation to ten different laws, it notes that this information does not enable the Committee to make an informed assessment of the coverage of workplaces and workers at the central and state levels. In particular, it notes that once again no information was provided on the number of workplaces liable to inspection and the workers employed therein or the number of labour inspectors working within the labour inspection services in the states, and that the statistical information provided only covers 11 states. In this context, it also notes the observations made by the ITUC that, in many cases, labour inspection bodies continue to be extremely understaffed. *The*

Committee requests the Government to take the necessary steps to ensure that the central authority publishes, in the very near future, an annual report on labour inspection activities containing all the information required by Article 21 in relation to the central and states spheres. Concerning the absence of information on the number of workplaces liable to inspection and the workers employed therein, the Committee requests the Government to provide information on the availability of registers of workplaces at the central and state levels, or the efforts that have been undertaken to establish such registers in all states. The Committee invites the Government to consider availing itself of ILO technical assistance for the establishment of registers of workplaces and annual reports on the work of the labour inspection services.

Article 5(b). *Collaboration of the labour inspection services with employers' and workers' organizations.* The Committee notes the reiterated information by the Government as to the bodies for tripartite consultation at the central and state levels, as well as the examples provided by the Government on the collaboration of the labour inspectorate with trade unions and workers' representatives in the major port areas of the country. ***The Committee requests the Government to provide information on the consultations held with the social partners concerning labour inspection issues at the central and state levels, and, in particular, on the consultation of the social partners in the framework of the current legislative reforms, in so far as they concern labour inspection.***

Articles 10 and 16. *Coverage of workplaces by labour inspections. Self-inspection scheme.* The Committee previously noted the observations made by the CITU and the Bharatiya Mazdoor Sangh (BMS) with regard to the self-certification scheme implemented in 2008 (which includes the requirement of employers employing more than 40 workers to submit a self-certificate certified by a chartered accountant), in particular concerning the absence of any mechanism for the verification by the labour inspectorate of information supplied through this procedure. In this regard, the Government indicates that self-certification is fundamentally a support system to help employers ensure compliance with labour laws, that it is an additional requirement to the system of statutory labour inspections and that it is in no way a substitute to the main work of labour inspection. The Committee notes however that the Government has not provided the explanations requested by the CAS as to the arrangements for verification of information supplied by employers making use of self-certification schemes, nor on health and safety inspections, undertaken by certified private agencies, including the number of inspections, the number of violations reported by such agencies, and compliance and enforcement measures taken. ***The Committee requests the Government to provide the information requested by the CAS on the health and safety inspections undertaken by certified private agencies, as well as an explanation as to the arrangements for verification of information supplied by employers making use of self-certification schemes.***

Articles 12(1)(a) and (b) and 18. *Free access of labour inspectors to workplaces.* The Committee notes that the Government has not provided the detailed information requested by the CAS on compliance with Article 12 of the Convention with regard to access to workplaces in practice, to records, to witnesses and other evidence, as well as the means available to compel access to such. Moreover, it notes that the Government has not provided the requested statistics on the denial of such access, steps taken to compel such access, and the results of such efforts. ***The Committee requests the Government to provide this information.***

[The Government is asked to reply in detail to the present comments in 2016.]

Italy

Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

Article 3(1) and (2) of the Convention. *Additional functions entrusted to labour inspectors.* The Committee notes from the Government's indications and the statistics provided in its report that labour inspections have continued to focus on combating undeclared employment. It notes that in 2013, 139,824 labour inspection visits were carried out (including a significant number of so-called "summary inspections" solely designed to assess the incidence of undeclared employment including with the *Carabinieri Command for Labour Protection*), during which 1,091 irregular non-EU workers were detected.

The Committee notes the Government's reiterated indications that labour inspections concerned with the detection of irregular employment are aimed at the protection of workers. According to the Government, labour inspectors take measures to: (i) regularize the employment relationship for non-EU workers in an irregular situation; (ii) recover outstanding social security and insurance contributions; and (iii) are increasingly applying measures to ensure the rapid and effective payment of outstanding wages and entitlements of workers (such as the submission of cases to conciliation and the possibility of voluntary payments). The Government also refers to the envisaged decriminalization of the offence of illegal immigration and its conversion into an administrative offence which should make it easier for non-EU workers in an irregular situation to claim their rights before the competent authorities, and for labour inspectors to provide for their effective protection. The Government emphasizes that the functions of labour inspectors to provide effective protection for all workers, including workers in an irregular situation, are clearly different from the *Carabinieri* entrusted with combating illegal immigration, and that cooperation during inspection visits is in many cases intended to ensure the physical safety of labour inspectors.

The Committee welcomes the abovementioned efforts made to ensure that workers in an irregular situation are being granted their due rights. Noting however the important part of inspection activities in the area of control of the legality of

employment, and with reference to its previous observation, the Committee would like to emphasize that the role assigned to labour inspectors in preventing the irregular employment of foreign workers should not jeopardize the performance of their primary duties as defined by the Convention. Moreover, the Committee is of the view that the association of the *Carabinieri* may not be conducive to the relationship of trust that is essential to enlisting the cooperation of employers and workers with labour inspectors. ***The Committee therefore requests the Government, in conformity with Article 3(2), to ensure that the functions relating to the prevention of the employment of foreign workers in an irregular situation do not interfere with the primary duties of labour inspectors or prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.***

It requests the Government to continue to provide information on the manner in which the labour inspectorate ensures the discharge of employers' obligations with regard to foreign workers in an irregular situation from the point of view of residence status (including subsequent to the decriminalization of the offence of illegal immigration). Please also provide information in relation to the concrete actions that are taken when regularizing the employment relationship of such workers, as well as information on the rights that were granted to them following their detection (number of cases in which their relationship was regularized, number of cases in which their outstanding wages and other benefits were fully paid, cases in which compensation was paid in the event of past work accidents, etc.).

Noting from the Government's indications that the Carabinieri have the independent power to carry out inspections in workplaces, the Committee requests the Government to provide information on the measures taken so as to ensure that the cooperation of labour inspectors with the Carabinieri is limited to an extent that is compatible with the purpose of the Convention.

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

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1981)

Article 6(1) and (3) of the Convention. Additional functions entrusted to labour inspectors in agriculture. The Committee notes from the Government's indications and the statistics provided in its report that labour inspections have continued to focus on combating undeclared work, especially as regards non-EU workers in an irregular situation, including in the agricultural sector. It notes that in 2013, during extraordinary operations by the Directorate General for Inspection Services and the *Carabinieri Command for Labour Protection* in the agricultural sector, 5,652 workplaces were inspected, during which 768 workers in an irregular situation were detected, including 70 workers in an irregular situation from the point of view of their residence status. ***Referring to its observations under Article 3(1) and (2) of the Labour Inspection Convention, 1947 (No. 81), the Committee requests the Government to provide the information requested in this regard, in so far as they specifically concern the activities of the labour inspection services in agriculture.***

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

Japan

Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)

The Committee notes the observations made by the Japanese Trade Union Confederation (JTUC-RENGO) and the Japan Business Federation (NIPPON KEIDANREN) submitted with the Government's report.

Articles 3(1)(b) and 13 of the Convention. Preventive measures for workers engaged in decontamination work with radioactive materials. The Committee notes the observations of the JTUC-RENGO regarding the decommissioning of the Fukushima Daiichi Nuclear Power Station, indicating that employers must implement complete protective measures for workers, and that the Government must enhance supervision, monitoring and support for the carrying out of those measures.

The Committee notes the information provided by the Government on the monitoring of the workers' radiation exposure dose and, in this regard, refers to its comments made under the Radiation Protection Convention, 1960 (No. 115). The Committee also notes the Government's indication that compliance with laws and regulations is ensured through periodic on-site inspections and guidance, which have been undertaken at least once a month. The Government also indicates that for any work which may involve exposure of more than 1 mSv/day, employers are required to submit a workplan to the labour standards inspection office, and labour inspectors check whether workers use appropriate personal protective equipment as well as provide guidance with respect to the reduction of radiation exposure. The Government further refers to information on the website of the Ministry of Health, Labour and Welfare related to the results of the supervision of employers of decontamination works. This information indicates that the labour standards inspection office within the Fukushima Prefecture undertook supervision of 1,047 employers performing such works in 2013, and 1,152 employers in 2014. Violations of labour standards laws and regulations were detected with respect to 67.7 per cent of employers in 2013 and 70 per cent of employers in 2014. These violations concerned violations of the Labour Standards Act related to wages, working time and the preparation of a roster of workers, as well as violations of the Industrial Safety and Health Act and the Ordinance on the prevention of ionizing radiation hazards for decontamination and related works, related to safety and health, preliminary surveys, use of protective equipment and radiation exposure dose monitoring. ***Noting that the percentage of violations detected increased from 2013 to 2014, the Committee requests***

the Government to provide information on the actions taken by employers as a result of advice and instructions given by the labour inspectors. It also requests the Government to provide information on the number and nature of penalties applied as a result of these inspections, and to continue to provide information on inspections undertaken with respect to decontamination works, including the number of these inspections, and the number and nature of violations detected.

Articles 10 and 16. Reduction in the number of newly recruited labour inspectors. The Committee previously noted the comments by the JTUC–RENGO and the National Confederation of Trade Unions (ZENROREN) on the inadequate number of labour inspectors, indicating that in the context of the increased number of industrial accidents between 2009 and 2012, it was essential to maintain an adequate number of labour inspectors, even if there is a situation of tight financial conditions.

The Committee notes the Government's statement that the number of labour inspectors decreased between 2011 and 2013. However, the number of inspections undertaken in 2011 to 2013 increased (from 132,829 inspections in 2011 to 140,499 in 2013), in spite of the reduction of inspectors. The Government also indicates that the number of cases referred by the inspectorate to the public prosecutor's office remained relatively stable, demonstrating that the decrease in the number of new hires did not have an impact, and the labour inspectorate continued to function effectively. The Committee welcomes the Government's indication that the policy of reducing the number of new recruits (instituted in 2011) was changed in 2014, and that 210 new labour inspectors were subsequently recruited in both 2014 and 2015.

The Committee notes the statement of NIPPON KEIDANREN that it values the efforts of the labour standards inspection office, despite the small number of inspectors. In spite of a downward trend in the number of inspectors, inspectors fulfil their role of supervising and providing guidance. Increasing the number of inspectors should not be a goal, and the number of inspectors should be determined with consideration of effectiveness, budget constraints and human resource development. The Committee also notes the statement of the JTUC–RENGO that while the policy on reducing the number of new recruits has changed, the number of staff of the Ministry of Health, Labour and Welfare continued to decrease, which has resulted in labour inspectors undertaking more administrative work. The Committee also notes the statement of the JTUC–RENGO, submitted with the Government's report under the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), that the number of labour inspectors is too low in comparison with the number of workers in the country, and that the number of inspectors must be increased.

The Committee recalls that *Article 10* of the Convention provides that the number of labour inspectors shall be sufficient to secure the effective discharge of the duties of the inspectorate, and that *Article 16* provides that workplaces shall be inspected as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. ***Noting the Government's indication concerning the recruitment of new labour inspectors in 2014 and 2015, the Committee requests the Government to continue to take measures to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate. It requests the Government to continue to provide information on the number of labour inspectors, disaggregated by both prefecture and gender. It also requests the Government to provide information on the measures taken to ensure that, in light of the increase in the number of inspections despite a decrease in the number of inspectors, workplace inspections are undertaken as thoroughly as is necessary.***

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

Kazakhstan

Labour Inspection Convention, 1947 (No. 81) (ratification: 2001)

Articles 20 and 21. Annual report on the work of the labour inspection services. The Committee notes that since the ratification of the Convention in 2001, an annual report on the activities of the labour inspection services has never been received by the Office. However, the Committee notes that the Government's report contains the statistics as required under *Article 21 (d)–(g)* (i.e. the number of labour inspections carried out, number of violations detected and penalties imposed, number of industrial accidents and number of occupational diseases). The Committee also recalls that the Government previously provided statistics on the number of inspectors, the workplaces liable to inspection and the number of workers employed therein (as required by *Article 21(b)* and *(c)*). ***With reference to its general observations of 2009 and 2010 on the importance of availability of a register of enterprises and an annual report on the work of the labour inspection services as required under the Convention, and in view of the data already available, the Committee once again requests the Government to take the necessary steps to ensure that the central inspection authority discharges its obligation to publish an annual report on the work of the labour inspection services under its control and communicate it to the ILO, in conformity with Article 20 and to ensure that it contains the subjects listed in Article 21.***

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

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2001)

The Committee refers the Government to its comments under the Labour Inspection Convention, 1947 (No. 81), in so far as they concern the application of the present Convention.

Articles 26 and 27 of the Convention. Annual report on the work of the labour inspection services in agriculture. The Committee notes that the statistics sent by the Government on the activities of the labour inspectorate do not distinguish the specific data relating to the agricultural sector so as to assess the level of application of the Convention. The Committee recalls from the observations made under Convention No. 81 that an annual report on the activities of the labour inspection services has never been received by the Office. ***With reference to its general observations of 2009 and 2010 on the importance of availability of a register of enterprises and an annual report on the work of the labour inspection services as required under the Convention, the Committee once again requests the Government to take the necessary steps with a view to complying with the obligations under Article 26, that is, the publication by the central labour inspectorate authority of an annual report on the work of the inspection services in agriculture, either as a separate report or as part of its general annual report, and the communication of this report to the ILO. This report shall contain the information on all the subjects listed in Article 27(a)–(g).***

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

Lebanon

Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)

The Committee notes with ***regret*** that the Government's report has not been received. It expresses ***concern*** in this respect. It is therefore bound to repeat its previous comments.

Article 3(2) of the Convention. Additional duties entrusted to labour inspectors in connection with union matters. For many years the Committee has been asking the Government to take steps to limit intervention by labour inspectors in the internal affairs of trade unions and confederations solely to cases of complaints which might be addressed to them by a significant number of members. The issue was raised by the Committee with regard to section 2(c) of Decree No. 3273 of 26 June 2000, under the terms of which the labour inspectorate has the power to monitor vocational organizations and confederations at all levels in order to check whether the latter, in their operations, are exceeding the limits prescribed by law and by their rules of procedure and statutes. The Committee stated in a direct request of 2002 that such powers were tantamount to the right to interfere in the internal affairs of professional organizations. The Government then announced that an amendment to the Labour Code would settle the issue. However, Memorandum No. 35/2 of 12 April 2006 from the Director-General of the Ministry of Labour reproduced the criticized provision using identical wording.

Section 163(3) of the version of the draft Labour Code submitted to the ILO in 2007 for opinion stated that the Labour Inspection and Occupational Safety and Health Department of the Ministry of Labour would be responsible for monitoring the application of laws, decrees and regulations relating to terms and conditions of work and the protection of workers while engaged in their work, including the provisions of ratified international and Arab conventions and, more specifically "... (3) to conduct inquiries further to complaints relating to trade unions and confederations at all levels".

In its 2009 report, the Government indicates that this provision is contained in section 161(3) of the current version of the draft Labour Code and will have the effect of removing any power from the labour inspectorate to monitor trade union affairs, as this power would be assigned to the trade union council. It explains that the powers of the labour inspectorate with regard to occupational organizations will therefore be limited to the examination of complaints submitted to it by the latter. Since the current wording of the text in no way lends itself to such an interpretation, it is essential, in order to avoid any ambiguity in this regard, for the drafting to be reviewed in the appropriate way. ***Noting that the draft amendments to the Labour Code have been under discussion for more than ten years, the Committee requests the Government, pending the definitive adoption of the Code, to contemplate cancelling, in the forms provided for by law in such matters, the provision of Memorandum No. 35/02 of 12 April 2006 of the Director-General of the Ministry of Labour under the terms of which labour inspectors retain the power to monitor trade union activities. The Committee requests the Government to provide information on the progress made in this respect.***

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.

Lesotho

Labour Inspection Convention, 1947 (No. 81) (ratification: 2001)

Articles 4, 6, 10 and 11 of the Convention. Organization, human resources and material means of the labour inspection services. In its previous comments, the Committee noted the Government's indication concerning a shortage of labour inspectors, office equipment and transport facilities. In this regard, the Committee notes the Government's indication in its report that a plan of the Ministry of Labour and Employment provides for an increase in the number of labour inspectors and the establishment of a separate inspection unit at the Ministry of Labour. The Committee notes from the Government's indication that the implementation of this plan is dependent on the approval of the Minister of Finance. ***Welcoming the initiative of the Ministry of Labour and Employment to establish a separate inspection unit and increase the number of labour inspectors, the Committee once again strongly encourages the Government to take concrete measures, in order to identify and allocate the financial resources necessary to meet the most urgent priorities for the improved functioning of the labour inspection system and requests the Government to provide information on any progress made in this regard.***

Articles 6, 7(1) and (2). Recruitment and conditions of service of labour inspectors. In its previous comments, the Committee noted the Government's indication on the compulsory placement of labour inspectors (that is, no recruitment based on the expression of interest for the position of labour inspector) and their very low remuneration resulting in an

adverse effect on their motivation. It notes the Government's indication that the requirements of *Article 6* are complied with, since labour inspectors enjoy the status of public servants and their service does not depend on political considerations or changes of Government. In this respect, the Committee would like to emphasize once again, as it has stated in paragraph 204 of its General Survey of 2006 on labour inspection, that it is vital that the levels of remuneration of labour inspectors are such that high-quality staff are attracted, retained and protected from any improper influence. In paragraph 183 of this General Survey, it also indicated that in its view, appropriate and in-depth interviews of applicants for the position of labour inspector, conducted in accordance with principles of fairness and objectivity, are the best way for the competent authority to select the most suitable candidates. The Committee is therefore bound to re-emphasize that the compulsory placement of labour inspectors is incompatible with the aim of attracting motivated staff. ***The Committee once again requests the Government to take all necessary measures so as to ensure the full application in both law and practice of Article 7 concerning the criteria and methods for selecting candidates for the profession and to provide information of any concrete steps taken in this regard. It also asks the Government to ensure that the remuneration of labour inspectors is such that candidates are attracted to the post and retained within the services of the labour inspectorate. In this regard, it asks the Government to specify the conditions of service of labour inspectors and in particular, wages and career prospects as compared to other types of public officials performing similar duties (for example, tax inspectors).***

Articles 20 and 21. Annual labour inspection report. The Committee notes with ***regret*** that the Office has not received an annual report on the activities of the labour inspection services since the ratification of the Convention in 2001. It notes, however, the Government's indication that an attempt is being made to improve the computer system within the labour inspectorate and that the relevant funds are being sought in the 2016–17 budget so as to facilitate publication and transmission of an annual inspection report. ***The Committee requests the Government to provide information on the progress made in the development of a computerized labour inspectorate or of a computerized register of establishments liable to inspection as recommended in the 2005 audit made by the ILO, so as to enable the central labour inspection authority to prepare, publish and communicate to the ILO an annual labour inspection report, in accordance with Article 20, containing all the information required in paragraphs (a) to (g) of Article 21. The Committee reminds the Government that it may avail itself of the technical assistance of the Office for this purpose if it so wishes.***

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

Madagascar

Labour Inspection Convention, 1947 (No. 81) (ratification: 1971)

The Committee notes the observations of the Autonomous Trade Union of Labour Inspectors (SAIT), received on 29 January 2015, and the Christian Confederation of Malagasy Trade Unions (SEKRIMA), received on 2 June 2015.

Article 6. Status and conditions of service of labour inspectors and controllers. In its previous comments, the Committee asked the Government to undertake an in-depth examination of the transfers of labour inspectors to very remote locations in the month following their participation in industrial action, as referred to by the SAIT in its previous observations, and to take the necessary measures to ensure that the draft Decree on the statute of labour inspectors be adopted and enacted as soon as possible. The Committee notes that the SAIT, in its new observations, maintains that the body of labour inspectors is bound to disappear in the future owing to the attrition rate of staff, as every year five to eight labour inspectors change post or even service. Unlike staff of other services trained in the National School of Administration (ENA), there are no special regulations for labour inspectors providing for compensation to alleviate the problem of their precarious work, or risk allowance, even though labour inspectors are constantly exposed to dangers in the workplaces they monitor. SEKRIMA notes the need for inspectors to have career prospects that value their seniority. The Government indicates that the country is regaining stability and steadily returning to constitutionality following the crisis. In this regard, the Committee notes with ***interest*** that, according to the Government, the measures taken in this climate of political instability and the decisions relating to transfers mentioned by the SAIT, which do not contribute to this process, are no longer taken into consideration. The Government also indicates that the SAIT took media action to prompt the State to improve the working conditions of labour inspectors through the promulgation of special regulations for them and that it has begun negotiations with the Government. Lastly, the Government states that it expresses the hope that there will be an improvement of the conditions of service of labour inspectors. ***The Committee hopes that the Government will take the necessary measures to ensure that the regulations for labour inspectors will be adopted and that the conditions of service of labour inspectors will be improved.***

Articles 7, 10 and 11. Training and means of action of labour inspectors and labour controllers. In its previous comments, the Committee asked the Government to provide information on the type, content, duration and frequency of the training provided to labour inspectors, and on the number of inspectors who have benefited from such training. The Committee notes SEKRIMA's statement that it is necessary to periodically strengthen the capacities of labour inspectors. The Government refers to the urgent need to strengthen the competencies of labour inspectors in the light of the development of the labour market which is increasingly targeted towards the mining, agricultural and technology sectors.

The SAIT also emphasizes the deterioration of the working conditions of labour inspectors: there are two or even three inspectors to one office; the furniture is dilapidated and office material, such as paper, computers and printers, is scant; and that the labour inspectorate does not have any vehicle for visits to workplaces.

While also recognizing the urgent need to equip labour inspection with the material means for the discharge of the duties of inspectors and controllers, the Government expresses the wish to benefit from assistance in order to restore the proper functioning of the labour inspection system. *The Committee hopes that the Office will provide the technical assistance requested by the Government so that a needs assessment relating to labour inspection can be carried out, with a view to enabling the effective discharge of the functions of the system of labour inspection.*

Articles 19–21. Submission of periodic reports to the central inspection authority, and the preparation, publication and transmission of the annual inspection report. In its previous comments, the Committee noted the difficulties in collecting and routing data from regional offices outside of Analamanga. It requested the Government to provide a copy of one of the periodic reports drawn up by these local offices and to specify how they are compiled and sent to the central authority. The Committee notes that, contrary to the indication in the report, the Government has not provided a copy of these reports. The only information it has provided in relation to the periodic reports is the fact that the competent authority requires labour inspectors to produce the periodic reports and that obstacles remained to the establishment of the reports required under these provisions. *The Committee hopes that the Government will take the necessary measures, including through a request for technical assistance, to set up a data collection and compilation system for the preparation by the local inspection offices of periodic reports, and that this will in turn enable the central inspection authority to prepare an annual report in conformity with the relevant provisions of the Convention.*

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

Malawi

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)

The Committee refers to its comments in relation to Articles 4, 6, 7, 10 and 11 of the Labour Inspection Convention, 1947 (No. 81), in so far as they concern the application of the corresponding Articles of the present Convention (Articles 7, 8, 9, 14 and 15). In addition, the Committee wishes to raise the following points.

Articles 26 and 27 of the Convention. Annual report on labour inspection (agriculture). The Committee notes the Government's statement that it intends to publish an annual report on the work of labour inspection in agriculture as part of its annual general report. *The Committee encourages the Government to pursue its efforts to publish an annual labour inspection report on the work of the inspection services in agriculture and to take the necessary measures to ensure that the report contains the elements set out in Article 27, such as agricultural undertakings liable to inspection, number of inspections therein, violations detected and the legal provisions to which they relate.*

Application in practice. The Committee notes the statement in Malawi's Decent Work Country Programme (DWCP) 2011–16 that the agricultural sector is the mainstay of the economy, providing a livelihood to 80 per cent of the population. It also notes that one of the strategies for the DWCP is the improved implementation of the Convention, as well as Convention No. 81. *Noting the significant proportion of workers engaged in the agricultural sector, the Committee requests the Government to provide information on the measures taken, within the framework of the DWCP 2011–16, to improve the implementation of the Convention in practice.*

Malta

Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)

The Committee notes with *regret* that the Government's report has not been received. It hopes that the next report will contain full information on the matters raised in its previous comments.

Articles 6 and 10 of the Convention. Numbers and conditions of employment of labour inspectors. In reply to the Committees' previous comments, the Government indicates that steps have been taken by the Department of Industrial Relations to recruit more inspectors and possibly improve working conditions in the inspection services. The Committee recalls that, according to *Article 10* of the Convention, the numbers of labour inspectors must be sufficient to secure the effective discharge of the duties of the inspectorate with due regard for the number of work places liable to inspection, the number of workers employed in them, the number and complexity of the legal provisions to be enforced and the practical conditions under which visits of inspection must be carried out in order to be effective. Furthermore, according to *Article 6*, the inspection staff must be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences. Referring to its General Survey of 2006 on labour inspection, in particular the paragraphs dealing with the conditions of service of labour inspectors (paragraphs 201–224), the Committee again draws the Government's attention to paragraph 209 in particular, in which it emphasizes that labour inspectors' salaries should reflect the importance and specificities of their duties and take account of personal merit, and to paragraph 216 in which it expresses the view that career prospects that take into account seniority and personal merit are essential to attract and especially to retain qualified and motivated staff in labour inspectorates. *The Committee again asks the Government to take measures without delay to ensure that all vacant inspectorate posts are filled as soon as possible and that the conditions of service of the profession as a whole are reviewed with a view to their upgrading so as to attract and retain sufficient numbers*

and motivated staff, and expresses the hope that in its next report the Government will be in a position to recount real progress made in these matters.

Articles 9 and 21. Associating technical experts and specialists in the work of inspection, and content of the annual report. The Committee notes the information sent by the Government on the cooperation of the Occupational Health and Safety Authority with other bodies in supervising application of the labour legislation on occupational safety and health. It also notes the statistical information on the number of occupational accidents, the number of workplaces visited and the number of activities conducted by the Occupational Health and Safety Authority and the data provided by the inspectorate section on the number of inspections, the number of workers covered and the number and list of shortcomings detected. *The Committee requests the Government to provide information on cooperation between the Occupational Health and Safety Authority and the inspectorate section, providing copies of any relevant texts or reports. With reference to its previous comments on the content of the annual labour inspection reports, it again asks the Government to refer to its general observations of 1996, 2007, 2009 and 2010, and to take measures enabling the central inspection authority to publish and communicate to the ILO an annual report containing all the information required by Article 21 of the Convention.* In this connection, the Committee draws the Government's attention to Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81).

Labour inspection and child labour. In its previous comments, the Committee noted that the number of reported cases of violations of the minimum age legislation had dropped from 52 cases in 2005–06 to 24 in 2008–09. The data supplied in the last report show an increase, the number of cases having risen from 24 in 2008–09 to 42 in 2010–11. *The Committee requests the Government to provide information on the measures taken or envisaged to improve the labour inspectorate's effectiveness in this area. Further to its previous comments, the Committee again asks the Government to provide detailed information on the labour inspection activities carried out in collaboration with the Directorate for Educational Services, and their results.*

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: 1988)

The Committee notes with *regret* that the Government's report has not been received. It expresses *concern* in this respect. It hopes that the next report will contain full information on the matters raised in its previous comments.

Articles 26 and 27 of the Convention. Annual report on labour inspection in agriculture. The Committee notes that in reply to its previous comments on the application in law and practice of *Articles 26 and 27* of the Convention, the Government merely indicates that three inspection visits were carried out in the agricultural sector in 2010 and that no irregularities were observed. In its previous comments, the Committee noted that the number of inspections in the agricultural sector was rising but was still low in relation to the 2,423 workplaces inspected in all sectors covered. The Committee notes with concern that there was an obvious decline in inspection visits in 2010, their number having dropped by 80 per cent compared with 2008. The Committee also notes that the Government has provided no information on the annual labour inspection activities report for the last few years. The Committee recalls its general observation of 2010, in which it emphasized the essential importance it attaches to the publication and communication to the ILO within the prescribed time limits of an annual labour inspection report. When it is well prepared and contains all the requisite information, 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 recalls in this connection that extremely valuable guidance on the presentation and analysis of such information is to be found in the Labour Inspection Recommendation, 1947 (No. 81). *The Committee requests the Government to ensure, in accordance with Article 26, that an annual report on the work of the inspection services in agriculture containing the information required by Article 27(a)–(g), is published by the central inspection authority, either as a separate report or as part of its general annual report, and that a copy is sent immediately to the International Labour Office.*

Labour inspection and child labour. Since its report contains no information on the Committee's previous comments on this matter, the Government is again asked to provide information on the activities by the labour inspectorate concerning child labour in agricultural undertakings, and on its results.

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

Mauritania

Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

The Committee notes the observations by the General Confederation of Workers of Mauritania (CGTM), received on 28 August 2015, and the Government's reply thereto.

The Committee notes with *regret* that, despite its explicit request, the Government has not provided a detailed report.

Articles 6 and 15(a) of the Convention. Status and conditions of service of labour inspectors and controllers such as to ensure their stability of employment and independence from changes of government and from improper external influences. In its previous comments, the Committee requested the Government to provide information on the status and conditions of service of labour inspectors in relation to those of public officials discharging similar duties, such as tax inspectors, and details on the compensation to which labour inspectors in the various categories are entitled. In this regard, the Government indicates in its report that it has spared no effort to ensure an appropriate standard of living for labour inspectors and secure their independence. The Committee welcomes the information provided by the Government that labour inspectors and controllers benefited from salary increases in 2013 and 2015, and that allowances for housing, furnishing and urban transport are an integral part of their salaries and are provided on a monthly basis. The Government also refers to Decree No. 2013-187/PM, of 15 December 2013, supplementing certain provisions of Decree No. 99-001/PM, of 11 January 1999, harmonizing and simplifying the system of remuneration for State officials, which establishes the amount of hardship allowances, incentive bonuses and pay for on-call duties for labour inspectors and

controllers. With regard to tax inspectors, the Government adds that they receive a bonus on tax receipts, a bonus for the recovery of unpaid taxes and a productivity bonus, and that 20 per cent of the product of fines, penalties and confiscations for violations of customs and exchange control rules is distributed between them. The Government also indicates that, in collaboration with the General Directorate of the Public Service, it has embarked upon the implementation of a career plan for labour inspectors, taking into account the comments made by the Committee and the social partners. However, the Committee notes that, according to the CGTM, labour inspectors do not benefit from a specific status protecting and organizing the profession, that their salaries are not commensurate with their duties, and that independence in the discharge of their duties is a matter of concern for trade unions. The Government observes, in this respect, that the action taken by the Labour Department is broadly explained in its report and it contests the observations of the CGTM concerning the absence of a specific status for labour inspectors, and refers in this regard to Decree No. 2007-21 of 15 January 2007 issuing specific conditions of service for the labour administration, which establishes such a status. **While noting the information provided by the Government, the Committee firmly encourages the Government to continue taking all necessary measures to ensure for labour inspectors and controllers stability of employment, career prospects and salaries that are commensurate with their responsibilities and which take into account the social role of their functions.**

Articles 10, 11 and 16. Need to reinforce the financial and material resources available to the labour inspection services and the inspection staff for the effective discharge of inspection duties. Further to its request on this point in its previous comment, the Committee notes the Government's indication that there are a total of 13 regional labour inspectorates (including three created in 2014), in which 52 labour inspectors and 19 labour controllers are distributed, and that all of the regional inspection services are provided with an annual budget for their operational needs. All inspection services were provided during the first quarter of 2014 with computers, portable telephones, photocopiers, scanners, chairs, seats for the public, carpets and air-conditioning. Nevertheless, the transport facilities are inadequate and old, namely five four-wheel drive vehicles for 13 inspectorates, and vehicles will be made available to the other inspection services if the resources so permit. The Committee further notes, from the comments in the summary of the reports of regional inspectorates for 2014, the inadequacy of the transport facilities, the need to repair and maintain existing vehicles and state of dilapidation of the premises of certain inspectorates. The Committee also notes that the CGTM, observing that the Government has recently extended the geographical coverage through the establishment of new labour inspectorates, considers that labour inspectors discharge their functions under derisory working conditions, without transport facilities while covering fairly large areas. In this regard, the Government emphasizes the substantial improvements made recently which henceforth enable labour inspectors and controllers to substantially improve the discharge of their duties. **The Committee requests the Government to take measures to reinforce the means of transport necessary for the discharge of the duties of labour inspectors, particularly in the regional inspectorates that are furthest from urban areas, to cover the maintenance and repair costs of existing vehicles and to reimburse any travel expenses and additional expenses necessary for the discharge of their duties for labour inspectors and controllers. It also requests the Government to provide information on the measures adopted or envisaged to remedy the inappropriate condition of inspection services and equipment.**

Articles 19, 20 and 21. Preparation, publication and communication to the ILO of an annual inspection report. With reference to its previous comments concerning the communication to the ILO of annual inspection reports, the Committee notes that, according to the indications in the summary of the reports of regional labour inspectorates for 2014, only eight of the existing 11 regional inspectorates provided annual reports and, due to the arrangement of administrative areas, the reports of three regional labour inspectorates are only partial. The Committee observes that this summary is very brief and does not amount to a tool for the overall assessment of the activities of the labour inspectorate and their outcome. **The Committee requests the Government to take the necessary measures, including within the context of international cooperation if necessary, to develop a system for the collection and compilation of data with a view to the preparation by local inspection offices of periodic reports and so that such period reports enable the central inspection authority to prepare an annual report in accordance with the relevant provisions of the Convention.**

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

[The Government is asked to report in detail in 2016.]

Mexico

Labour Administration Convention, 1978 (No. 150) (ratification: 1982)

The Committee notes the observations of the National Union of Workers of the Federal Roads and Bridges Access and Related Services (SNTCPF), received on 1 September 2014 and 1 September 2015. It also notes the observations of the Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN) communicated with the Government's report.

Articles 4 and 5 of the Convention. Organization and effective operation of the labour inspection system as part of the system of labour administration. In its previous comments, the Committee requested the Government to send information on the impact of the initiative to strengthen the labour inspection system as part of the system of labour administration, including on the establishment of a directory of mining enterprises covering subcontracted enterprises and

the development of an electronic information system (SAPI) for the conduct, follow-up and oversight of inspection visits. The Committee notes with *interest* the Government's indication in its report that, as a result of the establishment of the labour secretariat in the state of Coahuila in 2011, the inspection activities in that state have increased significantly and the number of inspections carried out rose from 101 in 2011 to 1,101 in 2014. The Government also indicates that: (i) the reform of the Federal Labour Act in November 2012, the introduction of the general regulations on labour inspection and the application of sanctions in 2014, the development of the Work Declaration (DECLARALAB), and the implementation of the inspection programme in 2014 have contributed to the strengthening of the labour inspection system; (ii) the Federal Labour Act empowers labour inspectors to restrict access or limit operations in areas of risk in the event of imminent danger; (iii) the new inspection regulations standardize inspection criteria throughout the country; empower the so-called labour authorities to monitor enterprises that follow alternative inspection procedures so as to verify the situations noted by the labour inspectors; the regulations provide for the concept of an inspection programme to be developed with the participation of the employers and workers; and they provide for guidance and advisory visits; (iv) through the DECLARALAB electronic tool, enterprises can carry out a self-evaluation, the results of which form the basis of concrete commitments to strengthen compliance with occupational safety and health (OSH) legislation and, on the basis of these commitments, inspection visits are conducted to provide technical assistance and advice, and to establish corrective or preventive measures to remove risk factors; (v) it continues to monitor the inspectors' activities, within the framework of which 93 visits to federal labour delegations and their sub-delegations were carried out between December 2012 and July 2013; and (vi) the national OSH consultative committee assisted in the conclusion of agreements to amend the official Mexican standards (NOM) and in the decisions relating to 12 applications for alternative procedures.

The SNTCPF highlights the insufficiency and inefficiency of the coordination between the state secretariats involved in joint labour inspections, as well as the ineffectiveness of the penalties imposed in the mining sector.

The Committee welcomes the described measures adopted by the Government to strengthen the labour inspection system. *The Committee requests the Government to provide information on any progress made relating to the establishment directory of mining enterprises and on any measures adopted to improve coordination between the state secretariats involved in inspections, with a view to increasing the effectiveness of inspection visits.*

Article 10. Human resources and material means made available to the labour inspectorate as part of the labour administration system. Training of inspectors. In its previous comments, the Committee requested the Government to provide further details on the certification available for inspectors by the Ministry of Labour and Social Welfare in relation to the competency standard of "Monitoring observance of occupational safety and health standards". The Committee notes that the SNTCPF refers in its observations the lack of training for labour inspectors. The Committee notes with *interest* the information from the Government that between December 2012 and July 2013, 26 training courses on labour standards were organized, including the procedures for restricting access and limiting operations in workplaces, and the Official Standard NOM-032-STPS 2008, in which 1,357 officials concerned with inspection procedures participated. Furthermore, 30 training courses on labour standards were provided in 2014, which covered, for example, NOM-032-STPS 2008, SAPI and the system for reporting OSH conditions. With respect to the qualifications for inspectors, the Committee notes two competency standards: EC0397 and EC0391. The Committee welcomes the fact that EC0397 relates to the enforcement of OSH standards and EC0391 relates to the monitoring of the safety and health conditions in workplaces. *The Committee requests the Government to continue to provide information on the training offered to labour inspectors, particularly on OSH in mines, and the certification provided to labour inspectors.*

Material means. The SNTCPF mentions the inadequacy of the annual budget allocation for labour inspection in the coalmining regions, and in particular the budget for inspectors' personal safety equipment and expenses for their work-related travel. The Committee notes the Government's indication that as of March 2014 petrol vouchers were given to all inspectors. *The Committee once again requests the Government to describe the means of transport and personal safety equipment available to inspection staff for the performance of their duties, particularly in underground coalmines and "pocitos".*

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

Republic of Moldova

Labour Inspection Convention, 1947 (No. 81) (ratification: 1996)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

The Committee notes that, in March 2015, the Governing Body adopted the report of the tripartite committee set up to examine the representation alleging non-observance by the Republic of Moldova of the Convention submitted under article 24 of the ILO Constitution by the National Confederation of Trade Unions of Moldova (CNSM) (GB.323/INS/11/6). On the basis of this report, the Governing Body invited the Government to take such measures without delay as might be necessary to ensure the effective implementation of *Articles 12 and 16* of the Convention, and entrusted this Committee with following up on the issues raised in the report. In this respect, the Committee notes that the representation concerned the compatibility of Law No. 131 on state control of entrepreneurial activities, which applies to

the activities of 33 state institutions, with the Convention. While the state labour inspectorate had previously been regulated by the Law No. 140 on state labour inspection, since 2012, it has also been subject to the provisions of Law No. 131. The Governing Body invited the Government to consider availing itself of ILO technical assistance, particularly with regard to the further elaboration of amendments to Law No. 131. In this regard, the Committee notes that a tripartite workshop was held in July 2015, with ILO assistance, to follow-up on the findings of the report of the tripartite committee. At that workshop, the representatives of workers, employers and the Ministry of Labour, Social Protection and Family adopted conclusions stating that there was a need to take steps to bring the legal framework into conformity with the Convention, and that Laws Nos 131 and 140 should be reviewed in light of the conclusions of the report adopted by the Governing Body.

Article 12 of the Convention. Unannounced inspection visits. The Committee notes that the report of the tripartite committee found that the application of Law No. 131 to the State Labour Inspectorate raised issues of compatibility with *Article 12* of the Convention, in restricting the free access of labour inspectors to undertake inspections. Particularly, the report of the tripartite committee noted that section 18(1) of Law No. 131 provides that a notice of the decision to carry out a control shall be sent to the entity subject to control at least five working days prior to the carrying out of the control. Section 18(2) provides that this shall not apply in the case of an unannounced control, and section 19 outlines the specific limited circumstances under which an unannounced control can be undertaken irrespective of the established schedule of control. In this regard, the tripartite committee's report stated that the restrictions on the undertaking of unannounced inspections contained in sections 18 and 19 of Law No. 131 were incompatible with the requirements in *Article 12(1)(a)* and *(b)* of the Convention. In addition, the Committee notes that the conclusions adopted in July 2015 affirmed that the national legislation should be reviewed in light of the conclusions of the tripartite committee, and contained two proposals on how the national legislation should be reviewed. ***Recalling the importance of fully empowering labour inspectors to make visits without previous notice, in order to guarantee effective supervision, the Committee urges the Government to pursue its efforts to amend Law No. 131 to ensure that labour inspectors can make visits without previous notice, in line with Article 12(1)(a) and (b). It requests the Government to provide information on the measures taken and to provide a copy of any legislative texts adopted in this regard.***

Article 16. Undertaking of inspections as often as is necessary to ensure the effective application of the relevant legal provisions. The Committee notes that the tripartite committee examined section 14 of Law No. 131, which provides that control bodies are not entitled to perform a control of the same entity more than once in a calendar year, with the exception of unannounced inspections. Section 15 provides that each authority with supervisory functions shall develop a quarterly schedule for inspections, and that it is not permitted to alter this schedule or perform an inspection not foreseen in the schedule. In this respect, the tripartite committee's report stated that the undertaking of inspection visits according to a schedule is not incompatible with the Convention, to the extent that this schedule does not preclude the undertaking of a sufficient number of unscheduled visits. However, the report also stated that the particular limitations on the carrying out of unscheduled inspections contained in section 19 of Law No. 131 constituted an impediment to the carrying out of inspections as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. Further, the report indicated that the limitations contained in section 3(g) of Law No. 131, that inspections can only be carried out when other means to verify compliance with the law have been exhausted, appeared not to be compatible with the principle contained in *Article 16* of the Convention. ***The Committee urges the Government to pursue its efforts, in the context of reviewing the national legislation in light of the conclusions of the tripartite committee, to ensure that the national legislation is amended to allow for the undertaking of labour inspections as often as is necessary to ensure the effective application of the relevant legal provisions, in conformity with Article 16 of the Convention.***

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

Mozambique

Labour Inspection Convention, 1947 (No. 81) (ratification: 1977)

The Committee notes that the Government's report only provides very succinct information in relation to the requests previously raised by the Committee, but that the 2013 annual report of the general labour inspectorate sent with the Government's report contains relevant information in response to some of the issues raised.

Articles 3(2), 10, 11 and 16 of the Convention. Human resources and material means, including transport facilities. Coverage of workplaces by labour inspections. The Committee notes from the 2013 annual report of the general labour inspectorate that the number of staff working at the general labour inspectorate was 135 and that in 2013, 6,872 establishments and 183,467 workers were covered by labour inspection visits. The Committee also notes the statement in the same report that the number of labour inspectors is very low in relation to the number of workplaces subject to labour inspection and the incidence of labour conflicts. It further notes from the Government's report under this Convention that difficulties in the application of the Convention relate to the availability of transport facilities and the coverage of workplaces by labour inspections in remote areas. In this regard, the Committee also recalls that it previously noted the Government's indications that expenses incurred by labour inspectors when using their own vehicles are not reimbursed. ***The Committee once again requests the Government to describe the current situation of the labour***

inspection services in terms of the human resources and material means available, including transport facilities to enable labour inspectors to carry out inspection visits. Recalling once again that under Article 11(2) of the Convention, the competent authority shall make the necessary arrangements to reimburse to labour inspectors any travelling and incidental expenses which may be necessary for the performance of their duties, the Committee requests the Government to take measures to this effect in the very near future and to provide relevant information in this respect.

Articles 5(a), 20 and 21. *Publication, communication and content of annual reports on the activities of the labour inspection services. Establishment of a register of workplaces liable to labour inspection.* The Committee notes with **interest** that the 2013 annual report of the general labour inspectorate contains statistical information on several of the subjects covered by *Article 21* of the Convention. However, the Committee also notes that this report does not contain statistics of occupational diseases (as required by *Article 21(g)*), nor does it contain information on the number of workplaces liable to inspection and the workers employed therein (as required by *Article 21(c)*), which makes it impossible to assess the rate of coverage by the labour inspectorate. In this respect, the Committee recalls that it emphasized, in its general observation of 2009, the essential character of the availability of a register of workplaces liable to inspection that is regularly updated for the assessment by labour inspection services in relation to their scope, and the corresponding need to promote effective cooperation with other government bodies and public and private institutions that possess relevant data. **The Committee requests the Government to take measures to ensure that the annual reports on labour inspection published by the central labour inspectorate contain information on all the subjects covered by Article 21, including clauses (c) and (g). In this regard, the Committee also asks the Government, with reference to its 2009 general observation under this Convention, to take measures to ensure cooperation with the other government bodies and entities possessing relevant data, in particular with a view to elaborating and regularly updating a register of workplaces liable to labour inspection, and to provide information on any steps taken in this regard.**

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

Netherlands

Labour Inspection Convention, 1947 (No. 81) (ratification: 1951)

The Committee notes the observations made by the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation of Professionals (VCP) (formerly the Trade Union Confederation of Middle and Higher Level Employees' Unions (MHP)), as well as the joint observations made by the Confederation of Netherlands Industry and Employers (VNO-NCW) and the Royal Association of Dutch SME Entrepreneurs (MKB Netherlands), communicated by the Government.

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

The Committee notes that the report of the committee set up to examine the representation alleging non-observance by the Netherlands of this Convention, the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Occupational Safety and Health Convention, 1981 (No. 155), made under article 24 of the ILO Constitution by the FNV, the CNV and the VCP was adopted by the Governing Body at its 322nd Session (November 2014).

It notes that the FNV, CNV and VCP allege that the Government does not give appropriate follow-up to the recommendations of the tripartite committee, that there is a lack of a meaningful consultation process to find solutions and that no specific measures were proposed or introduced by the Government to address the recommendations in the representation. On the other hand, the VNO-NCW and the MKB Netherlands refer to some recent positive developments in relation to the issues raised in the representation.

Occupational safety and health (OSH) system introduced in the Netherlands in 2007. The Committee notes the Government's explanations concerning the Dutch OSH policy and legislation. The Government indicates that a framework of rights, duties and goal-based regulations has been established in the national legislation (the public domain), and that the social partners, which are at the heart of a functioning OSH system, agree, in so-called *OSH catalogues*, on ways and methods to achieve healthy and safe working conditions in specific branches in order to comply with the goal-based regulation (the private domain). The Government indicates that, in this system, it has both facilitating and enforcement roles.

Articles 3(1) and (2) and 10 of the Convention. *Workload of labour inspectors. Time spent on administrative tasks.* The Committee recalls that the report of the tripartite committee examined the question of increase in the administrative tasks of labour inspectors (such as correspondence and drafting reports) at the expense of labour inspections. In this regard, the Committee requested the Government, in its previous comment, to provide information on the proportion of time spent by labour inspectors on administrative duties, in relation to their primary functions. In this regard, the Committee notes the Government's reply that the careful recording of information on inspection visits and interventions is an administrative requirement, but that the inspectorate intends to reduce the time spent on administrative tasks as much as possible. This is intended, for example through the digitalization of tasks, and encouraging labour inspectors to make proposals for the improvement of inefficiencies that are observed in the management of work. The Government further indicates that labour inspectors spend 62 per cent of their time on labour inspections and tasks directly

related to the handling of cases (preparing inspections and tasks following inspections, such as recording inspection results and findings, preparing improvement/prohibition notices or infringements reports), and that they spend 38 per cent of their time on training and the provision of advice.

The Committee notes that the FNV, CNV and VCP indicate that it is not clear from the Government's report how much time labour inspectors actually spend on their primary duties. It further notes the indications of the FNV, CNV and VCP that according to the 2014 annual labour inspection report, the decisions of the labour inspectorate are increasingly judicially challenged, which results in labour inspectors spending more time on collecting and recording information and dealing with objections and appeals from employers. In this regard, the Committee also notes the Government's explanation that the decrease in the number of labour inspection visits is partly due to cases having become more complex and time-consuming (cases involving notorious offenders, cases involving several employers, etc.). ***The Committee requests the Government to provide its comments to the observations made by the FNV, CNV and VCP, and once again requests the Government to provide information on the proportion of time spent by labour inspectors on administrative duties, in relation to the primary functions of labour inspection. Noting the increase in the complexity of cases, the Committee requests the Government to provide information on the measures it is taking to ensure a sufficient number of labour inspections to ensure the effective discharge of inspection duties.***

Article 5(a). Cooperation between the labour inspection services and other government services and public or private institutions engaged in similar activities. 1. *Cooperation among the labour inspection services at the Ministry of Social Affairs and Employment, and with inspection services in other ministries.* The Committee notes the Government's reply to the Committee's request as to the efforts made to improve cooperation between inspection services, that the operational directorates within the labour inspectorate work closely together, and that there are various instances of cooperation with other state inspection departments and enforcement agencies, including through discussions of the Inspector-Generals of the state inspection departments in the Inspection Council, which meets ten times a year. In this regard, it also notes the reference of the FNV, CNV and VCP in their observations to the 2014 report of a national OSH research institute, which criticized the many different operation modes of the various inspectorates and advocated a more uniform line of action. ***The Committee invites the Government to discuss with the social partners how cooperation among the operational directorates of the labour inspectorate at the Ministry of Social Affairs and Employment, and with inspection services in other ministries can be improved.*** 2. *The activities undertaken to promote effective cooperation between labour inspection and private occupational safety and health (OSH) services.* The Committee notes that the report of the tripartite committee considered the lack of access that the labour inspectorate has to the information held by OSH services (for example, on emerging risks or trends in particular health and safety issues) and noted the Government indications that assessments by the inspectorate to determine high-risk sectors are based on many different sources, but these assessments do not appear to be based on information held by private OSH services which cover 93 per cent of employees. The Committee notes that, in reply to its previous request concerning the promotion of effective cooperation between labour inspection and private OSH services (in particular for the exchange of relevant data), the Government refers to a programme aimed at improving OSH in companies, this includes, among other things, knowledge sharing with OSH services and consultations with the association of OSH services (OVAL). ***The Committee requests the Government to provide detailed information on the activities undertaken in the framework of the abovementioned programme to promote cooperation between the labour inspectorate and OSH services, and the impact of these activities on the work of the labour inspection services.***

Article 7(3). Training of labour inspectors. The Committee notes that the tripartite committee considered that, where specialized technical tasks are assigned to labour inspectors, they should receive additional training. The Committee notes that the Government indicates, in response to the Committee's previous request on the training provided to labour inspectors in the areas of psychosocial stress, chemical substances, nanoparticles and the evaluation of risk assessments, that meetings are organized with specialized inspectors and experts in the field of biological agents, psychological workload, dangerous substances, etc. It further notes the Government's reference to a specialized course on psychosocial risks. The Government further indicates that the inspectorate closely monitors developments with regard to new occupational risks, such as nanotechnology and provides special training when sufficient scientific knowledge is available. The FNV, CNV and VCP emphasize that in their view, which is supported by the Works Council of the labour inspectorate, labour inspectors are not sufficiently equipped with knowledge and skills to fulfil their duties. ***The Committee requests the Government to consider discussing specific training needs with the Works Council of the labour inspectorate and the social partners. Please provide information on the outcome of these discussions, and where applicable, any measures taken as a result.***

Articles 10 and 16 of the Convention. Number of labour inspectors and the frequency of labour inspections to ensure the effective discharge of inspection duties. The Committee recalls that the tripartite committee examined the question of the number of labour inspectors and of labour inspections, the focus of inspections on high-risk companies (leaving other companies under inspected) and the absence of inspections in small enterprises (with fewer than 20 workers). In this regard, the tripartite committee noted that, between 2005–13, the number of labour inspectors decreased from 478 to 439 and the number of labour inspections decreased from 39,610 to 23,321. The tripartite committee also noted the Government's reference to the particularities of the Dutch OSH system and its indication that fewer inspections do not mean a fall in the quality of enforcement or in compliance with laws and regulations, but are

rather a consequence of the efficient deployment of inspection capacity and the active involvement of companies and social partners to tackle OSH issues.

The tripartite committee welcomed the involvement of the social partners and of enterprises in compliance monitoring and assessment, as well as the development of new methods of collaboration and involvement, but considered that they cannot replace the compliance and enforcement functions of the labour inspectorate. Especially in workplaces where trade union representation is low, such as in SMEs, workers are unlikely to be in a sufficiently strong position to take over responsibility from the labour inspectorate for ensuring compliance with the legal obligations. In this regard, the tripartite committee also noted that the Government did not reply to the trade union's allegations that a significant number of employers do not have a risk-assessment system and do not comply with their obligations under the Working Conditions Act to seek expert OSH assistance.

In reply to the Committee's request concerning the number and frequency of labour inspections (particularly in enterprises that are not considered to be in high-risk sectors and in small enterprises), the Committee notes the Government's indication that all sectors are covered by labour inspections. It also notes the Government's indication that, while labour inspectors focus on high-risk sectors, inspections are also undertaken following certain signals (such as industrial accidents and complaints from individuals, workers or their representatives). The Committee notes from the statistics provided by the Government that the number of labour inspections has continued to decrease (from 23,321 in 2013 to 22,641 in 2014). According to the Government's explanation, this is partly as a result of cases having become more complex and time-consuming. The Committee also notes that no distinction is made in the statistics provided concerning labour inspections in enterprises not considered to be high-risk and in small enterprises.

In relation to the statistics provided by the Government, the Committee notes that the FNV, CNV and VCP emphasize the decrease of labour inspections, interventions, preventive measures, sanctions, and financial penalties, whereas the VNO-NCW and the MKB Netherlands emphasize the increase in the number of labour inspectors (from 439 in 2013 to 464 in 2014) which is more than prior to the OSH system reform in 2007, and the decrease in the number of industrial accidents. ***The Committee requests the Government to continue to provide statistics on the activities of the labour inspection services (including the number of workplaces liable to inspection and the workers employed therein, the number of labour inspections, the number of violations detected and the penalties imposed, as well as the number of industrial accidents and cases of occupational diseases). In this respect, the Committee requests the Government to aggregate the number of labour inspections by indicating the number of labour inspections in high-risk sectors and in small and medium-sized enterprises. Please also provide information on the number of labour inspections carried out following complaints made by workers in small enterprises, and the number of labour inspections concerning the compliance of employers with regard to risk-assessments and their obligations under the Working Conditions Act to seek expert OSH assistance.***

Article 14. Notification of occupational diseases. The Committee recalls that the report of the tripartite committee considered that the system for the reporting of cases of occupational disease does not appear to enable the labour inspectorate to carry out its preventive activities in a satisfactory manner. The tripartite committee considered that the anonymized reports of the Netherlands Centre for Occupational Diseases (NCvB), published every two years, enable the inspectorate to take preventive action with regard to specific sectors, but do not seem to enable it to react rapidly and carry out preventive activities or inspections in the specific workplaces concerned. Moreover, it considered that the information in the report of the NCvB does not appear to be complete due to the reporting of occupational diseases.

The Committee refers to its 2015 comments under the Occupational Safety and Health Convention, 1981 (No. 155) where it noted the Government's indication on the measures that are being considered to improve the reporting of occupational diseases to the NCvB. The Committee also notes the views expressed by the FNV, CNV and VCP that employers should have the obligation to notify occupational diseases to the inspectorate, rather than holding occupational physicians responsible for notification to the NCvB. ***The Committee requests the Government to provide its comments in relation to the abovementioned observations of the FNV, CNV and VCP.***

Article 15(c). Principle of the confidentiality of complaints. The Committee notes that the tripartite committee emphasized that unannounced labour inspections should be made to ensure that when inspections are conducted as a result of a complaint, the fact of the complaint is kept confidential.

In this regard, the Committee notes the Government's indication, in response to the Committee's request to indicate the number of unannounced labour inspection visits, in relation to the overall number of inspection visits, that in principle, the inspectorate only carries out unannounced inspection visits. The only exceptions are inspections of enterprises which fall under the legislation relating to the control of major-accidents hazards involving dangerous substances, because they are much more complex (447 inspections of the 22,641 inspections in 2013). In the case of a complaint, the inspectorate is required under section 26 of the Working Conditions Act not to disclose any personal details of the worker to the employer. In cases where the possibility exists that a complaint could be traced back to a worker, the inspector can propose to the worker that the complaint be filed by the works council or employee representation.

In this regard, the Committee also notes the observations made by the FNV, CNV and VCP, that the Government's indications on the relation between announced and unannounced inspection visits is not substantiated and sharply contradicts the experience and observations of other stakeholders. The Committee also notes the observations made by the

VNO-NCW and MKB Netherlands that the Dutch system of announced and unannounced inspection visits ensures a good balance. *The Committee requests the Government to provide detailed statistics on the number of announced and unannounced inspection visits. Please also indicate how many inspections visits were made as a result of a complaint, compared with regular inspection visits.*

Niger

Labour Inspection Convention, 1947 (No. 81) (ratification: 1979)

Articles 10 and 11 of the Convention. Human resources and material means of the labour inspection services. The Committee notes with *interest* the Government's indications that the budget allocated to all regional inspection services has been considerably increased, supplying them with office equipment and IT equipment, transport facilities and fuel, and that in 2012, 11 assistant labour inspectors and eight assistant labour controllers were recruited, which were divided among all inspection services based on their needs. However, the Government also indicates that the difficulties relating to the application of the Convention are still 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 human capacity and logistical resources to discharge their functions effectively, and to provide information on any further developments in this respect. In this context, the Committee also asks the Government to describe in detail the current situation of the labour inspection services in terms of the human resources and material means available.*

Articles 20 and 21. Annual report on the work of the inspection services. The Committee notes that the last annual labour inspection report was sent to the Office in 1988. While it notes the Government's indications that measures have been taken to facilitate the elaboration of an annual labour inspection report which is currently being prepared, it also indicates that difficulties of a human, material and logistical nature remain. According to the Government, the information collected is often incomplete, unreliable, and not supplied in real time by all inspection services due to the lack of technical expertise in collecting and processing the data. The Committee once again reminds the Government of the importance of preparing annual reports on the work of the inspection system, as required under *Article 20*, containing information on the subjects specified in *Article 21(a)–(g)*, in order to enable it to evaluate and provide further support in increasing the effectiveness of the labour inspection services. *With reference to its general observations of 2009 and 2010, the Committee encourages the Government to continue to take measures that will facilitate the establishment, publication and communication to the ILO of an annual report containing the information required by Article 21(a)–(g), and to provide information on the concrete steps taken in this regard. It reminds the Government that it may avail itself of ILO technical assistance for this purpose if necessary.*

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

Nigeria

Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

Articles 4, 10, 11 and 16 of the Convention. Organization and effective functioning of the labour inspection services, including the allocation of adequate human resources and material means. The Committee notes the discussion on the application of the Convention that took place at the Committee on the Application of Standards (CAS) of the International Labour Conference (98th Session, June 2009). The conclusions of the CAS indicated that despite the efforts undertaken by the Government, labour inspection still faced a lack of human and material resources in view of the number of establishments to inspect and the number of workers concerned. In this respect, the CAS recalled the obligation to ensure a sufficient number of inspectors so as to extend the protection of labour inspection to the largest number of workers, and requested information on the measures taken in this regard.

The Committee notes the information provided by the Government in its report, in response to the CAS conclusions, on the distribution of labour inspectors across states, indicating that there were 287 labour inspectors and 61 factory inspectors. The Government indicates in its report that it operates a central labour system which makes it mandatory to establish labour offices in all 36 states and the Federal Capital Territory. The state labour offices, which provide advisory services to state governments and conduct inspections in workplaces, are moderately furnished and equipped for the purpose of labour inspection. Moreover, the Government states that transport facilities are available to enable labour inspectors to perform their duties. Where public transport facilities do not exist, labour inspectors are reimbursed for any travel expenses incurred. The Government indicates that in order to ensure that labour inspections are undertaken at an adequate frequency, it carries out routine inspections, comprehensive inspections, follow-up visits, integrated inspections and emergency visits. The Committee also notes the Government's indication that the difficulties encountered in the application of the Convention are insufficient manpower, language barriers, inadequate training for labour inspectors, lack of funds and lack of vehicles. *The Committee requests the Government to provide information on the specific measures it is taking to address the difficulties it has identified with respect to the application of the Convention. In this regard, the Committee requests the Government to take measures to secure the effective functioning of an inspection system that has a sufficient number of labour inspectors to ensure that workplaces are inspected as often as is necessary for*

the effective application of the relevant legal provisions (Articles 10 and 16). It also requests the Government to provide information on the measures taken to ensure that labour inspectors are provided with the material resources (including transport facilities) necessary to enable them to effectively carry out their duties (Article 11).

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

Pakistan

Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)

The Committee notes the observations of Pakistan Workers' Federation (PWF), received 4 September 2015. *The Committee requests the Government to reply to these comments.*

Articles 4 and 5(b) of the Convention. Supervision by a central labour inspection authority and determination of inspection priorities in collaboration with the social partners. The Committee previously noted the Government's indication that the Ministry of Overseas Pakistanis and Human Resources Development was responsible for the coordination and supervision of labour legislation in the provinces. It noted that, during the discussion on the application of the Convention in 2014, several speakers at the Conference Committee on the Application of Standards (CAS) raised significant concerns regarding the lack of coordination between the provinces. The Committee subsequently noted the Government's reply that a lack of coordination between labour departments and other stakeholders remained a challenge in the implementation of the Convention.

The Committee notes the Government's statement in its report that the provincial governments are working towards a reformed labour inspection system through a tripartite mechanism where district tripartite committees will act as institutions overseeing labour inspection. The Government also reiterates that a national occupational safety and health (OSH) profile will be published in 2016, and that a labour inspection profile is under preparation with technical assistance from the ILO. *The Committee urges the Government to take concrete steps to ensure coordination and cooperation in the undertaking of labour inspection, under the supervision and control of a central authority. The Committee once again requests the Government to provide information on the coordination mechanisms established in this regard. The Committee further requests that the Government provide information on the outcome of the national labour inspection profile, as well as other steps taken for the determination of the priorities of labour inspection, and to specify the role of the social partners in this process.*

Articles 3(1)(a)–(b), 5(b) and 9. Labour inspection activities in the area of OSH, including in industrial undertakings, in the province of Sindh. The Committee previously noted that a joint action plan had been developed in the province of Sindh to address issues of labour inspection and OSH in view of serious accidents, particularly the factory fire in September 2012 that had resulted in the death of 300 workers. In that regard, it noted the concern expressed by some speakers during the discussion of the CAS in 2014 concerning the carrying out of third-party inspections by private auditing firms.

The Committee notes the Government's information that a Sindh OSH policy was prepared in January 2015 and submitted to the provincial government. The Government states that currently, no regulatory regime exists for the monitoring of private auditing firms. It indicates that the outsourcing of responsibilities towards auditing firms has to change, and that there is a disturbing abdication of responsibilities on the part of the Government and of companies. In this regard, the Government states that it plans to regulate the working of these organizations so that such auditing increases workers' welfare. *The Committee requests the Government to continue to take measures to implement the Joint Action Plan in Sindh, with a view to strengthening labour inspection of OSH, including through the adoption of an OSH policy. The Committee also requests the Government to provide information on the steps it is taking with respect to the supervision of private auditing firms in the country, and information on the operation and activities of these firms including the scope of their activities, the number of such firms and the number of enterprises covered by their certification.*

Article 18. Penalties for obstructing labour inspectors in the performance of their duties. The Committee previously noted that during the CAS discussion in 2014, several speakers indicated that penalties for the obstruction of labour inspectors in their duties were insufficient. It noted that with respect to factories, the provinces of Punjab and Khyber Pakhtunkhwa had established a fine of 20,000 Pakistani rupees (PKR) (approximately US\$195) for obstructing the work of an inspector. With respect to mining, under the Mines Act, 1923, a person who obstructs an inspection in a mine may be liable for imprisonment for up to three months and a fine of up to PKR1,000 (approximately US\$10).

The Committee once again notes the Government's statement that the provinces of Sindh and Balochistan have prepared drafts to increase the penalties for this offence in factories. It notes the Government's indication that in Khyber Pakhtunkhwa, 148 cases of obstruction of a labour inspector have been prosecuted, with 23 resulting in the application of penalties. In the province of Punjab, only one case resulted in prosecution, and no such cases were prosecuted in Sindh. *The Committee requests the Government to take the necessary measures to ensure that legislation is adopted in each province providing for sufficiently dissuasive sanctions for the obstruction of labour inspectors in their duties in all sectors including mining, in conformity with Article 18 of the Convention. The Committee requests the Government to provide further information on cases relating to the obstruction of labour inspectors, disaggregated by province,*

including not only the number of prosecutions undertaken, but also their outcome and the specific penalties applied (including the amount of fines imposed).

Article 12(1). Free access of labour inspectors to workplaces. The Committee notes the Government's statement that in the province of Punjab, labour inspectors do not generally face hindrances while carrying out inspections, and that in Khyber Pakhtunkhwa, labour inspectors are empowered to enter freely and without previous notice any workplace liable to inspection. The Committee notes with **concern** the information in the Government's report indicating that since 2001, under administrative order, a letter is issued by the Chief Inspector of Factories (Director Labour Sindh) to a factory prior to an inspection in Sindh, which contains the date and time of the visit. ***The Committee accordingly requests the Government to take the necessary measures to remove the restriction in the province of Sindh on the undertaking of labour inspections without prior notice, in accordance with Article 12(1)(a) of the Convention. It also requests the Government to provide further information on the measures that are being taken in the province of Punjab to ensure that labour inspectors are empowered to enter any workplace liable to inspection freely and without previous notice at any hour of the day or night.***

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

Qatar

Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)

Complaint under article 26 of the ILO Constitution concerning non-observance of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81)

The Committee notes that, at the 103rd Session of the International Labour Conference (ILC) in June 2014, a complaint was filed against the Government of Qatar relating to the violation of Convention No. 29 and Convention No. 81 under article 26 of the International Labour Organization (ILO) Constitution. The complaint was declared receivable at the Governing Body's 322nd Session (November 2014). It alleges that the problem of forced labour affects the migrant worker population of roughly 1.5 million, indicating that the Government fails to maintain a legal framework sufficient to protect the rights of migrant workers and to enforce the legal protections that currently do exist. In this regard, the complaint states that the country's labour inspection and justice system had proven highly inadequate in enforcing the few rights that migrant workers do have under Qatari law. The complaint indicates that the inspectorate had few staff, who were unable to speak the languages of most workers, and that inspectors have little power to enforce findings and fines are far from dissuasive or in some cases non-existent. The complaint further stated that the available complaints mechanisms were ineffective.

At its 325th Session (November 2015), the Governing Body examined reports submitted by the Government. It decided to request the Government to receive a high-level tripartite visit before the 326th Session (March 2016), to assess all the measures taken to address the issues raised in the complaint. It also requested the Government to avail itself of ILO technical assistance to support an integrated approach to the annulment of the sponsorship system, the improvement of labour inspection and occupational safety and health systems, and giving a voice to workers. The Governing Body decided to defer further consideration on the setting up of a commission of inquiry until its 326th Session (March 2016).

Articles 10, 12(1)(c)(i) and (ii), and 16 of the Convention. *Sufficient number of labour inspectors and coverage of workplaces.* The Committee previously noted the Government's indication that it had increased the number of labour inspectors from 200 to 227 inspectors from June to September 2014, and that the number of migrant workers in the country had risen to 1.7 million, which constituted a challenge for labour inspection. The Committee further noted that in 2014 the Special Rapporteur on the human rights of migrants, expressed regret concerning the insufficient number of labour inspectors who are not in a position to investigate thoroughly the working conditions or living conditions in labour camps, due to their small numbers and the lack of interpreters (A/HRC/26/35/Add.1).

The Committee notes the statement in the report of the high-level mission to Qatar in February 2015, submitted to the Governing Body in March 2015, that challenges remained with respect to the capacity of the labour inspectorate to detect various irregularities, borne out by the relatively small number of violations detected in comparison to the large number of migrant workers in the country, and that the capacity of the labour inspectorate needed to be expanded in order to detect irregularities in smaller companies (GB.323/INS/8(Rev.1), Appendix III). The Committee also notes that the Committee on the Application of Standards (CAS) of the ILC, in its conclusions adopted concerning the application of Convention No. 29 in 2015, urged the Government to continue to hire additional labour inspectors and to increase the material resources available to them in order to carry out labour inspections, in particular in workplaces where migrant workers are employed.

The Committee notes the Government's indication in its report that the number of labour inspectors has increased to 295. The Government indicates that every inspector is required to visit 40 undertakings or workplaces liable to inspection every month. The carrying out of this number of inspections is facilitated by the close distance between workplaces and by the use of handheld tablets which facilitate the preparation of reports on each inspection visit. The Committee further notes from the information provided by the Government to the Governing Body in November 2015 that the inspectorate undertook 22,601 inspection visits between January and August 2015, and an additional 12,596 inspections were

undertaken on occupational safety and health (OSH). Of the regular labour inspection visits, 83 per cent were found to be “acceptable”, and no subsequent action was taken (GB.325/INS/10(Rev.), Appendix II). The Committee further notes the Government’s statement to the Governing Body that it hopes to increase the number of inspectors to 400.

The Committee notes the observations of the International Trade Union Confederation (ITUC) submitted under Convention No. 29 and received on 1 September 2015, that although the number of labour inspectors increased from 200 to 294, this number remains insufficient as it is clear that there exist a large number of workplaces that have yet to be inspected, or inspected properly. ***The Committee requests the Government to continue its efforts to recruit an adequate number of labour inspectors in relation to the number of workplaces liable to inspection, and to ensure sufficient coverage of all workplaces, including smaller workplaces. Moreover, noting that the outcome of most inspections was no further action, the Committee requests the Government to take steps to ensure that workplaces are inspected as thoroughly as is necessary to secure the effective application of the legal provisions relating to conditions of work and the protection of workers. Lastly, the Committee once again requests the Government to provide information on the average length of time spent by inspectors on each inspection, the average number of workers on-site, as well as the nature of records reviewed.***

Articles 5(a), 17, 18 and 21(e). Effective cooperation between the labour inspectorate and the justice system, legal proceedings and effective enforcement of adequate penalties. The Committee previously noted that the Government had commissioned a report on migrant workers in the country which recommended bolstering the powers of inspectors, who were currently only able to issue recommendations and did not have the power to issue sanctions, and improving coordination with the justice system to prosecute violations.

The Committee notes the Government’s indication in its report that, to support cooperation between the labour inspectorate and judicial authorities, a permanent office was set up to facilitate the process of prosecuting labour cases. The Committee notes the Government’s indication in its report submitted to the Governing Body in November 2015 that inspectors have the power to draw up infringement reports. No penalty is applied following the drawing up of that infringement report. Instead the report is submitted to the courts for further action (GB.325/INS/10(Rev.), Appendix II). In this regard, the Committee notes the information submitted with the Government’s report on the number of cases brought in that regard between January and April 2015. It notes that, during this period, in which more than 4,000 monthly inspections were undertaken, 118 cases were referred to court. Proceedings were not initiated in 76 of those cases, and only 42 cases were brought forward. The Committee therefore observes that the outcome of approximately 17,500 inspections undertaken between January and April 2015 was the possible imposition, pending the decision of the court, of a penalty in 42 cases. In addition, recalling that *Article 18* of the Convention provides that adequate penalties for violations of the legal provisions enforceable by labour inspectors shall be provided for by national laws or regulations and effectively enforced, the Committee notes with ***concern*** that once again, the Government provides no information on the specific penalties applied in the cases for which decisions have been handed down by courts. ***The Committee therefore urges the Government to take steps to ensure that violations of the legal provisions enforceable by labour inspectors are subject to adequate penalties that are effectively enforced. It requests the Government to strengthen the effectiveness of enforcement mechanisms, including steps to provide enhanced enforcement powers to labour inspectors and further measures to promote effective collaboration with judicial authorities. Noting that most infringement reports do not result in legal proceedings, the Committee requests the Government to indicate the reason that those so referred did not result in cases being brought forward. In addition, the Committee once again requests the Government to provide information on the specific penalties applied in the cases for which judgments are handed down. It further requests the Government to ensure that the information provided on violations detected and penalties applied indicate the legal provisions to which they relate, including with respect to passport confiscation, conditions of work, and timely wage payments.***

Articles 7 and 8. Recruitment and training of labour inspectors. The Committee notes that the report of the high-level mission to Qatar in February 2015 identified the ability to communicate with workers as a challenge facing the inspectorate, and stated that intensive and ongoing training of labour inspectors should be pursued.

The Committee notes the annual training plan for labour inspection, submitted with the Government’s report. The objectives of this plan include: the development of knowledge of labour law provisions; the development of skills in the drafting of infringement reports; and ensuring that both new and existing inspectors are qualified and well trained. The training system is composed of three stages, consisting of two-week long courses, in which 15 to 20 inspectors can participate. The courses relate to a number of subjects, including OSH, various specific occupational hazards, the provisions of the Labour Law, fire prevention and statistics. It also notes the Government’s indication that it has appointed 43 female labour inspectors, representing an increase to 14.5 per cent of staff, from 8 per cent noted in 2014. The Government also states in its report that a few interpreters have been appointed in the Labour Inspection Department, and that if there is a need for an increased number the Government will provide them. However, the Committee observes that the Government does not indicate the number of interpreters that have so far been hired.

The Committee notes that the ITUC observations state that it is unclear whether the inspectors have the training and the resources to complete their tasks. ***The Committee requests the Government to take the necessary measures to ensure the recruitment of labour inspectors and interpreters able to speak the language of migrant workers, and to provide information on the number of inspectors and other staff hired in this regard. Noting the number of recently hired***

inspectors, the Committee requests the Government to continue to take steps to ensure that new inspectors are adequately trained for the performance of their duties. In this regard, it requests the Government to provide detailed information not only on the training planned for the future, but on the training that has been provided to labour inspectors, including the number of inspectors and the courses concerned. It further encourages the Government to pursue its efforts to increase the number of female inspectors.

Articles 5(a), 14 and 21(f). Labour inspection in the area of OSH. The Committee previously noted that during the discussion on the application of the Convention at the CAS in 2014, several speakers indicated that strengthening labour inspection would contribute to protecting OSH of migrant workers in the country, particularly in the construction sector where there had been several fatal occupational accidents. The Committee also noted that, although the Government provided information on the notifications received concerning occupational injuries which resulted in disability, no information had been provided on any fatal occupational accidents.

The Committee notes the information provided by the Government to the Governing Body in November 2015 that it has established a new department on OSH at the Ministry of Labour and Social Affairs (GB.325/INS/10(Rev.), Appendix II). This department is charged with, among other tasks, registering occupational accidents, undertaking OSH inspections and referring any undertaking found in violation to the competent bodies to take the necessary measures. It also notes the information on the number of OSH visits undertaken between January 2015 and August 2015, indicating that 41 per cent of OSH inspections resulted in a warning to remedy an infringement, and that undertakings were subject to follow-up inspections (12,596 OSH inspections were undertaken in 3,391 undertakings). The Committee notes an absence of information, in the reports provided by the Government, on the number of industrial accidents in the country, and notes that the Government has not provided the information requested on the number of fatal occupational accidents. *The Committee requests the Government to pursue its efforts to strengthen the capacity of labour inspection with respect to monitoring OSH, particularly in the construction sector. It also requests that the Government take measures to ensure coordination between labour inspectors and inspectors in the occupational safety and health department, and to provide information on the specific steps taken in this regard. The Committee further requests the Government to take the necessary measures to ensure that the labour inspectorate is notified of all industrial accidents, and that relevant statistics, including on fatal occupational accidents, are included in the annual report on labour inspection and which shall be communicated to the Office.*

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

Rwanda

Labour Inspection Convention, 1947 (No. 81) (ratification: 1980)

Articles 4, 6, 7, 10, 11 and 16 of the Convention. Application of the Convention in the context of the decentralization of labour inspection. Organization and functioning of the labour inspection system. The Committee refers to its previous observations in which it expressed concern at the impact of the decentralization of the public administration on the organization and functioning of the labour inspection system. In this regard, the Committee observed that the arrangements of the decentralization, characterized by a general and chronic inadequacy of resources, ran the risk of resulting in the absence of a single labour inspection policy throughout the national territory in relation to: (i) the planning of inspections and communication between labour inspectorates in different areas; (ii) the recruitment and training of labour inspectors; and (iii) the allocation of human and financial resources. With regard to this latter point, the Committee previously noted that the budget allocated for labour inspectors was coordinated by the central authority in cooperation with the districts.

In its report, the Government indicates that the budget allocated for each district is based on the number of establishments identified in each of the districts by the establishment census carried out by the National Institute of Statistics of Rwanda (NISR) in 2011. However, the Government adds that the Ministry of Public Service and Labour allocates the districts a budget of 2 million Rwandan francs (RWF) (around US\$2,877) for the needs of labour inspectors to carry out their functions, including conciliation. The Government also indicates that consultations are held each year with stakeholders within the framework of the adoption of the national budget.

The Committee also notes that, within the framework of the administrative reform, labour inspectors are now recruited at the district level in accordance with local recruitment procedures. According to the Government's report, each of the 30 districts currently has one labour inspector and coordination is ensured at the national level by two chief labour inspectors. Finally, under the terms of article 2 of Ministerial Order No. 7 of 13 July 2010, labour inspectors receive policy guidance and technical support from the Ministry of Public Service and Labour, but their daily activities are supervised by the prefect or district mayor.

In light of these elements, the Committee wishes to emphasize once again the importance of the inspection system coming under a central authority, as required by *Article 4* of the Convention, in order to facilitate the adoption and implementation of a uniform policy throughout the national territory and to allow a rational distribution of the available resources between inspection services based on identical criteria throughout the territory, thereby ensuring the same level of protection for all the workers covered. The Committee notes that the census carried out by the NISR in 2011 with a view to determining the number of establishments in each district constitutes a positive development towards the

preparation of a register of enterprises which can provide inspectors with information on inspection needs and the workplaces to be targeted, and accordingly facilitate better planning of inspections. Nevertheless, the Committee notes the continuing uncertainties regarding the adequacy of the budgetary resources available and labour inspection needs, particularly with regard to the number and distribution of labour inspectors throughout the territory and the material resources made available to them for the effective discharge of their functions, as required by *Articles 10, 11 and 16* of the Convention. The Committee also notes that the Government's report does not provide any information on the measures taken to ensure the harmonization throughout the national territory of the conditions for the recruitment and training of labour inspectors and to guarantee them uniform status and conditions of service, in accordance with the principles of *Articles 6 and 7* of the Convention.

The Committee requests the Government to provide detailed information on the measures that have been taken or are envisaged to ensure coherence in the functioning of the labour inspection system at the national level, with particular reference to:

- (a) *harmonization of conditions for the recruitment and training of labour inspectors and uniformity at the national level in their status and conditions of service;*
- (b) *the coordination and supervision of the activities of district labour inspectors by chief labour inspectors;*
- (c) *the planning at the central level of inspections, including any initiative taken for the establishment of a national register of enterprises.*

The Committee also requests the Government to clarify the manner in which the budget allocated for labour inspectors in each district is determined, with an indication of whether it is a fixed amount (RWF 2 million), as suggested by the Government's report, or whether the specific needs of each district in terms of inspection are taken into account (the number, nature, size and geographical distribution of workplaces liable to inspection, the number and diversity of the categories of workers engaged therein, the number and complexity of the legal provisions to be enforced, etc.) and, if so, to indicate the criteria applied.

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

San Marino

Labour Administration Convention, 1978 (No. 150) (ratification: 1988)

The Committee notes with *regret* that the Government's report has not been received. It expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

Application in practice. With reference to the Government's previous report announcing the establishment of the Observatory of Labour and Professions, the Committee would be grateful if the Government would provide information enabling it to assess the manner in which the Convention is applied in practice, including extracts of any reports or other periodic information submitted by the principal services of the labour administration referred in Paragraph 20 of Recommendation No. 158, including the Observatory since its establishment.

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

Labour Statistics Convention, 1985 (No. 160) (ratification: 1988)

The Committee notes with *regret* that the Government's report has not been received. It expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

Legislation. The Committee requests the Government to 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 near future.

Sierra Leone

Labour Inspection Convention, 1947 (No. 81) (ratification: 1961)

The Committee notes with *regret* that the Government's report has not been received. It expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

Resources of the labour inspectorate. The Committee notes the Government's report and the information it contains in response to its previous comments. It notes that there is no fixed allocation specified for the labour inspectorate in the budget of the Ministry of Labour, Social Security and Industrial Relations. Resources for labour inspection are drawn from money set aside for local travel within the professional division's budget and are minimal. The Committee also notes that, according to the Government, the budgetary allocation set aside for the factory inspectorate within the Ministry's budget should be increased, in order to allow the factory inspectorate to carry out the tasks incumbent upon it. Furthermore, it notes the information that the labour inspectorate is practically inoperative, while the factory inspectorate also suffers from a lack of staff. **The Committee hopes that, in its next report, the Government will be in a position to report on measures, in particular of a budgetary nature, aimed at ensuring that the number of labour inspectors is sufficient (Article 10 of the Convention) and that they are furnished with the material means and transport facilities necessary for the performance of their duties (Article 11). The Committee notes in this regard that the Government wishes to avail itself of the technical cooperation of the ILO in order to ensure the efficient operation of the labour inspection system. It requests the Government to indicate the steps it has taken to this end.**

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

United Kingdom

Anguilla

Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)

The Committee notes with *regret* that the Government's report has not been received. It expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

The Committee notes the indication by the Government that the United Kingdom no longer provides grant-in-aid to the Government of Anguilla in an effort to ensure greater economic and political autonomy to the territory. It also notes that the territory has no responsibility for its economic development, social progress and employment policies. **The Committee requests the Government to provide a copy of the legal provisions relating to the status of the territory as described in the report and its impact on the application of the Convention, and give, in particular, details on the arrangements made between the Government of the United Kingdom and the Government of Anguilla regarding the allocation to the labour inspectorate, the human resources and financial and material means necessary for its functioning.**

The Committee observes that for more than 15 years, no new information had been received at the ILO concerning measures undertaken in order to give effect in law and in practice to the Convention, and that the only information contained in the report is that labour inspectors attend all training programmes in labour inspection and occupational health and safety organized by the ILO subregional office. **The Committee hopes that the Government will communicate in its next report, as detailed information as possible on the application of each of the provisions of the Convention as well as copy of relevant legal texts and available statistics on the labour inspection activities performed during the period covered by the report.**

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 matters are being addressed directly to the following States: **Convention No. 63** (Egypt, Nicaragua, United Kingdom: Guernsey); **Convention No. 81** (Algeria, Bahamas, Bangladesh, Belgium,

Belize, Plurinational State of Bolivia, Brazil, Cameroon, Chad, China: Hong Kong Special Administrative Region, Colombia, Costa Rica, Croatia, Cuba, Democratic Republic of the Congo, Djibouti, Ecuador, El Salvador, France, France: French Polynesia, Germany, Ghana, Greece, Guinea-Bissau, Honduras, Hungary, Iraq, Ireland, Italy, Japan, Kazakhstan, Kyrgyzstan, Lebanon, Lesotho, Liberia, Madagascar, Malawi, Mauritania, Republic of Moldova, Mozambique, Netherlands, Netherlands: Aruba, Niger, Nigeria, Pakistan, Qatar, Rwanda, Syrian Arab Republic); Convention No. 85 (Papua New Guinea, United Kingdom: Montserrat); Convention No. 129 (Belgium, Plurinational State of Bolivia, Colombia, Croatia, El Salvador, France, France: French Polynesia, Germany, Hungary, Italy, Kazakhstan, Madagascar, Republic of Moldova, Netherlands, Syrian Arab Republic); Convention No. 150 (Armenia, Belarus, Belgium, Belize, Congo, Democratic Republic of the Congo, Dominica, Egypt, Greece, Guinea, Guyana, Iraq, Italy, Jamaica, Republic of Korea, Kyrgyzstan, Lebanon, Liberia, Malawi, Mali, Mauritius, Mexico, Morocco, Romania, Seychelles, Spain, Suriname, Trinidad and Tobago, United Kingdom, Uruguay, Bolivarian Republic of Venezuela); Convention No. 160 (Armenia, Austria, Azerbaijan, Belarus, Benin, Plurinational State of Bolivia, Brazil, Canada, China: Hong Kong Special Administrative Region, Colombia, Costa Rica, Cyprus, Czech Republic, Denmark, El Salvador, Finland, Germany, Greece, Guatemala, India, Ireland, Israel, Italy, Kyrgyzstan, Republic of Moldova, United Kingdom: Jersey).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 150 (Tunisia).**

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 is therefore bound to repeat its previous comments.

Article 1 of the Convention. Contribution of the employment service to employment promotion. With reference to the comments it has been making for many years, the Committee notes the indications provided by the Government in May 2014 relating to the Programme for the Revitalization, Expansion and Modernization of Employment Centres. The Government indicates that 16 occupational service pavilions have been established in different localities. These pavilions are executive services indirectly run by the National Employment and Vocational Training Institute (INEFOP), and their aim is to assist with carrying out specialized occupational activities (recruitment of labour and the provision of vocational training) in the communities and to participate in the recognition, validation and certification of skills. The Committee recalls the need to ensure the essential function of the free public employment service to promote employment in the country. ***In this respect, the Committee once again requests the Government to provide a report containing the available statistical 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). The Committee also reiterates its request for information on the following matters:***

- *the consultations held with the representatives of employers and workers on the organization and operation of the employment service (Articles 4 and 5);*
- *the manner in which the employment service is organized and the activities which it performs to carry out effectively 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 disabilities (Article 7);*
- *the measures adopted to encourage young persons in relation to employment services and vocational guidance (Article 8);*
- *the measures proposed 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 hopes that the Government will make every effort to take the necessary action in the near future.

Argentina

Employment Service Convention, 1948 (No. 88) (ratification: 1956)

The Committee notes the observations made by the General Confederation of Labour of the Argentine Republic (CGT RA), received on 2 September 2015.

Article 3 of the Convention. Contribution of the employment service to employment promotion. The Government indicates in its report that the National Employment Services Network has more than 630 integrated offices that cover over 80 per cent of the population. The Network assisted more than 2.9 million workers who were unemployed or seeking better jobs, 1.5 million of whom took part in employment programmes run by the Ministry of Labour. The Government highlights that, on average, more than 35 per cent of the young persons who take part in the Young Persons with More and Better Jobs programme find a registered job within 12 months of their participation. The CGT RA recognizes that, while there is a public policy at the national level, this does not necessarily ensure efficient or effective placement of jobseekers. ***The Committee requests the Government to continue providing information on the functioning of the National Employment Services Network.***

Articles 4 and 5. Cooperation with the social partners. The Government indicates that the municipal employment offices have engaged in robust institutional collaboration involving training and education centres, representative organizations of workers and employers and civil society organizations. The CGT RA reports that almost all collective labour agreements that are in force contain "job placement" clauses, which boosts and facilitates immediate placement in jobs. The Committee notes with *interest* these indications. ***The Committee requests the Government to continue providing information so that it can examine the manner in which the social partners are involved in the activities of the public employment service.***

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1996)

The Committee notes the observations made by the General Confederation of Labour of the Argentine Republic (CGT RA), received on 2 September 2015.

Part III of the Convention. Regulation of fee-charging employment agencies. Articles 13 and 14 of the Convention. Supervision of fee-charging employment agencies. In response to the concerns expressed by the CGT RA and the Confederation of Workers of Argentina (CTA) in 2014, the Government maintains that only three cases have been filed against enterprises in relation to employment agencies and that, in all those cases, it was proven that the agencies acted as intermediaries between workers and employers without being authorized to do so. Moreover, the fee that the intermediaries received from the applicants was not paid when they received their first remuneration, but rather, such payment was used to finance advertisements offering their labour. The CGT RA indicates that the monitoring and inspections carried out by the Ministry of Labour are inadequate, as many employment agencies operate without prior authorization, while others, which do have authorization, charge workers fees that exceed those prescribed by law. Furthermore, the CGT RA indicates that the national legislation does not establish the sanctions required by *Article 13* of the Convention. ***The Committee once again requests the Government to provide information on the measures taken to monitor the operations of fee-charging employment agencies. Please also include information on the circumstances in which appropriate penal sanctions have been imposed and licences or authorizations have been revoked for violations of the provisions of the Convention.***

[The Government is asked to reply in detail to the present comments in 2016.]

Armenia

Employment Policy Convention, 1964 (No. 122) (ratification: 1994)

The Committee notes the observations made by the Republican Union of Employers of Armenia (RUEA) and the Confederation of Trade Unions of Armenia (CTUA), transmitted with the Government's report.

Article 1 of the Convention. Implementation of an active employment policy. The Government indicates in its report that, given the need for a new policy model, reforms were launched and in that context the Employment Strategy 2013–18 was adopted in 2012. The Government describes the annual programme of state regulation of employment which has an exclusively active essence, necessary flexibility for development and implementation which arise from the objective situation of the labour market. State budget funds have been redistributed from unemployment allowance to active employment programmes. With respect to the labour market situation, the Committee notes that the number of jobseekers registered in regional centres of the State Employment Agency was about 65,200 as at 31 December 2013 (young people accounted for 15,800 jobseekers), decreasing from 72,600 in the previous year. It further notes that, out of the total number of jobseekers, 85.8 per cent were unemployed and women accounted for 73.8 per cent of the total number of unemployed. In 2013, 12,659 jobseekers were placed in employment, out of which 3,912 were young people. The RUEA is of the view that no complete and full analyses of the demand of the labour market are made and no exact methodology for the correct calculation of the level of unemployment is implemented. In its observations, the CTUA states that the Law on Employment of 11 December 2013 was adopted without provisions on granting unemployment allowances. ***The Committee requests the Government to provide detailed information on the impact of the employment programmes and measures implemented on the employment situation, including the specific measures targeting women, young people and persons with disabilities. It also requests the Government to include updated statistics concerning the size and distribution of the labour force, the nature and extent of unemployment and underemployment and trends therein, by region.***

Article 2. Building labour market institutions. The Committee previously noted that the activities of private employment agencies had been left out of the state employment regulation policy, with no efficient collaboration with the State Employment Service Agency. It notes from the report that the Law on Employment of 11 December 2013 now regulates the activities of private employment agencies and their collaboration with the public employment service. The RUEA is of the view that cooperation between private employment agencies and the public employment service has been mainly regulated by the Law on Employment, but states that equal conditions of competition are not ensured. ***The Committee requests the Government to continue to provide information on the achievements made in strengthening public employment services and regulating private employment agencies. It also requests the Government to provide information on the measures taken to ensure cooperation between the public employment services and private employment agencies in order for them to fulfil their employment promotion functions.***

Employment and training policy. The Government indicates that the implementation of the system of professional orientation is one of the main challenges pointed out in the Employment Strategy 2013–18. Particularly, in the main directions of the employment policy and in the mechanisms of implementation, it is stated that the implementation of the vocational orientation system is an important prerequisite of ensuring the connection between the labour market and the educational system. The Government indicates that 2012–15 is considered as the pilot period for the implementation of the system and that the evaluation of its results will clarify the long-term strategic actions. ***The Committee requests the Government to provide information on the evaluation of the reforms undertaken in regards to the vocational orientation system. It also requests the Government to provide information on the impact of the measures taken in the area of education and training and on their relation to prospective employment opportunities.***

Undeclared work. The Government indicates that undeclared work is not only an issue of the state labour inspectorate, adding that, in 2013, the tax authorities registered 1,287 cases of violations resulting in 2,300 undeclared

workers found to be employed without an employment contract. The Government also indicates that the Labour Code was amended in 2014 to add a definition of “illegal labour”. Based on this amendment, workers may apply to court in order to have their actual employment relationship recognized. ***The Committee requests the Government to continue to provide information on the impact of the measures undertaken to reduce the number of undeclared workers and to facilitate their integration into the formal economy.***

Article 3. Consultations with the social partners. The Government indicates that, in accordance with the current legislation, national and regional tripartite committees have been created with the aim of making harmonized decisions concerning issues of development and implementation of national and regional employment programmes. In its observations, the RUEA indicates that, unlike the National Tripartite Committee, the work and efficiency of tripartite committees at the regional level cannot be considered as sufficient. ***The Committee requests the Government to provide further information on the activities of the tripartite committees, both at the national and regional levels, with respect to the formulation and implementation of employment policy measures and programmes.***

Austria

Employment Policy Convention, 1964 (No. 122) (ratification: 1972)

The Committee notes the observations made by the Austrian Federal Economic Chamber (WKÖ) and the Austrian Chamber of Labour (AK), transmitted with the Government’s report.

Articles 1 and 2 of the Convention. Active labour market measures, education and training. As regards labour market policy, the Government indicates that considerable importance is attached to the goal of raising the proportion of employed women and men. The Committee notes in this regard that in 2013 the proportion of employed women and men between the ages of 20 and 64 was measured at 75.5 per cent and that the national target is set at 77–78 per cent. It also notes that, according to EUROSTAT, unemployment in Austria was among the lowest in the euro area with 4.9 per cent in December 2014 and 5.0 per cent in December 2013. It further notes that unemployment was measured at 5.6 per cent in October 2015. The Government adds that a key focus of the labour market policy is the continued raising of skills standards among the employed population, especially those belonging to major target groups, namely young people and older workers with few or outdated qualifications. In its observations, the AK indicates that labour market policy should be altered and redirected towards an investment approach, adding that elements of the active labour market policy that help workers with few qualifications to acquire formal qualifications should be considerably expanded. Wage subsidies alone do not lead to any continued improvement in the situation of workers with few qualifications. It adds that the recognition and use of skills acquired informally or through non-formal channels, in connection with qualification measures for the purpose of vocational training that is also formally recognized, must be systematically extended. The WKÖ indicates that placement services and the new pilot projects in the framework of “AQUA” (on-the-job-qualifications) combine theoretical with practical training in a company, and train unemployed people for specific jobs whose vacancies cannot otherwise be filled. The labour market success rates are far above average at 80 per cent, and in some cases up to 100 per cent. The WKÖ adds that these projects are especially designed for people with few or no qualifications and that on-the-job-training, in the form of placements of the new “AQUA” projects, offers better labour market prospects than mere training schemes. In recent years, this form of training has fallen back, although it is a cheap and effective way of enabling unemployed people to gain higher qualifications, through the co-financing of the enterprises and the high recruitment rates for the labour exchange services (AMS). The WKÖ therefore recommends further development of on-the-job-training. ***The Committee requests the Government to provide information on the impact of the programmes and measures taken in the area of education and training and on their relation to prospective employment opportunities. It also requests the Government to continue to provide information on employment measures targeting vulnerable workers, such as low-skilled workers, persons with disabilities and immigrant workers, and on the involvement of the social partners in their formulation.***

Youth employment. The Government indicates that since 2012 the highest priority has been given to labour market and employment policy for young people. The Committee notes that half of the funding for active labour market policy is invested on those under the age of 25, thus permitting young people to be the main beneficiaries of labour market support measures. The Committee notes the observations of the AK indicating that the number of recorded unemployed young people rose from 2011 to 2013 (46,932 to 51,626 young people) and that further measures must be introduced to provide young people in search of training opportunities with training courses up to the qualifying stage, in order to ensure a vocational training system acting as the basis for the future working life of young people and enabling good labour market prospects for them. ***The Committee requests the Government to provide information on the impact of the measures taken to ensure lasting employment for young persons.***

Older workers. According to EUROSTAT, between 2004 and 2012 the proportion of 55–64 year olds in employment increased from 28.8 per cent to 43.1 per cent. In 2013, it reached 44.9 per cent, in comparison with the EU average of 50.1 per cent for the same year. The Committee notes that increasing employment rates among older workers is a special policy objective of the Government. In the employment programme for 2013–18, a pathway has been defined to increase the employment rates of older workers and the actual age of retirement, namely to increase the employment rate of men aged from 55 to 59 to 74.6 per cent in 2018 (68.1 per cent in 2012) and 62.9 per cent for women

in the same age group (47.9 per cent in 2012). Achievement of targets will be monitored every six months and binding measures will be taken without delay if there is any significant deviation from the pathway. ***The Committee requests the Government to provide information on the impact of its active labour market measures implemented targeting older workers. Please also include available information on the relationship between measures aimed at increased employment for youth and those aimed at retaining older workers in the labour market.***

Cameroon

Employment Policy Convention, 1964 (No. 122) (ratification: 1970)

The Committee notes the observations of the General Union of Workers of Cameroon (UGTC) received on 25 September and 3 December 2015, as well as the Government's reply thereon, received on 3 December 2015.

Article 1 of the Convention. Implementation of an active employment policy. The Committee notes the Government's reference in its report to the main components of the Growth and Employment Strategy Paper (GESP) and to the legal provisions determining incentives for private investment and defining required quotas for national workers in investment projects. ***The Committee requests the Government to provide information on the formulation and implementation of an active employment policy. The Committee also requests the Government to indicate the specific measures taken to create productive employment and reduce precarity in employment.***

Article 1(3). Coordination of education and training policy with employment policy. The Government indicates that it is the Prime Minister's Office that coordinates all inter-ministerial committees in relation to the adoption of education and training policy, in collaboration with the Employers' Association of Cameroon (GICAM). The UGTC inquires as to the reason for limiting the Prime Minister's Office collaboration to an employers' organization. The Government explains in its reply that the GICAM is the most representative employers' organization; however, nothing excludes other employers' organizations from being involved. In its December 2015 observations, the UGTC emphasizes the need to include the representative workers' organizations in the adoption of the education and training policy and in the establishment of a tripartite committee to that effect. ***The Committee requests the Government to provide further information on the measures taken to coordinate education and training policies with employment policy, specifying their impact in terms of lasting integration into employment for the most vulnerable categories of workers. Please provide information on the manner in which the participation of employers' and workers' organizations is ensured in practice.***

Informal economy. The Government has given its backing to the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), and accordingly the Ministry for Small and Medium-Sized Enterprises, the Social Economy and the Craft Industry supports and trains young persons. Moreover, the Government reports on the results achieved between 2005 and 2013 by the "Integrated support project for the informal economy" (PIASSI) in terms of job creation (44,284 jobs created in the 2005–13 period). ***The Committee requests the Government to indicate which measures have proved effective in terms of the creation of productive employment for workers in the informal economy.***

Article 2. Collection and use of employment data. The Government states that the National Employment and Vocational Training Observatory (ONEFOP) and the National Tourist Office (ONT) are currently conducting studies on employment and labour, for which the results are not yet available. ***The Committee hopes that the Government will soon be in a position to provide up-to-date statistics on the employment situation and on trends in employment, unemployment and underemployment, particularly with respect to women and young people. The Committee requests the Government to specify the employment policy measures adopted through the establishment of various structures entrusted with collecting information on employment.***

Article 3. Participation of the social partners in the formulation and implementation of policies. The Government indicates that the Union of Free Trade Unions of Cameroon (ULSC) represents rural workers in the Social Dialogue Consultation and Follow-Up Committee. ***The Committee requests the Government to provide information on the manner in which the social partners participate in the formulation and implementation of the national employment and vocational training policy. The Committee also requests the Government to provide detailed information on the manner in which representatives of rural workers and workers in the informal economy participate in the formulation of employment policies and programmes.***

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

Canada

Employment Service Convention, 1948 (No. 88) (ratification: 1950)

The Committee notes the observations of the Canadian Labour Congress (CLC) received on 2 September 2015 and the Government's reply thereto included in its report.

Article 1 of the Convention. Contribution of the employment service to employment promotion. In reply to the previous comments, the Government provides in its report detailed information on the activities carried out by the

employment service at the federal and provincial levels and recalls that Service Canada has been responsible for accessing programmes, services and benefits since its creation in 2005. The Committee notes in this regard that the Government collaborates with the provinces and territories to provide an integrated suite of programmes across the country, in support of skills development and employment. It further notes the information provided on two key initiatives, the Red Seal Program and the Labour Market Information initiative. In its observations, the CLC refers to *Article 6* of the Convention and indicates that public spending on employment services and active labour market measures is dismal. The CLC adds that government spending on active labour measures dropped to 0.24 per cent of gross domestic product in 2012 from 0.35 per cent in 2004, thus ranking Canada near the bottom of industrialized countries. In its reply to the CLC's observations, the Government indicates that all Canadian federal and provincial governments are pursuing, as a major goal, active policies designed to promote full, productive and freely chosen employment and that policies support the aims identified in *Article 1* of the Convention. ***The Committee requests the Government to continue to provide information on the impact and effectiveness of the activities carried out by the employment service and the manner in which it ensures "the best possible organisation 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(2)). Please also continue to provide information on the number of public employment offices established, the number of employment applications received, the number of vacancies notified and the number of persons placed in employment by the offices.***

Articles 4 and 5. Cooperation with employers' and workers' representatives. In its observations, the CLC indicates that it has urged the Government to establish a national labour market partners forum to facilitate ongoing dialogue, cooperation and coordination between key stakeholders (governments, employers' and workers' organizations, educators and trainers) and provide public policy advice on labour market issues. In its reply, the Government refers to the information provided in its current and previous reports, adding that persons affected by the measures taken, including representatives of employers and workers, are consulted. The Committee notes the information provided by the Government concerning consultations at the federal and provincial levels. Moreover, it notes from the Government's report that there are no advisory committees established in Saskatchewan. ***The Committee requests the Government to continue to provide information on the manner in which the employers' and workers' organizations are consulted at the federal and provincial levels in the organization and operation of the employment service and in the development of employment service policy.***

Chile

Employment Policy Convention, 1964 (No. 122) (ratification: 1968)

Articles 1 and 2 of the Convention. Implementation of an active employment policy. The Government refers in its report to the employment measures announced for the presidential period 2014–18, with an emphasis on the Vocational Training and Skills Programme to increase the labour market participation of women and the Training for Labour Insertion and Education Plan for young persons, especially those with disabilities. The Government also refers to the *Mas Capaz* ("More Skilled") programme, which is intended to support the entry and retention of women in the labour market, with the objective of training 300,000 women and 150,000 vulnerable young people between 2014 and 2018. Young people between the ages of 15 and 19 who neither study nor work will be one of the primary targets for training. A programme is also being developed based on dual training for young apprentices. The Committee notes the information provided by the Government on the labour market situation (the national unemployment rate was 6.5 per cent during the first quarter of 2014) and the worrying numbers of inactive persons (39.9 per cent of persons of working age, which represents a total of 5,596,744 persons). ***The Committee requests the Government to indicate the manner in which the programmes adopted helped beneficiaries (particularly women and young people) to obtain productive and lasting jobs. Please also continue providing an assessment of the nature, extent and trends of unemployment and underemployment and of the measures adopted to achieve the objectives of the Convention.***

Coordination of vocational education and training measures with employment policy. The Government indicates that 33 per cent of the economically active population has not completed middle school, for which reason it is necessary to adopt catch-up education and further training policies. The Committee notes with *interest* that in 2014 the National Training and Employment Service (SENCE) and the Commission of the National System for the Certification of Vocational Skills (*ChileValora*), with the support of the Inter-American Development Bank (IDB) and the Inter-American Centre for Knowledge Development in Vocational Training (ILO/CINTERFOR), launched the Vocational Training and Skills Certification Framework with the objective of ensuring equivalencies of training through vocational skills certification. The Certification Framework recognizes the skills and capacities of workers and organizes the levels of further training. ***The Committee requests the Government to continue providing information on the coordination of vocational education and training policies with employment policy.***

Article 3. Participation of the social partners. The Government indicates that both *ChileValora* and the respective Sectoral Vocational Skills Bodies (OSCL) are tripartite. The Committee notes that there are 40 OSCLs covering 23 sectors and 70 subsectors. In its 2010 General Survey concerning employment instruments, in paragraph 75, the Committee indicated that the scope of such consultations should not be limited to employment policy in the narrow

sense, but should extend to all aspects of economic policy that affect employment, and that the social partners should therefore be consulted both on labour market and skills training programmes and on the framing of more general economic policies that have a bearing on employment promotion. *The Committee requests the Government to provide more detailed information on the consultations held with the social partners on the implementation of an active employment policy, with an indication of the manner in which representatives of workers in the rural sector and the informal economy are included in such consultations.*

Colombia

Unemployment Convention, 1919 (No. 2) (ratification: 1933)

The Committee notes the observations of the Single Confederation of Workers of Columbia (CUT), the General Confederation of Labour (CGT) and the Confederation of Workers of Columbia (CTC), received on 29 August and 2 September 2015.

Article 1 of the Convention. Measures to combat unemployment. The Government indicates in its report that in 2014 the national unemployment rate was 9.1 per cent, the lowest since 2001. Between 2010 and 2014, the female unemployment rate fell by 3.7 per cent to 11.9 per cent and the youth unemployment rate dropped by 4.2 per cent to 15.8 per cent. However, between 2013 and 2014, the unemployment rate rose in the departments of Chocó and César. The Government adds that, in conjunction with the workers' organizations and the employers' sector, five decent work agreements were drawn up, to be implemented in the period 2014–18. Furthermore, in the context of the formalization agreement, the Government is seeking a consensus between the various players involved, taking into account the demographic and territorial features of the various regions. The Committee notes with *interest* that, pursuant to Decree No. 567 of 19 March 2014, a National Labour Formalization Network was set up and that it has the support of the Public Employment Service and the private sector. Between July 2014 and June 2015, 3,293 workers were formalized in the agriculture, livestock, game, forestry and mining sectors. In 2014, a total of 76,888 “formalized” small enterprises made social security contributions for 578,953 workers. The Government indicates that more than 13,000 vocational training scholarships have been granted to persons from vulnerable groups under the Talent for Employment programme. The CUT observes that a large proportion of the economically active population works in the informal economy or in precarious working conditions, mostly in the commerce, hotels and restaurants, construction and transport sectors. The problem of informality is also raised by the CTC and the CGT. The towns with the largest numbers of informal workers are Cúcuta, Sincelejo and Santa Marta. *The Committee requests the Government to continue to provide up-to-date information on the results of the measures to combat unemployment, particularly the ones that target the most vulnerable groups and economically underprivileged areas. The Government may find it useful to take account of the guidance provided in the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).*

Article 2. Labour market intermediation. The Committee recalls having noted in its previous observation that associated work cooperatives and temporary employment agencies undertook labour market mediation activities. The Committee notes that the CUT reiterates in its observations of September 2015 its concern regarding the increase in illegal subcontracting phenomenon and point out that, while associated work cooperatives cannot carry out mediation while it is forbidden; on the other hand, temporary employment agencies do not comply with existing regulations. The Committee notes in this regard that, in order to prevent associated work cooperatives and pre-cooperatives from acting as labour market mediation agencies, the Government issued Decree No. 2025 of 8 June 2011 which provides for penalties for violating the prohibition against participation in labour market mediation activities of associated work cooperatives and pre-cooperatives. Moreover, in reply to the CGT observations concerning labour mediation undertaken by associated work cooperatives, the Government indicates that employers are under an obligation not to engage workers to carry out permanent work through associated work cooperatives or pre-cooperatives. The Government adds that they do not necessarily engage in employment management or job placement; rather, they act as direct employers for workers who offer their services to third parties through temporary work agencies. *The Committee requests the Government to continue to provide information on the operation of labour mediation agencies. Please include information on the impact of the measures taken to prevent cooperatives and pre-cooperatives from acting as labour market mediation agencies. The Committee also requests the Government to indicate whether other measures have been adopted in order to ensure that cooperatives comply with the guidance provided for in the Promotion of Cooperatives Recommendation, 2002 (No. 193).*

Article 3. Unemployment insurance. The Committee notes with *interest* that Act No. 1636 of 18 June 2013 set up a mechanism to protect the unemployed which covers all workers in the public and the private sectors, whether employees or self-employed, who contribute to family benefit funds, regardless of the form of their employment relationship. *The Committee requests the Government to continue to provide information on the application of the mechanism for the protection of the unemployed.*

Employment Service Convention, 1948 (No. 88) (ratification: 1967)

The Committee notes the observations of the Single Confederation of Workers (CUT), the Confederation of Workers of Colombia (CTC) and the General Confederation of Workers (CGT), received on 29 August and 2 September 2015.

Articles 1 and 5 of the Convention. Contribution of the employment service to employment promotion. Cooperation with the social partners. The Committee notes with **interest** that under Act No. 1636 of 18 June 2013 a Public Employment Service (SPE) was established and that pursuant to Decree No. 567 of 19 March 2014 a National Labour Formalization Network was created. The SPE has a computerized management and placement system which has employment and vocational guidance search pages, a module in which employers enter their information and needs and a labour intermediation site to match supply with demand. The SPE also maintains an information system for the registration of authorized employment service providers and creates a link with occupational training programmes. The CGT deems the changes in the organization of the employment service to be positive because a centralized and transparent system of this kind will facilitate job seeking. The Government indicates that countrywide there are 414 service points for users of the employment service. In 2014, a total of 1,636,054 persons registered with the SPE, of whom 270,014 were placed in jobs. Between July 2014 and April 2015, the placement agencies of the family benefit funds registered 33,232 enterprises and managed placement for 38,225 persons. The Government adds that to encourage recourse to the SPE, an Employment Services Providers Network has been set up which includes the public employment agency of the National Training Service (SENA), public and private management and placement agencies including those set up by family benefit funds, and job exchanges managed by higher education institutions. The CUT and the CTC emphasize the need to strengthen mechanisms for the participation of workers' organizations in applying public policy on the national employment service and assessing its results. ***The Committee requests the Government to continue to send information on the observation of the Public Employment Service. Please also provide information on the cooperation of employers' and workers' representatives in the organization and running of the Public Employment Service.***

Article 6. Measures to facilitate labour market entry. Vocational training. The Government indicates that in order to reduce unemployment and informal work the SENA has implemented comprehensive vocational training programmes using apprenticeship contracts. In 2014, the SENA contributed to the training of 6,821,779 apprentices. In 2013, vocational training graduates who had obtained work experience through apprenticeship contracts posted an employment rate of 60 per cent. ***The Committee requests the Government to continue to provide information on the measures implemented to strengthen vocational training for workers and facilitate their integration into the labour market.***

Article 8. Special measures for young people. The Government indicates that the "40,000 First Jobs" programme is being implemented through the Public Employment Service Providers Network, which offers funding to pay for six months of employment for young people on condition that they are thereafter engaged for a further period of at least six months. ***The Committee requests the Government to provide information on the impact of the measures taken by the Public Employment Service to provide assistance to young jobseekers.***

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1989)

The Committee notes the observations of the Confederation of Workers of Colombia (CTC), received on 29 August 2015, and the observations of the Single Confederation of Workers (CUT) and the General Confederation of Labour (CGT), received on 2 September 2015.

Article 2. National policy on the vocational rehabilitation of persons with disabilities. The Committee notes with **interest** the adoption of Act No. 1618 of 27 February 2013 setting forth provisions to ensure the full exercise of the rights of persons with disabilities. Section 13 of the Act No. 1618 recognizes the right to work of all persons with disabilities and lays down an obligation for the Ministry of Labour to guarantee this right in terms of equal opportunities, equity and inclusion. According to Decree No. 723 of 15 April 2013, persons with disabilities who are self-employed are covered for occupational hazards. Furthermore, Act No. 1562 of 11 July 2012 requires occupational hazard insurers to set up mechanisms for the retraining and relocation of persons with work-incurred disabilities. The CUT and the CTC stress the need to improve the register of persons with disabilities since the current register does not cover all such persons resident in the country or draw any distinction between the various types of disability. The CUT and the CTC further suggest that there is a lack of commitment on the part of employers to create jobs for persons with disabilities. The CGT, for its part, indicates that disabilities are to be observed more in sectors where incomes are lower. The Government states in its report that since 2013 an employers' work promotion programme for persons with disabilities, the "productivity agreement", has been implemented. Since it started, the programme has helped to generate 721 job opportunities for persons with disabilities. The Government adds that progress has been made in the modernization of the register of persons with disabilities under the coordination of the Ministry of Health and Social Welfare. In February 2015, 1,144,242 persons with disabilities were registered, of whom 48,436 reported occupational disease or injury as the cause of disability. ***The Committee requests the Government to continue to provide information on the results of the national policy for the vocational rehabilitation and employment of persons with disabilities.***

Article 3. Measures for occupational rehabilitation. The Government indicates that to encourage the labour market integration of persons with disabilities, campaigns to raise awareness in enterprises are being organized through regional forums with the participation of employers, persons with disabilities, public and private employment agencies, special education institutions and representatives of regional governments. Furthermore, teleworking has been promoted as a mechanism that facilitates the recruitment of persons with disabilities. The "Enterprise" fund established by the

National Training Service (SENA) provides financial support for the creation of undertakings by persons with disabilities and for the establishment of companies in which persons with disabilities hold a share of 20 per cent or more in the equity. ***The Committee requests the Government to provide information on the impact of the measures taken to promote the vocational rehabilitation of persons with disabilities in terms of the creation of employment opportunities for such persons in the open labour market.***

Article 5. Consultations. The CTC and the CUT observe that the Government has not set up any forums for consultation and cooperation with representative organizations of workers to discuss policies that affect workers with disabilities. ***The Committee requests the Government to provide detailed information on the manner in which the representative organizations of employers and workers and the representative organizations of persons with disabilities are consulted on the application and periodical review of the national policy on vocational rehabilitation and employment for persons with disabilities.***

Article 7. Vocational training for persons with disabilities. The Committee takes note of Resolution No. 1726, adopted by the SENA on 12 August 2014 adopting an institutional policy on comprehensive care for persons with disabilities. The aim of the policy is to ensure that persons with disabilities have effective access to the services offered by the SENA. The CUT and the CTC highlight the progress made in promoting vocational training for persons with disabilities and adapting the SENA offices so that they are able to respond to the requirements of such persons. The Government indicates that between 2013 and 2014, vocational training has been provided for 43,359 persons with disabilities, of whom 3,938 have had employment opportunities. Persons with visual disability receive guidance and training suited to their needs under the AGORA programme implemented by the SENA, the National Institute for the Blind and the Foundation of the Spanish Organization for the Blind (ONCE) for Latin America. Under this programme 3,335 persons with visual disability were trained, and 220 joined the labour market. The Government further indicates that in the context of its national policy on persons with disabilities, a training programme is planned for carers of persons with disabilities. ***The Committee requests the Government to continue to provide information on the results of the vocational guidance and training measures that have been adopted to enable persons with disabilities to secure, retain and advance in employment. Please also provide information on any difficulties found to offer employment opportunities to persons with disabilities who have obtained training.***

Comoros

Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. Implementation of an active employment policy. Youth employment. The Committee notes the Government's brief report received in October 2011. In reply to its 2009 observation, the Government indicates that the framework document on the national employment policy was approved by the Council of Ministers and that a Bill issuing the national employment policy has been prepared and submitted to the National Assembly. The Committee also notes the comments made by the Workers' Confederation of Comoros (CTC) in September 2011. The CTC confirms that, despite the approval of the framework document on the national employment policy, no legislation has yet been approved by the National Assembly on this subject. The CTC acknowledges that it was consulted on the national Poverty Reduction and Growth Strategy Paper (PRGSP) and the ILO Decent Work Country Programme (DWCP). The Government indicates that the support project for peace-building in Comoros through employment promotion for youth and women (APROJEC) has launched several activities to promote youth employment in the islands. The CTC calls for a mid-term re-evaluation of the results of the APROJEC project. The Government also refers to the lack of the necessary financial resources to continue surveys of young unemployed graduates and requests financial support from the ILO with a view to the general application of these surveys in other islands. ***The Committee requests the Government to indicate in its next report whether the Act issuing the national employment policy has been adopted and to indicate whether specific difficulties have been encountered in achieving the objectives set out in the PRGSP. It also invites the Government to provide information on the resources used to achieve the employment priorities established in the context of the DWCP, 2009–12, and on the impact of measures and programmes, such as the APROJEC project, which are designed to facilitate the access of youth to decent work.***

Collection and use of employment data. ***The Committee invites the Government to supplement its next report with detailed information on the progress achieved in the collection of labour market data and on the manner in which such data are taken into account in the formulation and implementation of the employment policy (Article 2).***

Participation of the social partners. ***The Committee invites the Government to provide full information on the consultations envisaged in Article 3 of the Convention, which requires the participation of all of the persons affected, and particularly employers' and workers' representatives, in the formulation and implementation of employment policies.***

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

Czech Republic

Employment Policy Convention, 1964 (No. 122) (ratification: 1993)

The Committee notes the observations of the Confederation of Industry of the Czech Republic and the Czech-Moravian Confederation of Trade Unions (CM KOS) communicated with the Government's report.

Articles 1, 2 and 3 of the Convention. Employment policy measures. Consultations with the social partners. In reply to previous comments, the Government indicates in its report that the employment policy objectives were elaborated in the Government Action Plan to Promote Economic Growth and Jobs in the Czech Republic, which was taken note of, after detailed tripartite discussions, at the 113th plenary meeting of the Council of Economic and Social Agreement of the Czech Republic on 20 October 2014 with a view to its submission to the Cabinet once all comments were incorporated. At the same time, an employment policy strategy until 2020 was prepared and approved, following discussions with the social partners. The strategy aims at increasing the total employment rate in the 20–64 age group to the target level of 75 per cent and, at the same time, meeting the national targets (increased employment of women, increased employment of older persons, reduced unemployment among young people and reduced unemployment of low-qualified persons). Moreover, by its Resolution No. 344 of 15 May 2013, the Cabinet approved the 2014–20 Regional Development Strategy as an instrument to coordinate the different public policies, including the employment policy. With regard to active employment policy measures, the Committee notes that a total of 4,285,714 Czech koruna (CZK) was expended on active employment policy (AEP) in 2013 by the Ministry of Labour and Social Affairs and the Labour Office of the Czech Republic. Compared to 2012, AEP expenditure increased by 65.1 per cent. In particular, the level of AEP expenditure financed from the European Social Fund rose to reach more than the double of the 2012 amount. Support was provided to a total of 89,611 persons (jobseekers, employees, self-employed). In its observations, CM KOS indicates that cooperation within the tripartite mechanisms has improved. Nevertheless, CM KOS adds that it cannot be satisfied with the implementation of the Convention in a situation where, for example, there are more than 500,000 registered jobseekers (of which about one third have been registered for more than one year); and active employment policy programmes suffer from permanently insufficient levels of funding. Consequently, CM KOS submits proposals to help deal with the situation, which include developing, as a matter of urgency, a national plan to fight unemployment and poverty and ensure sufficient financial resources for the plan in the public budget system. ***The Committee requests the Government to provide information on the impact and effectiveness of its employment policy measures in terms of job creation. Please also continue to include information on the involvement of the social partners, in accordance with Article 3 of the Convention, which requires that their views and experiences are fully taken into account when designing and implementing an active employment policy.***

Employment trends. The Government indicates that, in the aftermath of the financial and economic crisis, there was a broad decrease in employment, regardless of the age group or educational level (except for university graduates). In spite of a moderate recovery of the economy, a slowdown in the growth of registered unemployment became evident only in the second half of 2013. Its development was largely contributed by the increase in part-time employment among women as well as men. Unemployment was measured at 7.4 per cent in December 2012 and 8.2 per cent at the end of 2013. In the first half of 2014, unemployment was measured at 6.4 per cent. According to EUROSTAT, the unemployment rate continued to decrease to 5.1 per cent in July 2015, which was among the lowest unemployment rates of the EU Member States. ***The Committee requests the Government to continue to provide data concerning the size and distribution of the labour force, the nature and extent of unemployment and underemployment and trends therein.***

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

Dominican Republic

Employment Policy Convention, 1964 (No. 122) (ratification: 2001)

Articles 1 to 3 of the Convention. Design and implementation of an active employment policy. The Government indicates in its report that the National Employment Commission, a tripartite body which has created a space for inter-institutional coordination under the leadership of the Ministry of Labour, approved a National Employment Plan, which was launched in October 2014. The Committee notes the observations made in September 2014 by the Employers' Confederation of the Dominican Republic (COPARDOM), indicating that, as a result of the discussions and work of the National Employment Commission, the main lines have been established for an employment policy and the assessment of training needs in local areas and specific zones of the country. The Government enumerates the consultations held with the various economic sectors for the development of the National Employment Plan. The Committee notes that the economy has undergone sustained growth (4.1 per cent in 2013 and 3.9 per cent in 2014), but that the rate of open unemployment (the national rate, excluding hidden unemployment) rose from 6.5 per cent in 2012 to 7 per cent in 2013. The Committee also notes the updated employment data published by the Dominican Labour Market Observatory. ***The Committee requests the Government to provide information on the implementation of the National Employment Plan and on the manner in which its application has made it possible to achieve, in consultation with the social partners, the objectives of full, productive and freely chosen employment. The Committee once again requests the Government to provide a copy of the National Employment Plan.***

Coordination of training and employment policies. The Government indicates that the National Employment System Support Project (PASNE) places emphasis on training for the labour market integration of young people, which allows enterprises to provide secure employment in exchange for the payment of a minimum public sector wage for those who have received training. The Government also refers to the programmes implemented by the National Institute for Technical Vocational Training (INFOTEP) and the National Education Reform Charter 2014–30. ***The Committee***

requests the Government to provide more detailed information on the results of the measures adopted for the coordination of vocational training and education policies with prospective employment opportunities. Please also indicate the results of INFOTEP activities in terms of the vocational integration of the beneficiaries of its programmes.

Vulnerable groups. The Government refers to the pamphlets, programme documents and projects of the Ministry of Labour to facilitate the labour market integration of young people. In July 2014, the General Directorate of Employment launched an entrepreneurship course for small and micro-enterprises intended for persons with disabilities. The course has been designed for young unemployed persons between the ages of 18 and 35 so that they can develop their own business plans. The Government adds that it is implementing a course for women heads of households. *The Committee requests the Government to provide an evaluation of the results achieved in terms of labour market integration by the measures implemented for young people, women and workers in the poorest sectors, in both the informal economy and the rural sector. Please also indicate the measures adopted to prevent abuses in the hiring of foreign workers in the country and of national workers who emigrate to find employment opportunities abroad.*

Finland

Employment Service Convention, 1948 (No. 88) (ratification: 1989)

The Committee notes the observations made by the Central Organization of Finnish Trade Unions (SAK) and the Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA) communicated with the Government's report.

Article 1 of the Convention. Contribution of the employment service to employment promotion. In its observations, AKAVA indicates that unemployment and long-term unemployment has increased with respect to the unemployed with a higher education degree, adding that the quality of services and the special competence to match the needs of this group of unemployed persons have been seen as lacking in the Employment and Economic Development Offices (TE Offices). The Government indicates in its report that the service provision system within Finnish labour policy must currently weather the storm of many challenges. Structural changes are continuing at a swift pace, and more unpredictably than ever before, in both the labour market and in working life more generally. This notably increases the need for labour policy services and places greater demands on these services to be provided in new and more individually tailored ways. At the same time, the sustainability gap in public finances requires that services be provided more efficiently than before. The Committee notes that, in the face of this twin-pronged challenge, the Government launched a broad-reaching evaluation and development project of its labour policy service structure for the period June 2013 to April 2015. It notes in this regard that the evaluation of the labour policy's service structure proposed that the efficiency and overall performance of the service system should be strengthened through on-going investment in strategically targeted development work. *The Committee requests the Government to provide updated information on the impact and effectiveness of the activities carried out by the employment service and the manner in which it ensures "the best possible organisation 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(2)). Please also continue to provide information on the number of public employment offices established, the number of employment applications received, the number of vacancies notified and the number of persons placed in employment by the offices.*

Article 9. Staff of the employment service. SAK and AKAVA have been concerned about the resourcing of public employment services, which has already, for a long time, decreased both as to appropriations and especially to person-years. In this regard, SAK adds that cuts to employment appropriations have also had a negative impact on the implementation of the Youth Guarantee. In addition, SAK points out that during 2010–15, TE Offices' personnel has been cut by almost 1,000. At the same time, the number of unemployed jobseekers and therefore new customers has grown by approximately 100,000. SAK is of the view that the workload has become unreasonable, and directing the unemployed to e-services has not improved the service level. The Government indicates that the goals of the reform of the public employment services are to strive for uniform management, uniform approaches, more flexible resource use and, through these, better effectiveness. It also indicates that with the organization change, the number of personnel was reduced and some tasks of the TE Offices' administrative and human resources management were transferred to the Centre for Economic Development, Transport and the Environment (ELY Centre). The Committee notes that the development and administration centre for ELY Centres and TE Offices began its operation on 1 January 2015. *The Committee requests the Government to continue to provide information on the impact of the reform of the public employment services in relation to employment service staff and employment services provided.*

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1985)

The Committee notes the observations made by the Central Organization of Finnish Trade Unions (SAK) and the Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA) which were communicated with the Government's report.

Articles 3 and 7 of the Convention. Promotion of vocational rehabilitation and employment opportunities for persons with disabilities. The Government provides in its report information on the laws and regulations that were

amended since its last report and information on the practical application of the Convention. The Committee notes in this regard that recipients of vocational rehabilitation increased from 13,389 persons with reduced working capacity in 2011 to 15,178 in 2014. It also notes that the number of job placements for jobseekers with disabilities by the public employment service and active labour market measures arranged by the labour administration, decreased from 39,392 in 2010 (out of 91,433 jobseekers) to 24,881 in 2014 (out of 86,992 jobseekers). In their joint observations, the SAK and AKAVA indicate that, currently, persons with disabilities in Finland do not have equal opportunities of employment in the open labour market. For example, some people on partial disability pension cannot work even though they would want to. The SAK and AKAVA add that there are also problems in the availability of vocational rehabilitation as it is substantially weakened by the fragmentation of the rehabilitation system. The workers' organizations are also of the view that the tool range of vocational rehabilitation should be widened to better answer to the needs of the rehabilitated person, such as the disability or illness limiting the work capacity, or the remaining work capacity. Moreover, the SAK and AKAVA refer to a 2011 report of the Ministry of Social Affairs and Health entitled "Everybody along! People With Partial Work Capacity In The Labour Market". According to this report, based on the replies of employers, it seems that those with a disability, and especially the mentally disabled and impaired, are the least wanted in the labour market when compared to a young person without a vocational education, a long-term unemployed person or an immigrant. As to working and coping at work, no related negative views were expressed. Three out of five employers stated that the employees on the marginal area of the labour market do not have problems as such with others, and that they are committed to their work. Over half of the employers estimated that special arrangements are problematic and the risk of working incapacity is greater. Overall, the evaluation of qualification was seen as a problem, and employment was suspected to be inefficient relative to its costs. The Committee notes that the Programme for persons with partial work capacity of the Ministry of Social Affairs and Health (2013–15) aims to develop working solutions with practical level actors for finding employment for those with partial work capacity and helping them remain employed. The Government indicates that Finland has a wide range of tools in its service system to enable sustained employment and facilitate job placement of a person with a partial working capacity. The Government adds, however, that this range of tools is not utilized effectively enough. Vocational rehabilitation measures are part of this range of tools. ***The Committee requests the Government to provide information on the impact and effectiveness of the measures implemented in the context of its policy on vocational rehabilitation and employment of persons with disabilities. Please also continue to include relevant information, supported by statistics, on the implementation of the Convention.***

Germany

Employment Service Convention, 1948 (No. 88) (ratification: 1954)

Articles 1 to 10 of the Convention. Organization and functions of the employment service. Encouragement of full use of services by employers and workers. The Committee notes from the Government's report that the preventive approach of its active labour market policy was strengthened through the Act on the Improvement of Integration Opportunities in the Labour Market of 1 April 2012. The Act aims at accelerating the integration of jobseekers into gainful employment and reorganizing the field of state-subsidized employment, while continuing the core role of the Federal Employment Agency (BA) to support employers in the search of workers. To increase customer value and market proximity, this development of the legislative framework was accompanied by changing the BA's organizational and management structures in 2012 and 2013, undertaken in close cooperation and consultation with a wide range of partners at the regional and local levels, to focus on diverse, interconnected and tailored activities of labour market actors instead of programmes to combat mass unemployment. As a result of these measures and due to the requirement for staff in the field of qualifications to be certified trainers since 2013, the integration rate has increased to 37 per cent in May 2015, when compared to 21 per cent until May 2013, while sustainable integrations have marginally increased from 69.6 per cent in 2013 to 71.1 per cent in 2015. The Committee notes that, following the merger of agencies and the streamlining of internal processes, there are currently around 1,070 employment agencies operating in the country, out of which 423 offices are administered by local authorities. The Committee notes the findings of the 2013 "BA 2020 – Answers from the BA to Questions about the Future", which identifies eight areas of action to meet the six major labour market trends. In 2015, BA 2020 was extended to include "world of work 4.0/digitalization". The Government states that approximately 970,000 job vacancies are published on its website in six languages. The website also contains about 3 million jobseeker profiles and is visited by up to 1.4 million visitors per day. Since the beginning of 2013, all BA services are also accessible through a mobile application which has been installed on 750,000 devices as of mid-2015. ***The Committee requests the Government to continue to provide information on the impact of measures implemented to enhance the capacity of the Federal Employment Agency to achieve the best possible organization of the employment market.***

Articles 6(b) and 8. Migrant workers and young people. The Committee notes with *interest* that, in order to facilitate the professional integration of refugees, the BA intends to extend its support for language courses through a special measure financed through an intervention reserve. As regards young people, the Government reports that since 2010, the BA, together with umbrella associations and ministries, launched the project "Working Alliances – Youth and Work" aimed at improving the integration of young people with increased needs for support using a decentralized, regional and local approach. The Government indicates that actions under this project include joint labour market

measures, one-stop government approaches or improvements to cross-agency communication and information, generally referred to as “youth employment agencies”. By the end of September 2014, 186 youth employment agencies had been set up. Three quarters of all employment agencies (118) and over half of the joint institutions (166) already offer these specialized services for youth, as well as nearly one in three approved local authority providers (34). The Government further states that, on 1 May 2015, assisted vocational training to support disadvantaged young people during their vocational training and the relevant training providers was introduced. In addition, the target group for training support measures has been extended. These measures are designed to prevent young people from dropping out of training and to ensure that more young people obtain a vocational qualification. ***The Committee requests the Government to continue to provide information on the impact of the measures taken by the Federal Employment Agency to assist migrant workers and young people.***

Italy

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

Articles 1, 2 and 3 of the Convention. Measures to alleviate the impact of the crisis. The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2015 concerning the application of the Convention. It also notes that the Conference Committee requested the Government to provide a detailed report on the issues raised in its conclusions. Recalling some points that were previously raised during the Conference Committee, the Government indicates in its report that the Jobs Act (Act No. 183/2014) reviewed the system of social shock absorbers and requirements for dismissal of workers. The Jobs Act also introduces measures for rationalizing the administrative burden for companies and citizens; creates economic incentives for permanent employment contracts; and establishes the National Network for Labour Policies (Rete Nazionale dei Servizi per le Politiche del Lavoro), coordinated by the new National Employment Agency (Agenzia Nazionale per le Politiche Attive del Lavoro, ANPAL). Other measures introduced by the new legislation include the simplification of apprenticeship contracts and the “replacement contract”, a new employment contract which allows unemployed persons to receive additional services to enhance their labour market integration (“assegno di ricollocazione”). Further interventions aimed at balancing life and work, especially for women, were introduced by the Stability Act of 2015 (Act No. 190/2014). In addition, with the Action and Cohesion Plan 2015, the Government indicates that it has taken measures to counteract regional disparities of employment levels within the national territory. The Committee notes that, according to the National Institute of Statistics (ISTAT) data (June 2015), most labour market indicators have showed a positive trend in the second quarter of 2015. In particular, new hires recorded significant growth averaging more than 9.7 per cent over the last year, while the number of new permanent-term contracts increased by 34.6 per cent and the number of employed workers increased by 0.8 per cent from 2014. In addition, long term-unemployment decreased from 61.9 per cent to 59.5 per cent, and youth unemployment amongst those aged 15–24 decreased by 0.5 percentage point when compared to the previous year. ***The Committee requests the Government, in the same way as the Conference Committee, to provide information on how it ensures, in consultation with the social partners, a comprehensive approach to employment policies in order to improve the employment situation and foster job-rich inclusive growth, in line with the Convention. The Committee also requests the Government to provide further information on the consultations held with the social partners on the development and implementation of employment policies, based on regularly updated labour market data, including on the number, kind, duration of employment, and youth and gender issues and regional disparities.***

Youth employment. The Government indicates in its report that, until October 2015, 807,315 persons aged up to 25 years old have been involved in the Youth Guarantee Programme (“Garanzia giovani”) aimed at promoting youth employment and vocational education and training. In September 2015, the Government also launched the first European Employment Services (EURES) Job project, which aims to create 600 placements, 150 apprenticeships and 150 traineeships for young people aged 18–35. The programme includes providing financial benefits for small and medium-sized enterprises, for example, an integration programme of recently hired young workers and enhanced recognition of the qualifications of pre-selected jobseekers. Furthermore, the Committee notes that, with the Digital Growth programme (“Crescere in digitale”), the Government has fostered the use of online training courses for young people. ***The Committee requests the Government to continue to provide information on the impact of the measures taken to reduce youth unemployment.***

Education and training policies and programmes. With the view of improving the impact of education and training policy in youth employment, the Government indicates that it has promoted since September 2015 an experimental programme aimed at implementing the use of apprenticeships in enterprises as relevant experience to obtain secondary education professional qualifications. Moreover, in June 2015, the Government introduced a unitary national reference framework for the reciprocal recognitions of over 2,600 regional vocational qualifications. ***The Committee requests the Government to continue to provide information on the impact of education and training policies and programmes, including apprenticeships, in terms of obtaining lasting employment for young persons and other groups of vulnerable workers.***

Cooperatives. In order to promote productive employment through cooperatives and to reduce the employment gap between northern and southern regions of the country, the Government issued the Ministerial Decree of 4 December 2014, which provides new incentives for the development of small and medium-sized cooperatives aimed at recruiting workers from enterprises in crisis within all the national territory and restructuring existing cooperatives in southern Italy. According to the data provided by the Government, the number of cooperatives with a positive impact on employment has increased from 45 per cent in 2008 to more than 65 per cent in 2015, with a significant increase of the total number of cooperatives over the past 15 years (currently 106,970 cooperatives). ***The Committee refers to the Promotion of Cooperatives Recommendation, 2002 (No. 193), and requests the Government to continue to provide information on the measures taken to promote productive employment through cooperatives.***

Japan

Employment Service Convention, 1948 (No. 88) (ratification: 1953)

The Committee notes the observations of the Japanese Trade Union Confederation (JTUC–RENGO) communicated with the Government's report.

Articles 1, 2, 3 and 11 of the Convention. Contribution of the employment service to employment promotion. The Committee notes the Government's indication that initiatives have been taken for the strengthening of the labour market with the national and local governments and private sector working together. It adds that government plays a key role of providing a safety net for the guarantee of the right to work throughout the country by the following means: (a) job placement through the national network of the Public Employment Security Offices; (b) management of the unemployment insurance system; and (c) operation of employment measures. Moreover, the Government indicates that the public employment service and private employment agencies will exert a synergistic effect by establishing a complementary relationship as they have their own roles to play and their own strengths. The Committee notes from the report that, as of 31 May 2015, there were 436 Public Employment Security Offices, 95 branch offices and 13 local offices throughout the country. ***The Committee requests the Government to provide information on the impact and effectiveness of the activities carried out by the employment service. It also requests the Government to provide more detailed information on the manner in which the synergies between the public employment service and private employment agencies are ensured. Please also continue to provide information on the number of public employment offices established, the number of employment applications received, the number of vacancies notified and the number of persons placed in employment by the offices.***

Articles 4 and 5. Participation of the social partners. In its observations, JTUC–RENGO indicates that, while the Government makes decisions on overarching policies and frameworks on important items concerning employment and labour in committees in which no workers' representatives participate, the deliberations in the tripartite Labour Policy Council are carried out only within the scope of putting into practice the overarching policies and frameworks that have already been decided. In its response, the Government indicates that, whether discussions are previously held in other bodies or not, the Labour Policy Council considers all angles of important matters of labour policies. The Committee notes from the report the matters that were discussed in tripartite bodies, including the Labour Policy Council, in the 2010–15 period. ***The Committee requests the Government to continue to provide information on the contributions made by the social partners within the Labour Policy Council or any other tripartite body in the formulation of recommendations on matters related to the Convention.***

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1992)

The Committee notes the observations of the National Union of Welfare and Childcare Workers (NUWCW) received on 24 August 2015. It also notes the observations of the Japan Business Federation (NIPPON KEIDANREN) and the Japanese Trade Union Confederation (JTUC–RENGO), which were communicated with the Government's report.

Articles 1, 2 and 3 of the Convention. Employment promotion for persons with disabilities. In reply to its previous comments, the Committee notes the Government's indication that the number of persons with disabilities who are employed in the private sector was 431,225 in June 2014, which is a 5.4 per cent (22,278 persons) increase over the previous year. The Government adds that the number of employed persons with disabilities has been increasing for 11 consecutive years and continues to reach new records. The employment rate of persons with disabilities in private companies increased to 1.82 per cent, compared to 1.76 per cent the previous year. The Government further indicates that 44.7 per cent of companies had achieved the statutory 2 per cent employment quota as of June 2014. The Government is of the view that additional initiatives should be adopted for the achievement of the official quota by every company. In its observations, the JTUC–RENGO is also of the view that further policies and measures are necessary, adding that, of the companies that have not attained the statutory employment rate, 59.4 per cent of them have not employed even one person with disabilities. The JTUC–RENGO further indicates that the targets of the quota system for the employment of persons with disabilities are limited to persons holding a disability certificate but the proportion of persons actually holding the certificate is low. The JTUC–RENGO states that efforts to make the amended Act truly effective are required. The NUWCW indicates that employment support programmes need to be expanded. ***The Committee requests the Government***

to indicate the measures adopted or envisaged to achieve the statutory 2 per cent employment quota for persons with disabilities in all companies, including sanctions for non-compliance. Please also provide information on the impact of the measures implemented in terms of increasing the employment opportunities of persons with disabilities in the open labour market. Please also continue to supply statistics disaggregated as much as possible by sex, age and the nature of the disability, as well as extracts from reports, studies and inquiries concerning the matters covered by the Convention.

Article 5. Consultations with the social partners. With regard to consultations with the social partners, the Government reiterates that the Labour Policy Council's Subcommittee on Employment of Persons with Disabilities sets goals for the employment policies for persons with disabilities, implements the policies and evaluates its outcomes. Referring to the Government's report, NIPPON KEIDANREN indicates that the opinions from stakeholders on policy improvement were reflected. The NUWCW indicates that the evaluation of policies should be carried out with the participation of the social partners and organizations of persons with disabilities and the process of policy formulation should be open to the public. Giving the example of discussions concerning the three-year review of the Comprehensive Support Act for Persons with Disabilities, the NUWCW adds that neither the Japan Council on Disability nor its own representatives are able to directly participate in the discussions. ***The Committee requests the Government to continue to provide examples of how the views and concerns of the social partners and representatives of organizations of and for persons with disabilities, such as the NUWCW, are taken into account in the formulation, implementation and evaluation 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)***

Articles 1(3) and 3 of the Convention. National policy aimed at ensuring appropriate vocational rehabilitation for all categories of persons with disabilities. (a) *Criteria used to determine whether a person with disabilities is considered to be able to "work under an employment relationship" (paragraph 73 of the tripartite committee report, document GB.304/14/6).* The Committee recalls the recommendations of the tripartite committee established by the Governing Body to examine a representation alleging non-observance by Japan of the Convention (304th Session, March 2009). The Committee also recalls that it has been entrusted with following up with the recommendations of the tripartite committee. The Committee notes that the Government provides updated information in its report on the implementation and results of employment measures for persons with disabilities. With regard to the promotion of "team support" for providing continuous support during employment to workplace adaptation, mainly at Public Employment Security Offices in cooperation with relevant welfare and educational agencies, 12,673 persons with disabilities found jobs in 2013. Moreover, 325 Employment and Vocational Life Support Centres for Persons with Disabilities were established as of April 2015, an increase from 317 in April 2013. In the 2013 fiscal year, 1,206 people were transferred to Type-A programmes under the Support Programme for Continuation of Work (SPCW) (designed for persons with disabilities considered already being able to work under an employment relationship) from Type-B programmes (designed for those facing difficulties working under an employment relationship, while nevertheless offering them productive activities), and 2,647 were transferred to regular employment from Type-B programmes. In this regard, the Committee notes that the number of people who had changed to regular employment from Type-B programmes has increased from 1,606 in 2011 to 2,307 in 2012 and 2,647 in 2013. Noting in its observations the increase in the number of employed persons with disabilities, the NUWCW indicates, however, that the ratio of regular employees has gone down when comparing 2013 figures with 2008 figures. The NUWCW adds that work and employment of persons with disabilities have remained in the framework of welfare measures, without being positioned in the same manner as labour measures for workers in general. ***The Committee requests the Government to continue to provide information on the measures taken or envisaged to increase the opportunities for persons with disabilities falling in the categories which do not allow them to be covered by an employment relationship to have access to the open labour market. Please also continue to include updated information on the number of transitions from Type-B programmes under the SPCW to Type-A programmes and to regular employment, as well as on the impact of measures implemented by the Public Employment Security Office on the transition of persons with disabilities from welfare to employment in the open labour market.***

(b) *Bringing work performed by persons with disabilities in sheltered workshops within the scope of the labour legislation (paragraph 75 of the report).* The Government indicates that, under the Type-B programmes under the SPCW, working opportunities and support for necessary training is being provided for those who find it difficult to be employed in regular workplaces to obtain knowledge and skills that are in demand in order to find jobs with employment contracts. The Government adds that it has been supporting these efforts which would be coupled with support for the wage increase under Type-B programmes. The NUWCW indicates that problems still remain with the poor functioning of vocational rehabilitation facilities, adding that it is indispensable that their functions need to be further enhanced. ***The Committee requests the Government to continue to provide information on the impact of the measures taken to ensure that the treatment of persons with disabilities in sheltered workshops is in line with the principles of the Convention, including the principle of equality of opportunity and treatment (Article 4).***

(c) *Low pay for persons with disabilities carrying out activities under the Type-B programmes under the SPCW (paragraph 76 of the report).* The Government indicates that, following measures to increase the rates of workshop pay, pay has increased by 18.1 per cent since 2006. Moreover, under Act No. 50 of 2012 concerning the Promotion of Public Procurement of Goods from the Disabled Employment Facilities, in which administrative agencies and local governments

are obligated to procure goods and services from the disabled employment facilities on a preferential basis, the procurement of the 2013 fiscal year was about ¥12.3 billion. The JTUC–RENGO is of the view that continued efforts are required for improvements in the levels of wages in the Type-B programmes under the SPCW. The NUWCW indicates that, according to the 2013 Basic Survey on Wage Structure, the wage for persons with disabilities was markedly low, when compared to the 2008 figures. The NUWCW is of the view that the minimum wage should be secured to improve the situation for persons with disabilities. ***The Committee requests the Government to continue to provide information on the measures taken or envisaged for raising workshop pay.***

(d) *Service fees for participants in Type-B programmes under the SPCW (paragraphs 77 and 79 of the report).* The Government reiterates that persons with disabilities in low-income households have been exempted from the disability social service fees. It adds that, as of December 2014, 93.3 per cent of users of disability social services, including participants in the Type-B programmes, have been receiving services free of charge. The NUWCW recalls the problems with charging fees for the usage of services. ***The Committee encourages the Government to continue to take measures in this regard and to provide information on the impact of the measures taken to ensure that persons with disabilities are not discouraged from becoming involved in such programmes and eventually gaining access to the labour market.***

Articles 3, 4 and 7. Equality of opportunity between persons with disabilities and workers generally. Quota system for the employment of persons with disabilities (paragraphs 81 and 82 of the report). The Committee notes the updated data provided by the Government indicating that the number of employed persons with severe disabilities was 115,680 in June 2014, an increase from 104,970 in June 2012. The Government indicates that the double counting system (persons with severe disabilities are double counted under the quota system) is therefore effective and necessary in promoting the employment of persons with severe disabilities for now and in the future as well. The JTUC–RENGO is of the view that the immediate abolition of this system is not realistic. It adds, however, that the collection and evaluation of suitable information and data should be performed. ***The Committee requests the Government to continue to provide information on persons with disabilities and persons with severe disabilities employed under the quota system.***

Reasonable accommodation (paragraph 84 of the report). The Government indicates that in March 2015 two sets of guidelines for employers on the prohibition of discrimination against persons with disabilities and on the provision of reasonable accommodation were formulated based upon the amended Act on Employment Promotion of Persons with Disabilities. These guidelines were drawn up based on discussions in the Labour Policy Council's Subcommittee on Employment of Persons with Disabilities. The Government also recalls in its report that the effective date of the obligation to provide reasonable accommodation will be April 2016. It adds that reasonable accommodation should be provided by the employers at their own expense within a range that is not overburdening. Various subsidies and preferential treatments regarding taxes have been provided to the employers who meet the necessary requirements. The JTUC–RENGO is of the view that publicity efforts and full preparations will be necessary moving towards April 2016. The JTUC–RENGO adds that it will be necessary to monitor the system's operations so that measures for reasonable accommodation are provided on the basis of mutual understanding between persons with disabilities and employers. Referring to the guidelines for employers on the prohibition of discrimination against persons with disabilities and on the provision of reasonable accommodation, the NUWCW is of the view that these guidelines are unclear about the right to file a complaint and the appropriate support for conflict resolution if an employer insists that there is an undue burden on him/her. The Committee notes from the Government's report that the Director-Generals of the Prefectural Labour Bureau may offer necessary advice, guidance or recommendations, when one or both parties involved has requested assistance for such resolution. Mediation is another possibility to resolve disputes. ***The Committee requests the Government to provide information on the implementation and results of measures concerning reasonable accommodation, including the effects relating to the implementation of practical manuals and guidelines on the prohibition of discrimination against persons with disabilities and on the provision of reasonable accommodation.***

[The Government is asked to reply in detail to the present comments in 2017.]

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 1999)

The Committee notes the observations of the Japan Business Federation (NIPPON KEIDANREN) and the Japanese Trade Union Confederation (JTUC–RENGO) communicated with the Government's report.

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

The Committee recalls the recommendations of the tripartite committee established by the Governing Body to examine a representation alleging non-observance by Japan of the Convention (document GB.313/INS/12/3, 313th Session (March 2012)). In paragraph 43 of the report, the tripartite committee expressed its firm hope that the new bill to revise the Worker Dispatch Law would soon be enacted into law in order to ensure "adequate protection" for all workers employed by private employment agencies in accordance with *Articles 1, 5 and 11 of the Convention*. In this regard, the Committee notes the Government's indication that the Bill for Partial Revision of the Act for Securing Appropriate Operation of Worker Dispatch Undertakings of Dispatch Workers was passed on 11 September 2015. In its observations, NIPPON KEIDANREN refers to the said Bill, before it was adopted, and indicates that it was formulated on the proposal of the Labour Policy Council and that the Bill was generally reasonable. The JTUC–RENGO also refers to

the Bill in its observations and indicates that, in order to ensure that dispatched workers' employment is stabilized and their treatment improved, it had strongly called for legal revisions that would contribute to worker protection, including maintaining restrictions on contract periods by job categories and applying the equal treatment principle. *The Committee refers to its previous comments and expresses its firm hope, in the same way as the tripartite committee, that the revised legislation will ensure "adequate protection" for all workers employed by private employment agencies in accordance with the Convention. In view of the recent legislative amendments, the Committee requests the Government to provide detailed information on the amended Worker Dispatch Law in relation to each of the provisions of the Convention and to the matters raised in the previous observation.*

[The Government is asked to reply in detail to the present comments in 2016.]

Madagascar

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

Articles 1 and 2 of the Convention. Implementation of an active employment policy. In its report, the Government indicates that it is aware of the fact that the adoption of a new national employment policy is a matter of urgency and is a priority in the current context of massive underemployment. The Government adds that the National Employment and Vocational Training Policy (PNEFP) is at the stage of awareness raising. The Government observes that the National Plan of Action for Employment and Training (PANEF), drawn up in 2014, is the reference framework for the promotion of employment and vocational training in Madagascar. *The Committee hopes that the Government will soon be in a position to report progress in the formulation and implementation of an employment policy. It also hopes that the Government will be in a position to provide information as a basis for assessing how the main components of economic policy, in such areas as monetary, budgetary, trade or regional development policies, contribute "within the framework of a coordinated economic and social policy" to the pursuit of the employment objectives set out in the Convention. The Committee also hopes that the Government will provide information on the measures adopted to create lasting employment, reduce underemployment and combat poverty, with an indication of the measures taken to promote employment among specific categories of workers, including women, young people and rural workers.*

Coordination of education and training policy with employment policy. The Government indicates that the programme of capacity building for Education for All (EFA) in the field of technical and vocational education and training (TVET) for the promotion of training and education for young people in rural areas who have dropped out of school (Cap.EFA/TVET) have the objective of vocational integration through the acquisition of basic vocational and transversal competencies (simplified management and entrepreneurship). Five ministries have been involved in the Cap.EFA/TVET, which has been initiated in 100 basic territorial communities, distributed in 11 communes in the three pilot regions (namely Amoron'i Mania, Analanjirofo and Antsinanana). In 2014, in the context of the first wave of training initiated in that year, a total of 1,019 young persons from rural areas who had dropped out of school were trained in 13 trades. The region of Menabe was included in the second wave of training initiated in 2015, the objective of which is to train 1,628 young rural persons who have dropped out of school. The Government specifies that as the Cap.EFA/TVET is still being implemented, data on post-training follow-up are not yet available. *The Committee requests the Government to provide information on the results of the action taken to ensure the coordination of education and vocational training policies with employment policy. Please indicate the results achieved through the implementation of these programmes in terms of the access of young trained persons to lasting employment.*

Collection and use of employment data. The Government indicates that state institutions, such as the Malagasy National Statistics Institute (INSTAT), are subject to budgetary restrictions. However, the surveys are conducted as part of the Periodic Household Survey (EPM), particularly on the Consumer Price Index. *The Committee requests the Government to communicate the results of the surveys conducted by INSTAT of households when they have been published. It also requests the Government to provide information on the progress achieved in obtaining reliable data for the formulation and implementation of an employment policy, within the meaning of the Convention.*

Article 3. Participation of the social partners in the formulation and implementation of policies. The Government indicates that the Ministry of Employment, Technical Education and Vocational Training is responsible for preparing legislation on the national employment policy. The Government adds that the Estates General for Employment and Training, held in July 2014, were organized by the Ministry of Employment with a view to preparing the PANEF. The Madagascar Enterprise Group (GEM) and the Confederation of Malagasy Workers (CTM) participated in the Estates General. *The Committee requests the Government to provide updated information on the consultations held with the representatives of the social partners on the subjects covered by the Convention. Please also provide detailed information on the consultations held with the representatives of the most vulnerable categories of the population, and particularly with the representatives of workers in rural areas and the informal economy.*

Mexico

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 2001)

The Committee notes the observations of the Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN), which were communicated with the Government's report. The Committee also notes the observations of the Independent Trade Union of Men and Women Workers of the Government of the State of San Luis Potosí (SITTGE), received on 10 June 2015. SITTGE indicates that certain men and women workers on the staff of the government of the state of San Luis Potosí who have disabilities are required to perform operational tasks which limit their opportunities to secure and advance in suitable employment. ***The Committee requests the Government to provide its comments in this regard.***

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

[The Government is asked to reply in detail to the present comments in 2016.]

New Zealand

Employment Service Convention, 1948 (No. 88) (ratification: 1949)

The Committee notes the detailed information provided by the Government in its report, including the observations made by Business New Zealand and the New Zealand Council of Trade Unions (NZCTU).

Articles 1 and 3 of the Convention. Contribution of the employment service to employment promotion. The Government indicates in its report that, to support welfare reform policy changes, Work and Income (the public employment service) introduced a new service delivery model with different levels of support based on people's expected patterns of future benefit receipt. Job Streams, a business-focused consolidated package of employment programmes, complemented these reform changes. It also indicates that the Canterbury Skills and Employment Hub, inaugurated in 2012, provides job-matching, information-sharing and immigration facilitation services to help jobseekers obtain employment opportunities in the Canterbury region which was affected by the earthquake in 2011. It adds that RecruitMe, an employment service tool for recording jobseekers' profiles and matching jobseekers to employment opportunities, was introduced in 2013. The NZCTU points out that there are major political changes in the nature of the employment services being offered and an independent evaluation on the impact of these changes is needed. It also indicates that the "work first" approach and the use of financial sanctions against failures to get employment are two key features of the welfare reforms, and expresses its concern on the fact that these reforms are focused on reducing the number of beneficiaries rather than on the quality and sustainability of employment. ***The Committee requests the Government to continue to provide information on the measures taken to achieve the best possible organization of the employment market and the results of the measures implemented, including the impact of the welfare reforms on the quality of employment services and employment promotion.***

Articles 4 and 5. Cooperation of employers' and workers' representatives. The Government reiterates that advisory committees may be established for specific projects when it is required. It indicates that the Welfare Working Group, an expert advisory group, has consulted a wide range of people on the welfare reforms. Moreover, the Work and Income Board provided advice to the Ministry of Social Development on the implementation of initiatives under the investment approach. The NZCTU indicates that the meetings which have taken place between the Government and the social partners did not amount to the consultation through advisory committees required by the Convention; rather, it functioned as a way of providing information. Business New Zealand refers to the greater effort being made to link training in educational institutions to the needs of employers. It points out, however, that school leavers and students of tertiary education have difficulties accommodating themselves to workplace requirements and there is also concern that some subjects studied and courses taken are unlikely to lead to gainful employment. ***Taking into account the observations of the social partners, the Committee requests the Government to indicate how consultations are held with regard to the matters covered by the Convention.***

Article 6(b)(iv) and (c). Migrant workers. The NZCTU refers to the growing concerns about the lack of employment protection for migrant workers. The Government indicates in this regard that migrant workers with the Essential Skills visa are supposed to work on a temporary basis to fill identified skills shortages where citizens are not available. Skilled migrants are able to gain residence under the Skilled Migrant Category. It also indicates that a comprehensive programme for migrant workers is under way, including educating migrant workers on their rights and improving the investigation and sanctions relating to the exploitation of migrant workers. ***The Committee requests the Government to provide information on the measures taken to facilitate any movement of workers from one country to another.***

Nigeria

Employment Service Convention, 1948 (No. 88) (ratification: 1961)

The Committee notes with *regret* that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous observation which reads as follows:

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 requests the Government to provide 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 requests 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 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.**

Articles 4 and 5. Consultations with the social partners. **The Committee requests the Government to provide 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 requests the Government to 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 intended that the Employment Exchanges and the Professional and Executive Registries are open to all applicants of all occupations and industries. **The Committee requests 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 requests the Government to provide 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 requests 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 requests the Government to indicate the specific measures taken to ensure effective cooperation between the public employment service and private employment agencies.**

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

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 2010)

Articles 1–4 of the Convention. National policy. Promoting opportunities in the open labour market for persons with disabilities. The Committee notes that the Government's report fails to address most of the issues raised in its previous comments regarding the application of the Convention since its ratification. The Committee noted the Government's indications concerning a draft bill that was then before the National Assembly and which intended to ensure full integration of Nigerians with disability into society. Moreover, despite a comprehensive National Policy on the Rehabilitation of Persons with Disabilities, including implementation strategies, the Government states in a very brief report that it had ensured at least 2 per cent of the workforce for suitably qualified persons with disabilities; additionally, that letters of recommendations have been issued in order to enable persons with disabilities to be gainfully employed; that economic empowerment programmes have been organized, and that mobility aids and appliances have been distributed. Moreover, the Government indicates that it has endeavoured to ensure availability of vocational rehabilitation to all categories of persons with disabilities. **The Committee renews its request for full information on the matters raised in its previous comments, particularly specific information on the status of the draft bill. The Committee requests the Government to provide full information on the implementation of the National Policy on the Rehabilitation of Persons**

with Disabilities. Please also provide relevant information on the application of the Convention, including statistical information disaggregated, as much as possible, by age, sex and nature of the disability, as well as extracts from reports and studies or inquiries on the matters covered by the Convention.

Article 5. Consultations. The Committee once again requests the Government to describe in detail the manner in which representative organizations of employers and workers, and representative organizations of and for persons with disabilities are consulted in practice regarding the implementation of the vocational rehabilitation and employment policy for persons with disabilities.

Articles 7 and 9. Services for persons with disabilities. Qualified staff for persons with disabilities. The Government indicates that it ensures that persons engaged in providing and evaluating vocational guidance, vocational training, placement, employment and other related services to persons with disabilities have adequate knowledge of disabilities and their limiting effects, as well as integrating them into active economic and social life. The Committee requests the Government to describe the measures taken or envisaged with a view to providing and evaluating vocational guidance and vocational training services for persons with all types of disabilities, and to indicate whether existing services for workers are being used with necessary adaptations. The Committee renews its request to the Government to provide further information on the number of persons trained and qualified staff made available to persons with disabilities.

Article 8. Rural areas and remote communities. The Government indicates that, in rural and remote communities, trainable persons with disabilities are attached to local craftsmen such as tailors, hairstylists, barbers, vulcanizers. The Committee once again requests the Government to describe the measures taken to promote the establishment and development of vocational rehabilitation and employment services for persons with disabilities in rural areas and remote communities.

Pakistan

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1952)

Part II of the Convention. Progressive abolition of fee-charging employment agencies with a view to profit. The Government indicates in its report that efforts are being made to revive or where required to establish employment exchanges to comply with the provisions of the Convention. Employment exchanges are functional in Sindh and have also been established in Khyber Pakhtunkhwa. The Committee notes in this regard that there are 17 employment exchanges in the Sindh Province. The Government further indicates that, after establishing employment exchanges in other provinces and in the Islamabad Capital Territory, steps will be taken to progressively abolish fee-charging employment agencies. The Committee notes from the report that no specific period is specified by the Government for the abolition of fee-charging employment agencies because a comprehensive set-up of public employment service is not established in the country, which is a prerequisite for the initiation of the process of abolition of fee-charging agencies. It also notes the lack of harmonization of labour laws at the provincial level and the fact that efforts are needed to develop an institutional set-up in line with the Fee-Charging Employment Agencies (Regulation) Act, 1976. In reply to concerns raised by the Pakistan Workers' Federation (PWF) concerning a lack of detailed data on existing employment services provided, the Government indicates that efforts are being made to put in place a mechanism for the collection of statistical information by the provincial governments for publication and reporting. It adds that requisite data will be made available in the next report. The Committee requests the Government to provide detailed information on the measures taken to establish a public employment service at the provincial level and on the number of public employment offices and the geographical areas they serve (Article 3(1) and (2)). It also requests the Government to provide information on the supervision of fee-charging agencies by the competent authority (Article 4(1)(a), (2) and (3)).

Revision of Convention No. 96. Prospects of ratification of Convention No. 181. The Committee previously highlighted the role that the Private Employment Agencies Convention, 1997 (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 also invited the Government to continue to report on the steps taken to ratify Convention No. 181. In reply to the observations made by the Committee, the Government indicates that the federal and provincial governments have notified the Tripartite Consultation Committees with a mandate to give recommendations concerning the ratification of ILO Conventions not yet ratified by Pakistan. The Committee notes that the matter is being examined and deliberated by the Tripartite Consultation Committees. The Committee therefore requests the Government to continue to report on the consultations held with the social partners concerning the ratification of the Private Employment Agencies Convention, 1997 (No. 181), the ratification of which would involve the immediate denunciation of Convention No. 96.

Panama

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 1999)

Application of the Convention in practice. The Government indicates in its report that up to 2014 there were 66 private employment agencies in operation. In 2012, the Department of Labour authorized 12 private employment agencies. However, according to the Labour Inspection Department, between 2009 and June 2014, inspections were not carried out of private employment agencies. The Committee notes that it is the Government's intention to coordinate inspections with the Labour Inspection Department and the General Directorate of Employment to ascertain that employment agencies are properly established and comply with standards for the protection of workers. The Committee recalls that supervision of the implementation of the Convention shall be ensured by the labour inspection services or other competent public authorities (*Article 14(1) of the Convention*). ***The Committee hopes that the Government will provide extracts from inspection reports, information on the number of workers covered by the measures giving effect to the Convention, and the number and nature of the infringements reported in relation to the activities of private employment agencies.***

Article 6. Data privacy. The Government indicates that no other measures have not been adopted in relation to the protection of personal data and that the provisions remain in force of Executive Decree No. 105 of January 1996 regulating the operation of private employment agencies. The Committee notes that, in the context of an assessment by the Ministry of Labour and Immigration of Spain, the feasibility of drawing up a new executive decree was discussed and that a series of measures were also sketched out to reinforce the application of the Convention. The Committee also notes that section 11 of a Bill regulating private employment agencies envisaged the regulation and protection of workers' data, however, the Bill had its first reading in the National Assembly, without any further progress being made up to now. ***The Committee requests the Government to refer to Paragraphs 11 and 12 of the Private Employment Agencies Recommendation, 1997 (No. 188), and paragraph 318 of the 2010 General Survey on employment instruments, and hopes that it will take appropriate measures to reinforce the protection of the personal data of workers, as required by the Convention.***

Article 10. Complaints. The Government reiterates that there are no procedures as such in which the social partners collaborate to investigate complaints concerning the activities of private employment agencies. ***The Committee requests the Government to take the appropriate measures for the establishment of adequate machinery and procedures, involving the collaboration of the social partners, for the investigation of complaints, alleged abuses and fraudulent practices relating to the activities of private employment agencies.***

Peru

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1986)

The Committee notes the observations formulated by the Autonomous Workers' Confederation of Peru (CATP), received on 2 September 2014, and the Government's reply received on 2 December 2014.

Articles 2 and 3 of the Convention. Implementation of vocational rehabilitation and employment policies for persons with disabilities. The Government refers in its report to the adoption of the General Act respecting persons with disabilities (LGPCD) (Act No. 29973 of 13 December 2012) and its regulations (Supreme Decree No. 002-2014-MIMP, of 7 April 2014). The Committee notes the inclusion of minimum quotas for persons with disabilities in the fields of higher education and employment (5 per cent of students in higher education institutions, 5 per cent of all personnel in public institutions, and 3 per cent of all personnel working in private entities with over 50 workers). The Committee also notes the incentives established to promote the labour market integration of persons with disabilities through tax incentives and benefits granted in the framework of State contracts. The Government indicates that in 2013 the budgetary programme was launched under the title "Labour market inclusion of young persons with disabilities", the achievements of which include designing an employment service for labour activation and the implementation of a pilot project for a specialized employment placement service. The programme made 110 placements in the five regions that it covered (Lima, Callao, Ayacucho, Ica and Tumbes). Moreover, between 2013 and 2014, a total of 73 persons with disabilities were trained and 46 placed through the Action Plan for the Vocational Integration and Training of Persons with Mental and Intellectual Disabilities. In addition, the National Institute of Statistics and Information Technology (INEI) carried out the first National Specialized Survey on Disability in 2012. In its observations, the CATP refers to the existence of contradictions with regard to the inspection of compliance with Act No. 29973, the difficulties involved in complying with the employment quota and the lack of a definition of certain concepts by the executive authorities. The CATP adds that, with regard to the employment quota, the authority to carry out inspections is vested in the labour inspectorate, but the power to impose penalties is exercised by the National Council for the Integration of Persons with Disabilities (CONADIS). The CATP observes that Presidential Decree No. 002-2014-MIMP does not establish a procedure for cases in which a competition for a job "which does not involve difficulties of a technical nature or a risk for the person with the disability" is declared unsuccessful. According to the CATP, Act No. 29973 does not extend the right to seek reasonable adjustments to the selection process, nor does it contain any provisions on subcontracting and contracting out services.

The CATP indicates that the educational profile of persons with disabilities (26 per cent of whom either do not have any type of education or only initial level education, while 40.5 per cent have only completed primary education) and their compatibility with the jobs that are available give rise to difficulties in complying with the employment quota and, more broadly, in achieving the labour market integration of persons with disabilities. The CATP adds that the Ministry of Health has not yet issued the guide to enable health centres to assess diagnoses of disability in percentages (rather than degrees, as used to be the case). The CATP adds that the Ministry of Labour has not established the technical criteria for determining when a reasonable adjustment in the workplace involves an excessive economic burden for employers. In reply to the CATP's observations, the Government explains that the Ministry of Labour is responsible for inspection and penalties in the private sector. The Government adds that, on 9 August 2014, the Ministry of Labour issued Ministerial Decision No. 162-2014-TR providing for the pre-publication of regulatory proposals relating to the employment quota and reasonable adjustments for persons with disabilities in the private sector, in strict compliance with the right to consultation envisaged in the LGPCD. ***The Committee requests the Government to provide information on the impact of the measures adopted to promote employment opportunities for persons with disabilities in the open labour market in both the public and the private sectors. The Committee requests the Government to provide information on the application of the employment quota for persons with disabilities and to facilitate the adoption of implementing regulations. The Committee also requests the Government to provide summaries of studies or evaluations of rehabilitation and employment policies and programmes for persons with disabilities and other updated indicators of the results achieved through the legislative and policy measures adopted for persons with disabilities.***

Article 5. Consultation of representative organizations of employers and workers. The Committee notes that the LGPCD and its regulations recognize the right of persons with disabilities to be consulted. ***The Committee requests the Government to provide information on the consultation of representative organizations of employers and workers, as required by the Convention.***

Article 8. Services in rural areas and remote communities. ***The Committee once again requests the Government to provide information on the measures planned for the establishment and development of vocational rehabilitation and employment services for persons with disabilities in rural areas and remote communities.***

Article 9. Training of qualified staff. ***The Committee once again requests the Government to provide information on the training of suitably qualified staff for the vocational guidance, vocational training, placement and employment of persons with disabilities.***

[The Government is asked to reply in detail to the present comments in 2017.]

Poland

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

The Committee notes the observations of the Independent and Self-Governing Trade Union "Solidarnosc" received on 26 August 2015 and the Government's response thereon.

Articles 1 and 2 of the Convention. Active employment policy and employment trends. The Government reports on the 2014 amendments to the Act on employment promotion and labour market institutions, which modify the period of entitlement of unemployment benefits and introduce measures aimed at facilitating the return into the labour market of unemployed parents and caregivers of dependent persons. The Government also reports on the measures that have been implemented to improve the efficiency of employment services. The Government indicates that, within the framework of the National Action Plan for Employment 2012–14, measures were adopted to enhance public employment services for persons belonging to marginalized groups, including persons with disabilities, older workers and rural workers. In 2014, a total of 504,800 unemployed persons benefited from active labour employment measures, an increase of 6.1 per cent as compared to 2013. The Committee notes that the unemployment rate dropped from 13.4 per cent in 2012 to 11.5 per cent in 2014. According to EUROSTAT, the 2014 employment rate of the 20–64 age group was 66.5 per cent. The number of persons registered with the public employment service decreased by 14.7 per cent from 2014 to 2015. In its observations, Solidarnosc underlines the increasing number of workers employed through temporary employment agencies. In its response, the Government indicates that the Minister of Labour and Social Policy received reform proposals on temporary work. These proposals were analysed by an expert team composed of representative organizations. ***The Committee requests the Government to continue providing information on the impact of its national employment policy. Please also indicate how active labour policy measures have contributed to the creation of full and productive employment opportunities. Referring to its 2014 comments on the Private Employment Agencies Convention, 1997 (No. 181), the Committee requests the Government to provide information on the measures taken to facilitate workers' transition from temporary to permanent employment.***

Older workers. In its observations, Solidarnosc expresses its concern about the low employment levels of older workers. The Government indicates that within the last few years the number of older unemployed people registered in employment service offices has increased. Persons over the age of 50 represent 26 per cent of the total unemployed population. The Government indicates that to foster integration of older workers into the labour market, it offers financial assistance applied towards the payment of part of the older workers' salaries. The Government adds that the National Training Fund has allocated resources for training programmes targeting employees over 45 years of age. ***The Committee***

requests the Government to provide more specific information on the impact of the measures adopted to increase the employability of older workers and to promote their integration into the labour market.

Youth employment. The Committee notes that, despite overall improvements in the labour market situation of the country, youth unemployment has continued to increase since 2010, when it was estimated at 25 per cent, to reaching the level of nearly 30 per cent in 2013. The problem of increasing youth unemployment has also been referred to by Solidarnosc. The Government indicates that, in the second quarter of 2013, close to 1,485,000 out of 5,224,000 persons within the 15–24 age group were active in the labour market, which accounts for only 28 per cent of all young persons in this age group. The Government reports on active employment measures to tackle youth unemployment, which include incentives to facilitate internships for young unemployed persons as well as support for young entrepreneurs. In its response to the observations of Solidarnosc on the youth unemployment problem, the Government underlines that the 2014 amendments to the Act on employment promotion and labour market institutions introduced measures to streamline employment services offered to persons under the age of 25, as well as exemptions in social security contributions of young workers. ***The Committee requests the Government to provide information on the impact of the measures taken to reduce youth unemployment, including an assessment as to how such measures have contributed to the creation of full, productive and freely chosen employment. Please also include available information on the relationship between measures aimed at increased employment for youth and those aimed at retaining older workers in the labour market.***

Article 3. Consultation with the social partners. The Government indicates that the Act on employment policy and labour market institutions provides for the participation of the social partners in the Labour Market Council's activities, which has replaced the National Council of Employment since 2014. It further indicates that the Council does not perform a supervisory role with regard to the labour market, but serves as an opinion-forming and counselling body of the Minister of Labour and Social Policy. The Government further explains that such changes have the aim to increase the role of the social partners in administering the resources of the Labour Fund and in programming and monitoring labour market policy measures. ***The Committee requests the Government to provide specific information on the manner in which representative organizations of workers and employers and other stakeholders are consulted concerning employment policies and how their support is ensured in the formulation and implementation of such policies.***

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 2004)

The Committee notes the observations made in October 2014 by the Independent and Self-Governing Trade Union “Solidarnosc” and the Government’s reply to these observations.

Articles 3 and 4 of the Convention. Access to the open labour market of persons with disabilities. The Committee notes that the Act on vocational and social rehabilitation and the employment of persons with disabilities, in force since 2011, requires employers to make the necessary accommodations at the workplace to facilitate the work of persons with disabilities. It notes that the “Supplementary Budget Law”, adopted in 2013, provides for the allocation of subsidies to support the payment of wages for persons with disabilities. In its observations, Solidarnosc indicates that changes in the principles governing subsidies and in the calculation of the amount paid to employees with disabilities are causing problems for employers. It also indicates that, since 2009, expenditure by the State Fund for the Rehabilitation of Persons with Disabilities on salary subsidies has increased, while funding for other supportive measures has been reduced. In its reply, the Government indicates that the changes in the allocation of the Fund’s resources were planned in accordance with the principle of protecting vulnerable persons in the labour market, particularly persons with a considerable degree of disability, taking into account the need to ensure them equal access to employment in the open labour market. It indicates that, in the second quarter of 2014, the labour market participation rate of persons with disabilities of working age amounted to 27.2 per cent, their employment ratio was 22.5 per cent and their unemployment rate was 17.4 per cent. The Committee also notes the 2011 amendments to the Act on the civil service intended to enhance the employment of workers with disabilities in the public sector. It notes the special programmes, supported by the European Union, aimed at stimulating the vocational rehabilitation of persons with rare or multiple disabilities. ***The Committee requests the Government to provide information on the outcomes of the measures adopted to promote the reintegration of persons with disabilities into the open labour market. Please also indicate how representative employers’ and workers’ organizations are consulted on changes in the allocation of funds and on the implementation of these measures.***

Article 7. Employment services accessible to persons with disabilities. Solidarnosc indicates that the Act on Employment Promotion and Labour Market Institutions, as amended in May 2014, does not pay due attention to the situation of persons with disabilities. It observes that the Activation and Integration Programme envisaged by the Act does not cover persons with disabilities who are not covered by social welfare benefits. In its reply, the Government indicates that persons with disabilities registered as unemployed in labour offices benefit from all the services and labour market measures specified in the Act. ***The Committee requests the Government to indicate the services available to persons with disabilities to help them secure, retain and advance in employment.***

Portugal

Employment Policy Convention, 1964 (No. 122) (ratification: 1981)

The Committee notes the observations of the employers' organizations (the Confederation of Farmers of Portugal (CAP), the Confederation of Trade and Services of Portugal (CCSP), the Confederation of Portuguese Industry (CIP) and the Confederation of Portuguese Tourism (CTP)) and the General Confederation of Portuguese Workers – National Trade Unions (CGTP-IN), communicated with the Government's report.

Articles 1, 2 and 3 of the Convention. Employment policy measures under the economic adjustment programme. In its previous observation and as a follow-up to the discussion at the Committee on the Application of Standards (International Labour Conference, 103rd Session, May–June 2014), the Committee of Experts invited the Government to provide information on the measures taken to review, with the participation of the social partners, the impact of the employment measures adopted to address the jobs crisis. The Government reiterates in its report that most of the measures taken in order to mitigate the impact of the jobs crisis, which also involved the participation of the social partners, were part of the Economic Adjustment Programme, following an agreement in May 2011 with the European Commission (EC), the European Central Bank (ECB), and the International Monetary Fund (IMF), and the Commitment for Growth, Competitiveness and Employment, signed by the Government and the social partners in January 2012. The measures taken had an impact on the organization and functioning of the public employment service and on the implementation of active employment measures. The Committee notes the employment data provided by the Government showing that the overall unemployment rate increased sharply from 14.8 per cent in the first quarter of 2012 to 17.5 per cent in the first quarter of 2013. It then fell to 15.1 per cent in the first quarter of 2014. According to EUROSTAT, unemployment continued its downward trend to 12.1 per cent in July 2015. The Committee further notes the various measures adopted, including employment stimulus programmes, vocational training and retraining measures and specific measures targeting young people. The employers' organizations indicate that the measures taken by the Government pursued appropriate objectives in respect of existing challenges, which were aimed and continue to be aimed at maintaining and creating employment and, ultimately, achieving the economic and social development of Portugal. The employers' organizations are of the view that the measures applied by the Government are adapted and in conformity with the provisions and the spirit of the Convention, taking into consideration nevertheless the economic, financial and social difficulties that this period has imposed on enterprises, workers and society in general. The CGTP-IN indicates that the serious employment situation is the result of government policies which do not promote growth. In addition to the 729,000 jobless persons recorded as being unemployed in the second quarter of 2014, there are 257,000 available but inactive persons who are not looking for work (discouraged persons) and 252,000 underemployed persons working less than they would like. The CGTP-IN is of the view that measures implemented have not only failed to resolve pre-existing problems related to employment and unemployment, but have further aggravated them, by further upsetting the balance of industrial relations. In a context of austerity measures, unemployed workers feel increasingly compelled to accept poor-quality and precarious jobs, which are poorly paid and do not match their qualifications. The CGTP-IN adds that stimulus measures in 2012 and 2013 provided public financial assistance for fixed-term contracts paying low wages, and the same was found in relation to employment stimulus measures which succeeded them. ***Taking into account the persistent high levels of unemployment, the Committee once again requests the Government to specify how, pursuant to Article 2 of the Convention, it keeps under review the employment policies and measures adopted in order to pursue the objectives of full, productive and freely chosen employment, in consultation with the social partners. Please also continue to provide information on the results of the employment measures adopted.***

Measures to promote employment among vulnerable groups. Youth employment. The Committee notes the high youth unemployment rate affecting Portugal, particularly for those aged 15–24, which increased from 36.3 per cent in the first quarter of 2012 to 42.5 per cent in the first quarter of 2013. According to EUROSTAT, the unemployment rate was measured at 34.7 per cent in 2014. It also notes the youth employment programmes and measures implemented by the Government, including the Youth Incentive, which ended on 31 December 2013, and the Youth Guarantee. The Government indicates that the following number of young people benefited from the Youth Incentive programme in its main areas: 62,503 persons received vocational training, including 31,932 apprenticeships; 30,282 internships; 11,350 recruitment support measures; and 1,534 entrepreneurship measures. The Government adds that 35 per cent of those who received training and 70 per cent of those placed in internships found jobs within six months of the end of those measures. The CGTP-IN indicates that the Youth Guarantee Programme, implemented since January 2014, has not resolved the problems faced by young persons. It adds that labour market measures promote the use of fixed-term contracts, internships continue to be poorly paid, even for highly-qualified interns, and they are not subject to effective inspections to prevent abuses. ***Mindful that, in its 2012 resolution "The youth employment crisis: A call for action", the International Labour Conference indicated that internships, apprenticeships and other work experience schemes have increased as ways to obtain decent work, adding that, however, such mechanisms can run the risk, in some cases, of being used as a way of obtaining cheap labour or replacing existing workers, the Committee requests the Government to provide information that will enable it to examine the quality of employment provided for young people and the measures taken to reduce youth unemployment. Please also continue to provide information on the impact of the employment measures taken with regard to other vulnerable groups affected by the crisis, such as older workers and the long-term unemployed.***

Education and training policies and programmes. The Government indicates that, since the demand for skills varies geographically and over time, the training programmes provided by the Employment and Vocational Training Institute (IEFP) network of employment and vocational training centres are sufficiently flexible to meet the needs of enterprises and individuals. ***The Committee refers to its 2014 observation on the Human Resources Development Convention, 1975 (No. 142), and requests the Government to continue to provide information on the impact of the measures taken to improve qualification standards and coordinate education and training policies and programmes with potential employment opportunities.***

Creation of jobs in small and medium-sized enterprises (SMEs). The Committee notes that, during the period from 1 January 2012 to 31 March 2014, the Enterprise Start-Up Support Programme received a loan of 24 million euros and helped to create 1,882 jobs. The employers' organizations are of the view that enterprises provide the only means of creating sustainable employment. Accordingly, the only way of reversing the trend in unemployment is by ensuring the viability of enterprises, thereby safeguarding existing jobs and creating new ones. ***The Committee requests 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.***

Romania

Employment Policy Convention, 1964 (No. 122) (ratification: 1973)

Articles 1 and 2 of the Convention. Employment trends and active labour market policies. The Government indicates in its report that, taking into account the fact that the number of jobs created by the Romanian economy remains low, due to the economic crisis and restructuring, the most affected population categories are the ones situated at the extremes of the labour market, that is, young people and elderly workers. The Committee notes that the National Strategy for Employment 2014–20 includes specific objectives and directions of action, such as increasing youth employment and extending the working life of the elderly, by reducing youth unemployment and the number of NEET young people (not in employment, education or training) and increasing labour market participation of the elderly. With an employment rate for older workers of 43.1 per cent in 2014 (Romania is situated below the EU-28 average), the inclusion of this category is being hampered by a number of barriers from the perspective of workers, such as uncorrelated skills with actual requirements, but also from the perspective of employers (low productivity of the workforce, resistance to change, reduced adaptability). The Government indicates that, without the participation of older workers, there will be a deficit of human and professional resources. Moreover, facing the perspective of the working-age population decline, the Government states that an increasing rate of women in employment appears to be essential in achieving the national objective in employment established in the context of the Europe 2020 Strategy. With regard to women's participation in the labour market, registering an employment rate of 16.7 percentage points lower than the rate of men in 2014, the Government indicates that women are situated in a vulnerable position in the Romanian labour market. ***The Committee requests the Government to provide information on the impact and effectiveness of its employment policy measures in terms of productive job creation, in particular for the most vulnerable workers.***

Youth employment. The Committee notes that, according to EUROSTAT, the youth unemployment rate was measured at 23.7 per cent in 2013 and 24 per cent in 2014. The Government indicates that, in 2012, the Ministry of Labour elaborated the 2013 national plan to stimulate youth employment. Measures in the plan focused on implementing youth guarantee type programmes, improving the entrepreneurial culture among youth and in small and medium-sized enterprises (SMEs), developing, as well as adapting education and vocational training to the labour market demands. With regard to the integration of young people into the labour market, the Government indicates that the consolidated State Budget financed programmes dedicated to improve youth entrepreneurial skills and the set-up of micro-enterprises by young entrepreneurs. In this regard, 8,000 new jobs were created and young entrepreneurs set up 464 start-ups. At the beginning of 2014, the Ministry of Labour, Family, Social Protection and Elderly launched the Youth Guarantee Implementation Plan 2014–15, a policy framework document developed by the Ministry of Labour in cooperation with other relevant stakeholders. ***The Committee requests the Government to provide updated information on the impact of the measures taken to facilitate lasting employment opportunities for young people.***

The Roma minority. The Committee notes the Government's statement indicating that the Roma population faces special problems, generated by the low level of education, a low participation on the labour market, the large category of persons not engaged in economic activities which includes homemakers, retirees, persons incapable of work, welfare beneficiaries and unemployed people. In line with EU recommendations, in early 2013 the review of the Governmental Strategy for inclusion of Romanian citizens of Roma minority for the period 2012–20 was initiated. The Committee notes the results of measures implemented targeting the Roma minority in 2012–14. In this regard, 5,302 jobseekers of the Roma minority obtained employment through active employment measures in 2014 (3,023 employment contracts of an indefinite duration and 2,279 fixed-term contracts). ***The Committee requests the Government to continue to provide detailed information on the impact of the measures taken to enhance the social inclusion and increase employment opportunities of the Roma minority.***

Article 3. Participation of the social partners in the formulation and implementation of policies. The Government indicates that, in the context of the reform of the social dialogue legislation, the Law on organizing the Economic and

Social Council was adopted in March 2013. *The Committee requests the Government to provide specific examples of how the social partners are effectively consulted and participate in decision-making on the matters covered by the Convention. Please also include information on the measures taken or envisaged to ensure that these consultations include representatives of other sectors of the active population, particularly representatives of the Roma minority and of persons working in the rural sector and the informal economy.*

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

Sao Tome and Principe

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. The Government indicates that the Basic Act for persons with disabilities, Act No. 7/12, has been enacted and published, and includes the text of two of its provisions in its report. The Committee notes that the objective of the Basic Act is to promote equality of rights and opportunities for persons with disabilities and that it establishes the fundamental principles to be followed by the rehabilitation policy. The Committee also notes that provisions on persons with disabilities have been included in a new draft Labour Code. *The Committee requests the Government to provide the full text of the Basic Act for persons with disabilities and to provide information on the provisions in the Labour Code, once adopted, that are directly related to the promotion of employment for persons with disabilities. The Committee refers to its previous comments and requests the Government to provide information on the results achieved by the measures adopted for the integration of persons with disabilities into the open labour market. The Committee also requests the Government to provide information on vocational guidance, vocational training and employment services designed to enable persons with disabilities to secure, retain and advance in employment (Article 7), the services available to persons with disabilities living in rural areas and remote communities (Article 8), and the measures concretely adopted to ensure the availability of qualified staff for vocational rehabilitation (Article 9). Please also provide information on the participation of the social partners in the formulation and implementation of a national policy on the vocational rehabilitation and employment of persons with disabilities.*

[The Government is asked to reply in detail to the present comments in 2016.]

Serbia

Employment Service Convention, 1948 (No. 88) (ratification: 2000)

The Committee notes the observations of the Confederation of Autonomous Trade Unions of Serbia (CATUS), communicated with the Government's report.

Articles 1 and 3 of the Convention. Contribution of the employment service to employment promotion. The Committee notes the concern expressed by the Confederation of Autonomous Trade Unions of Serbia that the National Employment Service (NES) has been inefficient as there are unemployed persons registered with the NES for ten years who have not been placed in employment. The Committee notes the detailed information on the labour market situation in Serbia contained in the Government's report. The Government indicates that, despite recent developments in the macro and microeconomic situation of the country, the general employment situation is still unsatisfactory, which means that the NES faces great challenges. It adds that an increase in GDP in 2013 has helped to slow negative trends in the labour market. The Committee notes that a twinning project was implemented between May 2012 and June 2014 to accelerate labour market reforms in accordance with EU standards. The NES was among the key beneficiaries of this project. The Committee also notes that a network of seven migrant service centres has been established as part of the NES to provide migrants with information about employment opportunities, residence permits and education. In 2013, a total of 886 persons used the services offered by these centres. The Government reports an improvement in the services offered by the NES through its official website. The section of the NES website that matches labour demand with labour supply has been upgraded. By July 2014, 9,705 employers were registered in the NES database and the curriculum vitae of 92,345 jobseekers have been uploaded to the NES website. According to NES statistics, in 2013 a total of 44,148 job opportunities were registered. In the same year, 6,999 job applicants were referred to employers and were recruited or likely to be recruited after the selection processes. *The Committee requests the Government to continue providing information on the impact of the measures taken by the NES. Taking into consideration the observations made by the Confederation of Autonomous Trade Unions of Serbia, the Committee requests the Government to provide information on the action taken by the NES to promote the job placement of long-term registered unemployed persons.*

Articles 4 and 5. Cooperation with the social partners. The Government indicates that members of provincial and local employment councils are elected from among the social partners through procedures set out in the respective local government regulations. Candidates are nominated by the representative organizations of employers and workers of the local community concerned. *The Committee requests the Government to provide information on the outcomes of the consultations held within local employment councils in relation to the organization and operation of employment services.*

Article 9. Staff of the employment service. The Government indicates that, in June 2014, the ratio of NES employees to users, which was 385:1, was unsatisfactory. It adds that the ratio of employment advisers to jobseekers was even more unfavorable, as there was one adviser for 1,257 unemployed persons. The Committee notes that the NES is undergoing changes in its organization and staff structure. *The Committee requests the Government to provide information concerning the reorganization of the NES and its impact.*

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 expresses *concern* in this respect. It is therefore bound to repeat 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.

Spain

Employment Service Convention, 1948 (No. 88) (ratification: 1960)

The Committee notes the observations of the Trade Union Confederation of Workers' Commission (CCOO), included with the Government's report. The Committee also notes the observations of the General Union of Workers (UGT) and of the International Organisation of Employers (IOE) and the Spanish Confederation of Employers' Organizations (CEOE), received on 1 September 2015. The Committee also notes the Government's reply to the previous observations, received on 11 November 2015.

Articles 4 and 5 of the Convention. Contribution of the employment service to employment promotion. Collaboration with the social partners. The Committee notes the Government's indication in its report that in the General Council of the National Employment System and the State Commission on Training for Employment the social partners were given prior information of the approval of the principal legislative innovations in relation to employment policy. According to the Government, on 31 May 2015, there was an increase of 3.8 percentage points in the system of preparatory meetings for users of the public employment service and the number of collaborators rose from 9,228 in 2012 to 9,482 in 2013 and 9,331 in 2014, with which the situation of the offices was considered to be stabilized. The essential elements of the Employment Activation Strategy 2014–16 are: the framework agreement for public–private collaboration in employment placement; the single gateway for employment and self-employment, which was introduced in July 2014; and the common service plan for the whole of the national employment system, approved in January 2015. The Committee notes that the CCOO deplores the fact that the staff of public employment services have been reduced, despite the unemployment situation in the country, and proposes that a plan should be developed for the restructuring and strengthening of public employment services. The CCOO also regrets that there was no social dialogue, but a policy of faits accomplis, which weakens public services and promotes private employment agencies. The UGT also considers that the increased expenditure is not oriented towards employment plans and improving employability through public services, but to subsidizing the private sector. The UGT warns that in 2013 and 2014 the Standing Committee of the General Council of the National Employment System never met, and that this situation has continued in 2015. The CEOE and the IOE indicate that the scarcity of public employment services is one of the most serious problems in the Spanish economy in relation to employment placement. The recruitment of workers is carried out by enterprises themselves (in 78 per cent of cases) and information gathered from the immediate circle of jobseekers (85 per cent), which are the most common methods used by the unemployed to find employment. In 2014, over 2.5 million workers were sent for vacancies administered by the public services, resulting in the placement of 199,730 people (7.6 per cent, lower than the percentage of 8.6 achieved in 2013). In the view of the CEOE and the IOE, the low level of placement by public employment services is very ineffective in achieving an appropriate allocation of human resources and in facilitating geographical mobility. The Government reiterates that social dialogue has been a constant approach during an intense period of reform in which it has always sought to seek agreement with the social partners. The Committee notes the above information and refers to the

conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015) concerning the Employment Policy Convention, 1964 (No. 122), which call on the Government to focus on guaranteeing the largest consensus on programmes linked to vocational training and to continue the dialogue with the social partners on vocational training for youth and the unemployed on the basis of strong public services. ***The Committee requests the Government to adopt further measures to ensure that the general employment service policy is determined through prior consultation with the representatives of the social partners. Please also provide updated information as a basis for assessing the effectiveness of the State Public Employment Service, as well as the effectiveness of the employment services provided by the Autonomous Communities and, in particular, the manner in which public employment services have contributed to helping youth and the unemployed find employment.***

[The Government is asked to reply in detail to the present comments in 2017.]

Employment Policy Convention, 1964 (No. 122) (ratification: 1970)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO), which were included in the Government's report. The Committee also notes the observations of the General Union of Workers (UGT), of the International Organisation of Employers (IOE) and of the Spanish Confederation of Employers' Organizations (CEOE), which were received on 1 September 2015. The Committee notes the Government's reply to the social partners' observations, which was received on 11 November 2015.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

Articles 1, 2 and 3 of the Convention. Measures to mitigate the impact of the crisis. In its conclusions in June 2015, the Committee on the Application of Standards asked the Government to continue a constructive social dialogue, taking fully into account the experience and views of the social partners with their full cooperation in formulating and enlisting support for such policies concerning the objectives expressed in *Article 1* of the Convention. The Committee on the Application of Standards also asked the Government, in line with the Convention, to evaluate, together with the social partners, the results of employment policy, including, when appropriate, the establishment of programmes for the implementation of employment policy; and to focus on guaranteeing the largest consensus on programmes linked to vocational training and continue the dialogue with the social partners on vocational training for youth and the unemployed on the basis of strong public services. The Government emphasizes in its report the importance of social dialogue which has been a constant element during an especially intense period of reforms in which it has always sought to reach agreement with the social partners. The Government describes the matters covered by the "Agreement on proposals for tripartite negotiations to strengthen economic growth and employment", signed on 29 July 2014, between the Government, the employers' organizations (the CEOE and the Spanish Confederation of Small and Medium-Sized Enterprises (CEPYME)) and the trade unions (the CCOO and UGT). The Government regrets that no new tripartite agreement has been signed in the area of training but underlines the proposals and the work of joint analysis carried out with the social partners on the matter and highlights the efforts made to simplify the types of employment contracts. The CEOE indicates that it participated actively in the process of negotiation of the Entrepreneurship and Youth Employment Strategy 2013–15 and in the formulation of the Youth Guarantee System. The employers' organizations continue to call for flexibility in contracts until the unemployment rate falls to an acceptable level. The CEOE adds, with regard to the abovementioned strategy, that it had been planned to set up an inter-ministerial committee and a working group composed of the social partners. However, even though the inter-ministerial committee was set up with the participation of the autonomous communities, the social partners had still not been invited to participate. The CCOO and the UGT observe that tripartite dialogue resumed when the system of labour relations had already been changed. The biggest achievement of the tripartite agreement of July 2014 was the Extraordinary Programme for Employment Activation, which partially accommodates the trade union demand to provide better protection for unemployed persons facing the greatest difficulties in finding employment. The trade union confederations indicate that three programmes – the Annual Employment Policy Plan 2015, the Spanish Employment Activation Strategy and the Common Portfolio of Public Employment Services – were submitted in a document already agreed upon with the Autonomous Communities and giving a ten-day period for sending observations. The Government did not accept any of the observations made. As regards the participation of the social partners in the evaluation of the impact of the measures adopted on employment, the trade union confederations point out that the Government is disregarding the conclusions of the supervisory bodies, opting to request the secretariat of the Organisation for Economic Co-operation and Development (OECD) to carry out an evaluation of the 2012 labour reform without involving the social partners. The Committee once again refers to the 2010 General Survey concerning employment instruments, in which it is emphasized that social dialogue is essential in normal times and becomes even more so in times of crisis. The employment instruments require member States to promote and engage in genuine tripartite consultations (paragraph 794). ***The Committee once again requests the Government to indicate the manner in which the social partners participate in the formulation, implementation and evaluation of employment policies to continue to overcome the negative impact of the crisis on the labour market.***

Labour market trends. Youth employment. The Government indicates in its report that in 2013 the total number of unemployed persons fell by 85,400, a decrease for the year which had not occurred since the second quarter of 2007. In 2014, this situation was maintained, given that an increase in employment was observed, even though the

unemployment rate stood at 24.5 per cent (25.4 per cent for women and 23.7 per cent for men). In July 2014, registered unemployment had affected 4,419,860 persons (2,094,322 men and 2,325,538 women). The Government recognizes that job losses during the crisis affected young people in particular (the youth unemployment rate was 53.1 per cent in the second quarter of 2014). In February 2013 the Government launched the Entrepreneurship and Youth Employment Strategy 2013–15 and, in July 2014, the Youth Guarantee System. The trade union confederations appreciate that there has been an increase in employment since 2014; however, they observe that Spain has the highest youth unemployment rate in the European Union, many people over 55 years of age remain unemployed and in general employment is precarious, seasonal and badly paid. The jobs recovery is occurring in sectors of a markedly seasonal nature, such as tourism and commerce. ***The Committee requests the Government once again to submit an evaluation, with the participation of the social partners, of the measures implemented to reduce youth unemployment and promote durable employment for young workers, particularly the most disadvantaged categories of young people. The Committee also requests the Government to provide up-to-date information on the measures taken to facilitate the return to work of long-term unemployed persons. The Committee hopes that the evaluation of the employment measures will show the impact on job creation of the Entrepreneurship and Youth Employment Strategy and the Youth Guarantee System, particularly for young persons with low skill levels.***

Education and vocational training policies and programmes. The Government indicates in its report that the strategic objectives of the occupational reform for employment adopted in July 2014 are to ensure the exercise of the right to training of the most vulnerable workers, whether employed or unemployed; the effective contribution of training to the competitiveness of enterprises; and efficiency and transparency in the management of public resources. The key elements of this reform were regulated in Royal Decree-Law No. 4/2015 of 22 March 2015, concerning the urgent reform of the vocational training system for employment in the labour sphere. The Government underlines that this new vocational training model is being adopted at a time when the trend towards economic recovery is strengthening (after six quarters of GDP growth and an estimate of about 3 per cent annual growth from 2015 to 2018), which should mean that the good economic forecasts should translate in the labour market into employability for workers and business competitiveness. The CEOE and the IOE indicate that the reform of vocational training was adopted without the consensus of the social partners, whose involvement is limited to participation in governance of the system, strategic planning and design of training. The social partners do not participate in the management of funds or in the delivery of training. The UGT proposes that vocational training should be extended to the most disadvantaged categories, particularly older long-term unemployed persons. ***The Committee requests the Government to continue providing information on the results of measures taken to improve skill levels and to coordinate education and training policies with potential employment opportunities, particularly for specific categories of workers and the regions most affected by the crisis.***

[The Government is asked to reply in detail to the present comments in 2017.]

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1990)

The Committee notes the observations from the Trade Union Confederation of Workers' Commissions (CCOO) included in the Government's report. The Committee also notes the observations of the General Union of Workers (UGT) received on 1 September 2015. The Committee takes note of the Government's reply to the earlier observations, received on 11 November 2015.

Articles 2–7 of the Convention. Implementation of a national policy on rehabilitation and employment for persons with disabilities. The Committee recalls that in its previous comments, it requested the Government to describe its national policy on vocational rehabilitation and employment for workers with disabilities. It notes in this connection the information sent by the Government in its report on the “labour market integration for persons with disabilities” campaign for 2014 regarding the 2 per cent quota reserved for workers with disabilities and the alternative measures for the employment of persons with disabilities, such as contracts with special employment centres, donations and the establishment of employment communes. The Government also provides recruitment data pertaining to persons with disabilities concerned by these different arrangements. The Government indicates that there is no institution in which the social partners and organizations representing the disability sector are represented. However, the representative organizations of this sector may submit their proposals directly to the Ministry of Employment and Security. The same Ministry refers its regulatory proposals to the organizations representing the disability sector for their information and consideration. The Committee observes that the CCOO and the UGT assert that the majority of persons with disabilities are not employed. In 2014, the employment rate of persons with disabilities was 24.3 per cent, whereas the figure for persons without disabilities was 57.1 per cent. According to the CCOO, the results of the public policies are poor and none of the enterprises required to comply with the reservation quota do so. The CCOO asserts that there is a need to strengthen, including through collective bargaining, the programmes and incentives for the removal of barriers and physical, architectural and transport obstacles for persons with disabilities; to adapt work schedules and allow on-site work to be alternated with teleworking. Among other initiatives, the UGT proposes boosting the role of the public employment services so that they are able to meet the needs of workers with disabilities through the creation of special units, and developing coordination between the social services and the public employment services. In its reply, the Government highlights the importance of the role played by the labour inspectorate in checking that there is no discrimination in access to employment and compliance with the rules on reserving posts for persons with disabilities. ***The***

Committee requests the Government to continue to take measures to apply a national vocational rehabilitation and employment policy for workers with disabilities and to report on any effects these measures have had in terms of persons with disabilities finding employment on the open labour market. Please give examples of the manner in which the representative organizations of employers and workers and the representative organizations constituted by persons with disabilities have been consulted with a view to formulating, implementing and periodically reviewing the policy. The Committee hopes that the report will also contain up-to-date information on the occupational guidance and information services and the placement and employment services provided for persons with disabilities to enable them to secure, retain and advance in employment in the open labour market.

[The Government is asked to reply in detail to the present comments in 2017.]

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 1999)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO) included in the Government's report. In addition, the Committee notes the observations of the General Union of Workers (UGT), the Spanish Confederation of Employers' Organizations (CEOE), and the International Organisation of Employers (IOE), received on 1 September 2015. The Committee also notes the Government's reply to those observations, received on 11 November 2015.

Article 13 of the Convention. Cooperation between the public employment service and private employment agencies. In its previous comments, the Committee requested the Government to provide its comments on the concern expressed by the CCOO relating to a framework agreement with employment agencies concluded by the public employment services in 2014. The Government indicates in its report that, in the meeting of the General Council of the National Employment System on 24 July 2013, information was provided on the framework agreement with employment agencies respecting collaboration with public employment services for the placement of the unemployed in the labour market. The Government adds that the central executive committee kept the social partners informed of the tender procedure for the selection of 80 employment agencies and other aspects of the framework agreement. In its new observations, the CCOO considers that the public services continue to be dismantled in the interest of private employment agencies, as demonstrated by the legislative amendments approved and the budgetary allocations for employment policy. The CCOO is not opposed to public-private partnership, as long as it does not involve a deterioration of the public services. The UGT expresses doubt on, among other issues, the placement objectives that must be met by the private employment agencies, the types of fees they can charge, the selection criteria for unemployed persons whose placement is administered by private employment agencies, and the possibility for unemployed persons to choose between the public employment service and the private employment agencies. The UGT also points out that the allocation set aside for the private employment agencies rose from €30 million in 2014 to €140 million in 2015, and the total is expected to rise to €175 million. The UGT considers that the decision is disproportionate and rushed as there has been no evaluation of the work carried out by the agencies. The CEOE and the IOE consider that, with the current employment rate, the support of the private sector is urgent and decisive. The work of private employment agencies is hampered by administrative difficulties, such as the requirement for private agencies to find unemployed persons a placement with an employment contract for at least six months full-time work during any eight month period, which is not a requirement in other European countries. The CEOE and the IOE consider that it is still necessary to improve the mediation mechanisms for employment, with the help of public-private partnership. In its reply, the Government indicates that the amounts received by employment agencies collaborating with the public employment service are determined by the placement work for the unemployed, on the basis of the contractual period of the person employed. The Government emphasizes that the payment system adopted by the framework agreement is based on payment by results, which is consistent with rules governing public contracts. The Committee recalls the requirement in the Convention that, in accordance with national law and practice and "after consulting the most representative organizations of employers and workers", conditions shall be established and periodically reviewed to promote cooperation between the public employment service and private employment agencies. The public authorities are required to retain final authority for utilizing and controlling the use of public funds earmarked for the implementation of the labour market policy. ***The Committee requests the Government to indicate how, after consulting the social partners, the arrangements are revised for cooperation between the public employment service and private employment agencies in the context of the 2014 agreement.***

Legislative developments. The Committee notes the information provided by the Government in its report on the legislative amendments relating to the placement agencies and the temporary work agencies introduced by Act No. 18/2014 of 15 October adopting urgent measures for growth, competitiveness and efficiency; and Royal Decree No. 4/2015 of 29 May, approving the regulations on temporary work agencies. ***The Committee requests the Government, taking into account the relevant provisions in the legislation in force (Act No. 18/2014 and Royal Decree No. 4/2015) for each Article of the Convention, to provide a report containing replies to all the questions in the report form on the application of the Convention.***

[The Government is asked to reply in detail to the present comments in 2017.]

Swaziland

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1981)

Part II of the Convention. Abolition of fee-charging employment agencies. Revision of Convention No. 96. The Government reiterates in its report that there has been no change in legislation or in practice. In reply to previous comments, the Government indicates that the possibility to denounce the Convention and consider the ratification of the Private Employment Agencies Convention, 1997 (No. 181), will be taken into consideration once the tripartite structures are back into normal operation. The Committee recalls that the Governing Body, at its 273rd Session in November 1998, invited the State parties to Convention No. 96 to contemplate ratifying, as appropriate, Convention No. 181 (document GB.273/LILS/4(Rev.1)). Such ratification would entail the immediate denunciation of Convention No. 96. Consequently, as long as Convention No. 181 has not been ratified by Swaziland, Convention No. 96 remains in force in the country and the Committee will continue to examine its application. ***The Committee therefore requests the Government to provide updated information on the national legislation giving effect to Part II of the Convention, as well as on the manner in which the Convention is applied in practice, including, for instance, extracts from official reports, information regarding the number and nature of the contraventions reported and any other particulars bearing on the practical application of the Convention. The Committee also requests the Government to provide information on any developments, in consultation with the social partners, concerning the possible ratification of the Private Employment Agencies Convention, 1997 (No. 181).***

Sweden

Employment Policy Convention, 1964 (No. 122) (ratification: 1965)

Articles 1, 2 and 3 of the Convention. Active labour market measures. Consultation with the social partners. The Government indicates in its detailed and comprehensive report that Sweden is considered to have a good chance of achieving the ambitious goal of an employment rate well over 80 per cent among people in the age group 20–64 years within the framework of Europe 2020. However, unemployment remains high (almost 8 per cent) and long-term unemployment is higher than before the financial crisis. The Committee notes that the objective of the Government's employment policy is therefore to reduce unemployment so that it is the lowest in the EU by 2020. While unemployment is high, the number of vacancies is at a historically high level. Moreover, the Government is of the view that the social partners also have a responsibility to stop unemployment from becoming entrenched, and also for the functioning of the labour market more generally. For example, the social partners have an important role in terms of both making it easier for groups with a weak attachment to the labour market to become established and facilitating opportunities for skills development and retraining later in working life. The Committee notes that, to give unemployed people opportunities for education, but also to prevent a lack of vocationally trained people, the Government is, among other things, focusing on adult vocational training at upper secondary school level in the municipal adult education. One area of focus in the Social Fund Programme for the period 2014–20 is skills development for the employed and improving access and quality in work-based learning in secondary schools and adult education. In reply to previous comments with regard to the sickness insurance reforms of Sweden and its consequences on employment, the Government indicates that the level of sickness absence, which in the early 2000s was very high compared with countries with similar systems, has gone down and is now on a level equal to comparable countries. ***The Committee requests the Government to continue to provide information on the impact of its labour market measures on sustainable and productive employment generation. The Committee also requests the Government to continue to include information on measures taken in the area of education and training policies and on their relation to prospective employment opportunities and on the consultations held with the social partners on the matters covered by the Convention.***

Youth, long-term unemployed and persons with disabilities. The Government indicates that the number of long-term unemployed people has continued to increase since 2012. Around half of the people registered with the Swedish Public Employment Service have been unemployed for over a year. Moreover, the Government adds that there are still a lot of people, mainly women, who work part time involuntarily. The Committee notes that the Job and Development Guarantee, a labour market policy programme, contains individually designed measures for people who have been outside the labour market for a long period of time. Youth unemployment was measured at 23 per cent in 2014 and thus represented a considerable percentage of total unemployment. Unemployment among young people without an upper secondary education was at 40 per cent in 2014, compared with 16 per cent for young people who have a complete upper secondary education. The Committee notes that almost half of youth unemployment represents students who are studying full time and also looking for work. The Government indicates that the existence of temporary contracts may be a stepping stone into the labour market for young people and other entrants, but adds that it is important not to get stuck in this type of employment for a long period of time. Measures that increase the possibilities of combining work or work experience with education are therefore important in reducing unemployment among young people while also aiming to alleviate shortages in the labour market. The Committee notes that youth measures include education contracts and trainee job wage subsidies. The EU youth employment initiative (YEI) for the years 2014–18 is also being implemented in Sweden as

part of the national Social Fund Programme. This initiative will complement and expand the existing labour market policy measures for young people. With respect to persons with disabilities, the Committee notes that the employment rate among persons with disabilities and a reduced capacity to work has increased, from 50 per cent in 2008 to 55 per cent in 2014. However, the gap in employment and unemployment rates between persons with disabilities and others remains. ***The Committee requests the Government to continue to provide information on the impact of employment measures targeting women, youth, long-term unemployed and persons with disabilities.***

Immigrants. The Government indicates that people born abroad include labour immigrants, refugees and their close relatives. In 2014, unemployment in the age group 25–74 years was at 20 per cent among adults born outside Europe, which can be compared with just under 4 per cent for adults born in Sweden. A set of new measures targeted towards integrating newly arrived migrants into the labour market took effect in August 2014, including the introduction of conditionality upon acceptance of a suitable job offer. The Committee notes that consultations with the social partners were initiated on new measures to speed up transition from arrival to getting established in the Swedish labour market. ***The Committee requests the Government to continue to provide information on the impact of measures taken to improve the employment situation of immigrants, including updated information on the rates of unemployment for adults born outside Europe, the sector of the economy in which they work, and other relevant information.***

Thailand

Employment Service Convention, 1948 (No. 88) (ratification: 1969)

Article 6(b)(iv) of the Convention. Migrant workers. The Government indicates in its report that, as of April 2014, a total of 205 companies applied for a recruitment service licence for both domestic and foreign workers and 198 of them had received it. The Committee notes that through the Memorandum of Understanding on Employment Cooperation, signed by Thailand, Cambodia, Lao People's Democratic Republic and Myanmar, employers requested nearly 1,025,000 migrant workers during the period of 2005–14 and over 503,000 migrant workers from the signatory countries were granted permission to work in Thailand. It also notes that the National Council for Peace and Order (NCPO) issued an announcement No. 70/2557 on 25 June 2014 on interim measures in solving the problems of migrant workers and human trafficking, which set up the One-Stop Service (OSS) Centres in order to protect migrant workers. By October 2014, approximately 316,000 employers submitted requests to employ migrant workers and about 1,534,000 migrant workers were registered with the OSS Centres. Migrant workers registered with the OSS Centres will be requested to undertake the nationality verification process. The Government indicates that, during the 2010–13 period, close to 1,825,000 migrant workers received the national verification which legalizes the employment status of migrant workers, including roughly 1,630,000 workers from Myanmar, 154,000 from Cambodia and 41,000 from Lao People's Democratic Republic. ***Referring to its observation on the application of the Employment Policy Convention, 1964 (No. 122), on this matter, the Committee requests the Government to provide information on the impact of the measures taken by the public employment service to prevent abuse in the recruitment of labour and the exploitation of migrant workers in Thailand as well as to facilitate their movement across borders, with due regard to their fundamental rights.***

Article 11. Effective cooperation between the public employment service and private employment agencies. The Government indicates that licensed recruitment agencies may select jobseekers from a list provided in the registration centres of the Department of Employment based on the regulation issued by the same Department. It also indicates that the Department of Employment appointed representatives from private employment agencies to participate as members in the Committee on the development of the recruitment and protection of jobseekers. In 2012–13, the Department of Employment cooperated with private employment agencies in measures to reduce the service charge fees and other expenses borne by jobseekers, particularly by rendering 95 private employment agencies to participate in a campaign to reduce service charge fees and expenses of Thai workers in Taiwan. ***The Committee requests the Government to provide information on the manner in which the private employment agencies participate in the activities of the Committee on the development of the recruitment and protection of jobseekers, as well as on the measures taken to secure effective cooperation between the public employment service and private employment agencies.***

Application of the Convention in practice. The Committee notes that between October 2013 and September 2014, about 1,039,000 job applicants, 443,870 job vacancies and 372,000 job placements were registered in 87 government employment offices. Moreover, about 119,000 workers were employed overseas during the same period, including through the Department of Employment (10,097 persons) and private recruitment agencies (34,846 persons). ***The Committee requests the Government to continue to provide statistical information on the number of public employment offices established, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices.***

Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

Articles 1, 2 and 3 of the Convention. Implementation of an active employment policy. Labour market trends. Consultation with the social partners. The Government indicates in its report that measures were implemented under the 11th National Plan of Social and Economic Development for 2012–16 aimed at developing the workforce to meet the labour market demands in the manufacturing and service sectors. ***The Committee requests the Government to provide further information on the implementation of the 11th National Plan of Social and Economic Development for 2012–***

16 with respect to employment promotion, including its impact on the labour market trends based on relevant statistical data. It also requests the Government to provide information on the consultations held with the social partners with regard to the implementation of the 11th National Plan of Social and Economic Development for 2012–16 and other matters covered by the Convention.

Migrant workers. The Government indicates that the National Council for Peace and Order (NCPO) established the One-Stop Service (OSS) Centres in 2014 to eradicate labour exploitation and human trafficking of migrant workers. Measures were also taken to reduce registration fees for migrant workers to obtain a work permit. The Committee notes that measures implemented in 2014 to address the labour exploitation in the fishing industry include encouraging employers to register their migrant fishery workers. Following the Cabinet Resolution of 6 November 2013, 12,624 migrant workers in the fishing industry were registered in 2013–14 and 58,508 migrant workers in the fishing industry were registered through the OSS Centres in 2014. The development strategies of the 11th National Plan of Social and Economic Development for 2012–16 include increasing regional labour mobility and protecting the rights of Thai workers abroad. The Government indicates that, in 2014, about 217,000 migrant workers were employed through the Memorandum of Understanding on Employment Cooperation, signed by Thailand, Cambodia, Lao People's Democratic Republic and Myanmar. **The Committee requests the Government to provide detailed information on the impact of the measures implemented to address and resolve issues relating to migrant workers, including new laws on labour protection and the fishing industry and related enforcement with due regard to their fundamental rights. Please also include the results obtained within the 11th National Plan of Social and Economic Development for 2012–16 to prevent abuse and exploitation of migrant workers in Thailand.**

Women. Prevention of discrimination. The Government indicates that the Department of Employment organized career promotion activities for unemployed women and men by providing training courses on self-employment and entrepreneurship, in which women jobseekers participated roughly five times more than men jobseekers on average from 2007–11. **The Committee requests the Government to provide information on the impact of the measures taken to promote increased participation of women in the labour market and to prevent discrimination in terms of employment, by including relevant statistical data.**

Workers in the informal economy. The Committee notes that the 1st Strategy of the National Plan for Workers in Informal Economy Management for 2012–16 aimed to expand protection coverage and create social security for workers in the informal economy in 2012–13. In this regard, a policy was formulated to promote a saving scheme for older workers in the informal economy. A regulation issued by the Social Security Office of the Ministry of Labour expanded the benefits to larger target groups, such as farmers, drivers, shopkeepers and street vendors. Moreover, approximately 108,500 workers participated in activities for informal workers concerning health protection and economic security. The Committee also notes that the Department of Industrial Promotion adopted measures for employment promotion for informal workers in 2009–11, including a project to develop skills in entrepreneurship in which about 21,000 persons benefited and an activity to enhance the capacity of community industrial establishments in which 250 groups were engaged. The Government indicates that the Department of Employment organized in-house skill training sessions and disseminated labour market information as well as set up the Project of Treethap Job Centre as an integrated job centre for employment promotion and income upgrading for low-wage earners, new graduates and informal workers. **The Committee requests the Government to continue to provide information on the impact of the measures implemented to promote employment and expand social security benefits for workers in the informal economy. Referring to the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), the Committee also requests the Government to include information on the impact of the measures taken to facilitate the transition of the workers from the informal economy to the formal labour market.**

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

United Kingdom

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

The Committee notes the observations of the Trades Union Congress (TUC) received on 1 September 2015.

Articles 1, 2 and 3 of the Convention. Active employment policy. Consultation with the social partners. The Government provides in its comprehensive and detailed report statistics on labour market trends and information in reply to the previous comments. The Government indicates that the number of employed persons rose by 248,000 persons in the first quarter of 2015 and 557,000 on the year, to 31.05 million. The employment rate rose 0.5 point on the quarter and one percentage point on the year to 73.4 per cent. Unemployment data showed that the number of unemployed people fell by 76,000 in the first quarter of 2015 and 416,000 over a one-year period to 1.84 million. The Government further indicates that 742,000 young people were unemployed, decreasing by 151,000 people over a year. The Committee notes that both full-time and part-time employment saw an increase over a one-year period. The Government indicates that businesses in the United Kingdom say that current employment laws are difficult to cope with and put them off on employing more workers. Simpler, more flexible employment laws would make it easier for companies to hire and manage staff, while protecting workers' basic rights. This should encourage employers to create new jobs, supporting enterprise and growth. The Committee notes in this regard that a series of labour market measures were adopted since the last report with the goal

of increasing flexibility in the labour market. In its observations, the TUC states that it is concerned that Mandatory Work Activity and Help to Work programmes (where long-term unemployed people can be obliged to undertake Community Work Placements or work experience) contradict *Article 1* of the Convention regarding “freedom of choice of employment”. The Government provides findings of an evaluation of Mandatory Work Activity in which the study showed that the aims of the programme appeared to be well understood by the Jobcentre Plus staff, providers and hosts, who recognized the potential for this scheme to impact positively on participating claimants. The majority of claimants were also clear about the compulsory elements of the scheme, and reported a range of positive attitudinal and behavioural outcomes as a result of their participation. However, the research also identified a number of implementation problems that require significant attention to ensure the smooth delivery of the policy and to maximize the intended impacts on participants. ***The Committee requests the Government to continue to provide information on the implementation of the Mandatory Work Activity programme and how this programme will translate into productive and lasting employment opportunities for its beneficiaries. Please also continue to include information on the impact of other labour market measures being implemented and on the details of the consultations held with the social partners on matters relating to the Convention.***

Long-term unemployment. In reply to previous comments, the Government indicates that the Work Programme is a scheme to help individuals at risk of long-term unemployment to find and keep jobs. In particular, it aims to improve support for those who are harder to help and reduce the time that people spend on benefits. The Government further indicates that innovative features of the Work Programme include processes that are not prescribed, that is, by adopting a “black box” approach, providers are free to innovate and use what works best. The TUC is of the view that the Work Programme is achieving roughly the level of performance of previous programmes, but is worried by repeated reports that the results-oriented “black box” model described in the report encourages “creaming and parking” of the easiest and most difficult candidates respectively by providers. ***The Committee requests the Government to continue to provide information on the impact of the measures taken to address long-term unemployment.***

Persons with disabilities. The Government indicates that the Work Programme supports a wide array of claimants who are receiving out-of-work benefits and who are at risk of long-term unemployment. This includes both claimants on Jobseeker’s Allowance and some claimants on Employment and Support Allowance. The Department for Work and Pensions (DWP) knows that some claimants may need more support than others to secure sustainable employment. Therefore, a Work Programme provider can receive up to £6,600 for a person on Jobseeker’s Allowance and up to £13,700 for an Employment and Support Allowance claimant. The referral process gives harder-to-help groups, such as persons with disabilities, access to personalized, individual support at the appropriate stage in their claim. Persons with disabilities who have been claiming Jobseeker’s Allowance for three months have the opportunity to volunteer for early access to the Work Programme to ensure they receive it within a timescale that is most appropriate to them. While Work Programme providers are free to design the support they offer, the DWP will hold them more rigorously to account for their performance than in the past, ensuring that all groups, including persons with disabilities, are supported effectively. The TUC indicates that performance through employment programmes for persons with disabilities is still very poor, adding that statistics show that, of those who had joined the Work Programme in March 2014 (and could have therefore participated for up to 12 months), 22.8 per cent of unemployed persons under 25 years of age on Jobseeker’s Allowance obtained jobs by March 2015, compared to 21.7 per cent of those over 25 and 8.7 per cent of persons with disabilities on Employment and Support Allowance. ***The Committee requests the Government to continue to provide information on the impact of the measures implemented to address the needs of persons with disabilities in the open labour market.***

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

Bolivarian Republic of Venezuela

Employment Service Convention, 1948 (No. 88) (ratification: 1964)

The Committee notes the observations of the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) and of the International Organisation of Employers (IOE), which were received on 2 September 2015.

Article 1 of the Convention. Contribution of the employment service to employment promotion. Application of the Convention in practice. The Committee notes the Government’s indication in its report that it has been implementing a set of policies aimed at ensuring people’s integration in employment and education. Employment agencies have been replaced by “meeting centres for education and work” (CEETs), of which there are 31 across the country. The Committee notes that in 2013, a total of 39,351 jobseekers were registered at the CEETs, 5,752 job vacancies were notified and 2,720 persons were placed in employment. The Government also referred to the Act concerning the Knowledge and Labour Mission, promulgated in June 2012, whereby the “system for the registration of employment needs and vacancies” was established, with a view to forecasting and identifying the number and characteristics of unemployed citizens, and ensuring their readiness for training and integration in the promoted programmes. The Second Socialist Economic and Social Development Plan 2013–19, which was adopted in December 2013, contains the general objective of promoting a policy for the integration of young people into the national productive system, with special emphasis on young people from low-income sectors. FEDECAMARAS and the IOE indicate that the CEETs are not fully operational. ***The***

Committee requests the Government to provide detailed information on the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by the CEETs. Please also provide information on the impact of measures adopted by the CEETs to meet the needs of young persons with regard to employment and vocational guidance.

Articles 4 and 5. Cooperation of the social partners. In its previous comments, the Committee asked the Government to provide information on the establishment of advisory committees at the national, regional and local levels with a view to achieving the cooperation of representatives of the employers and workers in the organization and functioning of the employment service. The Committee notes the Government's indication in its report that, through dialogue round tables with the employers' sector, agreements had been reached for boosting productive employment, with the provision of financial and institutional support for projects to create enterprises for social, mixed and communal production. The Committee notes the indication by FEDECAMARAS and the IOE that the Government is failing to comply with *Article 5* of the Convention, according to which the general policy of the employment service must be developed after consultation of representatives of employers and workers; in this case, no consultations have been held with FEDECAMARAS regarding the formulation and implementation of this policy. ***The Committee requests the Government to provide its comments on this matter. The Committee also requests the Government to provide specific examples of previous consultations held with the social partners with a view to securing their cooperation in the organization and functioning of the public employment service.***

[The Government is asked to reply in detail to the present comments in 2017.]

Employment Policy Convention, 1964 (No. 122) (ratification: 1982)

The Committee notes the observations made by the Confederation of Workers of Venezuela (CTV), which were received on 1 September 2015, and by the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) and the International Organisation of Employers (IOE), which were received on 2 September 2015.

Articles 1 and 2 of the Convention. Implementation of the employment policy in the framework of a coordinated economic and social policy. The Committee notes the Government's indication in its report that it has implemented a new social strategy, based on the guidelines established in the Economic and Social Development Plan 2007–13, aimed at eradicating poverty and facilitating social integration. The strategy is based on the system of missions existing in the country, focusing on five key elements, namely: employment; employment quality; provision for education; the guarantee of free, high-quality education; and the definitive elimination of poverty. The Government explains that the social impact of the various policies and programmes can be observed in the social indicators (a gradual decrease in the number of households in a situation of extreme poverty, a downward trend in the number of poor households, and an increase in social investment). The Government refers to the behaviour of labour force indicators (the unemployment rate fell from 10.6 per cent in 1999 to 5.5 per cent in 2014). The Government indicates that in January 2015 the percentage of employed persons in the informal economy was 41.2 per cent (10.4 percentage points less than in January 2004). The Government adds that between 2000 and 2014 one third of new jobs created were in the formal economy. FEDECAMARAS and the IOE maintain that there are no real employment plans incorporated into macroeconomic planning and that the country's economic situation does not permit the creation of new jobs. The Committee observes that FEDECAMARAS and the IOE maintain that the economic model of the last ten years has resulted in the closure of some 4,000 industrial workplaces and of over 200,000 business establishments; in addition, some 120,000 enterprises are at risk of bankruptcy. According to FEDECAMARAS and the IOE, the National Institute of Statistics (INE) announced in January 2015 that the unemployment rate in Venezuela was 7.9 per cent and that over 13 million people were in employment. The INE also indicated that 58.8 per cent of the total population in employment was in the formal economy, while the informal economy (which includes enterprises with fewer than five employees) accounts for 41.1 per cent of the population. ***The Committee requests the Government to indicate the impact of the measures adopted under the Economic and Social Development Plan 2007–13 and the social missions, in relation to the creation of productive employment. The Committee also requests the Government to provide detailed, disaggregated information on the situation, level and trends of employment. Please explain the manner in which labour market data have been used as the basis for a regular review of employment policy measures as an integral part of a coordinated economic and social policy for achieving the objectives of the Convention.***

Youth employment. The Government indicates that, according to the INE report on the labour force, with respect to the second half of 2013, the youth population (15–30 age group) comprised 8,417,247 persons, representing 28 per cent of the total national population. The economically active proportion of that age group represented 33.5 per cent of the total economically active population. In the second half of 2013, the youth employment rate was 87.2 per cent (4,093,949 persons), representing 31.6 per cent of the total employed population. ***The Committee requests the Government to provide detailed and disaggregated information on youth employment trends. The Committee also requests the Government to include an evaluation of the active policy measures implemented to minimize the impact of unemployment on young persons and to facilitate their lasting integration into the labour market, particularly in the case of the most underprivileged categories of young persons.***

Development of small and medium-sized enterprises (SMEs). The Committee notes the information supplied by the Government regarding the legal provisions concerning the promotion and protection of SMEs, and the credits granted between 1974 and 2013, by economic sector. The Government also indicates that, through dialogue round tables with the employers, agreements have been reached for boosting productive employment, with the provision of financial and institutional support for projects to create enterprises for social, mixed and communal production. ***The Committee requests the Government to continue providing information on the impact of the measures adopted to promote productivity and a conducive climate for employment generation by small and medium-sized enterprises.***

Article 3. Participation of the social partners. The Committee notes the CTV's claim that the workers' organizations are not consulted with regard to the formulation of employment policies. FEDECAMARAS and the IOE indicate that the Government is failing to comply with its obligation to consult the most representative employers' organization in Venezuela with regard to the coordinated determination of policies to ensure decent, stable, productive and high-quality employment in Venezuela, an increase in workers' standard of living, and also to achieve growth and individual and social progress. ***The Committee once again requests the Government to provide specific examples of the manner in which the views of employers' and workers' organizations have been taken into account in the formulation and implementation of employment policies and programmes.***

Zimbabwe

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1998)

Article 2 of the Convention. National policy on vocational rehabilitation and employment of persons with disabilities. The Committee noted in its previous observation that a consultative process had led to the formulation of a draft policy on persons with disabilities, which was under consideration by the stakeholders. The Government indicates in its report that the process of adopting a national policy on persons with disabilities has not been concluded. Consultations in relation to this policy are being conducted by the National Disability Board. ***The Committee trusts that a national policy on vocational rehabilitation and employment of persons with disabilities will soon be adopted and requests the Government to provide detailed information in this regard. The Committee also requests the Government to provide statistics, extracts from reports, studies and inquiries concerning the matters covered by the Convention.***

Article 3. Promotion of employment opportunities in the open labour market. The Committee notes that a quota system proposed in the draft national policy for the employment of persons with disabilities has not yet been implemented. ***The Committee requests the Government to provide information concerning the implementation of a quota system to promote the employment of persons with disabilities in the labour market. Please also provide information on other measures that are available for the vocational rehabilitation of persons with disabilities.***

Article 4. Equal opportunity and treatment. The Government indicates that section 7 of the Disabled Persons Act empowers the National Disability Board responsible to issue adjustment orders for buildings to be accessible to persons with disabilities. ***The Committee requests the Government to continue to provide information on positive measures aimed at ensuring equality of opportunity and treatment between persons with disabilities, whether women or men, and other workers.***

Article 7. Vocational rehabilitation and employment services. The Committee notes that, to facilitate the vocational rehabilitation of persons with disabilities in the public sector, the Government provides personal assistance to public sector workers with disabilities, as is the case with visually impaired workers. In addition, the Government established a revolving loan facility for persons with disabilities who graduate from vocational training centres. ***The Committee requests the Government to continue to provide information on the existing services or implemented strategies aimed at helping persons with disabilities to secure, retain and advance in employment.***

Article 8. Access to services in rural areas and remote communities. The Government indicates that district social welfare offices across the country provide information concerning vocational rehabilitation and employment services, and district employment services offices conduct career guidance fairs. The Government further indicates that persons with disabilities living in rural areas who require services from rehabilitation centres receive warrants for the use of buses to facilitate their travel. ***The Committee requests the Government to continue providing information on the measures adopted to promote the vocational rehabilitation of persons with disabilities living in rural areas.***

Article 9. Training of staff responsible for persons with disabilities. The Government indicates that staff at rehabilitation centres undergo both tertiary and on-the-job training. It also indicates that social workers at social welfare offices receive training in psychosocial support and communication with persons with disabilities and that other staff members undertake vocational rehabilitation skills-transfer programmes. ***The Committee requests the Government to continue to provide information on the training programmes offered to staff responsible for the vocational guidance, training and placement of persons with disabilities.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 2** (Argentina, Egypt, Estonia, Guyana, Iceland, Kenya, Montenegro, Poland, Seychelles, South Africa, Sudan); **Convention No. 88** (Albania, Australia, Bahamas, Belize, Bosnia and Herzegovina, Central African Republic, China: Macau Special Administrative Region, Costa Rica, Cuba, Democratic Republic of the Congo, Djibouti, Ecuador, Egypt, El Salvador, France, Germany, Guatemala, Guinea-Bissau, Ireland, Kazakhstan, Kenya, Lebanon, Lithuania, Madagascar, Malaysia, Republic of Moldova, Montenegro, Mozambique, Netherlands: Aruba, Netherlands: Caribbean Part of the Netherlands, Netherlands: Sint Maarten, Philippines, Portugal, Sao Tome and Principe, Slovakia, United Republic of Tanzania: Tanganyika, The former Yugoslav Republic of Macedonia, Tunisia, Turkey); **Convention No. 96** (Bangladesh, Costa Rica, Côte d'Ivoire, Djibouti, Ghana, Guatemala, Malta, Mauritania, Turkey); **Convention No. 122** (Albania, Azerbaijan, Belarus, Bulgaria, Cameroon, Croatia, Czech Republic, Denmark, Guinea, Islamic Republic of Iran, Lebanon, Mauritania, Netherlands: Aruba, Papua New Guinea, Philippines, Romania, Rwanda, Saint Vincent and the Grenadines, Senegal, Slovakia, Slovenia, Suriname, Thailand, The former Yugoslav Republic of Macedonia, Togo, Tunisia, Uganda, United Kingdom, United Kingdom: Guernsey, Uzbekistan, Viet Nam, Yemen, Zambia); **Convention No. 159** (Argentina, Bosnia and Herzegovina, Brazil, Burkina Faso, Costa Rica, Côte d'Ivoire, Ecuador, Egypt, El Salvador, Germany, Guatemala, Guinea, Ireland, Jordan, Kyrgyzstan, Lebanon, Lithuania, Luxembourg, Madagascar, Mexico, Mongolia, Montenegro, Netherlands, Pakistan, Paraguay, Philippines, Portugal, Russian Federation, San Marino, Serbia, Slovakia, Sweden, Thailand, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, Yemen, Zambia); **Convention No. 181** (Albania, Bosnia and Herzegovina, Czech Republic, Fiji, Finland, Israel, Portugal, Slovakia, The former Yugoslav Republic of Macedonia, Zambia).

Vocational guidance and training

Guinea

Human Resources Development Convention, 1975 (No. 142) (ratification: 1978)

Article 1 of the Convention. Formulation and implementation of education and training policies. In its report the Government provides information on the strategies implemented to strengthen the link between training and employment in the interests of poverty reduction. The Government further indicates that post-primary training centres (CFPPs) have been established in order to provide skills training for young people who have not managed to complete primary and secondary (first cycle) school. The Government also refers to initiatives launched by the Ministry of Youth and Youth Employment, such as the establishment of counselling centres, centres for advice and guidance to young people and the implementation of the “Vivre contre Apprentissage” programme. ***The Committee refers the Government to its comments on the Employment Policy Convention, 1964 (No. 122), and requests it to provide detailed information on the manner in which it ensures effective coordination of the vocational guidance and training programmes and policies with employment policies and programmes. It also requests the Government to provide information on the measures taken to secure coordination between the various competent bodies in developing comprehensive and concerted vocational guidance and training policies and programmes. The Committee also requests the Government to provide information on the levels of education, qualifications and training activities in order to allow an assessment of the effect given in practice to all the provisions of the Convention.***

Article 5. Cooperation with the social partners. The Committee again draws the Government’s attention to the importance of social dialogue in formulating, implementing and reviewing a national policy on human resource development, education and training. ***The Committee requests the Government to provide detailed information on the participation of the social partners in the formulation and implementation of vocational guidance and training policies and programmes.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 140** (Brazil, Germany, Guinea, Montenegro, Netherlands: Aruba, San Marino, Slovakia); **Convention No. 142** (Fiji, Guyana, Kyrgyzstan, Lebanon, Netherlands: Aruba, The former Yugoslav Republic of Macedonia).

Employment security

Portugal

Termination of Employment Convention, 1982 (No. 158) (ratification: 1995)

The Committee notes the observations made by the International Organisation of Employers (IOE), in communications received on 1 September 2013 and 31 August 2014, the Government's reply thereto and the observations made by the Confederation of Portuguese Industry (CIP) in a communication received on 4 November 2014. The Committee also notes the information provided by the Government in its report, as well as the observations made by the General Confederation of Portuguese Workers – National Trade Unions (CGTP-IN), the General Workers' Union (UGT) and CIP communicated therein.

Legislative developments. Application of the Convention in practice. In reply to previous comments regarding the evaluation of the impact of the reduction of termination benefits by the legislative reforms of 2011 in terms of maintaining and creating employment, the Government explains that the 2011 labour reform established a transitional regime; hence, the impact of the legislative amendments on reducing the amount of termination benefits is not immediate. The Government adds that, according to the data available, there seems to be a slight decrease in terminations of employment contracts since the beginning of 2012. Moreover, the most recent employment statistics show that the employment rate has increased over the past four quarters (2013–14), which indicates an upward trend in employment after four consecutive quarters of decline (2012–13). Furthermore, the Government enumerates in its report the most significant amendments to legal regimes regarding termination of employment contracts, resulting from an adjustment process initiated in 2011. In its observations, the CIP reiterates some of the points previously made concerning the fact that Portuguese legislation regulates certain aspects of employment contracts' termination more strictly and in greater detail than the Convention. The IOE and the CIP referred to important legal reforms adopted following the Tripartite Agreement for Competitiveness and Employment of March 2011 and the Commitment to Growth, Competitiveness and Employment of January 2012. The CGTP-IN expresses its concern in view of the increased undermining of workers' protection from dismissal and refers to some of the latest legislative developments which have resulted in a new reduction of the compensation for termination of the employment contract, namely Act No. 23/2012 of 25 June 2012 and Act No. 69/2013 of 30 August 2013. Both the CGTP-IN and the UGT criticize the amendments resulting in new dismissal criteria, particularly in the case of extinction of the work position. The Government refers to the judicial decision whereby a number of sections of the Labour Code were declared unconstitutional, by reason of infringing the prohibition to dismiss without fair cause established in article 53 of the Constitution. In its decision No. 62/2013, the Constitutional Court found that the modifications introduced into section 368(2) of the Labour Code by Act No. 23/2012 of 25 June 2012 failed to provide the necessary normative guidance as to the criteria that should govern the employer's decision. That section allowed the employer the right to define the criterion to be applied for making a post redundant in a context when there were other posts with identical functional content – hence eliminating the application of the seniority criterion. As regards the modified version of section 375(1)(d) of the Labour Code which eliminated the obligation to transfer the employee to another suitable position in case of extinction of the work position and dismissal for unsuitability, the Constitutional Court found that dismissal on the grounds of a worker's unsuitability could only occur if no alternative was available. **The Committee requests the Government to continue to provide information evaluating the impact of legislative reforms, in terms of maintaining and creating employment.**

Article 2(3) of the Convention. Adequate safeguards in case of recourse to contracts of employment for a specified period. The Government indicates that in order to ensure the exceptional nature of the fixed-term contract regime, the cases in which such contract should be considered as and converted into a permanent contract are determined by law, namely when concluded with the intent to evade the regulations which are applicable to permanent contracts or where the maximum duration of the contract or the maximum number of renewals has been exceeded (section 147 of the Labour Code). The Government also provided statistical information showing that the percentage of workers with fixed-term contracts in 2013 has suffered a slight increase in comparison with 2012 (0.9 percentage point). The Committee takes note of the judicial decisions transmitted by the Government in connection with the protection of workers who hold fixed-term employment contracts. **The Committee requests the Government to continue to provide information on the manner in which the protection provided by the Convention is ensured to workers who have concluded an employment contract for a specified period of time and the number of workers affected by these measures.**

Article 2(5). Micro-enterprises. The Government indicates that the procedure for dismissal in micro-enterprises is regulated by the same provisions applicable to other enterprises, except for the intervention of work councils in the procedure of dismissal; hence the amendments to section 366(1) of the Labour Code concerning the investigation to be conducted by the employer, in reply to a disciplinary notice for the purposes of evidence gathering, are now applicable to micro-enterprises. **The Committee requests the Government to continue to provide information on the effective application of the Convention to micro-enterprises.**

Article 4. Justification for termination. The CGTP-IN recalls that the legislative amendments resulting in the elimination of the obligation of the employer to follow a specific criterion (seniority based) to select employees to be

retrenched and to transfer the employee to another suitable position, in case of a redundant position and dismissal for unsuitability, were declared unconstitutional by the Constitutional Court (Decision No. 602/2013). Following the decision, the original criterion was altered by Act No. 27/2014 of May 2014. Both the UGT and the CGTP-IN deplore the fact that the criterion established by Act No. 27/2014 placing performance, qualifications, and labour costs above the seniority criterion may be used at the employer's discretion. ***The Committee requests the Government to provide examples of the application of the legislative amendments of 2014 regarding the valid reason for termination of employment, including copies of the leading judicial decisions in this regard.***

Article 8. Right to appeal. Time limit for the appeal procedure. In reply to previous comments, the Committee notes the detailed statistical information appended to the Government's report concerning the number, outcome and average length of proceedings for 2011 and 2012, both at first instance and on appeal. The Committee recalls the concerns of the CGTP-IN regarding the reduction of the time limit for bringing a judicial claim for unfair dismissal from one year to 60 days, as established by the revised Labour Code. ***The Committee again requests the Government to provide information on the practical application of the new legislative provisions regulating claims for unfair dismissal. It also requests the Government to provide information on the roles of mediation and arbitration in resolving issues related to the Convention.***

Article 10. Compensation. In reply to the concern raised by the CGTP-IN with regard to the relaxed procedural requirements and the effects of unlawful dismissal introduced by the 2009 Labour Code, the Government refers to the modifications introduced by Act No. 23/2012 of June 2012 regarding the investigation to be conducted by the employer following a disciplinary notice, the effects of unlawful dismissal, and compensation in lieu of reinstatement. ***The Committee requests the Government to continue to provide information concerning Article 10 of the Convention, including examples of court rulings giving effect to this provision.***

Spain

Termination of Employment Convention, 1982 (No. 158) (ratification: 1985)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO), included in the Government's report. The Committee also notes the observations of the General Union of Workers (UGT) and of the International Organisation of Employers (IOE) and the Spanish Confederation of Employers' Organizations (CEOE), received on 1 September 2015. The Committee further notes the Government's reply to the earlier observations, received on 11 November 2015.

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

At its 321st Session (June 2014), the Governing Body entrusted the Committee of Experts with following up the questions raised in the report of the tripartite committee which examined the representation made by the CCOO and the UGT alleging non-observance by Spain of Convention No. 158 (GB.321/INS/9/4). In the same way as the tripartite committee (paragraph 226 of the report), the Committee of Experts requested the Government to increase its efforts to reinforce social dialogue and, in consultation with the social partners, to find solutions to the economic difficulties that are in conformity with the Convention. The CCOO states that the Government has not organized meetings with the social partners to listen to and take into consideration the proposals made by trade unions concerning the Convention and concerning the need to make substantive amendments to the current legislation respecting termination of employment. ***The Committee once again requests the Government to take measures to reinforce social dialogue and, in consultation with the social partners, to find solutions to the economic difficulties that are in conformity with the Convention.***

Exclusions. Establishment of a one-year period of probation under the "entrepreneur-support" employment contract (paragraphs 227–247 of the report). The Government indicates in its report that in practice the "entrepreneur support" employment contract (CAE) has shown characteristics similar to indefinite contracts (that is, without limit of time), rather than temporary contracts. The rate of retention in employment over time of persons covered by CAE contracts is much closer to that of other indefinite contracts. The Government adds that the CAE contracts do not systematically end just before one year is completed.

The CCOO indicates that employment instability has increased among those who have concluded employment contracts without limit of time since the 2012 labour reform. Mobility within recently created permanent jobs has grown by 23 per cent since the labour reform of March 2012. The CCOO adds that certain labour tribunals have found that the rules governing the probationary period of one year set out in CAE contracts are in violation of the European Social Charter, as they do not provide for either the right to notice or to compensation during the one-year probationary period.

The UGT emphasizes that CAE contracts were introduced without social dialogue and warns that they do not appear to be a transitional measure, as they could be in force for over ten years when it is considered that the unemployment rate (24.5 per cent in 2014) will not fall below 15 per cent for many years. According to the UGT, the CAE contracts are a structural measure. CAE contracts have become generalized through all types of activity which, in the view of the UGT, has a substantial effect on the freedom of collective bargaining, as the application of CAE contracts cannot be limited through collective agreements. The UGT also indicates that the Government has not adopted any measures to prevent

CAE contracts from being terminated at the initiative of an employer in order to avoid in an abusive manner the protection provided for in the Convention, as requested by the tripartite committee (paragraph 247 of the report).

The Committee notes the Government's indication in its reply that the High Court of Castilla and León, Valladolid (Labour Chamber, First Section) has found in two rulings dated 25 March 2015 and 22 April 2015 that there is no violation of the European Social Charter. The Government emphasizes that CAE contracts are used only by enterprises which need to have recourse to them to examine the viability of the job. According to the Government, CAE contracts are of a transitional nature, and are limited in time until the unemployment rate falls below 15 per cent. ***The Committee requests the Government to continue providing information on developments in relation to CAE contracts and on the issue of social dialogue. Please also indicate the measures adopted, in consultation with the social partners, to prevent CAE contracts from being terminated by employers in order to avoid in an abusive manner the protection provided for in the Convention.***

Articles 1, 8(1) and 9(1) and (3). New regulations on economic, technical, organizational or production-related reasons for dismissal (paragraphs 248–266 of the report). The Government provides a detailed list and analysis of the rulings of the Labour Chambers of the High Courts issued between January 2013 and September 2014 relating to collective dismissals. In 2013, out of a total of 155 cases relating to collective dismissals, in something over half of the cases (80), the ruling found the decisions by the employer to be in accordance with the law; in 54 cases, the decisions by employers were found to be in breach of the law; and in the remaining 21 cases, the employers' decisions were set aside. During the first three quarters of 2014, there was a substantial decrease in the number of cases. The Supreme Court only upheld 31 of the 58 appeals concerning collective dismissals. Of the 18 dismissals that were set aside, in which the right of the dismissed workers to reinstatement was upheld (without the option for the employer to pay compensation):

- five cases involved a fraudulent breach of the law;
- five cases involved substantive procedural flaws relating to the consultation period;
- four cases found that the associations of enterprises had not been correctly constituted;
- two cases involved violations of the fundamental right to strike or freedom of association; and
- two cases involved a lack of the necessary documentation for effective negotiation during the consultation period.

The CEOE and the IOE indicate that, following the labour reform of 2012, there has been greater involvement of the courts in industrial relations, especially with regard to collective dismissals, as a result of which the decisions set aside by the courts for mere formal flaws and court rulings on whether or not dismissals are lawful are leading to a serious crisis concerning the legal security of enterprise decisions. In reply, the Government refers to the information that the enterprise is required to provide workers' representatives in cases of collective dismissal. The Government emphasizes the ruling by the Supreme Court (of 27 May 2013, Case No. 78/2013), in which it found that the employers failure to provide the necessary documentation necessarily resulted in the collective dismissal decision being set aside, because the failure was not in accordance with the required objective, namely adequate negotiation between the enterprise and the workers. ***The Committee requests the Government to continue providing information on the manner in which regulations respecting economic, technical, organizational or production-related reasons for dismissal are applied in practice, including updated statistics on the number of appeals made and their outcome, and the number of terminations for economic or similar reasons.***

Article 10. Abolition of compensation wages in cases where the employer opts for the termination of employment despite a court ruling of unfair dismissal (paragraphs 267–280 of the report). With reference to the compensation granted by the courts in cases of unfair dismissal, the Government indicates that when the courts find that a dismissal is unlawful, the employer is required by the ruling to opt, within five days of notification of the ruling, between the reinstatement of the worker or the payment of compensation equivalent to 33 days' wages for each year of service, with a pro rata amount per month for periods of under one year, up to a maximum of 24 monthly payments. Opting for compensation results in the termination of the employment contract, as from the date of the effective end of work. If the employer opts for reinstatement, the worker is entitled to compensation wages for the elapsed period. The wages are equivalent to an amount equal to the sum of the wages that the worker did not receive from the date of dismissal until the notification of the ruling finding the dismissal to be unlawful, or until the worker has found another job. ***The Committee requests the Government to continue providing information on the nature of the compensation awarded, including examples of court rulings in cases where termination of employment is found to be unjustified.***

Article 6. Amendment of the regulations on absence from work due to duly certified illness or accident; dismissal for absenteeism (paragraphs 281–296 of the report). The Government refers to a ruling by the High Court of Andalucía, Malaga, of 22 May 2014, referring to the method for the calculation of the period for which justified absences and intermittent absences have to be taken into account for the purposes of the termination of the contract on grounds of absenteeism. ***The Committee requests the Government to continue providing information on the manner in which absences resulting from temporary incapacity, particularly as a result of medical treatment for cancer or other serious illness, are calculated in practice.***

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

Turkey

Termination of Employment Convention, 1982 (No. 158) (ratification: 1995)

The Committee notes the Government's report which includes observations made by the Turkish Confederation of Employers' Associations (TISK), the Confederation of Turkish Trade Unions (TÜRK-İS) and the Confederation of Turkish Real Trade Unions (HAK-İS). In addition, the Committee notes the observations made by the International Organisation of Employers (IOE) and TISK, received in August 2013, and the information provided by the Government in reply to these observations in March 2014. It also notes the communication received in August 2014 whereby the IOE included Turkey in its observations concerning the application of the Convention.

Article 2(3) of the Convention. Adequate safeguards against recourse to contracts of employment for a specified period of time. The Committee previously noted TÜRK-İS's concern that, some employers tend to resort to contracts for a specified period of time with the aim of avoiding employment protection provisions. In its observations of August 2013, TISK and the IOE state that this concern seems to be unjustified since auxiliary jobs are widely performed by subcontractor employees in Turkey. TISK and the IOE add that an employer may recruit a subcontractor upon restrictions set forth by the Labour Code. The Government refers to section 11 of the Labour Law which regulates contracts for a definite and indefinite duration. TISK recalls in its November 2014 observations that this provision requires that there must be objective reasons the first time a fixed-term employment contract is concluded. TÜRK-İS is of view that, although the Labour Code lays down clear provisions, fixed-term contracts are used to evade statutory obligations in practice. The Committee recalls that the Convention provides that adequate safeguards shall be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection resulting from this Convention (see also Paragraph 3 of the Termination of Employment Recommendation, 1982 (No. 166)). ***The Committee requests the Government to provide further information on the observations of the social partners. It also requests the Government to provide updated information on the use of safeguards provided in section 11 of the Labour Law against abusive recourse to contracts of employment for a specified period of time, especially for auxiliary jobs.***

Article 2(4)–(6). Categories of employees excluded from the Convention. The Committee recalls that, under section 18 of the Labour Law, employees in businesses employing less than 30 workers, employees with less than six months' employment and employees holding a managerial position are excluded from the employment protection provisions of the Law. Under section 17 of the Labour Law, if the contracts of these categories of workers are terminated in bad faith, they are entitled to compensation equal to three times the notice period plus the compensation in lieu of notice if the notice period has not been respected. The Committee refers to its previous comments and notes the information provided by TISK in November 2014 on the provisions of the Code of Obligations that apply to workers who are excluded from the scope of the Labour Law. HAK-İS indicates that the number of establishments employing fewer than 30 workers with a view to taking advantage of the legislative exemption is rising in the country. It adds that establishments which ought to be employing more than 30 workers try to shirk their responsibilities by dividing the establishments on paper. The Committee notes TÜRK-İS's indication that the vast majority of undertakings in Turkey are small and medium-sized enterprises and it is therefore clear that a relatively large number of workers do not enjoy job security. The Committee notes that the Constitutional Court, in a judgment of 22 October 2014, declared unconstitutional certain provisions of the Labour Law that denied employees in establishments employing fewer than 30 workers the right to initiate legal proceedings for unfair dismissal on grounds of anti-union discrimination. ***The Committee requests the Government to provide updated information on any developments concerning the application of the Convention in small and medium-sized enterprises that may be excluded from the employment protection provisions of the Labour Law, including data on the increase of establishments employing fewer than 30 workers in comparison with other establishments and examples of court decisions on bad faith dismissals.***

Seafarers. The Committee recalls that, in its conclusions adopted in November 2000, the tripartite committee set up by the Governing Body to examine a representation under article 24 of the ILO Constitution noted that the laws regulating the employment of seafarers did not require a valid reason related to capacity, conduct or operational requirements for termination. In its report the Government refers to *Article 2(5)* of the Convention and recalls that Maritime Labour Law No. 854 was adopted in accordance with the opinions of the social partners. The Committee notes that, in their observations, TISK and the IOE are of the view that excluding seafarers from the application of the Convention is in conformity with *Article 2(5)*. The Committee recalls that the exclusion permitted by *Article 2(5)* only applies if the Government lists the exclusion in the Government's first report, after consultation with the social partners. It recalls in this regard that the exclusion of seafarers was not listed in the first report. It notes however that the Government had listed the provisions of the Maritime Labour Law, describing the conditions in which an employment contract may be terminated. The Committee recalls that it is permissible for a Member to give effect to the Convention in more than one law and it is unnecessary to regard them as exclusions. ***The Committee therefore requests the Government to provide further information on the position of law and practice regarding the termination of the employment contract of seafarers.***

Article 10. Remedies in case of invalid termination. In its previous comments, the Committee noted that the Turkish Employment Agency (İŞKUR) required workers who win their lawsuits for unfair dismissal to pay back the unemployment benefits they received during adjudication. The Committee noted the decision of the Court of Cassation of

5 April 2010 stating that when an appeal procedure for unfair dismissal lasts more than four months, the repayment by the worker winning the lawsuit of unemployment benefits received during adjudication is unlawful as it contravenes Unemployment Insurance Law No. 4447 and the principles of social security. TISK and the IOE indicate that the April 2010 ruling was decided by a majority of judges and add that the Court of Cassation handed down a unanimous decision on 30 November 2010. Both organizations are of the view that the decision of the Court of Cassation has become a precedent and conflicts arising out from unemployment insurance are expected to be resolved similarly by the judiciary. The Government indicates that a draft law is on the agenda of the National Assembly which was prepared to eliminate situations in which unemployment benefits would be requested to be paid back when individuals went back to work. ***The Committee requests the Government to continue to provide information on the application of Article 10 of the Convention, including information on the eventual adoption of legislation.***

Bolivarian Republic of Venezuela

Termination of Employment Convention, 1982 (No. 158) (ratification: 1985)

The Committee notes the observations made by the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMERAS) and the International Organisation of Employers (IOE), received on 2 September 2015.

Article 8 of the Convention. Appeal procedure against unjustified dismissal. In its previous comments, the Committee requested the Government to provide information on the manner in which appeals can be lodged with an impartial body against unjustified dismissals. The Committee notes the ruling issued on 11 June 2015 by the First High Court of the Labour Circuit of Caracas, which is provided by the Government in its report. It further notes the Government's indication in its report that, in order to guarantee stability of employment, the labour legislation establishes two concepts: stability, which enables workers to remain in their jobs while there is no reason to justify the termination of the employment relationship; and permanence, which offers certain categories of workers the right not to be arbitrarily dismissed by their employers. The Government maintains that both labour tribunals and the corresponding administrative authority (the labour inspectorate) are impartial bodies that may consider worker's claims. The Committee observes that the IOE and FEDECAMERAS indicate that: (i) permanent employment and reinstatement give rise to difficulties for employers due to the obstacles and unjustified delays of the administrative authorities in termination procedures; (ii) the reinstatement of workers is approved automatically by the labour inspectorate, without assessing the reasons for the dismissal, which has a significant effect on the productivity on enterprises and the replacement of inefficient workers; (iii) the labour inspectorate is an authority that is dependent on the People's Ministry for the Social Labour and Security Process, which results in the transfer of labour justice from the tribunals to the administrative authority, giving rise to serious problems of delays and Government interference. The Committee recalls that, under section 425 of the Basic Act concerning labour and male and female workers (LOTTT), the labour inspectorate must examine the grounds given by the employer for the dismissal and this may result in a request for reinstatement from the labour inspectorate. The Committee also recalls that, in its 1995 General Survey on protection against unjustified dismissal, it reaffirmed that the right of appeal is an essential element in the protection of workers against unjustified dismissal. The Convention also sets forth the principle whereby the body to which the appeal is made must be impartial, which means, for example, that a hierarchical or administrative appeal cannot be considered as the appropriate form of appeal procedure under the provisions of the Convention, and that where such a procedure exists, provision must be made for a subsequent appeal to an impartial body. The Convention refers to the following as constituting such a body: a court, labour tribunal, arbitration committee or arbitrator. It therefore leaves to each country the choice of the competent body or bodies, provided that such bodies are impartial (paragraph 178 of the 1995 General Survey). The Committee understands that in the present case the neutral bodies are the labour tribunals. ***The Committee requests the Government to indicate whether measures have been envisaged to facilitate appeals to labour tribunals in the event of unjustified dismissal. The Committee once again requests the Government to provide data on the activities of labour tribunals in relation to appeals lodged against dismissal, the outcome of such appeals and the average time taken for an appeal to be decided in cases of justified dismissal. Please provide examples of recent court rulings relating to the definition of justified reasons for dismissal.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 158** (Saint Lucia, Slovakia, Spain, The former Yugoslav Republic of Macedonia, Uganda, Yemen).

Wages

Burundi

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1963)

The Committee notes with **regret** that the Government's report has not been received. It expresses **concern** in this respect. It is therefore bound to repeat its previous comments.

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 and 24 September 2014, concerning the application of the Convention. COSYBU considers that the Convention is a dead letter as the inter-occupational 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 inter-occupational 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 expresses **deep concern** in this respect. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. Insertion of labour clauses in public contracts. Further to its observation adopted in 2008, 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.

Djibouti

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1978)

Article 2 of the Convention. Insertion of labour clauses in public contracts. In its previous comment, the Committee asked 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/09/6th L of 1 July 2009 establishing the Public Procurement Code and Decrees Nos 2010-0083/PRE, 2010-349/PRE and 2010-0085/PRE, all dated 8 May 2010. The Committee notes that section 13.1.1 of the abovementioned Code excludes individuals or entities that have not submitted the applicable declarations regarding direct and indirect taxation and employers' contributions or have not made payments to the competent revenue collection services for concluding contracts or obtaining orders from the State. Furthermore, the Committee notes that clause 9.1 of the General Administrative Terms and Conditions

applicable to public procurement, adopted by Decree No. 2010-0084/PRE of 8 May 2010, provides that, unless the contract states otherwise, the entrepreneur is responsible for the recruitment of staff and workers, nationals or otherwise, and also for their remuneration, board, lodging and transport, in strict compliance with the regulations in force, particularly the labour regulations (especially regarding hours of work and rest days), the social regulations and all the applicable safety and health regulations. The Committee notes that this clause and the exclusion provided for in section 13.1.1 of the Public Procurement Code are insufficient to give effect to the key requirements of the Convention, namely the insertion of labour clauses in all public contracts coming within the scope of *Article 1* of the Convention – drawn up after consultation of the employers’ and workers’ organizations – ensuring to the workers concerned conditions of remuneration and other conditions of labour which are not less favourable than those established by national laws or regulations, collective agreements or arbitration awards for work of the same character in the same sector. It is precisely because conditions of employment and work established in the national labour legislation are often improved by collective bargaining that the Committee has systematically considered that the mere fact that the legislation applies to all workers does not release the government concerned from its obligation to include labour clauses in all public contracts, in accordance with *Article 2(1)* and *(2)* of the Convention. ***Recalling that the Convention does not necessarily require the adoption of new legislation but may be applied by means of administrative instructions or circulars, the Committee again requests the Government to take prompt steps to ensure the effective implementation of the Convention and recalls that the Government may avail itself of ILO technical assistance if it so wishes.***

Dominica

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1983)

The Committee notes with *regret* that the Government’s report has not been received. It expresses *deep concern* in this respect. It hopes that the next report will contain full information on the matters raised in its previous comments.

Article 6 of the Convention. Legislation giving effect to the Convention. The Committee notes that the Government has never supplied any information of a practical nature concerning the application of the Convention. ***It would therefore be grateful if the Government would collect and transmit together with its next report up-to-date information on the average number of public contracts granted annually and the approximate number of workers engaged in their execution, extracts from inspection reports showing cases where payments have been retained, contracts have been cancelled or contractors have been excluded from public tendering for breach of the Fair Wages Rules, as well as any other particulars which would enable the Committee to have a clear understanding of the manner in which the Convention is applied in practice.***

Moreover, the Committee understands that the Government has entered into a World Bank-financed technical assistance project for growth and social protection with a view to improving, among other things, the transparent operation and the efficient management of public procurement. ***In this connection, the Committee would appreciate receiving additional information on the implementation of this project and the results obtained, in particular as regards any amendments introduced or envisaged to public procurement laws and regulations which might affect the application of the Convention.***

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)

Articles 1 and 2 of the Convention. Scope and purpose of the Convention. The Committee notes the Government’s report, in which the Government makes renewed reference to the provisions laid down in the Labour Act 2003 regarding occupational safety and health, minimum wage fixing and maximum working hours. It once again notes that these provisions are not strictly relevant to the subject matter of the Convention which deals with labour clauses in public contracts as set out in *Article 1* of the Convention, and that they are not sufficient to give effect to *Article 2* of the Convention which explicitly requires the insertion of labour clauses ensuring favourable wages and other working conditions to the workers concerned. Furthermore, the Committee had previously noted that the general principles set out in the Labour Act cannot automatically guarantee to the workers concerned labour conditions which are not less favourable than those established for work of the same character in the same area by collective agreement, arbitration award or national laws or regulations. 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, it had previously noted that the legislation to which the Government refers in most cases lays down minimum standards and does not necessarily reflect the actual working conditions of workers.

With reference to its previous comment concerning labour clearance certificates, which individuals or firms are required to obtain before they are allowed to tender for public contracts, the Committee notes the Government’s indication that it is taking measures to strengthen this procedure. In this respect, the Committee wishes to recall that the essential purpose of the insertion of labour clauses goes beyond the aims of simple certification, as its purpose is to eliminate the negative effects of competitive bidding on the workers’ labour conditions.

Noting that no substantial progress was made to bring national legislation into conformity with the requirements of the Convention, the Committee once again strongly urges the Government to take all necessary measures, if necessary with technical assistance from the Office, to implement the Convention in law and practice and to supply information in this regard.

Greece

Protection of Wages Convention, 1949 (No. 95) (ratification: 1955)

The Committee takes note of the information provided by the Government following its previous comments concerning wage claims as privileged debts in bankruptcy proceedings (*Article 11 of the Convention*).

Article 12. Timely payment of wages. Prompt settlement of wages upon termination of employment. In its previous comment, the Committee urged the Government to continue to take active steps in order to prevent the spread of problems of non-payment or delayed payment of wages. In addition, concerned about the wage cuts in the public sector and the reduction of the national minimum wage, the Committee urged the Government to fully consult the representative employers' and workers' organizations before the adoption of any new austerity measures. The Committee notes the information provided by the Government in its report concerning ongoing difficulties experienced in the timely payment of wages. In particular, it notes the data collected by the Labour Relations Units of the Labour Inspectorate (SEPE) on cases of non-payment or delayed payment of wages in 2013 and 2014. According to this information, while the complaints submitted for non-payment of earnings has sharply decreased in 2014 compared to 2013 and thus the number of fines imposed for non-payment of earnings has also decreased, the number of labour disputes for non-payment of earnings has slightly increased. While the Committee also notes the Government's reply referring to various provisions of the Civil Code concerning the protection of workers in case of non-timely payment of wages, in view of the data provided, it considers that the current situation continues to pose difficulties for workers and their families whose income has already been substantially decreased through the implementation of austerity measures, including reduction of wages and benefits.

With respect to the wage cuts in the public sector, the Committee notes the information provided by the Government that in compliance with various recent decisions of the Council of State, the highest administrative court of Greece, and after taking into account the current financial situation and commitments of the country, it has readjusted retroactively from 1 August 2012, the special pay scale of armed and security forces officers. Furthermore, the salaries of judges and of state legal counsel permanent staff have also been increased retroactively at the level they were before Act No. 4093/2012 entered into force. In addition, since other sections of this Act have been declared unconstitutional, wage reductions for teaching and research personnel of universities which had occurred since 2012 are being reviewed and a proposal is currently being examined to readjust the special pay scale of these workers. Finally, the Government insists on the fact that it stands against austerity policies that do not respect acquired social rights and tries to implement its programme of commitments on the basis of these considerations. In this regard, the Committee notes the Government's indication that it has recently concluded a Memorandum of Understanding with the Institutions (the "Troika", that is, the International Monetary Fund, the European Commission and the European Central Bank) to establish an advisory committee with the participation of various experts and the contribution of the ILO and the European Parliament, with a view to introducing a new legislative framework for a series of labour issues, in line with best practices of the European Social Model. *While taking note of these positive steps, the Committee requests the Government to continue to take all possible measures, legislative or otherwise, to ensure the payment of wages on time and in full, and to provide information on the results achieved in this context. It also requests the Government to continue to provide information on the development of the situation of non-payment or delayed payment of wages, including, for instance, the amount of wages in arrears and recovered. The Committee also reiterates its previous request to the Government to ensure that employers' and workers' representatives are fully consulted before the adoption of any measures that would have an adverse impact on workers in respect of wage protection.*

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 expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

The Committee takes note of the adoption of the new Labour Code (Act No. L/2014/072/CNT of 10 January 2014). *The Committee requests the Government to provide all implementing texts of the Code in view of a complete examination of the new legislation.*

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. *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.

Mauritius

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1969)

The Committee notes the observations made by the Confederation of Private Sector Workers (CTSP), received by the Office on 5 August 2014. The Government has communicated its reply to these observations, which was received by the Office on 25 March 2015.

In its observations, the CTSP refers to section 95(1A) of the Employment Relations Act 2008 (Act No. 32 of 2008), which has been inserted through the Employment Relations (Amendment) Act 2013 (Act No. 5 of 2013). This paragraph provides that where, in an enterprise or industry, there is a collective agreement that covers matters specified in the relevant Remuneration Regulations which provide for minimum wage rates, those Remuneration Regulations shall not apply to that enterprise or industry, except for provisions in relation to matters not covered in the collective agreement. The CTSP also refers to section 57(2) of the Act, which has been inserted by the same amendment of 2013, and which provides that a collective agreement must not contain a provision reducing the wages provided in the Remuneration Regulations. The CTSP indicates that, through the insertion of the new section 95(1A), the Government interprets section 57(2) to apply only during negotiations and not after a collective agreement has been signed and is in force. The CTSP states that the Remuneration Order has been amended, providing for much higher minimum wage rates than those in the collective agreement. The CTSP considers that the new section 95(1A) can only be read to mean that provisions of a collective agreement should not be less favourable than the relevant Remuneration Regulations, except when such a collective agreement was signed before the relevant Remuneration Regulations. The CTSP questions the fact that the basic minimum protection of wages could be removed solely because a collective agreement has been signed.

In its reply, the Government indicates that with respect to section 95(1A) of the Employment Relations Act 2008, as amended, the rationale is that when a collective agreement is concluded, it has precedence over a Remuneration Regulation, thus promoting collective bargaining. With respect to section 57(2) of the Act, the reasoning for the Government's interpretation as indicated above is based on paragraph 940 of the *Digest of decisions and principles of the Freedom of Association Committee*, which indicates that "mutual respect for the commitment undertaken in collective agreements is an important element of the right to bargain collectively and should be upheld in order to establish labour relations on stable and firm ground", as well as on paragraph 1045, which states that "in a case in which general wage increases in the private sector were established by law, which were added to the increases agreed upon in collective agreements, the harmonious development of industrial relations would be promoted if the public authorities, in tackling problems relating to the loss of the workers' purchasing power, were to adopt solutions which did not entail modifications of what had been agreed upon between workers' and employers' organizations without the consent of both parties". The Government adds that the Employment Relations Act 2008 provides for a remedy through section 58 (as amended in 2013).

The Committee has taken due note of the above information, including the Government's reference to certain paragraphs of the Digest of decisions and principles of the Committee on Freedom of Association, which appear to have limited relevance in the context of this particular case. The Committee therefore trusts that the Government and the CTSP will continue consultation with a view to maintaining and operating an effective minimum wage-fixing machinery.

Sierra Leone

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1961)

The Committee notes with *regret* that the Government's report has not been received. It expresses *deep concern* in this respect. It hopes that the next report will contain full information on the matters raised in its previous comments.

Articles 1 to 4 of the Convention. Minimum wage-fixing machinery. The Committee notes that, in its last report, the Government indicated that the draft labour legislation, once it is finally adopted, would clearly spell out the principles of minimum wage fixing in accordance with the requirements of the Convention. It also indicated that the Joint National Board, which comprises representatives of the social partners, had been set up to formulate a wages and income policy, while at present the various trade group councils were empowered to negotiate wages for unionized workers and to implement trade group agreements. *The Committee requests the Government to provide additional information, including copies of any relevant legal texts, on the composition, mandate and functioning of the Joint National Board, especially as regards the method of determining or readjusting minimum wage levels. In addition, the Committee would be grateful if the Government could provide more detailed information on the activities of the trade group councils and transmit copies of any trade group*

agreements which may be currently in force and contain minimum wage rates for specific sectors of economic activity or groups of workers.

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 expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

Article 16 of the Convention. Full information on legislative amendments. While recalling that the Government has been referring for many 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 25 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.

Yemen

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1969)

Article 2 of the Convention. Insertion of labour clauses in public contracts. The Committee notes the Government's indication that Act No. 23 of 14 August 2007 on bidding, outbidding and government warehouses does not provide for the insertion of labour clauses as prescribed by *Article 2* of the Convention. It further notes the Government's indication that the Supreme Commission on Auctions and Bids, by virtue of its memorandum 1/a/m 881 dated 17 August 2014, stated that Act No. 23 does not include any provisions on the terms of employment and workers' wages and that the current law on bidding needs to be amended. It takes good note that the Ministry of Social Affairs and Labour will contact the Supreme Monitoring Authority on bids to carry out the necessary amendments as soon as possible.

With respect to the reference made by the Government to the Labour Code No. 5 of 1995 and amendments made thereto, the Committee notes that the provisions laid down in this Code are not strictly relevant to the subject matter of the Convention and do not give effect to *Article 2* of the Convention which requires the insertion of labour clauses ensuring wages, hours of work and other working conditions to the workers concerned which are not less favourable than those established for work of the same character in the same area by collective agreement, arbitration award or national laws or regulations. 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.

The Committee therefore urges the Government to indicate the measures adopted or envisaged, if necessary with technical assistance of the Office, to ensure that all public contracts contain labour clauses which comply with the requirements of the Convention and to provide information on any further developments with respect to the abovementioned planned amendments to Act No. 23 of 14 August 2007.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 26** (Malawi, Morocco); **Convention No. 94** (Brazil, Guyana, Sierra Leone, Syrian Arab Republic); **Convention No. 95** (Ecuador, Syrian Arab Republic); **Convention No. 99** (Comoros, Malawi, Morocco); **Convention No. 131** (Morocco, Syrian Arab Republic).

Working time

Ecuador

Holidays with Pay (Agriculture) Convention, 1952 (No. 101) (ratification: 1969)

Articles 1 and 8 of the Convention. Postponement by the worker of annual holiday with pay. In its previous comments, the Committee noted that section 75 of the Labour Code allows workers to relinquish their annual holiday with pay for three consecutive years, so that they can take it cumulatively in the fourth year. In this regard, the Committee recalled that *Article 8* of the Convention considers void any agreement to relinquish the right to an annual holiday with pay, or to forgo such a holiday. Moreover, the Committee drew the Government's attention to paragraph 177 of its General Survey of 1964 on annual holidays with pay, in which it pointed out that, while certain exceptions may 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, workers must be granted at least part of their leave in order to enjoy a minimum amount of rest and leisure. *The Committee once again requests the Government to take the necessary measures without delay to ensure that, should the postponement of an 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 is raising other matters in a request addressed directly to the Government.

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 expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

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 expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

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 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.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 1** (Angola, Equatorial Guinea, Haiti, Syrian Arab Republic); **Convention No. 4** (Nicaragua); **Convention No. 14** (Angola, Burundi, Haiti, Malaysia: Sarawak, Mauritania); **Convention No. 30** (Equatorial Guinea, Haiti, Syrian Arab Republic); **Convention No. 52** (Burundi, Mauritania); **Convention No. 89** (Angola, Mauritania, Rwanda, Syrian Arab Republic); **Convention No. 101** (Burundi, Ecuador, Sierra Leone); **Convention No. 106** (Angola, Haiti); **Convention No. 132** (Croatia, Guinea).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 14** (Syrian Arab Republic); **Convention No. 52** (Syrian Arab Republic); **Convention No. 101** (Syrian Arab Republic); **Convention No. 106** (Syrian Arab Republic).

Occupational safety and health

General observation

Radiation Protection Convention, 1960 (No. 115)

Introduction

Background

1. At its November–December 2014 session, the Committee deferred commenting on the application of the Radiation Protection Convention, 1960 (No. 115), in view of the preparation of a new general observation on the Convention. This general observation updates the Committee's previous general observation on the subject published in 1992, in light of: the publication of the 2007 Recommendations of the International Commission on Radiological Protection (ICRP), issued in ICRP Publication 103 (hereinafter ICRP Recommendations of 2007 (Publication 103)); the ICRP Statement on Tissue Reactions/Early and Late Effects of Radiation in Normal Tissues and Organs – Threshold Doses for Tissue Reactions in a Radiation Protection Context, issued in ICRP Publication 118 in 2012; and the publication of a revised *Radiation Protection and Safety of Radiation Sources: International Basic Safety Standards* (General Safety Requirements Part 3)¹ (hereinafter *BSS 2014*), issued in July 2014 by the International Atomic Energy Agency (IAEA), which takes into account the ICRP recommendations. The recommendations contained in these documents have a bearing on the application of the Convention, in view of the references to “knowledge available at the time” and “current knowledge” in *Article 3(1)* and *Article 6(2) of the Convention*. This general observation is organized in two parts. The first part (paragraphs 4–29) is a summary of the recommendations and norms of the IAEA and the ICRP. The second part, the conclusions (paragraphs 30–41), contains specific guidance with respect to the application of the Convention.

Reference to available knowledge – Articles 3(1) and 6(2) of the Convention

2. Under *Article 3(1)* of the Convention, “In the light of knowledge available at the time, all appropriate steps shall be taken to ensure effective protection of workers, as regards their health and safety, against ionising radiations.” *Article 3(2)* of the Convention states that “Rules and measures necessary for this purpose shall be adopted”, and Paragraph 3 of the Radiation Protection Recommendation, 1960 (No. 114), states that for the purpose of giving effect to *Article 3(2)*, “every Member should have due regard to the recommendations made from time to time by the International Commission on Radiological Protection and standards adopted by other competent organisations”. In addition, among the protective steps that have to be taken under *Article 3(1)*, *Article 6(1)* provides for the fixing, for various categories of workers, of “maximum permissible doses of ionising radiations which may be received from sources external to or internal to the body and maximum permissible amounts of radioactive substances which can be taken into the body”, and *Article 6(2)* specifies that “such maximum permissible doses and amounts shall be kept under constant review in the light of current knowledge”. In assessing compliance with these requirements, it has been the practice of the Committee to refer to the current knowledge as embodied in the recommendations of the ICRP and other international reference sources based on the same recommendations, such as the *BSS* (co-sponsored by a number of international organizations, including the ILO from 1982 onwards), as well as the ILO code of practice on radiation protection of workers (ionising radiations) approved by the Governing Body of the ILO at its 234th Session (November 1986).

Scope of the concept of occupational exposure

3. *Article 2(1)* of the Convention states that the Convention applies to all activities involving exposure of workers to ionizing radiations in the course of their work. Similarly, the *BSS 2014* defines occupational exposure as exposure of workers incurred in the course of their work and the ILO code of practice on radiation protection of workers refers to the exposure of a worker received or committed during a period of work.

¹ The *BSS* were jointly sponsored by the European Commission, the Food and Agriculture Organization of the United Nations, the International Atomic Energy Agency, the International Labour Organization, the OECD Nuclear Energy Agency, the Pan American Health Organization, the United Nations Environment Programme and the World Health Organization.

Part I – Overview of the recommendations and norms of the IAEA and the ICRP

System of protection of workers against ionizing radiations

General principles of the system of protection

4. The fundamental objective of the system of radiation protection² is to protect people and the environment from harmful effects of ionizing radiation. This objective must be achieved without unduly limiting the operation of facilities or the conduct of activities if the benefits that they yield outweigh the radiation risks to which they give rise. While emphasis had previously been put primarily on limitation of individual dose, this limitation is now seen as constituting only one of the safety principles of a system of radiological protection that is to apply to any exposure situation. The three general principles of radiation protection are justification of exposures, optimization of radiological protection and application of dose limits:³
 - (a) *The justification of an action or activity.* For any exposure situation,⁴ the issue is whether the benefits to individuals and to society from introducing or continuing the action or activity outweigh the harm (including radiation detriment) resulting from the activity. If sufficient information is available, the detriment associated with a proposed action or activity should include that from potential exposures as well as from exposures certain to occur. The process of justification needs to consider new available scientific information about efficacy or consequences of actions or activities. If the action or activity could no longer be considered as producing sufficient benefit to offset the total detriment, measures should be envisaged including prohibition or withdrawal.
 - (b) *The optimization of protection.* The optimization of protection and safety is a process of ensuring that the likelihood and magnitude of exposure and the number of individuals exposed are as low as reasonably achievable, economic and societal factors being taken into account. In the optimization process, dose constraints⁵ are used.
 - (c) *Limitation of exposure.* The exposure of individuals in any exposure situation is to be subject to individual dose and risk criteria. Dose or risk limits are a particular legal form of those criteria, individual-related and established in the implementation of the system of protection, to define exposures that are to be considered as unacceptable. In order to ensure compliance with dose limits,⁶ other dose criteria, such as dose constraints or reference levels⁷ could be used.

Application of maximum permissible limits⁸ within the system of protection against ionizing radiations

5. The Committee recalls that over the last few decades, there have been significant changes in the understanding of radiation effects. These concern both the levels of the dose limits recommended and their purpose and functions within the system of protection recommended by the ICRP. Initially, their main function was perceived as the avoidance of directly observable, non-malignant effects; subsequently, the incidence of cancer and hereditary effects caused by radiation was also taken into account, and the annual limit for occupational exposure of the whole body was reduced several times in the light of new scientific findings.
6. The ICRP position is that at low radiation doses (below around 100 mSv in a year) the increase in the incidence of “stochastic” effects⁹ may occur with a small probability and in proportion to the increase in radiation dose over the background dose. These stochastic effects include randomly occurring ones, such as cancer or genetic detriment. At the current stage of scientific knowledge, these stochastic effects cannot be completely avoided and no radiation dose threshold can be invoked for them. Thus, the setting of dose limits cannot be based on health considerations

² According to the *BSS 2014*, a radiation protection system is based on ten safety principles: responsibility for safety; role of government; justification of exposures; optimization of protection; limitation of doses; protection of present and future generations; prevention of accidents; emergency preparedness; emergency response; and protective actions to reduce radiation risk.

³ Section 5.6 of the ICRP Recommendations of 2007 (Publication 103), and page 4 of the *BSS 2014*.

⁴ In the ICRP Recommendations of 2007 (Publication 103), the ICRP define three exposure situations: existing, planned, and emergency. In any of these situations, protection is to be optimized, with boundaries (or restrictions) on the individual exposures in the form of constraints or reference levels to ensure appropriate levels of protection under the prevailing circumstances.

⁵ Dose constraint is a prospective and source-related value of individual dose that is used in planned exposure situations as a parameter for the optimization of protection and safety for the source, and that serves as a boundary in defining the range of options in optimization.

⁶ Dose limit is the value of the effective dose or the equivalent dose to individuals in planned exposure situations that is not to be exceeded.

⁷ Reference level is the level of dose, risk or activity concentration above which it is not appropriate to plan to allow exposures to occur and below which optimization of protection and safety would continue to be implemented. It is used for an emergency exposure situation or an existing exposure situation.

⁸ In the ICRP Recommendations of 2007 (Publication 103) and the *BSS 2014*, the concept of maximum permissible limits is expressed in the terms *dose limit* and *reference level*.

⁹ Stochastic effect refers to a radiation-induced health effect, the probability of occurrence of which is greater for a higher radiation dose and the severity of which (if it occurs) is independent of dose (page 424 of the *BSS 2014*).

alone and need to involve economic and societal considerations. On the other side, health effects associated with higher doses are termed as “deterministic” effects¹⁰ (or “tissue reactions”, where the severity of the effect is proportional to the dose above a given level). The deterministic effects can be avoided by restricting the doses below a certain level of dose to which individuals are exposed.

7. In planned exposure situations, exposure is not to exceed dose limits and for exposure below dose limits, protection is to be optimized. Further, it is recommended to involve all concerned parties in the optimization process.
8. Accordingly, compliance with the limits on individual doses is not the sole measure of satisfactory radiation protection, and it is emphasized that it is required to optimize protection, keeping all exposures as low as reasonably achievable, economic and societal factors being taken into account. This approach is reflected in *Article 5* of the Convention, which states that: “Every effort shall be made to restrict the exposure of workers to ionising radiations to the lowest practicable level, and any unnecessary exposure shall be avoided by all parties concerned.”

Dose limits in occupational exposure

*Limits on intake*¹¹

9. Under *Article 6(1)* of the Convention, maximum permissible doses which may be received from sources external to or internal to the body and maximum permissible amounts of radioactive substances which can be taken into the body shall be fixed for various categories of workers. The construct of the effective dose provides the mechanism to include the sum of exposures from external and internal sources, and it is to this quantity that the dose limits apply.

Previous recommendations on dose limits

10. The 1990 Recommendations of the ICRP (Publication 60, Appendix B) provided a detailed discussion of the biological effects of ionizing radiation. On the basis of the information contained in this publication, the ICRP concluded in 1990 that dose limits should be set in such a way and at such a level that the total effective dose¹² received in a full working life would be prevented from exceeding about 1 Sv received moderately uniformly, at an annual average of 20 mSv; the ICRP however stressed that the application of its system of radiological protection should be such that this figure would only rarely be approached. The ICRP recommended a limit on the effective dose of 20 mSv per year, averaged over five years (100 mSv in five years), with the further provision that the effective dose should not exceed 50 mSv in any single year. It was indicated that if the circumstance arises where a cumulative dose approaching 1 Sv is reached, then consideration needs to be given to the opportunities to reduce future exposures. The 1 Sv value is not a limit, and thus is not a demarcation at which an individual cannot work with radiation. This is true whether the cumulative dose is due to annual increments, or to the dose in an emergency exposure situation. The ICRP also recommended separate annual dose limits, expressed in equivalent dose, for the lens of the eye (150 mSv per year) and for the skin (500 mSv over any 1 cm² per year) to prevent deterministic effects.

Current recommendations for dose limits

11. The dose limits in the ICRP Recommendations of 2007 (Publication 103) reflect significant continuity with the Recommendations of 1990, but were calculated on the basis of updated risk estimates. The ICRP, in its 2007 Recommendations (Publication 103), reaffirms the dose limits recommended previously in Publication 60. These limits are 20 mSv per year averaged over defined five-year periods, with a maximum of 50 mSv effective dose in any one year. Separate values of equivalent dose for skin and the hands and feet are specified at 500 mSv per year. In ICRP Publication 118, Part 1 (2012), the ICRP provides a statement on tissue reactions, and modifies the recommendation for limitation of dose to the lens of the eye, with the equivalent dose to the lens of the eye being 20 mSv per year, averaged over defined periods of five years, with no single year exceeding 50 mSv per year. This supersedes the limit contained in both the ICRP Recommendations of 1990 and of 2007, and reflects the only change with respect to the limitation of dose between the 1990 Recommendations and current recommendations. These dose limits recommended by the ICRP and endorsed by the *BSS 2014* serve governments and the regulatory bodies in their establishment of the control for occupational exposure.¹³

Protection for pregnant and breastfeeding workers

12. In the ICRP Recommendations of 2007 (Publication 103), the ICRP states a policy that the methods of protection at work for women who are pregnant should provide a level of protection for the embryo/foetus broadly similar to that provided for members of the public (as indicated in paragraph 14 below, the annual effective dose limit for members of the public is 1 mSv). In this regard, once an employer has been notified of a pregnancy, additional controls have

¹⁰ Deterministic effect refers to a radiation-induced health effect for which generally a threshold level of dose exists above which the severity of the effect is greater for a higher dose (page 387 of the *BSS 2014*).

¹¹ Intake refers to the act or process of taking radionuclides into the body by inhalation or ingestion or through the skin.

¹² Effective dose is defined as a summation of the tissue or organ equivalent doses, each multiplied by the appropriate tissue weighting factor. Effective dose is used in describing radiation effects on tissues and organs.

¹³ Requirement 12 of the *BSS 2014*, page 37.

to be considered in order to attain this level of protection. According to the *BSS 2014*, the working conditions of a pregnant worker, after declaration of pregnancy, should be such as to ensure that the embryo or foetus is afforded the same broad level of protection as is required for members of the public. In order to ensure the same level of protection for breastfed infants, the same principle applies to breastfeeding workers.

Dose limits for persons between 16 and 18 years of age

13. *Article 7(1)* of the Convention provides that appropriate levels shall be fixed for workers who are directly engaged in radiation work and are under the age of 18, while *Article 7(2)* provides that no worker under the age of 16 shall be engaged in work involving ionizing radiations. These principles are reflected in the *BSS 2014*. For occupational exposure of apprentices between the ages of 16 to 18 years who are being trained for employment involving radiation and for exposure of students of between the ages 16 to 18 who use sources in the course of their studies, the specific dose limits are set lower than the dose for occupational exposure of workers above 18 years of age. Schedule 3 of the *BSS 2014* provides that, for occupational exposure of apprentices between 16 and 18 years of age who are being trained for employment involving radiation and for exposure of students aged between 16 to 18 who use sources in the course of their studies, the dose limits are: (a) an effective dose of 6 mSv in a year; (b) an equivalent dose to the lens of the eye of 20 mSv in a year; and (c) an equivalent dose to the extremities (hands and feet) or to the skin of 150 mSv in a year. In this regard it may be recalled that, with reference to Articles 1, 3(d) and 4 of the Worst Forms of Child Labour Convention, 1999 (No. 182), in so far as work involving occupational exposure to ionizing radiation has been determined by national laws or regulations or by the competent authority to be a type of work which is likely to harm the health or safety of children by member States that have ratified that Convention, persons under 18 must not be engaged in such work.

Dose limits for workers not directly engaged in radiation work

14. Under *Article 8* of the Convention, “appropriate levels shall be fixed in accordance with *Article 6* for workers who are not directly engaged in radiation work, but who remain or pass where they may be exposed to ionising radiation or radioactive substances”. The *BSS 2014* requires employers, registrants and licensees¹⁴ to ensure that workers exposed to radiation from sources within a practice that are not required by or directly related to their work have the same level of protection against such exposure as members of the public. The annual effective dose limit for these persons remains at 1 mSv under the ICRP Recommendations of 2007 (Publication 103). As set out in those Recommendations,¹⁵ in special circumstances, a higher value of effective dose could be allowed in a single year, provided that the average over five years does not exceed 1 mSv per year. To prevent deterministic effects, separate annual dose equivalent limits are fixed for the lens of the eye at 15 mSv in a year and for the skin at 50 mSv in a year. Optimization of protection should be applied to the exposure of individuals who are not directly engaged in radiation work, as it is for workers directly engaged in radiation work. Appropriate constraints for the optimization of protection of workers who are not directly engaged in radiation work should be below 1 mSv.

General principles in emergency situations

15. The Committee recalls that the Convention, pursuant to *Article 2*, applies to all activities involving exposure of workers to ionizing radiations, including emergency workers.¹⁶ As indicated by the Committee in its 1992 observation, 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, which do not involve such exposure of workers, would involve an excessive expense. It is therefore essential that activities that have associated significant potential exposures be examined and addressed in the authorization process, and that the appropriate resources are identified and emergency plans put in place to minimize or eliminate the exposure of workers.
16. According to paragraph 4.7 of the *BSS 2014*, it is essential that emergency preparedness and response planning be undertaken in advance based on the optimization of a protection strategy, which may be composed of several specific actions based on the circumstances.

Limitation of occupational exposure during an emergency and the recovery period

During an emergency

17. During an emergency, each particular protective action (elaborated in emergency preparedness and response planning) might be implemented separately, and optimization of the entire strategy needs to consider all pathways of

¹⁴ Registrant refers to the holder of a current registration, which is a form of authorization for practices of low or moderate risks whereby the person or organization responsible for the practice has, as appropriate, prepared and submitted a safety assessment of the facilities and equipment body. The practice or use is authorized with conditions or limitations as appropriate. Licensee refers to the holder of a current license, specifically a legal document granting authorization to perform specified activities relating to a facility or activities.

¹⁵ Table 6, footnote f, of the ICRP Recommendations of 2007 (Publication 103).

¹⁶ An emergency worker is a person having specified duties as a worker in response to an emergency (page 391 of the *BSS 2014*).

exposure, in order to ensure that the residual dose¹⁷ is reduced to as low as reasonably achievable. The optimized protection strategy is to be implemented when generic criteria, for use in protection strategies that are compatible with reference levels, are exceeded, to provide for rapid action. Such actions are often needed in the absence of detailed radiological information that is usually associated with planned exposure situations in which the source is under control. In emergency situations, reference levels should be selected to be within, or if possible below, the 20–100 mSv band¹⁸ recommended in the ICRP Recommendations of 2007 (Publication 103).

18. Occupational exposures in emergency and existing exposure situations are to be subject to the available operational and procedural arrangements, including assessment, monitoring, engagement and training. Individual exposure should be optimized, with appropriate boundaries of reference levels. Depending upon the prevailing circumstances, these reference levels may be greater than the recommended values of dose limits that are applicable to planned exposure situations. In emergency or existing exposure situations, the reference levels represent the level of dose or risk, above which it is judged to be inappropriate to plan to allow exposures to occur, and for which therefore protective actions should be planned and optimized. The initial intention would be to not exceed, or to remain at, these levels.
19. The higher levels of exposure in an emergency may be necessary and appropriate over a short period of time, given the prevailing circumstances, and subject to optimization of protection. Such levels would not be expected to continue for extended periods because reductions in exposures can be realized as additional information becomes available, and some measure of control over the source and the exposure situation is achieved. The relevant recommendations of the ICRP are set to prevent tissue reactions and the ambition is to reduce all doses to levels that are as low as reasonably achievable, economic and social factors being taken into account.
20. In exceptional situations, informed emergency workers may volunteer to take actions where there is a probability of receiving doses that might exceed 50 mSv (the occupational dose limit for workers in a single year). The only situations in which this is applicable are listed in paragraph 21 below.
21. According to paragraph 4.17 of the *BSS 2014*, response organizations¹⁹ and employers should ensure that no emergency worker is subject to an exposure in an emergency in excess of 50 mSv other than: (a) for the purposes of saving life or preventing serious injury; (b) when undertaking actions to prevent severe deterministic effects and actions to prevent the development of catastrophic conditions that could significantly affect people and the environment; or (c) when undertaking actions to avert a large collective dose.
22. Response organizations and employers should ensure that emergency workers who undertake actions in which the doses received might exceed 50 mSv do so voluntarily; that they have been clearly and comprehensively informed in advance of the associated health risks, as well as of available measures for protection and safety; and that they are, to the extent possible, trained in the actions that they may be required to take.
23. In the exceptional circumstances specified in paragraph 21 above, response organizations and employers should make all reasonable efforts to keep doses to emergency workers below the guidance values set out in Schedule IV of the *BSS 2014*.²⁰ In addition, emergency workers undertaking actions as a result of which their doses could approach or exceed the values set out in Schedule IV should do so only when the expected benefits to others would clearly outweigh the risks to the emergency workers.²¹

During the recovery period

24. The ICRP Recommendations of 2007 (Publication 103) states that workers undertaking recovery and restoration operations in a later phase of emergency exposure situations should be considered as occupationally exposed workers and should be protected according to normal occupational radiological protection standards, and their exposures should not exceed the occupational dose limits recommended by the ICRP. Workers undertaking work such as repairs to plant and buildings or activities for radioactive waste management, or undertaking remedial

¹⁷ Residual dose refers to the dose expected to be incurred after protective actions have been terminated (or after a decision has been taken not to take protective actions).

¹⁸ The ICRP Recommendations of 2007 (Publication 103) gives three bands for use in selecting reference levels:

- (1) The dose constraint or reference level of up to about 1 mSv, in the case when individuals are exposed to radiation from a source that yields little or no benefit for them, but which may benefit society in general.
- (2) Reference levels of 20–100 mSv would be used where individuals are exposed to radiation from sources that are not under control or where actions to reduce doses would be disproportionately disruptive.
- (3) Dose of greater than 100 mSv being incurred within a short period of time or in one year would be considered unacceptable, except under the circumstances relating to exposure of emergency workers that are addressed specifically.

¹⁹ A response organization is an organization designated or otherwise recognized by a State as being responsible for managing or implementing any aspect of an emergency response.

²⁰ Table IV.2 of Schedule IV of the *BSS 2014* (page 373).

²¹ Table IV.2 of Schedule IV of the *BSS 2014* (page 373).

actions for the decontamination of the site and surrounding areas, should be subject to the relevant requirements for occupational exposure in planned exposure situations as outlined in section 3 of the *BSS 2014*.²²

Monitoring of the workplace

25. *Article 11* of the Convention states that appropriate monitoring of workers and places of work shall be carried out in order to measure the exposure of workers to ionizing radiations and radioactive substances, with a view to ascertaining that the applicable levels are respected. In this connection, paragraph 3.37 of the *BSS 2014* provides that the regulatory body should establish requirements that monitoring and measurements be performed to verify compliance with the requirements for protection and safety. The regulatory body should be responsible for review and approval of the monitoring and measurement programmes of registrants and licensees. In addition, paragraph 3.96 of the *BSS 2014* provides that registrants and licensees, in cooperation with employers where appropriate, should establish, maintain and keep under review a programme for workplace monitoring under the supervision of a radiation protection officer or qualified expert. According to paragraph 3.97, the type and frequency of workplace monitoring should be sufficient to enable: (i) evaluation of the radiological conditions in all workplaces; (ii) assessment of exposures in controlled areas and supervised areas; and (iii) review of the classification of controlled areas and supervised areas. This monitoring should be based on dose rate, activity concentration in air and surface contamination, and their expected fluctuations, and on the likelihood and magnitude of exposures in anticipated operational occurrences and accident conditions.

Workers' health surveillance

26. *Article 12* of the Convention states that: "All workers directly engaged in radiation work shall undergo an appropriate medical examination prior to or shortly after taking up such work and subsequently undergo further medical examinations at appropriate intervals." *Article 13* provides that circumstances shall be specified, in which, because of the nature or degree of the exposure or a combination of both, the following action shall be taken promptly: (a) the worker shall undergo an appropriate medical examination; (b) the employer shall notify the competent authority in accordance with its requirements; (c) persons competent in radiation protection shall examine the conditions in which the worker's duties are performed; and (d) the employer shall take any necessary remedial action on the basis of the technical findings and the medical advice. In this regard, paragraph 3.76(f) of the *BSS 2014* provides that employers, registrants and licensees should ensure, for all workers engaged in activities in which they are or could be subject to occupational exposure, that necessary workers' health surveillance and health services for workers are provided. According to paragraph 3.108 of the *BSS 2014*, these programmes for workers' health surveillance should be based on the general principles of occupational health and should be designed to assess the initial fitness and continuing fitness of workers for their intended task.

Discontinuation of assignment to work involving exposure to ionizing radiation pursuant to medical advice and alternative employment

27. *Article 14* of the Convention provides 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." The key here is the provision of qualified medical advice, upon which a decision should be taken.
28. Paragraph 27 of Recommendation No. 114 provides that, if as the result of such medical advice as is envisaged in *Article 14* of the Convention, it is inadvisable to subject a worker to further exposure to ionizing radiations in that worker's employment, every reasonable effort should be made to provide such a worker with suitable alternative employment. In this respect, paragraph 3.112 of the *BSS 2014* provides that employers should make all reasonable efforts to provide workers with suitable alternative employment in circumstances for which it has been determined, either by the regulatory body or in the framework of the programme for workers' health surveillance in accordance with the requirements of the *BSS 2014*, that workers, for health reasons, may no longer continue in employment in which they are or could be subject to occupational exposure. In addition, it may be noted that some of the more recent occupational safety and health instruments (the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) and the Asbestos Convention, 1986 (No. 162)) indicate that where continued assignment to activities covered by those instruments is found to be medically inadvisable, every effort shall be made, consistent with national practice and conditions, to provide the worker concerned with other means of maintaining their income.

Records of individual doses

29. Paragraph 26 of Recommendation No. 114 provides that, so far as is practicable, a complete record of all doses received in the course of work by every worker should be kept so that the cumulative dose may be taken into account for employment purposes. Paragraph 3.83(d) of the *BSS 2014* outlines that workers should provide to the

²² Section 3 on Planned Exposure Situations of the *BSS 2014* (pp. 29–86).

employer, registrant or licensee such information on their past and present work that is relevant for ensuring effective and comprehensive protection and safety for themselves and others.

Part II – Conclusions

30. Recalling that, pursuant to *Article 3(1)* of the Convention, all appropriate steps shall be taken to ensure effective protection of workers, as regards their health and safety, against ionizing radiations, in the light of knowledge available at the time, and, pursuant to *Article 6(2)*, maximum permissible doses and amounts shall be kept under constant review in the light of the current knowledge, the Committee invites governments to review their system of protection of workers against ionizing radiations in the light of the findings set out in the ICRP Recommendations of 2007 (Publication 103) and the *BSS 2014* that are summarized in paragraphs 2–29 above. In particular, the Committee trusts that laws, regulations, directives, codes of practice and other instruments in this field will be re-examined with a view to ensuring, in law and in practice, the effective protection of workers, as regards their health and safety. The Committee requests governments to indicate, in future reports, the steps that may have been taken or that are under consideration in relation to the following matters.

System of radiation protection (paragraphs 4–8)

31. In giving effect to *Article 3* of the Convention, the Committee considers that governments should ensure the establishment and maintenance of a system of radiation protection, in light of the safety principles, and, in particular, the three general principles of radiation protection: justification of exposures, optimization of radiological protection and application of dose limits.

Current recommendations for dose limits (paragraphs 9 and 11)

32. When fixing maximum permissible doses of ionizing radiations in accordance with *Article 6* of the Convention, the Committee considers that governments should note that the dose limits recommended for occupational exposure are:
- 20 mSv per year averaged over defined five-year periods, with a maximum of 50 mSv effective dose in any one year;
 - equivalent dose for skin and the hands and feet of 500 mSv per year;
 - equivalent dose to the lens of the eye of 20 mSv per year, averaged over defined periods of five years, with no single year exceeding 50 mSv per year.

Protection for pregnant and breastfeeding workers (paragraph 12)

33. The Committee considers that the methods of protection at work for women who are pregnant should provide a level of protection for the embryo/foetus broadly similar to that provided for members of the public (the annual effective dose limit for members of the public is 1 mSv). In order to ensure the same level of protection for breastfed infants, the same principle applies to breastfeeding workers.

Dose limits for persons between 16 and 18 years (paragraph 13)

34. In giving effect to *Article 7(1)(b)* of the Convention, for occupational exposure of apprentices aged 16 to 18 years of age who are being trained for employment involving radiation and for exposure of students aged 16 to 18 who use sources in the course of their studies, the dose limits are: (a) an effective dose of 6 mSv in a year; (b) an equivalent dose to the lens of the eye of 20 mSv in a year; and (c) an equivalent dose to the extremities (hands and feet) or to the skin of 150 mSv in a year. The Committee recalls that, pursuant to *Article 7(2)* of the Convention, no worker under the age of 16 shall be engaged in work involving ionizing radiations. The Committee also recalls that, with reference to Articles 1, 3(d) and 4 of the Worst Forms of Child Labour Convention, 1999 (No. 182), in so far as work involving occupational exposure to ionizing radiation has been determined by national laws or regulations or by the competent authority to be a type of hazardous work by member States that have ratified that Convention, persons under 18 must not be engaged in such work.

Dose limits for workers not directly engaged in radiation work (paragraph 14)

35. In giving effect to *Article 8* of the Convention, the Committee considers that the dose limits for workers not directly engaged in radiation work are those to be applied to members of the public, particularly an annual effective dose limit of 1 mSv. A higher value of effective dose can be allowed in a single year, provided that the average over five years does not exceed 1 mSv per year. To prevent deterministic effects, separate annual dose equivalent limits are to be set for the lens of the eye at 15 mSv in a year and for the skin at 50 mSv in year. Optimization of protection should be applied to the exposure of individuals who are not directly engaged in radiation work.

Limitation of occupational exposure during an emergency (paragraphs 15–24)

36. The Committee considers that it is essential that activities that have associated significant potential exposures be examined and addressed in the authorization process, and that the appropriate resources are identified and emergency preparedness and response plans put in place to minimize or eliminate the exposure of workers. Planning to be undertaken in advance of an emergency should be based on the optimization of a protection strategy, which should be implemented when generic criteria, for use in protection strategies that are compatible with reference

levels, are exceeded, to provide for rapid action. Such actions are often needed in the absence of detailed radiological information that is usually associated with planned exposure situations in which the source is under control. Occupational exposures in emergency situations should be subject to the available operational and procedural arrangements, including assessment, monitoring, engagement and training. Individual exposure should be optimized, with appropriate boundaries of reference levels.

37. In emergency situations, reference levels should be selected to be within, or if possible below, the 20–100 mSv band. Measures are to be taken to ensure that no emergency worker is subject to an exposure in an emergency in excess of 50 mSv. In exceptional situations, informed emergency workers may volunteer to receive a higher dose only: (a) for the purposes of saving life or preventing serious injury; (b) when undertaking actions to prevent severe deterministic effects and actions to prevent the development of catastrophic conditions that could significantly affect people and the environment; or (c) when undertaking actions to avert a large collective dose. In these exceptional circumstances, available measures for protection and safety and all reasonable efforts should be made to keep doses to such workers below the guidance values set out in the *BSS 2014*.

Monitoring of the workplace (paragraph 25)

38. In giving effect to *Article 11* of the Convention, the Committee considers that governments should establish requirements to ensure that monitoring and measurements are performed to verify compliance with provisions related to protection and safety.

Workers' health surveillance (paragraph 26)

39. In giving effect to *Articles 12 and 13* of the Convention, the Committee considers that measures should be taken to ensure that the necessary workers' health surveillance and health services are provided. Such programmes for workers' health surveillance should be based on the general principles of occupational health and should be designed to assess the initial fitness and continuing fitness of workers for their intended task.

Discontinuation of assignment to work involving exposure to ionizing radiation pursuant to medical advice and alternative employment (paragraphs 27 and 28)

40. In giving effect to *Article 14* of the Convention, in light of the guidance in Paragraph 27 of Recommendation No. 114, the Committee considers that employers should make all reasonable efforts to provide workers with suitable alternative employment in circumstances for which it has been determined, pursuant to medical advice, that the workers, for health reasons, may no longer continue in employment in which they are, or could be, subject to occupational exposure.

Records of individual doses (paragraph 29)

41. With a view to ensuring effective and comprehensive protection of workers, the Committee considers that, as far as is practicable, a complete record of all doses received in the course of work by every worker should be kept so that the cumulative dose may be taken into account for employment purposes, as provided by Paragraph 26 of Recommendation No. 114. In this respect, efforts should be made to avoid a situation in which a worker may believe they must suppress dosimetric information or other actions, in order to maintain their work status.

Belgium

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2011)

Article 2(2) and (3) of the Convention. Scope of application. Domestic workers and other household staff. Further to its previous comments, the Committee notes with *interest* the adoption of the Act of 15 May 2014 amending the Act of 4 August 1996 with respect to domestic workers and household staff. It notes that the Act, the objective of which is to give effect to the Act of 4 August 1996 with respect to the well-being of workers in the performance of the work, domestic workers and household staff, will enter into force at a date that is still to be determined by a royal order. The Committee also notes the Government's indication in its report that, in view of the specific nature of domestic work, the draft Royal Order establishing measures for the well-being of domestic workers is under preparation and a commission has been established within the Higher Council for Occupational Prevention and Protection with a view to obtaining the views of the social partners on the subject. *The Committee requests the Government to continue providing information on the entry into force of the Act of 15 May 2014, and on any developments relating to the adoption of the Royal Order establishing measures for the well-being of domestic workers, and to provide a copy of this text once it has been adopted.*

Belize

Radiation Protection Convention, 1960 (No. 115) (ratification: 1983)

General observation of 2015. The Committee would like to draw the Government's attention to its general observation of 2015 under this Convention, including the request for information contained in paragraph 30 thereof.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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 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 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. ***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. Referring to its previous comments, the Committee notes that, in its report, the Government provides information on general regulations on occupational safety and health (OSH) to which it has previously referred and which give very limited effect to the Convention. The Committee notes with ***regret*** that the Government reiterates that no specific standards or provisions have been developed relating to benzene. The Committee also notes that the Government refers once again to the preparation of the Occupational Safety and Health Bill, which will establish directives for immediate action regarding the handling and use of benzene, and other measures in accordance with the Convention. ***The Committee once again requests the Government to adopt the necessary measures to give effect to the Convention and to provide information on any progress made in this regard.***

In view of the fact that the Government has not provided the information requested in its previous observation, the Committee must therefore repeat with ***regret*** its previous observation which read as follows:

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/m³). 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.*

[The Government is asked to reply in detail to the present comments in 2016.]

Asbestos Convention, 1986 (No. 162) (ratification: 1990)

Articles 3 and 4 of the Convention. Legislation and consultation with the most representative organizations of employers and workers concerned on the measures to be taken to give effect to the provisions of the Convention. With reference to its previous comments, the Committee notes the information provided by the Government in its report on general occupational safety and health provisions, to which it has already referred, which give very limited effect to the Convention. The Committee notes in particular that the Bill on occupational safety and health and the preliminary draft regulations for the safe use of asbestos, the forthcoming adoption of which has been noted by the Committee since 1994, have still not been adopted. The Committee therefore urged 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. The Committee notes with *regret* that the Government has not provided the requested information, which appears to show that the consultations envisaged in *Article 4* of the Convention have not been held on the measures to be taken to give effect to the provisions of the Convention, and that the legislation referred to previously has not been adopted. The Committee recalls that all laws and regulations have to be the subject of consultation and periodic review in the light of technical progress and advances in scientific knowledge, in accordance with *Article 3(2)* of the Convention, and the subject of consultations under the terms of *Article 4* of the Convention. *The Committee once again urges the Government, in accordance with Article 3(2), and within the framework of consultations with the most representative organizations of employers and workers concerned, as required by Article 4, to review the legislation to bring it into conformity with the Convention, including in relation to exposure limits which, in accordance with Article 15(2), shall be fixed and periodically reviewed and updated in the light of technological progress and advances in technological and scientific knowledge.*

[The Government is asked to reply in detail to the present comments in 2016.]

Brazil

Asbestos Convention, 1986 (No. 162) (ratification: 1990)

Articles 3(2) and 10 of the Convention. Review of national laws and regulations in the light of technical progress and advances in scientific knowledge. Replacement and prohibition of asbestos. In its previous comments, the Committee referred to measures for the replacement and prohibition of asbestos in accordance with *Article 10* of the Convention. The Committee notes that the Government reiterates in its report that the only type of asbestos authorized is chrysotile asbestos. Furthermore, it takes note with *interest* of the information provided by the Government indicating that there are several laws and bills on the replacement and prohibition of asbestos at the state level. It notes in particular Act No. 9583/11 of the state of Mato Grosso, which prohibits the use of any type of asbestos in that state. It also notes that appeals for unconstitutionality have been filed against Act No. 11643 of the state of Rio Grande do Sul, which prohibits the manufacture and marketing of asbestos-based products in the state, and against Act No. 12684 of the state of São Paulo, which prohibits the use of products, materials or constructions containing any type of asbestos. *Recalling that the International Labour Conference resolved in its resolution concerning asbestos, adopted at its 95th Session in June 2006, that the Asbestos Convention, 1986 (No. 162), should not be used to provide a justification for, or endorsement of, the continued use of asbestos, the Committee requests the Government to provide information on the results of the constitutional appeals referred to above. The Committee also requests that the Government continue to adopt appropriate measures to ensure the periodical review envisaged by the Convention and to provide detailed information on this subject.*

Article 5. Adequate and appropriate system of inspection. The Committee notes the detailed information provided by the Government in its report on the activities of the inspection services, in accordance with *Article 5* of the Convention. *The Committee requests the Government to continue to provide detailed statistical information regarding the enforcement, through the inspection services, of the obligations under the Convention.*

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 expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

The Committee 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.***

Application in practice. 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.***

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

Cambodia

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1969)

Application of the Convention in law and in practice. The Committee notes that the Government indicates in its report that the Department of Occupational Safety and Health (DoSH) of the Ministry of Labour and Vocational Training has developed 25 regulations concerning environmental safety and health at work and four regulations concerning construction safety, but that the Government does not provide information on any provision concerning the prohibition or the regulation of the use of white lead, in accordance with the Convention. The Committee also notes the information regarding the training workshop on chemical safety and management, conducted by the DoSH in collaboration with the ILO Better Factories Cambodia (BFC) programme, which was aimed at providing the 32 participating inspectors and BFC monitors with an overview of hazardous chemicals and their management in workplaces, including white lead. It further notes that the DoSH conducted a survey on occupational health problems among workers in the enterprises located in five provinces and the city of Phnom Penh, with the objective of identifying the hazardous chemicals used and the occupational health complaints of workers in each targeted enterprise. The Government further indicates that the DoSH is developing a new OSH Master Plan for 2015–18 which will include hazardous chemicals as a priority point, including white lead, and that technical assistance from the Office would be needed in this regard. ***The Committee requests the Government to take the necessary measures to give full effect to the Convention in law and to provide information on any progress made in this regard, and to continue to provide information on the measures taken to give effect to the Convention in practice. The Committee invites the Government to make a formal request for technical assistance, with regard to the development of the OSH Master Plan and requests it to provide information in this respect. The Committee also requests the Government to provide information on the outcome of the survey on occupational health problems conducted by the DoSH, particularly with regard to white lead.***

Cameroon

Asbestos Convention, 1986 (No. 162) (ratification: 1989)

The Committee notes the observations of the General Union of Workers of Cameroon (UGTC), received on 25 September 2015. ***The Committee requests the Government to provide its comments in this regard.***

Legislation. Technical assistance. The Committee notes that, in its report, the Government reiterates the information provided in 2013 on the laws, regulations, collective agreements and other documents, which, in its view, give effect to most of the Articles of the Convention. It also notes the Government's indication that, although there is no specific text on asbestos, section 45 of Act No. 96/06 of 18 January 1996 issuing the Constitution of the Republic of Cameroon, provides that ratified international treaties and agreements take precedence over national laws. In this respect, the Committee recalls that most of the provisions of Convention No. 162 are not directly applicable and require States that ratify it to take the necessary measures to bring their national law and practice into conformity with the Convention. The Committee also notes the Government's indication that it would be useful to receive technical assistance to strengthen the

capacities of its staff with regard to asbestos and the application of the Convention. *The Committee once again requests the Government to take the necessary steps to adopt legislation that gives full effect to the Convention. It also hopes that the Office will provide technical assistance, as requested by the Government.*

Article 5 of the Convention. Labour inspection. The Committee notes the Government's indication that the labour inspection system is general in nature and that the inspection services carry out controls and issue compliance orders and violation reports in all regions of the country. However, referring to its previous comments, the Committee notes that no information has been provided on labour inspection on asbestos, particularly in terms of the training of labour inspectors in this area. *The Committee therefore once again requests the Government to take the necessary measures so that labour inspectors receive suitable training that enables them to conduct efficient inspections with regard to asbestos, and to provide information on any progress made in this respect.*

Application in practice. Referring to its previous comments, the Committee notes the Government's indication that it has no information on the application of the Convention or statistics, due to the lack of training of labour inspectors and doctors on asbestos-related issues. It also notes that the Government has not provided the requested information on the role of safety and health committees in relation to the application of the Convention. *The Committee requests the Government to take the necessary measures to ensure that it will soon be able to provide up-to-date information on the application in practice of the Convention, including relevant statistical information. It also once again requests the Government to provide information on the role of the safety and health committees in relation to the application of the Convention.*

Central African Republic

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1960)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

With reference to its previous comments, the Committee yet again *regrets* to note that the Government reiterates, as it has done since 1992, that no statistics are available on morbidity and mortality resulting from lead poisoning among working painters. *With reference to its comments in relation to the application by the Government of the Occupational Safety and Health Convention, 1981 (No. 155), this year, the Committee urges the Government to make every effort to take the necessary action in the near future and 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.

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1964)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee once again draws the Government's attention to *Article 1(1)* of the Convention, in accordance with which each Member which ratifies the Convention undertakes to maintain in force, laws or regulations which ensure the application of the General Rules set forth in Parts II–IV of the Convention. In this respect, the Committee recalls that draft texts were prepared following the direct contacts which took place in 1978 and 1980 with the responsible government services. The Committee is bound to express the firm hope that the relevant texts will be adopted in the very near future.

The Committee recalls that, under this Article of the Convention, each Member which ratifies the Convention undertakes to communicate the latest statistical information indicating the number and classification of accidents in an enterprise or sector. *The Committee once again hopes that the Government will soon be in a position to indicate the measures which have been taken to give effect to the Convention on this point and to supply the appropriate statistical information.*

Article 6 of the Convention. Statistics of accidents. For a number of years, the Committee has been noting the absence, in the Government's reports, of statistical information relating to the number and classification of accidents occurring in the building sector. In its last report, the Government states that the Labour Department does not currently have at its disposal reliable statistics in this field.

The Committee 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: 1964)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes that it has been making comments for numerous years on the application of *Articles 2(3) and (4), 10(1) and 11 of the Convention* and that the announced revision of General Order No. 3758 of 25 November 1954 with a view to ensuring compliance with the provisions of the Convention has still not been adopted. The Committee reiterates that the International Labour Office is disposed to assist the Government in the preparation of the relevant texts. *With reference to its comments in relation to the application of the Government of the Occupational Safety and Health Convention, 1981 (No. 155), this year, the Committee urges the Government to make every effort to take the necessary action in the near future.*

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: 2006)

The Committee notes with *regret* that the Government's report has not been received. It expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

The Committee notes the adoption of Act No. 009-004 of 29 January 2009 issuing the Labour Code, repealing Act No. 61-221 of 2 June 1961, certain provisions of which are relevant to the application of the Convention. The latter Act was made available to the Committee. The Committee also notes the reference made by the Government to Order No. 005/MFPESFP/CAB/SG/DGTEFP of 11 July 1994 establishing and regulating the operation of health and safety committees in the Central African Republic, and Order No. 008/MFPTSS/CAB/SG/DGTE/DESTRE of 26 June 1986 respecting general safety and health measures applicable in agricultural, forestry, industrial and commercial enterprises, as well as in similar public and para-public enterprises. The two Orders have not been made available to the Committee. ***The Committee requests the Government to provide a copy of the two Orders referred to above with its next report, as well as of any other relevant legislative texts adopted or envisaged under the new Act issuing the Labour Code so as to enable it to examine the manner in which effect is given to the provisions of the Convention, with particular reference to Articles 5, 6(1) and 19.*** The Committee also draws the Government's attention to the following points.

Article 10 of the Convention. Temperature of workplaces. Article 16. Information on provisions ensuring that underground or windowless premises comply with appropriate standards of hygiene. Article 18. Protection against vibrations. The Committee notes that the Government refers briefly to General Order No. 3758 of 25 November 1954 respecting general safety and health measures applicable in agricultural, forestry, industrial and commercial enterprises and similar administrative establishments in French Equatorial Africa (AEF). However, the Committee observes that no precise reference is made to the relevant provisions of the Order which give effect to these provisions of the Convention. ***The Committee requests the Government to provide additional information on the relevant provisions of the Order which give effect to Articles 10, 16 and 18 of the Convention.***

Application in practice. The Committee requests the Government to provide a general appreciation of the manner in which the Convention is applied in the Central African Republic, including, for example, extracts from the reports of the inspection services and, where available, information concerning the number and nature of the contraventions reported and the measures taken as a consequence, etc.

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

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2006)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Legislation. The Committee welcomes the adoption of the new Labour Code Law No. 09.004 of 29 January 2009 including Section 300 which provides, inter alia, that the Ministry of Labour together with the Ministry of Health shall adopt regulations concerning occupational safety and health in consultation with the National Council for the Prevention of Occupational Hazards. The Committee notes that this provision paves the way for the adoption of the legislation required for implementation of the provisions of the present Convention. The report is silent, however, as to whether any such regulations have been or are being prepared. With reference to its previous comments the Committee notes it had requested the Government to submit copies of the following legislation: Decree No. 05.006 of 12 January 2005 concerning the organization and operation of the Ministry of the Public Service, Labour, Social Security and the Vocational Integration of Young Persons and establishing the responsibilities of the Minister, Decree No. 005/MFPESFP/CAB/SG/DGTEFP of 11 July 1994 concerning the establishment and operation of safety and health committees in the Central African Republic, Decree No. 008/MFPTSS/CAB/SG/DGTE/DESTRE of 26 June 1986 concerning the general safety and health measures applicable in agricultural, forestry, industrial and commercial enterprises as well as in similar public and para-public enterprises and General Order No. 3758 of 25 November 1954 on the general health and safety measures applicable in agricultural, forestry, industrial and commercial enterprises as well as in similar administrative establishments in French Equatorial Africa, as well as all other relevant legislative texts. ***In order to enable the Committee to be able to examine how effect is given to the provisions of the Convention, the Committee requests the Government to provide copies of the abovementioned texts with its next report.***

Articles 4, 7 and 8 of the Convention. Obligation to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The Committee notes the information that the newly created Department of Occupational Medicine is in the process of formulating a coherent national policy on occupational safety, occupational health and the working environment based on the country's needs, while taking into account the country's economic situation and development. The Committee recalls that this work is to be carried out in close association with the country's most representative employers' and workers' organizations, and that these organizations shall also be involved in the process of periodically reviewing this policy in the light of the progress made, changes in society and technological developments. Furthermore, the Committee invites the Government to ensure that the policy is coherent and that it aims to prevent accidents and injury to health arising out of, linked with or occurring in the course of work. ***The Committee requests the Government to provide information on any progress made with regard to the formulation, implementation and periodic review of the national policy in accordance with Article 4 of the Convention.***

Articles 13 and 19(f). Right to removal. The Committee notes the information provided by the Government that there are no legislative provisions ensuring the protection provided for by these Articles. The Committee wishes to point out that Articles 13 and 19(f) are complementary provisions and both refer to situations in which an individual worker decides to remove themselves from work situations which they have reasonable justification to believe presents an imminent and serious danger to their life or health. ***The Committee requests the Government to indicate measures taken or envisaged to ensure that no worker will suffer undue consequences as a result of such action, in accordance with Article 13, and to indicate the arrangements which have been made to ensure that an employer cannot require the worker to return to a work situation where there is continuing imminent and serious danger to life or health, as provided for by Article 19(f).***

Article 14. Measures for the inclusion of questions of occupational safety and health at all levels of education and training. The Committee notes the information that the measures provided for by this Article come within the remit of the

Department of Occupational Medicine in accordance with the provisions of the abovementioned Decree No. 05.006 of 12 January 2005. *The Committee requests the Government to inform it of the manner in which effect is given to this provision, in particular, the measures taken to promote in a manner appropriate to national conditions and practice, the inclusion of questions of occupational safety and health and the working environment at all levels of education and training, including higher technical, medical and professional education, in a manner meeting the training needs of all workers.*

Article 15. Measures to ensure coordination between various authorities and bodies. The Committee notes the Government's indications that the obligations provided for by this Article have been assigned to the Department of Occupational Medicine under the provisions of Decree No. 05.006 of 12 January 2005. *It requests the Government to indicate what institutions and institutional structures are available to ensure the necessary coordination between the competent national authorities and the bodies responsible for giving effect to the Convention and also to indicate the stage at which the most representative employers' and workers' organizations are consulted.*

Application in practice. *The Committee requests the Government to provide a general appreciation of the manner in which the Convention is applied in the country and attach extracts from inspection reports and, where such exists, information on the number of workers covered by the legislation, the number and nature of the contraventions reported, the number, nature and causes of the accidents reported, etc.*

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

Colombia

Benzene Convention, 1971 (No. 136) (ratification: 1976)

The Committee notes the observations of the Single Confederation of Workers (CUT) and the General Confederation of Labour (CGT), both received on 2 September 2015. *The Committee requests the Government to provide its comments in this regard.*

Legislation. In its previous comments, the Committee noted the Government's indications that there are no specific legislative provisions on benzene establishing protection measures for workers against risks related to the exposure and use of this substance, as required by *Articles 4, 5, 6, 7, 8 and 9 of the Convention*. Keeping in mind that standards on protection against occupational cancer may cover certain aspects of the Convention, the Committee requested the Government to provide detailed information on the manner in which those standards cover the provisions of the Convention in respect of exposure to products containing benzene. The Committee notes that in its report the Government reiterates the information that it had already noted and also refers to Decree No. 1072, of 26 May 2015, issuing the Single Regulatory Decree on labour, Chapter 6 of which is entitled "On the management of occupational safety and health". In this regard, the Committee notes that Chapter 6 establishes general occupational safety and health rules, and does not regulate the specific obligations contained in these Articles of the Convention. *The Committee once again urges the Government to give full effect to these Articles of the Convention and to provide detailed information in this regard.*

Article 9(1)(b) of the Convention. Periodic medical re-examinations. The Committee takes due note of the fact that Decree No. 1072 of 2015 provides in Chapter 6, section 2.4(3), that the employer shall take action to monitor the health of workers through pre-recruitment, periodic and other medical examinations. In this regard, the Committee recalls that, under the terms of this Article of the Convention, the intervals at which periodic re-examinations are to be carried out shall be fixed by national laws or regulations. *The Committee therefore requests the Government to provide information on any measures adopted or envisaged in this regard.*

[The Government is asked to reply in detail to the present comments in 2016.]

Asbestos Convention, 1986 (No. 162) (ratification: 2001)

The Committee notes the observations of the Confederation of Workers of Colombia (CTC), received on 29 August and 4 September 2015, and also the observations of the Single Confederation of Workers (CUT), received on 2 September 2015. The Committee further notes the observations of the National Employers Association of Colombia (ANDI), received on 1 September 2015. As regards the latest communications from the CTC, the Committee notes that the CTC indicates that it was unable to formulate them before 1 September because it was on that day that it received a copy of the Government's report. *The Committee requests the Government to send its comments on the abovementioned observations.*

Article 3(2) of the Convention. Periodic review of national laws and regulations in the light of technical progress and advances in scientific knowledge. *Article 14. Responsibility for adequate labelling of the containers and, where appropriate, products containing asbestos. Definition of materials containing chrysotile.* With reference to its previous comments, the Committee notes the Government's indication in its report that the reference used when issuing Decision No. 007 of 4 November 2011 of the Ministry of Health and Social Security adopting the Regulations on health and safety in relation to chrysotile and other fibres of similar use was the OSHA 1926.1101 standard which, among other provisions, establishes that products shall not be labelled when asbestos is present in a product to a concentration of less than 1 per cent. The Committee already noted that the International Agency for Research on Cancer (IARC) classifies asbestos in all its forms among group 1 carcinogens and that, according to the IARC, scientific knowledge does not allow a limit value to be established below which asbestos might no longer be carcinogenic. The establishment of limit values is conventional and evolutive, and changes according to the country. Taking into account the fact that chrysotile asbestos is classified by the IARC as carcinogenic for humans, that there is no identifiable limit value below which asbestos is not carcinogenic

and that *Article 14* of the Convention does not establish such limits, the Committee considers that products containing asbestos, irrespective of the percentage, must not be considered “free of asbestos” in relation to the Convention. It should be recalled that *Article 14* forms part of Part III of the Convention on “Protective and preventive measures”, and that the measures referred to in the Article need to be considered from this viewpoint. For example, in certain types of work, such as the removal of products containing less than 1 per cent of asbestos, if they were considered to be “free of asbestos”, the necessary preventive and protective measures for workers engaged in this operation would not be taken during removal. ***As noted above, the Committee indicates that products with less than 1 per cent asbestos are not considered under the Convention to be asbestos free. The Committee therefore urges the Government to re-examine the concept of “free of asbestos” for products containing less than 1 per cent chrysotile fibre in light of its obligations under the Convention and to provide information on measures taken to ensure that labelling is in conformity with the Convention.***

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 relation to its previous comments, the Committee notes with **interest** the Government’s indication in its report that at the meeting of the Tripartite Subcommittee on International Affairs held on 27 August 2015 it was agreed with the employers and workers that the Ministry of Labour would ask the presidents of the three confederations representing the workers and the employers to appoint one representative each to participate in the National Commission on Chrysotile Asbestos and Other Fibres. ***The Committee requests the Government to provide information on the consultations on the Convention held in the aforementioned Commission or in any other commission where the three confederations are represented, including the results of such consultations.***

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. The Committee notes the Government’s indication that the Antioquia mine is operating and that it provides general information on plans and strategies for occupational health and safety measures at the mine. ***Mindful of the carcinogenic nature of asbestos and recalling the obligations imposed in Article 9(a) of the Convention for the protection of those working with asbestos, the Committee requests the Government to provide detailed information as to the protective measures and work practices already adopted in relation to the Antioquia mine, and a timetable for any such measures to be adopted in the future.***

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 relation to its previous comments, the Committee notes the Government’s indication that asbestos is not used as a thermal insulation material in Colombia, nor is there any evidence of the use of asbestos-based friable insulation materials for construction, hence there is no release of asbestos dust and no workers are exposed to it. The Committee notes that *Article 17* of the Convention applies not only to the “demolition of plants or structures containing friable asbestos insulation materials” but also to the “removal of asbestos from buildings or structures in which asbestos is liable to become airborne”. The Committee observes that even though non-friable materials are concerned and regardless of how they are used in building, fibre cement products may contain between 10 and 15 per cent asbestos. There is a risk that such asbestos can become airborne during the removal of asbestos from buildings or structures when the latter are dismantled and fibre cement products and residues are handled. The Committee notes that paragraph 4.5 of Decision No. 007 of 2011 regulates prevention and protection measures in construction, alteration and demolition work, including where the asbestos fibres are encapsulated or fixed in a binding agent. The Committee emphasizes that the terms of *Article 17* of the Convention require these measures to be supplemented to ensure that the demolition work referred to by this Article is undertaken only by employers or contractors who are recognized by the competent authority as qualified to carry out such work and who have been empowered to undertake such work. ***The Committee therefore once again requests the Government to establish a system whereby only employers or contractors who are recognized by the competent authority as qualified to carry out such work in accordance with this provision of the Convention can undertake it, and requests the Government to supply information on this matter. The Committee also requests the Government to draw up a workplan in the terms laid down in Article 17(2) and to provide information in this regard.***

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 2016.]

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 expresses **deep concern** in this respect. It is therefore bound to repeat its previous comments.

Application in practice. ***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

Occupational Health Services Convention, 1985 (No. 161) (ratification: 1991)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 3 of the Convention. National policy and plans to develop progressively occupational health services. The Committee notes the information that the Government has adopted a National Programme for the Protection of Health and Safety at Work for the period 2009–13 which defines policies in the area of occupational safety and health including specific policies concerning occupational health services. It notes that the strategic goals of the National Programme include: to design and implement policy instruments to protect the health of workers; to protect and promote health in the workplace; to improve the efficiency of and access to occupational health services; and to monitor the health of workers. The Committee also notes that pursuant thereto and relevant legislation the Croatian Institute for Occupational Safety and Health Insurance and the Croatian Institute for the Protection of Health and Safety at Work were founded and began operations on 1 January 2009. ***The Committee requests the Government to continue to provide information on the progressive implementation of the national programme referenced above and the development of health services for workers in all economic sectors and to provide further details on the outcome of periodical review of the national policy due in 2013.***

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.

Asbestos Convention, 1986 (No. 162) (ratification: 1991)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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.***

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.*

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

Czech Republic

Occupational Health Services Convention, 1985 (No. 161) (ratification: 1993)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 10 of the Convention. Professional independence. The Committee notes the response provided by the Government which indicates that providers of occupational health care are independent from employers and that currently the care provided is almost entirely based on a contractual relationship between the employer and the occupational health-care provider. The Committee notes the comments by the Czech-Moravian Confederation of Trade Unions (CMKOS), included in the Government's report, which state that there are health-care institutions which still use their own employees (doctors) for occupational health purposes and their independence is thus compromised. The Committee notes the Government's response thereto, which indicates that the comments by CMKOS were discussed at the tripartite Working Group for the Cooperation with the ILO of the Council of Economic and Social Agreement on 18 October 2010, and it was agreed that a special sitting of the Working Group (with the expert participation from the side of the Government, as well as of the social partners) will be dedicated, in the near future, to the issue of occupational health services, as well as the White Lead (Painting) Convention, 1921 (No. 13). *The Committee asks the Government to continue to provide information on the measures taken or envisaged to ensure that the personnel providing occupational health services enjoy full professional independence from employers, workers, and their representatives, where they exist, in relation to the functions listed in Article 5, with reference to the comments by CMKOS; and to provide further information on the outcome of the abovementioned tripartite working group.*

Article 11. Qualifications required for personnel providing occupational health services. The Committee notes the response provided by the Government, which indicates that, in addition to occupational health-care specialists, occupational health-care services are also provided by general practitioners. The Government indicates that the Institute of Healthcare Post-Graduate Education organizes training for general practitioners targeted at occupational health-care issues through courses covering 150 hours of lectures. The course is concluded by examinations and tests, after the passing of which the graduate receives a certificate. CMKOS admits that although new legislation has introduced specific provisions for education of medical doctors and nurses specializing in occupational health, these services are, in practice, usually carried out by general practitioners, and that the reform of the national health legislation has not been realized yet. The Committee notes the response above by the Government to the comments by CMKOS. *The Committee asks the Government to provide information on the qualifications required for the personnel providing occupational health services, with reference to the comments by CMKOS; and to indicate whether general practitioners, who undertake a role in occupational health care, do not do so until they are certified in such duties.*

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.

Democratic Republic of the Congo

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1960)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 4 of the Convention. The Committee notes the information that the mission of the restructured labour inspectorate remained the same as previously, namely to monitor relevant regulations, to provide advice and to seek to resolve any conflicts occurring; and that there were no specific competencies attributed to the labour inspectorate in terms of inspections in the area of construction. *With reference to its previous comment, the Committee asks the Government to provide more information on the manner in which technical standards applied in the building industry are monitored and enforced.*

Article 6. Application in practice. The Committee notes the 2010 report of the National Institute for Social Security and of the Inspector General for 2008–09 including detailed, albeit not comprehensive, statistical information, which reflects a noticeable development in the Government's efforts to improve its monitoring of the working conditions in the country. The Committee notes that the information provided does not fully enable the Committee to evaluate the trends in relation to occupational accidents and diseases in the area of construction. *The Committee hopes the Government will be in a position to provide further and more complete statistical information on the number and classification of the accidents and diseases occurring, particularly to persons working in the sector covered by the Convention, and as detailed information as possible on the number of persons engaged in the building industry and covered by the statistics.*

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

Ghana

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1965)

Articles 1 and 17 of the Convention. Scope of application. The Committee notes the Government's statement in its report that, in light of the need to extend the national legislation giving effect to the Convention in relation to agriculture, forestry, road and rail transport, as stressed by the Committee, it is focusing on the need to revise legislation in the field of occupational safety and health. The Government states that it is taking all necessary steps to ensure the guarding of machinery in all sectors of economic activity, especially agriculture, forestry, road and rail transport and shipping, to safeguard the safety of workers in these sectors. The Committee recalls that, for a long period of time, it has drawn the Government's attention to the need to extend the legislation giving effect to the Convention to these sectors. The Committee trusts that, in the context of the revision of the legislation in the field of occupational safety and health, the Government will take the necessary measures to give effect to the Convention. ***The Committee urges the Government to take the necessary steps in the very near future to ensure the guarding of machinery in all sectors of economic activity, including agriculture, forestry, road and rail transport and shipping.***

[The Government is asked to reply in detail to the present comments in 2017.]

Guatemala

Asbestos Convention, 1986 (No. 162) (ratification: 1989)

The Committee notes the observations of the General Confederation of Workers of Guatemala (CGTG), received on 3 September 2014, and the Government's reply.

Legislative and other measures to give effect to the Convention. The Committee recalls that for many years it has been requesting the Government to adopt the necessary legislative measures to give effect to the Convention. In this regard, the Committee notes the adoption of Government Decision No. 229-2014 issuing the new Regulations on occupational safety and health, and particularly Chapter II on hazardous substances, inflammable or hazardous dusts, gas or vapours. With reference to the draft Government Decision to regulate the use of asbestos in Guatemala, the Committee notes that the Government has requested the assistance of the National Occupational Safety and Health Council (CONASSO) and the Guatemalan Standards Commission (COGUANOR), which have established a subcommittee to analyse the draft text, taking into account the provisions of the Convention and the Committee's comments. The Committee recalls that in its previous comments it indicated that the draft Government Decision was not fully in conformity with the provisions of the Convention. ***While noting the initiatives taken to bring the law and practice into conformity with the Convention, the Committee trusts that the Government Decision to regulate the use of asbestos in Guatemala will fully take into account the comments that it previously made. The Committee requests the Government to provide information on any developments in this regard.***

Guinea

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1976)

Legislation. Referring to the comments that it has been making for a number of years, the Committee notes the Government's indication that, even though the new Labour Code of 10 January 2014 does not contain any specific provisions governing the use of carcinogenic products, steps will be taken to update Order No. 93/4794/MARAFDPT/DNTLS of 4 June 1993 concerning the prevention of occupational cancer and to ensure its conformity with the Convention, particularly with regard to *Article 2(1)* on the replacement of carcinogenic substances and agents. ***The Committee urges the Government to take all the necessary steps to ensure the conformity of Order No. 93/4794/MARAFDPT/DNTLS with the Convention, to provide information on all progress made in this respect, and to send a copy of any new legislative text giving effect to the Convention.***

Application in practice. ***The Committee requests the Government to provide a general appreciation of the manner in which the Convention is applied in the country, including any relevant extracts from inspection reports and, where it exists, statistical information on the number of workers covered by the legislation, the number and nature of infringements reported, the number, nature and cause of diseases recorded, etc.***

Guyana

Radiation Protection Convention, 1960 (No. 115) (ratification: 1966)

General observation of 2015. The Committee would like to draw the Government's attention to its general observation of 2015 under this Convention, including the request for information contained in paragraph 30 thereof.

The Committee notes with *regret* that the Government's report has not been received. It expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

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 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.***

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: 1983)

The Committee notes with ***regret*** that the Government's report has not been received. It expresses ***concern*** in this respect. It hopes that the next report will contain full information on the matters raised in its previous comments.

The Committee notes that the Government's report does not provide any information on the application of the Convention, either in law or in practice. The Committee reiterates that current national laws and regulations are too general to give full effect to the provisions of the Convention and that specific measures should be taken to regulate the use of benzene and products containing benzene in accordance with the Convention. ***The Committee therefore once again requests the Government to take the necessary measures to ensure that the provisions of the Convention are applied in law and in practice. The Committee would also like to inform the Government that the Office is available to provide relevant technical assistance to assist in its efforts to bring national law and practice into conformity with 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 expresses ***deep concern*** in this respect. It is therefore bound to repeat its previous comments.

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 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 make every effort to take the necessary action in the near future.

Japan

Radiation Protection Convention, 1960 (No. 115) (ratification: 1973)

The Committee notes the observations made by the Japanese Trade Union Confederation (JTUC-RENGO), the Japan Business Federation (NIPPON KEIDANREN), communicated with the Government's report, as well as the Government's reply to both.

General observation of 2015. The Committee would like to draw the Government's attention to its general observation of 2015 under this Convention, and in particular the request for information contained in paragraph 30.

Article 2 of the Convention. Application of the Convention to all activities involving exposure of workers to ionizing radiations in the course of their work. Emergency workers. The Committee notes the statement of the JTUC-RENGO that, due to the accident at the Fukushima power plant following the earthquake in 2011, an Ordinance on special measures was issued that raised the emergency radiation exposure dose limit to 250 mSv. Workers engaged in emergency work under that Ordinance, and accordingly mid- to long-term dose management must be implemented by the Government for workers whose exposure exceeded the normal exposure limit (100 mSv over a five-year period). The Committee notes the Government's statement that the Ordinance on special measures was in force between March and December 2011, and that when the nuclear reactors were stabilized, the emergency radiation exposure dose limit was returned to 100 mSv. The Government also indicates that based on lessons learned from the 2011 earthquake, it has promulgated an amendment to the Ordinance on the prevention of ionizing radiation hazards and the Ministerial Guidelines for maintenance and improvement of the health of emergency workers at nuclear facilities, which will come into force on 1 April 2016. Based on the concept that a certain margin should be adopted regarding the application of dose limits for regular radiation workers, employers may assign workers whose cumulative dose exceeds 100 mSv over five years to normal radiation works where additional exposure is controlled within 5 mSv a year if the workers are essential to maintain the safety of nuclear facilities. The Committee also notes that the amended Ordinance on the prevention of ionizing radiation hazards provides that the Minister of Health, Labour and Welfare may set a special dose limit

(exceptional emergency dose limit) not exceeding 250 mSv in situations in which it is difficult to observe the dose limit of 100 mSv during the emergency works. The Ordinance provides that employers shall select exceptional emergency workers from among the nuclear disaster prevention workers specified in the Act on special measures concerning nuclear emergency preparedness.

The Committee refers to paragraph 37 of its general observation of 2015, which states that, in emergency situations, reference levels should be selected to be within, or if possible below, the 20–100 mSv band. Measures should be taken to ensure that no emergency worker is subject to an exposure in an emergency in excess of 50 mSv. As indicated in paragraph 22 of the general observation, response organizations and employers should ensure that emergency workers who, in exceptional situations, undertake actions in which the doses received might exceed 50 mSv do so voluntarily; have been clearly and comprehensively informed in advance of the associated health risks, as well as of available measures for protection and safety; and that they are, to the extent possible, trained in the actions that they may be required to take. ***The Committee requests the Government to take further measures to ensure that the protection provided in the Convention applies to emergency workers. In this regard, it requests the Government to indicate the measures taken or envisaged to ensure that workers who may be exposed to the exceptional emergency dose limits do so voluntarily and only after being informed of the associated health risks. The Committee also requests the Government to provide detailed information on the measures taken, including long-term measures, to monitor those workers exposed to higher doses of ionizing radiation following the 2011 earthquake.***

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

[The Government is asked to reply in detail to the present comments in 2017.]

Asbestos Convention, 1986 (No. 162) (ratification: 2005)

The Committee notes the observations made by the Japanese Trade Union Confederation (JTUC–RENGO) submitted with the Government’s report, and the Government’s reply thereto.

Articles 1 and 21 of the Convention. Scope of application and necessary medical examinations. The Committee notes the information provided by the Government in relation to laws imposing obligations to take preventive action to ensure the safety of workers, including seafarers and miners, and including in relation to asbestos. It notes the Government’s indication that notifications issued by the Ministry of Land, Infrastructure, Transport and Tourism provide that mariners who have engaged in work involving exposure to asbestos on board ships who meet certain requirements shall be provided with a personal health record for mariners, at the time of their separation from their service or thereafter, and accordingly be subject to a medical examination at medical institutions. The Government states that the requirements for the issuance of the personal health record for mariners are determined using the requirements for personal health records prescribed in the Industrial Safety and Health Act as a reference. The Government indicates that the number of mariners to whom the Convention applies was, as of 2013, 74,892. It indicates that from 2010 to 2014, 14 violations were detected by seafarers’ labour inspectors related to education and training on safety and sanitation (section 11 of the Regulations for Labour, Safety and Sanitation of Mariners) and two related to protective gear (section 45 of the Regulations). It also notes the Government’s indication that the number of confirmed cases of insurance benefits for lung cancer and mesothelioma caused by asbestos, under the Mariners Insurance Act, during the reporting period was 51. With respect to miners, the Committee notes that the number of workers to whom the Convention applied was seven, and that there had been no reported cases of violations or cases of occupational diseases. ***The Committee reiterates its previous request for the Government to indicate the measures taken to apply Article 21 of the Convention to seafarers and miners, including specific information on medical check-ups for such workers as well as the number of personal health records issued for mariners previously exposed.***

Articles 15(4), 16, 17(2), 20 and 22. Protective equipment, prevention measures, measurement of the concentration of airborne asbestos dust and information and education. The Committee notes the observations of the JTUC–RENGO that the Government should take the following action concerning asbestos in the recovery and reconstruction work following the earthquake of 2011: education in occupational safety and health and measures to prevent industrial accidents in order to prevent asbestos exposure; strengthening guidance and supervision to ensure the use of necessary protective equipment and clothing to protect against asbestos exposure; the regular measurement of the concentrations of airborne asbestos dust and the publication of the results of such measurements; and, in managing demolition and removal work for buildings and structures which may contain asbestos, the carrying out of thorough asbestos exposure prevention measures with respect to workers and persons using those structures. The Committee notes the Government’s statement, in reply to these observations, that the Ministry of Health, Labour and Welfare has been raising awareness, providing guidance and undertaking inspections concerning occupational safety and health laws. This includes the Ordinance on the Prevention of Health Impairment due to Asbestos, which requires that employers provide special occupational safety and health education to workers assigned to perform work involving asbestos and take measures to prevent exposure to asbestos. The Government also indicates that it has amended this Ordinance, to strengthen the protection provided to workers who work in buildings that contain asbestos. With respect to the workers engaged in restoration and reconstruction following the earthquake in 2011, the Government indicates that it distributed respiratory protective equipment to workers in the areas affected. It also measured the concentrations of asbestos fibres in workplaces, and reported those measurements to an experts’ meeting, and subsequently strengthened supervision activities. ***The Committee requests the Government to***

continue to provide information on the measures taken to protect workers engaged in restoration and reconstruction against health hazards due to occupational exposure to asbestos. It further requests the Government to provide a copy of the amended Ordinance on the Prevention of Health Impairment due to Asbestos.

Articles 17 and 19(2). Demolition work and measures to prevent pollution. The Committee previously noted the observations of the JTUC–RENGO that the Government did not properly supervise the application of legislation concerning demolition sites, and that debris and building materials containing asbestos were not properly separated from crushed rock for recycling. The Government, in reply, recognized the importance of the issue and indicated that the Ministry of Health, Labour and Welfare and the prefectural labour bureaus would conduct joint inspections of demolition sites and that three ministries were cooperating to ensure an improved application of the relevant laws and regulations.

The Committee notes the Government's statement that, in the past, there had been cases where asbestos was emitted into the atmosphere from demolition sites and that preliminary investigations to determine if asbestos was used in building materials had been poorly performed. As a result, the Air Pollution Control Act was amended in 2013 to impose the obligation on a contractor undertaking demolition work to carry out preliminary investigations and determine if asbestos was used in the building. The contractor is required to provide a report in writing on the matter to the owner of the building, who is then obliged to submit a written notification to the governor of the prefecture. The governor of the prefecture may then order the owner to change the plan of activities. The Prefectural Labour Bureaus and the Labour Standard Inspection Offices, when they receive information on demolition work of buildings by means of notification, can undertake on-site inspections and provide guidance to contractors of demolition work to strictly comply with the obligations with respect to asbestos. In addition, the Ministry of Health, Labour and Welfare, the Ministry of Land, Infrastructure, Transport and Tourism, and the Ministry of the Environment continue to work in collaboration with respect to recycled crushed rock contaminated by asbestos. *Taking due note of the measures adopted by the Government, the Committee requests the Government to continue to provide information on measures taken with respect to the demolition of structures containing asbestos, including information on the specific measures taken as a result of the collaboration between ministries to address the mixing of asbestos with crushed rock for recycling. It also requests the Government to continue to provide information on the measures taken to prevent pollution of the general environment by asbestos dust released from the workplace, and to provide a copy of the Air Pollution Control Act, as amended in 2013.*

Application in practice. The Committee notes the information provided by the Government on the number of cases for which insurance benefits for diseases caused by asbestos was provided under the Industrial Accident Compensation Insurance Act and the Mariners Insurance Act, as well as the number of cases related to asbestos for national public employees, local public service employees and miners. The Government also indicates that the number of violations of the Ordinance on the Prevention of Health Impairment due to Asbestos detected during inspections in 2013 was 219 with respect to health criteria, one regarding the work environment measures, and 13 regarding medical examinations. *The Committee requests the Government to continue to provide information on the manner in which the Convention is applied in practice, including statistical data on the activities of labour inspection services (number of visits, violations identified and, particularly, the sanctions imposed), the number and nature of diseases caused by asbestos, and the measures, taken or envisaged, to address the causes of such diseases.*

Jordan

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)

Article 4 of the Convention, in conjunction with Article 2. Obligation of the vendor, the person letting out on hire or transferring the machinery in any other manner or the exhibitor. With reference to its previous comments, the Committee notes that Regulation No. 43 on prevention and safety in using industrial machinery and equipment and workplaces, adopted pursuant to section 85(c) of the Labour Code, places the obligation upon employers to take all the necessary measures and precautions for prevention and safety of machinery, including the installation of protective guards according to the type of hazard. The Committee once again notes that the legislation in force does not appear to provide that the obligation to apply the provisions of Article 2 of the Convention shall rest on the vendor, the person letting out on hire or transferring the machinery in any other manner, or the exhibitor, in accordance with Article 4 of the Convention. *The Committee therefore once again requests the Government to take appropriate measures, in law and in practice, to ensure that the obligation to apply the provisions of Article 2 of the Convention shall rest on the vendor, the person letting out on hire or transferring the machinery in any other manner, or the exhibitor, as required by Article 4 of the Convention.*

Application in practice. The Committee notes the information provided by the Government according to which the expanded number of labour inspectors, which increased from 139 to 180 in 2009, performed 88,208 inspection visits in 2014, compared to 49,463 in 2012 and that 13,034 of these inspections were performed by the 30 inspectors specialized in occupational safety and health (OSH), compared to 8,045 in 2012. In the course of these visits, the OSH inspectors reported 4,556 infringements, compared to 604 in 2012, and issued 5,770 warnings to undertakings violating OSH standards, compared to 1,724 in 2012. *Noting the important increase of inspections undertaken, the Committee requests*

the Government to provide specific information on the outcome of these inspections in relation to the application of the relevant legislation, including the number and nature of violations recorded.

[The Government is asked to reply in detail to the present comments in 2017.]

Kuwait

Benzene Convention, 1971 (No. 136) (ratification: 1974)

Articles 6 and 14 of the Convention. Maximum concentration and measurement of benzene in the air in workplaces. Supervision of the application of the Convention. The Committee notes that the Government provides a special memorandum, prepared on the Convention, which includes information on inspection visits undertaken to workplaces where workers could be exposed to benzene fumes. This memorandum indicates that the Environment Public Authority (EPA) has set the maximum permissible level of airborne benzene in the workplace during an eight-hour working day at 0.1 part per million (ppm) and at 1 ppm for a 40-hour working week, as set out in the implementing regulations of the Act establishing the EPA (Decision No. 210 of 2001). The memorandum also details the results of inspection visits carried out by the EPA in several industries where workers are exposed to benzene. The Committee notes that according to the figures provided, higher maximum limits for exposure appear to have been set in some industries (10 ppm or 50 ppm). It also notes that in a great number of the undertakings inspected, the exposure levels observed largely exceeded the threshold limit value set by the EPA (that is 43 ppm for oil refineries, 180 ppm in fibreglass industries, 210 ppm in print, 224 ppm in woodworking). *The Committee therefore requests the Government to take all necessary measures to ensure that the threshold limit values set for all industries producing or using benzene do not exceed the ceiling value of 25 ppm provided in Article 6(2) of the Convention and are applied in practice. It also requests the Government to take all necessary measures to ensure that appropriate monitoring is carried out by labour inspection services and that remedial or corrective actions are taken in response to the numerous infringements reported in the memorandum. Please provide all relevant information in this respect.*

Lao People's Democratic Republic

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1964)

Articles 1, 2, 3 and 5 of the Convention. Prohibition and regulation of the use of white lead and sulphate of lead, and of all products containing these pigments. With reference to its previous comments, the Committee notes the Government's indication that the Labour Law (Revised) was adopted in 2013. The Government states that changes have been introduced to the Law in accordance with Articles 1, 2, 3 and 5 of the Convention. However, the Committee notes that the Labour Law of 2013 does not contain provisions relating to the use of white lead paint. *The Committee therefore requests the Government to indicate the provisions of national legislation which give effect to the following Articles of the Convention: Article 1 (prohibition of the use of white lead and sulphate of lead in the internal painting of buildings); Article 2 (regulation of the use of white lead in artistic painting); Article 3 (prohibition of the employment of young persons under 18 years of age and all females in any painting work involving the use of white lead); and Article 5 (regulation of the use of white lead in painting operations for which its use is not prohibited).*

Article 7. Establishment of statistics of morbidity and mortality due to lead poisoning. Noting that the Government indicates that there are no data available for the moment, the Committee recalls the obligation under Article 7 concerning the collection of statistics among working painters of cases of lead poisoning and requests the Government to make every effort to begin to compile such information. It requests the Government to provide such statistical information, when available.

Madagascar

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), received on 2 June 2015, to the effect that the number of accidents notified to the National Social Security Fund (CNAPS) is very low, owing to the fact that monitoring of the application of the Convention is not undertaken officially or at regular intervals, and that there should be an official report for this kind of notification. *The Committee requests the Government to send its comments on this matter.*

Legislation. The Committee notes the concise information supplied by the Government in reply to its previous comments, in which it expressed the hope that the adoption of implementing regulations for the Occupational Safety and Health Code would enable effect to be given to Articles 2 and 4 of the Convention. It notes the Government's indication that Order No. 889 of 20 May 1960 establishing general occupational safety and health measures remains in force but that it intends to revise it in order to take account of the current context, including the protection of machinery, and that the participation of a number of entities and qualified persons will be necessary for the revision process. It also notes that section 120 of the Labour Code of 2004 provides that work installations and materials are subject to compulsory safety standards and must undergo systematic inspection, maintenance and checking in order to prevent the risk of accidents.

Furthermore, the Committee notes the Government's indication that the labour inspectorate is intensifying controls on machines imported into the country. *The Committee requests the Government to take the necessary steps to ensure the revision of Order No. 889, particularly with a view to giving effect to the Convention, and to provide information on all progress made in this respect. It also requests the Government to provide information on the measures taken in the meantime to ensure the application of Articles 2 and 4 of the Convention, prohibiting the vendor, the person letting out on hire or transferring the machinery in any other manner, the exhibitor or the manufacturer, to sell, let out on hire, transfer in any other manner or exhibit machinery of which the dangerous parts specified in Article 2(3) and (4) are without appropriate guards.*

Application in practice. The Committee requests the Government to provide an appreciation of the manner in which the Convention is applied in practice, including, for example, extracts from inspection reports and, where such statistics exist, details of the number of accidents recorded in relation to the Convention, the number and nature of infringements reported, etc.

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1966)

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), received on 2 June 2015, to the effect that: (1) the national legislation should be harmonized with the Convention, while taking account of the current context; and (2) new technologies in the areas of hygiene, safety and health should be developed. *The Committee requests the Government to send its comments on this matter.*

Legislation. The Committee notes the Government's concise report, which indicates that following the socio-political instability of recent years, the country is now embarking on a return to constitutional order and that the formulation and implementation of a general state policy is a priority for the Government. The Committee also notes that Order No. 889 of 20 May 1960 establishing general occupational safety and health measures has still not been revised and that, in view of the complex scope of application of the aforementioned Order, which should be extended to take account of new technologies, the participation of a number of entities and qualified persons will be necessary for the revision process. The Committee requests the Government to take the necessary steps to ensure the revision of Order No. 889, particularly with a view to giving effect to the Convention, and to supply information on all progress made in this respect.

Article 14 of the Convention. Provision of suitable seats for workers. The Committee notes that, under section 115 of the Labour Code of 2004, workers must be provided with all furniture necessary for their comfort during their hours of work. The Committee requests the Government to supply additional information on the measures taken to ensure that sufficient and suitable seats are supplied for workers and workers have the opportunity to use them.

Article 18. Noise and vibrations. Referring to its previous comments, the Committee once again requests the Government to supply information on the steps taken to ensure that noise and vibrations likely to have harmful effects on workers shall be reduced as far as possible.

Application in practice. The Committee requests the Government to provide a general appreciation of the application of the Convention in practice, including, for example, information on the number and nature of infringements reported and the corresponding penalties imposed.

Maximum Weight Convention, 1967 (No. 127) (ratification: 1971)

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), received on 2 June 2015.

*Article 3 of the Convention. Establishment of maximum weight for manual transport of loads. Further to its previous comments, the Committee notes with **satisfaction** the information provided in the Government's report concerning the entry into force of Inter-Ministerial Order No. 50149/2009 of 8 December 2009, setting the maximum weight for the manual transport of any load by a single male adult worker at 50 kg. In this regard, the Committee notes SEKRIMA's indication that many workers are unaware of the existence of the Order and that dissemination of it is necessary. The Committee requests the Government to send its comments on this matter.*

Malta

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1988)

The Committee notes with **regret** that the Government's report has not been received. It expresses **concern** in this respect. It is therefore bound to repeat its previous comments.

Article 6 of the Convention. Prohibition by national laws and regulations of the use of machinery without appropriate guards. Noting that the Government's report contains no reply to its previous comments, the Committee requests the Government, once again, to indicate the measures that have been taken or are envisaged in order to prohibit, in accordance with the Convention, the use of machinery any dangerous part of which, including the point of operation, is without appropriate guards.

Article 7. Employer's duty to ensure compliance. The Committee notes the information concerning the effect given in practice to the Occupational Health and Safety Authority and Act 2000 (Act No. XXVII of 2000), and in particular the statement that there are few offences reported and sanctions imposed for contraventions of the employers' obligations relating to the use of dangerous machinery. It notes the Government's statement that one of the problems is that machinery is often second-hand. ***The Committee requests the Government to indicate measures taken or envisaged to ensure employers' obligations under Article 7 for second-hand machinery.***

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

Mexico

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1984)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

The Committee notes the observations of the National Union of Workers of the Federal Roads and Bridges Access and Related Services (SNTCPF), received on 30 August 2015. ***The Committee requests the Government to send its comments in this respect, and also on the observations of the SNTCPF received on 1 September 2014.***

The Committee is following up on the recommendations made by the Governing Body in March 2009 (document GB.304/14/8) further to the accident that took place at the Pasta de Conchos coalmine in Coahuila.

I. Measures to be taken in consultation with the social partners

Articles 4(1) and (2), and 7 of the Convention. National policy. Overall reviews or reviews relating to specific areas: hazardous types of work such as those performed in the coalmining sector.

(a) Register of reliable data on existing mines and workers in these mines

Background. The Committee recalls that in its previous comments it asked the Government to supply up-to-date information on the number and type of mines in the Coahuila region, including: (1) information distinguishing between registered and non-registered mines; (2) the estimated total number of miners in Coahuila; (3) the number of registered miners; and (4) the estimated number of non-registered miners.

2015 report. The Committee notes the information supplied by the Government in its report. In relation to registered and non-registered mines, it sent a table indicating 20 members of the Registered Coal-Producing Unions which have registered 28 mines and small-scale mines (*pozos*). It also listed ten non-registered workplaces. The Committee observes that the Government indicated in 2012 that as of May 2012 there were 2,463 concessions in the state of Coahuila, including 970 coalmines of which 297 were small-scale mines or vertical shafts; of these, 149 had been inspected. In 2011, the Government stated that there were 909 mining concessions, including nine large and 62 medium-sized coalmines, in addition to the 297 vertical shafts in which activity had been detected. The Committee notes with **regret** that it does not have any precise and comparable information enabling it to make progress in its examination of the effect given to these Articles of the Convention in coalmines in Coahuila. As regards the number of miners and the estimated number of non-registered miners, the Committee notes that the Government states in its report that the estimated total number of miners in Coahuila is 41,290, of whom 12,398 are employed in coalmines, but that it provides no information on the estimated number of non-registered miners. The Committee reiterates that it is essential to have precise information in order to adopt effective preventive occupational safety and health policies and measures in order to prevent any recurrence of the Pasta de Conchos and subsequent accidents which the Committee has noted, the last of which was the accident at the Boker small-scale mine (*pocito*), where two miners died on 27 March 2014. ***The Committee therefore once again requests the Government to supply information on the number and type of mines in Coahuila, including: (1) information distinguishing between registered and non-registered mines; (2) the estimated total number of miners in Coahuila; (3) the number of registered miners; and (4) the estimated number of non-registered miners.***

(b) Accidents in the coalmining sector

The Committee recalls that in its previous comments it asked the Government to supply statistical information on the number of occupational accidents in the coalmining sector, particularly in Coahuila, indicating the numbers of accidents and victims between 2010 and the time of preparation of the next report, distinguishing between accidents occurring in small-scale mines and those in medium-sized or large mines. The Committee notes that the Government appended a table to its report which, the Committee observes, indicates 24 occupational accidents in mines in Coahuila and 28 worker deaths in those accidents between 2010 and 2014. This information differs from the information provided by the Government in its 2012 report, according to which there had been 31 deaths in 2010, and from the communication that year from the SNTCPF, stating that, between June 2010 and August 2011, another 33 miners had died in occupational accidents, including 26 in Coahuila; that 14 miners had died on 3 May 2011 at "Pozo 3" of the BINSa company and that none of these 14 were registered with the Mexican Social Security Institute (IMSS). ***Noting the differences between the respective data provided, the Committee once again requests the Government to provide detailed accurate statistics which are comparable with those provided in its previous reports, on the number of occupational accidents in coalmines, particularly in Coahuila, indicating the numbers of accidents and victims from 2010 to the time of***

preparation of the next report, distinguishing between accidents occurring in small-scale mines and those in medium-sized or large mines.

(i) *Small-scale mines, small-scale slope mines and cave mines.* In its comments in 2014, the SNTCPF indicated that since the Pasta de Conchos accident, at least 107 more miners had died so far as a result of precarious, illegal and unsafe conditions. The Committee notes that the SNTCPF, in its 2015 comments, states that most of the miners died in small-scale slope mines (*minitas de arrastre*) and that small-scale mines, small-scale slope mines and cave mines (*cuevas*) are, in themselves, perverse structures for coalmining since there is no safety equipment for miners to use. According to the union, the emergence of these substandard forms of mining stems from the impunity prevailing as a result of the failure to impose adequate penalties on those responsible and this has an impact on a number of areas covered by the Convention, such as statistics and social dialogue. In this regard, the union also states that in 2013 a ban was imposed on vertical shafts up to 100 metres deep. The union questions why such shafts are regarded as being safer beyond a depth of 100 metres. **The Committee requests the Government to send its comments on this matter, to provide information on all legislative and practical measures taken to tackle the proliferation of these precarious mines and to indicate the reasons why vertical shafts more than 100 metres deep have not been prohibited.**

(ii) *Boker mine and Charcas mine in San Luis de Potosí.* In its previous comments, the Committee noted the reference to two particular cases by the SNTCPF. The first concerned the Boker small-scale mine, where two coalminers aged 19 and 21 years died on 27 March 2014 as a result of falling to the bottom of the mine when a cable taking them to a depth of over 85 metres broke. According to the union, the mine did not have an emergency exit; it had been inspected on ten consecutive occasions, but when the Secretariat of Labour and Social Security (STPS) withdrew, it continued to operate without any safety measures. The Boker mine closed, and then re-opened as an emergency exit for a new small-scale mine. The second case concerns the Charcas mine in San Luis de Potosí, at which five workers died on 12 February 2014, despite the fact that the mine had been inspected four times and violations of safety and health standards had been reported. **Noting that the Government has not provided the requested information on this matter, the Committee once again requests the Government to indicate whether the labour inspectorate detected situations of imminent and serious danger to the safety of the workers in the mines referred to above, and also specify the reasons why these mines were not closed, or why other immediately enforceable measures were not taken.**

Investigations. In its previous comments, the Committee asked the Government to provide information concerning the investigations conducted in relation to *Article 11(d)* of the Convention, including on the accidents that occurred at the Ferber mine and Lulú small-scale mine. The Committee notes that the Government repeats information relating to the recommendations made by the National Human Rights Commission (CNDH), but does not indicate whether the competent authorities ensure that investigations are carried out into mining accidents in Coahuila, as required by this Article of the Convention. The Committee notes that the SNTCPF, in its observations of 2015, makes a renewed call for the bodies of the dead miners to be recovered and for an investigation to be conducted, and alleges that recovery operations have taken place in all coalmining accidents with the sole exception of two cases where the mines were the property of the Mexico group, namely the Pasta de Conchos and “Mina 6” mines. **The Committee once again requests the Government: (1) to indicate whether investigations are held, in accordance with Article 11(d) of the Convention, whenever occupational accidents – in this case in the coalmining sector in Coahuila – appear to reflect serious situations, and if such investigations are held also to report the findings of such investigations, particularly relating to the causes of such accidents; and (2) to indicate the measures taken to prevent accidents on the basis of the findings of the investigations. The Committee also requests the Government to send its comments on the observations of the SNTCPF.**

Reviews relating to specific areas. In its previous comments, the Committee noted that the purpose of periodic reviews of the situation relating to the safety and health of workers and the working environment in coalmines in Coahuila, including small-scale mines, is, in accordance with *Article 7* of the Convention, to identify the major problems, propose effective methods to deal with them, set priorities for action, and evaluate the results, and it asked for information on the application in Coahuila of this Article in conjunction with *Article 4* of the Convention. The Committee notes the Government’s statement that: (i) the Safety and Health Advisory Subcommittee for the Coahuila coalmining region conducted a study entitled “Analysis of past occupational risks and their consequences in the Coahuila coalmining region 1995–2011”, which was approved on 9 August 2011; (ii) the study shows that there is a serious situation in the Coahuila coalmining region in terms of occupational accidents, especially because incidents involving worker fatalities recur on a cyclical basis; (iii) some indicators (for example, concerning the number of occupational accidents and the number of days lost) show that the efforts made have yielded results, but the study recognizes that the number of fatalities is an indicator that tends to increase in certain years, as was the case in 2011; (iv) mining in Coahuila represents the economic activity with the highest incidence of occupational risks; (v) the study concluded that although accident rates have improved, prevention needs to be reinforced; and (vi) the State Occupational Safety and Health Advisory Committee for Coahuila includes members of the most representative employers’ and workers’ organizations and it specifies what these are. **Noting that this information has not been updated and does not fully meet the objectives of Article 7 of the Convention, the Committee once again requests the Government to provide information on the following issues which, in accordance with Article 7, constitute the purpose of such reviews: (a) the major problems identified; (b) the methods**

proposed to resolve them; (c) the priorities for action; and (d) the evaluation of the results, in relation to the occupational safety and health situation in the coalmining sector in Coahuila.

Article 9. Adequate and appropriate system of inspection. In its previous comments, the Committee asked the Government to indicate the measures of immediate enforcement currently at the disposal of the labour inspectorate, and to indicate clearly whether closure could be immediately enforced by inspectors in the case of imminent danger to the health and safety of workers. The Committee notes the Government's statement that these measures and the imposition of penalties have been strengthened through the new General Labour Inspection Regulations of 2 June 2014. The Committee notes that, in the event of an imminent risk, section 343-D of the Federal Labour Act, as amended in 2012, empowers inspectors to order the total or partial suspension of the activities of the mine, including restricting workers' access to the workplace pending the adoption of the necessary safety measures to prevent any accident. The Committee also observes that, if the employer refuses to receive the labour authority, section 39(4) of the abovementioned Inspection Regulations provides that the inspector must record this fact in a report which must then be sent to his or her hierarchical superior with a view to requesting, within 72 hours of its receipt, assistance from the police in order to conduct an inspection. ***The Committee requests the Government to take the necessary measures to ensure that, in the event of a refusal by the employer to receive the labour authority, the labour inspectorate can order the immediately enforceable measures that are necessary for protecting the health and safety of the workers with regard to a situation of imminent danger or risk.***

Furthermore, the Committee notes that the SNTCPF alleges in its latest observations that a further reduction has been made in the budget allocated to the STPS and that inspectors have no budget for work equipment, that facilities are deplorable, that five or six people work in a space of 9 m² and that no vehicles are assigned to inspectors for the performance of their duties. ***The Committee requests the Government to send its comments on this matter.***

II. Other measures

The Committee recalls that, in paragraph 99(c) of the report on the representation concerning the accident at the Pasta de Conchos mine (document GB.304/14/8(Rev.)), the Governing Body invited the Government: "(c) ... to ensure, considering the time that has lapsed since the Accident, that adequate and effective compensation is paid, without further delay, to all the 65 families concerned and that adequate sanctions are imposed on those responsible for this Accident".

Pursuant to this recommendation, the Committee is examining the following points:

Compensation – pensions. Referring to its previous comments, the Committee notes the Government's indication that the STPS has made payments to 61 claimants, in accordance with the rulings issued by the competent judicial authority. Moreover, the Government indicates that those affected had recourse to the Federal Court of Fiscal and Administrative Justice to claim payment from the STPS on the grounds of state liability and that, in compliance with the ruling, compensation of 647,600 Mexican pesos (MXN) was paid to a surviving dependent child. The Committee, for its part, notes the statement by the SNTCPF that in the Pasta de Conchos case, the pensions awarded to the families were not based on full wages but on what was decided by the Government, which argued that it could not be done differently. However, the SNTCPF adds that, in the case of the explosion at the BINSÁ mine, it was decided that even the families of workers who were not registered with the IMSS, and who should therefore not be considered as insured persons having a pension entitlement, were registered with the IMSS after the accident and on the basis of the real wages paid. Accordingly, the families are entitled to pensions of over MXN10,000 while the family members of the Pasta de Conchos victims were left with pensions of MXN1,200–3,000. The union also indicates that families affected by different accidents have received unequal treatment. ***The Committee requests the Government to provide information on the reasons for this difference in treatment with regard to pensions. Taking account of the union's claims that the families of certain victims have received pensions in line with the real wages paid, it also requests the Government to take all possible steps to give fair treatment to the family members of the victims of coalmining accidents, taking due account of the family members of the Pasta de Conchos victims, and to supply information in this respect.***

State and social benefits. In its previous comments, the Committee asked the Government to indicate how many of the 65 families of the deceased miners had received assistance with respect to access to housing. The Committee notes that, according to the Government, loans were offered to eight widows but the latter did not indicate any interest. The Office of the Federal Prosecutor for Labour Protection administered the donation of housing in three cases. ***The Committee requests the Government to provide information on this kind of benefit for family members of the victims of the Pasta de Conchos accident, including with regard to the educational trust, and requests it to indicate how many of the 65 families have received assistance with respect to access to housing.***

Dialogue with the Pasta de Conchos families. In relation to its previous comments, the Committee notes the Government's indication that on 11 May 2013 the Minister of Labour and Social Welfare received the Governor and the families of the deceased miners and it was agreed to maintain ongoing contacts. The Committee notes the indication by the SNTCPF that the Federal Inspection Directorate of the STPS had recognized a person from the Pasta de Conchos Families Organization as an expert in the field with participation in labour inspections, and that from March 2015 the situation changed and the key for gaining access to the system was also withdrawn from that person. The union maintains that the Pasta de Conchos Families Organization had helped to reduce accidents from 2013 onwards but the collaboration had been interrupted due to these events. ***The Committee requests the Government to send its comments 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 2017.]

Portugal

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1999)

The Committee notes the observations of the General Workers' Union (UGT) and the General Confederation of Portuguese Workers–National Trade Unions (CGTP–IN), communicated with the Government's report.

Article 5 of the Convention. Medical examinations necessary to evaluate exposure and supervise the state of health in relation to occupational hazards. The Committee notes the observations of the UGT which reiterate that, in view of the fact that many diagnosed cancers are occupational in origin but are not reported as such, an effective campaign must be conducted in order to raise awareness of general practitioners and family doctors with regard to prompt diagnosis of cancers with occupational origins by incorporating screening for certain types of cancers into their examination procedures. The Committee also notes the observations of the CGTP-IN according to which special health monitoring is only provided to workers whose medical examinations have revealed the existence of hazards and that the legislation does not provide for special examinations aimed at assessing the effects of exposure to specific hazards or for continued examination following termination of employment. In this regard, the Committee notes the Government's indication that, pursuant to section 12 of Legislative Decree No. 301/2000, regulating workers' protection against hazards associated with carcinogenic or mutagenic agents at work, employers are required to ensure the monitoring of the health of workers for whom hazards have been identified by means of health examinations upon recruitment and then on a regular or occasional basis. The Government indicates that family doctors are tasked with carrying out regular health checks, after termination of employment, for workers exposed to occupational hazards, including exposure to carcinogenic agents. **The Committee requests the Government to take all appropriate measures to ensure that the necessary medical examinations or biological or other tests or investigations are guaranteed to all workers likely to be exposed to occupational hazards, both during the period of employment and thereafter. In this regard, it requests the Government to provide further information on the manner in which it is ensured that medical examinations, aimed at supervising the health of workers exposed to occupational hazards after termination of employment, are effectively carried out.**

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

Rwanda

Safety Provisions (Building) Convention, 1937 (No. 62) (ratification: 1962)

Article 1 of the Convention. New legislation and regulations. The Committee notes the Government's indication that the Rwanda Building Control Regulations, established in May 2012 by the Ministry of Infrastructure in collaboration with the Rwanda Housing Authority, contain many provisions of the repealed Ordinance No. 21/94 of 23 July 1953 regulating occupational safety in the building industry, and that any remaining legal voids will be addressed through the ongoing review of Act No. 13/2009 regulating labour in Rwanda and its application orders, and of Ministerial Order No. 02 of 17 May 2012 determining general conditions for occupational safety and health. However, the Committee notes that the Government does not indicate the specific provisions of the Building Control Regulations which give effect to the Convention and is therefore unable to effectively appreciate if these Regulations address the legal voids concerned. **The Committee requests the Government to indicate the specific provisions of the legislation in force, and to provide information on any other measures, which ensure the application of the general rules set forth in Parts II to IV of the Convention. It also requests the Government to take immediate action to fill the legal voids still remaining following the abrogation of Ordinance No. 21/94 and to provide information on any developments in this regard.**

Articles 4 and 6. Labour inspection and statistical information. Application in practice. The Committee notes the Government's indication that a comprehensive exercise for the establishment of a country profile on occupational safety and health was concluded in 2012. It further notes that, despite the Government's indication, the 2013 report on labour inspection and the report containing updated statistical information on occupational accidents have not been provided. The Committee also refers the Government to its comments relating to the application of the Labour Inspection Convention, 1947 (No. 81). **The Committee therefore once again reminds the Government of its obligations under Article 6 of the Convention and requests the Government to ensure that its next report includes statistical information relating to the number and classification of accidents occurring to persons occupied in work within the scope of this Convention, and any other information relevant to the application of this Convention in practice. The Committee also requests the Government to provide further information on the 2012 country profile on occupational safety and health and to communicate a copy with its next report.**

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 expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

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(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 I 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.***

Article 16. Penalties and inspection service. Application in practice. 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.

Serbia

Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (ratification: 2009)

The Committee notes the observations of the Confederation of Autonomous Trade Unions of Serbia (CATUS) communicated with the Government's report.

Article 4(1) and (2)(a) of the Convention. Obligation to establish, maintain, progressively develop and periodically review a national system for occupational safety and health, in consultation with the most representative organizations of employers and workers. Legislation. The Committee refers to its previous comments in which it took note of the observations made by "Nezavishnot" according to which the Act on Amendments and Supplements to the Health Insurance Act had been adopted without prior submission to the Social and Economic Council. In this regard, the Committee notes the observations of CATUS annexed to the Government's present report, in which it also alleges that important laws on pension and health insurance were adopted without consultation with the social partners or prior consideration by the Social and Economic Council. The Committee further notes that the Government indicates that all the occupational safety and health (OSH) related issues have been reviewed in accordance with *Article 4(1) and (2)(a)* of the Convention with the exception of section 9 of the abovementioned Act, but that, in fact, this section was found unconstitutional by the Constitutional Court. The Government also states that they shall continue to work towards reviewing and adopting OSH regulations in consultation with the social partners represented in the working groups set up by the Ministry of Labour and in cooperation with the Permanent Working Body for Occupational Safety and Health of the Social and Economic Council. ***The Committee requests the Government to provide its comments in respect of the***

observations of CATUS and to supply further information on the steps taken to ensure that laws and regulations on OSH are effectively developed and reviewed in consultation with the most representative organizations of employers and workers.

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

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 expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

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.

South Africa

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2000)

Articles 5(2)(c) and (d) and 16 of the Convention. Procedures for reporting and investigating fatal and serious accidents, occupational diseases and dangerous occurrences, compilation and publication of statistics, enforcement and application in practice. The Committee notes the information in the Government's report that there are approximately 1,600 mines in South Africa, which employ approximately 500,000 workers. The Government states that inspectors conduct inspections and audits to monitor compliance with the legal provisions.

The Committee notes the statement in the annual report of the Department of Mineral Resources (2013–14) that the safety track record remains a challenge in the mining industry. The report indicates that 112 fatalities were reported in 2012 and 93 in 2013, with the majority of these fatal accidents taking place in gold and platinum mines. The accident rate for the mining sector was approximately 2.9 per cent in 2013. The report states that while the number of mine injuries is declining, the Department of Mineral Resources is concerned about the high number of injuries reported as the majority of these injuries are the result of repeat accidents. *In light of this information, and recalling the obligations prescribed by Article 16 of the Convention, the Committee urges the Government to increase its efforts to ensure the effective application of the Convention. It requests the Government to provide detailed information on the measures taken in this regard, and also to provide statistical information on implementation efforts disaggregated by year, including on the number of inspections carried out in mines and the number of violations detected, the number of corrective measures taken and penalties imposed, as well as the number of occupational accidents and cases of occupational disease reported in the sector.*

Tajikistan

Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1993)

The Committee notes with *regret* that the Government's report has not been received. It expresses *deep concern* in this respect. It hopes that the next report will contain full information on the matters raised in its previous comments.

The Committee notes with *regret* that the Government has not submitted the requested detailed report. It reminds the Government that, by ratifying a Convention, it undertakes to give full effect to all its provisions in law and practice and to submit reports on the subject. *Consequently, it requests the Government to provide detailed information on the specific legal provisions and other measures giving effect to each of the Articles of the Convention and to provide a copy of these provisions, if possible in a working language of the ILO. It also requests the Government to send information on any technical assistance requested or received in this regard.*

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

Turkey

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2005)

The Committee notes the joint observations of the International Organisation of Employers (IOE) and the Turkish Confederation of Employers' Associations (TISK), received on 27 August 2015, as well as the Government's reply thereto.

The Committee further notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2015, and of the observations made by TISK, the Confederation of Turkish Trade Unions (TÜRK-İŞ), the Confederation of Turkish Real Trade Unions (HAK-İŞ) and the Confederation of Public Employees' Trade Unions (KESK) communicated by the Government. *Noting that the Government's report contains no reply to these observations, the Committee requests the Government to provide its comments in this respect.*

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee takes note of the discussion that took place at the Conference Committee on the Application of Standards, in June 2015 concerning the application of the Convention by Turkey. It takes note in particular of the conclusions of the Conference Committee in which it urged the Government to report to the Committee of Experts on the following points:

- ensuring that the Occupational Safety and Health Act is in compliance with the Convention, in particular with respect to its coverage and in ensuring the right of workers to withdraw themselves from serious and imminent danger;
- assessing the effectiveness of the measures undertaken in the context of the National Action Plan aimed at increasing workplace safety;
- improving record-keeping and monitoring systems concerning health and safety, including occupational diseases;
- increasing the number of labour inspections and ensuring that dissuasive sanctions are imposed for infractions of laws and regulations, in particular with respect to subcontractors;
- refraining from interfering violently in lawful, peaceful and legitimate trade union activities addressing health and safety concerns;
- engaging in genuine dialogue with all social partners.

Articles 1 and 2 of the Convention. Scope of application. Exclusions. In its previous comment, the Committee noted that pursuant to section 2 of the Occupational Safety and Health Act (OSH Act) No. 6331, the following categories of workers are excluded from its scope: armed and police forces; disaster and emergency units; domestic workers; self-employed workers; inmates. The Committee also noted that Regulation No. 28710 on safety and health measures to be taken at the workplace excludes from its scope the following branches of economic activity: transport used outside of the undertaking and means of transport used at the workplace for temporary or mobile construction; mining; oil and gas industries; fishing boats; and agricultural and forestry zones. It notes that, in their observations, the ITUC and KESK reiterate their concerns as regards the extent of exclusions provided by the OSH Act. Nevertheless, the Committee notes from the Government's report, which is corroborated by the joint observations of the IOE and TISK, that following the entry into force of the OSH Act, 40 regulatory texts regarding OSH were issued, including Regulation No. 28770 on OSH in the mining sector; Regulation No. 28786 on OSH in construction work; and Regulation No. 28741 on work on board fishing vessels. Further to its previous comment, the Committee recalls again that the Convention applies to all branches of economic activity and to all categories of workers and that pursuant to *Articles 1(3) and 2(3)*, member States are authorized to exclude particular branches of activity or limited categories of workers only in their first report. ***Recalling that in its conclusions, the Conference Committee requested the Government to ensure that the OSH Act is in compliance with the Convention, in particular with respect to its coverage, the Committee requests the Government to communicate copies of all the regulations concerning OSH applying to workers excluded totally or partially from the scope of the OSH Act but which are covered by the Convention and to indicate the manner in which the Government ensures that such workers benefit from the application of the provisions of the Convention.***

Article 4. Formulation, implementation and periodical review of the national policy on OSH, in consultation with the most representative organizations of employers and workers. Article 7. Periodical review of the situation regarding OSH overall and in respect of particular areas. Article 8. Measures to be adopted, including legislation, in consultation with the representative organizations of employers and workers, to give effect to the national policy.

(a) *Functioning of the National OSH Council.* The Committee notes that, in their observations, all the employers' and workers' organizations point to serious shortcomings in the consultation process established for the formulation of the national OSH policy. They indicate that their viewpoints and proposals are largely ignored by the Government and that time frames allotted are too short to allow for a thorough review of issues and the elaboration of sound proposals. TÜRK-İŞ and HAK-İŞ also call for the strengthening of the Council's functions and competencies to enhance its efficiency. In its

report, the Government provides a brief overview of attendance records of the National OSH Council's meetings in 2013 and 2014, pointing to the fact that a number of workers' organizations did not attend one or several meetings, did not participate in the votes and did not submit proposals as requested by the Government. Furthermore, in its reply to the joint observations of the IOE and TISK, the Government indicates that with the implementation of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), ratified on 16 January 2014, it is expected that social dialogue will improve. ***Noting that both the Government and the social partners concur in deploring the shortcomings of social dialogue within the National OSH Council and referring to the conclusions of the Conference Committee in which it requested the Government to engage in genuine dialogue with all social partners, the Committee urges the Government to take all the necessary steps to enhance and strengthen tripartite social dialogue on OSH at the national level, especially within the National OSH Council, and to report on progress achieved in this regard.***

(b) *Laws or regulations or any other method to give effect to Article 4. Consultations.* In addition, the Committee notes that the IOE, TISK, the ITUC and KESK also allege that they are not sufficiently consulted and involved in the elaboration of laws and regulations giving effect to the national OSH policy. ***Referring again to the conclusions of the Conference Committee on this point, the Committee requests the Government to ensure the effective and genuine consultation of the representative organizations of employers and workers concerned on all amendments and modifications to OSH laws and regulations and to provide information in this respect.***

(c) *Measures in the National OSH Policy Document. Prevention of work-related accidents and injury to health. Review relating to specific areas: mining; metal and construction sectors; and subcontracting.* The Committee notes from the Government's report that the National OSH Policy Document 2014–18 and its Plan of Action have been adopted. In this regard, it takes note of the observations of the ITUC and KESK regarding the ineffectiveness of measures adopted within this framework; the failure to reach targets fixed; and the absence of follow-up of the previous plans, which allegedly were not fully implemented. Both organizations add that the new document and plan are merely a repetition of previous plans, setting out goals that are disconnected from the realities of the country. By way of example, the ITUC and KESK indicate that the new plan fixes again the same targets of reducing workplace accidents by 20 per cent and improving the identification of occupational diseases by 500 per cent by 2018.

The Committee recalls its previous comment in which it took note of the observations made by several workers' organizations with regard to unhealthy and insecure working conditions in the mining, construction and metal sectors and it underlined the crucial importance of re-examining the national OSH policy in light of the review of the situation regarding OSH, especially in respect of these particular areas. In this regard, the Committee notes that Act No. 6645 on Amendments to the Occupational Safety and Health Act and other Acts and Decrees contains some provisions aimed at improving working conditions in the mining sector (for example, working hours reduced to 7.5 hours per day and 37.5 hours per week). It also notes that according to TISK, the National OSH Policy Document takes on board the statistics provided by the Social Security Institution (SGK) which show that: (i) the number of workplace accidents remains at a high level while the number of cases of occupational diseases identified is much lower than expected; and (ii) rates of work-related accidents and the incidence of occupational diseases are still highest in the mining, construction and metal sectors. The Committee further notes from the Government's report that the 2014–18 National OSH Policy Document foresees the implementation of several activities designed to reduce workplace accidents in these sectors caused by fall (construction), tunnel collapse (mines) or other injuries (metal sector) and to assess the compliance of personal protective equipment.

With regard to the mining sector, the Committee notes that in its observations, KESK refers to the reports allegedly established by the State Supervisory Council and the Labour Inspection Board which would identify several technical causes of the Soma mine accident. According to KESK, no action has been taken to address these causes. The Committee also notes that HAK-İŞ, TÜRK-İŞ and KESK claim that no progress has been made towards improving the working conditions of mine, construction and metal workers, workers employed in subcontracting companies and workers in the informal economy. KESK therefore reiterates its call for the periodic review of the situation regarding OSH.

The Committee notes with ***regret*** that the Government's report contains no further information on the content of the National OSH Policy Document or on measures taken to review the situation regarding OSH in the country, especially in high-risk sectors. The Committee recalls that information on accidents in mines, construction sites and metal industries and the analysis of their causes contribute to determining the real impact of the measures adopted and understanding whether everything was done that could reasonably have been expected to avoid or reduce as far as possible the causes of the hazards inherent in the working environment, in accordance with *Article 4(2)* of the Convention. It also refers to the conclusions of the Conference Committee in which it requested the Government to assess the effectiveness of the measures undertaken in the context of the National Action Plan aimed at increasing workplace safety. ***Against this background, the Committee again requests the Government to provide detailed information on steps taken, in consultation with the social partners, to assess the situation regarding OSH in the country, especially in high-risk sectors, with a view to identifying major problems, developing effective methods to address them, defining priorities of action and evaluating results. It also requests the Government to provide a copy of the reports drafted by the State Supervisory Council and the Labour Inspection Board to which KESK refers in its observations.***

Moreover, the Committee requests the Government to provide a copy of the National OSH Policy Document 2014–18 and its Plan of Action, specifying the preventive and control measures taken or envisaged to: (i) address the

causes of workplace accidents and occupational diseases, especially in the mining, construction and metal sectors; and (ii) extend protection to workers in subcontracting companies and workers in the informal economy, and to indicate the results obtained.

Articles 5(a) and (b), and 16. Workplace safety and health. The Committee recalls its previous comment in which it noted that under section 6 of the OSH Act, employers are required to recruit occupational physicians (OPs) and occupational safety experts (OSEs) in all undertakings to assist them in relation to OSH matters and that pursuant to section 8 of the Act, OSEs and OPs have a duty to inform the employer in writing of any shortcomings relating to OSH, failing which their certification may be suspended. In this context, the Committee emphasized that the appointment of OSEs and OPs cannot replace or limit the responsibility resting with employers to ensure that workplaces and the working environment are safe and without risk to health.

The Committee notes the Government's indication that Act No. 6645 introduces new provisions into the OSH Act which specify the role and responsibilities of OSEs and OPs. According to the Government's report, under these new provisions, OSEs and OPs are required to inform the employer of any deficiencies relating to OSH in the undertaking while the employer is responsible for taking measures, included closure where necessary, to address these deficiencies. Where the employer fails to do so, OSEs and OPs are required to notify the relevant unit of the Ministry, authorized union representatives and worker representatives. The Government also indicates that employers cannot terminate the employment contract of OSEs and OPs and cannot deprive them of any rights arising from the contract, on grounds of the notification they made. However, OSEs and OPs may face a three-month suspension of their certificate, where they fail in their duty to notify.

The Committee notes that while the IOE, TISK and HAK-İŞ consider these new provisions as positive developments, KESK alleges that these amendments introduce lower standards in that they provide for more flexibility in employee thresholds required to recruit OPs and OSEs and in the certification system established. KESK also criticizes the imposition of sanctions on OSEs and OPs for failure to notify and the low level of sanctions imposed on employers who would wrongfully terminate an OSE's or an OP's employment contract.

With reference to its previous comments under this Convention and the Occupational Health Services Convention, 1985 (No. 161), the Committee notes that the provisions introduced by Act No. 6645 leave unchanged the allocation of responsibilities between employers and OSEs and OPs in that liability for the assessment of working conditions and the working environment and the identification of potential risks is shifted onto OSEs and OPs and employers do not seem to be held liable for their inaction, as no penalties are provided. The Committee recalls once again that the designation of OSEs and OPs, or any other technical or professional bodies to assist the employer in relation to OSH matters, cannot replace or limit the responsibility resting with employers to ensure that workplaces and the working environment are safe and without risk to health, in accordance with *Article 16* of the Convention. ***Therefore, the Committee again requests the Government to re-evaluate and redefine, in consultation with the social partners, the role and responsibilities of employers and the OSEs and OPs in ensuring safety in workplaces and the working environment, with a view to affirming the primary responsibility of employers in this respect. Referring to the observations made by KESK, the Committee also requests the Government to provide information on employee thresholds set for the recruitment of OSEs and OPs and on the certification system established.***

Article 5(e). Protection of workers and their representatives. The Committee refers to the conclusions of the Conference Committee in which it requested the Government to refrain from interfering violently in lawful, peaceful and legitimate trade union activities addressing health and safety concerns. In this regard, the Committee wishes to draw the Government's attention to paragraph 26 of its 2009 General Survey on occupational safety and health which indicates that "the basic principle that workers and their representatives should be protected from victimization pursuant to *Article 5(e)* is one of the main elements to be included in the national policy, and is indicative of the central importance attributed to this principle". ***The Committee requests the Government to provide information on the measures taken to address the Conference Committee's conclusions.***

Article 9. Enforcement of laws and regulations by an adequate and appropriate system of inspection and adequate penalties. The Committee refers to the statement made by the Government representative during the discussion that took place at the Conference Committee according to which in 2014 there had been 5,087 programmed inspections and 5,042 non-programmed inspections. In the construction sector, the Labour Inspection Board had carried out a special inspection in 45 provinces with more than 300 inspectors in October 2014, during which 2,087 construction sites had been inspected and operations had been stopped in four out of five workplaces. With regard to the mining sector, the Government representative indicated that the Ministry's labour inspectorate had conducted two programmed inspections every year at each of the mines, and non-programmed inspections were also carried out when complaints were received. During the first five months of 2015, 433 mine workplaces had been inspected and, in 82 cases, their operations had been stopped, while in 236 cases administrative fines had been levied. The Committee notes that in its conclusion, the Conference Committee requested the Government to increase the number of labour inspections and ensure that dissuasive sanctions are imposed for infractions of laws and regulations, in particular with respect to subcontractors. The Committee notes that in its report under this Convention, the Government provides no information on measures taken to give effect to these conclusions. However, the Committee welcomes the statistical information provided by the Government in its report under the Labour Inspection Convention, 1947 (No. 81), on inspection activities undertaken in 2014 with regard to subcontractors, including

the relationship between main employer and subcontractors, the number of infractions detected and penalties imposed. ***The Committee requests the Government to give particulars of measures taken to address the conclusions of the Conference Committee, including detailed statistical information on labour inspection activities undertaken, disaggregated by sector (including the mining and construction sectors) that specify corrective measures or sanctions issued as a result of inspection activities, and also monitoring activities undertaken with respect to subcontractors and sanctions imposed.***

Furthermore, the Committee notes from the Government's report that the labour inspection staff comprises 62 mines inspectors, five inspectors specialized in geology and 481 inspectors specialized in other sectors. It also notes that while the IOE and TISK consider that the number of labour inspectors was increased significantly, observations received from workers' organizations all call for an increase in the number of labour inspectors in the country. ***The Committee requests the Government to provide its comments in this respect.***

Article 11(c). Establishment and application of procedures for the notification of occupational accidents and diseases, and production of annual statistics on occupational accidents and diseases. In its previous comment, the Committee noted that the Government was faced with serious issues concerning: (i) underreporting of workplace accidents, due, among other factors, to subcontracting practices; and (ii) the definition of occupational diseases, their registration and notification. The Committee notes that workers' organizations reiterate their concerns in this respect, indicating that: (i) the incidence of workplace accidents is still very high, especially in the mining sector; (ii) the system of detection and registration of occupational diseases is still failing; and (iii) no progress has been registered in this regard. The Committee notes that in its observations, the ITUC refers to the statistics provided by the SGK which show that in 2013, 191,389 work-related accidents and 371 cases of occupational diseases were notified and a total of 1,360 fatalities were registered. All workers' organizations call for measures to improve the collection and consolidation of statistical data on occupational diseases and to strengthen procedures established for the notification of work-related accidents and occupational diseases.

In this regard, the Committee notes that in its report, the Government refers to the 2014–18 National OSH Policy Document which sets out the following objectives: improving statistics and the registration system on workplace accidents and occupational diseases and collecting preliminary diagnosis through the identification of occupational diseases. The document also envisages a series of measures to be implemented, including the production of statistics on work-related accidents and occupational diseases in line with international standards; the identification of the most common occupational diseases in the country; the electronic notification of data related to occupational diseases to hospitals accredited to diagnose occupational diseases and the increase of the number of these hospitals from three to 129; the inclusion of public sector employees in the national statistics; the verification of the rate of workplace accidents and incidence of occupational diseases by comparison with the number of notifications registered by the Ministry.

Referring to the conclusions of the Conference Committee on this point, the Committee requests the Government to provide detailed information on actions taken to implement the abovementioned measures, with a view to improving procedures for the monitoring, notification and registration of occupational accidents and diseases and the production of consolidated annual statistics on occupational accidents, and to provide information on results achieved. Noting that the Government's report contains no information concerning specific actions taken with regard to subcontracting, the Committee also requests the Government to indicate any measures taken to address underreporting of work-related accidents and occupational diseases in subcontracting situations.

Articles 13 and 19(f). Serious and imminent danger. The Committee recalls its previous comment in which it noted that section 13(1) and (3) of the OSH Act is not fully in line with the Convention, as: (i) section 13(1) provides that workers exposed to serious and imminent danger are required to file an application with the OSH committee, or in its absence with the employer, to request that the hazard be identified and emergency measures be adopted; and (ii) section 13(3) provides that workers are entitled to leave their work situation or dangerous area without following the notification procedure in the event of serious, imminent and unavoidable danger. With regard to section 13(1) of the OSH Act, the Committee notes that the Government reiterates the procedure to be followed by a worker exposed to serious and imminent danger. As regards section 13(3) of the OSH Act, the Government indicates that the term "unavoidable" must be interpreted in the sense that serious and imminent danger cannot be avoided by the worker despite his/her knowledge and experience.

The Committee notes that while the Government's explanation appears to better reflect the terminology of the Convention, the wording of section 13 may nevertheless leave room for other interpretations. It emphasizes once again that the conditions set by section 13 of the OSH Act constitute a restriction to the right of workers to withdraw from imminent and serious danger to their life or health, as construed by *Articles 13 and 19(f)* of the Convention. It recalls that these Articles of the Convention do not envisage the notification to a committee or the employer as a precondition to removal. Moreover, the protection of *Article 13* of the Convention is granted wherever the worker has reasonable justification to believe that the work situation presents an imminent and serious danger to his or her life or health, without requiring him or her to assess whether or not the danger is avoidable. ***Recalling that in its conclusions, the Conference Committee requested the Government to ensure that the OSH Act is in compliance with the Convention, in particular in ensuring the right of workers to withdraw themselves from serious and imminent danger, the Committee urges the***

Government to take immediate steps to modify its legislation in order to give full effect to Articles 13 and 19(f) of the Convention and to provide information on progress achieved in this respect.

Article 17. Collaboration between two or more undertakings engaged in activities simultaneously at one workplace. In its previous comment, the Committee noted that section 22(2) of the OSH Act provides for the establishment of a joint safety and health committee (OSH committee) to ensure cooperation and collaboration between the main employer and the subcontractor wherever the duration of the outsourcing contract exceeds six months. The Committee requested the Government to take measures to ensure that the collaboration prescribed by *Article 17* of the Convention is not subject to any period of time.

The Committee notes that the Government, in its report, and the IOE and TISK, in their joint observations, refer to section 23 of the OSH Act which sets out a duty to cooperate for employers engaged in activities simultaneously at one workplace. The IOE and TISK also refer to section 22(3) of the OSH Act. However, the Committee notes that section 22(2) of the OSH Act precludes the application of sections 22(3) and 23 in the first six months of the subcontracting relationship. Therefore, it reiterates that under *Article 17* of the Convention, collaboration prescribed is not subject to any period of time. Moreover, the Committee notes the observations of the ITUC according to which the number of workers employed in subcontracting companies rose from 387,000 in 2002 to 1.48 million in 2015. ***In light of the foregoing, the Committee again requests the Government to take the necessary measures to ensure that when two or more employers, one of them being a subcontracting company, are engaged simultaneously in activities in one workplace, the prescribed collaboration is not subject to any period of time and to provide information in this regard, including information on the application in practice.***

Recent developments and technical assistance. The Committee welcomes the ratification by the Government of Convention No. 187, on 16 January 2014 and of the Safety and Health in Mines Convention, 1995 (No. 176), and the Safety and Health in Construction Convention, 1988 (No. 167) on 23 March 2015.

Furthermore, the Committee recalls its previous comment in which it noted that the Office is currently providing technical assistance to the Government on OSH issues and that in 2014, the Government, Worker and Employer representatives and other relevant stakeholders had agreed on a roadmap on how to improve OSH conditions in the country, special attention being paid to mines and the issue of subcontracting. Measures included carrying out further research on OSH on the context and extent of subcontracting arrangements in certain high-risk sectors in Turkey. In this context, the Committee notes that a report on contractual arrangements in Turkey's coalmines and their impact on OSH was commissioned from the Economic Policy Research Foundation of Turkey (TEPAV) as part of a technical assistance project of the ILO and that its publication is planned for December 2015.

However, the Committee notes that the Government's report contains no further information on progress achieved in implementing the 2014 roadmap. ***Therefore, the Committee requests the Government to provide detailed information on steps taken to implement the elements of the roadmap concerning the improvement of OSH, and on results obtained. The Committee also encourages the Government to pursue its efforts, with the technical assistance of the ILO, to overcome the issues identified in OSH in a comprehensive and sustained way and to give particulars on actions taken in this context.***

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

[The Government is asked to reply in detail to the present comments in 2016.]

Ukraine

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2011)

Articles 5(2)(c) and (d), 7, 10(a) and 16 of the Convention. Procedures for reporting and investigating fatal and serious accidents, compilation and publication of statistics, measures to be taken by employers, training and instruction, and enforcement. The Committee notes from the Government's report that, in 2013, the State Service of Mining Supervision (SSMS) conducted 144,150 inspection visits during which inspectors identified 1,489,190 violations, issued 67,975 stop-work orders and imposed 83,278 fines. It further takes note of the statistics on occupational accidents for 2012, according to which 3,613 accidents were reported in the mining sector, of which 117 were fatal. Some 3,654 workers have been injured at the workplace and 125 of them died. According to the Government's report, 78.5 per cent of workplace accidents were due to organizational factors, 11.7 per cent to technical reasons and 9.8 per cent to psychological and other reasons. ***The Committee requests the Government to provide detailed information on the application of the procedures adopted to investigate fatal and serious accidents, and the dangerous occurrences and disasters in relation to the mining sector that occurred in 2012. In particular, the Committee requests more detailed information in relation to the various factors (organizational, technical and psychological) identified as causing these accidents. The Committee further requests detailed information on any measures taken to address these causes and the results thereof. In particular, the Committee requests the Government to provide information on the application in practice of Article 10(d) of the Convention relating to the obligation of employers to ensure that all accidents are investigated and appropriate remedial action taken. While noting the information on stop-work orders and fines, the Committee requests more detailed information on any action, such as those outlined in Article 16 of the Convention,***

taken by the Government in relation to these accidents, including the imposition of any penalties and corrective measures, and supervision by the inspectorate. Finally, the Committee requests the Government to continue to provide detailed information on accidents, occupational diseases and dangerous occurrences, compiled in accordance with Article 5(2)(d), and information on the implementation of measures in accordance with Article 7.

[The Government is asked to reply in detail to the present comments in 2016.]

United Kingdom

Radiation Protection Convention, 1960 (No. 115) (ratification: 1962)

General observation of 2015. The Committee would like to draw the Government's attention to its general observation of 2015 under this Convention, including the request for information contained in paragraph 30.

The Committee notes the information provided by the Government in its report concerning the benefits available to workers prohibited from continued assignment to work involving exposure to ionizing radiations (*Article 14 of the Convention*).

Article 2 of the Convention. Application of the Convention to all activities involving exposure of workers to ionizing radiations in the course of their work. Case of emergency workers. The Committee previously noted that the term “emergency exposure” under the Radiation (Emergency Preparedness and Public Information) Regulations 2001 is defined as “to bring help to endangered persons, prevent exposure of a large number of persons or save valuable installations or goods”. With reference to paragraphs 36 and 37 of its general observation of 2015, the Committee recalls that, for emergency situations, informed emergency workers may volunteer to receive a dose higher than the established reference levels only in limited circumstances. It notes that those circumstances, outlined in paragraph 37, do not include the saving of valuable installations or goods. ***The Committee therefore requests the Government to take measures to ensure that emergency workers are not, in an emergency situation, subject to an exposure that exceeds the established limit for the purpose of saving valuable installations or goods.***

Article 7(2). Young workers under the age of 16. With reference to its previous comments, the Committee notes that pursuant to section 6 of Schedule 4 of the Ionising Radiations Regulations 1999 and section 6 of Schedule 4 of the Ionising Radiations Regulations (Northern Ireland) 2000, the limit on effective dose for any person below the age of 16 shall be 1 mSv in any calendar year. The Committee notes the Government's statement that the dose limitations for persons under the age of 16 ensure that they are not able to work in industrial undertakings, which would result in significant exposure to ionizing radiations. However, they are permitted to take part in approved work experience schemes. The Committee also notes the Government's statement that it will review the need for a general prohibition to engage workers under the age of 16 years in radiation work as part of its wider programme of work currently in progress. ***Recalling that pursuant to Article 7(2), no worker under the age of 16 shall be engaged in work involving ionizing radiations, the Committee requests the Government to take appropriate action to ensure the full application of this Article. It requests the Government to provide information on the measures taken in this regard.***

Anguilla

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes that in reply to its previous comments, the Government has again indicated that regulations have not yet been issued to ensure the protection of workers against hazards due to air pollution, but that pursuant to the Public Health Act, Chapter P 125, the Minister of Health is empowered to take all necessary action to remove and correct any nuisance that may be injurious to public health and that the environmental health officers have the power to enter into any workplace and made any inspection or examination as may be deemed necessary for the purpose of the Act, and that the Minister also has the power to make regulations for the protection of the health of persons exposed to conditions, substances or processes, which occur in any industry or occupation that may be injurious to health. It also notes that although no such regulations have yet been adopted, the Government indicates that it will give consideration to developing such regulations.

The Committee recalls that the obligations under this Convention in respect of air pollution were accepted and made applicable to Anguilla by declaration without modification on 11 July 1980, and that the Committee has in several previous comments since 1991 drawn the attention of the Government to *Article 4 of the Convention* which provides that national laws or regulations shall prescribe that measures be taken for the prevention and control of, and protection against occupational hazards in the working environment due to air pollution and that provisions concerning the practical implementation of these measures may be adopted through technical standards, codes of practice or other appropriate methods. ***The Committee urges the Government to take the necessary measures either by means of adopting regulations under section 20(1) of Labour Ordinance No. 8 of 1996 or by adopting other appropriate methods to ensure the protection of workers against hazards due to air pollution and invites the Government to report on progress in this respect.***

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

Zambia

Benzene Convention, 1971 (No. 136) (ratification: 1973)

Article 4 of the Convention. Prohibition of the use of benzene in certain work processes. The Committee refers to its previous comments in which it requested the Government to adopt legislation to prohibit the use of benzene and products containing benzene in certain work processes, in accordance with the requirements of *Article 4* of the Convention. The Committee notes that in its report, the Government simply acknowledges the Committee's request without providing information on progress made in this regard. ***The Committee urges the Government to take all the necessary steps to adopt the required legislation so as to ensure that the use of benzene and products containing benzene is prohibited in certain work processes and that this prohibition includes at least the use of benzene and products containing benzene 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. It further requests the Government to provide information on any developments in this regard.***

Application in practice. Noting the absence of a reply on this point, the Committee again requests the Government to provide information on the manner in which the Convention is applied, including relevant extracts of inspection reports and statistics on the number and nature of contraventions reported and the number and nature of occupational diseases reported.

[The Government is asked to reply in detail to the present comments in 2016.]

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 1999)

Article 13 of the Convention. Rights of workers and their safety and health representatives. The Committee notes the Government's indication that legislative effect is given to some of the provisions of this Article, but that other provisions are not implemented due to the absence of legislation. It also notes the indication that with regard to *paragraph 2(b)(i)*, worker representatives can only participate in inspections and investigations which follow the occurrence of accidents or dangerous occurrences, and, contrary to *paragraph 2(b)(ii)*, worker representatives do not have the right to monitor and investigate safety and health matters. In this regard, the Committee wishes to remind the Government that, under the terms of *Article 13* of the Convention, national laws and regulations must grant the rights referred to in *paragraphs 1* and *2* to workers and the safety and health representatives they collectively select and, pursuant to *paragraph 4* of *Article 13*, must ensure that these rights can be exercised without discrimination or retaliation. ***The Committee urges the Government to take the necessary measures, in law and in practice, to ensure that effect is given to all of the provisions of Article 13 of the Convention. In the meantime, the Government is requested to ensure the application in practice of this Article and to provide detailed information on the measures taken in this regard.***

Article 15. Cooperation between employers and workers. The Committee notes the Government's indication that no legislation on mines gives effect to this provision of the Convention. ***The Committee requests the Government to take the necessary measures, in accordance with national laws or regulations, to encourage cooperation between employers and workers and their representatives to promote safety and health in mines.***

Furthermore, concerning the issues raised by the International Trade Union Confederation (ITUC) in its 1 September 2014 observations, the Committee notes with ***regret*** that the Government does not provide a reply and it is therefore bound to reiterate part of its previous comment, which reads as follows:

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2014, in which the ITUC indicates that Chinese-operated copper mining companies continuously violate health and safety regulations designed to protect workers. More specifically, workers are often exposed to poor working conditions and are not provided with adequate protective equipment, often leading to the development of serious occupational diseases and the occurrence of grave accidents in mines. It also alleges the violation of the rights of workers enumerated in *Article 13 of the Convention*, including the right to report accidents, dangerous occurrences and hazards to the employer and to the competent authority and the right to remove themselves in cases where their lives or health is threatened, in addition to the fact that workers who refuse to work in unsafe places are threatened with the termination or transfer of their employment if they exercise these rights. The ITUC also indicates that the efforts put forward by the Government to improve safety standards in mines are extremely limited and insufficient, with almost no inspections being conducted by the Mines and Safety Department and that governmental statistics on mining accidents are unrepresentative since companies deliberately under report accidents and other dangerous occurrences in order to avoid fines. ***The Committee requests the Government to provide its comments on the issues raised by the ITUC.***

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

[The Government is asked to reply in detail to the present comments in 2016.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 13** (Afghanistan, Benin, Bosnia and Herzegovina, Burkina Faso, Cameroon, Chad, Croatia, Djibouti, Finland, Guatemala, Guinea, Iraq, Madagascar, Mauritania, Russian Federation, Serbia); **Convention No. 45** (Angola, Cameroon, Croatia, Gabon, Guinea-Bissau, Guyana, Papua New Guinea, Portugal, Ukraine); **Convention No. 62** (Belgium, France, Greece, Ireland, Mauritania, Tunisia); **Convention No. 115** (Argentina, Brazil, Djibouti, Ecuador,

France, Germany, Ghana, India, Japan, Republic of Korea, Kyrgyzstan, Latvia, Lebanon, Luxembourg, Mexico, Netherlands, Norway, Paraguay, Poland, Slovakia, Spain, Sri Lanka, Sweden, Turkey, Ukraine, United Kingdom: Guernsey, United Kingdom: Jersey, Uruguay); **Convention No. 119** (Croatia, Democratic Republic of the Congo, Ecuador, Finland, Guinea, Iraq, Japan, Kuwait, Kyrgyzstan, Republic of Moldova, Niger, Russian Federation, Serbia, Tajikistan, Turkey, Ukraine); **Convention No. 120** (Plurinational State of Bolivia, Democratic Republic of the Congo, Djibouti, Finland, France: New Caledonia, Ghana, Guinea, Iraq, Japan, Jordan, Kyrgyzstan, Lebanon, Portugal, Russian Federation, Tunisia, Ukraine, Viet Nam); **Convention No. 127** (Guatemala, Honduras, India, Lebanon, Malta, Republic of Moldova, Portugal, Turkey); **Convention No. 136** (Ecuador, Finland, Greece, Guinea, India, Iraq, Lebanon, Malta, Serbia); **Convention No. 139** (Afghanistan, Croatia, Ecuador, Finland, Germany, Ireland, Japan, Lebanon, Portugal, Serbia, Syrian Arab Republic, Ukraine); **Convention No. 148** (China: Hong Kong Special Administrative Region, Croatia, Cuba, Ecuador, France, Guatemala, Guinea, Iraq, Kazakhstan, Kyrgyzstan, Lebanon, Malta, Niger, Portugal, Russian Federation, Serbia, Tajikistan, Zambia); **Convention No. 155** (Albania, Antigua and Barbuda, Belgium, Belize, Brazil, Croatia, Cyprus, Fiji, Finland, Guyana, Ireland, Kazakhstan, Mexico, Republic of Moldova, Netherlands, Niger, Nigeria, Russian Federation, Sao Tome and Principe, Serbia, South Africa, Syrian Arab Republic, Tajikistan, Turkey, Ukraine, Viet Nam); **Convention No. 161** (Bulgaria, Burkina Faso, Colombia, Croatia, Czech Republic, Guatemala, Serbia, Ukraine); **Convention No. 162** (Colombia, Cyprus, Ecuador, Japan, Kazakhstan, Luxembourg, Portugal, Russian Federation, Uganda); **Convention No. 167** (Algeria, Colombia, Finland, Guatemala, Lesotho, Mexico, Panama, Serbia); **Convention No. 170** (Brazil, Burkina Faso, Lebanon, Syrian Arab Republic); **Convention No. 174** (Albania, Brazil, India, Lebanon, Luxembourg, Russian Federation, Ukraine); **Convention No. 176** (Albania, Belgium, Finland, Ireland, Lebanon, Morocco, Portugal, South Africa, Ukraine, United States, Zambia); **Convention No. 184** (Burkina Faso, Fiji, Finland, Kyrgyzstan, Republic of Moldova, Sao Tome and Principe, Ukraine); **Convention No. 187** (Cuba, Cyprus, Finland, Japan, Republic of Moldova, Niger, Russian Federation, Serbia, Singapore).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 13** (Estonia); **Convention No. 45** (Honduras, India, Malaysia: Peninsular Malaysia); **Convention No. 62** (Honduras); **Convention No. 115** (Nicaragua, Russian Federation, Switzerland); **Convention No. 127** (France, France: French Polynesia, France: New Caledonia); **Convention No. 136** (France); **Convention No. 139** (France); **Convention No. 148** (Brazil); **Convention No. 174** (Belgium).

Social security

Armenia

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 2004)

Article 1 of the Convention. Establishment of the employment injury compensation scheme. The Government states in its report that the draft concept of the system of mandatory social insurance against occupational accidents and diseases is still at the stage of elaboration and discussion, and attaches a communication of the Republican Union of Employers of Armenia (RUEA). Considering that the current provision contained in section 234 of the Labour Code (employers' material liability) is not sufficient to ensure effective compensation in case of occupational accidents, the RUEA calls on the National Tripartite Committee of Social Partnership to finalize a draft concept paper and establish reasonable deadlines for the development and adoption of the employment injury concept law. ***Recalling the availability of the technical assistance of the Office, the Committee hopes that the Government will be able to indicate progress in the development of the modern employment injury scheme based on the principles established by ILO standards in its next regular report due in 2017.***

Article 11. Compensation of industrial accidents in the event of the insolvency of the employer or insurer. In reply to the previous observation concerning lack of compensation for about 800 victims of occupational accidents which occurred between 2004 and 2009, following the adoption of Governmental Decision No. 1094-N of 2004, the Government limits itself to making reference to the legislative provisions applicable in case of liquidation or bankruptcy of legal entities responsible for the damage caused to life or health, while nevertheless attaching the letter dated 25 July 2014 of the Confederation of Trade Unions of Armenia (CTUA) stating that no measures have yet been taken by the Government. ***The Committee once again requests the Government to indicate how effect is given to this provision of the Convention in the abovementioned cases.***

Brazil

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1969)

Article 5 of the Convention. Payment of benefits abroad in the case of residence abroad. The Committee recalls that, for a number of years, it has been pointing out the need to incorporate into the Brazilian legislation a provision guaranteeing the payment abroad of the long-term social security benefits foreseen in *Article 5* of the Convention. According to this provision, the payment of invalidity benefits, old-age benefits, survivors' benefits and death grants, and employment injury pensions to Brazilian nationals and to the nationals of any other state which has accepted the obligations of the Convention for the same branch, as well as to refugees and stateless persons, must be guaranteed in case of their residence abroad, irrespective of the country of residence and even in the absence of any bilateral social security agreements with the country of nationality or the country of residence of the beneficiary concerned. Currently, in accordance with section 312 of the Social Security Regulations (SSR), approved by Decree No. 3048 of 6 May 1999, the payment of benefits abroad is made subject to the existence of the corresponding bilateral agreement with the country of residence of the beneficiary in question or, in the absence of such an agreement, to the adoption of the corresponding instructions by the Ministry of Insurance and Social Assistance (MPAS). Information supplied by the Government in 2007 stated that, in practice, benefits were not exported, even to countries with which Brazil had bilateral agreements (Argentina, Cabo Verde, Chile, Greece, Italy, Luxembourg, Portugal, Spain and Uruguay), except to beneficiaries resident in Spain, Greece or Portugal. A tender process was also reported to be in progress since 2000 to contract a bank to pay benefits to beneficiaries resident in countries with which Brazil has bilateral agreements and, subsequently, to beneficiaries resident in other countries. However, the Government has not supplied further information as to the concrete measures taken to implement section 312 of the SSR, merely stating 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, including by way of bilateral or multilateral social security agreements.

The Committee wishes to recall that, while bilateral or multilateral agreements represent means through which *Article 5* of the Convention may be given effect, nationals from third countries moving their residence outside Brazil would generally not be covered by these agreements and would not therefore be eligible for the transfer of their benefits abroad. As regards the nationals of these countries, the Government has still not communicated the instructions adopted by the MPAS under section 312 of the SSR and the name of the bank charged with transferring the benefits abroad. ***The Committee once again requests information as to concrete measures taken to implement section 312. Pending receipt of this information, the Committee is bound to conclude that, in its current form, the Brazilian legislation does not give full effect to Article 5 of the Convention and urges the Government to take legislative and practical measures to address this situation.***

Chile

Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35)
(ratification: 1935)

Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)
(ratification: 1935)

Follow-up to the recommendations of the tripartite committee representations made under article 24 of the ILO Constitution by the College of Teachers of Chile AG

The Committee takes due note of the adoption by the Governing Body at its 323rd Session (March 2015) of the recommendations of the tripartite Committee set up to examine the representation made under article 24 of the ILO Constitution by the College of Teachers of Chile AG in 2009, alleging non-observance of the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), and the Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37).

It notes, in particular, that the Governing Body noted the will of the Ministry of Education to improve the teachers' wage and welfare conditions through social dialogue and to find a durable solution to the pension issues raised in the representation by establishing, together with the College of Teachers of Chile AG, a technical board, which is expected to submit concrete proposals to that end and to deliver its final report at the end of the first semester of 2015. The Governing Body also encouraged all parties concerned to reach a viable agreement in the very near future and requested the Office to provide the parties to the representation with any technical, consultative or conciliatory services and good offices, which they may request. The Governing Body ultimately requested the Government to send reports under article 22 of the ILO Constitution on the application of Conventions Nos 35 and 37 by 1 September 2015 containing detailed information on the measures taken to give effect to the conclusions and recommendations made by the tripartite Committee, as well as on the solutions advanced through social dialogue within the work of the joint technical board established by the Ministry of Education and the College of Teachers of Chile AG. These reports will be examined by the Committee of Experts on the Application of Conventions and Recommendations in relation to the follow-up on the recommendations adopted by the Governing Body in 1999 and 2006 on the previous representations submitted by the College of Teachers of Chile AG on similar issues.

Noting, however, that the Government's report has not been received, the Committee urges the Government to provide, for examination at its next session, all the information requested with respect to how the Government has followed up on the recommendations of the tripartite Committee which were formulated as follows:

- take the measures necessary for acquiring and preserving pension rights of the municipal teachers in conditions of legal certainty, uniform implementation and enforcement required for the proper functioning of the pension scheme based on capital accumulation accounts, in particular:
 - (i) to accept the responsibility, in compliance with *Article 10(5)* of the Convention and *Article 11(5)* of Convention No. 37, for the administrative and financial supervision of the collection and payment of pension insurance contributions by the municipalities and municipal bodies employing the teachers, establish effective mechanisms for recuperation of arrears of unpaid contributions and, where necessary for this purpose, provide appropriate contributions by the public authorities to the financial resources of the municipalities or to the pension benefits of the teachers, in compliance with *Article 9(4)* of Convention No. 35 and *Article 10(4)* of Convention No. 37;
 - (ii) to ensure participation of the representatives of the teachers and other categories of insured persons in the management of their pension schemes, including collection of insurance contributions and supervision of their effective payment into respective schemes by the municipalities and other employers in respect of their employees, in compliance with *Article 10(4)* of Convention No. 35 and *Article 11(4)* of Convention No. 37, and to engage the process of dialogue with the representatives of the teachers for this purpose;
 - (iii) to improve the effectiveness of dispute resolution and appeal mechanisms in pension matters concerning municipal employees, ensure prompt rendition of justice in these cases and execution of court decisions engaging the liability of the municipalities for unpaid contributions, in line with *Article 11* of Convention No. 35 and *Article 12* of Convention No. 37.

Observation submitted by the National Confederation of Municipal Employees of Chile (ASEMUCH). In a communication received on 30 May 2011, ASEMUCH considers that the remuneration taken into account to compute the pensions of municipal employees within the meaning of Legislative Decree No. 3.501 is unjustly restricted to their basic wage, excluding a number of other components of their remuneration in the calculations, and therefore violates Conventions Nos 35 and 37. According to ASEMUCH, taking into account only the basic wage for calculating the pension results from a misinterpretation of the term “in the portion subject to taxation” contained in section 2 of Legislative Decree No. 3.501, which is taken to be synonymous with the term “remunerations subject to taxation”. This interpretation is not consistent with section 5 of the abovementioned Decree, under which social insurance contributions are not paid on the total remuneration, considering that the portion that exceeds 50 times the monthly living wage is exonerated from contributions. ASEMUCH maintains that this restrictive interpretation of remuneration considered for

pension purposes has resulted in reducing the level of contributions, the amount of funds constituted for pension purposes and, consequently, has also reduced the level of old-age and invalidity pensions paid to retirees.

In its latest report received in September 2012, the Government stated that the reply to comments from ASEMUCH is still being prepared by the Court of Accounts (*Contraloría General de la República*), in cooperation with the Under-Secretariat of Social Welfare and the authority responsible for monitoring pensions (*Superintendencia de Pensiones*), and will be sent as soon as it is available.

The Committee notes that the report which should have been submitted by the Government by 1 September 2015 would also have contained information in respect of the allegations raised by ASEMUCH. It also notes that ASEMUCH submitted additional information on 1 September 2015 on developments relating to the allegations. ***The Committee therefore requests the Government to supply a comprehensive reply to the allegations made by ASEMUCH in its next report taking into account the above conclusions and recommendations adopted by the tripartite Committee set up to examine the above representation.***

Noting that the Government's report has not been received, the Committee repeats its previous pending comments regarding the below issues:

Follow-up to the recommendations of the tripartite Committees. Representations made in 1986 and 2000 under article 24 of the ILO Constitution by the National Trade Union Coordinating Council (CNS) and a number of national trade unions of workers of the Private Sector Pension Funds (AFPs)

The Committee recalls that the non-observance by Chile of this Convention and the Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37), following the reform of the pension system in 1980, has been recognized for many years. This issue has given rise to two representation procedures under article 24 of the ILO Constitution in 1986 and 2000. In both cases, the Governing Body concluded that the Conventions in question were not complied with and called upon the Government to amend the national legislation to ensure that the privately managed pension scheme established by Legislative Decree No. 3.500 of 1980 be administered by non-profit-making organizations; that representatives of the insured are able to participate in the administration of the system; and that employers contribute to the financing of the old-age and invalidity benefits.

In its latest report, the Government does not refer to any amendments made to the private pension scheme which are likely to give effect to the abovementioned recommendations. For the most part, the Government provides information on the repercussions of Act No. 20.255 of 2008 on the Chilean social insurance scheme. The Committee notes that the reform of 2008, apart from the fact that it established a minimum pension scheme subject to a means test funded by the state budget, did not change the basic characteristics of the private pension scheme, in so far as, inter alia, the latter does not guarantee a defined benefit throughout the contingency and excludes the representatives of insured persons from participating in the administration of the pension fund. The social pensions based on the principle of solidarity established under Act No. 20.255 are non-contributory old-age and invalidity benefits paid to persons who are not entitled to a pension under other old-age insurance schemes, and who belong to the 60 per cent of the poorest households in the country. In this respect, these benefits cannot be considered as old-age and invalidity benefits in the context of Conventions Nos 35, 36, 37 and 38, as these Conventions provide for defined contributory benefits paid by old-age or invalidity insurance schemes. ***The Committee draws the Government's attention to the possibility of carrying out an evaluation – by having recourse if necessary to ILO technical assistance – of the conformity of the solidarity-based pillar created under Act No. 20.255 with the requirements of Part V (Old-age benefit) and IX (Invalidity benefit) of the Social Security (Minimum Standards) Convention, 1952 (No. 102), which make it possible to give effect to these provisions by providing benefits to all residents whose means during the contingency do not exceed prescribed limits.***

Communication submitted by the National Association of Public Employees (ANEF), the Association of Employees of the Women's National Service, the College of Teachers of Chile AG, the National Confederation of Business and Services, and the Confederation of Unions in the Banking and Financial Sectors of Chile. The Committee notes the information sent by ANEF, the Association of Employees of the Women's National Service, the College of Teachers of Chile AG, the National Confederation of Business and Services and the Confederation of Unions in the Banking and Financial Sectors of Chile, which was received at the Office on 15 September 2011. According to these organizations, the private pension scheme based on a funded pension plan results in discrimination against women in so far as it is based on sex-distinct mortality tables. This means that a man and woman with exactly the same amount in their capital accumulation accounts when they retire will receive different pensions entirely on account of their gender. In its reply, the Government states that the use of sex-distinct mortality tables to calculate men's and women's pensions is justified because women have a higher life expectancy. Using unisex tables would undoubtedly increase the pension level of women, but it would result in the available capital in women's capital accumulation accounts being depleted more quickly. The Presidential Advisory Council for the pension scheme reform carried out studies on the introduction of unisex mortality tables and rejected this possibility for a number of reasons, among which: the risk that the insurance companies' reserves might be inadequate; a reform of this nature would imply cross-subsidization between men and women: the lack of a comparative basis at international level, since no other country with a funded pension scheme has introduced unisex tables.

The Committee notes that the disparity between the pensions paid to men and women under the private pension scheme is a direct consequence of the nature of the system based on the capital accumulation retirement accounts of the beneficiaries. The Committee notes in this respect that, more than 30 years ago, the Supreme Court of the United States already considered that the Civil Rights Act of 1964 banned a contribution differential on the basis of sex in the context of a pension plan (*City of Los Angeles v. Manhart*, 435 U.S. 702, 98 S. Ct. 1370 (1978)). The Committee also notes that in 2011 the European Court of Justice ruled that different insurance premiums for women and men constituted sex discrimination and was not compatible with the Charter of Fundamental Rights (*Test-Achats Case* (C-236/09)). The Committee is also of the understanding that, in a resolution adopted in 2010, the Constitutional Court of Chile ruled that a gender criterion in risk factor tables used in the private insurance health scheme was unconstitutional (section 38 of Act No. 18.933 (Isapres)). ***In view of the preceding considerations, the Committee invites the Government to avail itself of the technical assistance of the Office so that it might study in greater detail the implications of using unisex mortality tables on women's pensions and the ways to offset the negative effects caused by this practice.***

[The Government is asked to reply in detail to the present comment in 2016.]

Colombia

Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)
(ratification: 1933)

Workmen's Compensation (Accidents) Convention, 1925 (No. 17)
(ratification: 1933)

Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) (ratification: 1933)

The Committee notes the Government's reply to its previous consolidated comment on Conventions Nos 12, 17 and 18. It also notes the observations of the Union of Workers of Colombia (UTC) on the application of Conventions Nos 17 and 18, received on 27 October 2014, and those made by the Single Confederation of Workers of Colombia (CUT), the General Confederation of Labour (CGT), and the Confederation of Workers of Colombia (CTC), on Conventions Nos 12, 17 and 18, received on 15 September 2015, as well as the observations made by the International Organisation of Employers (IOE) and the National Association of Employers of Colombia (ANDI) on the application of Convention No. 17.

Convention No. 12 (Article 1) and Convention No. 17 (Article 2(1)). Coverage. The Committee notes the steady increase in the number of persons covered by the Occupational Risks System (SGRL) from 6.5 million in 2009 to just over 8 million in 2012, and to approximately 9 million in 2014.

It also notes the adoption of Decree No. 2616 of 2013, amended by Decree No. 1072 of 2015, which regulates the affiliation to the occupational risks system of persons engaged in employment relationships of less than one month, that is, daily wage earners and part-time workers, with a view to progressively formalizing these workers and providing them with social protection coverage. The Government further indicates that it is currently preparing the regulations on the voluntary membership of independent and informal workers whose earnings are at least equal to the statutory minimum wage.

The CUT observes, in this respect, that with only about 8 per cent of agricultural workers covered by the SGRL, the level of enrolment in agriculture remains extremely low, yet this sector has one of the highest rates of occupational accidents: agricultural workers represent only 3.8 per cent of all SGRL affiliated persons but account for 9 per cent of all industrial accidents. Certain agricultural sectors, such as banana production, have, following their formalization, started effectively reporting industrial accidents, which has resulted in high accident rates in proportion to the number of persons employed therein. The CUT therefore considers that the following are inadequate for the agricultural sector: the SGRL coverage; the existing risk assessment and preventive measures; occupational health and safety training; and measures aimed at monitoring compliance with minimum age requirements. The CUT calls for the introduction of a differentiated policy guaranteeing access to social security to a considerable number of workers in rural areas. *The Committee asks the Government to indicate the specific measures taken with a view to strengthening and extending SGRL coverage to agricultural workers.*

Convention No. 17 (Article 5). Payment of benefits by employers to workers whose employers have not taken out SGRL insurance. In accordance with Law No. 1562, in the event of a work accident affecting a worker not affiliated to the SGRL by his or her employer, the latter will be directly responsible for the benefits provided by law. The CGT and the CUT previously indicated that, in cases in which employers did not affiliate their workers to the SGRL and refused to assume their direct liability, the only possibility left for the workers was to present their case before the courts. In its reply, the Government states that there are no interlocutory proceedings aimed at ensuring that victims of industrial accidents or occupational diseases not affiliated by their employer to the SGRL are nonetheless duly compensated by the social insurance institutions, which would address the defaulting employer for the reimbursement of incurred expenses. The Government also indicates that, in such a case, in accordance with section 2.2.5.1.25 of Decree No. 1072 of 2015, the worker is entitled to appeal to the regional council for recognition of invalidity, which firstly determines the institution that should provide compensation, and, secondly, claims reimbursement from the respective occupational risk insurer (ARL) through judicial action. The Committee, however, is unable to ascertain from these provisions mentioned by the Government, whether the victim of an employment injury who is not affiliated to the SGRL would nevertheless be entitled to have his or her medical expenses fully defrayed and receive compensation from the ARL which would then claim reimbursement from the employer at fault. *The Committee asks the Government to clarify this point in its next report and recalls that in cases of failure of employers to fulfil their obligation to affiliate workers, the State bears the general responsibility for the provision of the occupational accident benefits, since the possibility of taking legal action for victims of industrial accidents does not give effect to Article 5 of Convention No. 17.*

Convention No. 17 (Article 5). Compensation in the form of a lump sum. The Committee notes the information provided by the Government with respect to the conditions under which lump sums are paid to workers with recognized degrees of disability between 5 per cent and 50 per cent, in combination with legal guarantees for the maintenance of their employment relationship for the remaining working capacity. However, the Government has not responded to the concern expressed by the Committee with respect to cases of permanent disability between 25 per cent and 50 per cent where the

risk of a loss of the lump sum compensation is increased even if the employment relationship is preserved. ***In this regard, the Committee once again expresses the hope that the Government will introduce appropriate procedures to strengthen the protection of victims of occupational accidents and diseases against the misuse of lump sum compensations, as provided for in Article 5 of Convention.***

Convention No. 17 (Article 11). Protection against insolvency of the insurer. The Committee notes the Government's confirmation that the Guarantee Fund for Financial Institutions (FOGAFIN) is only responsible for payment of pensions in the event of insolvency of an ARL, in conformity with section 83 of Decree Law No. 1295 of 1994. Nevertheless, the Government indicates that the provision of medical benefits in cases of employment injury is guaranteed by the State under article 48 of the national constitution but that in practice the probability of having recourse to this guarantee is very low. ***The Committee requests the Government to specify the legal provisions, other than constitutional, which guarantee victims of an employment injury the medical care due under Articles 9 and 10 of Convention No. 17 in case of insolvency of the ARL concerned.***

Protection against insolvency of the employer. The Committee notes the Government's indication that the State does not guarantee payment of employment injury pensions to workers whose employers are not affiliated to the SGRL and that, in order for the workers concerned to be able to exercise their rights, they must address the judicial authorities, including through the procedure of *tutela*. ***The Committee requests the Government to indicate the measures taken or envisaged to guarantee the rights established by the Conventions under examination, even in the case of the insolvency of employers who are not insured with the SGRL.***

Convention No. 18. Recognition of occupational diseases. In their observations, the CGT and the CUT once again state that the procedures for the recognition of occupational diseases are slow and too cumbersome to implement in practice. Moreover, insurers prefer to compensate diseases as common diseases in so far as the cash benefits due are inferior (66 per cent) to those in the case of occupational diseases (100 per cent). In cases where the worker persists and the occupational origin of the disease is qualified, which can take up to five or six years, the worker's entitlement to benefits could lapse. The CGT also reports problems of corruption or misuse of the social security resources, which have the effect of undermining the confidence of users in the entire system. The Government refers in its report to the adoption, in 2012, of Decree No. 1562 aimed at providing greater clarity in this respect, in particular by stating that the qualification of the occupational origin of the disease must be made, at the latest, 540 days after the initial diagnosis. In addition, Decree No. 1507, adopted in 2014, aims at regulating the point at which the pathological condition can be considered stable. Finally, the Government refers to the adoption of Decree No. 1477 of 2014, establishing the list of occupational diseases which provides that a disease not expressly on the list can henceforth be recognized as occupational, subject to proving the causal link with occupational risk factors and which adds four new occupational diseases to the pre-existing list. The listed diseases are considered direct occupational diseases and do not require screening by an ARL as regards payment of benefits and medical care. ***The Committee requests the Government to respond to the observations of the CGT and the CUT and to provide information on the manner in which a disease is treated during the first 540 days which may precede its qualification as an occupational disease (as regards the level of cash benefits and the type of medical care). Please also indicate the average time in practice for the recognition of an occupational disease and whether any measures are envisaged to simplify the administrative procedures for the recognition of the occupational origin of the disease in order to prevent the payment of compensation being rendered impossible due to legal limitation periods.*** Finally, the Committee notes that the list annexed to Decree No. 1477, while it contains all the diseases and toxic substances listed in the table annexed to the Convention, does not expressly state all corresponding industries listed therein (for example, loading, unloading or transport of goods not on the list of the occupations listed in the Decree). ***The Government is requested to ask the competent departments of the State to carry out and provide in its next report a detailed analysis of how the national list of occupational diseases complies with the list annexed to the Convention.***

[The Government is asked to reply in detail to the present comments in 2016.]

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. It expresses ***concern*** in this respect. It is therefore bound to repeat its previous comments.

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.

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

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1978)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

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

Dominican Republic

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1956)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

With reference to its previous comments, the Committee notes with *interest* the measures taken by the Government with a view to ensuring equality of treatment between foreign and national workers with respect to social security and reaching an agreement on fair and sustainable solutions for migrant workers. It notes, in particular, the joint tripartite statement by the Government, the Employers' Confederation of the Dominican Republic (COPARDOM), the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD) stating that the Dominican Republic has given serious consideration to the recommendations made by the tripartite committee with a view to extending the coverage of the social security system to foreign workers, generally, and amending sections 3 and 5 of Act No. 87-01 in order to remove the residency condition imposed on foreign workers for coverage against employment injuries, in particular. The Committee further notes that the Social Security Treasury as well as the General Director of Migration have adopted two communications in February 2015 requesting the National Social Security Council (CNSS) to accept the validity of the documents issued to resident or non-resident foreign workers for the purpose of their affiliation to the Dominican social security system and that, in March 2015, a special committee was established within the CNSS to discuss the issue of mobile and casual workers. Finally, the Committee notes the recent ratification of two up-to-date social security standards also grounded on the principle of equality of treatment between foreign and national workers – the Social Security (Minimum Standards) Convention, 1952 (No. 102) (the registration of which is still pending the receipt of the declaration concerning the accepted Parts of the Convention) and the Maternity Protection Convention, 2000 (No. 183). *The Committee asks the Government to provide updated information on the developments which have taken place on the above issues indicating in detail the results achieved in giving effect to each of the recommendations made by the tripartite committee and adopted by the Governing Body of the ILO.*

[The Government is asked to reply in detail to the present comments in 2016.]

Guinea

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1967)

Article 5 of the Convention. Payment of benefits in the case of residence abroad. Referring to its previous comments, the Committee notes with *interest* the conclusion in 2012 of the Economic Community of West African States

(ECOWAS) General Convention on Social Security, which aims in particular to enable migrant workers who have worked in one of the 15 ECOWAS member States to exercise their right to social security in their country of origin through the coordination of national social security systems. *However, since Cabo Verde is the only other ECOWAS member State that has ratified Convention No. 118, the Committee requests the Government once again to indicate whether, as it understands from its reading of section 91 of the Social Security Code, nationals of any State that has accepted the obligations of the Convention for the corresponding branch should in principle be able to claim payment of their benefits in the case of residence abroad. If so, the Committee requests the Government to indicate whether a procedure for the transfer of benefits abroad has been established by the National Social Security Fund to meet any requests for the transfer of benefits abroad. In addition, the Committee requests the Government to clarify whether any Guinean nationals transferring their residence abroad would also be entitled to have their benefits transferred abroad, in accordance with the principle of equal treatment established under Article 5 of the Convention.*

Article 6. Payment of family benefit. Referring 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 Social Security Code, to be entitled to family benefit, dependent children “must reside in the Republic of Guinea, subject to the special provisions of the international Conventions on social security of the International Labour Office, reciprocal agreements or bilateral or multilateral agreements”. With respect to reciprocal agreements or bilateral or multilateral agreements, the Committee recalls that to date Guinea has concluded no agreement of this sort for the payment of family allowances in respect of children residing abroad. Regarding the special provisions of the ILO Conventions, it recalls that under Article 6 of Convention No. 118 any State which has accepted the obligations of the Convention for branch (i) (family benefit) must guarantee payment of family allowances both to its own nationals and to the nationals of any other Member which has accepted the obligations of the 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. *The Committee notes that the Government’s report does not provide any information in this respect and hopes that the Government will be able to confirm formally in its next report that the payment of family benefit 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 in the territory of one of these States and not in Guinea. The Committee also requests information as to how the condition of residence is dispensed with in these cases for the application of section 99(2) of the 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 he or she comes under the school medical service, and the regular medical care for beneficiaries of school age attending courses in educational or vocational training establishments.*

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 with *regret* that the Government’s reports for Conventions Nos 12, 17, 24, 25 and 42 have not been received and expresses its *concern* in this regard. However, it notes that on 15 September 2015 the Confederation of Public and Private Sector Workers (CTSP) provided its observations concerning the application of the Conventions under examination. The CTSP indicates that coverage of employment injury is extremely weak in the context of an informal economy which represents 90 per cent of the national economy. The affiliation of employers to the Employment Injury, Sickness and Maternity Insurance Office (OFATMA), although a legal obligation, is a reality in practice for less than 5 per cent of workers. In the specific case of agricultural workers, the CTSP considers that it is necessary to take urgent measures to extend effective coverage by the OFATMA, as they represent the majority of workers in the country and produce 30 per cent of the gross domestic product, and yet they remain without any social protection.

The Committee is fully aware that the Government indicated in its last report that the Act of 28 August 1967, establishing the OFATMA, covers all dependent workers irrespective of their sector of activity, but that the absence of formal agricultural enterprises means that most agricultural workers are engaged in family subsistence agriculture and are

excluded from the scope of the social security legislation. Nevertheless, the Committee observes that the application of the existing legislation appears to give rise to difficulties, even with regard to workers in the formal economy. Moreover, the sickness insurance scheme has never been established, even though the Government has indicated that it is pursuing its efforts to establish progressively a sickness insurance branch covering the whole of the population and to enable OFATMA to regain the trust of the population.

With a view to better assessing the challenges facing the country in the application of the social security Conventions and providing better support for the initiatives taken in this respect, the Committee requests the Government to provide further information in its next report concerning the functioning of the employment injury scheme administered by OFATMA (numbers covered, amount of contributions collected annually, number of employment accidents and occupational diseases recorded, amount of benefits paid for employment injury). Please include information on strategies for increasing participation in and utilization of OFATMA services by the eligible populations.

International assistance. The Committee notes that the Government is receiving substantial support from the ILO and the international community, particularly in the field of labour inspection. Moreover, since 2010, the ILO and the United Nations system as a whole have made available to the Government their expertise for the establishment of a social protection floor. The Committee considers that it is necessary for the Government to envisage as a priority the establishment of 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 as a result of sickness, employment accident or occupational disease. In this regard, the International Labour Conference adopted the Social Protection Floors Recommendation (No. 202) in 2012, with a view to the establishment of basic social security guarantees to prevent and alleviate poverty, vulnerability and social exclusion. In this connection, the implementation of Conventions and of Recommendation No. 202 should continue in parallel, seeking and exploiting synergies and complementarity.

The Committee recalls that the establishment of a social protection floor was 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, the Government has not yet provided any information on the measures adopted to achieve this objective. The Committee notes, among other matters, the conclusion in 2010 of a national programme for the promotion of decent work which includes an item dedicated to the establishment of the social protection system under the social security Conventions ratified by Haiti. *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 the Government to provide information on this subject in its next report.*

[The Government is asked to reply in detail to the present comments in 2016.]

Libya

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) ***(ratification: 1975)***

The Committee notes that the Government's report has not been received. Conscious of the difficult situation which prevails currently in Libya, the Committee notes that the Government reiterates that the Social Security Fund is still in the process of carrying out an actuarial study as required by section 34 of the Social Security Law No. 13 of 1980 with a view to undertaking a comprehensive review of periodical payments provided by the social security system, considering the number of participants as well as the monetary and in-kind benefits which will be provided, and the value of contributions for the persons insured in the future. *The Committee hopes that the Government will soon be in a position to provide information about new developments in this respect and will resume the examination of the pending technical issues under the Convention with the regular reporting cycle, in 2016.*

Malaysia

Peninsular Malaysia

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) ***(ratification: 1957)***

Article 1(1) of the Convention. Equal treatment of foreign workers. The Committee recalls that, since 1 April 1993, the national legislation 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 resulting unequal treatment of foreign workers in Malaysia has been discussed by the Conference Committee on the Application of Standards. 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 2011, the Government indicated that a technical committee within the Ministry of Human Resources including all stakeholders was 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. An actuarial study on the three options under consideration was carried out with a view to determining the most suitable option in consultation with the stakeholders involved. In its latest report, the Government informs that it intends to extend the coverage of the ESS scheme to documented foreign workers subject to certain modifications concerning the employment injury benefits to ensure the administrative practicability of the new arrangements. The Government proposes to hold a technical session with the ILO to evaluate the conformity of the modified scheme with *Article 1* of the Convention.

The Committee notes with *interest* the Government's intention to transfer foreign workers, employed in Malaysia for up to five years, back under the ESS scheme, which is applicable to Malaysian citizens and foreign workers employed in Malaysia for a longer period. ***The Committee hopes that the technical consultation with the ILO will be organized in the very near future so as to enable the Government to proceed with the modification of the ESS scheme in line with the principle of equality of treatment of foreign workers and asks the Government to report on progress made in its next report due in 2016.***

Sarawak

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1964)

Article 1(1) of the Convention. Equal treatment of foreign workers. The Committee recalls that, since 1 April 1993, the national legislation 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 resulting unequal treatment of foreign workers in Malaysia has been discussed by the Conference Committee on the Application of Standards. 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 2011, the Government indicated that a technical committee within the Ministry of Human Resources including all stakeholders was 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. An actuarial study on the three options under consideration was carried out with a view to determining the most suitable option in consultation with the stakeholders involved. In its latest report, the Government informs that it intends to extend the coverage of the ESS scheme to documented foreign workers subject to certain modifications concerning the employment injury benefits to ensure the administrative practicability of the new arrangements. The Government proposes to hold a technical session with the ILO to evaluate the conformity of the modified scheme with *Article 1* of the Convention.

The Committee notes with *interest* the Government's intention to transfer foreign workers, employed in Malaysia for up to five years, back under the ESS scheme, which is applicable to Malaysian citizens and foreign workers employed in Malaysia for a longer period. ***The Committee hopes that the technical consultation with the ILO will be organized in the very near future so as to enable the Government to proceed with the modification of the ESS scheme in line with the principle of equality of treatment of foreign workers and asks the Government to report on progress made in its next report due in 2016.***

Mauritania

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1968)

Articles 71 and 72 of the Convention. General responsibility of the State for the proper administration of the social security system. The Committee recalls that for several years the Free Confederation of Workers of Mauritania (CLTM) and the General Confederation of Workers of Mauritania (CGTM) have been raising numerous issues relating to the very limited coverage of the social security system; the low level of benefits; the obsolete legislative framework; the administrative obstacles to the compilation of benefits files; delays in implementing the findings of the actuarial studies conducted in 2002 in order to redress the finances of the social security scheme; the absence of joint management of the scheme and the unilateral decisions by the executive authorities; the Government's appropriation of the assets of the pension scheme to cover its own financial needs; social fraud practised on a broad scale by employers and their recourse to the hiring of non-affiliated labour through shell companies; the inoperative nature of the services responsible for supervising social welfare institutions; and the failure to adequately adjust cash benefits other than minimum benefits. In

view of the serious and complex nature of the concerns raised by the abovementioned confederations, the Committee encouraged the Government and the Office to collaborate closely with a view to conducting a technical appraisal of the situation and drawing up a roadmap for the future.

In its last report, the Government states that, in consultation with the CGTM and the CLTM, both of which are represented on the governing board of the National Social Security Fund (CNSS), it has increased the level of minimum pensions following a minimum wage rise countrywide and has increased the contributions ceiling by some 15 per cent, from 37.800 UM to 54.000 UM. Minimum survivors' and orphans' pensions paid out before the minimum wage increase have likewise been raised, by some 30 per cent. An actuarial assessment is under way with technical support from the ILO and its results will enable the CNSS decision-makers to envisage aligning benefits with the current cost of living and consider the steps that are needed to ensure the sustainability and viability of the social security scheme. As to the issues regarding the governance of the social security system, the Government indicates that the ILO has also financed two studies, on updating the CNSS's legal framework and reorganizing its statistical output. The Government also states that the appointment of members to the CNSS's deliberative body is entirely in the hands of the workers' and employers' organizations and that the chair of the governing board is held alternately by the workers and the employees for three-year terms, while the Government has the prerogative of appointing the director-general of CNSS. As to the management of finances, the Government indicates that contributions are the main source of the funds of the CNSS; these are deposited in bank accounts opened with the Public Treasury, of which the CNSS has sole use and invests a large part in treasury bills remunerated through the Central Bank of Mauritania. Lastly, as regards monitoring compliance with national laws and regulations, the Government indicates that the CNSS inspection services have the material and human resources they need and do a good job of combating internal fraud and tax evasion, and that administrative measures will be introduced to secure optimum recovery of contributions. The Government supplies a copy of the CNSS activity report for 2014, which contains detailed information, including statistics, on the working of each branch of the national social security system.

The Committee notes the Government's partial replies to several of the concerns raised by the confederations. It notes from the CNSS activity report that the target for the recovery of contributions has been substantially exceeded, which is indicative of a significant effort, but that there is a sizeable default in the payment of social security claims due from the State. In some branches, such as occupational risks and family benefits, accumulated social security reserves are too large and are far in excess of actuarial requirements, whereas other branches, such as pensions, are underfunded given the recurrent increases in expenditure, provide inadequate benefits, whether minimum or maximum, and have an insufficient reserve ratio. The Committee notes that the activity report is adamant that the CNSS governing board should implement the recommendations of the latest actuarial study in order to ensure the future viability of the system, in particular by recovering the social security and health claims due from the State and by raising the contributions ceiling to 150,000 UM from the current 54,000 UM. The Committee points out that, according to *Articles 71 and 72* of the Convention, the State must accept general responsibility for the proper administration of the social security system, based on a clear and precise legal framework, reliable actuarial data, supervision by representatives of the persons protected, an efficient inspection system and sufficiently dissuasive sanctions. The Committee recalls that to this end, and in the context of the concerns set out above, the Office conducted a first actuarial assessment of the social security scheme in 2002, and since 2013 has afforded the Government significant support in the form of two studies, on the updating of the legislative framework and on the reorganization of the statistical output of the CNSS. ***The Committee accordingly requests the Government, on the basis of the abovementioned report and studies and in conjunction with the social partners, to take the necessary steps to ensure the proper administration of the national social security system and to give full effect to the Convention in practice.***

Mauritius

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1969)

Article 1(2) of the Convention. Equality of treatment. With reference to its previous observations, the Committee notes that the National Pensions (Non-Citizens and Absent Persons) Order 1978 has been revoked and replaced by the National Pensions (Non-Citizens and Absent Persons) Regulations 2015. It notes with *interest* that these Regulations provide for the affiliation of non-citizens from the first day of employment in Mauritius in sectors other than the export manufacturing enterprises. All non-citizens employed in export manufacturing enterprises become insured persons under the National Pension Act only if they have resided in Mauritius for a period of at least two years, during which they are entitled to injury benefits under the Workmen's Compensation Act 1931. The Committee further notes from the Government's report that the merger of the Workmen's Compensation Act 1931 and the National Pension Act 1976 has not yet been finalized, as a major amendment to the National Pension Act 1976 is being formulated by the Ministry of Social Security, National Solidarity and Reform Institutions in the form of a new bill. ***The Committee hopes that the merger of these two Acts will go through soon and that it will address the principle of equal treatment between national and foreign workers in respect of social security benefits so as to give full effect to the provisions of the Convention with respect to workers employed in export manufacturing enterprises. The Committee requests the Government to report on developments in this regard.***

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 since 2004 and the country is mentioned in a special paragraph of the report of the Conference Committee on the Application of Standards for failure to supply information in reply to comments made by the Committee. *The Committee expresses deep concern in this regard and hopes that the Government will be able to report on the application of Convention No. 17 soon and recalls that the technical assistance of the Office is at its disposal.*

Tunisia

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1965)

Articles 4 and 5 of the Convention. Payment of old-age, invalidity and survivors' benefits in the case of residence abroad. For many years, the Committee has been drawing the Government's attention to the restrictions relating to the payment of old-age, invalidity and survivors' benefits to Tunisian nationals where the latter are not resident in Tunisia at the date on which the application for benefits is made (section 49 of Decree No. 74-499 of 27 April 1974 concerning old-age, invalidity and survivors' schemes in the non-agricultural sector and section 77 of Act No. 81-6 of 12 February 1981 concerning the organization of social security schemes in the agricultural sector), although this requirement is lifted for foreign nationals of countries bound to Tunisia by a bilateral or multilateral social security treaty that covers the export of benefits. Under this legislation, Tunisian nationals do not benefit from equality of treatment with foreign nationals, contrary to *Article 4(1)* of the Convention, and they may be refused old-age, invalidity and survivors' benefits, contrary to *Article 5(1)* of the Convention, if they apply for the benefit when they are residing abroad in a country that has not concluded a bilateral treaty with Tunisia. The Government previously pointed out that the competent technical services had held consultations with the ILO on the subject and that a Bill intended to adapt the abovementioned provisions was being drawn up. Instructions had been given to the national social security institutions to set aside the requirement of the physical presence of the beneficiary in relation to the application for invalidity, old-age or survivors' benefits or for employment injury benefits.

In its 2014 report, the Government indicates that the legislative reform aimed at bringing the national legislation into line with the Convention remains on the agenda of a technical committee responsible for social protection and that, in practice, the social security funds undertake the free transfer abroad of the benefits due regardless of the nationality of the beneficiaries. The Government also refers to the network of bilateral and regional social security agreements by which Tunisia is bound that have the purpose of guaranteeing rights acquired abroad.

While taking due note of this information, the Committee observes that the situation has not changed since 2007 and that legislative measures must still be taken to bring the national legislation fully into line with *Articles 4* and *5* of the Convention. It also observes that the report does not contain the previously requested statistical information on the transfer of benefits abroad. *The Committee therefore hopes that the Government will provide information in its next report on the specific legislative measures taken to bring the legislation into full conformity with the Convention and also provide information on the previously requested statistics.*

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 12** (Comoros, Uganda); **Convention No. 17** (Burundi); **Convention No. 19** (Dominica, Yemen); **Convention No. 42** (Burundi); **Convention No. 118** (Guinea); **Convention No. 121** (Guinea).

Maternity protection

Bahamas

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 2001)

The Committee notes the report received in November 2014 containing a reply to its previous comments and asks the Government to provide additional information on the following points:

Article 3(1) of the Convention. Entitlement to maternity leave. Section 17(3) of the Employment Act of 2000 provides that in order to qualify for a grant of maternity leave, a female employee: (a) must have been employed for at least 12 months by the employer from whom she requests such leave; and (b) is not entitled to maternity pay with the same employer more than once in every three years. ***As the Convention does not allow any such limitations, the Committee requests the Government to bring section 17(3) of the Employment Act into conformity with the Convention by removing the two abovementioned conditions.***

Article 3(3). Compulsory postnatal leave. The Committee notes that the period of maternity leave established by section 18(1) of the Employment Act can be modified where the employee so desires. ***It requests the Government to ensure that, in accordance with this provision of the Convention, a part of the maternity leave of no less than six weeks, which is compulsory, shall be taken after childbirth in all circumstances.***

Article 4(1) and (3). Medical benefits. ***Please specify whether the health services guaranteed under Act No. 3 of 2007 on the national health insurance scheme include hospitalization and provide a copy of any regulations adopted to apply paragraph 1(d) of section 15 of the said Act, concerning the cost-sharing by insured persons in the cost of medical care.***

Article 5. Interruptions of work for nursing. ***Recalling that, in accordance with this provision of the Convention, the nursing breaks have to be prescribed by national laws or regulations or by collective agreements, the Committee requests the Government to complete the Employment Act with a provision prescribing the conditions of interruptions of work for the purpose of nursing (duration, remuneration, frequency, etc.) which are counted as working hours and remunerated accordingly.***

Article 6. Protection against dismissal during maternity leave. The Committee notes that section 21(1)(b) of the Employment Act provides for protection against dismissal in case of maternity, including during the period of leave. However, while this protection covers a longer period than envisaged by the Convention, it is not applicable under section 21(2)(a) where the woman has committed serious default or gross negligence amounting to abandonment of duty. The Committee recalls in this respect that the Convention does not authorize the dismissal of a woman worker on any grounds during maternity leave, even in certain special or exceptional circumstances considered by law to constitute a legitimate ground for dismissal. ***Accordingly, the Committee hopes that the Government will be able to re-examine the situation and take the necessary measures to ensure that the protection set out in subsection 1(b) of section 21 is not affected by subsection 2(a).***

Equatorial Guinea

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1985)

The Committee notes with ***regret*** that the Government's last report was received in 2004 and that the country is mentioned in a special paragraph of the 2015 report of the Conference Committee on the Application of Standards for its failure for many years to send reports on the application of ratified Conventions. ***The Committee expresses its deep concern in this regard and hopes that the Government will soon be able to send its report on the application of the Convention and reminds it that the technical assistance of the Office is at its disposal.***

With reference to its previous comments on the application of *Article 6 of the Convention*, the Committee notes that, like Act No. 8/1992, sections 111 and 112 of Act No. 2/2005 of 9 May 2005 on public servants allow women workers to be dismissed for gross misconduct following the appropriate disciplinary procedure. In previous reports, the Government indicated its intention to amend the legislation so that any misconduct by pregnant workers would give rise to a disciplinary procedure at the end of the period of maternity or postnatal leave. ***The Committee hopes that the Government will take all the necessary measures to establish a formal prohibition on giving a public servant her notice of dismissal during her absence on maternity leave or at such time that the notice would expire during such absence.***

Ghana

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1986)

Article 3(2) and (3) of the Convention. Compulsory maternity leave. In its previous comment, the Committee asked the Government to ensure that the Labour Act of 2003 provided for a period of compulsory leave of at least six weeks following childbirth, pursuant to *Article 3(3)* of the Convention. The Government indicates in its report that

section 57 of this Act provides for 12 weeks of maternity leave, the whole period of which is compulsory. The Committee recalls that the Act should provide specifically for compulsory maternity leave of six weeks after childbirth, including in cases where maternity leave begins more than six weeks before the date of childbirth. ***Please specify the legal provision which expressly establishes a period of compulsory leave after childbirth of at least six weeks pursuant to Article 3(3).***

Article 3(4). Extension of maternity leave in the event of late childbirth. The Committee notes the Government's reference to the possibility of extending maternity leave in the event of multiple births or illness as a result of childbirth, but not to the possibility of extending leave in the event of late childbirth. ***The Committee therefore once again requests the Government to take the necessary measures to include in section 57 of the Labour Act a provision establishing an extension of prenatal leave until the actual date of childbirth when the birth takes place after the expected date without any corresponding reduction of the period of compulsory maternity leave.***

Article 4(4) and (8). Cash benefits. In its previous comment, the Committee requested the Government to take measures to ensure, in the Labour Act of 2003, 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. ***As the Government's report does not provide any information in this respect, the Committee once again requests the Government to take measures in order to ensure that cash maternity benefits are provided by means of compulsory social insurance or out of public funds.***

Article 6. Prohibition to give notice of dismissal during the protected period or to give notice of dismissal at such a time that the notice would expire during the protected period. The Committee notes the Government's indication that the Committee's concerns regarding the amendment of sections 57(8) and 63(2)(c) of the Labour Act are being considered. ***The Committee hopes that these provisions will be amended shortly in order to prohibit notification of dismissal during the protected period or at such a time that the notice would expire during the protected period.***

Mauritania

Maternity Protection Convention, 1919 (No. 3) (ratification: 1963)

The Committee notes the observations of the General Confederation of Workers of Mauritania (CGTM), which were received on 8 September 2015, and the Government's reply, which was received on 12 October 2015.

Application of the Convention in practice. The Committee notes that, according to the Government's reports received in March and August 2015, the texts implementing the new Labour Code (Act No. 2004-017 of 2004) have not yet been adopted. It recalls that the Free Confederation of Mauritanian Workers (CLTM), in its observations of August 2014, considered that the absence of texts implementing the Labour Code was at the root of the decline in maternity protection and the increase in the number of pregnant or nursing women exposed to more hazards and serious risks: few employers complied with the law in the absence of any monitoring or penalties for offences. Furthermore, the CGTM indicates that in most private enterprises the provisions relating to the length of maternity leave are not observed where monitoring is non-existent; working women continue to be the victims of discrimination and do not enjoy the rights established by law, often being obliged to give up their employment; nursing women no longer have the possibility of nursing their children in the workplace; and the Government has no policy to support working women who have young children. The Committee notes that the observations of the trade unions show that the application of the Convention in practice is encountering serious difficulties, as it has done for years without any improvement in the situation. The Committee also observes that the Government merely indicates that there is nothing to be said on infringements relating to maternity protection. The Government's reply contains no specific information regarding the observations made. As regards the scope of the protection provided by maternity insurance, the Committee notes that according to the statistics supplied in the annual report of the National Social Security Fund (CNSS) for 2014, only 371 women in the country have received daily maternity allowances (390 according to the Government's report), and 284 for 2013. ***In view of the concerns expressed, the Committee observes that the regulations on the provisions of the Labour Code relating to maternity protection have still not been adopted and that the application of the Convention in Mauritania is a subject of disagreement between the Government and the trade unions. The Committee once again requests the Government, in consultation with the social partners, to review its policy and the actions of the CNSS relating to maternity protection and to report on these matters to the Committee next year. The Committee recalls that the Government is nonetheless bound to give effect to the obligations of the Convention and therefore once again requests specific information on the progress made in implementing these obligations in law. In particular, the Committee requests detailed information on the way in which women's rights are guaranteed under Article 3(a)–(d) of the Convention.***

[The Government is asked to report in detail in 2016.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 3** (Guinea); **Convention No. 103** (Ghana, Mongolia, San Marino); **Convention No. 183** (Burkina Faso, Kazakhstan).

Social policy

Direct requests

Requests regarding certain matters are being addressed directly to the following States: **Convention No. 117** (*Bahamas, Brazil, Ghana, Guinea, Madagascar, Malta, Panama*).

Migrant workers

France

Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 1954)

Article 3 of the Convention. Measures to combat misleading propaganda regarding immigration. In its previous comments, the Committee requested the Government to provide information on the measures taken, in cooperation with the social partners and, where appropriate, other relevant stakeholders, to prevent and combat prejudices regarding immigration and the stigmatization and stereotyping of migrant workers, including the Roma population, in an effective manner, and to provide information on the results achieved. The Committee notes the general nature of the Government's reply in its report, in which it reiterates its previous indications that the measures to combat misleading propaganda include legislative and practical measures to combat racism and xenophobia and measures against the trafficking of women. It also notes the Government's indication that there is strict equality of treatment between migrant workers and national employed persons. The Committee recalls that, under the terms of *Article 3*, each Member for which the Convention is in force undertakes to take all appropriate steps against misleading propaganda relating to emigration and immigration. These measures must not only concern misleading information targeting migrant workers, but also the national population, such as targeted measures to combat social and cultural prejudices which aggravate discrimination against migrants (see the 2016 General Survey on migrant workers). *The Committee once again requests the Government to indicate in detail the measures adopted, in cooperation with the social partners and, where appropriate, other relevant stakeholders, to prevent and combat prejudices in an effective manner regarding emigration and immigration and the stigmatization and stereotyping of migrant workers, which have an effect in practice on the effective application of the principle of equal treatment, and to provide information on the results achieved.*

Article 6. Equality of treatment. The Committee notes the main elements of Government policy on labour migration which, in the view of the Government, is targeted as a priority at international enterprises and skilled workers, and workers with a high potential to respond to the needs of the labour market and the structural needs of enterprises faced with an internationalized labour market, while at the same time protecting employed persons who are already in France. *Noting that Article 6 does not distinguish between the treatment of different categories of migrant workers and that, in practice, migrant workers who are already on the national territory are mainly engaged in low paid sectors with difficult working conditions (principally cleaning, catering, security and construction), the Committee reiterates its request to the Government to provide full information on the relevant legal provisions applying no less favourable treatment to migrant workers than that which applies to nationals with respect to the matters enumerated in Article 6(1)(a) to (d) of the Convention, with an indication of any differences that may exist between the various categories of immigrant workers ("employee", "employee on assignment", "European Blue Card", "skills and talent", "scientific", "temporary worker", and "seasonal worker"). The Committee also requests information on the application in practice of this provision and requests the Government to include information on any complaints made to the competent authorities, such as the labour inspectorate, but also the Rights Ombud and the courts, or any other competent body, by migrant workers who consider that they are victims of discrimination in employment with a view to the application of the national legislation relating to the Convention.*

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

Malaysia

Sabah

Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 1964)

Article 6(1)(a)(i) of the Convention. Minimum wages and the foreign worker levy. The Committee recalls the National Wages Consultative Council (NWCC) Act 2011 (Act No. 732) and the Minimum Wages Order 2012, which provides for a regional monthly minimum wage of 800 Malaysian ringgit (MYR) for Sabah, to be implemented as of 1 January 2013, and the Minimum Wages (Amendment) Order 2013, which allows certain enterprises to defer payment of minimum wages until 31 December 2013. It also recalls that, under the Minimum Wage Policy (March 2013) issued by the Ministry of Human Resources, employers which implemented minimum wages were 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 merit, the Labour Department may consider applications to deduct the cost of accommodation exceeding MYR50 a month. The Committee notes the Government's indication that, as of 1 January 2014, all employers employing foreign workers have to pay the above minimum wage, but will be allowed to deduct the levy and the cost of accommodation from migrant workers' wages, but not from the minimum wage. The Committee considers that allowing the amount of the levy to be deducted from the wages of foreign workers would result in less favourable treatment of these workers than for nationals, contrary to *Article 6(1)(a)* of the

Convention. Further, with respect to the deduction of accommodation costs, the Committee recalls that, where partial payments in kind are authorized, appropriate measures shall be taken to ensure that the value attributed to allowances, such as accommodation costs, is fair and reasonable, and does not lead to unequal treatment between national and migrant workers with respect to remuneration. *In view of the ambiguity in the Government's statement and the Minimum Wage Policy (2013) of the Ministry of Human Resources regarding permissible deductions from minimum wages for foreign workers, the Committee requests the Government to clarify whether the policy document under which employers are allowed to deduct the levy and accommodation costs from the minimum wages of foreign workers is still in force, and to provide a copy of the relevant text. The Committee further requests the Government to take the necessary steps to ensure that employers do not deduct the levy from the wages paid to foreign workers and that where they deduct accommodation costs, it should be fair and reasonable, so as to ensure that no less favourable treatment is applied to them compared with national workers, in conformity with Article 6(1)(a) of the Convention. Recalling that the Government indicated previously that it was willing to examine the impact of the levy system on the working conditions, including wages, and equal treatment of migrant workers, the Committee urges the Government to undertake such an assessment and to provide information on its results and any follow-up.*

Article 6(1)(b). *Equality of treatment with respect to social security. Employment injury and other social security benefits.* The Committee recalls its previous comments regarding differences in treatment between nationals and temporary foreign workers with respect to social security benefits in the case of occupational 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 for 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. The Committee notes that the actuarial study was carried out and that foreign workers are still covered by the WCS, but it notes that the Government is considering extending the coverage of the ESS to foreign workers who are in a regular situation. In this regard, the Committee refers the Government to the comments made under the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), with respect to Peninsular Malaysia and it notes that in this context the Government proposed to hold a technical consultation with the ILO to evaluate the conformity of the modified ESS scheme with Article 1 of Convention No. 19. *The Committee hopes that the technical consultation with the ILO will be organized in the very near future so as to enable the Government to proceed with the modification of the ESS scheme in line with the principle of equality of treatment of foreign workers. Furthermore, the Committee reminds the Government that under Article 6(1)(b) migrant workers should be accorded treatment no less favourable than that which is applied to nationals regarding all social security benefits. The Committee reiterates its request to the Government to provide information on the steps taken, including the conclusion of bilateral or multilateral agreements, to ensure that migrant workers, who are in the country temporarily, 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 is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 97** (Dominica, France, Kyrgyzstan, Malaysia: Sabah); **Convention No. 143** (Guinea, San Marino).

Seafarers

General observation

Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

The Committee notes that 31 Members have ratified the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and one country is provisionally applying it in conformity with *Article 9* of the Convention. Three new ratifications have been registered since its last session. On that occasion, the Committee noted that, at its 320th Session in March 2014, the Governing Body, after an initial consideration of a document prepared by the Office entitled "International cooperation relating to the Seafarers' Identity Documents Convention (Revised), 2003, No. 185", was of the view that, because of the complex technical issues raised in the document, involving both maritime and border control/visa considerations, it would be important to obtain the advice of experts on the feasibility and cost and benefit of various technical and other solutions. As a consequence, the Committee decided to postpone its consideration of the national reports on the application of Convention No. 185 until 2015, so that it could take account of decisions to be taken by the Governing Body after considering the advice from the Tripartite Meeting of Experts to be held in February 2015.

The Committee recalls that the Tripartite Meeting of Experts noted that:

... nearly 12 years after the adoption of the Convention, only 30 Members had ratified the Convention or were provisionally applying it, and that this number included few port States. Consequently, countries that had made the considerable investment to properly implement Convention No. 185 could count on only a few countries to recognize the seafarers' identity documents (SIDs) issued under it. The Meeting noted that many other Members, especially those that had ratified Convention No. 108, were prepared to give due consideration to SIDs validly issued under Convention No. 185, but that the authentication of those SIDs was hampered by the fact that the fingerprint technology required for the Convention No. 185 biometric in Annex I to the Convention was not used by the border authorities of the countries concerned because, since 2003, the International Civil Aviation Organization (ICAO) standards for travel documents had been exclusively based on the facial image in a contactless chip as the biometric rather than a fingerprint template in a two-dimensional barcode.¹

The Committee notes, in particular, that the Tripartite Meeting of Experts recommended that:

The International Labour Office should prepare a preliminary draft of a revised Annex I and Annex II of Convention No. 185 where the biometric is changed from a fingerprint template in a two-dimensional barcode to a facial image stored in a contactless chip and where the national electronic database is required to contain only the public keys required to verify the digital signatures defined for the contactless chip by ICAO Document 9303. All references to technical standards other than ICAO Document 9303 are to be eliminated, as all of the International Organization for Standardization standards required would now already be referenced within ICAO Document 9303. The references to ICAO Document 9303 should refer to that document, including subsequent amendments of it, so that the Annexes will not require changing in the future as ICAO issues new versions of ICAO Document 9303 and as ePassport technology moves forward. If any of the changes to Annex I and Annex II need to be reflected in changes to the processes and procedures outlined in Annex III (such as, for instance, a need to ensure the quality of the photograph of the seafarer), then these changes may have to be reflected in a preliminary draft of a revised Annex III.²

Based on the recommendations of this Tripartite Meeting, the Governing Body decided, at its 323rd Session in March 2015, to constitute an Ad Hoc Tripartite Maritime Committee and convene a meeting of this Committee in 2016 with the task of making proposals for appropriate amendments to the Annexes to the Convention in accordance with *Article 8(1)* of the Convention. In these circumstances, the Committee decides at the present session to postpone once again its consideration of the national reports so that it can take account of the outcome of the forthcoming meeting of the Ad Hoc Tripartite Maritime Committee and the possible amendments to the Annexes of the Convention to be adopted by the International Labour Conference at its June 2016 session.

The Committee acknowledges the efforts made by the following Governments which sent their reports on the application of the Convention under article 22 of the ILO Constitution: France, Republic of Korea, Madagascar, Marshall Islands, Pakistan, Philippines, Russian Federation, Spain, Turkmenistan and Vanuatu.

The Committee notes with *satisfaction* that, at its 324th Session in June 2015, the Governing Body approved the inclusion of the Russian Federation as the first ratifying Member to be listed as fully meeting the minimum requirements referred to in *Article 5(1)* of the Convention.

Finally, the Committee recalls that the Convention was adopted by the ILO to enhance port and border security, while at the same time facilitating the seafarers' right to shore leave, by developing a more secure and globally uniform seafarers' identity document. In this regard, the Committee highlights the fact that the Governing Body recommended, in the light of the proposed amendments, which reference current technology that will make it easier to implement the Convention, that Members which have not ratified Convention No. 185 should now do so, especially those that have ratified the Seafarers' Identity Documents Convention, 1958 (No. 108).³

¹ Document GB.323/LILS/4.

² *idem*.

³ *idem*.

Dominica

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) (ratification: 2004)

The Committee notes with *regret* that the Government's report has not been received. It hopes that the next report will contain full information on the matters raised in its previous comments.

Article 2 of the Convention. Implementing legislation. The Committee notes the Government's indication that a special Tripartite Committee has been appointed to advise the Government on all matters relating to legislation and institutional changes necessary for the ratification of the Maritime Labour Convention, 2006 (MLC, 2006). It also notes that a National Action Plan has been prepared in order to formulate recommendations to the Government on matters of maritime laws and administration. While welcoming the Government's active steps towards the ratification of the MLC, 2006, the Committee is bound to observe that the Government's first report on the application of Convention No. 147 does not contain any information on the laws or regulations and other measures giving effect to the specific requirements of the latter Convention. ***The Committee therefore requests the Government to indicate in detail how each of the Articles of the Convention is applied in national law and practice, and explain in particular in what manner the provisions of the International Maritime Act, 2002, and of the Dominica Maritime Regulations, 2002, are substantially equivalent to the Conventions mentioned in the Appendix of the Convention relating to safety standards, social security measures and shipboard conditions of employment and shipboard living arrangements, as required under Article 2 of the Convention.***

Finally, the Committee wishes to recall that the notion of substantial equivalence has been incorporated and further defined in *Article VI(3) and (4)* of the MLC, 2006, while an innovative and comprehensive inspection regime is established in *Title 5* of the Convention. ***The Committee accordingly requests the Government to keep the Office informed of any progress made in the process of ratification and effective implementation of the MLC, 2006.***

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

Guinea

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) (ratification: 1977)

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (ratification: 1977)

The Committee notes the Government's indication, in its reports on the application of the maritime Conventions, that the Merchant Navy Code of 1995 is the principal item of legislation giving effect to the provisions of these Conventions. ***Noting the Government's indication that a review of this Code was launched in early 2015 with a view to adapting it to current realities taking account of ratified international Conventions, the Committee hopes that the Government will take the opportunity afforded by the review to give full effect to these Conventions.*** The Committee recalls that the Government may avail itself of assistance from the International Labour Office in the context of this review process. The Committee also notes the Government's indication that a submission study will be undertaken to enable Guinea to adopt a position regarding possible ratification of the Maritime Labour Convention, 2006 (MLC, 2006), and the Work in Fishing Convention, 2007 (No. 188). ***The Committee invites the Government to provide information on any developments in this respect.*** In order to provide an overview of matters relating to the application of the maritime Conventions, the Committee considers it useful to examine them in the same comment, as follows.

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133). Articles 5–12. Crew accommodation requirements. The Committee recalls that it has been asking the Government for many years to take the necessary steps to ensure that full effect is given to all the provisions of the Convention. The Committee notes that sections 678–690 of the Merchant Navy Code establish a general framework for the on-board accommodation of seafarers and, as regards more specific implementing procedures, frequently refer to ministerial orders or other regulatory texts concerning which, however, the Government does not supply any information. ***The Committee therefore requests the Government once again to provide information on any order or other regulatory text adopted by the competent authority pursuant to the relevant sections of the Merchant Navy Code, particularly sections 682 (layout of cabins and sleeping quarters), 684 (sanitary installations) and 685 (recreation areas). The Committee further requests the Government to specify the number and the tonnage of vessels flying its flag.***

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134). Articles 2–10. Prevention of occupational accidents to seafarers. The Committee recalls that it has been asking the Government for many years to take the necessary steps to ensure that full effect is given to all the provisions of the Convention. The Committee notes that sections 52–97 of the Merchant Navy Code establish a general framework concerning the safety of human life at sea and, as regards more specific implementing procedures, frequently refer to ministerial orders or other regulatory texts concerning which, however, the Government does not supply any information. ***The Committee therefore requests the Government once again to provide information on any order or other regulatory text adopted by the competent authority pursuant to the relevant sections of the Merchant Navy Code, particularly sections 52 (provisions applicable to vessels not undertaking international voyages) and 69 (regulatory texts).***

Lebanon

Seafarers' Pensions Convention, 1946 (No. 71) (ratification: 1993)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 2 to 4 of the Convention. Pension scheme for seafarers. The Committee has been drawing the Government's attention to the need to establish or secure the establishment of a scheme for the payment of pensions to seafarers on retirement from sea service. The Committee recalls the Government's previous indications that it was in the process of preparing a draft text regulating the seafarers' pension scheme in consultation with the Association of Lebanese Shipowners and Federation of Maritime Transport Unions. *The Committee hopes that the necessary measures will be taken to give effect to the provisions of the Convention, and requests the Government to provide full details of steps taken or envisaged, including finalizing its national regulations to establish a pension scheme for seafarers and to supply a copy of any 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.

Mauritius

Seafarers' Identity Documents Convention, 1958 (No. 108) (ratification: 1969)

Article 2 of the Convention. Seafarers' identity documents. In its previous observation, noting the Government's statement that the basic requirements of the Convention were still not implemented in law or practice, the Committee had requested the Government to provide information on any progress made regarding the implementation of the Convention. The Committee notes the Government's indication in its report that the process for the issue of seafarers' identity documents (SIDs) has not yet been finalized and that action to revive the technical committee for preparing the new regulations on SIDs will be undertaken. The Committee recalls that, since 2001, it has been expressing its concern regarding the discontinuation of the issuance of SIDs, which is a serious failure on the part of the Government in implementing the Convention. *The Committee therefore urges the Government to take the necessary steps to ensure that its obligations under the Convention are fully respected and to provide a specimen (not a copy) of the seafarers' identity document once it has been issued.*

In its previous comment, the Committee had requested the Government to examine the possibility of ratifying the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185). In this regard, it notes the Government's statement that the ratification of Convention No. 185 will be considered at a later stage. *The Committee requests the Government to inform of any progress made in this respect.*

Mexico

Seamen's Articles of Agreement Convention, 1926 (No. 22) (ratification: 1934)

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55) (ratification: 1939)

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (ratification: 1974)

Seafarers' Welfare Convention, 1987 (No. 163) (ratification: 1990)

Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164) (ratification: 1990)

Repatriation of Seafarers Convention (Revised), 1987 (No. 166) (ratification: 1990)

The Committee notes the reports provided by the Government on the application of its ratified maritime Conventions. With a view to providing an overview of the matters raised in relation to the application of these Conventions, the Committee considers it appropriate to examine them in a single comment, as follows.

Seamen's Articles of Agreement Convention, 1926 (No. 22). Article 3(1) and (4). Safeguards for the signature of the agreement. In its previous comments, the Committee drew the Government's attention to the absence of provisions in law to ensure that seafarers are given an opportunity to examine the agreement before signing, with an understanding of its clauses. The Committee notes the Government's indication that, under the terms of section 530(I) of the Federal Labour Act, the Office of the Federal Prosecutor for the Defence of Labour (PROFEDET), which has delegations in each federal entity, includes among its responsibilities the representation and provision of advice to workers and their unions, if they so request, in relation to any authority on matters regarding the application of labour standards. The Committee nevertheless observes that there are no specific provisions giving effect to the Convention. *While noting this information,*

the Committee firmly requests the Government to indicate the manner in which it is ensured that seafarers benefit from the facilities envisaged in this Article of the Convention.

Article 6(3)(10). Information to be included in the agreement. Conditions for the termination of the agreement. In its previous comments, the Committee noted that section 195 of the Federal Labour Act does not include, among the indications which shall be provided in writing in the agreement, the conditions for the termination of the agreement. ***In view of the absence of further information on this subject, the Committee firmly requests the Government to take the necessary measures to ensure that the agreement shall contain the conditions for its termination, that is to say: (i) if the agreement has been made for a definite period, the date fixed for its expiry; (ii) if it has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer shall be discharged; and (iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the shipowner than for the seafarer, as required by this Article of the Convention.***

Article 7. Crew list. The Committee notes that various sections of Chapter VI of the Regulations issued under the Maritime Shipping and Commerce Act include the crew list among the requirements for the authorization of the arrival and departure of marine vessels and craft. ***Noting the absence of provisions in the Regulations specifying whether the agreement shall be recorded or annexed to the list of crew, in accordance with Article 7 of the Convention, the Committee firmly requests the Government to take the necessary measures to give effect to this provision of the Convention.***

Article 8. Information on conditions of employment available on board. In its previous comments, the Committee drew the Government's attention to the need to ensure that clear information may be obtained on board by seafarers as to their conditions of employment. In this regard, the Committee notes that section 194 of the Federal Labour Act provides that terms and conditions of employment shall be indicated in writing and that a copy shall be provided to each party, another shall be communicated to the Port Authority or the nearest Mexican consul, and a fourth to the labour inspectorate in the location that shall be determined. The Government adds that section 132(XVIII) of the Act provides that the employer shall be required to display visibly and disseminate in the workplace the full text of the collective labour contract or contracts applicable in the enterprise. The Committee notes this information with *interest*.

Article 9(1). Termination of the agreement. For many years, the Committee has been noting that section 209(III) of the Federal Labour Act, which provides that employment relationships may not be terminated when the vessel is abroad, in unpopulated areas or in port, in the event in the latter case that the vessel is exposed to any risk due to bad weather or other circumstances, is not in conformity with this provision of the Convention which provides that an agreement for an indefinite period may be terminated by either party in any port where the vessel loads or unloads, provided that the notice specified in the agreement shall have been given. The Government indicates in this respect that the purpose of this provision is not to prevent the possibility of terminating the agreement, but to protect the seafarer in situations of risk by reason of being outside the country, in unpopulated areas or subject to bad weather, thereby safeguarding the seafarer's safety and health. The Committee notes that this explanation does not reply to its request in the sense that the termination of the agreement must be carried out in any port where the vessel loads or unloads. ***The Committee therefore firmly requests the Government to take the necessary measures to bring the national legislation into conformity with this Article of the Convention.***

Article 14(1). Discharge. The Committee notes the copy of the new maritime book and identity document communicated by the Government, which contains spaces to record the duties performed on board, including the dates of embarkation and discharge. Nevertheless, the Committee notes that this copy of the workbook does not include a space to enter the expiry or termination of the agreement, whatever the reason. ***The Committee firmly requests the Government to take the necessary measures to ensure that any discharge is recorded in the document issued to the seafarer, under the terms of Article 5, in accordance with the provisions of Article 14.***

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55). Article 6. Repatriation expenses. The Committee refers to the comments that it is making on this subject in relation to the Repatriation of Seafarers Convention (Revised), 1987 (No. 166).

Article 8. Safeguarding property left on board. In its previous comments, the Committee requested the Government to indicate any legal provisions which give effect to this Article of the Convention. In this regard, the Committee notes that sections 27 and 28 of the Maritime Shipping and Commerce Act provide that the master of the vessel shall be responsible for the vessel, as well as for its crew, passengers, cargo and the legal acts carried out, and that the master shall exercise authority in relation to the persons and property on board. The Committee notes this information.

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134). Article 2(3). Detailed statistics on occupational accidents. For many years, the Committee has been drawing the Government's attention to the need to adopt provisions requiring that statistics on occupational accidents on board ship clearly indicate the department (for example, deck, engine or catering) and the area (for example, at sea or in port) where the accidents occurred. The Committee notes the Government's indication that Official Mexican Standard NOM-021-STP-1993 is being updated. The Committee notes that this Standard applies to all workplaces, and does not specify the manner in which it applies to accidents that occur on

vessels. ***The Committee once again requests the Government to take the necessary measures to ensure that statistics on occupational accidents are compiled in conformity with the provisions of this Article of the Convention.***

Article 3. Research into general trends and hazards of maritime employment. The Committee recalls that this Article of the Convention requires research to be undertaken into general trends and into such hazards as are brought out by statistics in order to provide a sound basis for the prevention of accidents which are due to particular hazards of maritime employment. The Committee notes that the information provided by the Government on this subject is of a general nature and does not refer to research undertaken in this regard. ***The Committee once again requests the Government to take the necessary measures to give effect to this provision of the Convention.***

Article 4(2) and (3)(d). Measures for the prevention of occupational accidents. For many years, the Committee has been noting the Government's indication that the Crew Safety Manual is being revised. The Committee notes the Government's indication that the Manual is prepared and revised by shipping enterprises and operators, in accordance with the provisions of Official Mexican Standard NOM-036-SCT4-2007 on the administration of operational security and the prevention of contamination by maritime vessels and craft, and that this is verified solely by the maritime authority. The Committee notes that the Official Standard to which the Government refers does not include provisions on specific aspects for the prevention of occupational accidents which are peculiar to maritime employment, such as structural features of the ship, machinery, special safety measures on and below deck, loading and unloading equipment, fire prevention and firefighting, anchors, chains and lines, dangerous cargo and ballast, and personal protective equipment for seafarers. ***Noting the gaps in the Mexican legislation, the Committee firmly requests the Government to take the necessary measures to ensure that the standards applicable to seafarers for the prevention of accidents and the protection of health in employment specify these matters.***

Article 6(3) and (4). Enforcement measures. In its previous comments, the Committee requested the Government to take the necessary measures to ensure that the inspection authorities are familiar with maritime employment and its practices and to make available to seafarers copies or summaries of the legal provisions on the prevention of accidents. The Committee notes the Government's indication that to conduct inspections on vessels and platforms at sea, inspectors are required to have the "sea book", which is obtained by completing the "Basic security course on platforms and embarkations" provided by the Training and Skills Board for the Personnel of the National Merchant Navy (FIDENA). The Government adds that section 132(XVIII) of the Federal Labour Act establishes the requirement for employers to display visibly and disseminate in workplaces the principal provisions of Mexican regulations and Official Standards on occupational safety, health and the working environment, together with the full text of the collective labour contract or contracts in force in the enterprise, as well as making information available to workers on the risks and hazards to which they are exposed. The Committee notes this information.

Article 8. Programmes for the prevention of occupational accidents. In its previous comments, the Committee requested the Government to provide information on the establishment and implementation of programmes for the prevention of accidents among seafarers arising from or occurring during employment. In reply to this request, the Government once again provides information on laws, regulations and safety and health programmes that are general in scope, although the Convention requires the establishment of specific maritime programmes with the cooperation of shipowners' and seafarers' organizations. ***The Committee firmly requests the Government to take the necessary measures for the establishment and implementation of programmes that give effect to this provision of the Convention.***

Seafarers' Welfare Convention, 1987 (No. 163). Articles 2, 5 and 6. Welfare facilities and services in ports and on board ship. Review of welfare facilities and services. International cooperation. In its previous comments, the Committee requested the Government to provide information on the facilities and services provided by seafarer centres located in the various ports in the country. The Committee also requested the Government to indicate how it is ensured in law and practice that welfare facilities and services for seafarers are reviewed frequently, and to indicate the measures adopted in the field of international cooperation, as required by Article 6 of the Convention. ***In view of the lack of new information on these matters, the Committee firmly requests the Government to take the necessary measures to give effect to these Articles of the Convention.***

Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164). Article 4(c). Right to visit a medical doctor. In its previous comments, the Committee requested the Government to indicate the legal provisions which guarantee the right of seafarers to visit a doctor without delay in ports of call, whether they are in the flag State or a third country. ***Noting that the Government's reply does not address the issue raised, the Committee firmly requests it to take the necessary measures to guarantee seafarers the right to visit a doctor without delay in ports of call where practicable.***

Article 5(4) and (5). Inspection at regular intervals of the medicine chest. Checking of the labelling. In its previous comments, the Committee noted the absence of measures in national maritime laws and regulations to give effect to the specific requirements relating to the regular inspection of the medicine chest on board at intervals not exceeding 12 months and the checking of the labelling, expiry dates and conditions of storage of all medicines contained in the medicine chest. ***In view of the absence of new information on these matters, the Committee once again requests the Government to take the necessary measures to bring the national legislation into conformity with these provisions of the Convention.***

Article 7. Medical advice by radio or satellite communication. For many years, the Committee has been requesting the Government to indicate the manner in which this Article of the Convention is enforced and applied in practice. The Committee notes the Government's indication that section 48 of the Regulations on the inspection of maritime security provides that vessels authorized for coastal navigation shall be equipped for radio communication. The Government also indicates that Mexican legislation does not include specific provisions on these matters. The Committee reminds the Government that the sole existence of radio communication equipment on board is not sufficient to ensure the availability of medical advice on vessels on the high seas at any time free of charge in the form and in accordance with the requirements set out in the Convention. ***It therefore requests the Government to take the necessary measures to effectively implement this Article of the Convention.***

Article 8. Presence of a medical doctor on board ships. The Committee notes that the Regulations on maritime security inspection, published on 12 May 2004, which replaced the Regulations on the naval inspection service of 1945, which required a vessel transporting more than 50 persons and engaged in a voyage of over 24 hours to have a medical surgeon on board, do not require the presence of a medical doctor on board the vessels to which they are applicable. The Government indicates that section 204(VIII) of the Federal Labour Act provides that employers are required to carry on board the medical care personnel and materials established by the laws and provisions on water transport. The Committee notes that this provision does not specify the vessels or categories of vessels which are required to carry a medical doctor as a member of the crew, taking into account, inter alia, such factors as the duration, nature and conditions of the voyage, and the number of seafarers on board. ***The Committee requests the Government to take the necessary measures to give effect to this Article of the Convention.***

Article 9. Persons in charge of medical care. In its previous comments, the Committee requested the Government to provide information on the specific courses for persons in charge of medical care on board vessels who are not doctors. In its reply, the Government indicates that the Nautical Schools of Mazatlán, Tampico and Veracruz, and the Educational Centre of Campeche, provide courses on basic first aid and medical care. The Government adds that, under the terms of section 49(VI) of the Federal Regulations on occupational safety and health, employers are required to support the updating of the skills of those in charge of internal preventive occupational medicine services. The Committee recalls that the training courses have to be approved by the competent authority and based on the contents of the most recent edition of the International Medical Guide for Ships, the Medical First Aid Guide for Use in Accidents Involving Dangerous Goods, the Document for Guidance – An International Maritime Training Guide, published by the IMO, and the medical section of the International Code of Signals, as well as similar national guides. ***The Committee requests the Government to take the necessary measures to give effect to this provision of the Convention.***

Article 11. Hospital accommodation. For many years, the Committee has been drawing the Government's attention to the fact that the national legislation does not give effect to this provision of the Convention. The Committee notes the Government's indication that section 49 of the Federal Regulations on occupational safety and health regulate the provision of internal and external preventive occupational medicine services. The Committee notes that these Regulations are of a general nature and do not contain provisions determining the type of vessel in which the provision of separate hospital accommodation is required, or the description of the characteristics of hospital accommodation on board, in accordance with the requirements of this Article of the Convention. ***The Committee firmly requests the Government to take the necessary measures to give effect to this provision of the Convention.***

Repatriation of Seafarers Convention (Revised), 1987 (No. 166). Article 2(1)(c). Repatriation in the event of illness, injury or other medical condition. In its previous comments, the Committee noted that section 204(VII) of the Federal Labour Act does not include among the obligations of employers in the event of illness or accident to a seafarer the requirement to pay repatriation costs. In its reply, the Government indicates that section 204(IX) provides that employers are required to repatriate workers or transfer them to the agreed destination, except in cases of discharge for reasons not attributable to the employer. ***Recalling that this provision of the Convention establishes the requirement for the repatriation of the seafarer by the employer in the particular event of illness or injury or other medical condition in which it is so required, the Committee firmly requests the Government to take the necessary measures to bring the national legislation into conformity with the Convention.***

Article 2(1)(e) and (f). Repatriation in the event of the inability of the shipowner to fulfil legal or contractual obligations. Ship bound for a war zone. In its previous comments, the Committee requested the Government to indicate the provisions of the legislation which guarantee the right of the seafarer to repatriation in the event of bankruptcy or the sale of the ship, and of a ship being bound for a war zone, to which the seafarer does not consent to go. The Committee notes the Government's indication that section 33 of the Navigation and Commerce Act provides that, in the event that a vessel flying a foreign flag is in Mexican navigable waterways and the competent maritime authority presumes that the crew has been abandoned or is at risk of loss of life or physical safety, the procedure for the coordination of competencies between administrative authorities in the event of failure in the duty of care for foreign crews on foreign vessels shall be applied. The Committee notes that section 33 of the Navigation and Commerce Act refers to vessels flying foreign flags, while the Convention applies to vessels flying the flag of the State. ***The Committee firmly requests the Government to take the necessary measures to ensure that seafarers embarked on vessels registered in Mexico have the right to repatriation in the situations envisaged in these provisions of the Convention.***

Article 2(1)(g). Termination or interruption of employment in accordance with an industrial award or collective agreement. In its previous comments, the Committee drew the Government's attention to the absence of provisions in the national legislation on the right to repatriation in the event of the interruption or termination of employment in accordance with an industrial award or a collective agreement. In its reply, the Government indicates that the General Labour Act, as amended in 2012, guarantees the repatriation of seafarers by updating the penalties to which shipowners are liable in the event of failure to pay the costs relating to these obligations. The Committee notes that the Government's reply does not address the question raised. ***The Committee therefore firmly requests the Government to take the necessary measures to ensure that seafarers are entitled to repatriation in the situations envisaged in this Article of the Convention.***

Article 2(2). Maximum duration of service periods. For many years, the Committee has been drawing the Government's attention to the absence of provisions on the maximum duration of service periods on board which entitles seafarers to repatriation. ***In view of the absence of progress in this regard, the Committee firmly requests the Government to take the necessary measures to give effect to this provision of the Convention.***

Article 3(2). Destinations of repatriation. For several years, the Committee has been drawing the Government's attention to the absence of provisions establishing the right of seafarers to choose from among the prescribed destinations for repatriation. The Committee notes the Government's indication that section 196 of the Federal Labour Act provides that, when the written contract is for a definite or indefinite period, the port to which the worker shall be returned shall be determined and, in the absence of such determination, the place in which the seafarer was taken on board shall be taken as the destination determined. The Committee notes that this section only covers the determination of the port to which the worker shall be returned in cases of contracts for definite or indefinite periods, and does not extend this right to cases of contracts for a voyage or for voyages, as envisaged in section 195(IV) of the Act. Moreover, this section is confined to providing that the port of return shall be determined, without explicitly providing that seafarers may choose the destination of repatriation, nor the options within which they may make that choice. ***The Committee once again requests the Government to take the necessary measures to bring the legislation into conformity with Article 3(2) of the Convention.***

Articles 4 and 5. Responsibility of the shipowner to arrange for repatriation. For many years, the Committee has been drawing the Government's attention to the need to take measures to ensure that full effect is given to these Articles of the Convention. The Committee notes the Government's indication that section 28(a) of the Federal Labour Act provides that repatriation shall be the responsibility of the contracting employer in the case of Mexican workers engaged in work outside the Republic who are covered by contracts concluded on the national territory. The Committee notes that this section only applies to Mexican workers engaged in work abroad, while the Convention applies to any seafarer employed on board a seagoing vessel registered in the territory of any Member. The Committee also notes that this provision does not cover the following aspects which are regulated by the Convention: (i) the competent authority shall meet the costs of repatriation if the shipowner fails to make the necessary arrangements (*Article 5(1)(a)*); (ii) the normal mode of transport for repatriation of seafarers shall be by air (*Article 4(1)*); and (iii) the costs to be borne by the shipowner in relation to repatriation shall include not only the passage, but also accommodation, food, pay and allowances and medical treatment when necessary from the moment that the seafarer leaves the ship until he or she reaches the repatriation destination (*Article 4(4)*). ***The Committee firmly requests the Government to take the necessary measures to bring national law and practice into conformity with these provisions of the Convention.***

Article 6. Passport and other identity documents. In its previous comments, the Committee requested the Government to specify how it is ensured that seafarers who are to be repatriated are able to obtain their passport and other identity documents for the purposes of repatriation. In its reply, the Government indicates that the National Migration Institute (INM) is responsible for making the necessary arrangements concerning such documents, with the aim of carrying out the repatriation of seafarers who require it. ***Recalling that this provision of the Convention is intended to guarantee that seafarers can retain their passport or other identity documents for the purpose of repatriation, the Committee requests the Government to indicate the measures adopted or envisaged to give effect to this Article of the Convention.***

Article 7. Paid leave. In its previous comments, the Committee noted that the national legislation does not contain any provision ensuring that time spent awaiting repatriation and repatriation travel time shall not be deducted from paid leave accrued to the seafarer. ***In view of the absence of relevant information on this subject, the Committee firmly requests the Government to take the necessary measures to give effect to this Article of the Convention.***

Article 12. Availability of the text of the Convention in an appropriate language. In its previous comments, the Committee requested the Government to indicate the manner in which the text of the Convention in an appropriate language is made available to the crew members of every ship registered in its territory. The Committee notes that the Government has not provided further information on this subject. ***The Committee firmly requests the Government to take the necessary measures to give effect to this provision of the Convention.***

[The Government is asked to reply in detail to the present comments in 2016.]

Panama

Seafarers' Identity Documents Convention, 1958 (No. 108) (ratification: 1970)

Articles 5 and 6 of the Convention. Permit for entry and readmission to the territory. In its previous comments, recalling that the visa requirement for seafarers is inconsistent with the principles of free admission to a territory (for purposes of shore leave) and right of return, the Committee requested the Government to adopt the necessary measures in order to ensure that foreign seafarers holding a valid seafarer's identity document may enjoy these rights in conformity with the Convention. The Committee notes that, in its report, the Government refers to legislation already examined by the Committee and reiterates that such legislation is justified by the need to guarantee effective security policies in the country. The Committee recalls once again that, under *Articles 5 and 6* of the Convention, the seafarer's identity document is the sole document needed for the seafarer to enter the territory of any State party to the Convention and to return to the issuing State even after the expiry of the document. ***The Committee urges the Government to take the necessary measures to bring its legislation into conformity with the Convention.***

Sri Lanka

Seafarers' Identity Documents Convention, 1958 (No. 108) (ratification: 1995)

Article 3 of the Convention. Possession. For a number of years, the Committee has been requesting the Government to take all necessary measures to ensure that the seafarers' identity document remains in the seafarer's possession at all times, as required by this Article of the Convention. The Committee notes the Government's report which indicates that the existing Continuous Discharge Certificate (CDC) should remain in the seafarer's possession at all times but legislation supporting this statement has not been specified. ***The Committee requests the Government to indicate the legislation which provides for the CDC to remain in the seafarer's possession at all times.***

Article 4(2). Statement. In its previous observations, the Committee had requested the Government to include a statement in the CDC that it is for the purposes of this Convention, as required under *Article 4(2)* of the Convention. The Committee notes the Government's statement in its report indicating that the Ministry of Ports and Shipping and the Merchant Shipping secretariat are in the process of initiating the project of upgrading the CDC. ***The Committee requests the Government to take all necessary measures to ensure that the CDC includes a statement that it is for the purposes of this Convention and to provide a specimen (not a photocopy) of the upgraded document.***

Article 6. Permission of entry. In its previous observations, the Committee requested the Government to take prompt action to ensure that the seafarer has the right to enter a territory for temporary shore leave or for joining a ship with a valid identity document, as stated in *Article 6* of the Convention. The Committee notes the Government's statement in its report that the existing CDC should be used to enter a territory for temporary leave or for joining a ship, but legislation supporting this statement has not been specified. ***The Committee requests the Government to indicate the legislation which provides seafarers holding a valid CDC with the right to enter a territory for temporary leave or for joining a ship.***

The Committee takes note of the Government's indication that measures to ratify both the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and the Maritime Labour Convention, 2006 (MLC, 2006), have begun. In this regard, the Committee recalls that Article 9 of Convention No. 185 provides for the provisional application of this Convention with a view to its ratification. The objective of this provision is to allow the countries party to the Convention to move forward with the adoption of the new seafarers' identity document in order to achieve universal use and recognition of that document. ***The Committee requests the Government to continue to provide information on any progress achieved in this respect.***

Bolivarian Republic of Venezuela

Seamen's Articles of Agreement Convention, 1926 (No. 22) (ratification: 1944)

Articles 3–14 of the Convention. Articles of agreement. In its previous comments, the Committee asked the Government to take measures as soon as possible to adapt the national legislation to various Articles of the Convention in order to: (i) ensure the conclusion of written articles of agreement signed by both the shipowner and the seafarer (*Article 3(1)* of the Convention); (ii) ensure conditions allowing the seafarer to examine and understand the provisions of the articles of agreement (*Article 3(1) and (4)*); (iii) require that the articles of agreement list the rights and obligations of the two parties and contain essential information such as the seafarer's wages, annual leave and the right to terminate the agreement (*Article 6(2) and (3)*); (iv) allow either party to terminate an agreement for an indefinite period in any port where the vessel loads or unloads, provided that the notice period laid down is given (*Article 9(1)*); (v) determine the circumstances in which seafarers may demand their immediate discharge (*Article 12*); and (vi) ensure that seafarers have the right to obtain from the master a certificate as to the quality of their work or, failing that, a certificate indicating whether they have fully discharged their obligations under the agreement (*Article 14(2)*).

The Committee notes the Government's reference in its report to the Basic Act on labour and men and women workers (LOTTT) of 30 April 2012, of which Title IV relating to special working arrangements includes a special section relating to work in maritime, river and lake navigation. The Committee notes in particular section 246 of the LOTTT, which provides that where there is no written employment contract, it shall suffice, for service on the vessel to commence, that the worker be included on the crew list of the vessel or that he/she simply provide his/her services. In this respect, the Committee recalls that *Article 3(1)* of the Convention provides that the articles of agreement shall be drawn up in written form and signed both by the shipowner and by the seafarer. Furthermore, section 246 of the LOTTT establishes a number of obligatory clauses which must be incorporated in the articles of agreement but which do not include the particulars enumerated in *Article 6* of the Convention.

The Committee also notes section 247 of the LOTTT concerning the agreement for a voyage, according to which the agreement shall cover the time from the recruitment of the worker to the agreed conclusion of the vessel's operations in the port. Nevertheless, the same section of the LOTTT stipulates that, where the port to which the worker must return has not been decided, the place where the employment contract is performed shall apply. In this respect, the Committee recalls that under *Article 6(3)(10)(b)*, if the agreement has been made for a voyage, it must refer to the termination of the agreement and specifically: (i) the port of destination; and (ii) the time which has to expire after arrival before the seaman shall be discharged. The Committee also notes that section 267 of the LOTTT provides that the regulations that govern the employment relationships of workers in maritime, river or lake transport shall be established in a special law. However, the Committee observes that it appears that the said special law has not yet been adopted. The Committee therefore observes that the national legislation does not give full effect to all the provisions of the Convention. ***Recalling the importance for seafarers of the protection afforded by the Convention, the Committee urges the Government once again to adopt the necessary measures without delay to give effect to its provisions.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 8** (Colombia, Costa Rica, Dominica, France: French Southern and Antarctic Territories, Iraq, Jamaica, Netherlands: Aruba, Saint Lucia, Solomon Islands, Sri Lanka, United Kingdom: Anguilla, United Kingdom: Jersey, United Kingdom: Montserrat); **Convention No. 9** (Cameroon, Colombia, France: French Southern and Antarctic Territories, Mexico, Netherlands: Aruba); **Convention No. 16** (Cameroon, Costa Rica, Dominica, France: French Southern and Antarctic Territories, Guatemala, Jamaica, Mexico, Solomon Islands); **Convention No. 22** (Brazil, Colombia, Cuba, Djibouti, France: French Polynesia, France: French Southern and Antarctic Territories, Iraq, Mauritania, Netherlands: Aruba, United Kingdom: Anguilla); **Convention No. 23** (Azerbaijan, Colombia, Djibouti, France: French Southern and Antarctic Territories, Iraq, Mauritania, Netherlands: Aruba, United Kingdom: Anguilla); **Convention No. 53** (France: French Southern and Antarctic Territories, Mauritania); **Convention No. 55** (Djibouti); **Convention No. 56** (Algeria, Djibouti, Mexico); **Convention No. 58** (France: French Southern and Antarctic Territories, Mauritania); **Convention No. 68** (France: French Southern and Antarctic Territories, Guinea-Bissau); **Convention No. 69** (Djibouti, France: French Polynesia, France: French Southern and Antarctic Territories, Guinea-Bissau, Netherlands: Aruba, United Kingdom: Jersey); **Convention No. 71** (Djibouti, Greece, Italy, Norway, Panama); **Convention No. 73** (France: French Southern and Antarctic Territories, Guinea-Bissau); **Convention No. 74** (Angola, France: French Southern and Antarctic Territories, Guinea-Bissau, Netherlands: Aruba, United Kingdom: Jersey); **Convention No. 91** (Algeria, Angola, Guinea-Bissau); **Convention No. 92** (Azerbaijan, China: Macau Special Administrative Region, France: French Southern and Antarctic Territories, Iraq, Republic of Moldova); **Convention No. 108** (Barbados, Bulgaria, Cameroon, China: Macau Special Administrative Region, Cuba, Estonia, Fiji, Guatemala, Guinea-Bissau, India, Islamic Republic of Iran, Ireland, Italy, Malta, Saint Lucia, Saint Vincent and the Grenadines, Slovenia, Solomon Islands, United Kingdom, United Kingdom: Anguilla, United Kingdom: Gibraltar); **Convention No. 133** (Azerbaijan, Brazil, France: French Southern and Antarctic Territories); **Convention No. 134** (Azerbaijan, France: French Southern and Antarctic Territories); **Convention No. 145** (Costa Rica, Netherlands: Aruba); **Convention No. 146** (Brazil, Cameroon, France: French Southern and Antarctic Territories, Iraq, Netherlands: Aruba); **Convention No. 147** (Algeria, Azerbaijan, Costa Rica, France: French Southern and Antarctic Territories, Iraq, Netherlands: Aruba, Trinidad and Tobago); **Convention No. 163** (Brazil, Georgia, Guatemala, Slovakia); **Convention No. 164** (Brazil, Slovakia); **Convention No. 166** (Brazil, Guyana); **Convention No. 178** (Brazil); **Convention No. 186** (Bahamas, Belgium, Bulgaria, Cyprus, Denmark: Faeroe Islands, France, Germany, Morocco, Netherlands, Russian Federation, Spain, Sweden, United Kingdom, United Kingdom: Isle of Man).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 16** (Azerbaijan, Brazil, Chile, France: French Polynesia, Guinea, Iraq, Sri Lanka); **Convention No. 53** (Brazil, Mexico); **Convention No. 58** (Sri Lanka, United Kingdom: St Helena); **Convention No. 69** (Algeria); **Convention No. 73** (France: French Polynesia); **Convention No. 92** (Brazil); **Convention No. 108** (Czech Republic, Honduras, Iceland, Mexico, Norway, United Kingdom: Isle of Man); **Convention No. 134** (Brazil); **Convention No. 145** (Brazil, France: French Polynesia).

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 expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

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 Committee asks the Government to provide detailed information 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 matters are being addressed directly to the following States: **Convention No. 112 (Mauritania); Convention No. 113 (Guinea); Convention No. 125 (Djibouti); Convention No. 126 (Sierra Leone).**

Dockworkers

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 expresses *deep concern* in this respect. It is therefore bound to repeat its previous comments.

The Committee takes note of the adoption of the new Labour Code (Act No. L/2014/072/CNT of 10 January 2014). *The Committee requests the Government to provide all implementing texts of the Code in view of a complete review of the new legislation.*

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 provide information on 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 expresses *concern* in this respect. It is therefore bound to repeat its previous comments.

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. *The Committee 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.

Portugal

Dock Work Convention, 1973 (No. 137) (ratification: 1981)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

At its 324th Session (June 2015), the Governing Body entrusted the Committee of Experts with following up on the issues raised in the report of the tripartite committee which examined the representation submitted by the Union of Stevedores, Cargo Handlers and Maritime Checking Clerks in Central and Southern Portugal, the Union XXI – Trade Union Association of Administrative Staff, Technicians and Operators at the Container Cargo Terminals in the Port of Sines, the Union of Dockworkers in the Port of Aveiro, and the Union of Stevedores, Cargo Handlers and Checking Clerks at the Port of Caniçal alleging non-observance by Portugal of the Convention (GB.324/INS/7/8). After examining the circumstances in which the 2013 reform of dock work was carried out, the tripartite committee encouraged the Government to continue opting for social dialogue in the event of future reforms in the port sector. *Following up on the conclusions and recommendations of the tripartite committee, the Committee of Experts requests the Government to provide information on the application of Act No. 3/2013 on dock work and the other measures that have been adopted in a tripartite context with a view to continuing the improvement of working conditions and efficiency in ports (paragraph 57 of the report). The Committee also requests the Government to provide information on the measures adopted by the competent authorities and employers' organizations which signed the agreement of 12 September 2012 for the application of the new legal framework governing the dock sector and that it will supply up-to-date comparative statistical data on the number of dockworkers in the country disaggregated by age and sex, including the number of temporary or casual dockworkers (paragraph 83). Please also indicate the measures adopted to bring the collective agreements in force in the various ports in the country into compliance with the new legal framework governing dock work set out in Act No. 3/2013 (paragraph 84).*

[The Government is asked to reply in detail to the present comments in 2016.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 27** (Burundi); **Convention No. 137** (Brazil, Norway); **Convention No. 152** (Ecuador).

Indigenous and tribal peoples

Argentina

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2000)

The Committee notes the observations by the Confederation of Workers of Argentina (CTA Autonomous) and the General Confederation of Labour of the Argentine Republic (CGT RA), received on 1 and 2 September 2015 respectively.

Articles 6 and 15 of the Convention. Consultation. With regard to the observations made in 2012 by the International Organisation of Employers (IOE) expressing concern at the difficulties of applying and interpreting the prior consultation requirement, the Committee notes that the Government indicates in its report that it understands the rationale behind the IOE's observation in that the requisite prior conditions must be met in order for the Convention to be applied effectively. The Government further indicates that forums for consultation are being built progressively and that the process is a medium to long-term one. The Government says that the Convention is a standard to be achieved, which means establishing the necessary agreements, areas of action and instruments for its implementation. The Committee notes that the CTA Autonomous, for its part, expresses concern at the lack of adequate legislative measures to ensure observance of the rights of indigenous peoples over natural resources and to facilitate prior consultation. ***The Committee requests the Government to continue to provide information on the evolution of the consultation procedures and on the manner in which the rights of indigenous peoples, in particular with respect to their rights to natural resources, are safeguarded.***

Articles 6 and 7. Council for indigenous participation. With regard to the functioning of the Council for Indigenous Participation (CPI), the Government indicates that the amendment of the Regulation on the Functioning of the Council for Indigenous Participation was approved by Resolution No. 737/2014, adopted by the National Institute of Indigenous Affairs (INAI) on 5 August 2014. The Committee notes with *interest* that, pursuant to the amendment, the CPI is recognized as a body for consulting the communities of the various indigenous peoples that live in Argentina. With regard to the concern expressed by the CTA Autonomous, on the representativeness of CPI, the Committee notes that, according to the Government, between July 2013 and June 2015 the INAI called on 635 communities to elect representatives to the CPI, and as a result it is composed of 134 representatives belonging to 33 peoples. The Government indicates that the National Coordinating Committee of the CPI has set up six working committees which discuss, among other matters, issues related to indigenous policy and legislation, the land survey, legal status and "well-being" (health, education, housing), cooperatives and living conditions. ***The Committee requests the Government to continue to provide information on the manner in which the consultation and participation of indigenous peoples is ensured in the framework of the CPI.***

Article 14. Lands. With regard to the inclusion of indigenous community ownership in the national legislation, the Committee notes with *interest* that section 9 of Act No. 26994, published on 8 October 2014, approving the Civil and Commercial Code of the Nation, provided that "the rights of indigenous peoples, particularly community ownership over the lands they traditionally occupy and such other lands as are suitable and adequate for human development, shall be the subject of a special law". Furthermore, section 18 of the Civil and Commercial Code of the Nation establishes that "Recognized indigenous communities have the right to community ownership and possession over the lands they traditionally occupy and such other lands as are suitable and adequate for human development as established in the law, in accordance with the provisions of article 75(17) of the National Constitution". The Government reports that following an analysis and discussion that took place between February and July 2015 in a process that included working sessions with provincial governments, the representatives of indigenous communities, the Coordination Council, the Meeting of Indigenous Peoples' Territorial Organizations and the Union of the Diaguita people of Tucumán, a draft bill was prepared for the implementation of indigenous ownership. The draft bill was sent to the national plenary of the CPI in July 2015 and is to be submitted to parliament. ***The Committee requests the Government to provide information on any impact the Civil and Commercial Code of the Nation has had in terms of promoting the rights of indigenous peoples, and on developments regarding the special bill on indigenous ownership.***

Survey and regularization of land. The Government indicates that the National Programme for the Cadastral Survey of Indigenous Communities is being carried out by means of agreements and arrangements for joint implementation in the provinces of Buenos Aires, Chaco, Chabut, Formosa, Misiones, Neuquén and Río Negro. In provinces where there is no agreement and in communities requesting priority treatment, implementation of the cadastral survey is centralized. The Committee notes with *interest* the information sent by the Government to the effect that some 7,193,789 hectares have been surveyed, accounting for nearly 80 per cent of the number of hectares initially estimated and covering a total of 662 communities distributed through 20 provinces. ***The Committee requests the Government to continue to provide up-to-date information on the processes under way to survey and regularize indigenous community lands in each of the provinces of the country.***

Province of Formosa. Navogoh Qom Community (La Primavera). Land demarcation. The CGT RA, concerned at the situation of the Navogoh Qom community, expresses the hope that the national and provincial authorities will hear

the members of the community and that the complaints relating to the occupation of community lands for the construction of housing complexes without regard for the community's cultural norms will be elucidated. The Government indicates that between July and December 2013, the cadastral survey was carried out in the Potae Napocna Navogoh Qom community, but that only part of the community has endorsed the survey's results. ***The Committee requests the Government to provide information on the manner in which it applies the provision of the Convention in Formosa and protects the rights of the Navogoh Qom community. It further requests the Government to report on developments in the cases currently before the Supreme Court of Justice of the Nation regarding the land disputes affecting the Navogoh Qom community.***

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

Bangladesh

Indigenous and Tribal Populations Convention, 1957 (No. 107) ***(ratification: 1972)***

Articles 2 and 3 of the Convention. Implementation of the Chittagong Hill Tracts (CHT) Peace Accord, 1997. The Committee notes the Government's indication in its report that 30 government departments/offices have been transferred to the Hill District Councils of Rangamati and Khagrachari, and 28 government departments/offices to the Hill District Council of Bandarban. The Government emphasizes its commitment to the full implementation of the CHT Peace Accord. ***The Committee requests the Government to continue providing information on the measures taken to finalize the implementation of the CHT Peace Accord, 1997. Please also include updated information on the application of the following provisions of the Peace Accord, which were noted by the Committee in previous comments: (a) the transfer to the Hill District Councils of authority to appoint local police officers (clause B, section 24); (b) the transfer of functions and responsibilities to the Hill District Councils in relation to the matters listed under clause B, section 34; (c) the harmonization of the Chittagong Hill Tracts Regulation, 1900, and related laws with the 1989 Hill District Council Acts (clause C, section 11); and (d) the cancellation of land allocation for rubber and other plantations to non-tribal and non-local persons who have not utilized the lands within the time period specified in the Peace Accord (clause D, section 8).***

Article 5. Collaboration and participation. The Government indicates that ethnic communities participate in the design and implementation of measures affecting them through the Chittagong Hill Tracts Development Board. Leaders of ethnic communities play a leading role in both the three Hill District Councils and the CHT Regional Council. Development projects and activities affecting the cultural, social, religious and educational conditions of the indigenous communities are being implemented by the Hill District Councils and the CHT Regional Council. ***The Committee requests the Government to provide further examples of the participation and collaboration of indigenous communities in the Chittagong Hill Tracts Development Board, including indications of how these communities are given opportunities for the development of their own initiatives. Please also provide information on the progress made in adopting a National Indigenous People's Policy.***

Articles 11 to 14. Land rights. The Government indicates that the amendments to the CHT Land Disputes Resolution Commission Act, 2001, have not yet been adopted. The proposed amendments were sent to Parliament for consideration at its 10th Session in 2015. The Government adds that the CHT Land Dispute Resolution Commission was re-established in 2014. A national land policy has been proposed by the Ministry of Land. The Government emphasizes that ethnic communities are not facing difficulties in practicing *jum* (shifting) cultivation and community leaders have participated in capacity-building on this type of cultivation. ***The Committee requests the Government to provide information on the operation of the CHT Land Dispute Resolution Commission and on the mechanisms established for the participation of indigenous communities therein, including a copy of the Act, as amended, as soon as adopted. The Committee also requests the Government to provide information on the measures adopted to ensure that the land rights of indigenous communities, including the land rights of indigenous communities in the plains, are fully recognized and effectively protected. Please also provide information on the measures taken to investigate cases of the illegal seizing of indigenous lands.***

Prospects for the ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). In reply to the Committee's previous comments on the prospects for the ratification of Convention No. 169, the Government indicates that this question is under review. ***The Committee requests the Government to provide information on any developments in this regard.***

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

Brazil

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2002)

The Committee notes the observations of the National Confederation of Industry (CNI) and the International Organization of Employers (IOE), received on 1 September 2015.

Article 2(2)(b) of the Convention. Measures to promote the full realization of the social, economic and cultural rights of indigenous peoples. The Committee notes the detailed information provided by the Government in its report on the *Bolsa Familia* Programme (PBF), a direct income transfer programme which benefits families throughout the country in situations of poverty and extreme poverty, and whose family income per capita is less than 77 Brazilian Reales (BRL) a month. In July 2015, a total of 140,256 indigenous families were identified, of which 111,167 are beneficiaries of the PBF, which corresponds to 448,250 persons (based on the 2010 population census, indigenous peoples have 896,917 persons). The Government indicates that, with reference to the criterion of “self-identification” set out in the Convention, the PBF developed a single register of the population which made it possible to identify 17 traditional groups, including indigenous peoples, Quilombola communities, gypsy communities and groups belonging to territorial communities. The PBF includes an “active search” for families to offer them registration under the PBF, explain the benefits provided and their consequences. The National Citizen’s Income Secretariat (SENARC), which is responsible for the PBF, has concluded an agreement with the National Indian Foundation (FUNAI) on cooperation for the implementation of joint activities for the inclusion of indigenous families under the PBF and the provision of support to beneficiary families. The Committee notes with *interest* the information provided and welcomes the approach of the PBF, which entails progress in the application of the Convention. ***The Committee requests the Government to continue providing information on the impact of the Bolsa Familia Programme in promoting the full realization of the social and economic rights of indigenous peoples. Please also indicate the manner in which indigenous peoples and other beneficiaries participate in the development of the PBF, particularly in relation to the health and education services received by families which are beneficiaries of the PBF.***

Articles 6, 7, 15 and 16. Consultations. The Government indicates that among the federal authorities there are no divergent views on the self-application of the Convention, which is recognized as an important instrument for the defence of the rights of indigenous peoples. With reference to the regulation of the right of consultation, which commenced in January 2012, the Government reports that the time limits were extended and that nine information meetings were held with the quilombola communities. However, the indigenous communities broke off negotiations when the Attorney General of the Nation issued Decision No. 303, of 16 July 2012, applying to all indigenous lands the “safeguards” set out by the Federal Supreme Court in a ruling of 19 March 2009 (Pet. 3388) in the case which arose in the Raposa Serra do Sol indigenous land (state of Roraima) concerning land disputes and public security, mining, environmental rights and land use. The Committee notes that on 23 October 2013 the Federal Supreme Court found that the conditions set out in its ruling of March 2009 were only applicable to the Raposa Serra do Sol indigenous land. The Committee also notes that the above decision does not constitute a binding precedent for other cases, although it “serves as an important guideline for the State authorities, and not only the judiciary, when they have to resolve similar issues” (agreed by the Plenary of the Supreme Federal Court on 23 October 2014, Pet. 3388 Roraima, attached to the Government’s report). The Government recognizes that the conditions have not been favourable to continuing the negotiation process with indigenous peoples and that the General Secretariat of the Office of the President is seeking to re-establish dialogue and to set a positive agenda. Taking into account the procedure followed for the consultations on the Tapajós hydroelectric plant, the Government is examining the possibility, based on a specific case, of proposing a possible consultation mechanism. In their observations, the CNI and the IOE refer to Article 231 of the Political Constitution of 1988, which recognizes the right of indigenous peoples to the lands that they traditionally occupy and the protection of their rights. The CNI and the IOE express concern with regard to the possible impact on enterprises of decisions affecting indigenous communities, and the current absence of regulation of the consultation procedure envisaged in the Convention, which gives rise to legal insecurity for enterprises. ***The Committee requests the Government to strengthen its efforts to establish appropriate procedures, which may include regulations, that allow for the right to consultation and participation, as required by the Convention, and to continue providing information on the negotiations with indigenous peoples and the Quilombola communities in this regard. Please also provide information on the manner in which a practice is developed to ensure the effective participation of indigenous peoples in decisions which may affect them directly and that full effect is given to all the corresponding provisions of the Convention.***

Natural resources. Construction of a hydroelectric plant on the Cotingo river (Roraima). The Government provides with its report the opinion of the rapporteur of the Constitution, Justice and Citizenship Commission of the National Congress, adopted on 12 March 2015, which found unconstitutional the draft Legislative Decree No. 2540/2006 issuing the authorization for a hydroelectric plant in the area of the Cotingo river and therefore, there is no prospect of the legislative authority approving this project in the short term. The Committee also notes that the plan for a hydroelectric plant in the region of the Cotingo river is not included in the national energy plans which, due to the lack of governmental permission, makes it impossible to implement the project. For its part, the Government indicates that the new undertakings must be the subject of consultations with peoples who are likely to be affected directly, through the appropriate

procedures, and particularly through representative institutions. *With reference to the current negotiations to regulate consultation procedures, the Committee requests the Government to continue providing information on how it is ascertained that any project which affects indigenous lands has been submitted to full consultation with the peoples concerned and that their viewpoints, priorities and interests are taken into account in the decisions adopted on this subject. The Committee once again hopes that the peoples concerned will collaborate with the impact studies carried out in accordance with the Convention and that they will participate in the benefits of new ventures.*

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

Central African Republic

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2010)

Article 3 of the Convention. Human rights and fundamental freedoms of indigenous peoples. The Government refers in its report to the provisions of Act No. 13.001 of 18 July 2013 issuing the Transitional Constitutional Charter. In its previous comments, the Committee emphasized the violence targeted at the members of the Aka and Mbororo peoples, protected under the Convention, and the worsening insecurity and tensions between communities in the country. The Committee notes that on 28 April 2015 the United Nations Security Council adopted Resolution 2217 (2015), in which it notes with concern that the security situation in the Central African Republic remains fragile and condemns the multiple violations of human rights and abuses committed against minorities. The Committee once again expresses **deep concern** at the acts of violence that have resulted in victims among the country's indigenous communities and which have led to the flight of many farmers, particularly among the Mbororo, who have gone into exile in neighbouring countries. **The Committee urges all parties to refrain from violence and to re-establish dialogue between the various communities. The Committee recalls, as the United Nations Security Council has done, that it is the responsibility of the authorities of the Central African Republic to protect all the peoples of the country, and it once again requests the national transitional authorities to make greater efforts to ensure full respect for the human rights of indigenous peoples, especially those of children and women of the Aka and Mbororo communities. The Committee also hopes that the ILO will be able to contribute to finding a sustainable solution that would give international labour standards their rightful place.**

Colombia

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1991)

The Committee notes the observations of the National Employers Association of Colombia (ANDI), received on 1 September 2015, the Single Confederation of Workers of Colombia (CUT), received on 2 September 2015, the General Confederation of Labour (CGT), received on 2 September 2015, and the Confederation of Workers of Colombia (CTC), received on 29 August and 4 September 2015, and the Government's reply to these observations.

Article 4 of the Convention. Human rights. Ethnic protection plans. The Government includes in its report detailed information on the ethnic protection plans for 32 peoples affected by internal armed conflict, adopted to give effect to ruling No. 004 of the Constitutional Court of 2009. The Committee notes that the plans have been submitted for pre-consultation and dialogue with the communities concerned. The CTC and the CUT indicate that indigenous communities are calling for the adoption of protection measures against threats to their life and culture and are expressing concern at the delay in the implementation of the ethnic protection plans. According to the indications of the National Indigenous Organization of Colombia, forwarded by the CTC, the Emberá people in the department of Chocó are still being affected by relocations. The CTC adds that indigenous peoples located in the Pacific corridor are in a situation of extreme vulnerability. In its reply, the Government indicates that the Department of Indigenous, Rom and Minority Affairs of the Ministry of the Interior is taking action to move forward effectively and efficiently with the protection of indigenous peoples. **The Committee requests the Government to continue providing information on the implementation of the ethnic protection plans and their impact, particularly for the protection of the most vulnerable indigenous peoples.**

Protection of the fundamental rights and restitution of the collective lands of indigenous and Afro-Colombian communities. The Committee notes the updated information provided by the Government on the measures adopted in accordance with ruling T-025 of 2004 of the Constitutional Court for the restitution of the ancestral lands of the Afro-Colombian communities of Curvaradó and Jiguamiandó. The Committee notes the censuses conducted to identify members of the communities affected and the studies that are being undertaken to assess their socio-economic situation. The Committee also notes with **interest** the two rulings attached to the Government's report ordering the restitution of lands: the ruling of 23 September 2014 of the Civil Chamber Specialized in Land Restitution of the High Court of Antioquia, ordering the restitution of 56,405 hectares to the Emberá Katío community in the Andágueda reservation (*resguardo*), and the ruling of 1 July 2015 of the Civil Court of First Instance of the Specialized Land Restitution Circuit in Popayán ordering the restitution of 71,149 hectares located in the municipality of Timbiquí, department of Cauca, to the Renacer Negro Community Council. The Government adds the Comprehensive Victim Care and Compensation Unit has

applied for precautionary measures to protect 16 lands belonging to indigenous and Afro-Colombian communities. The CUT and the CTC indicate that disputes are continuing concerning the restitution of lands to the Nasa communities in the north of Cauca. In its reply, the Government indicates that, in accordance with the agreements for the reparation of indigenous communities in the north of Cauca, lands were acquired for the Canoas, Corinto, Guadualito, Jambaló, Hellas, La Cilia, La Concepción, Las Delicias and Munchique–Los Tigres reservations. The Committee also notes that in February 2015 the Minister of Agriculture and Rural Development presented to the representatives of the indigenous communities of the north of Cauca a proposed project for the construction and improvement of rural housing as compensation for the delay in giving effect to the reparation measures. ***The Committee requests the Government to continue providing information on progress in the proceedings for the restitution of collective lands to indigenous and Afro-Colombian communities. Please continue providing information on the impact of the measures adopted further to the applications for the restitution of the lands of the Nasa people, and the activities undertaken to protect their physical and cultural integrity.***

Article 5. Protection of Raizal small-scale fishers. The Government indicates that section 131 of the National Development Plan 2014–18 (Act No. 1753 of 2015) provides for the preparation of a Statute for the Raizal People of the Archipelago of San Andrés, Providencia and Santa Catalina in the context of the application of the Convention and the designation of the UNESCO Seaflower Biosphere Reserve. The Government adds that a Support Plan for Small-scale Fishing has been developed with the participation of representatives of fishers' associations of San Andrés. In relation to education, the Government has concluded a contract with the Living in English Corporation for the drawing up of an ethnic educational project intended for Raizal communities which envisages the participation of the representative organizations of the communities in its implementation. The ANDI emphasizes that the Government has been implementing works in the fields of education, infrastructure, transport, provision of public services and the environment in the islands of San Andrés and Providencia, which were designed together with the Raizal communities. The CGT indicates that the consultations held have focused on the Raizal communities of San Andrés and that the participation of the Raizal Peoples of Providencia and Santa Catalina needs to be strengthened. ***The Committee requests the Government to continue providing information on the impact of the measures adopted to ensure adequate conditions of life and work for the Raizal peoples.***

Articles 6, 7 and 15. Consultation and participation. Natural resources. The Committee notes Conpes Document No. 3762, which was approved on 20 August 2013 by the National Economic and Social Policy Council, and which is referred to by the CGT in its observations. Conpes Document No. 3762 sets out the main features of the policy for the development of projects of national and strategic interest, including participation and dialogue with communities prior to the granting of environmental licences for projects of national and strategic interest. The Government maintains that Conpes Document No. 3762 seeks to improve the efficiency and effectiveness of the exercise of the fundamental right to prior consultation. ***The Committee requests the Government to provide information on the manner in which the consultation and participation of indigenous peoples, as required by the Convention, is ensured in the projects that affect them directly which are presented and supervised by the National Economic and Social Policy Council.***

Article 15. Consultation prior to the development of projects. The Committee notes with *interest* the adoption of Decree No. 2613, of 20 November 2013, issuing the Inter-institutional Coordination Protocol for Prior Consultation. The objective of the Protocol is to facilitate coordination between the competent public bodies and to ensure the circulation of information with a view to certifying the presence of ethnic communities in order to hold prior consultations. The Department of Prior Consultation of the Ministry of the Interior will have sole competence for certifying the presence of ethnic communities. The Colombian Rural Development Institute (INCODER) is responsible for providing the Department of Prior Consultation with information on legally constituted reservations (*resguardos*) and the process of constituting indigenous communities, and on the collective titles of black communities. The Protocol also provides for the representatives of indigenous communities to be members of the follow-up committee to verify the application of the undertakings made during the consultations. The Committee also notes with *interest* the adoption of Presidential Directive No. 10 of 7 November 2013, containing the Guide on the holding of prior consultations with ethnic communities. In accordance with Presidential Directive No. 10, the process of consultation includes five stages: (1) certification of the presence of communities based on the criteria of the Convention; (2) coordination and preparation of the consultation, with the participation of the communities; (3) pre-consultation; (4) prior consultation; and (5) follow-up of agreements. During the consultation process, the Department of Prior Consultation receives support from the Office of the Public Prosecutor and the Ombudsman. The Guide also provides that the purpose of consultation is the holding of dialogue between the State, the entity executing the project and ethnic communities on the impact on communities of projects for the exploitation of resources or infrastructure projects with a view to the formulation of measures to prevent, remedy, mitigate and compensate any negative effects which may be caused by a project. The CGT indicates that only communities entered into the database of the Ministry of the Interior are considered for the purpose of consultation. The Government emphasizes that, not only are these communities consulted, but they are also considered as other sources in ascertaining whether or not ethnic communities are present in the project area. The Government indicates that, during the period between 2003 and 2015, a total of 4,891 consultation processes with ethnic communities were conducted, of which 4,198 resulted in agreements. The ANDI indicates that various enterprises and civil society sectors are collaborating through the Regional Centre of the Global Pact Network for the dissemination of the Convention and the establishment of dialogue platforms between the Government, enterprises and indigenous peoples. The CGT considers that the consultation

process needs to be adapted to the situation of the community that is to be consulted and emphasizes the importance of ensuring that consultation is undertaken prior to the adoption of decisions that may affect indigenous peoples. ***The Committee requests the Government to continue to provide information on the functioning of the Inter-institutional Coordination Protocol for Prior Consultation and to provide examples so that it can examine the manner in which the Inter-institutional Coordination Protocol for Prior Consultation and the Guide on holding prior consultations ensure that indigenous peoples are consulted before any programmes for the exploration or exploitation of resources pertaining to their lands are undertaken or authorized. Please also indicate the manner in which the participation of ethnic communities is ensured in the benefits accruing from such activities.***

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

Costa Rica

Indigenous and Tribal Peoples Convention, 1989 (No. 169) ***(ratification: 1993)***

The Committee notes the observations by the Confederation of Workers Rerum Novarum (CTRN) received on 2 September 2015.

Articles 2, 6 and 7 of the Convention. Legislation on indigenous matters and consultations. The Committee indicates in its report that the Indigenous Peoples' Autonomous Development Bill (legislative file No. 14352) is on the agenda of the Plenary session of the Legislative Assembly (item No. 41). In December 2014, the Vice Minister of the Presidency of the Republic, addressing the Legislative Assembly's Special Standing Committee on Human Rights, reiterated the Government's commitment to the fulfilment of indigenous peoples' rights. The Vice Minister visited 11 of Costa Rica's 24 indigenous territories to ascertain their needs. The Committee notes that the forum for ongoing dialogue set up in January 2013, which includes several representatives of indigenous peoples, has four areas of work: setting consultation guidelines; promoting coordination and linkage between institutions; devising a mechanism for dialogue with indigenous peoples; and formulating a policy on indigenous lands and territories. During the visit to Alto Chirripó, in March 2015, the members of the Bribri Cabécar Indigenous Network (RIBCA) devised a mechanism for dialogue with the Government for the eight Alto Chirripó territories, the population of which accounts for roughly one third of the country's indigenous population. The Government indicates that, in the absence of a suitable procedure for indigenous consultation, the public institutions have resorted to alternative consultation mechanisms. ***The Committee requests the Government to continue to provide information on the results of the work done by the forum for dialogue in drawing up consultation guidelines and on the passage of the Indigenous Peoples' Autonomous Development Bill. Please also include information on any use made of the alternative mechanisms for consultation and participation pending the adoption of other, suitable procedures.***

Article 14. Lands. The CTRN states that the unlawful occupation of indigenous territories has been a serious problem since the 1960s. The indigenous peoples hold ownership of all their lands in only two of the 24 titled and recognized indigenous territories. In its reply, received in July 2014, the Government states that the Rural Development Institute (INDER) succeeded in recovering lands in the indigenous territories of (Térraba, Vesta Suruy, Huetar Zapatón, Guaymi Abrojos, Montezuma, Briybrí Cabagra and Rey Curré). The INDER is engaged in seeking a solution to claims of non-indigenous persons to payment of compensation for their lands located in indigenous territories. The INDER worked on developing a procedure to apply to the relevant provisions of the Indigenous Act (No. 6172 of November 1977), which will be analysed in conjunction with the National Committee on Indigenous Affairs (CONAI). The Government further indicates that the National Land Register has been assigned the task of demarcating the indigenous territory of Salitre. ***The Committee requests the Government to continue to provide information on the results of the measures taken to ensure the protection of indigenous territories, particularly the initiatives of the INDER, the CONAI and the National Land Register.***

Articles 6, 7, 15 and 16. The El Diquis (Puntarenas) Hydroelectric Project. The CTRN observes that the inhabitants' ombudsperson has pointed out on several occasions that for progress to be made with the El Diquis Hydroelectric Project, consultations need to be held with the indigenous peoples. The Government indicates that the Costa Rican Electricity Institute (ICE) is conducting an environmental impact assessment (EIA) of the hydroelectric project in question. The technical team in charge of the assessment has made proposals for possible measures for the prevention, mitigation and compensation of any negative impacts identified, and the promotion of positive ones. The Committee notes that according to the ICE, the EIA will continue to be treated as a preliminary study until it has been fully discussed and analysed with the local inhabitants and until the indigenous peoples involved have been consulted. The Government indicates that a public participation process has been set up to include non-indigenous communities and public institutions. The Committee notes that the indigenous consultation process will be implemented only once a general framework has been established for action between the State and the peoples. ***The Committee requests the Government to continue to provide information on developments in the El Diquis Hydroelectric Project and on how the consultation, cooperation and participation of the peoples concerned is ensured, as required by the Convention.***

Articles 24 and 25. Social security and health. The Government indicates that since November 2013, the Costa Rican Social Security Fund (CCSS) has developed a model for differentiated and inclusive care. The model has a

multicultural approach to human rights and gender issues and respects indigenous cultural practices. The CCSS also promotes the participation of indigenous peoples in the care process, the development of human resources and health education for the eight indigenous peoples. The Committee notes with *interest* the various efforts made by the CCSS to improve access to health care for peoples in remote areas, through the conclusion of an agreement between the institution's doctors and traditional doctors in the Coto Brus area; the implementation of the project "Breaking down language barriers" to raise awareness among the staff of the integrated health-care base teams and initiatives to use air transport for health professionals visiting the locations of the Bajo Bley and Piedra Mesa communities. ***The Committee requests the Government to continue to provide information on the measures taken to ensure that social security coverage is progressively extended. It also requests the Government to continue to report on the implementation of the differentiated and inclusive healthcare model.***

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

Honduras

Indigenous and Tribal Peoples Convention, 1989 (No. 169) ***(ratification: 1995)***

The Committee notes the observations made by the Honduran National Business Council (COHEP), received on 28 August 2015, and supported by the International Organisation of Employers (IOE).

Articles 6 and 7 of the Convention. Appropriate consultation and participation procedures. The Committee notes the Government's indication in its report that the National Plan of Action for Human Rights (2013) includes action to agree with indigenous and Afro-Honduran peoples on a participatory mechanism for the holding of prior, free and informed consultations on matters of interest to them. Such action is under the direct responsibility of the Secretariat of State for the Departments of Energy, Natural Resources, the Environment and Mining (*MiAmbiente*). The Government adds that the Misquito people has a prior consultation procedure which has already been used in cases relating to land title and the management of natural resources. The COHEP indicates that indigenous peoples are consulted through open consultations, as no type of consultation exists as provided for in the Convention. The COHEP also considers that the Convention has been badly interpreted by state officials and by some leaders of indigenous peoples, who tend to consider that consultation is of a binding nature and that it includes the right of veto. The COHEP reiterates the need to adopt national legislation on prior consultation establishing the rights and obligations of all the parties. ***The Committee requests the Government to provide information on existing initiatives for the establishment of appropriate procedures for the consultation and participation required by the Convention.***

Article 14. Lands. The Committee notes with *interest* the detailed information provided by the Government concerning the titles to lands granted between 2012 and 2015 for the benefit of the Lenca, Chortí, Misquito and Garífuna peoples. Land title was issued during this period for a total surface area of 1,032,793.18 hectares. The Government places emphasis on the inter-community land title process for the Misquito people which benefited from the mediation of the Moskita Asla Takanka (MASTA) organization. Within the context of that process, the National Agrarian Institute issued ten inter-community land titles, benefiting 9,459 families in 175 communities. ***The Committee requests the Government to continue providing information on the progress made in the process of regularizing and issuing land title, with an indication of the surface of the lands for which indigenous peoples have lodged claims and the surface covered by the land titles issued.***

Article 15. Natural resources. The Committee notes the Government's indication that programmes have been promoted for the sustainable management of natural resources. With regard to the project for the construction of a hydroelectric dam in the middle reaches of the Patuca river (the Patuca III hydroelectric project), the Government indicates that the project has been delayed by lack of financing and by reason of the expropriation of lands in which the Tawahka and Misquito peoples are present. Nevertheless, the Government refers to the possibility of its reactivation. The Committee notes the consultations held with the Misquito and Garífuna peoples concerning a hydrocarbon exploration and exploitation contract. The Government also provides information on the General Bill on biodiversity, which recognizes indigenous participation mechanisms. The Committee further notes the establishment of the Indigenous and Afro-Honduran Round Table on Climate Change (MIACC) negotiation mechanism in the context of the development of a national strategy for the Programme on Reducing Emissions from Deforestation and Forest Degradation (REDD+). In its previous observation, the Committee noted the call by the Lenca Indigenous Movement of Honduras (MILH), included in the Government's report, for compliance with *Article 15(1) and (2)* of the Convention whenever hydroelectric or mining projects are undertaken. ***The Committee requests the Government to provide information on the manner in which consultations have been held with the peoples concerned prior to undertaking or authorizing any programme for the exploration or exploitation of the resources pertaining to their lands. The Committee also requests the Government to indicate the manner in which the participation of indigenous communities is ensured in the benefits accruing from activities for the exploitation of the natural resources pertaining to their lands.***

Mining. The Committee notes the indication by the COHEP that none of the members of the National Association of Metal Mines of Honduras (ANAMIMH) are developing mining projects within the framework of the new legislation. The Committee recalls that the General Mining Act, as amended in 2013, provides in section 50 that the granting of

mining concessions may not prejudice the guarantee of private property and property belonging to municipal authorities set out in the Constitution of the Republic and further developed in the Civil Code and in international treaties on indigenous and Afro-descendant peoples, with particular reference to Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples. ***The Committee requests the Government to provide information on the application of the General Mining Act and on the procedures established to ensure the right to consultation if the interests of indigenous peoples are likely to be prejudiced.***

Articles 20, 24 and 25. Protection of the rights of the Misquito people. With reference to the concern expressed by the Committee in relation to the conditions of employment, social security and health of Misquito divers, the Government indicates that the National Plan of Action on Human Rights (2013) provides that measures shall be taken to guarantee that employers provide compensation to victims of dive-fishing and their family members. The Government has provided information on the activities carried out in the context of the Inter-institutional Commission to Address and Prevent the Problem of Dive-fishing (CIAPEB) and on the action taken to improve supervision of this activity and reinforce inspection of dive-fishing vessels. The Government has sent a document published in December 2013 containing a proposal for training to address the obstacles limiting the access to justice of disabled and active divers which emphasizes, among other problems, that the working conditions of divers are informal, they do not have employment contracts, they start working without appropriate training and they are not subject to examinations of their fitness for diving. ***The Committee requests the Government to continue providing information on the impact of the measures adopted to ensure effective protection in relation to conditions of employment and contracts, and adequate labour inspection of dive-fishing. Please also provide information on the coverage of Misquito divers by the social security system and the health services available to them to treat employment injuries and occupational diseases. Please also indicate the manner in which the cooperation of the Misquito people has been ensured in the planning and administration of health services.***

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

India

Indigenous and Tribal Populations Convention, 1957 (No. 107) ***(ratification: 1958)***

Articles 2 and 3 of the Convention. Protection of the Dongria Kondh. The Committee notes the Government's indication in its report that, following the judgment of the Supreme Court of India, dated 18 April 2013, the state government of Odisha has been allocated funds for the implementation of the Conservation-cum-Development Plan, which covers 13 particularly vulnerable tribal groups (PVTGs), including the Dongria Kondh. The Committee notes that the state government is responsible for ensuring respect for the rights of each PVTG. ***The Committee requests the Government to provide more specific information on the implementation of the Conservation-cum-Development Plan by the state government of Odisha. Please also provide information on the steps taken to give effect to the orders issued by the Supreme Court of India in its judgment of 18 April 2013 on the protection of the religious rights of the Scheduled Tribes and Other Traditional Forest Dwellers in the Niyamgiri Hills.***

Articles 11 to 13. Land rights. The Government indicates that, during the period 2013–14, extensive efforts were made by state governments to improve the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. As of 31 March 2014, some 3,742,000 claims had been filed and 1,432,000 titles distributed in accordance with the Act. The Committee notes with *interest* that, on 26 September 2013, Parliament adopted the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. This Act establishes a procedure for the acquisition of land by state governments for public purposes and ensures the participation of the affected scheduled tribes and other traditional forest dwellers in the preparation of a social impact assessment study and decision-making on rehabilitation and resettlement measures. ***The Committee requests the Government to continue providing information on the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, and of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.***

The Sardar Sarovar dam project. The Government indicates that updated information concerning the resettlement of the remaining 260 families affected by the Sardar Sarovar dam still needs to be provided by the State of Gujarat. ***The Committee again requests the Government to provide updated information on the measures adopted for the resettlement of all families affected by the Sardar Sarovar dam in the State of Madhya Pradesh and other states concerned.***

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

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 64 (Burundi); Convention No. 107 (Angola, Bangladesh, Ghana, Haiti, India, Panama, Syrian Arab Republic);**

Convention No. 169 (*Argentina, Brazil, Central African Republic, Colombia, Costa Rica, Dominica, Guatemala, Honduras, Nepal, Nicaragua*).

Specific categories of workers

Direct requests

Requests regarding certain matters are being addressed directly to the following States: **Convention No. 110** (*Ecuador, Guatemala, Panama*); **Convention No. 149** (*Bangladesh, El Salvador, Ghana, Guinea, Malawi*); **Convention No. 172** (*Lebanon*); **Convention No. 177** (*Belgium*); **Convention No. 189** (*Ecuador, Mauritius, Philippines*).

II. Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labor Conference (article 19 of the Constitution)

Albania

The Committee notes the detailed information provided by the Government in November 2015 concerning the national legislative framework related to the instruments on forced labour adopted by the Conference at its 103rd Session (June 2014). It notes, however, that the Government has not provided any indication on the submission of the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Provisions) Recommendation, 2014 (No. 203), to the Albanian Parliament. *The Committee refers to its previous observations and requests 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 (Recommendation No. 198), 96th, 99th, 100th, 101st and 103rd Sessions.*

Angola

Serious failure to submit. The Committee notes the statement by the Government representative in the Conference Committee. *The Committee urges the Government, as the Conference Committee did in June 2015, to provide the required information on the submission to the National Assembly of the 17 instruments adopted at the 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st and 103rd Sessions of the Conference (2003–14).* The Committee recalls that the Government has 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 Protocol of 1995 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 recalls the information provided by the Government in April 2014 indicating that the 20 instruments adopted by the Conference from the 83rd to the 101st Sessions (1996–2012) were resubmitted by the Minister of Labour to the Cabinet of Antigua and Barbuda on 11 March 2014. *The Committee requests the Government to specify the dates on which the instruments adopted by the Conference from the 83rd to the 101st Sessions were submitted to the Parliament of Antigua and Barbuda. Please also provide information on the submission to Parliament of the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session.*

Azerbaijan

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 in June 2015, urges 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, 101st and 103rd Sessions of the Conference. Please also indicate the date of submission of Recommendation No. 195 to the National Assembly.*

Bahamas

The Committee urges the Government to supply information on the submission to Parliament of the 22 instruments adopted by the Conference at 12 sessions held between 1997 and 2014 (85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st and 103rd Sessions).

Bahrain

Serious failure to submit. The Committee notes the statement made by the Government representative to the Conference Committee in June 2015 indicating that it was willing to cooperate to find a solution to the difference of views as to the proper national authority to which international labour standards should be submitted. In its previous observations, the Committee noted 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 for following up on its implementation (section 47(a) of the Constitution of Bahrain). The Committee recalls that, by virtue of article 19(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 further 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 the ILO indicated its disposal to explore with the national authorities the manner in which a mechanism could be established to effectively submit the instruments adopted by the Conference to the National Assembly in order to ensure the fulfilment of the obligations under the ILO Constitution. *The Committee urges the Government, as did the Conference Committee in June 2015, to provide full information on the submission to the National Assembly of the instruments adopted by the Conference sessions held between 2000 and 2014. The Committee recalls that ILO technical assistance is available in this regard.*

Bangladesh

The Committee notes the information provided by the Government in March 2015 indicating that the instruments adopted by the Conference at its 103rd Session were thoroughly examined by the Tripartite Consultative Council (TCC) at its 54th meeting held on 24 December 2014. *The Committee requests the Government to indicate whether the Parliamentary Standing Committee also received the relevant information concerning the instruments adopted by the Conference at its 103rd Session. The Committee refers to its previous comments and once again requests the Government to provide information on the submission to the Parliamentary Standing Committee of the instruments adopted by the Conference at its 77th Session (Convention No. 170 and Recommendation No. 177), 79th Session (Convention No. 173 and Recommendation No. 180), 85th Session (Recommendation No. 188), as well as all those adopted at the 81st, 82nd, 83rd, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th and 101st Sessions.*

Belize

The Committee *regrets* that the Government has not replied to its previous comments. *The Committee requests the Government to provide information on the submission to the National Assembly of 39 pending instruments adopted by the Conference during 19 sessions held between 1990 and 2014.*

Plurinational State of Bolivia

The Committee noted that on 26 April 2005 the international labour Conventions adopted by the Conference between 1990 and 2003 were submitted to the National Congress. Nevertheless, information has not been received on the

submission to the Plurinational Legislative Assembly of the 13 Recommendations and the three Protocols adopted by the Conference during that period (1990–2003). *The Committee requests the Government to report on the submission to the Plurinational Legislative Assembly the remaining three Conventions adopted by the Conference since 2006, as well as 20 Recommendations and four Protocols.*

Brazil

Submission to the National Congress. The Committee notes with *interest* the communication of 28 May 2015, in which the Government submitted to the President of the National Congress the instruments adopted by the Conference from its 51st (1967) to 103rd Session (2014). *The Committee welcomes this progress and requests the Government to provide information on any actions taken by the National Congress with respect to the submission made on 28 May 2015. Please also continue to regularly provide information on the submission of the instruments adopted by the Conference to the National Congress.*

Brunei Darussalam

The Committee requests 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 instruments adopted by the Conference at its 96th, 99th, 100th, 101st and 103rd Sessions. 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 to the competent authorities of the instruments adopted by the Conference.

Burundi

The Committee *regrets* that the Government has not replied to its previous comments. *The Committee again requests the Government to supply information on the submission to the National Assembly of the instruments adopted at the 94th, 96th, 99th, 100th, 101st and 103rd Sessions of the Conference.*

Chile

The Committee notes that the ratification of the Domestic Workers Convention, 2011 (No. 189), was registered on 10 June 2015. *The Committee refers to its observation on the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and again asks the Government to provide the information required on the submission to the National Congress of the 29 instruments adopted at 15 sessions of the Conference held between 1996 and 2014 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 101st and 103rd 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 in June 2015, urges again the Government to submit to the Assembly of the Union of Comoros the 42 instruments adopted by the Conference at the 20 sessions held between 1992 and 2014.*

Congo

In its previous observations, the Committee noted that the Ministry of Labour and the General Secretariat 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 requests the Government to complete the procedure of the submission of 63 Conventions, Recommendations and Protocols which have not yet been 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), 58th (Convention No. 137 and Recommendation No. 145), 60th (Conventions Nos 141 and 143, and Recommendations Nos 149 and 151), 63rd (Recommendation No. 156), 67th (Recommendations Nos 163, 164 and 165), 68th (Convention No. 157, Recommendation No. 166 and the Protocol of 1982 to the Plantations Convention, 1958), 69th, 70th, 71st (Recommendations Nos 170 and 171), 72nd and 75th (Recommendations Nos 175 and 176) Sessions, and the Conventions, Recommendations and Protocols adopted at 18 sessions of the Conference held between 1990 and 2014.

Côte d'Ivoire

Serious failure to submit. The Committee notes the information provided by the Government in October 2015 indicating that the submission procedure of the 31 instruments is under way and that the instruments should soon be submitted to the national representation. *The Committee urges the Government, in the same way as the Conference Committee in June 2015, to complete the steps to submit to the National Assembly the 33 instruments (Conventions,*

Recommendations and Protocols) adopted by the Conference at the 16 sessions held between June 1996 and 2014 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st and 103rd Sessions).

Croatia

The Committee notes the statement made by the Government representative of the Conference Committee in June 2015, indicating its intention to submit all the pending instruments quickly. *The Committee, in the same way as the Conference Committee in June 2015, once again requests the Government to take appropriate measures in order to ensure that 20 instruments adopted by the Conference at 11 sessions held between 1998 and 2014 (86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st and 103rd) are submitted to the Croatian Parliament.*

Democratic Republic of the Congo

Serious failure to submit. The Committee notes the statement made by the Government representative at the Conference Committee in June 2015, indicating that the relevant report had been prepared and submitted to the national authorities. *The Committee, in the same way as the Conference Committee in June 2015, urges the Government to provide the relevant information on the effective submission to Parliament of the 33 instruments adopted at the 16 sessions of the Conference held between 1996 and 2014.*

Djibouti

Serious failure to submit. The Committee notes the information provided by the Government's representative before the Conference Committee in June 2015, indicating that steps had been taken to address the country's failure to submit the instruments to the competent authorities. *The Committee, in the same way as the Conference Committee in June 2015, urges 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 67 instruments adopted at the 30 sessions of the Conference held between 1980 and 2014.*

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 in June 2015, the Committee urges the Government to provide information on the submission of the 40 instruments adopted by the Conference during 19 sessions held between 1993 and 2014 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st and 103rd Sessions) to the House of Assembly. The Committee recalls that ILO technical assistance is available in this regard.*

El Salvador

Serious failure to submit. The Committee notes the statement by a Government representative to the Conference Committee in June 2015 indicating that the Government was drawing up a workplan for the progressive submission to the competent authorities of the respective instruments. The Committee notes with *interest* that the administrative procedures are being carried out for the submission to the Legislative Assembly of the requests for the ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Domestic Workers Convention, 2011 (No. 189), and the Maritime Labour Convention, 2006 (MLC, 2006). *In the same way as the Conference Committee, the Committee urges the Government to submit to the Legislative Assembly the instruments adopted at the 21 sessions of the Conference held between October 1976 and June 2014. The Committee again 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.*

Equatorial Guinea

Serious failure to submit. The Committee notes the statement by a Government representative to the Conference Committee in June 2015 giving assurances that, as a result of the adoption of a new Constitution, major reforms were being undertaken in the field of labour legislation. The Government also expressed the intention of providing information, after the Conference, on its compliance with the obligations assumed in relation to the Organization. *In the same way as the Conference Committee, the Committee urges the Government to provide information on the submission to Parliament of the 33 instruments adopted by the Conference between 1993 and 2014.*

Fiji

The Committee refers to its previous observations and notes that a Constitution was adopted in 2013 and general elections were held in 2014. The Committee recalls that the Government expressed its intention to submit the instruments adopted by the Conference after the establishment of a Parliament. *The Committee therefore requests the Government to provide information about any developments in regard to the submission to Parliament of the 20 instruments adopted by the Conference at the 83rd, 86th, 88th, 90th, 91st, 95th, 96th, 99th, 100th, 101st and 103rd Sessions held between 1996 and 2014.*

Gabon

The Committee requests the Government to provide information concerning the submission to Parliament of the Conventions, Recommendations and Protocols that were adopted at the 82nd, 83rd, 85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st and 103rd Sessions of 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 Committee refers to its previous observations, and urges 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 renews its request that the Government provide information on the submission to the Parliament of Grenada of the instruments adopted at the 96th, 99th, 100th, 101st and 103rd 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 in June 2015, the Committee again urges the Government to provide the information requested regarding the submission to the National Assembly of the 31 instruments adopted at 15 sessions held by the Conference between October 1996 and June 2014 (84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st and 103rd Sessions).*

Guinea-Bissau

The Committee *regrets* that the Government has not replied to its previous comments. *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, 101st and 103rd Sessions were submitted to the National People's Assembly.*

Haiti

Serious failure to submit. *The Committee, in the same way as the Conference Committee in June 2015, requests the Government to 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 23 sessions of the Conference held between 1989 and 2014.*

Iraq

Serious failure to submit. The Committee notes the statement made by the Government representative at the Conference Committee in June 2015. It also notes the discussions at the ministerial level and the tripartite consultations held on various instruments adopted by the Conference. The Government indicates in a report received in September 2015 that the procedures for ratifying the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), the Maritime Labour Convention, 2006 (MLC, 2006), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), were being finalized. Moreover, in a communication received in October 2015, the Government indicates that the instruments adopted at the 103rd Session of the Conference were submitted to the competent authority. The Committee notes that the Government requested ILO technical assistance concerning its reporting obligations. *In the*

same way as the Conference Committee in June 2015, 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 all Conventions, Recommendations and Protocols adopted by the Conference from 2000 to 2014.

Ireland

The Committee refers to its previous observations and requests 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 2014 (88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 101st and 103rd Sessions).

Jamaica

Serious failure to submit. The Committee notes the information provided by the Government's representative before the Conference Committee in June 2015, indicating that initial steps had been taken to submit the ILO instruments to Parliament. It further notes the information provided by the Government in November 2015 indicating that the instruments adopted by the Conference at its 103rd Session were forwarded to the Attorney-General's Chambers as a precursor to engaging the process for approval by Parliament. *The Committee, in the same way as the Conference Committee in June 2015, urges 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, 101st and 103rd Sessions (2004–14).*

Kazakhstan

Serious failure to submit. *The Committee, in the same way as the Conference Committee in June 2015, requests the Government to supply the relevant information on the submission to Parliament of 35 instruments adopted by the Conference between 1993 and 2014.*

Kiribati

The Committee requests the Government to submit to Parliament the 20 instruments adopted by the Conference at 11 sessions held between 2000 and 2014 (88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st and 103rd Sessions).

Kuwait

Serious failure to submit. The Committee notes the information provided by the Government's representative before the Conference Committee in June 2015 reiterating that letters were drafted concerning the submission of the relevant instruments to Parliament. *The Committee, in the same way as the Conference Committee in June 2015, requests the Government to indicate the date of submission of the instruments adopted by the Conference at its 92nd, 94th, 95th, 96th, 99th, 100th, 101st and 103rd 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 recalls 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 requests 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 again recalls that the Government has not communicated information on the submission to the competent authorities of instruments adopted by the Conference at 19 sessions held between 1992 and 2014. *The Committee urges 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 in June 2015, 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 notes that, due to the national circumstances, the Office was not in a position to provide technical assistance during 2013–14. *The Committee refers to its previous observations and expresses again its hope that the Government will soon be in a position to submit to the National Legislature the 21 remaining Conventions, Recommendations and Protocols adopted by the Conference between 2000 and 2014.*

Libya

Serious failure to submit. The Committee notes the information provided by the Government in August 2015 indicating that the instruments adopted by the Conference were being examined by the relevant ministries. *The Committee, in the same way as the Conference Committee in June 2015, requests the Government to take the necessary steps in order to comply with the obligation to submit to the competent authorities (within the meaning of article 19(5)–(6) of the ILO Constitution) the Conventions, Recommendations and Protocols adopted by the Conference at 16 sessions held between 1996 and 2014.*

Madagascar

The Committee refers to its previous comments, and requests the Government to provide the relevant information on the submission to the National Assembly of the 14 instruments adopted by the Conference between 2002 and 2014.

Malaysia

The Committee refers to its previous comments and requests the Government to provide information on the submission to the Parliament of Malaysia of the instruments adopted by the Conference at its 95th (Recommendation No. 198), 96th, 99th, 100th, 101st and 103rd Sessions.

Republic of Maldives

The Committee notes that, as of 15 May 2009, the Republic of Maldives 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, Recommendations and Protocols adopted by the Conference at its 99th, 100th, 101st and 103rd Sessions. *The Committee recalls its previous comments and once again expresses its hope that the Government will soon be in a position to provide information on the submission to the People's Majlis of the instruments adopted by the Conference at its 99th, 100th, 101st and 103rd Sessions.* 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 People's Majlis.

Mali

Serious failure to submit. The Committee notes the statement by the Government representative to the Conference Committee in June 2015 indicating that measures had been taken for the submission of the instruments that had not yet been submitted to the National Assembly. It also notes the copy of the communication signed on 18 May 2015 from the Minister of Labour to the Prime Minister requesting the transmission of the instruments to the National Assembly. *In the same way as the Conference Committee, the Committee requests the Government to complete the submission procedure and to provide the other information necessary on the submission to the National Assembly of the Conventions and Recommendations adopted by the Conference at its 86th, 92nd, 94th, 95th, 96th, 99th, 100th, 101st and 103rd Sessions, and the Protocols adopted in 1996, 2002 and 2014.*

Mauritania

Serious failure to submit. The Committee notes the statement by the Government representative to the Conference Committee in June 2015 indicating that three information sessions have been organized for the various institutions concerned with the submission to the National Assembly of the instruments that have not yet been submitted. It also notes the information provided by the Government in September and October 2015 indicating that the Ministry of Labour asked the ministry responsible for parliamentary relations to submit to Parliament the instruments on forced labour adopted at the 103rd Session of the Conference, as well as other pending instruments. *The Committee refers to its previous comments and, in the same way as the Conference Committee, requests the Government to provide the information*

required on the submission to the National Assembly of Recommendations Nos 182 (81st Session) and 195 (92nd Session), the Protocols of 1995 (82nd Session) and 1996 (84th Session), and the instruments adopted at the 94th, 95th, 96th, 99th, 100th, 101st and 103rd Sessions of the Conference.

Republic of Moldova

The Committee notes that the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) was submitted to the Parliament of the Republic of Moldova on 28 July 2015. *The Committee once 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, 101st and 103rd Sessions.*

Mozambique

Serious failure to submit. The Committee notes the information provided by the Government's representative before the Conference Committee in June 2015 indicating that each instrument would be examined by the tripartite Consultative Committee prior to their submission to the competent authority. *The Committee, in the same way as the Conference Committee in June 2015, again requests the Government to provide the relevant information on the submission to the Assembly of the Republic of the 33 instruments adopted by the Conference at the 16 sessions held between 1996 and 2014.*

Niger

The Committee notes with *interest* that the ratification was registered in May and June 2015 of the Labour Administration Convention, 1978 (No. 150), the Private Employment Agencies Convention, 1997 (No. 181), and the Protocol of 2014 to the Forced Labour Convention, 1930. *The Committee hopes that the Government will also be in a position to complete the procedures for the submission to the National Assembly of the 24 other instruments adopted by the Conference at its 13 sessions held between 1996 and 2012.*

Pakistan

Serious failure to submit. The Committee notes the statement made by the Government's representative at the Conference Committee in June 2015 indicating that the Federal Ministry of Labour has directed all the provincial governments to submit the instruments adopted by the Conference to their respective competent authorities. The Committee further notes that the Federal Government has taken measures to build the capacity of provincial labour departments in that regard. *In the same way as the Conference Committee did in June 2015, the Committee requests the Government to complete the procedure in order to be in a position to submit to the federal or provincial parliaments the 37 instruments adopted by the Conference at 17 sessions held between 1994 and 2014.*

Papua New Guinea

Serious failure to submit. The Committee notes the statement by the Government representative at the Conference Committee in June 2015, indicating that the instruments adopted by the Conference from 2000 to 2012 were submitted to the National Executive Council (NEC), seeking the NEC's endorsement and approval. The Government reported that the NEC had noted this submission, and had made a decision respecting the future consideration of their ratification by the National Parliament. In a communication received in September 2015, the Government indicates that a follow-up letter was delivered to the Chief Secretariat of the Government requesting that the NEC conclude its deliberation concerning the ratification of the Maritime Labour Convention, 2006 (MLC, 2006), and submit to the National Parliament the instruments adopted by the Conference. The Committee notes that the instruments adopted by the Conference at its 103rd Session (2014) were submitted to the NEC. *In the same way as the Conference Committee did in June 2015, the Committee urges the Government to comply with this constitutional obligation and to submit without delay to the National Parliament the 21 instruments adopted by the Conference at 12 sessions held between 2000 and 2014.*

Rwanda

Serious failure to submit. *The Committee refers to its previous observations and once again requests the Government to report on the submission to the National Assembly of the Conventions, Recommendations and Protocols adopted by the Conference at 18 sessions held between 1993 and 2014 (80th, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st and 103rd Sessions). The Committee, in the same way as the Conference Committee in June 2015, urges the Government to take steps without delay to submit the 38 pending instruments to the National Assembly.*

Saint Kitts and Nevis

Submission to the National Assembly. The Committee **regrets** that the Government has not replied to its previous observations. The Committee 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 urges 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 14 sessions held between 1996 and 2014 (83rd, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st and 103rd Sessions).**

Saint Lucia

Serious failure to submit. The Committee **regrets** that the Government has not replied to its previous comments. It recalls that, in accordance with article 19, paragraphs 5 and 6, of the Constitution of the Organization, Saint Lucia, as a Member of the Organization, has the obligation to submit to Parliament the remaining Conventions, Recommendations and Protocols adopted by the Conference from 1980 to 2014 (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, 101st and 103rd Sessions). **The Committee, in the same way as the Conference Committee in June 2015, 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 **regrets** that the Government has not replied to its previous observations. 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 urges 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 27 instruments (Conventions, Recommendations and Protocols) adopted by the Conference at 14 sessions held from 1995 to 2014 (82nd, 83rd, 85th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st and 103rd Sessions).**

Samoa

The Committee recalls that the ratification of the Maritime Labour Convention, 2006 (MLC, 2006), was registered on 21 November 2013. It 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 texts of the instruments adopted by the Conference at its 95th, 96th, 99th, 100th, 101st and 103rd Sessions held between 2006 and 2014. **The Committee requests the Government to provide information on the submission to the Legislative Assembly of Conventions Nos 187, 188 and 189, the Protocol of 2014 to the Forced Labour Convention, 1930, as well as Recommendations Nos 197, 198, 199, 200, 201, 202 and 203, adopted by the Conference at its 95th, 96th, 99th, 100th, 101st and 103rd Sessions.** The Committee recalls that the Government may request the technical assistance of the Office, in order to help in achieving compliance with its obligations under article 19 of the ILO Constitution relating to the submission of the instruments adopted by the Conference to the Legislative Assembly.

Sao Tome and Principe

Submission to the National Assembly. The Committee notes with **interest** the full documentation provided by the Government to the Conference Committee in June 2015 reporting the submission to the National Assembly on 8 May 2015 of the instruments adopted from the 77th (June 1990) to the 101st Sessions (May–June 2012) of the Conference. **The Committee welcomes this progress and requests the Government to provide information on any actions taken by the National Assembly with respect to the submission made on 8 May 2015. Please also continue to regularly provide information on the submission of the instruments adopted by the Conference to the National Assembly.**

Seychelles

The Committee refers to its previous comments, and again invites the Government to quickly submit to the National Assembly the 18 instruments adopted by the Conference at ten sessions held between 2001 and 2014.

Sierra Leone

Serious failure to submit. The Committee again 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 2014. The Committee, in the same way as the Conference Committee in June 2015, urges the Government to take steps without delay to submit the 97 pending instruments to Parliament.

Solomon Islands

Serious failure to submit. The Committee notes with *serious concern* that the Government has not replied to its previous comments. 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 again requests the Government to make every effort to comply with the constitutional obligation to submit the instruments adopted by the Conference between 1984 and 2014 to the National Parliament. The Committee, in the same way as the Conference Committee in June 2015, urges the Government to take steps without delay to submit the 61 pending instruments to the National Parliament.*

Somalia

Serious failure to submit. The Committee refers to its previous observations, and, in the same way as the Conference Committee in June 2015, it requests the Government to provide information on the submission to the competent authorities with regard to the 50 instruments adopted by the Conference between 1989 and 2014.

Sudan

Serious failure to submit. The Committee notes the statement made by the Government representative at the Conference Committee in June 2015. *The Committee, in the same way as the Conference Committee in June 2015, again urges the Government to submit the 38 pending instruments adopted by the Conference between 1994 and 2014 to the National Assembly.*

Suriname

Serious failure to submit. The Committee notes the statement made by the Government representative in June 2015 to the Conference Committee indicating that the documents for the submission of the instruments adopted by the Conference from its 90th to its 103rd Sessions had been submitted to the Council of Ministries, and the Ministry of Labour was awaiting the approval of the Council in order to submit the instruments to the National Assembly. *In the same way as the Conference Committee in June 2015, the Committee urges the Government to submit to the National Assembly the 17 instruments adopted by the Conference at its 90th, 91st, 92nd, 94th, 96th, 99th, 100th, 101st and 103rd Sessions.*

Syrian Arab Republic

The Committee notes the information provided by the Government in September 2015 indicating that, by virtue of Legislative Decree No. 18 of 11 May 2014, the Maritime Labour Convention, 2006 (MLC, 2006), was ratified. The Government also indicates that the Consultative Council for Consultation and Social Dialogue held discussions related to the submission of the instruments adopted by the Conference to the competent authorities. The Committee recalls that 37 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 in June 2015, 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, 85th, 86th, 90th (Recommendations Nos 193 and 194), 91st, 92nd, 95th, 96th, 99th, 100th, 101st and 103rd Sessions to the People's Council.*

Tajikistan

Submission to the Supreme Council. The Committee notes with *interest* that, on 3 August 2015, the Government submitted to the Supreme Council (House of Representatives and National Assembly) information on the instruments adopted by the Conference between October 1996 and June 2012. *The Committee welcomes this progress and requests the Government to provide information on any actions taken by the Supreme Council with respect to the submission*

made on 3 August 2015. Please also continue to regularly provide information on the submission of the instruments adopted by the Conference to the National Assembly.

The former Yugoslav Republic of Macedonia

The Committee requests the Government to provide the relevant information concerning the submission to the Assembly of the Republic (Soberanie) of the Conventions, Recommendations and Protocols adopted by the Conference between October 1996 and June 2014.

Togo

The Committee notes with *regret* that the Government has not replied to its previous comments. *The Committee once again requests 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, 101st and 103rd Sessions (2010–14).*

Tuvalu

The Committee notes that, as of 27 May 2008, Tuvalu 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, Recommendations and Protocols adopted by the Conference at its 99th, 100th, 101st and 103rd Sessions. *The Committee hopes that the Government will soon be in a position to provide information on the submission to the competent authorities of the instruments adopted by the Conference between 2010 and 2014.* 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 ILO Constitution relating to the submission of the instruments adopted by the Conference to the competent authorities.

Uganda

Serious failure to submit. The Committee notes with *regret* that the Government has not replied to its previous observation. *The Committee requests the Government to provide the required information on the submission to Parliament of the instruments adopted by the Conference at 18 sessions held between 1994 and 2014 (81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st and 103rd Sessions).* *The Committee urges the Government, in the same way as the Conference Committee in June 2015, to take steps without delay to submit the pending instruments to Parliament.*

Vanuatu

Serious failure to submit. *In the same way as the Conference Committee in June 2015, the Committee urges the Government to provide information on the submission to the Parliament of Vanuatu of the instruments adopted by the Conference at eight sessions held between 2003–14 (92nd, 94th, 95th, 96th, 99th, 100th, 101st and 103rd Sessions).* It recalls that the Government may request the technical assistance of the Office to fulfil its obligations under article 19 of the ILO Constitution relating to the submission of the instruments adopted by the Conference to the Parliament of Vanuatu.

Yemen

The Committee recalls the information provided by the Government in September 2014, including information on the Youth Revolution which occurred in February 2011. The Committee noted that a National Dialogue Conference was held from March 2013 to January 2014 and issued several decisions and recommendations on the reconstruction of the State on a democratic basis. *The Committee trusts that, when the national circumstances permit, the Government will provide information on the submission to the competent authorities of the instruments adopted by the Conference at its 90th, 94th, 96th, 99th, 100th, 101st and 103rd Sessions.*

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: Afghanistan, Algeria, Argentina, Armenia, Austria, Barbados, Belarus, Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Cabo Verde, Cambodia, Cameroon, Canada, Central African Republic, Chad, China, Cuba, Cyprus, Denmark, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Gambia, Georgia, Germany, Ghana, Guyana, Hungary, Islamic Republic of Iran, Kenya, Lao People's Democratic Republic, Lebanon, Lesotho, Malawi, Malta, Mauritius, Mexico, Mongolia, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nigeria, Oman, Palau, Panama, Paraguay, Peru, Portugal, Qatar, Russian Federation, San Marino, Saudi Arabia, Senegal, Singapore, South Sudan,

Spain, Swaziland, Sweden, United Republic of Tanzania, Thailand, Timor-Leste, Trinidad and Tobago, Tunisia, Turkmenistan, United Arab Emirates, Uruguay, Zambia.



Appendices

**Appendix I. Table of reports registered on ratified
Conventions as at 5 December 2015**
(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. Reports requested on ratified Conventions

(articles 22 and 35 of the Constitution)

List of reports registered as at 5 December 2015 and of reports not received

Note: First reports are indicated in parentheses.

Afghanistan 10 reports requested

· No reports received: Conventions Nos. 13, 45, 100, 105, 111, (138), 139, (144), (159), (182)

Albania 11 reports requested

All reports received: Conventions Nos. 16, 81, 88, 100, 111, 129, 147, 155, 174, 176, 181

Algeria 15 reports requested

· 14 reports received: Conventions Nos. 13, 63, 81, 87, 88, 97, 100, 111, 119, 120, 127, 144, 155, 181

· 1 report not received: Convention No. 167

Angola 22 reports requested

· No reports received: Conventions Nos. 1, 14, 29, 45, 68, 69, 73, 74, 81, 87, 88, 89, 91, 92, 100, 105, 106, 107, 108, 111, 138, 182

Antigua and Barbuda 6 reports requested

All reports received: Conventions Nos. 81, 100, 111, 144, 155, 161

Argentina 17 reports requested

· 16 reports received: Conventions Nos. 2, 13, 45, 81, 87, 88, 96, 100, 111, 115, 139, 144, 154, 159, 169, 184

· 1 report not received: Convention No. 129

Armenia 5 reports requested

All reports received: Conventions Nos. 81, 100, 111, 174, 176

Australia 7 reports requested

All reports received: Conventions Nos. 81, 88, 100, 111, 155, 159, 162

Australia - Norfolk Island 1 report requested

All reports received: Convention No. 100

Austria 7 reports requested

All reports received: Conventions Nos. 13, 81, 88, 100, 111, 176, 187

Azerbaijan 12 reports requested

All reports received: Conventions Nos. 13, 45, 81, 88, 100, 111, 115, 119, 120, 129, 148, 159

Bahamas 7 reports requested

· No reports received: Conventions Nos. 45, 81, 88, 100, 111, 138, 182

Bahrain 4 reports requested

All reports received: Conventions Nos. 81, 111, 155, 159

Bangladesh 9 reports requested

· 8 reports received: Conventions Nos. 45, 81, 87, 96, 100, 107, 111, 149

· 1 report not received: Convention No. (185)

Barbados 13 reports requested

· 10 reports received: Conventions Nos. 29, 63, 81, 105, 108, 115, 122, 135, 138, 182

· 3 reports not received: Conventions Nos. 100, 111, (MLC, 2006)

Belarus 11 reports requested

All reports received: Conventions Nos. 45, 81, 87, 88, 100, 111, 115, 119, 120, 155, 167

Belgium 19 reports requested

All reports received: Conventions Nos. 13, 62, 81, 88, 100, 111, 115, 120, 129, 139, 148, 154, 155, 161, 162, 174, 176, 181, (MLC, 2006)

Belize 25 reports requested

· No reports received: Conventions Nos. 8, 16, 22, 23, 29, 55, 58, 81, 88, 92, 100, 105, 108, 111, 115, 133, 134, 135, 138, 147, 150, 151, 154, 155, 182

Benin 5 reports requested

All reports received: Conventions Nos. 13, 81, 100, 111, 161

Bolivia, Plurinational State of 13 reports requested

· 9 reports received: Conventions Nos. 45, 88, 96, 100, 111, 136, 138, 159, 162
· 4 reports not received: Conventions Nos. 81, 120, 129, (189)

Bosnia and Herzegovina 20 reports requested

All reports received: Conventions Nos. 13, 45, 81, 88, 100, 111, 119, 129, 136, 139, 148, 155, 159, 161, 162, 174, 176, 181, 184, 187

Botswana 4 reports requested

All reports received: Conventions Nos. 100, 111, 151, 176

Brazil 24 reports requested

All reports received: Conventions Nos. 45, 81, 88, 100, 111, 115, 117, 119, 120, 127, 136, 137, 139, 140, 148, 155, 159, 161, 162, 167, 169, 170, 174, 176

Brunei Darussalam 1 report requested

All reports received: Convention No. 182

Bulgaria 10 reports requested

All reports received: Conventions Nos. 13, 45, 62, 81, 100, 111, 120, 127, 161, 181

Burkina Faso 12 reports requested

All reports received: Conventions Nos. 13, 29, 81, 100, 111, 129, 144, 159, 161, 170, (183), 184

Burundi 27 reports requested

· 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, 182

Cabo Verde 8 reports requested

All reports received: Conventions Nos. 29, 81, 100, 105, 111, 138, 155, 182

Cambodia 5 reports requested

All reports received: Conventions Nos. 13, 87, 100, 111, 182

Cameroon 9 reports requested

All reports received: Conventions Nos. 13, 45, 81, 87, 100, 111, 122, 162, 182

Canada 7 reports requested

· 5 reports received: Conventions Nos. 88, 100, 111, 162, 187
· 2 reports not received: Conventions Nos. 108, (MLC, 2006)

Central African Republic 10 reports requested

· 2 reports received: Conventions Nos. 81, 169
· 8 reports not received: Conventions Nos. 13, 62, 88, 100, 111, 119, 120, 155

Chad 4 reports requested

All reports received: Conventions Nos. 13, 81, 100, 111

Chile	14 reports requested
<ul style="list-style-type: none"> · 12 reports received: Conventions Nos. 2, 13, 100, 111, 115, 127, 136, 159, 161, 162, 169, 187 · 2 reports not received: Conventions Nos. 35, 37 	
China	7 reports requested
All reports received: Conventions Nos. 45, 100, 111, 155, 159, 167, 170	
China - Hong Kong Special Administrative Region	5 reports requested
All reports received: Conventions Nos. 2, 81, 115, 144, 148	
China - Macau Special Administrative Region	9 reports requested
All reports received: Conventions Nos. 81, 88, 100, 111, 115, 120, 148, 155, 167	
Colombia	18 reports requested
All reports received: Conventions Nos. 2, 12, 13, 17, 18, 81, 88, 100, 111, 129, 136, 159, 161, 162, 167, 169, 170, 174	
Comoros	17 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 6, 11, 12, 13, 14, 17, 19, 52, 81, 87, 89, 99, 100, 101, 106, 111, 122 	
Congo	12 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 13, 29, 81, 87, 100, 105, 111, 119, 138, 150, 182, (185) 	
Costa Rica	12 reports requested
All reports received: Conventions Nos. 45, 81, 88, 96, 100, 111, 120, 127, 129, 148, 159, 169	
Côte d'Ivoire	10 reports requested
<ul style="list-style-type: none"> · 8 reports received: Conventions Nos. 13, 45, 81, 100, 111, 129, 135, 136 · 2 reports not received: Conventions Nos. 96, 159 	
Croatia	27 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 13, 14, 29, 45, 81, 87, 98, 100, 103, 105, 106, 111, 119, 122, 129, 132, 136, 138, 139, 148, 155, 159, 161, 162, 182, (185), (MLC, 2006) 	
Cuba	13 reports requested
All reports received: Conventions Nos. 13, 45, 81, 88, 96, 100, 111, 120, 136, 148, 155, 159, 187	
Cyprus	10 reports requested
All reports received: Conventions Nos. 45, 81, 88, 100, 111, 119, 155, 159, 162, 187	
Czech Republic	20 reports requested
<ul style="list-style-type: none"> · 16 reports received: Conventions Nos. 13, 81, 88, 115, 120, 122, 129, 135, 136, 139, 148, 155, 159, 167, 176, 187 · 4 reports not received: Conventions Nos. 100, 111, 161, 181 	
Democratic Republic of the Congo	15 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 11, 29, 62, 81, 88, 100, 105, 111, 119, 120, 135, 138, 144, 150, 182 	
Denmark	15 reports requested
All reports received: Conventions Nos. 81, 88, 100, 111, 115, 119, 120, 129, 139, 148, 155, 159, 162, 167, 187	
Djibouti	14 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 13, 29, 63, 81, 88, 96, 100, 111, 115, 120, 124, 138, 144, 182 	

Dominica 22 reports requested

· No reports received: Conventions Nos. 8, 14, 16, 19, 22, 29, 81, 87, 94, 97, 98, 100, 105, 108, 111, 135, 138, 144, 147, 150, 169, 182

Dominican Republic 10 reports requested

All reports received: Conventions Nos. 19, 45, 81, 88, 100, 111, 119, 159, 167, 170

Ecuador 19 reports requested

All reports received: Conventions Nos. 45, 81, 87, 88, 98, 100, 111, 115, 119, 120, 127, 136, 139, 148, 152, (156), 159, 162, (189)

Egypt 15 reports requested

All reports received: Conventions Nos. 2, 45, 62, 74, 81, 88, 96, 100, 105, 111, 115, 129, 139, 148, 159

El Salvador 10 reports requested

All reports received: Conventions Nos. 81, 87, 88, 100, 111, 129, 144, (149), 155, 159

Equatorial Guinea 14 reports requested

· No reports received: Conventions Nos. 1, 14, 29, 30, (68), 87, (92), 98, 100, 103, 105, 111, 138, 182

Eritrea 4 reports requested

· No reports received: Conventions Nos. 29, 100, 105, 111

Estonia 7 reports requested

All reports received: Conventions Nos. 2, 13, 81, 100, 111, 129, 174

Ethiopia 7 reports requested

All reports received: Conventions Nos. 2, 88, 100, 111, 155, 159, 181

Fiji 11 reports requested

All reports received: Conventions Nos. 45, 81, 87, 100, 111, 129, (142), 155, 159, (181), 184

Finland 23 reports requested

All reports received: Conventions Nos. 13, 81, 88, 100, 111, 115, 119, 120, 129, 136, 139, 148, 155, 159, 161, 162, 167, (174), 176, 181, 184, (MLC, 2006), 187

France 17 reports requested

- 16 reports received: Conventions Nos. 13, 62, 81, 88, 96, 100, 111, 115, 120, 127, 129, 136, 139, 148, 185, (MLC, 2006)
- 1 report not received: Convention No. 159

France - French Polynesia 9 reports requested

All reports received: Conventions Nos. 13, 81, 88, 100, 111, 115, 120, 127, 129

France - French Southern and Antarctic Territories 20 reports requested

All reports received: Conventions Nos. 8, 9, 16, 22, 23, 53, 58, 68, 69, 73, 74, 87, 92, 98, 108, 111, 133, 134, 146, 147

France - New Caledonia 10 reports requested

- 9 reports received: Conventions Nos. 13, 81, 88, 100, 111, 115, 120, 127, 129
- 1 report not received: Convention No. (MLC, 2006)

Gabon 9 reports requested

- 7 reports received: Conventions Nos. 13, 29, 45, 87, 96, 105, 144
- 2 reports not received: Conventions Nos. 138, 182

Gambia **8 reports requested**

· No reports received: Conventions Nos. 29, 87, 98, 100, 105, 111, 138, 182

Georgia **6 reports requested**

All reports received: Conventions Nos. 29, 88, 105, 138, 181, 182

Germany **28 reports requested**

All reports received: Conventions Nos. 29, 81, 88, 98, 105, 115, 120, 128, 129, 135, 136, 138, 139, 140, 144, 148, 150, 159, 160, 161, 162, 167, 170, 176, 182, (MLC, 2006), 187, (189)

Ghana **18 reports requested**

- 17 reports received: Conventions Nos. 29, 45, 87, 88, 96, 105, 108, 115, 119, 120, 138, (144), 148, 150, 151, 182, (184)
- 1 report not received: Convention No. (MLC, 2006)

Greece **14 reports requested**

All reports received: Conventions Nos. 13, 29, 45, 62, 88, 95, 105, 115, 136, 138, 144, 159, 182, (MLC, 2006)

Grenada **12 reports requested**

All reports received: Conventions Nos. 8, 16, 29, 81, 87, 98, 105, 108, 138, 144, (155), 182

Guatemala **18 reports requested**

All reports received: Conventions Nos. 13, 29, 45, 87, 88, 96, 105, 119, 120, 127, 138, 144, 148, 159, 161, 162, 167, 182

Guinea **44 reports requested**

- 34 reports received: Conventions Nos. 3, 13, 16, 62, 81, 87, 89, 90, 98, 100, 111, 113, 115, 117, 118, 119, 120, 121, 122, 132, 133, 134, 136, 139, 140, 142, 143, 144, 148, 149, 150, 156, 159, 182
- 10 reports not received: Conventions Nos. 11, 14, 29, 45, 94, 105, 135, 138, 151, 152

Guinea - Bissau **17 reports requested**

- No reports received: Conventions Nos. 27, 29, 45, 68, 69, 73, 74, 81, 88, 91, 92, 98, 105, 107, 108, 138, 182

Guyana **26 reports requested**

- No reports received: Conventions Nos. 2, 11, 12, 29, 45, 87, 94, 98, 100, 105, 111, 115, 131, 135, 136, 137, 138, 139, 141, 142, 144, 150, 155, 166, 182, (189)

Haiti **20 reports requested**

- No reports received: Conventions Nos. 1, 12, 14, 17, 24, 25, 29, 30, 42, 45, 81, 87, 98, 100, 105, 106, 107, 111, 138, 182

Honduras **10 reports requested**

All reports received: Conventions Nos. 29, 45, 62, 81, 105, 127, 138, 144, 169, 182

Hungary **20 reports requested**

All reports received: Conventions Nos. 13, 29, 87, 88, 105, 115, 127, 136, 138, 139, 140, 144, 148, 155, 159, 161, 167, 181, 182, (MLC, 2006)

Iceland **10 reports requested**

All reports received: Conventions Nos. 2, 29, 105, 138, 139, 144, 147, 155, 159, 182

India **11 reports requested**

All reports received: Conventions Nos. 29, 45, 81, 88, 105, 107, 115, 127, 136, 144, 174

Indonesia **9 reports requested**

All reports received: Conventions Nos. 29, 45, 69, 88, 105, 120, 138, 144, 182

Iran, Islamic Republic of	5 reports requested
All reports received: Conventions Nos. 29, 105, 108, 122, 182	
Iraq	14 reports requested
<ul style="list-style-type: none"> · 13 reports received: Conventions Nos. 13, 29, 88, 105, 115, 119, 120, 136, 138, 139, 144, 148, 182 · 1 report not received: Convention No. 167 	
Ireland	31 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 8, 16, 22, 23, 29, 53, 62, 68, 69, 73, 74, 81, 87, 88, 92, 96, 98, 105, 108, 138, 139, 144, 147, 155, 159, 160, 176, 178, 179, 180, 182 	
Israel	8 reports requested
All reports received: Conventions Nos. 29, 88, 105, 136, 138, 144, 181, 182	
Italy	22 reports requested
All reports received: Conventions Nos. 2, 13, 29, 105, 115, 119, 120, 122, 127, 136, 138, 139, 144, 148, 159, 160, 167, 170, 181, 182, (MLC, 2006), (189)	
Jamaica	7 reports requested
All reports received: Conventions Nos. 29, 87, 98, 105, 138, 144, 182	
Japan	15 reports requested
All reports received: Conventions Nos. 29, 45, 88, 115, 119, 120, 138, 139, 144, 159, 162, 181, 182, (MLC, 2006), 187	
Jordan	8 reports requested
All reports received: Conventions Nos. 29, 105, 119, 120, 138, 144, 159, 182	
Kazakhstan	9 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 29, 100, 105, 111, 138, 144, (156), 182, 185 	
Kenya	6 reports requested
All reports received: Conventions Nos. 29, 63, 105, 138, 144, 182	
Kiribati	8 reports requested
<ul style="list-style-type: none"> · 2 reports received: Conventions Nos. 87, 98 · 6 reports not received: Conventions Nos. 29, 105, 138, 182, (185), (MLC, 2006) 	
Korea, Republic of	7 reports requested
<ul style="list-style-type: none"> · 5 reports received: Conventions Nos. 111, 144, 150, 160, 185 · 2 reports not received: Conventions Nos. 138, 182 	
Kuwait	5 reports requested
All reports received: Conventions Nos. 29, 105, 138, 144, 182	
Kyrgyzstan	28 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 16, 23, 29, 45, 69, 73, 81, 92, 97, 105, 108, 111, 115, 119, 120, 133, 134, 138, 142, 144, 147, 148, 150, 154, 159, 160, 182, 184 	
Lao People's Democratic Republic	4 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 29, 138, 144, 182 	
Latvia	8 reports requested
All reports received: Conventions Nos. 29, 105, 108, 138, 144, 150, 160, 182	

Lebanon 30 reports requested

- 3 reports received: Conventions Nos. 14, 122, 142
- 27 reports not received: Conventions Nos. 8, 9, 29, 45, 58, 71, 73, 74, 81, 88, 98, 105, 115, 120, 127, 133, 136, 138, 139, 147, 148, 150, 159, 170, 174, 176, 182

Lesotho 8 reports requested

- 7 reports received: Conventions Nos. 29, 105, 138, 144, 150, 155, 182
- 1 report not received: Convention No. 135

Liberia 10 reports requested

- 5 reports received: Conventions Nos. 81, 144, 150, 182, (MLC, 2006)
- 5 reports not received: Conventions Nos. 29, 87, 98, 105, 108

Libya 12 reports requested

- 4 reports received: Conventions Nos. 29, 88, 105, 130
- 8 reports not received: Conventions Nos. 53, 96, 100, 111, 122, 128, 138, 182

Lithuania 9 reports requested

All reports received: Conventions Nos. 29, 105, 108, (115), 138, 144, 160, 182, (MLC, 2006)

Luxembourg 16 reports requested

- 14 reports received: Conventions Nos. 29, 81, 87, 105, 129, 135, 138, 139, 148, 150, 162, 170, 174, 182
- 2 reports not received: Conventions Nos. (185), (MLC, 2006)

Madagascar 18 reports requested

All reports received: Conventions Nos. 13, 29, 81, 87, 88, 98, 105, 117, 119, 120, 122, 127, 129, 138, 144, 159, 182, 185

Malawi 11 reports requested

- 5 reports received: Conventions Nos. 81, 99, 105, 129, 149
- 6 reports not received: Conventions Nos. 29, 45, 138, 144, 150, 182

Malaysia 8 reports requested

- 5 reports received: Conventions Nos. 29, 88, 98, 100, 138
- 3 reports not received: Conventions Nos. 144, 182, (MLC, 2006)

Malaysia - Malaysia - Peninsular 2 reports requested

All reports received: Conventions Nos. 19, 45

Malaysia - Malaysia - Sabah 2 reports requested

- 1 report received: Convention No. 97
- 1 report not received: Convention No. 16

Malaysia - Malaysia - Sarawak 3 reports requested

- 1 report received: Convention No. 19
- 2 reports not received: Conventions Nos. 14, 16

Maldives, Republic of 8 reports requested

- No reports received: Conventions Nos. (29), (87), (98), (100), (105), (111), (138), (182)

Mali 6 reports requested

All reports received: Conventions Nos. 29, 105, 138, 144, 150, 182

Malta 22 reports requested

- 1 report received: Convention No. (MLC, 2006)
- 21 reports not received: Conventions Nos. 2, 13, 29, 62, 81, 87, 88, 96, 98, 105, 108, 117, 119, 127, 129, 135, 136, 138, 148, 159, 182

Marshall Islands 1 report requested

Mauritania 26 reports requested

All reports received: Conventions Nos. 3, 13, 14, 22, 23, 29, 33, 52, 53, 58, 62, 81, 87, 89, 96, 98, 100, 101, 102, 105, 111, 112, 114, 122, 138, 182

Mauritius 9 reports requested

All reports received: Conventions Nos. 19, 29, 105, 108, 138, 144, 150, 160, 182

Mexico 22 reports requested

All reports received: Conventions Nos. 8, 9, 16, 22, 29, 53, 55, 56, 58, 87, 105, 108, 134, 144, 150, 155, 160, 163, 164, 166, 167, 182

Moldova, Republic of 10 reports requested

- 6 reports received: Conventions Nos. 29, 105, 138, 144, 150, 182
- 4 reports not received: Conventions Nos. 92, 133, 160, 185

Mongolia 11 reports requested

- 8 reports received: Conventions Nos. 29, 87, 98, 105, 135, 138, 155, 182
- 3 reports not received: Conventions Nos. 103, 144, 159

Montenegro 17 reports requested

- 5 reports received: Conventions Nos. 29, 105, 138, 144, 182
- 12 reports not received: Conventions Nos. 8, 9, 16, 22, 23, 53, 56, 69, 73, 74, 91, 92

Morocco 10 reports requested

All reports received: Conventions Nos. 29, 105, 108, (131), 138, (144), 150, (151), (176), 182

Mozambique 5 reports requested

All reports received: Conventions Nos. 29, 105, 138, 144, 182

Myanmar 5 reports requested

All reports received: Conventions Nos. 16, 22, 29, 63, (182)

Namibia 6 reports requested

All reports received: Conventions Nos. 29, 105, 138, 144, 150, 182

Nepal 6 reports requested

- 1 report received: Convention No. 169
- 5 reports not received: Conventions Nos. 29, 105, 138, 144, 182

Netherlands 11 reports requested

All reports received: Conventions Nos. 29, 71, 81, 105, 129, 138, 144, 150, 155, 160, 182

Netherlands - Aruba 17 reports requested

- 14 reports received: Conventions Nos. 8, 9, 22, 23, 29, 69, 74, 105, 138, 144, 145, 146, 147, 182
- 3 reports not received: Conventions Nos. 122, 140, 142

Netherlands - Caribbean Part of the Netherlands 9 reports requested

All reports received: Conventions Nos. 8, 9, 22, 23, 29, 58, 69, 74, 105

Netherlands - Curaçao 3 reports requested

- No reports received: Conventions Nos. 29, 105, (144)

Netherlands - Sint Maarten 10 reports requested

All reports received: Conventions Nos. 8, 9, 22, 23, 29, 58, 69, 74, 105, 144

New Zealand 19 reports requested

All reports received: Conventions Nos. 8, 9, 16, 22, 23, 29, 53, 58, 68, 69, 74, 92, 105, 133, 134, 144, 145, 160, 182

New Zealand - Tokelau 2 reports requested

All reports received: Conventions Nos. 29, 105

Nicaragua	10 reports requested
<ul style="list-style-type: none"> · 6 reports received: Conventions Nos. 29, 63, 138, 144, 182, (189) · 4 reports not received: Conventions Nos. 4, 105, 169, (MLC, 2006) 	
Niger	14 reports requested
All reports received: Conventions Nos. 13, 29, 87, 98, 105, 119, 135, 138, 148, 154, 155, 161, 182, 187	
Nigeria	19 reports requested
<ul style="list-style-type: none"> · 9 reports received: Conventions Nos. 81, 87, 88, 100, 111, 138, 155, 159, 182 · 10 reports not received: Conventions Nos. 8, 11, 16, 29, 45, 98, 105, 144, 185, (MLC, 2006) 	
Norway	10 reports requested
All reports received: Conventions Nos. 29, 71, 105, 108, 137, 138, 144, 150, 160, 182	
Pakistan	7 reports requested
All reports received: Conventions Nos. 16, 22, 81, 87, 98, 144, 185	
Palau	1 report requested
All reports received: Convention No. (MLC, 2006)	
Panama	7 reports requested
All reports received: Conventions Nos. 71, 87, 98, 108, 117, 122, 160	
Papua New Guinea	10 reports requested
<ul style="list-style-type: none"> · 4 reports received: Conventions Nos. 2, 45, 100, 111 · 6 reports not received: Conventions Nos. 8, 22, 85, 87, 98, 122 	
Paraguay	4 reports requested
All reports received: Conventions Nos. 87, 98, 122, (189)	
Peru	20 reports requested
All reports received: Conventions Nos. 8, 9, 22, 23, 53, 55, 56, 58, 68, 69, 71, 73, 81, 87, 98, 122, 144, 147, 169, 178	
Philippines	4 reports requested
All reports received: Conventions Nos. 87, 98, 122, 185	
Poland	6 reports requested
All reports received: Conventions Nos. 87, 91, 98, 108, 122, 160	
Portugal	26 reports requested
All reports received: Conventions Nos. 8, 22, 23, 68, 69, 73, 74, 87, 92, 98, 100, 108, 111, 115, 122, 139, 145, 146, 147, 148, 150, 155, 160, 162, (183), (184)	
Qatar	3 reports requested
All reports received: Conventions Nos. 29, 81, 111	
Romania	17 reports requested
All reports received: Conventions Nos. 8, 9, 16, 22, 68, 87, 92, 98, 108, 122, 133, 134, 147, 150, 163, 166, 180	
Russian Federation	8 reports requested
All reports received: Conventions Nos. 87, 98, 122, 142, 150, 160, (176), 185	
Rwanda	7 reports requested
<ul style="list-style-type: none"> · 3 reports received: Conventions Nos. 62, 100, 111 · 4 reports not received: Conventions Nos. 87, 89, 98, 122 	
Saint Kitts and Nevis	6 reports requested
All reports received: Conventions Nos. 87, 98, 100, 111, 144, (MLC, 2006)	

Saint Lucia	10 reports requested
· No reports received: Conventions Nos. 7, 8, 16, 87, 98, 100, 108, 111, 154, 158	
Saint Vincent and the Grenadines	8 reports requested
· 4 reports received: Conventions Nos. 87, 98, 100, 111	
· 4 reports not received: Conventions Nos. 108, 122, 144, (MLC, 2006)	
Samoa	5 reports requested
· 4 reports received: Conventions Nos. 87, 98, 100, 111	
· 1 report not received: Convention No. (MLC, 2006)	
San Marino	23 reports requested
· 4 reports received: Conventions Nos. 29, 87, 88, 98	
· 19 reports not received: Conventions Nos. 100, 103, 105, 111, 119, 138, 140, 142, 143, 144, 148, 150, 151, 154, 156, 159, 160, 161, 182	
Sao Tome and Principe	12 reports requested
· 11 reports received: Conventions Nos. 87, 88, 98, 100, 111, 135, 144, 151, 154, 159, (184)	
· 1 report not received: Convention No. 155	
Senegal	4 reports requested
All reports received: Conventions Nos. 87, 98, 122, 144	
Serbia	9 reports requested
All reports received: Conventions Nos. 87, 98, 111, 122, (150), 158, 162, (181), (MLC, 2006)	
Seychelles	4 reports requested
All reports received: Conventions Nos. 87, 98, 108, 150	
Sierra Leone	22 reports requested
· No reports received: Conventions Nos. 8, 16, 17, 19, 22, 26, 32, 45, 81, 87, 88, 94, 95, 98, 99, 100, 101, 111, 119, 125, 126, 144	
Singapore	1 report requested
All reports received: Convention No. 98	
Slovakia	6 reports requested
All reports received: Conventions Nos. 87, 98, 122, 160, 163, 164	
Slovenia	18 reports requested
All reports received: Conventions Nos. 8, 9, 16, 22, 23, 53, 56, 69, 73, 74, 87, 91, 92, 98, 108, 122, 147, 180	
Solomon Islands	11 reports requested
· 9 reports received: Conventions Nos. 8, 45, (87), (98), (100), (105), (111), (138), (182)	
· 2 reports not received: Conventions Nos. 16, 108	
Somalia	13 reports requested
· No reports received: Conventions Nos. 16, 17, 19, 22, 23, 29, 45, 84, 85, 94, 95, 105, 111	
South Africa	7 reports requested
All reports received: Conventions Nos. 63, (81), 87, 98, 144, (MLC, 2006), (189)	
Spain	11 reports requested
All reports received: Conventions Nos. 87, 88, 98, 122, 150, 151, 158, 159, 160, 181, 185	
Sri Lanka	7 reports requested
All reports received: Conventions Nos. 8, 16, 58, 87, 98, 108, 160	

Sudan	2 reports requested
All reports received: Conventions Nos. 98, 122	
Suriname	4 reports requested
· No reports received: Conventions Nos. 87, 98, 122, 150	
Swaziland	8 reports requested
All reports received: Conventions Nos. 45, 87, 96, 98, 100, 111, 144, 160	
Sweden	6 reports requested
All reports received: Conventions Nos. 87, 98, 108, 122, 150, 160	
Switzerland	5 reports requested
All reports received: Conventions Nos. 87, 98, (122), 150, 160	
Syrian Arab Republic	12 reports requested
· 10 reports received: Conventions Nos. 2, 53, 63, 88, 96, 98, 105, 115, 117, 144	
· 2 reports not received: Conventions Nos. 87, 107	
Tajikistan	47 reports requested
· 41 reports received: Conventions Nos. 14, 16, 23, 27, 29, 32, 47, 52, 69, 73, 77, 78, 79, 81, 87, 90, 92, 95, 97, 98, 100, 103, 105, 106, 108, 111, 113, 115, 122, 126, 133, 134, 138, 142, 143, 147, 149, 159, 160, (177), 182	
· 6 reports not received: Conventions Nos. 45, 119, 120, 124, 148, 155	
Tanzania, United Republic of	6 reports requested
All reports received: Conventions Nos. 16, 63, 87, 98, 134, 135	
Tanzania, United Republic of - Tanzania. Tanganyika	1 report requested
All reports received: Convention No. 108	
Tanzania, United Republic of - Tanzania. Zanzibar	2 reports requested
All reports received: Conventions Nos. 58, 85	
Thailand	5 reports requested
· 4 reports received: Conventions Nos. 88, 100, 122, 159	
· 1 report not received: Convention No. 182	
The former Yugoslav Republic of Macedonia	18 reports requested
All reports received: Conventions Nos. 8, 9, 16, 22, 23, 53, 56, 69, 73, 74, 87, 92, 98, 122, 142, (150), (151), (154)	
Timor-Leste	3 reports requested
· No reports received: Conventions Nos. 87, 98, 182	
Togo	5 reports requested
All reports received: Conventions Nos. 87, 98, (102), 122, 150	
Trinidad and Tobago	6 reports requested
· No reports received: Conventions Nos. 16, 87, 98, (122), 147, 150	
Tunisia	22 reports requested
All reports received: Conventions Nos. 8, 13, 16, 22, 23, 45, 55, 62, 73, 87, 88, 98, 100, 108, 111, 119, 120, 122, 127, 135, 150, 159	
Turkey	20 reports requested
· 19 reports received: Conventions Nos. 53, 55, 68, 69, 73, 81, 87, 92, 98, 108, 122, 133, 134, 146, 151, 155, 161, 164, 166	
· 1 report not received: Convention No. 135	

Turkmenistan	3 reports requested
All reports received: Conventions Nos. 87, 98, (185)	
Tuvalu	1 report requested
· No reports received: Convention No. (MLC, 2006)	
Uganda	14 reports requested
· 7 reports received: Conventions Nos. 29, 87, 98, 100, 105, 159, 162	
· 7 reports not received: Conventions Nos. 12, 19, 45, 111, 122, 144, 158	
Ukraine	13 reports requested
· 12 reports received: Conventions Nos. 16, 23, 69, 73, 87, 92, 108, 122, 133, 147, 150, 160	
· 1 report not received: Convention No. 98	
United Kingdom	8 reports requested
· 7 reports received: Conventions Nos. 87, 98, 108, 122, 150, 160, (MLC, 2006)	
· 1 report not received: Convention No. 100	
United Kingdom - Anguilla	9 reports requested
· No reports received: Conventions Nos. 8, 22, 23, 58, 85, 87, 98, 108, 148	
United Kingdom - Bermuda	4 reports requested
· 3 reports received: Conventions Nos. 87, 98, 108	
· 1 report not received: Convention No. (MLC, 2006)	
United Kingdom - British Virgin Islands	7 reports requested
· 6 reports received: Conventions Nos. 8, 23, 58, 85, 98, 108	
· 1 report not received: Convention No. 87	
United Kingdom - Cayman Islands	1 report requested
All reports received: Convention No. (MLC, 2006)	
United Kingdom - Falkland Islands (Malvinas)	7 reports requested
All reports received: Conventions Nos. 8, 22, 23, 58, 87, 98, 108	
United Kingdom - Gibraltar	6 reports requested
· 4 reports received: Conventions Nos. 87, 98, 150, 160	
· 2 reports not received: Conventions Nos. 108, (MLC, 2006)	
United Kingdom - Guernsey	13 reports requested
· No reports received: Conventions Nos. 7, 8, 16, 22, 56, 63, 69, 74, 87, 98, 108, 122, 150	
United Kingdom - Isle of Man	7 reports requested
All reports received: Conventions Nos. 87, 98, 108, 122, 150, 160, (MLC, 2006)	
United Kingdom - Jersey	11 reports requested
· No reports received: Conventions Nos. 7, 8, 16, 22, 56, 69, 74, 87, 98, 108, 160	
United Kingdom - Montserrat	7 reports requested
· No reports received: Conventions Nos. 8, 16, 58, 85, 87, 98, 108	
United Kingdom - St Helena	9 reports requested
All reports received: Conventions Nos. 8, 16, 58, 63, 85, 87, 98, 108, 150	
United States	7 reports requested
All reports received: Conventions Nos. 53, 55, 58, 74, 147, 150, 160	

United States - American Samoa	4 reports requested
All reports received: Conventions Nos. 53, 55, 58, 147	
United States - Guam	6 reports requested
All reports received: Conventions Nos. 53, 55, 58, 74, 144, 147	
United States - Northern Mariana Islands	1 report requested
All reports received: Convention No. 147	
United States - Puerto Rico	5 reports requested
All reports received: Conventions Nos. 53, 55, 58, 74, 147	
United States - United States Virgin Islands	5 reports requested
All reports received: Conventions Nos. 53, 55, 58, 74, 147	
Uruguay	16 reports requested
All reports received: Conventions Nos. 8, 9, 16, 22, 23, 63, 73, 87, 98, 108, 122, 133, 134, (135), 150, 181	
Uzbekistan	4 reports requested
All reports received: Conventions Nos. 98, 105, 122, 182	
Vanuatu	3 reports requested
<ul style="list-style-type: none"> · 1 report received: Convention No. (185) · 2 reports not received: Conventions Nos. 87, 98 	
Venezuela, Bolivarian Republic of	8 reports requested
All reports received: Conventions Nos. 22, 87, 98, 111, 122, 144, 150, 158	
Viet Nam	2 reports requested
All reports received: Conventions Nos. 122, (MLC, 2006)	
Yemen	7 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 16, 58, 87, 98, 122, 158, 185 	
Zambia	18 reports requested
<ul style="list-style-type: none"> · 17 reports received: Conventions Nos. 19, (81), 87, 98, 122, (129), 135, 136, 148, 150, 151, 154, (155), 159, 176, (181), (187) · 1 report not received: Convention No. 173 	
Zimbabwe	3 reports requested
All reports received: Conventions Nos. 87, 98, 150	

Grand Total

A total of 2,139 reports (article 22) were requested,
of which 1,482 reports (69.28 per cent) were received.

A total of 197 reports (article 35) were requested,
of which 146 reports (74.11 per cent) were received.

**Appendix II. Statistical table of reports registered on
ratified Conventions as at 5 December 2015**
(article 22 of the Constitution)

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports registered for the session of the Committee of Experts		Reports registered 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%
<p align="center">As a result of a decision by the Governing Body, detailed reports were requested as from 1959 until 1976 only on certain Conventions</p>							
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 registered for the session of the Committee of Experts		Reports registered for the session of the Conference	
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 two-yearly or four-yearly intervals							
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%
As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995							
1995	1252	479	38.2%	824	65.8%	988	78.9%
As a result of a decision by the Governing Body (November 1993), reports were requested, according to certain criteria, at two-yearly or five-yearly intervals							
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%
As a result of a decision by the Governing Body (March 2011), reports are requested, according to certain criteria, at three-yearly or five-yearly intervals							
2012	2207	809	36.7%	1497	67.8%	1742	78.9%
2013	2176	740	34.1%	1578	72.5%	1755	80.6%
2014	2251	875	38.9%	1597	70.9%	1739	77.2%
2015	2139	829	38.8%	1482	69.3%		

Appendix III. List of observations made by employers' and workers' organizations

Algeria

- General and Autonomous Confederation of Workers in Algeria (CGATA)
- General Confederation of Algerian Enterprises (CGEA); International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

6, 81, 87, 89, 98, 111, 122, 155, 167, 181
87
87

Angola

- International Organisation of Employers (IOE)

on Convention No.

87

Argentina

- Argentine Federation of the Judiciary (FJA)
- Confederation of Workers of Argentina (CTA Autonomous)
- General Confederation of Labour of the Argentine Republic (CGT RA)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

154
81, 87, 100, 111, 129, 154, 169
2, 45, 81, 87, 88, 96, 100, 111, 129, 139, 144, 154, 159, 169, 184
87
87, 98

Armenia

- Confederation of Trade Unions of Armenia (CTUA)
- Republican Union of Employers of Armenia (RUEA)

on Conventions Nos

17, 29, 81, 100, 111, 122, 135, 138, 150, 151, 154, 160, 174, 176, 182
17, 29, 81, 100, 105, 111, 122, 135, 138, 150, 151, 154, 160, 174, 176

Australia

- Australian Council of Trade Unions (ACTU)

on Conventions Nos

81, 88, 100, 111, 155

Austria

- Federal Chamber of Labour (BAK)

on Conventions Nos

81, 88, 100, 111

Bangladesh

- Bangladesh Employers' Federation (BEF)
- Bangladesh Employers' Federation (BEF); International Organisation of Employers (IOE)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

45, 100, 111
87
87
87

Belarus

- Belarusian Congress of Democratic Trade Unions (BKDP)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87
87
87

Bolivia, Plurinational State of

- Confederation of Private Employers of Bolivia (CEPB); International Organisation of Employers (IOE)
- National Federation of Salaried Domestic Workers of Bolivia (FENATRAHOB)

on Conventions Nos

26, 81, 87, 131, 138
189

Bosnia and Herzegovina

- Confederation of Trade Unions of the Srpska Republic (SSRS)

on Convention No.

155

Brazil

- National Association of Labour Court Judges (ANAMATRA)
- National Confederation of Industry (CNI); International Organisation of Employers (IOE)
- Trade Union of Pernambuco Doctors (SIMEPE)

on Conventions Nos

29
81, 100, 111, 155, 159, 169, 170

14, 19, 26, 29, 94, 95, 97, 100, 105,
118, 122, 131, 142, 151, 168

Bulgaria

- Confederation of Independent Trade Unions in Bulgaria (KNSB/CITUB)

on Conventions Nos

13, 45, 62, 81, 100, 111, 120, 127, 181

Burkina Faso

- National Confederation of Workers of Burkina (CNTB)

on Conventions Nos

13, 29, 81, 100, 111, 129, 141, 144,
159, 161, 170, 184

Burundi

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Trade Union Confederation of Burundi (COSYBU)

on Conventions Nos

87
87, 98
26, 29, 81, 87, 98, 100, 105, 111, 135,
138, 144

Cambodia

- Cambodia Independent Teachers' Association (CITA)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- National Educators' Association for Development (NEAD); Education International (EI)

on Conventions Nos

87, 98
87
87, 98, 182
87

Cameroon

- Cameroon United Workers Confederation (CTUC)
- General Union of Workers of Cameroon (UGTC)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

81, 87, 98, 100, 182
13, 45, 81, 87, 100, 111, 122, 162, 182
87
182

Canada

- Canadian Labour Congress (CLC)
- Confederation of National Trade Unions (CSN)
- Public Service Alliance of Canada (PSAC)

on Conventions Nos

88, 100, 111, 162, 187
100, 111, 162, 187
100, 111

Chad

- Free Confederation of Workers of Chad (CLTT)
- National Council of Chadian Employers (CNPT)

on Conventions Nos

13, 81, 100, 111
13

Chile

- Confederation of Production and Commerce (CPC); International Organisation of Employers (IOE)
- National Confederation of Municipal Employees of Chile (ASEMUCH)

on Conventions Nos

87, 144

35, 37

China - Hong Kong Special Administrative Region

- Hong Kong Confederation of Trade Unions (HKCTU)

on Convention No.

144

Colombia

- Confederation of Workers of Colombia (CTC)
- General Confederation of Labour (CGT)
- National Employers Association of Colombia (ANDI); International Organisation of Employers (IOE)
- National Union of Workers of the Enterprise Administradora de Seguridad Limitada (SINTRACONSEGURIDAD)
- Single Confederation of Workers of Colombia (CUT)

on Conventions Nos

2, 12, 13, 17, 18, 81, 88, 100, 111, 129, 136, 159, 161, 162, 167, 169, 174
2, 13, 18, 81, 88, 100, 111, 129, 136, 159, 169
17, 81, 100, 111, 129, 162, 169
95
2, 12, 13, 17, 18, 81, 88, 111, 129, 136, 159, 161, 162, 167, 169, 174

Comoros

- International Organisation of Employers (IOE)

on Convention No.

87

Congo

- International Organisation of Employers (IOE)

on Convention No.

87

Costa Rica

- Confederation of Workers Rerum Novarum (CTRN)

on Conventions Nos

81, 96, 127, 129, 169

Croatia

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87
87

Cuba

- Independent Trade Union Coalition of Cuba (CSIC)
- Worker's Central Union of Cuba (CTC)

on Conventions Nos

81, 87, 98, 111, 155
29, 105, 111, 122

Czech Republic

- Czech-Moravian Confederation of Trade Unions (CM KOS)

on Conventions Nos

81, 88, 120, 139, 148, 159, 187

Denmark

- Confederation of Danish Employers (DA)
- Danish Confederation of Trade Unions (LO)
- Salaried Employees and Civil Servants Confederation (FTF)

on Conventions Nos

100
87, 98, 100
100

Dominica

- International Organisation of Employers (IOE)

on Convention No.

87

Ecuador

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- United Front of Workers (FUT); National Federation of Education Workers (UNE); Public Services International (PSI)

on Conventions Nos

87
87, 98
87, 98

El Salvador

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- National Business Association (ANEP); International Organisation of Employers (IOE)
- Salvadorian Trade Union Coordination (CSS)
- Trade Union of Nursing Professionals, Technicians and Auxiliaries of El Salvador (SIGPTEES)

on Conventions Nos

87
87, 98
87, 144
81, 87, 98, 111, 135, 151
149

Equatorial Guinea

- International Organisation of Employers (IOE)

on Convention No.

87

Eritrea

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

29
29

Fiji

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87
87, 98

Finland

- Central Organization of Finnish Trade Unions (SAK)
- Central Organization of Finnish Trade Unions (SAK); Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)
- Confederation of Finnish Industries (EK)
- Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)
- Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA); Central Organization of Finnish Trade Unions (SAK)

on Conventions Nos

88, 100, 115, 136, 139, 148, 155, 161
81, 187

100, 111, 181
88, 100, 111, 148, 155, 161, 181

159

France (French Southern and Antarctic Territories)

- International Organisation of Employers (IOE)

on Convention No.

87

Gabon

- International Organisation of Employers (IOE)
- Trade Union Congress of Gabon (CSG)

on Conventions Nos

87
26, 98, 122, 144, 151

Gambia

- International Organisation of Employers (IOE)

on Convention No.

87

Georgia

- Georgian Trade Unions Confederation (GTUC)

on Conventions Nos

29, 87, 88, 98, 100, 105, 111, 138, 181,
182

Germany

- Confederation of German Employers' Associations (BDA); Federation of the German Construction Industry (HDB); German Construction Federation (ZDB); International Organisation of Employers (IOE)
- Confederation of German Employers' Associations (BDA); International Organisation of Employers (IOE)
- German Confederation of Trade Unions (DGB)

on Conventions Nos

167

87, 138

88, 128, 129, 138, 139, 159, 161, 167,
187, 189

Ghana

- Ghana Employers' Association (GEA)
- Ghana National Association of Teachers (GNAT)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

88
138, 182
87
87, 98

Grenada

- International Organisation of Employers (IOE)

on Convention No.

87

Guatemala

- Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF); International Organisation of Employers (IOE)
- Guatemalan Union, Indigenous and Peasant Movement (MSICG)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Trade Unions' Unity of Guatemala (CUSG)

on Conventions Nos

87, 98, 169

29, 87, 105
87
87, 98
87

Guinea

- International Organisation of Employers (IOE)

on Convention No.
87

Guyana

- International Organisation of Employers (IOE)

on Convention No.
87

Haiti

- Confederation of Public and Private Sector Workers (CTSP)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
1, 12, 14, 17, 24, 25, 30, 81, 87, 98,
100, 106, 111
87
87, 98

Honduras

- Honduran National Business Council (COHEP); International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
29, 45, 62, 81, 105, 127, 144, 169, 182
81

Hungary

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87, 98

India

- Garment Labour Union (GLU)
- International Trade Union Confederation (ITUC)
- National Progressive Construction Workers Federation (NPCWF)

on Conventions Nos
1, 26, 29, 111
29, 81
29

Indonesia

- Confederation of Indonesian Prosperity Trade Union (KSBSI)
; Indonesian Migrant Worker Union (SBMI)

on Convention No.
29

Ireland

- International Organisation of Employers (IOE)
- Irish Congress of Trade Unions (ICTU)

on Conventions Nos
87
87, 98

Italy

- General Union of Labour (UGL)
- Italian General Confederation of Labour (CGIL)
- Italian Union of Labour (UIL)

on Conventions Nos
138, 139, 182
29
170

Jamaica

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87, 98

Japan

- Japan Business Federation (NIPPON KEIDANREN)
- Japanese Trade Union Confederation (JTUC-RENGO)
- Labor Union of Migrant Workers
- National Union of Welfare and Childcare Workers (NUWCW)

on Conventions Nos
29, 115, 159, 181
29, 45, 88, 115, 119, 120, 138, 139,
144, 159, 162, 181, 182, 187
29
159

Kazakhstan

- International Organisation of Employers (IOE)

on Convention No.
87

Kiribati

- International Organisation of Employers (IOE)

on Convention No.
87

Korea, Republic of

- Federation of Korean Trade Unions (FKTU)
- Korea Employers' Federation (KEF)
- Korea Employers' Federation (KEF); International Organisation of Employers (IOE)

on Conventions Nos

150, 160
111, 150
111

Kuwait

- Confederation of Indonesian Prosperity Trade Union (KSBSI); Indonesian Migrant Worker Union (SBMI)
- Kuwait Chamber of Commerce and Industry (KCCI)

on Conventions Nos

29, 105
29, 105, 138, 144, 182

Latvia

- Free Trade Union Confederation of Latvia (FTUCL)

on Convention No.

144

Lebanon

- International Trade Union Confederation (ITUC)
- League of Teachers of Public Primary Education in Lebanon (PPSTLL); League of Teachers of Public Secondary Education in Lebanon (LPESPL); Education International (EI)

on Conventions Nos

98
98

Liberia

- International Organisation of Employers (IOE)

on Convention No.

87

Luxembourg

- International Organisation of Employers (IOE)

on Convention No.

87

Madagascar

- Autonomous Trade Union of Labour Inspectors
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

81, 129
87
87, 98

Malaysia

- International Trade Union Confederation (ITUC)
- Malaysian Trade Unions Congress (MTUC)

on Conventions Nos

98
98

Maldives, Republic of

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87
87, 98

Malta

- International Organisation of Employers (IOE)

on Convention No.

87

Mauritania

- General Confederation of Workers of Mauritania (CGTM)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

3, 13, 14, 22, 23, 29, 81, 87, 98, 100,
111, 122, 138
87
29, 87, 98

Mauritius

- Mauritius Employers' Federation (MEF); International Organisation of Employers (IOE)

on Convention No.

98

Mexico

• Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN)	on Conventions Nos 8, 9, 29
• Independant Trade Union of Men and Women Workers of the Government of the State of San Luis de Potosí (SITTGE)	30, 106, 111, 159
• IndustriALL Global Union (IndustriALL)	87
• International Organisation of Employers (IOE)	87
• International Trade Union Confederation (ITUC)	87
• National Trade Union of Workers of the Iron and Steel Industry, Derivatives, Similar and Related Products of the Mexican Republic	87
• National Union of Workers (UNT)	87, 144
• National Union of Workers of the Federal Roads and Bridges Access and Related Services (SNTCPF)	150, 155
• Trade Union of Telephone Operators of the Republic of Mexico	102

Mongolia

• International Organisation of Employers (IOE)	on Convention No. 87
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Netherlands

• Netherlands Trade Union Confederation (FNV)	on Conventions Nos 29, 71, 81, 129, 155, 160
• Netherlands Trade Union Confederation (FNV); National Federation of Christian Trade Unions (CNV); Trade Union Confederation of Middle and Higher Level Employees' Unions (MHP)	81, 129, 155

New Zealand

• Business New Zealand	on Conventions Nos 8, 9, 16, 22, 23, 29, 98, 105, 144, 160, 182
• New Zealand Council of Trade Unions (NZCTU)	29, 160, 182

Niger

• International Organisation of Employers (IOE)	on Convention No. 87
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Nigeria

• International Trade Union Confederation (ITUC)	on Conventions Nos 87, 98
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Norway

• Confederation of Norwegian Business and Industry (NHO)	on Conventions Nos 137
• Norwegian Confederation of Trade Unions (LO)	137

Pakistan

• International Organisation of Employers (IOE)	on Conventions Nos 87
• International Trade Union Confederation (ITUC)	87, 98
• Pakistan Workers' Federation (PWF)	81

Panama

• International Organisation of Employers (IOE)	on Conventions Nos 87
• International Trade Union Confederation (ITUC)	87
• National Council of Organized Workers (CONATO); National Confederation of United Independent Unions (CONUSI)	87, 98, 122

Papua New Guinea

• International Organisation of Employers (IOE)	on Convention No. 87
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Paraguay

• International Organisation of Employers (IOE)	on Conventions Nos 87
• International Trade Union Confederation (ITUC)	87

Peru

- Autonomous Workers' Confederation of Peru (CATP)
- General Confederation of Workers of Peru (CGTP)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Single Trade Union of Workers of the Judiciary - Lima (SUTRAPOJ)

on Conventions Nos

111, 169
169
87
87, 98
98, 151

Philippines

- Center of United and Progressive Workers (SENTRO)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- National Alliance of Teachers and Office Workers (SMP-NATOW); Education International (EI)

on Conventions Nos

87, 98
87
87, 98
87, 98

Poland

- Independent and Self-Governing Trade Union "Solidarnosc"
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 98, 122, 151, 160
87
87, 98

Portugal

- Confederation of Farmers of Portugal (CAP)
- Confederation of Portuguese Industry (CIP)
- 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)

on Conventions Nos

122
122
122
122
87, 98, 100, 111, 122, 139, 162
87, 98, 100, 111, 139, 162
87

Qatar

- International Trade Union Confederation (ITUC)

on Convention No.

29

Romania

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87
87, 98

Russian Federation

- Confederation of Labour of Russia (KTR)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 98
87
87, 98

Rwanda

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87
98

Saint Kitts and Nevis

- International Organisation of Employers (IOE)

on Convention No.

87

Saint Lucia

- International Organisation of Employers (IOE)

on Convention No.

87

Saint Vincent and the Grenadines

- International Organisation of Employers (IOE)

on Convention No.

87

Samoa

- International Organisation of Employers (IOE)

on Convention No.

87

San Marino

- International Organisation of Employers (IOE)

on Convention No.
87

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
87, 98

Serbia

- Association of Teacher's Unions of Serbia (USPRS); Education International (EI)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
111

87
98

Seychelles

- Association of Seychelles Employers
- International Organisation of Employers (IOE)
- Seychelles Federation of Workers' Unions (SFWU)

on Conventions Nos
87, 98
87
87, 98, 108, 150

Sierra Leone

- International Organisation of Employers (IOE)

on Convention No.
87

Slovakia

- International Organisation of Employers (IOE)

on Convention No.
87

Slovenia

- International Organisation of Employers (IOE)

on Convention No.
87

Solomon Islands

- International Organisation of Employers (IOE)

on Convention No.
87

Somalia

- Federation of Somali Trade Unions (FESTU)

on Conventions Nos
29, 87, 98, 111, 182

South Africa

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87

Spain

- General Union of Workers (UGT)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Spanish Confederation of Employers' Organizations (CEOE); International Organisation of Employers (IOE)
- Trade Union Confederation of Workers' Commissions (CCOO)

on Conventions Nos
87, 88, 98, 122, 150, 151, 158, 159, 181
87
87
87, 88, 98, 122, 158, 181
87, 88, 98, 122, 150, 151, 158, 159, 160, 181, 185

Sri Lanka

- IndustriALL Global Union (IndustriALL)
- International Organisation of Employers (IOE)

on Conventions Nos
87, 98
87

Sudan

- Sudanese Businessmen and Employers Federation (SBEF)

on Conventions Nos
98, 122

Suriname

- International Organisation of Employers (IOE)

on Convention No.
87

Swaziland

- Federation of Swaziland Employers and Chamber of Commerce (FSE&CC)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87
87

Sweden

- International Organisation of Employers (IOE)
- Swedish Confederation for Professional Employees (TCO); Swedish Confederation of Professional Associations (SACO); Swedish Trade Union Confederation (LO)

on Conventions Nos
87
87

Switzerland

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
98

Syrian Arab Republic

- International Organisation of Employers (IOE)

on Convention No.
87

Tajikistan

- International Organisation of Employers (IOE)

on Convention No.
87

Tanzania, United Republic of

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87

The former Yugoslav Republic of Macedonia

- International Organisation of Employers (IOE)

on Convention No.
87

Timor-Leste

- International Organisation of Employers (IOE)

on Convention No.
87

Togo

- International Organisation of Employers (IOE)
- National Council of Employers of Togo (CNP-Togo); International Organisation of Employers (IOE)

on Conventions Nos
87
87

Trinidad and Tobago

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87

Tunisia

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87, 98

Turkey

- Confederation of Public Employees' Trade Unions (KESK)
- Confederation of Turkish Real Trade Unions (HAK-IS)
- Confederation of Turkish Trade Unions (TÜRK-IS)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Seafarers' Union of Turkey (TDS)
- Turkish Confederation of Employers' Associations (TISK)
- Turkish Confederation of Employers' Associations (TISK); International Organisation of Employers (IOE)
- Turkish Confederation of Public Workers Associations (Türkiye Kamu-Sen)

on Conventions Nos
87, 98, 122, 155, 161
98, 155, 161
53, 55, 81, 87, 98, 122, 161, 166
87
87, 98, 155
53, 55, 166
81, 87, 98, 122, 155, 161
87, 98, 155
81

Turkmenistan

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
29, 105

Uganda

- International Organisation of Employers (IOE)

on Convention No.
87

Ukraine

- Federation of Employers of Ukraine (FEU); International Organisation of Employers (IOE)
- Federation of Trade Unions of Ukraine; International Trade Union Confederation (ITUC)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
87, 98
87
87

United Kingdom

- International Organisation of Employers (IOE)
- Trades Union Congress (TUC)

on Conventions Nos
87
87, 98, 108, 122, 135, 150, 151, MLC,
2006

United Kingdom (Anguilla)

- International Organisation of Employers (IOE)

on Convention No.
87

United Kingdom (Bermuda)

- Bermuda Public Services Union (BPSU)
- International Organisation of Employers (IOE)

on Conventions Nos
87
87

United Kingdom (British Virgin Islands)

- International Organisation of Employers (IOE)

on Convention No.
87

United Kingdom (Cayman Islands)

- International Transport Workers' Federation (ITF)

on Convention No.
MLC, 2006

United Kingdom (Falkland Islands (Malvinas))

- International Organisation of Employers (IOE)

on Convention No.
87

United Kingdom (Gibraltar)

- International Organisation of Employers (IOE)

on Convention No.
87

United Kingdom (Guernsey)

- International Organisation of Employers (IOE)

on Convention No.
87

United Kingdom (Isle of Man)

- International Organisation of Employers (IOE)

on Convention No.
87

United Kingdom (Jersey)

- International Organisation of Employers (IOE)

on Convention No.
87

United Kingdom (Montserrat)

- International Organisation of Employers (IOE)

on Convention No.
87

United Kingdom (St Helena)

- International Organisation of Employers (IOE)

on Convention No.
87

Uruguay

- Chamber of Industries of Uruguay (CIU); National Chamber of Commerce and Services of Uruguay (CNCS); International Organisation of Employers (IOE)
- International Organisation of Employers (IOE)
- National Chamber of Commerce and Services of Uruguay (CNCS); Chamber of Industries of Uruguay (CIU); International Organisation of Employers (IOE)

on Conventions Nos

87, 98, 144, 154

87

87, 98

Uzbekistan

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

29, 105, 182

105

Vanuatu

- International Organisation of Employers (IOE)

on Convention No.

87

Venezuela, Bolivarian Republic of

- Bolivarian Socialist Confederation of Workers (CBST)
- Confederation of Workers of Venezuela (CTV)
- Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS); International Organisation of Employers (IOE)
- International Organisation of Employers (IOE)
- National Union of Workers of Venezuela (UNETE)

on Conventions Nos

122

87, 98, 111, 122, 144, 150, 155

26, 87, 88, 122, 144, 158

87

81, 87, 98, 111, 144, 150, 155

Viet Nam

- Viet Nam General Confederation of Labour (VGCL)
- Vietnam Chamber of Commerce and Industry (VCCI)
- Vietnam Cooperative Alliance (VCA)

on Conventions Nos

122

122

122

Yemen

- International Organisation of Employers (IOE)

on Convention No.

87

Zambia

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87

87, 98

Zimbabwe

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Zimbabwe Congress of Trade Unions (ZCTU)

on Conventions Nos

87

87, 98

87, 98, 150

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 Organisation 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 Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted at the 103rd Session of the Conference (June 2014), and advanced information provided by governments on the submission of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted at the 104th Session of the Conference (June 2015).

The summarized information also consists of communications which were forwarded to the Director-General of the International Labour Office after the closure of the 104th Session of the Conference (June 2015) and which could not therefore be laid before the Conference at that session.

Algeria. The instruments adopted by the Conference at its 103rd Session were submitted to the National People's Assembly and the Council of the Nation on 30 September 2015.

Australia. The instruments adopted by the Conference at its 103rd Session were submitted to the House of Representatives and the Senate on 13 May 2015.

Belgium. The instruments adopted by the Conference at its 103rd Session were submitted to the House of Representatives and the Senate on 8 April 2015.

Benin. The instruments adopted by the Conference at its 103rd and 104th Sessions were submitted to the National Assembly on 23 October 2015.

Brazil. The instruments adopted by the Conference from the 51st to the 103rd Sessions of the Conference were submitted to the President of the National Congress on 28 May 2015.

Bulgaria. The instruments adopted by the Conference at its 103rd Session were submitted to the National Assembly on 16 April 2015.

Colombia. The Safety and Health in Mines Recommendation, 1995 (No. 183), the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, and the instruments adopted by the Conference at its 103rd Session were submitted to the House of Representatives and the Senate on 5 May 2015.

Costa Rica. The Protocol of 2014 to the Forced Labour Convention, 1930, was submitted to the Legislative Assembly on 18 June 2015.

Czech Republic. The Protocol of 2014 to the Forced Labour Convention, 1930, was submitted for consideration of its ratification to the Chamber of Deputies on 31 July 2015.

Ecuador. The instruments adopted by the Conference at the 103rd Session were submitted to the National Assembly on 19 November 2015.

Estonia. The instruments adopted by the Conference at its 103rd Session were submitted to Parliament (Riigikogu) on 14 November 2014.

France. The instruments adopted by the Conference at its 103rd Session were submitted to the National Assembly and to the Senate on 22 September 2014.

Greece. The instruments adopted by the Conference at its 103rd Session were submitted to Parliament on 1 September 2015.

Guatemala. The instruments adopted by the Conference at its 100th, 103rd and 104th Sessions were submitted to the Congress of the Republic on 28 October 2015.

Honduras. The instruments adopted by the Conference at its 103rd Session were submitted to the National Congress on 4 September 2014.

Iceland. The instruments adopted by the Conference at its 103rd Session were submitted to Parliament on 1 June 2015.

India. The instruments adopted by the Conference at its 103rd Session were submitted to both Houses of the Parliament of India (Lok Sabha on 3 August 2015 and Rajya Sabha on 5 August 2015).

Indonesia. The instruments adopted by the Conference at its 103rd Session were submitted to the House of People's Representatives on 26 October 2015.

Israel. The instruments adopted by the Conference at its 103rd Session were submitted to the Knesset on 15 September 2014. Recommendation No. 204 was submitted to the Knesset on 28 October 2015.

Italy. The instruments adopted by the Conference at its 103rd Session were submitted to the Chamber of Deputies and the Senate on 23 February 2015.

Japan. The instruments adopted by the Conference at its 103rd Session were submitted to Parliament on 19 May 2015.

Finland. The instruments adopted by the Conference at its 103rd Session were submitted to Parliament on 2 February 2015.

Lao People's Democratic Republic. The instruments adopted by the Conference at its 103rd Session were submitted to the National Assembly on 5 May 2014.

Latvia. The instruments adopted by the Conference at its 103rd and 104th Sessions were submitted to Parliament (Saeima) on 7 May and 23 September 2015, respectively.

Lithuania. The instruments adopted by the Conference at its 103rd Session were submitted to the Seimas on 9 January 2015.

Luxembourg. Recommendation No. 204 was submitted to the Chamber of Deputies on 7 August 2015.

Montenegro. The instruments adopted by the Conference at its 103rd Session were submitted to Parliament from 19 to 22 June 2015.

Republic of Moldova. Recommendation No. 204 was submitted to the Parliament of the Republic of Moldova on 29 July 2015.

Morocco. The instruments adopted by the Conference at its 103rd Session were submitted to the House of Representatives and the House of Councillors on 8 August 2014. Recommendation No. 204 was submitted on 13 August 2015.

Nicaragua. The instruments adopted by the Conference at its 103rd Session were submitted to the National Assembly on 31 October 2014.

Niger. The ratifications of the Labour Administration Convention, 1978 (No. 150), the Private Employment Agencies Convention, 1997 (No. 181), and the Protocol of 2014 to the Forced Labour Convention, 1930, were registered in May and June 2015.

Nigeria. Recommendation No. 204 was submitted to the Senate and to the House of Representatives on 10 August 2015.

Norway. The instruments adopted by the Conference at its 100th and 103rd Sessions were submitted to the Storting on 8 October 2014. The notification of the Protocol of 2014 to the Forced Labour Convention, 1930, was registered on 9 November 2015. Recommendation No. 204 was submitted to the Storting on 7 October 2015.

Panama. Recommendations Nos 203 and 204 were submitted to the National Assembly of Deputies on 5 and 23 October 2015.

Philippines. The instruments adopted by the Conference at its 103rd Session were submitted to the Senate and to the House of Representatives on 29 August 2014. Recommendation No. 204 was submitted to the Senate and to the House of Representatives on 12 August 2015.

Poland. The instruments adopted by the Conference at its 103rd Session were submitted to the Sejm on 22 May 2015.

Romania. The instruments adopted by the Conference at its 103rd Session were submitted to the Senate and to the House of Representatives on 9 December 2014 and 3 February 2015, respectively.

San Marino. The instruments adopted by the Conference at its 99th, 100th and 101st Sessions were submitted to the Great and General Council on 22 November 2013.

Sao Tome and Principe. The instruments adopted by the Conference from the 77th Session (June 1990) to the 101st Session (May–June 2012) were submitted to the National Assembly on 8 May 2015.

Serbia. The instruments adopted by the Conference at its 103rd Session were submitted to the National Parliament on 5 November 2015.

Slovakia. The instruments adopted by the Conference at its 103rd Session were submitted to the National Council on 27 January 2015.

Slovenia. The instruments adopted by the Conference at its 103rd Session were submitted to the National Assembly on 7 May 2015.

Sri Lanka. The instruments adopted by the Conference at its 103rd Session were submitted to Parliament on 20 October 2015.

Turkey. The instruments adopted by the Conference at its 103rd Session were submitted to the Grand National Assembly on 13 December 2014.

Ukraine. The instruments adopted by the Conference at its 103rd Session were submitted to the Supreme Council (Verokhyna Rada) on 24 October 2014.

Uzbekistan. The instruments adopted by the Conference at its 103rd Session were submitted to the Legislative Chamber of the Oliy Majlis (Parliament) on 8 September 2014.

United States. The instruments adopted by the Conference at its 103rd Session were submitted to the Senate and the House of Representatives on 6 January 2015.

Viet Nam. Recommendation No. 202 was submitted to the National Assembly on 7 September 2012. The instruments adopted by the Conference at its 103rd Session were submitted on 16 September 2014. Recommendation No. 204 was submitted on 26 August 2015.

Bolivarian Republic of Venezuela. The instruments adopted by the Conference at its 103rd Session were submitted to the National Assembly on 28 September 2015.

Zimbabwe. The Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), was submitted to Parliament on 1 April 2015. The Protocol of 2014 to the Forced Labour Convention, 1930, and Recommendation No. 204 were submitted to Parliament on 15 October 2015.

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 at the end of 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–103rd Sessions of the International Labour Conference, 1948–2014)

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), 98th Session (June 2009) and 102nd (June 2013).

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Afghanistan	31-56, 58-72, 74-92, 94, 95	96, 99-101, 103
Albania	79-81, 82 (C176, R183), 83, 84 (C178, P147, R186), 85, 87, 88, 90 (P155), 91, 95 (C187, R197)	78, 82 (P081), 84 (C179, C180, R185, R187), 86, 89, 90 (R193, R194), 92, 94, 95 (R198), 96, 99-101, 103
Algeria	47-56, 58-72, 74-92, 94-96, 100, 103	99, 101
Angola	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, 103
Antigua and Barbuda	68-72, 74-82, 84, 87, 94, 100	83, 85, 86, 88-92, 95, 96, 99, 101, 103
Argentina	31-56, 58-72, 74-90, 92, 94-96, 99-101	91, 103
Armenia	80-92, 94-96, 99-101	103
Australia	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Austria	31-56, 58-72, 74-92, 94-96, 99	100, 101, 103
Azerbaijan	79 (C173), 80-82, 85-88, 91, 92	79 (R180), 83, 84, 89, 90, 94-96, 99-101, 103

	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)
Bahamas	61-72, 74-84, 87, 91, 94	85, 86, 88-90, 92, 95, 96, 99-101, 103
Bahrain	63-72, 74-87	88-92, 94-96, 99-101, 103
Bangladesh	58-72, 74-76, 77 (C171, R178), 78, 80, 84, 85 (C181), 87, 91, 94	77 (C170, P089, R177), 79, 81-83, 85 (R188), 86, 88-90, 92, 95, 96, 99-101, 103
Barbados	51-56, 58-72, 74-92, 94-96, 99	100, 101, 103
Belarus	37-56, 58-72, 74-92, 94-96, 99-101	103
Belgium	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Belize	68-72, 74-76, 84, 87, 88, 94	77-83, 85, 86, 89-92, 95, 96, 99-101, 103
Benin	45-56, 58-72, 74-92, 94-96, 99-101, 103	
Bolivia, Plurinational State of	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, 103
Bosnia and Herzegovina	80-92, 94-96, 99, 101	100, 103
Botswana	64-72, 74-92, 94-96, 99, 100	101, 103
Brazil	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Brunei Darussalam		96, 99-101, 103
Bulgaria	31-56, 58-72, 74-92, 94-96, 99-101, 103	

	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)
Burkina Faso	45-56, 58-72, 74-92, 94-96	99-101, 103
Burundi	47-56, 58-72, 74-92, 95	94, 96, 99-101, 103
Cabo Verde	65-72, 74-92, 94-96, 99-101	103
Cambodia	53-56, 58-72, 74-92, 94-96	99-101, 103
Cameroon	44-56, 58-72, 74-92, 94-96, 101	99, 100, 103
Canada	31-56, 58-72, 74-92, 94-96, 99-101	103
Central African Republic	45-56, 58-72, 74-92, 94-96	99-101, 103
Chad	45-56, 58-72, 74-92, 94-96	99-101, 103
Chile	31-56, 58-72, 74-82, 87, 95 (C187, R197), 100	83-86, 88-92, 94, 95 (R198), 96, 99, 101, 103
China	31-56, 58-72, 74-92, 94-96, 99, 100	101, 103
Colombia	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Comoros	65-72, 74-78, 87	79-86, 88-92, 94-96, 99-101, 103
Congo	45-53, 54 (C131, C132), 55, 56, 58 (C138, R146), 59, 60 (C142, R150), 61, 62, 63 (C148, C149, R157), 64-66, 67 (C154, C155, C156), 68 (C158), 71 (C160, C161), 74, 75 (C167, C168), 76, 84, 87, 91, 94, 96	54 (R135, R136), 58 (C137, R145), 60 (C141, C143, R149, R151), 63 (R156), 67 (R163, R164, R165), 68 (C157, P110, R166), 69, 70, 71 (R170, R171), 72, 75 (R175, R176), 77-83, 85, 86, 88-90, 92, 95, 99-101, 103
Costa Rica	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029)	103 (R203)

	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)
Côte d'Ivoire	45-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101, 103
Croatia	80-85, 87, 91, 94	86, 88-90, 92, 95, 96, 99-101, 103
Cuba	31-56, 58-72, 74-92, 94-96, 99-101	103
Cyprus	45-56, 58-72, 74-92, 94-96, 99-101	103
Czech Republic	80-92, 94-96, 99-101, 103 (P029)	103 (R203)
Democratic Republic of the Congo	45-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101, 103
Denmark	31-56, 58-72, 74-92, 94-96, 99-101	103
Djibouti	64, 65, 67, 71, 72, 83, 87	66, 68-70, 74-82, 84-86, 88-92, 94-96, 99-101, 103
Dominica	68-72, 74-79, 87	80-86, 88-92, 94-96, 99-101, 103
Dominican Republic	31-56, 58-72, 74-92, 94, 95, 99, 100	96, 101, 103
Ecuador	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029)	103 (R203)
Egypt	31-56, 58-72, 74-92, 94-96, 99-101	103
El Salvador	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, 103
Equatorial Guinea	67-72, 74-79, 84, 87	80-83, 85, 86, 88-92, 94-96, 99-101, 103
Eritrea	80-92, 94-96, 99-101	103

	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)
Estonia	79-92, 94-96, 99-101, 103	
Ethiopia	31-56, 58-72, 74-92, 94-96, 99-101	103
Fiji	59-72, 74-82, 84, 85, 87, 89, 92, 94	83, 86, 88, 90, 91, 95, 96, 99-101, 103
Finland	31-56, 58-72, 74-92, 94-96, 99-101, 103	
France	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Gabon	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, 103
Gambia	82-92, 94-96	99-101, 103
Georgia	80-92, 94-96, 99-101	103
Germany	34-56, 58-72, 74-76, 77 (C170, R177), 78-92, 94-96, 99-101	77 (C171, P089, R178), 103
Ghana	40-56, 58-72, 74-92, 94-96, 99-101	103
Greece	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Grenada	66-72, 74-92, 94, 95	96, 99-101, 103
Guatemala	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Guinea	43-56, 58-72, 74-83, 87	84-86, 88-92, 94-96, 99-101, 103
Guinea - Bissau	63-72, 74-88, 94	89-92, 95, 96, 99-101, 103

	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)
Guyana	50-56, 58-72, 74-92, 94, 95, 100	96, 99, 101, 103
Haiti	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, 103
Honduras	38-56, 58-72, 74-92, 94-96, 99-101, 103	
Hungary	31-56, 58-72, 74-92, 94-96	99-101, 103
Iceland	31-56, 58-72, 74-92, 94-96, 99-101, 103	
India	31-56, 58-72, 74-92, 94-96, 99-101	103
Indonesia	33-56, 58-72, 74-92, 94-96, 99-101, 103	
Iran, Islamic Republic of	31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 94-96	90 (P155), 99-101, 103
Iraq	31-56, 58-72, 74-87, 89	88, 90-92, 94-96, 99-101, 103
Ireland	31-56, 58-72, 74-87, 94, 100	88-92, 95, 96, 99, 101, 103
Israel	32-56, 58-72, 74-92, 94-96, 99-101, 103	
Italy	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Jamaica	47-56, 58-72, 74-91	92, 94-96, 99-101, 103
Japan	35-56, 58-72, 74-92, 94-96, 99-101, 103	
Jordan	39-56, 58-72, 74-91, 94	92, 95, 96, 99-101, 103

	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)
Kazakhstan	82 (C176, R183), 87, 88, 91	80, 81, 82 (P081), 83-86, 89, 90, 92, 94-96, 99-101, 103
Kenya	48-56, 58-72, 74-92, 94-96, 99-101	103
Kiribati	94	88-92, 95, 96, 99-101, 103
Korea, Republic of	79-92, 94-96, 99-101, 103	
Kuwait	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, 103
Kyrgyzstan	87, 89	79-86, 88, 90-92, 94-96, 99-101, 103
Lao People's Democratic Republic	48-56, 58-72, 74-81, 82 (R183, C176), 83-92, 94-96, 99, 100, 103	82 (P081), 101
Latvia	79-92, 94-96, 99-101, 103	
Lebanon	32-56, 58-72, 74-92, 94-96	99-101, 103
Lesotho	66-72, 74-92, 94-96	99-101, 103
Liberia	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, 103
Libya	35-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101, 103
Lithuania	79-92, 94-96, 99-101, 103	
Luxembourg	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Madagascar	45-56, 58-72, 74-89, 91, 100	90, 92, 94-96, 99, 101, 103

	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)
Malawi	49-56, 58-72, 74-92, 94-96	99-101, 103
Malaysia	41-56, 58-72, 74-92, 94, 95 (C187, R197)	95 (R198), 96, 99-101, 103
Maldives, Republic of		99-101, 103
Mali	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, 103
Malta	49-56, 58-72, 74-92, 94, 95	96, 99-101, 103
Marshall Islands		99-101, 103
Mauritania	45-56, 58-72, 74-80, 81 (C175), 82 (C176, R183), 83, 84 (C178, C179, C180, R185, R186, R187), 85-91	81 (R182), 82 (P081), 84 (P147), 92, 94-96, 99-101, 103
Mauritius	53-56, 58-72, 74-92, 94-96, 99-101	103
Mexico	31-56, 58-72, 74-92, 94, 95 (R198), 99, 101	95 (C187, R197), 96, 100, 103
Moldova, Republic of	79-91, 95 (C187, R197)	92, 94, 95 (R198), 96, 99-101, 103
Mongolia	52-56, 58-72, 74-81, 82 (C176, R183), 83-92, 94-96, 99-101	82 (P081), 103
Montenegro	96, 99-101, 103	
Morocco	39-56, 58-72, 74-92, 94-96, 99-101, 103	
Mozambique	61-72, 74-82, 87	83-86, 88-92, 94-96, 99-101, 103

	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)
Myanmar	31-56, 58-72, 74-92, 94-96, 99-101	103
Namibia	65-72, 74-92, 94-96, 99-101	103
Nepal	51-56, 58-72, 74-92, 94-96, 99-101	103
Netherlands	31-56, 58-72, 74-92, 94-96, 101	99, 100, 103
New Zealand	31-56, 58-72, 74-92, 94-96, 99-101	103
Nicaragua	40-56, 58-72, 74-92, 94-96, 99-101, 103	
Niger	45-56, 58-72, 74-82, 85, 87, 88, 90 (P155), 95 (C187, R197), 103	83, 84, 86, 89, 90 (R193, R194), 91, 92, 94, 95 (R198), 96, 99-101
Nigeria	45-56, 58-72, 74-92, 94, 95, 100	96, 99, 101, 103
Norway	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Oman	81-92, 95 (R197, R198), 99	94, 95 (C187), 96, 100, 101, 103
Pakistan	31-56, 58-72, 74-80, 87, 91	81-86, 88-90, 92, 94-96, 99-101, 103
Palau		101, 103
Panama	31-56, 58-72, 74-87, 88 (R191), 89 (R192), 90 (R193, R194), 92, 94, 95 (R197, R198), 96 (R199), 99-101, 103 (R203)	88 (C183), 89 (C184), 90 (P155), 91, 95 (C187), 96 (C188), 103 (P029)
Papua New Guinea	61-72, 74-87	88-92, 94-96, 99-101, 103
Paraguay	40-56, 58-72, 74-92, 94-96, 100	99, 101, 103

	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)
Peru	31-56, 58-72, 74-92, 94-96, 99-101	103
Philippines	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Poland	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Portugal	31-56, 58-72, 74-92, 94-96, 99-101	103
Qatar	58-72, 74-92, 94-96, 99-101	103
Romania	39-56, 58-72, 74-92, 94-96, 99-101, 103	
Russian Federation	37-56, 58-72, 74-88, 91, 94, 95 (C187, R197)	89, 90, 92, 95 (R198), 96, 99-101, 103
Rwanda	47-56, 58-72, 74-79, 81, 87	80, 82-86, 88-92, 94-96, 99-101, 103
Saint Kitts and Nevis	84, 87, 94	83, 85, 86, 88-92, 95, 96, 99-101, 103
Saint Lucia	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, 103
Saint Vincent and the Grenadines	84, 86, 87, 94	82, 83, 85, 88-92, 95, 96, 99-101, 103
Samoa	94	95, 96, 99-101, 103
San Marino	68-72, 74-92, 94-96, 99-101	103
Sao Tome and Principe	68-72, 74-92, 94-96, 99-101	103
Saudi Arabia	61-72, 74-92, 94-96, 99-101	103

	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)
Senegal	45-56, 58-72, 74-92, 94-96, 99-101	103
Serbia	89-92, 94-96, 99-101, 103	
Seychelles	63-72, 74-88, 94	89-92, 95, 96, 99-101, 103
Sierra Leone	45-56, 58-61, 62 (C145, C147, R153, R155)	62 (C146, R154), 63-72, 74-92, 94-96, 99-101, 103
Singapore	50-56, 58-72, 74-92, 94-96, 99-101	103
Slovakia	80-92, 94-96, 99-101, 103	
Slovenia	79-92, 94-96, 99-101, 103	
Solomon Islands	74, 87	70-72, 75-86, 88-92, 94-96, 99-101, 103
Somalia	45-56, 58-72, 74, 75, 87	76-86, 88-92, 94-96, 99-101, 103
South Africa	81, 82 (C176, R183), 83-92, 94-96, 99-101	103
South Sudan		101, 103
Spain	39-56, 58-72, 74-92, 94-96, 99-101	103
Sri Lanka	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Sudan	39-56, 58-72, 74-80, 87	81-86, 88-92, 94-96, 99-101, 103
Suriname	61-72, 74-89	90-92, 94-96, 99-101, 103

	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)
Swaziland	60-72, 74-92, 94-96	99-101, 103
Sweden	31-56, 58-72, 74-92, 94-96, 99, 101	100, 103
Switzerland	31-56, 58-72, 74-92, 94-96, 99-101	103
Syrian Arab Republic	31-56, 58-65, 67, 68, 69 (C159, R167), 71, 72, 74-76, 77 (C170, R177), 84, 87-89, 90 (P155), 94	66, 69 (R168), 70, 77 (C171, P089, R178), 78-83, 85, 86, 90 (R193, R194), 91, 92, 95, 96, 99-101, 103
Tajikistan	81-92, 94-96, 99-101	103
Tanzania, United Republic of	46-56, 58-72, 74-92, 94-96, 99-101	103
Thailand	31-56, 58-72, 74-92, 94-96	99-101, 103
The former Yugoslav Republic of Macedonia	80-83, 85, 87, 88, 95 (C187, R197)	84, 86, 89-92, 94, 95 (R198), 96, 99-101, 103
Timor-Leste	92, 94-96	99-101, 103
Togo	44-56, 58-72, 74-87, 89, 94, 95 (C187, R197)	88, 90-92, 95 (R198), 96, 99-101, 103
Trinidad and Tobago	47-56, 58-72, 74-92, 94-96, 99-101	103
Tunisia	39-56, 58-72, 74-92, 94-96, 99-101	103
Turkey	31-56, 58-72, 74-92, 94-96, 99-101, 103	
Turkmenistan	81-92, 94-96, 99, 100	101, 103
Tuvalu		99-101, 103

	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)
Uganda	47-56, 58-72, 74-80, 87	81-86, 88-92, 94-96, 99-101, 103
Ukraine	37-56, 58-72, 74-92, 94-96, 99-101, 103	
United Arab Emirates	58-72, 74-92, 95, 96	94, 99-101, 103
United Kingdom	31-56, 58-72, 74-92, 94-96, 99-101	103
United States	66-72, 74-92, 94-96, 99-101, 103	
Uruguay	31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 95 (R197, R198), 100	90 (P155), 94, 95 (C187), 96, 99, 101, 103
Uzbekistan	80-92, 94-96, 99-101, 103	
Vanuatu		91, 92, 94-96, 99-101, 103
Venezuela, Bolivarian Republic of	41-56, 58-72, 74-92, 94-96, 99-101, 103	
Viet Nam	79-92, 94-96, 99-101, 103	
Yemen	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, 103
Zambia	49-56, 58-72, 74-92, 94-96	99-101, 103
Zimbabwe	66-72, 74-92, 94-96, 99-101, 103	

**Appendix VI. Overall position of member States with regard to
the submission to the competent authorities of
the instruments adopted by the Conference**
(as at 5 December 2015)

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	

All the instruments adopted between the 31st and the 53rd Sessions have been submitted to the competent authorities by member States

54th	(June 1970)	119	1	0	120
55th	(October 1970)	120	0	0	120
56th	(June 1971)	120	0	0	120
58th	(June 1973)	122	1	0	123
59th	(June 1974)	125	0	0	125
60th	(June 1975)	125	1	0	126
61st	(June 1976)	131	0	0	131
62nd	(October 1976)	129	1	1	131
63rd	(June 1977)	131	2	1	134
64th	(June 1978)	134	0	1	135
65th	(June 1979)	135	0	2	137
66th	(June 1980)	137	0	5	142
67th	(June 1981)	138	4	1	143
68th	(June 1982)	141	2	4	147
69th	(June 1983)	142	2	4	148
70th	(June 1984)	142	0	7	149
71st	(June 1985)	145	1	3	149
72nd	(June 1986)	145	0	4	149
74th	(October 1987)	146	0	3	149
75th	(June 1988)	143	2	4	149
76th	(June 1989)	141	0	6	147
77th	(June 1990)	134	4	9	147
78th	(June 1991)	139	0	10	149
79th	(June 1992)	142	2	12	156
80th	(June 1993)	150	2	15	167
81st	(June 1994)	151	2	18	171
82nd	(June 1995)	143	10	20	173
83rd	(June 1996)	142	2	30	174
84th	(October 1996)	146	4	24	174
85th	(June 1997)	142	3	29	174
86th	(June 1998)	135	0	39	174
87th	(June 1999)	173	0	1	174
88th	(June 2000)	135	3	37	175
89th	(June 2001)	129	4	42	175
90th	(June 2002)	120	8	47	175
91st	(June 2003)	135	0	41	176

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	
92nd (June 2004)	120	0	57	177
94th (February 2006)	134	0	44	178
95th (June 2006)	113	13	52	178
96th (June 2007)	106	1	71	178
99th (June 2010)	92	0	91	183
100th (June 2011)	96	0	87	183
101st (June 2012)	86	0	99	185
103rd (June 2014)	42	4	139	185

Appendix VII. Comments made by the Committee, by country

*The comments referred to below have been drawn up in the form of either "observations", which are reproduced in this report, or "direct requests", which are not published but are communicated directly to the governments concerned.
This table also lists acknowledgements by the Committee of responses received to direct requests.*

Afghanistan	<p>General observation</p> <p>Observations on Conventions Nos 100, 105, 111</p> <p>Direct requests on Conventions Nos 13, 105, 111, 139</p> <p>Direct request on submission</p>
Albania	<p>Direct requests on Conventions Nos 29, 88, 105, 122, 151, 154, 155, 174, 176, 181</p> <p>Observation on submission</p>
Algeria	<p>Observations on Conventions Nos 87, 144</p> <p>Direct requests on Conventions Nos 56, 81, 87, 91, 147, 167</p> <p>Response received to a direct request on Convention No. 69</p> <p>Direct request on submission</p>
Angola	<p>General direct request</p> <p>Observations on Conventions Nos 81, 88, 182</p> <p>Direct requests on Conventions Nos 1, 14, 29, 45, 74, 87, 89, 91, 100, 105, 106, 107, 111, 138, 182</p> <p>Observation on submission</p>
Antigua and Barbuda	<p>Observation on Convention No. 144</p> <p>Direct request on Convention No. 155</p> <p>Observation on submission</p>
Argentina	<p>Observations on Conventions Nos 87, 88, 96, 154, 169</p> <p>Direct requests on Conventions Nos 2, 87, 115, 144, 159, 169</p> <p>Direct request on submission</p>
Armenia	<p>Observations on Conventions Nos 17, 122</p> <p>Direct requests on Conventions Nos 29, 105, 138, 150, 160, 182</p> <p>Direct request on submission</p>
Australia	<p>Direct request on Convention No. 88</p>
Austria	<p>Observation on Convention No. 122</p> <p>Direct requests on Conventions Nos 135, 160</p> <p>Direct request on submission</p>
Azerbaijan	<p>Observations on Conventions Nos 29, 105</p> <p>Direct requests on Conventions Nos 23, 29, 92, 105, 122, 133, 134, 147, 160</p> <p>Response received to a direct request on Convention No. 16</p> <p>Observation on submission</p>
Bahamas	<p>General direct request</p> <p>Observations on Conventions Nos 103, 138</p> <p>Direct requests on Conventions Nos 81, 88, 100, 105, 111, 117, 144, 182, MLC, 2006</p> <p>Observation on submission</p>
Bahrain	<p>Observation on submission</p>
Bangladesh	<p>Observations on Conventions Nos 81, 87, 100, 107, 111</p> <p>Direct requests on Conventions Nos 81, 96, 107, 111, 149</p> <p>Observation on submission</p>
Barbados	<p>General direct request</p> <p>Observations on Conventions Nos 111, 135</p> <p>Direct requests on Conventions Nos 100, 105, 108, 111, 138, 182</p> <p>Direct request on submission</p>
Belarus	<p>Observations on Conventions Nos 29, 87, 105</p> <p>Direct requests on Conventions Nos 29, 105, 122, 150, 160, 182</p> <p>Response received to a direct request on Convention No. 138</p> <p>Direct request on submission</p>
Belgium	<p>Observation on Convention No. 155</p> <p>Direct requests on Conventions Nos 62, 81, 129, 150, 155, 176, 177, MLC, 2006</p> <p>Response received to direct requests on Conventions Nos. 154, 174</p>

Belize	<p>General observation</p> <p>Observations on Conventions Nos 105, 115</p> <p>Direct requests on Conventions Nos 29, 81, 88, 100, 105, 111, 138, 150, 154, 155, 182</p> <p>Observation on submission</p> <p>Direct requests on Conventions Nos 13, 160</p>
Benin	
Bolivia, Plurinational State of	<p>Observations on Conventions Nos 81, 129, 136, 138, 162</p> <p>Direct requests on Conventions Nos 81, 120, 129, 138, 160</p> <p>Observation on submission</p> <p>Direct requests on Conventions Nos 13, 29, 88, 105, 159, 181</p> <p>Direct request on submission</p>
Bosnia and Herzegovina	
Botswana	<p>Observation on Convention No. 151</p> <p>Direct request on submission</p>
Brazil	<p>Observations on Conventions Nos 29, 81, 118, 138, 162, 169, 182</p> <p>Direct requests on Conventions Nos 22, 29, 81, 94, 115, 117, 133, 137, 138, 140, 146, 155, 159, 160, 163, 164, 166, 169, 170, 174, 178, 182</p> <p>Response received to direct requests on Conventions Nos. 16, 53, 92, 134, 145, 148</p> <p>Observation on submission</p> <p>Direct request on submission</p> <p>Direct request on Convention No. 182</p> <p>Observation on submission</p> <p>Direct requests on Conventions Nos 29, 105, 108, 122, 161, MLC, 2006</p>
Brunei Darussalam	
Bulgaria	
Burkina Faso	<p>Observation on Convention No. 144</p> <p>Direct requests on Conventions Nos 13, 29, 159, 161, 170, 183, 184</p> <p>Direct request on submission</p>
Burundi	<p>General observation</p> <p>Observations on Conventions Nos 11, 26, 29, 62, 81, 87, 94, 98, 100, 111, 138, 144, 182</p> <p>Direct requests on Conventions Nos 14, 17, 27, 29, 42, 52, 64, 87, 100, 101, 105, 111, 135, 138, 182</p> <p>Observation on submission</p> <p>Direct requests on Conventions Nos 29, 138, 182</p> <p>Direct request on submission</p>
Cabo Verde	
Cambodia	<p>Observations on Conventions Nos 13, 87, 100, 182</p> <p>Direct requests on Conventions Nos 87, 100, 111, 182</p> <p>Direct request on submission</p>
Cameroon	<p>Observations on Conventions Nos 122, 162, 182</p> <p>Direct requests on Conventions Nos 9, 13, 16, 45, 81, 108, 122, 146, 182</p> <p>Direct request on submission</p>
Canada	<p>General observation</p> <p>Observation on Convention No. 88</p> <p>Direct request on Convention No. 160</p> <p>Direct request on submission</p> <p>General direct request</p>
Central African Republic	<p>Observations on Conventions Nos 13, 62, 87, 98, 100, 111, 119, 120, 155, 169</p> <p>Direct requests on Conventions Nos 87, 88, 98, 100, 111, 169</p> <p>Direct request on submission</p>
Chad	<p>Observation on Convention No. 111</p> <p>Direct requests on Conventions Nos 13, 81, 100, 111</p> <p>Direct request on submission</p>
Chile	<p>Observations on Conventions Nos 35, 37, 122</p> <p>Direct requests on Conventions Nos 29, 105</p> <p>Response received to a direct request on Convention No. 16</p> <p>Observation on submission</p> <p>Direct request on submission</p>
China	
Hong Kong Special Administrative Region	<p>Observation on Convention No. 144</p> <p>Direct requests on Conventions Nos 81, 148, 160</p>
Macau Special Administrative Region	<p>Direct requests on Conventions Nos 88, 92, 108</p>
Colombia	<p>Observations on Conventions Nos 2, 12, 17, 18, 81, 88, 129, 136, 159, 162, 169</p> <p>Direct requests on Conventions Nos 8, 9, 22, 23, 81, 129, 160, 161, 162, 167, 169</p>

Comoros	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 13, 17, 19, 81, 111, 122</p> <p><i>Direct requests on Conventions Nos 12, 29, 87, 99, 100, 105, 111</i></p> <p>Observation on submission</p>
Congo	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 29, 81, 87, 111, 138, 182</p> <p><i>Direct requests on Conventions Nos 29, 87, 100, 105, 111, 138, 150, 182</i></p> <p>Observation on submission</p>
Costa Rica	<p>Observations on Conventions Nos 81, 129, 169</p> <p><i>Direct requests on Conventions Nos 8, 16, 81, 88, 96, 145, 147, 159, 160, 169</i></p>
Côte d'Ivoire	<p><i>Direct requests on Conventions Nos 29, 96, 105, 159</i></p> <p>Observation on submission</p>
Croatia	<p>General observation</p> <p>Observations on Conventions Nos 81, 98, 111, 161, 162</p> <p><i>Direct requests on Conventions Nos 13, 29, 45, 81, 87, 100, 111, 119, 122, 129, 132, 138, 139, 148, 155, 161, 182</i></p> <p>Observation on submission</p>
Cuba	<p>Observation on Convention No. 81</p> <p><i>Direct requests on Conventions Nos 22, 81, 88, 108, 148, 187</i></p> <p><i>Direct request on submission</i></p>
Cyprus	<p><i>Direct requests on Conventions Nos 100, 111, 155, 160, 162, MLC, 2006, 187</i></p> <p><i>Direct request on submission</i></p>
Czech Republic	<p>Observations on Conventions Nos 111, 122, 161</p> <p><i>Direct requests on Conventions Nos 100, 111, 122, 135, 160, 161, 181</i></p> <p><i>Response received to a direct request on Convention No. 108</i></p> <p>General observation</p>
Democratic Republic of the Congo	<p>Observations on Conventions Nos 29, 62, 81, 100, 111, 138, 144, 182</p> <p><i>Direct requests on Conventions Nos 29, 81, 88, 100, 105, 111, 119, 120, 135, 138, 150, 182</i></p> <p>Observation on submission</p>
Denmark	<p>Observation on Convention No. 111</p> <p><i>Direct requests on Conventions Nos 100, 111, 122, 160</i></p> <p><i>Direct request on submission</i></p>
Faroe Islands	<i>Direct request on Convention No. MLC, 2006</i>
Djibouti	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 63, 81, 94, 144</p> <p><i>Direct requests on Conventions Nos 13, 22, 23, 29, 55, 56, 69, 71, 81, 88, 96, 100, 111, 115, 120, 125, 138, 182</i></p> <p>Observation on submission</p>
Dominica	<p>General observation</p> <p>Observations on Conventions Nos 29, 81, 94, 138, 147</p> <p><i>Direct requests on Conventions Nos 8, 16, 19, 29, 87, 97, 100, 105, 111, 135, 144, 150, 169, 182</i></p> <p>Observation on submission</p>
Dominican Republic	<p>Observations on Conventions Nos 19, 111, 122</p> <p><i>Direct request on Convention No. 111</i></p> <p><i>Direct request on submission</i></p>
Ecuador	<p>Observations on Conventions Nos 81, 87, 98, 100, 101, 111</p> <p><i>Direct requests on Conventions Nos 81, 87, 88, 95, 100, 101, 110, 111, 115, 119, 136, 139, 148, 152, 159, 162, 189</i></p> <p><i>Direct request on submission</i></p>
Egypt	<p>Observation on Convention No. 105</p> <p><i>Direct requests on Conventions Nos 2, 63, 88, 105, 150, 159</i></p> <p><i>Direct request on submission</i></p>
El Salvador	<p>Observations on Conventions Nos 81, 87, 144</p> <p><i>Direct requests on Conventions Nos 81, 87, 88, 129, 149, 159, 160</i></p> <p>Observation on submission</p>
Equatorial Guinea	<p>General observation</p> <p>Observations on Conventions Nos 1, 30, 87, 98, 103</p> <p><i>Direct requests on Conventions Nos 1, 29, 30, 105, 111, 138, 182</i></p> <p>Observation on submission</p>

Eritrea	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 29, 105</p> <p><i>Direct requests on Conventions Nos 29, 100, 105, 111</i></p> <p><i>Direct request on submission</i></p>
Estonia	<p><i>Direct requests on Conventions Nos 2, 108</i></p> <p><i>Response received to a direct request on Convention No. 13</i></p>
Ethiopia	<p>Observation on Convention No. 105</p> <p><i>Direct requests on Conventions Nos 29, 105</i></p> <p><i>Direct request on submission</i></p>
Fiji	<p>Observations on Conventions Nos 87, 100, 111</p> <p><i>Direct requests on Conventions Nos 100, 108, 111, 142, 155, 181, 184</i></p> <p>Observation on submission</p>
Finland	<p>Observations on Conventions Nos 88, 159</p> <p><i>Direct requests on Conventions Nos 13, 119, 120, 136, 139, 155, 160, 167, 176, 181, 184, 187</i></p>
France	<p>Observation on Convention No. 97</p> <p><i>Direct requests on Conventions Nos 62, 81, 88, 97, 115, 129, 148, MLC, 2006</i></p> <p><i>Response received to direct requests on Conventions Nos. 127, 136, 139</i></p>
French Polynesia	<p><i>Direct requests on Conventions Nos 22, 69, 81, 129</i></p> <p><i>Response received to direct requests on Conventions Nos. 16, 73, 127, 145</i></p>
French Southern and Antarctic Territories New Caledonia	<p><i>Direct requests on Conventions Nos 8, 9, 16, 22, 23, 53, 58, 68, 69, 73, 74, 92, 133, 134, 146, 147</i></p> <p><i>General direct request</i></p> <p><i>Direct request on Convention No. 120</i></p> <p><i>Response received to a direct request on Convention No. 127</i></p>
Gabon	<p>Observations on Conventions Nos 144, 182</p> <p><i>Direct requests on Conventions Nos 29, 45, 105, 138, 182</i></p>
Gambia	<p>Observation on submission</p> <p>General observation</p> <p>Observations on Conventions Nos 98, 111</p> <p><i>Direct requests on Conventions Nos 29, 87, 100, 105, 111, 138, 182</i></p> <p><i>Direct request on submission</i></p>
Georgia	<p><i>Direct requests on Conventions Nos 138, 163, 182</i></p> <p><i>Direct request on submission</i></p>
Germany	<p>Observations on Conventions Nos 88, 98</p> <p><i>Direct requests on Conventions Nos 81, 88, 115, 129, 139, 140, 159, 160, MLC, 2006</i></p> <p><i>Response received to direct requests on Conventions Nos. 138, 182</i></p> <p><i>Direct request on submission</i></p>
Ghana	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 81, 94, 103, 119, 182</p> <p><i>Direct requests on Conventions Nos 29, 81, 87, 96, 103, 105, 107, 115, 117, 120, 138, 149, 182</i></p> <p><i>Direct request on submission</i></p>
Greece	<p>Observations on Conventions Nos 81, 95, 138</p> <p><i>Direct requests on Conventions Nos 62, 71, 81, 136, 138, 144, 150, 160, 182</i></p>
Grenada	<p><i>Direct requests on Conventions Nos 87, 105, 138, 182</i></p> <p>Observation on submission</p>
Guatemala	<p>Observations on Conventions Nos 87, 105, 138, 144, 162, 182</p> <p><i>Direct requests on Conventions Nos 13, 16, 29, 88, 96, 108, 110, 127, 138, 148, 159, 160, 161, 163, 167, 169, 182</i></p>
Guinea	<p>Observations on Conventions Nos 81, 94, 118, 133, 134, 139, 142, 152, 182</p> <p><i>Direct requests on Conventions Nos 3, 13, 29, 105, 113, 117, 118, 119, 120, 121, 122, 132, 136, 138, 140, 143, 144, 148, 149, 150, 159, 182</i></p> <p><i>Response received to direct requests on Conventions Nos. 16, 90</i></p> <p>Observation on submission</p>
Guinea - Bissau	<p>General observation</p> <p>Observations on Conventions Nos 81, 98</p> <p><i>Direct requests on Conventions Nos 29, 45, 68, 69, 73, 74, 81, 88, 91, 105, 108, 138, 182</i></p> <p>Observation on submission</p>
Guyana	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 29, 98, 100, 115, 136, 137, 138, 139, 150</p> <p><i>Direct requests on Conventions Nos 2, 45, 87, 94, 100, 111, 142, 144, 150, 155, 166, 182</i></p> <p><i>Direct request on submission</i></p>

Haiti	<p>General observation</p> <p>Observations on Conventions Nos 12, 17, 24, 25, 42, 81, 87, 98, 182</p> <p>Direct requests on Conventions Nos 1, 14, 29, 30, 87, 100, 106, 107, 111, 138, 182</p> <p>Observation on submission</p>
Honduras	<p>Observations on Conventions Nos 81, 138, 169, 182</p> <p>Direct requests on Conventions Nos 29, 81, 105, 127, 138, 144, 169, 182</p> <p>Response received to direct requests on Conventions Nos. 45, 62, 108</p>
Hungary	<p>Observations on Conventions Nos 81, 87</p> <p>Direct requests on Conventions Nos 81, 129, 144, 182</p> <p>Direct request on submission</p>
Iceland	<p>Direct requests on Conventions Nos 2, 144</p> <p>Response received to direct requests on Conventions Nos. 108, 182</p>
India	<p>Observations on Conventions Nos 29, 81, 105, 107</p> <p>Direct requests on Conventions Nos 29, 105, 107, 108, 115, 127, 136, 144, 160, 174</p> <p>Response received to a direct request on Convention No. 45</p>
Indonesia	<p>Observations on Conventions Nos 87, 98, 138, 182</p> <p>Direct requests on Conventions Nos 87, 138, 144, 182</p>
Iran, Islamic Republic of	<p>Direct requests on Conventions Nos 29, 108, 122, 182</p> <p>Direct request on submission</p>
Iraq	<p>Observations on Conventions Nos 29, 182</p> <p>Direct requests on Conventions Nos 8, 13, 22, 23, 29, 81, 92, 105, 119, 120, 136, 138, 144, 146, 147, 148, 150, 182</p> <p>Response received to a direct request on Convention No. 16</p> <p>Observation on submission</p>
Ireland	<p>General observation</p> <p>Observations on Conventions Nos 98, 144, 182</p> <p>Direct requests on Conventions Nos 62, 81, 88, 108, 139, 155, 159, 160, 176, 182</p> <p>Observation on submission</p>
Israel	<p>Observation on Convention No. 182</p> <p>Direct requests on Conventions Nos 105, 138, 144, 160, 181, 182</p>
Italy	<p>Observations on Conventions Nos 81, 122, 129</p> <p>Direct requests on Conventions Nos 71, 81, 108, 129, 150, 160</p> <p>Response received to direct requests on Conventions Nos. 138, 182</p>
Jamaica	<p>Observations on Conventions Nos 87, 98, 138, 144, 182</p> <p>Direct requests on Conventions Nos 8, 16, 87, 150, 182</p> <p>Observation on submission</p>
Japan	<p>Observations on Conventions Nos 29, 81, 88, 115, 159, 162, 181</p> <p>Direct requests on Conventions Nos 29, 81, 115, 119, 120, 139, 144, 162, 187</p> <p>Response received to a direct request on Convention No. 182</p>
Jordan	<p>Observations on Conventions Nos 119, 138, 182</p> <p>Direct requests on Conventions Nos 29, 120, 138, 144, 159, 182</p> <p>Response received to a direct request on Convention No. 105</p>
Kazakhstan	<p>General direct request</p> <p>Observations on Conventions Nos 81, 87, 100, 111, 129, 138, 182</p> <p>Direct requests on Conventions Nos 29, 81, 88, 100, 105, 129, 138, 144, 148, 155, 162, 182, 183</p> <p>Observation on submission</p>
Kenya	<p>Observations on Conventions Nos 29, 105, 138, 182</p> <p>Direct requests on Conventions Nos 2, 29, 88, 105, 138, 144, 182</p> <p>Direct request on submission</p>
Kiribati	<p>General observation</p> <p>Direct requests on Conventions Nos 29, 105, 138, 182</p> <p>Observation on submission</p>
Korea, Republic of	<p>Observation on Convention No. 111</p> <p>Direct requests on Conventions Nos 111, 115, 144, 150</p>
Kuwait	<p>Observations on Conventions Nos 29, 87, 98, 105, 136, 138</p> <p>Direct requests on Conventions Nos 29, 87, 98, 105, 119, 138, 144, 182</p> <p>Observation on submission</p>
Kyrgyzstan	<p>General direct request</p> <p>Observations on Conventions Nos 138, 182</p> <p>Direct requests on Conventions Nos 29, 81, 97, 105, 111, 115, 119, 120, 138, 142, 144, 148, 150, 154, 159, 160, 182, 184</p> <p>Observation on submission</p>

Lao People's Democratic Republic	<p><i>General direct request</i></p> <p>Observation on Convention No. 13</p> <p><i>Direct requests on Conventions Nos 29, 138, 144, 182</i></p> <p><i>Direct request on submission</i></p>
Latvia	<p><i>Direct request on Convention No. 115</i></p> <p><i>Response received to a direct request on Convention No. 182</i></p>
Lebanon	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 29, 71, 81, 138, 182</p> <p><i>Direct requests on Conventions Nos 29, 81, 88, 98, 105, 115, 120, 122, 127, 136, 138, 139, 142, 148, 150, 159, 170, 172, 174, 176, 182</i></p> <p><i>Direct request on submission</i></p>
Lesotho	<p>Observations on Conventions Nos 81, 138, 182</p> <p><i>Direct requests on Conventions Nos 81, 144, 167, 182</i></p> <p><i>Direct request on submission</i></p>
Liberia	<p>Observations on Conventions Nos 87, 98</p> <p><i>Direct requests on Conventions Nos 29, 81, 105, 144, 150, 182</i></p>
Libya	<p>Observation on submission</p> <p><i>General direct request</i></p> <p>Observation on Convention No. 128</p> <p><i>Direct requests on Conventions Nos 87, 98</i></p> <p>Observation on submission</p>
Lithuania	<p><i>Direct requests on Conventions Nos 29, 88, 144, 159</i></p> <p><i>Response received to a direct request on Convention No. 182</i></p>
Luxembourg	<p>General observation</p> <p><i>Direct requests on Conventions Nos 115, 159, 162, 174</i></p> <p><i>Response received to a direct request on Convention No. 29</i></p>
Madagascar	<p>Observations on Conventions Nos 81, 119, 120, 122, 127, 138, 144, 182</p> <p><i>Direct requests on Conventions Nos 13, 81, 88, 117, 129, 159, 182</i></p>
Malawi	<p>Observation on submission</p> <p><i>General direct request</i></p> <p>Observations on Conventions Nos 29, 129, 138, 144, 182</p> <p><i>Direct requests on Conventions Nos 26, 29, 81, 99, 105, 149, 150, 182</i></p> <p><i>Direct request on submission</i></p>
Malaysia	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 98, 138, 182</p> <p><i>Direct requests on Conventions Nos 88, 138, 144, 182</i></p> <p>Observation on submission</p>
Peninsular	<p>Observation on Convention No. 19</p> <p><i>Response received to a direct request on Convention No. 45</i></p>
Sabah	<p>Observation on Convention No. 97</p> <p><i>Direct request on Convention No. 97</i></p>
Sarawak	<p><i>General direct request</i></p> <p>Observation on Convention No. 19</p> <p><i>Direct request on Convention No. 14</i></p>
Maldives, Republic of	<p>Observation on submission</p>
Mali	<p>Observations on Conventions Nos 138, 182</p> <p><i>Direct requests on Conventions Nos 144, 150, 182</i></p> <p>Observation on submission</p>
Malta	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 81, 87, 98, 119, 129</p> <p><i>Direct requests on Conventions Nos 96, 108, 117, 127, 136, 148</i></p> <p><i>Direct request on submission</i></p>
Mauritania	<p>Observations on Conventions Nos 3, 29, 81, 87, 102, 138, 182</p> <p><i>Direct requests on Conventions Nos 13, 14, 22, 23, 52, 53, 58, 62, 81, 87, 89, 96, 98, 105, 112, 122, 138, 182</i></p> <p>Observation on submission</p>
Mauritius	<p>Observations on Conventions Nos 19, 26, 98, 108</p> <p><i>Direct requests on Conventions Nos 29, 105, 144, 150, 189</i></p> <p><i>Direct request on submission</i></p>

Mexico	<p>Observations on Conventions Nos 22, 29, 55, 87, 134, 150, 155, 159, 163, 164, 166, 182</p> <p>Direct requests on Conventions Nos 9, 16, 56, 87, 115, 144, 150, 155, 159, 167, 182</p> <p>Response received to direct requests on Conventions Nos. 53, 108</p> <p>Direct request on submission</p>
Moldova, Republic of	<p>Observation on Convention No. 81</p> <p>Direct requests on Conventions Nos 81, 88, 92, 119, 127, 129, 138, 144, 155, 160, 182, 184, 187</p> <p>Observation on submission</p>
Mongolia	<p>Observations on Conventions Nos 138, 182</p> <p>Direct requests on Conventions Nos 87, 98, 103, 135, 144, 159, 182</p> <p>Direct request on submission</p>
Montenegro	<p>General direct request</p> <p>Observation on Convention No. 98</p> <p>Direct requests on Conventions Nos 2, 87, 88, 98, 140, 144, 159, 182</p> <p>Response received to a direct request on Convention No. 138</p>
Morocco	<p>Observations on Conventions Nos 29, 105, 138, 182</p> <p>Direct requests on Conventions Nos 26, 29, 99, 131, 138, 144, 150, 176, 182, MLC, 2006</p>
Mozambique	<p>Observations on Conventions Nos 81, 87, 98, 138, 182</p> <p>Direct requests on Conventions Nos 81, 87, 88, 98, 138, 144, 182</p> <p>Observation on submission</p>
Myanmar	<p>Observation on Convention No. 29</p> <p>Direct requests on Conventions Nos 29, 182</p> <p>Direct request on submission</p>
Namibia	<p>Observations on Conventions Nos 138, 182</p> <p>Direct requests on Conventions Nos 29, 105, 138, 144, 182</p> <p>Direct request on submission</p>
Nepal	<p>General direct request</p> <p>Observations on Conventions Nos 29, 138, 182</p> <p>Direct requests on Conventions Nos 29, 105, 138, 144, 169, 182</p> <p>Direct request on submission</p>
Netherlands	<p>Observation on Convention No. 81</p> <p>Direct requests on Conventions Nos 81, 115, 129, 155, 159, MLC, 2006</p> <p>Response received to direct requests on Conventions Nos. 138, 182</p> <p>Direct request on submission</p>
Aruba	<p>Observation on Convention No. 138</p> <p>Direct requests on Conventions Nos 8, 9, 22, 23, 29, 69, 74, 81, 87, 88, 105, 122, 138, 140, 142, 144, 145, 146, 147, 182</p> <p>Direct request on Convention No. 88</p>
Caribbean Part of the Netherlands	<p>General direct request</p>
Curaçao	<p>Direct requests on Conventions Nos 88, 144</p>
Sint Maarten	<p>Observations on Conventions Nos 88, 182</p>
New Zealand	<p>Direct request on Convention No. 144</p> <p>Direct request on submission</p>
Nicaragua	<p>General direct request</p> <p>Observations on Conventions Nos 138, 182</p> <p>Direct requests on Conventions Nos 4, 29, 63, 144, 169, 182</p> <p>Response received to a direct request on Convention No. 115</p>
Niger	<p>Observations on Conventions Nos 81, 138, 182</p> <p>Direct requests on Conventions Nos 81, 119, 138, 148, 155, 182, 187</p> <p>Observation on submission</p>
Nigeria	<p>General direct request</p> <p>Observations on Conventions Nos 81, 87, 88, 111, 138, 144, 159, 182</p> <p>Direct requests on Conventions Nos 29, 81, 98, 100, 111, 138, 155, 182</p> <p>Direct request on submission</p>
Norway	<p>Direct requests on Conventions Nos 71, 115, 137</p> <p>Response received to direct requests on Conventions Nos. 108, 182</p>
Oman	<p>Direct request on submission</p>
Pakistan	<p>Observations on Conventions Nos 81, 96, 100, 111</p> <p>Direct requests on Conventions Nos 81, 100, 111, 144, 159</p> <p>Observation on submission</p>

Palau	<i>Direct request on submission</i>
Panama	<p>Observations on Conventions Nos 87, 98, 100, 108, 111, 181</p> <p><i>Direct requests on Conventions Nos 71, 100, 107, 110, 111, 117, 167</i></p> <p><i>Direct request on submission</i></p>
Papua New Guinea	<p><i>General direct request</i></p> <p>Observation on Convention No. 98</p> <p><i>Direct requests on Conventions Nos 45, 85, 87, 122</i></p> <p>Observation on submission</p>
Paraguay	<p>Observations on Conventions Nos 87, 98</p> <p><i>Direct requests on Conventions Nos 98, 100, 111, 115, 159</i></p> <p><i>Direct request on submission</i></p>
Peru	<p>Observations on Conventions Nos 87, 98, 144, 159</p> <p><i>Direct requests on Conventions Nos 87, 98</i></p> <p><i>Direct request on submission</i></p>
Philippines	<p>Observations on Conventions Nos 87, 98, 111</p> <p><i>Direct requests on Conventions Nos 87, 88, 98, 111, 122, 159, 189</i></p>
Poland	<p>Observations on Conventions Nos 87, 98, 122, 159</p> <p><i>Direct requests on Conventions Nos 2, 115</i></p>
Portugal	<p>Observations on Conventions Nos 98, 122, 137, 139, 158</p> <p><i>Direct requests on Conventions Nos 45, 87, 88, 120, 127, 139, 148, 159, 162, 176, 181</i></p> <p><i>Direct request on submission</i></p>
Qatar	<p>Observations on Conventions Nos 29, 81, 111</p> <p><i>Direct requests on Conventions Nos 29, 81, 111</i></p> <p><i>Direct request on submission</i></p>
Romania	<p>Observations on Conventions Nos 87, 98, 122</p> <p><i>Direct requests on Conventions Nos 87, 98, 122, 150</i></p>
Russian Federation	<p><i>Direct requests on Conventions Nos 13, 119, 120, 148, 155, 159, 162, 174, MLC, 2006, 187</i></p> <p><i>Response received to a direct request on Convention No. 115</i></p> <p><i>Direct request on submission</i></p>
Rwanda	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 62, 81, 87, 98</p> <p><i>Direct requests on Conventions Nos 29, 81, 87, 89, 105, 122</i></p> <p>Observation on submission</p>
Saint Kitts and Nevis	<p>Observation on Convention No. 98</p> <p><i>Direct requests on Conventions Nos 87, 144</i></p> <p>Observation on submission</p>
Saint Lucia	<p>General observation</p> <p>Observations on Conventions Nos 87, 98, 100</p> <p><i>Direct requests on Conventions Nos 8, 87, 100, 108, 111, 154, 158</i></p> <p>Observation on submission</p>
Saint Vincent and the Grenadines	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 87, 98, 100</p> <p><i>Direct requests on Conventions Nos 100, 108, 111, 122, 144</i></p> <p>Observation on submission</p>
Samoa	<p><i>General direct request</i></p> <p>Observation on Convention No. 98</p> <p><i>Direct requests on Conventions Nos 87, 98, 100, 111</i></p> <p>Observation on submission</p>
San Marino	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 148, 150, 160</p> <p><i>Direct requests on Conventions Nos 87, 98, 100, 103, 111, 140, 143, 154, 156, 159</i></p> <p><i>Direct request on submission</i></p>
Sao Tome and Principe	<p>Observations on Conventions Nos 98, 144, 154, 159</p> <p><i>Direct requests on Conventions Nos 87, 88, 135, 151, 155, 184</i></p> <p>Observation on submission</p>
Saudi Arabia	<i>Direct request on submission</i>
Senegal	<p>Observation on Convention No. 87</p> <p><i>Direct requests on Conventions Nos 98, 122, 144</i></p> <p><i>Direct request on submission</i></p>

Serbia	<p>Observations on Conventions Nos 87, 88, 98, 144, 187</p> <p><i>Direct requests on Conventions Nos 13, 87, 98, 100, 119, 136, 139, 148, 155, 159, 161, 167, 187</i></p>
Seychelles	<p>Observations on Conventions Nos 87, 98</p> <p><i>Direct requests on Conventions Nos 2, 150</i></p>
Sierra Leone	<p>Observation on submission</p> <p>General observation</p> <p>Observations on Conventions Nos 17, 26, 81, 88, 95, 98, 119, 125, 144</p> <p><i>Direct requests on Conventions Nos 87, 94, 100, 101, 111, 126</i></p>
Singapore	<p>Observation on submission</p> <p><i>Direct requests on Conventions Nos 100, 187</i></p> <p><i>Direct request on submission</i></p>
Slovakia	<i>Direct requests on Conventions Nos 88, 98, 115, 122, 140, 158, 159, 163, 164, 181</i>
Slovenia	<p>Observation on Convention No. 98</p> <p><i>Direct requests on Conventions Nos 98, 108, 122</i></p>
Solomon Islands	<p><i>Direct requests on Conventions Nos 8, 16, 87, 98, 105, 108, 138, 182</i></p>
Somalia	<p>Observation on submission</p> <p>General observation</p>
South Africa	<p>Observation on submission</p> <p>Observations on Conventions Nos 87, 100, 111, 176</p> <p><i>Direct requests on Conventions Nos 2, 98, 100, 111, 144, 155, 176</i></p>
South Sudan	<p><i>Direct requests on Conventions Nos 29, 105, 138, 182</i></p> <p><i>Direct request on submission</i></p>
Spain	<p>Observations on Conventions Nos 87, 88, 122, 158, 159, 181</p> <p><i>Direct requests on Conventions Nos 98, 115, 150, 151, 158, MLC, 2006</i></p> <p><i>Direct request on submission</i></p>
Sri Lanka	<p>Observations on Conventions Nos 87, 98, 108</p> <p><i>Direct requests on Conventions Nos 8, 87, 115</i></p> <p><i>Response received to direct requests on Conventions Nos. 16, 58</i></p>
Sudan	<p>Observation on Convention No. 98</p> <p><i>Direct request on Convention No. 2</i></p>
Suriname	<p>Observation on submission</p> <p>General direct request</p> <p><i>Direct requests on Conventions Nos 87, 98, 122, 150</i></p>
Swaziland	<p>Observation on submission</p> <p>Observations on Conventions Nos 87, 96, 98, 144</p> <p><i>Direct requests on Conventions Nos 100, 111</i></p> <p><i>Response received to a direct request on Convention No. 87</i></p> <p><i>Direct request on submission</i></p>
Sweden	<p>Observations on Conventions Nos 87, 98, 122</p> <p><i>Direct requests on Conventions Nos 115, 159, MLC, 2006</i></p> <p><i>Direct request on submission</i></p>
Switzerland	<p>Observation on Convention No. 98</p> <p><i>Direct request on Convention No. 87</i></p> <p><i>Response received to a direct request on Convention No. 115</i></p>
Syrian Arab Republic	<p>Observations on Conventions Nos 29, 100, 105, 111, 138, 182</p> <p><i>Direct requests on Conventions Nos 1, 29, 30, 81, 89, 94, 95, 100, 107, 111, 129, 131, 138, 139, 144, 155, 170, 182</i></p> <p><i>Response received to direct requests on Conventions Nos. 14, 52, 101, 106</i></p>
Tajikistan	<p>Observation on submission</p> <p>Observation on Convention No. 120</p> <p><i>Direct requests on Conventions Nos 119, 148, 155</i></p>
Tanzania, United Republic of	<p>Observation on submission</p> <p>Observations on Conventions Nos 87, 98</p> <p><i>Direct request on submission</i></p> <p><i>Direct request on Convention No. 88</i></p>
Tanzania. Tanganyika	
Thailand	<p>Observations on Conventions Nos 88, 122, 182</p> <p><i>Direct requests on Conventions Nos 122, 159, 182</i></p> <p><i>Direct request on submission</i></p>

The former Yugoslav Republic of Macedonia	Observation on Convention No. 111 <i>Direct requests on Conventions Nos 88, 100, 111, 122, 142, 158, 159, 181</i>
Timor-Leste	Observation on submission <i>General direct request</i> Observation on Convention No. 87 <i>Direct requests on Conventions Nos 87, 98, 182</i> <i>Direct request on submission</i>
Togo	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 87, 98, 122</i> Observation on submission <i>General direct request</i>
Trinidad and Tobago	Observations on Conventions Nos 87, 98, 100, 111 <i>Direct requests on Conventions Nos 100, 111, 144, 147, 150, 159</i> <i>Direct request on submission</i>
Tunisia	Observations on Conventions Nos 87, 118 <i>Direct requests on Conventions Nos 62, 88, 98, 120, 122, 159</i> <i>Response received to a direct request on Convention No. 150</i> <i>Direct request on submission</i>
Turkey	Observations on Conventions Nos 87, 98, 100, 111, 144, 151, 155, 158 <i>Direct requests on Conventions Nos 87, 88, 96, 100, 111, 115, 119, 127, 155, 159</i>
Turkmenistan	Observation on Convention No. 105 <i>Direct requests on Conventions Nos 29, 100, 105, 111</i> <i>Direct request on submission</i>
Tuvalu	General observation Observation on submission
Uganda	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 12, 100, 111, 122, 144, 158, 159, 162</i> Observation on submission
Ukraine	Observation on Convention No. 176 <i>Direct requests on Conventions Nos 45, 115, 119, 120, 139, 155, 159, 161, 174, 176, 184</i>
United Arab Emirates	Observations on Conventions Nos 100, 111 <i>Direct requests on Conventions Nos 100, 111</i> <i>Direct request on submission</i>
United Kingdom	Observations on Conventions Nos 87, 100, 115, 122, 151 <i>Direct requests on Conventions Nos 87, 100, 108, 122, 135, 150, MLC, 2006</i> <i>General direct request</i>
Anguilla	Observations on Conventions Nos 85, 148 <i>Direct requests on Conventions Nos 8, 22, 23, 87, 108</i>
Bermuda	<i>General direct request</i> <i>Direct request on Convention No. 98</i>
British Virgin Islands	<i>Direct request on Convention No. 98</i>
Gibraltar	<i>General direct request</i> Observation on Convention No. 100 <i>Direct requests on Conventions Nos 100, 108</i> <i>General direct request</i>
Guernsey	<i>General direct request</i> <i>Direct requests on Conventions Nos 63, 115, 122</i>
Isle of Man	<i>Direct request on Convention No. MLC, 2006</i> <i>Response received to a direct request on Convention No. 108</i>
Jersey	<i>General direct request</i> Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 8, 69, 74, 115, 160</i> <i>General direct request</i>
Montserrat	<i>Direct requests on Conventions Nos 8, 85</i>
St Helena	Observation on Convention No. 98 <i>Response received to a direct request on Convention No. 58</i> <i>Direct request on Convention No. 176</i>
United States	
Uruguay	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 115, 135, 150</i> <i>Direct request on submission</i>

Uzbekistan	<p>Observations on Conventions Nos 98, 105, 182</p> <p><i>Direct requests on Conventions Nos 105, 122, 182</i></p>
Vanuatu	<p><i>General direct request</i></p> <p><i>Direct requests on Conventions Nos 87, 98</i></p> <p>Observation on submission</p>
Venezuela, Bolivarian Republic of	<p>Observations on Conventions Nos 22, 87, 88, 98, 122, 144, 158</p> <p><i>Direct request on Convention No. 150</i></p>
Viet Nam	<p>Observations on Conventions Nos 100, 111</p> <p><i>Direct requests on Conventions Nos 100, 111, 120, 122, 155</i></p> <p><i>General direct request</i></p>
Yemen	<p>Observations on Conventions Nos 87, 94, 98, 111</p> <p><i>Direct requests on Conventions Nos 19, 100, 111, 122, 158, 159</i></p> <p>Observation on submission</p>
Zambia	<p>Observations on Conventions Nos 87, 98, 136, 176</p> <p><i>Direct requests on Conventions Nos 122, 148, 159, 176, 181</i></p> <p><i>Direct request on submission</i></p>
Zimbabwe	<p>Observations on Conventions Nos 87, 98, 159</p>