PART TWO

OBSERVATIONS AND INFORMATION CONCERNING PARTICULAR COUNTRIES

1. OBSERVATIONS AND INFORMATION CONCERNING REPORTS ON RATIFIED CONVENTIONS (ARTICLE 22 OF THE CONSTITUTION)

A. General Observations and Information concerning Certain Countries

(a) Failure to supply reports for the past two years or more on the application of ratified Conventions

The Employer members explained that the use of the term “automatic cases” could be misunderstood in that such term seemed unimportant. However, these cases were very important and were only called “automatic” because they were examined every year by the Committee. The responsible party was the member States to submit reports under the ILO Constitution was the basis of the work, not just of this Committee, but of the whole supervisory machinery. If governments did not send their reports on the application of ratified Conventions, the ILO supervisory machinery would fail already before it had been started. The Employer members pointed out that if countries did not fulfil their reporting obligations, then it would be very difficult to evaluate the important issue of whether the contents of the Convention concerned were being complied with. In view of the Employer members, one of the reasons why some governments were not submitting reports was because they could not implement the provisions of ratified Conventions in their national legislation and practice. The Employer members concluded that these countries should be urged to make every effort to supply reports on ratified Conventions, as it was often the same countries which failed to comply with their reporting obligations.

The Worker members considered that respect for the obligation to supply reports was the crucial element on which the ILO’s supervisory machinery was based. The information contained in these reports had therefore to be as detailed as possible. It was regrettable to note that the changes made in recent years to the reporting procedure to simplify this task for governments had not so far improved the situation. The countries which had not fulfilled their obligations to supply a report held an unfair advantage in that the absence of a report made it impossible for the Committee to examine their national law and practice in respect of ratified Conventions. Consequently, the Committee should strongly urge member States to take the measures necessary to respect this obligation in the future.

A Government representative of Bosnia and Herzegovina explained that the delay in communicating reports under article 22 of the Constitution of the ILO was due to difficulties of internal coordination within Bosnia and Herzegovina. This situation had been noted at the conference on the implementation of the peace agreements, held recently in Brussels. From 8 to 15 May 2000, the ILO had organized a training seminar on the application of international labour standards and on the procedures for the submission of reports. In the context of this technical assistance, it had been decided that the two entities of Bosnia and Herzegovina would transmit the reports required to the Ministry of Foreign Affairs, who would subsequently be responsible for communicating them to the ILO. She expressed gratitude on behalf of her Government to the ILO for taking the initiative of supplying the above assistance and hoped that her country would be able to submit the reports due at the earliest possible time.

A Government representative of Burkina Faso referred to paragraphs 82 (failure to supply reports for the past two years or more on the application of ratified Conventions) and 93 (failure to supply information in reply to comments made by the Committee of Experts) of the report of the Committee of Experts and declared that his country had always regularly fulfilled its constitutional obligations. The failings which had been pointed out by the Committee of Experts concerned the year 1999 and were due to administrative constraints. His Government reported that this delay had taken place, thus impeding the work of the Committee of Experts, and undertook to respect its obligations under article 22 of the ILO Constitution as soon as possible.

A Government representative of Djibouti stated that his delegation was aware of the delay in the communication of the reports and apologized for it. This delay was due to internal difficulties faced by the administration, which was currently undergoing in-depth restructuring. During the visit of the members of the multidisciplinary advisory team based in Addis Ababa in March 2000, it had been decided that, with the technical support of the ILO, the Government would make up a large part of its delay in this field by the end of summer. However, in order to allow a larger number of civil servants to become involved in the handling of reports on ratified Conventions, the volume of which was very considerable, the Government hoped that the ILO would provide the Labour Ministry with special long-term training in the drafting of reports.

A Government representative of Georgia pointed out that his country did not wish to place itself outside the ILO and its activities. In his country, problems with the submission of reports were mainly due to defects on the administrative level. He assured the Committee that his country would fulfill its reporting obligations which it was currently unable to do because of technical reasons. In this regard, his Government relied on ILO technical assistance to comply with its reporting obligations.

A Government representative of the United Republic of Tanzania assured the Committee that her Government recognized the obligations incumbent upon it, but due to problems of internal organization and technical reasons, as well as the existence of a certain degree of administrative instability, it had been unable to comply with them. His Government undertook to take all the measures necessary to comply with its obligations, particularly regarding the supply of reports, and he expressed his interest in obtaining the technical assistance of the ILO.

A Government representative of Sierra Leone informed the Committee that his country’s failure to submit reports was not due to lack of political will but rather to the fact that over the last nine years Sierra Leone had been engulfed in a civil war which had witnessed the wanton destruction of lives and property including the Ministry of Labour. Despite the extremely difficult environment in which his Ministry had had to work, he was very much concerned by his country’s failure to report on ratified Conventions. A letter explaining this situation had already been addressed to the ILO. Now that his country was engaged in a reconstruction process, it was his firm intention to ensure that his Government fulfilled its reporting obligations in future. His Government had therefore asked for ILO technical assistance to remedy the situation. The ILO/MDT based in Dakar, the Ministry archives had been rebuilt and a complete set of the first and last article 22 reports were available and complete. He reiterated his Government’s previous request that training on the drafting of reports be provided to ILO/Membership officials from the Ministry of Labour as well as to the social partners.

A Government representative of the United Republic of Tanzania assured the Committee that her Government recognized the importance of supplying reports on ratified Conventions, and undertook to submit, as soon as possible, reports on the remaining
In this regard, Her Government had communicated reports on the Forced Labour Convention, 1930 (No. 29), Minimum Age (Industry) Convention (Revised), 1937 (No. 59), Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Abolition of Forced Labour Convention, 1957 (No. 105), Minimum Wage Fixing Convention, 1970 (No. 131), Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), Fundamental Principles and Rights of Workers Convention (International Labour Standards Convention), 1976 (No. 144). Furthermore, dialogue between the Ministry of Labour and the social partners had ensued for the purpose of ratification of the four remaining unratified Conventions. The Committee was happy to report that these efforts were fruitful and that the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), had been ratified earlier this year, and that the Equal Remunera-
tion Convention, 1951 (No. 100), Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and Worst Forms of Child Labour Convention, 1999 (No. 182), had been discussed by the Government and the social partners. The remaining three Con-
ventions would be ratified before the end of the year 2000. Finally, she pointed out that failure to comply with reporting obligations was also due to resource constraints and that her Government would appreciate technical assistance from the ILO in terms of training and sta-
taffing.

The Worker members observed that only a few of the countries which had been invited to speak on their failure to supply reports had actually done so, while the other countries were absent or not accredited to the Conference. These difficulties were due to various factors, such as political instability, lack of sufficient resources, administrative reforms, constitutional amendment, or the conflicts which had been experienced in their countries. The Committee recalled the fundamental importance of the supervisory system. A Government representative of Burkina Faso who had indicated that his Government had referred to the constitutional amendment would be required. Serious consideration should be given to this idea and it was their hope that it would result in the introduction of sanctions against member States which failed to comply with their constitutional obligations.

The Employer members expressed regret that only one country had provided information to the Committee in its failure to supply the first reports on ratified Conventions. It was noted that this situation would be mentioned in the Committee's conclusions. The Employer members noted that the obligation to submit first reports was of crucial importance. If there were special problems in meeting these obligations, the member States should promptly inform the ILO in order to obtain the necessary assistance. The Worker members noted that it was necessary to provide the ILO with the information needed to determine the reasons for failing to fulfill their reporting obligations.

The Employer members endorsed what had just been concluded by the Worker members. The explanations given by some governments for their failure to comply with their reporting obligations, such as crisis situations or the conflicts which had been experienced in their countries, the lack of competent staff, the lack of sufficient resources, administrative instability and structural reforms. Nevertheless, it was impor-
tant to note in this respect the commitments which had been under-
taken by the member States. The Committee should continue to urge member States to take all the necessary measures to fulfull the obligations. The implementation of such measures would strengthen the supervisory system, which had been repeatedly under-
lined by many speakers, would not be put into practice if govern-
ments did not respect the obligation to supply reports on the Conventions that they had ratified. Finally, the Committee should remind governments that they could call for the technical assistance of the ILO.

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to supply information in reply to the comments of the Committee of Experts remained valid.

A Government representative of the Central African Republic pointed out that his Government had discharged its obligation to supply information in reply to the comments of the Committee of Experts in February 2000.

A Government representative of Denmark noted that the Faeroe Islands were independent in the area of social politics, and that, despite his Government's best efforts, it could not require the Faeroe Islands to comply with its reporting obligations. He nevertheless assured the Committee that his Government was doing its utmost to encourage the Faeroe Islands to supply the reports due.

A Government representative of France noted that his country constituted a type of a borderline case. As Conventions ratified by France had been declared applicable to several non-metropolitan territories by virtue of article 35 of the Constitution, the French Government had had to submit a very high number of reports on the application of Conventions (234 reports in 2000). Possible additional ratifications by France would further increase this number, as well as the scope of the dialogue with the Committee of Experts. Far from Geneva, reports on the application of ratified Conventions and exchanges of views were necessary, in view of the reality that other countries had not the same constitutional obligations.

A Government representative of Greece said that, despite his Government's best efforts, it could neither confirm nor deny receipt of the requests for the retransmission of the reports. However, recent information indicated that the retransmission of some reports had been completed and would be communicated to the ILO in the near future.

A Government representative of Hungary, referring to his country's experience in complying with its constitutional obligations, expressed the hope that the failure to supply reports or information might have on the French Government's efforts to supply information would not be a reason for its failure to supply reports or information. He noted that his Government had discharged its obligations to supply information in reply to the comments of the Committee of Experts. Although the replies had been drafted by the Ministry of Labour, they had not been sent on by other authorities. His country undertook to supply the requested information in the near future.

A Government representative of the Netherlands (Aruba) expressed regret that his country had once again been called upon to explain its position concerning its failure to fulfil its obligations to supply information in reply to comments made by the Committee of Experts. He reiterated the information provided in previous years to the effect that Aruba was a full and equal member of the Kingdom of the Netherlands and was therefore itself fully responsible for fulfilling its international obligations. The European partner of the Kingdom could do little more than the Dutch Government in fulfilling its obligations. However, he reported that during recent contacts with Aruba he had been told that a number of reports and answers to the comments of the Committee of Experts were being prepared and that the reports would be transmitted to the ILO in the near future.

A Government representative of Nigeria observed that it had been difficult for his country to supply reports during the period 1994-98 because of the political situation in the country, which had adversely affected its labour administration. The dissolution of the National Executive Council of the Nigerian Labour Congress had made the National Labour Advisory Council (NLAC) moribund for that period. In the absence of the NLAC, it had not been possible to consult with employers' and workers' organizations on the reports due to the ILO. However, he affirmed that his Government had amended the anti-labour legislation which had been created and had referred to the Conventions ratified by Sao Tome and Principe, as well as several laws enacted to implement these Conventions. Finally, he recalled that the main reasons for the failures noted by the Committee of Experts were due to the anti-labour legislation which had been created and the long-lasting conflict in his country, which had made it impossible to provide any comprehensive replies. However, he expressed the firm intention of fulfilling the respective obligations in future.

A Government representative of the Slovak Republic observed that his country had been obliged to supply 15 reports to the ILO for which the ILO had not been in a position to deal with all outstanding labour matters. He appealed for co-operation and support in his country's efforts to sustain its nascent democracy.

A Government representative of Sao Tome and Principe pointed out that his country had been obliged to supply 15 reports to the ILO for which the ILO had not been in a position to deal with all outstanding labour matters. He appealed for co-operation and support in his country's efforts to sustain its nascent democracy.

A Government representative of Sierra Leone explained that the failure to supply information in reply to comments made by the Committee of Experts was not due to a lack of political will by his Government. The long-lasting conflict in his country had made it impossible to provide any comprehensive replies. However, he expressed the firm intention of fulfilling the respective obligations in future.

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A Government representative of Turkey referred to his country's efforts to deal with all outstanding labour matters. He appealed for co-operation and support in his country's efforts to sustain its nascent democracy.
er of Labour, who would take the necessary action on all such official correspondence. His country undertook to check whether the requests from the Committee of Experts would reach the Commissioner of Labour and either take appropriate action to send the reports to the ILO or inform the ILO that they had not been received.

A Government representative of the United Republic of Tanzania apologized for the failure to comply with reporting obligations, which had been due to human resource problems, as she had explained previously with regard to Zanzibar. In relation to Conventions No. 17 and 144, she observed that the request for information by the Committee of Experts had arisen mainly from the poor drafting of the reports submitted and she undertook to resubmit fuller reports in the near future. With regard to Conventions Nos. 63 and 137, she said that technical assistance might be required for their application. Finally, with regard to Convention No. 148, she acknowledged that an inadequate report had been submitted following the reform of the labour legislation. She re-emphasized the importance of replying to the comments of the Committee of Experts and undertook to supply reports promptly once technical assistance had been provided.

A Government representative of Trinidad and Tobago apologized for the delayed reply to the request for submission of reports on ratified Conventions. His country had sent replies to most of the Committee's comments. The Government had a strong will to ratify international labour Conventions. He thanked the ILO for its support and technical assistance and looked forward to continued cooperation in the future.

A Government representative of Yemen stated that his Government had sent replies to all of the Committee's comments. In recent years, Yemen had made great progress in the execution of its reporting obligations. The Government had thoroughly examined the observations which the Committee of Experts had addressed to it and had submitted a response to the ILO on that subject. He apologized for the delays incurred, which would be remedied as soon as possible.

The Employer members noted that a variety of explanations had been provided by the governments concerned with regard to their failure to reply to the comments made by the Committee of Experts. In some cases, rather bizarre explanations had been given. The number of countries listed, and the fact that one of them had failed to reply to the comments made on 29 Conventions, meant that technical assistance might be required in the event of failure to reply to the observations and direct requests of the Committee of Experts.

Finally, if a decision were to be taken to introduce sanctions in cases of serious failure to comply with reporting obligations, these sanctions should also be applicable in the event of failure to reply to the observations and direct requests of the Committee of Experts.

The Worker members observed that they had been provided with the same explanations as in the past concerning the reasons why governments had been unable to reply to the comments made by the Committee of Experts. Several governments had not spoken on the issue, despite the opportunity afforded to them. Additional steps needed to be taken by these governments to meet their reporting obligations; she observed it was hoped that the situation would improve next year. They emphasized that incomplete reports affected the ability of the Committee of Experts to carry out its functions effectively. They therefore urged the governments concerned to take all the necessary measures.

The Committee took note of the diverse information provided and the explanations given by the Government representatives. It insisted upon the great importance, for the continuation of an essential dialogue, of communicating clear and complete information in response to comments made by the Committee of Experts. It reiterated that this was an aspect of the constitutional obligation to report. In this connection, it expressed its profound concern at the very high number of cases of failure to supply information in reply to comments made by the Committee of Experts. It reiterated that assistance from the ILO could be requested by governments in order to overcome any difficulties they might be facing.

The Committee urged the governments concerned, namely Afghanistan, Antigua and Barbuda, Bosnia and Herzegovina, Burundi, Central African Republic, Comoros, Democratic Republic of the Congo, Denmark (Faeroe Islands), Djibouti, Equatorial Guinea, Fiji, France (French Guiana and St. Pierre and Miquelon), Gabon, Guinea-Bissau, Islamic Republic of Iran, Jamaica, Kenya, Kyrgyzstan, Libyan Arab Jamahiriya, Malaysia, Netherlands (Aruba), Nigeria, Saint Lucia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Swaziland, United Republic of Tanzania, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Uganda and Yemen to spare no effort to provide the information requested as soon as possible. The Committee decided to mention these cases in the appropriate section of its General Report.

(d) Written information received up to the end of the meeting of the Committee on the Application of Standards

Belize. Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.

Benin. Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.

Bolivia. Since the meeting of the Committee of Experts, the Government has sent the first report on the application of Conventions Nos. 159.

Cape Verde. Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.

Ethiopia. Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.

Grenada. Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.

Greece. Since the meeting of the Committee of Experts, the Government has sent replies to all of the Committee's comments.

Ireland. Since the meeting of the Committee of Experts, the Government has sent replies to all of the Committee's comments.

Jamaica. Since the meeting of the Committee of Experts, the Government has sent the first report on the application of Conventions Nos. 141 and 151.

Malawi. Since the meeting of the Committee of Experts, the Government has sent the first reports concerning the application of Conventions Nos. 141 and 151.

Malta. Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.

Niger. Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.

1 The list of the reports received is to be found in part C of the Report.
Saint Lucia. Since the meeting of the Committee of Experts, the Government has sent the report on Convention No. 98.

Slovenia. Since the meeting of the Committee of Experts, the Government has sent replies to all of the Committee's comments.

Sweden. Since the meeting of the Committee of Experts, the Government has sent replies to all of the Committee's comments.

Uruguay. Since the meeting of the Committee of Experts, the Government has sent replies to most of the Committee's comments.